



**E-CONTROL**

# **Market entry guidelines for gas traders and suppliers**

**Information starter kit**

March 2014

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If you would like to enter the Austrian gas market as a trader and supplier, i.e. if you want to both trade in gas and supply consumers with gas, you must comply with two types of obligations: firstly, there are certain conditions that must be fulfilled before you can take up activities, and there are tasks you must continuously fulfil tasks while carrying out your activities.

## **BEFORE taking up your business activity**

### **A) Join the balance group system in the eastern market area**

#### **Legal basis**

[Section 90 Gaswirtschaftsgesetz \(Natural Gas Act\) 2011](#)

[Section 93 Gaswirtschaftsgesetz \(Natural Gas Act\) 2011](#)

#### **Short description**

Every system user in Austria must be member of a balance group (cf. [section 90 para. 1 Natural Gas Act 2011](#)). The two options for this are:

**Option I:** licensing and registering as a balance responsible party (BRP) in the eastern market area (i.e. forming a new balance group)

**Option II:** joining an existing balance group in the eastern market area

Licensing and registering as a balance responsible party constitutes a bigger administrative, technical and financial effort than joining an already licensed balance group. A balance responsible party may establish balance groups. It must then represent these balance groups vis-à-vis other market players.

Registration with the other market players in the eastern market area works via the market area manager (MAM), which acts as a one-stop shop. At the same time, the regulatory authority must be contacted to obtain an official BRP license according to [section 93 Natural Gas Act 2011](#).

#### **Required steps for option I: becoming a BRP in the eastern market area**

In the eastern market area, the market area manager serves as the central coordinator for registering balance responsible parties with the relevant market participants (operator of the virtual trading point, natural gas exchange at the virtual trading point, distribution area manager, clearing and settlement agent). The market area manager [Gas Connect Austria GmbH](#) coordinates the entire registration procedure and is your first point of contact. As fulfilment of numerous

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operational conditions has to be confirmed directly with the various market participants (communication tests, etc.), it will subsequently become necessary to contact these market participants directly.

In addition to registering with the market players via the market area manager, you must obtain an official BRP license according to [section 93 Natural Gas Act 2011](#). This is done by directly contacting the regulatory authority. We recommend that you start the licensing procedure with the regulatory authority after registering with the market area manager, as the latter must confirm that certain conditions are fulfilled for the official licensing process to move along.

Once you have received the respective contracts from the market area manager, you should also contact the operator of the virtual trading point, the distribution area manager and the clearing and settlement agent (CSA). Please bear in mind the relevant statutory provisions ([section 91 Natural Gas Act 2011](#)).

#### Registration with the market area manager

- a. Application for registration with the market area manager:  
[https://mgm.gasconnect.at/gca\\_mgm/register.do?lang=en](https://mgm.gasconnect.at/gca_mgm/register.do?lang=en). After completing the registration form, send a current extract from the *Firmenbuch* (Commercial Register) to [marktgebietsmanager@gasconnect.at](mailto:marktgebietsmanager@gasconnect.at).
- b. After successfully registering, you have to establish at least one balance group (Y code). The registration for a Y code is also done via the online platform of the market area manager at [https://mgm.gasconnect.at/gca\\_mgm/eic/add.do?lang=en](https://mgm.gasconnect.at/gca_mgm/eic/add.do?lang=en).
- c. After you have received the Y code, you can establish your balance structure in the internal area of the market area manager's online platform.
- d. Next, you will automatically be sent forms for contracts with each market participant. Registering with the clearing and settlement agent AGCS is an exception to this rule: AGCS must first perform a due diligence analysis, and only then is the contract sent via the platform of the market area manager.

Depending on the depth of business activities you intend to develop as a balance responsible party in the eastern market area, you need to conclude the following contracts:

1. For operating at transmission level: agreements with the market area manager, the operator of the virtual trading point and the natural gas exchange at the virtual trading point

2. For operating at transmission and distribution level **without** supplying consumers: agreements according to point 1 and, additionally, with the distribution area manager
3. For operating at transmission and distribution level, **including** supplying consumers: agreements according to points 1 and 2 and, additionally, with the clearing and settlement agent

Contracts listed under points 1 and 2 must be signed by a company representative and sent to the market area manager at the following address:

Gas Connect Austria GmbH  
c/o Systemmanagement/Marktgebietsmanagement  
Floridsdorfer Hauptstraße 1  
1210 Vienna  
Austria

The form for registering with the clearing and settlement agent from item 3 should be sent directly to AGCS:

AGCS Gas Clearing and Settlement AG  
Alserbachstraße 14-16  
1090 Vienna  
Austria

- e. As a next step in the registration procedure, a number of checks must be run.
  - Market area manager: communication test. You will be contacted by the market area manager.
  - Operator of the virtual trading point CEGH:
    - Membership (active or passive) of the Vienna Stock Exchange
    - ECC membership
    - Clearing bank
    - Security deposit at CEGH
  - Distribution area manager AGGM: communication test. You will be contacted by the distribution area manager.
  - Clearing and settlement agent AGCS: due diligence.
- f. As soon as all contract partners have confirmed clearance from their side through the market area manager's platform, the market area manager sends a confirmation message and copies of the contracts necessary for the official licensing procedure to the regulatory authority. If all

other prerequisites are fulfilled, too, the regulatory authority issues an official licensing decision.

- g. Once you have received a positive licensing decision from the regulatory authority, it should take no longer than three days for you to be cleared as a balance responsible party in the eastern market area, i.e. you can then take up activities. Please note that you should try to achieve activation of your accounts at the Vienna Stock Exchange simultaneously, as otherwise you cannot trade and/or be cleared at the exchange as a balance responsible party. The market area manager will enable your account in any case after three days.

The following links offer important information on the registration with the market area manager:

General information:

<http://www.gasconnect.at/en>

Registration as a balance responsible party in the eastern market area:

[https://mgm.gasconnect.at/gca\\_mgm/register.do?lang=en](https://mgm.gasconnect.at/gca_mgm/register.do?lang=en)

Information on becoming a balance responsible party (aka balance group representative) in the eastern market area, including links to instructions (“Step by Step”) and FAQ:

<http://www.gasconnect.at/en/Market-Area-Manager/Balance-group-management>

Links to an information event held by the market area manager, including presentations on the registration as a balance responsible party:

<http://www.gasconnect.at/en/Market-Area-Manager/Informationsveranstaltungen/roadshow2>

Important information on becoming a member (active or passive) of the Vienna Stock Exchange, which is a prerequisite for joining the virtual trading point CEGH:

<http://www.cegh.at/registration>

### Obtaining a license from the regulatory authority

In order to be licensed as a balance responsible party according to section 93 Natural Gas Act 2011, the following documents in particular must be submitted to the regulatory authority:

I. Agreements: currently, an agreement between the market area manager and E-Control concluded to simplify the procedure for applicants provides that the market area manager submit copies of all necessary contracts, signed by both parties, directly to E-Control. It is therefore not necessary for BRPs to submit these contracts to E-Control.

II. [Zulassungsantrag](#) (licensing application, in German), see [Unterlagen & Formulare](#) (documents & forms, in German)

III. Current extract from the *Firmenbuch* (Commercial Register) of the applicant (legal person) or certificate of principal residence (natural person)

IV. Evidence of certain personal requirements being fulfilled and the non-existence of grounds for exclusion of the applicant and – in case it is a legal person – all members of the body vested with the power to represent the applicant. This evidence has to be submitted in the form of declarations (forms [B1](#) and [B2](#) – see [Unterlagen & Formulare](#), documents & forms, in German) as well as extracts from the register of previous convictions.

V. Proof of technical qualification of at least one member of the body authorised to represent the applicant, one general partner or a senior staff member. The criterion of technical qualification is met if a person has adequate theoretical and practical knowledge of the handling of gas transactions or has worked in an executive position in the gas business, especially in gas trading or in operating a system. This has to be proven by detailed CVs.

VI. Proof that the balance responsible party has at its disposal the necessary liable equity capital (at least € 50,000) for performing its activities as a balance responsible party. Without prejudice thereto, a higher capital may be required in accordance with the agreements stated under point I due to the type and scope of activities. This will be examined based on the current audited annual accounts.

VII. Approved annual accounts/annual report of the previous year

If the applicant's company seat/residence is outside of Austria, it is recommended to appoint a person who is authorised to accept service of documents in accordance with section 9 *Zustellgesetz* (Service of Documents Act; form [B3](#) – see [Unterlagen & Formulare](#), documents & forms, in German).

Upon completing the licensing procedure, the Energie-Control Austria Executive Board issues a licensing decision and notifies the relevant market participants thereof.

There are no predefined points in time for market entry; the market can be entered at any time.

	<b>WD</b> *
<b>Checklist – becoming a BRP in the eastern market area via the MAM</b>	
User registration verification by the market area manager	3
Application for and clearance of Y code	2
Establishment of BRP balance structure	2
Reception and return of contracts to the market area manager	37
Reception of countersigned contracts from the market area manager	10



Communication tests by the market area manager	14
Clearance by CEGH	45
Clearance by AGGM	8
Clearance by AGCS	7
Licensing decision by E-Control (after complete clearance by the market area manager)	14
Lead time until clearance as balance responsible party	3
<b>Average total time</b> (may be shorter than sum of working days because some processes overlap)	<b>98</b>

\*WD = Average/observed number of working days for reference

### Useful tips and hints:

It is practically impossible to indicate how much time is generally required for the licensing procedure since it depends on how fast your company submits the necessary documents.

In strictly legal terms, the regulatory authority has to decide on a BRP license within two months upon receiving all application documents, according to [section 93 para. 3 Natural Gas Act 2011](#).

Balance responsible parties are therefore recommended to take parallel steps in order to shorten the total time to registration. Negotiating and concluding an agreement with a clearing bank has proven to be the most time-consuming step in this process.

### Required steps for option II: joining an existing balance group in the eastern market area

Becoming a member of an existing balance group is relatively easy and can be quickly achieved without a licensing procedure. In this scenario, the trader/supplier relies on the balance group management provided by the balance responsible party. Drawbacks to this option from the trader/supplier perspective include less independence and the fact that the balance responsible party gains some insight into business activities (procurement channels, quantities, etc.). Moreover, only the balance responsible party has the right to submit nominations. Please also note that there is no legal entitlement to membership in an existing balance group.

The market area manager has established a bulletin board on the website of Gas Connect Austria listing undertakings that offer balance group services: <http://www.gasconnect.at/en/Market-Area-Manager/Bulletin%20Board>

Of course, such services might also be offered by other balance responsible parties that have not posted an entry on the bulletin board. A list of all balance responsible parties is available on the website of the market area manager at the following link:

[https://mgm.gasconnect.at/gca\\_mgm/bgexplorer/list.do?clearFilter=true&page=1](https://mgm.gasconnect.at/gca_mgm/bgexplorer/list.do?clearFilter=true&page=1)

When choosing a balance responsible party, suppliers should make sure it offers services that correspond with (planned) business activities. Membership is bilaterally agreed upon with the balance responsible party of your choice in the form of a contract based on the general terms and conditions. The balance responsible party assigns your company's X code to one of its balance groups in the internal area of the market area manager's online platform. As a balance group member, you enter your capacity with the transmission system operators into this balance group.

Suppliers have to register with the clearing and settlement agent for the eastern market area, i.e. AGCS, at [www.agcs.at](http://www.agcs.at) (in German). A list of suppliers is published on the website of the clearing and settlement agent.

<b>Checklist – joining a balance group in the eastern market area</b>	<b>WD*</b>
Contract negotiation and conclusion with the balance responsible party of your choice	10
Registration as supplier with the clearing and settlement agent AGCS	7
Set-up as supplier in the clearing and settlement agent's system	2-3
<b>Average total time</b> (may be shorter than sum of working days because some processes overlap)	<b>20-25</b>

\*WD = Average/observed number of working days for reference

### **Useful tips and hints:**

For suppliers wishing to join an existing balance group and to register as a supplier with the clearing and settlement agent, the time required until business activities can be launched largely depends on the negotiations with the balance responsible party of choice. Registration in the system of the clearing and settlement agent can be done within a few working days.

## **B) Join the balance group system of the Tyrol/Vorarlberg market areas**

### **Legal basis**

[Section 13 Gaswirtschaftsgesetz \(Natural Gas Act\) 2011](#)

[Section 90 Gaswirtschaftsgesetz \(Natural Gas Act\) 2011](#)

[Section 91 Gaswirtschaftsgesetz \(Natural Gas Act\) 2011](#)

[Section 93 Gaswirtschaftsgesetz \(Natural Gas Act\) 2011](#)

### **Short description**

Every system user in Austria must be member of a balance group (cf. [section 90 para. 1 Natural Gas Act 2011](#)). The two options for this are:

**Option I:** licensing and registering as a balance responsible party (BRP) in the Tyrol/Vorarlberg market areas (i.e. forming a new balance group)

**Option II:** joining an existing balance group in the Tyrol/Vorarlberg market areas

Also in the two market areas in western Austria, licensing and registering as a balance responsible party constitutes a bigger administrative, technical and financial effort than joining an already licensed balance group.

In the Tyrol and Vorarlberg market areas, registration with the market participants is handled directly with the clearing and settlement agent and the distribution area manager, as the Austrian gas market model does not provide for a market area manager in this case, according to [section 13 Natural Gas Act 2011](#).

As in eastern Austria, a BRP license needs to be achieved via the regulatory authority according to [section 93 Natural Gas Act 2011](#).

### **Required steps for option I: becoming a BRP in the Tyrol and Vorarlberg market areas**

BRP applicants planning on limiting their business activities to the Tyrol and Vorarlberg market areas should note that according to [section 13 para. 1 Natural Gas Act 2011](#), market areas without transmission lines, such as Tyrol and Vorarlberg, do not have market area managers. Another difference between the eastern market area and the two western ones is that each balance group in Tyrol or Vorarlberg must have a corresponding balance group in the upstream market area NetConnect Germany (NCG). This can be achieved either by linking existing balance groups or by establishing new ones. The purpose of the principle of directly corresponding

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balance groups upstream and downstream is to enable gas handover. Please visit the website of [Net Connect Germany](#) to register in that market area.

Registration with the market participants

For the Tyrol and Vorarlberg market areas, there is no market area manager and therefore no one-stop shop. Instead, you have to register directly with the clearing and settlement agent (<http://www.aundb.at/de/registrierung/bilanzgruppenverantwortlicher>, in German) and the distribution area manager (<http://www.aggm.at/en/contact>).

Obtaining a license from the regulatory authority

In order to be licensed as a balance responsible party in Tyrol or Vorarlberg according to [section 93 Natural Gas Act 2011](#), the following documents in particular must be submitted to the regulatory authority:

- I. Agreements with the distribution area manager and the clearing and settlement agent
- II. [Zulassungsantrag](#) (licensing application, in German), see [Unterlagen & Formulare](#) (documents & forms, in German)
- III. Current extract from the *Firmenbuch* (Commercial Register) of the applicant (legal person) or certificate of principal residence (natural person)
- IV. Evidence of certain personal requirements being fulfilled and the non-existence of grounds for exclusion of the applicant and – in case it is a legal person – all members of the body vested with the power to represent the applicant. This evidence has to be submitted in the form of declarations (forms [B1](#) and [B2](#) – see [Unterlagen & Formulare](#), documents & forms, in German) as well as extracts from the register of previous convictions.
- V. Proof of technical qualification of at least one member of the body authorised to represent the applicant, one general partner or a senior staff member. The criterion of technical qualification is met if a person has adequate theoretical and practical knowledge of the handling of gas transactions or has worked in an executive position in the gas business, especially in gas trading or in operating a system. This has to be proven by detailed CVs.
- VI. Proof that the balance responsible party has at its disposal the necessary liable equity capital (at least € 50,000) for performing its activities as a balance responsible party. Without prejudice thereto, a higher capital may be required in accordance with the agreements stated under point I due to the type and scope of activities. This will be examined based on the current audited annual accounts.
- VII. Approved annual accounts/annual report of the previous year

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If the applicant's company seat/residence is outside of Austria, it is recommended to appoint a person who is authorised to accept service of documents in accordance with section 9 *Zustellgesetz* (Service of Documents Act; form [B3](#) – see [Unterlagen & Formulare](#), documents & forms, in German).

Upon completing the licensing procedure, the Energie-Control Austria Executive Board issues a licensing decision and notifies the relevant market participants thereof.

There are no predefined points in time for market entry; the market can be entered at any time.

<b>Checklist – becoming a BRP in the Tyrol/Vorarlberg market areas</b>	<b>WD*</b>
Registration with the clearing and settlement agent A&B	7
Registration with the distribution area manager AGGM	8
Licensing decision by E-Control	7
<b>Average total time</b> (may be shorter than sum of working days because some processes overlap)	<b>20</b>

\*WD = Average/observed number of working days for reference

### **Useful tips and hints:**

It is practically impossible to indicate how much time is generally required for the licensing procedure since it depends on how fast your company submits the necessary documents.

In strictly legal terms, the regulatory authority has to decide on a BRP license within two months upon receiving all application documents, according to [section 93 para. 3 Natural Gas Act 2011](#).

Balance responsible parties are therefore recommended to take parallel steps in order to shorten the total time to registration.

### **Required steps for option II: joining an existing balance group in the Tyrol/Vorarlberg market area**

Becoming a member of an existing balance group is relatively easy and can be quickly achieved without a licensing procedure. In this scenario, the trader/supplier relies on the balance group management provided by the balance responsible party. Drawbacks to this option from the trader/supplier perspective include less independence and the fact that the balance responsible party gains some insight into business activities (procurement channels, quantities, etc.).

Moreover, only the balance responsible party has the right to submit nominations. Please also note that there is no legal entitlement to membership in an existing balance group. A list of

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balance responsible parties registered for the Tyrol and Vorarlberg market areas can be found on the website of the clearing and settlement agent A&B.

When choosing a balance responsible party, suppliers should make sure it offers services that correspond with (planned) business activities. Membership is bilaterally agreed upon with the balance responsible party of your choice in the form of a contract based on the general terms and conditions.

Suppliers have to register with the clearing and settlement agent for the Tyrol and Vorarlberg market areas, i.e. A&B, at [www.aundb.at](http://www.aundb.at) (in German). A list of suppliers is published on the website of the clearing and settlement agent.

<b>Checklist – joining a balance group in the Tyrol/Vorarlberg market areas</b>	<b>WD*</b>
Contract negotiation and conclusion with the balance responsible party of your choice	10
Registration as a supplier with the clearing and settlement agent A&B	7
Set-up as supplier in the clearing and settlement agent's system	2-3
<b>Average total time</b> (may be shorter than sum of working days because some processes overlap)	<b>20-25</b>

\*WD = Average/observed number of working days for reference

### **Useful tips and hints:**

For suppliers wishing to join an existing balance group and to register as a supplier with the clearing and settlement agent, the time required until business activities can be launched largely depends on the negotiations with the balance responsible party of choice. Registration in the system of the clearing and settlement agent can be done within a few working days.

## **C) Notify natural gas trading activities**

### **Legal basis**

[Section 121 Gaswirtschaftsgesetz \(Natural Gas Act\) 2011](#)

### **Short description**

There are different ways to take up business activities as a trader and supplier in the Austrian gas market (virtual trader, trader without consumer supply etc.). Depending on the nature of the activities, there are certain steps to take and requirements to fulfil. No matter which kind of

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business activities you eventually decide to take up, you have to notify your activities as a natural gas trader to the regulatory authority prior to commencing them according to [section 121 para. 1 Natural Gas Act 2011](#). The regulatory authority keeps, updates and publishes a list of natural gas traders.

### Required steps

Send an informal letter to the regulatory authority, informing it about the date(s) and market area(s) of your planned business activities.

<b>Checklist – notifying natural gas trading activities</b>	<b>WD*</b>
Informal letter to the regulatory authority	0.10

\*WD = Average/observed number of working days for reference

## D) Book cross-border transmission capacity

### Legal basis

[Commission Regulation \(EU\) No 984/2013](#) of 14 October 2013 establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems and supplementing [Regulation \(EC\) No 715/2009](#) of the European Parliament and of the Council (CAM Network Code)

[Section 36 Gaswirtschaftsgesetz \(Natural Gas Act\) 2011](#)

[Section 37 Gaswirtschaftsgesetz \(Natural Gas Act\) 2011](#)

[Section 38 Gaswirtschaftsgesetz \(Natural Gas Act\) 2011](#)

[Section 39 Gaswirtschaftsgesetz \(Natural Gas Act\) 2011](#)

[Section 6 Gas-Marktmodell-Verordnung \(Gas Market Model Ordinance\) 2012](#)

[Section 9 Gas-Marktmodell-Verordnung \(Gas Market Model Ordinance\) 2012](#)

[Section 10 Gas-Marktmodell-Verordnung \(Gas Market Model Ordinance\) 2012](#)

[Section 11 Gas-Marktmodell-Verordnung \(Gas Market Model Ordinance\) 2012](#)

[Section 12 Gas-Marktmodell-Verordnung \(Gas Market Model Ordinance\) 2012](#)

### Short description

If you wish to purchase or sell natural gas across the Austrian borders as a trader and/or supplier, you need to book the corresponding entry and exit capacity to be able to use the system. Entry and exit capacity can be booked via the European booking platform PRISMA. The booked capacity must be entered into a balance group and can then be nominated by the balance responsible party.

### Required steps

System users have to register with PRISMA for the corresponding transmission system operator. Find more information on the booking platform PRISMA at: <https://primary.prisma-capacity.eu/>

System users must fulfil the following requirements for activation:

- Submit the signed framework contract to the corresponding transmission system operator.
- Pay the activation deposit in the amount of € 100,000 to the respective transmission system operator in the form of a bank guarantee or a cash deposit.

After you have been assigned capacity in a capacity auction, you must enter it into your balance group (after receiving authorisation by the balance responsible party) using the online platform of the market area manager. Nomination of the capacity then lies with the balance responsible party.

<b>Checklist for system users – booking transmission capacity</b>	<b>WD*</b>
Registration with PRISMA	0.1
Conclusion of a capacity (framework) contract with the transmission system operator(s) (and payment of the activation deposit)	1-5
Successful participation in the required capacity auction (confirmed by a corresponding e-mail from PRISMA)	0.1-...
Entry of the capacity to a balance group	0.1
<b>Average total time</b>	

\*WD = Average/observed number of working days for reference

### Useful tips and hints:

As soon as you have fulfilled all requirements, you will be activated by the transmission system operator for auctions on PRISMA, effective the next gas day. PRISMA activation is usually quicker if you make a cash activation deposit with the transmission system operator. In comparison, depositing a bank guarantee may take several working days. How much time an auction requires largely depends on the auctioned capacity product (from approx. one hour for day-ahead capacity up to several days for annual capacity).

## E) Register as a market participant according to Article 9 REMIT



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## **Legal basis**

Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency ([REMIT](#))

[Article 8\(1\) REMIT](#)

[Article 9\(1\) REMIT](#)

ACER (Agency for the Cooperation of Energy Regulators) – [Guidance](#)

## **Short description**

The Regulation on wholesale energy market integrity and transparency (REMIT) was adopted in 2011 as a means of promoting the transparency and integrity of electricity and gas markets in the EU. REMIT does not immediately regulate the supply or production of natural gas, but, complementing the work of the Financial Market Authority, focuses on trade in wholesale energy products. These comprise commodity contracts for the supply with and transport of electricity and gas and their derivatives.

REMIT stipulates extensive transparency requirements that market participants have to fulfil to prevent market manipulation and insider trading. These terms have not yet been fully and conclusively defined and implemented. In addition to the sanctions and powers of the national regulatory authorities, as laid down in the *Gaswirtschaftsgesetz* (Natural Gas Act) 2011, the Commission has the power to issue further implementing acts to adapt the definitions and transparency requirements. Moreover, the Agency for the Cooperation of Energy Regulators has published a [Guidance](#) on how to interpret the definitions mentioned in the regulation. REMIT also entrusts certain monitoring tasks to the Agency.

[Article 9\(1\) REMIT](#) requires you as a market participant to register with the national regulatory authority in the member state of your seat or residence. In case neither your seat nor your residence is located in the European Union, you have to register in the member state where you are active when you conclude transactions that have to be reported to the Agency according to [Article 8\(1\) REMIT](#). In Austria, a registration platform of the regulatory authority has been available since the beginning of 2014.

## **Required steps**

If you are a market participant in the sense of REMIT, you have to register. While the registration procedure has already been defined, it is still unclear which wholesale energy products are covered by the implementing acts and therefore, which companies are considered market participants according to REMIT. As the relevant law-making is still in process, we recommend

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keeping up-to-date on current developments by regularly checking the area of the website of the regulatory authority set up for this purpose (<http://www.e-control.at/en/projects>).

	<b>WD</b> *
<b>Checklist – registering under REMIT</b>	
Registration at the E-Control portal	
Submission of the REMIT registration activation and registration data	
Completion of the five-part REMIT registration forms	
Accept Agency code	
<b>Average total time</b> (may be shorter than sum of working days because some processes overlap)	

\*Currently no data available

**Useful tips and hints:** [currently none]

## **F) Establish general terms and conditions for natural gas supply**

### **Legal basis**

[Section 125 Gaswirtschaftsgesetz \(Natural Gas Act\) 2011](#)

[Section 159 Gaswirtschaftsgesetz \(Natural Gas Act\) 2011](#)

[Section 12 Energie-Control-Gesetz \(E-Control Act\)](#)

### **Short description**

Suppliers must draw up general terms and conditions for natural gas supply to **customers whose consumption is not metered with load meters** (general terms and conditions for natural gas supply, GTC supply). Prior to their entry into force, the general terms and conditions and any amendments thereto must be presented to the regulatory authority in an electronic format and published in a suitable format ([section 125 para. 1 Natural Gas Act 2011](#)); otherwise, administrative penalties will be imposed ([section 159 para. 2 item 12 Natural Gas Act 2011](#)). The general terms and conditions relating to gas supply to other types of customers do not have to be submitted to the regulatory authority. Even so, there are other provisions, especially of the Natural Gas Act 2011, which must be observed regardless of the type of consumer to be supplied.

Changes and amendments to the general terms and conditions for natural gas supply are only possible subject to the provisions of the *Allgemeines Bürgerliches Gesetzbuch* (Civil Code) and the *Konsumentenschutzgesetz* (Consumer Protection Act), and they must be notified to the customers by way of a personally addressed written communication or, if so requested by the

customer, electronically. These communications must logically reproduce the amendments introduced. If a customer objects to the amendments and this terminates the contractual relationship, this termination takes effect on the last day of the month following a period of three months ([section 125 para. 2 Natural Gas Act 2011](#)).

Furthermore, there are certain points that must be covered in the general terms and conditions, and there are a number of information obligations ([section 125 paras. 3 and 4 Natural Gas Act 2011](#)).

The E-Control Regulation Commission is in charge of examining the general terms and conditions for natural gas supply. If these violate a statutory prohibition or are unethical, it can prohibit their application ([section 12 para. 1 item 4 E-Control Act](#), [section 125 paras 5 and 6 Natural Gas Act 2011](#)). Examples of prohibited provisions can be found at <http://www.e-control.at/de/recht/entscheidungen> (in German)

The examination procedure before the Regulation Commission is initiated as soon as the general terms and conditions are notified, but please note that the meetings of the Regulation Commission take place in irregular intervals. We recommend handing in your general terms and conditions for natural gas supply at least two months before you have scheduled entry into force, to allow for inclusion of any amendments the Regulation Commission requests. If no (further) amendments are deemed necessary, the procedure is concluded. Please be advised that this termination is without prejudice to any proceedings before a court of law, which are still possible e.g. through legal action taken by associations. If amendments deemed necessary are not adopted, an official decision is issued to prohibit the wording in question. It is recommended that you wait for the final decision of the Regulation Commission before putting the general terms and conditions or amendments thereto into force (see administrative penalties).

### **Required steps**

When drafting general terms and conditions for natural gas supply, we strongly recommend that you study the relevant provisions of energy and civil law (in particular, consumer protection law) and already take them into consideration in the draft you submit to the Regulation Commission.

We also suggest that you take a look at the general terms and conditions of other undertakings, published on their websites - but please make sure that you also take into account the latest legal amendments.

In addition, you can discuss any critical points and fine-tune the draft in an informal briefing with the contact person in charge of preparing the Regulation Commission meetings before you officially notify. The remarks and suggestions of this contact person are purely informal and personal views; checking the legal compliance of the general terms and conditions and deciding on any required amendments lies entirely with the Regulation Commission.

<b>Checklist – establishing GTC supply</b>	<b>WD*</b>
Review of the relevant provisions of energy law and civil law, in particular of consumer protection law	5
Review of the general terms and conditions published on the websites of other undertakings	1
Review of recent legal amendments	1
First draft of the general terms and conditions	10
Have a (purely!) informal briefing with the competent contact person at the regulatory authority to fine-tune the draft	10
Officially notify the general terms and conditions	0.25
Wait for the official decision of the Regulation Commission	max. 2 months
<b>Average total time</b> (may be shorter than sum of working days because some processes overlap)	

\*WD = Average/observed number of working days for reference

### Useful tips and hints:

The time required to draft the general terms and conditions always depends on the available capacities and know-how in your company, especially with regard to the legal situation and the gas market in Austria. The legal capacities and their availability already have an impact on the duration of the informal briefings. Furthermore, please note that for the Regulation Commission to be able to consider your general terms and conditions at a meeting, they should be notified at least three days in advance.

## **G) Register at the switching platform**

### **Legal basis**

[Section 123 Gaswirtschaftsgesetz \(Natural Gas Act\) 2011](#)

[Wechselverordnung Gas \(Gas Switching Ordinance\) 2012](#)

[General terms and conditions of the clearing and settlement agent gas](#) (in German)

### **Short description**

Supplier switching, and enabling and disabling metering points require the exchange of data between suppliers and system operators. This exchange is not bilateral but is carried out through secure communication via a decentralised platform (“switching platform”), which is operated by the clearing and settlement agent (CSA).

Most of the individual process steps are suitable for highly automated handling on part of the system operators or suppliers. Data are exchanged in an encrypted format via the switching platform. The relevant customer data are exclusively stored by the system operators and suppliers. No data are stored on the switching platform itself. All system operators and suppliers must register with the clearing and settlement agent to use the switching platform and install and operate electronic interfaces according to the requirements of the switching platform.

For small-scale suppliers (and system operators), the clearing and settlement agent provides a so-called self-storage service. Small market participants can use the self-storage service to automate switching processes after uploading the relevant switching information via a web portal. This way, they do not have to implement a data interface in their own IT systems.

### **Required steps**

To be able to use the switching platform’s features as a supplier, you have to register with the platform in accordance with the general terms and conditions of the clearing and settlement agent (GTC CSA).

Start the registration procedure by submitting the completed [application form](#) (in German) to register at ENERGYlink. The clearing and settlement agent will then check whether you meet the requirements for registration at ENERGYlink as a supplier.

If all requirements for your registration at ENERGYlink as a supplier are met, you receive a registration confirmation. Your electronic access to ENERGYlink is activated within ten working days.

As soon as you receive your access data, you can start using ENERGYlink.

If you wish to use the self-storage service, you can register for it at the same time as you register at ENERGYlink or at a later point.

Registration forms for suppliers, the recipient's address and all required information regarding the documents to be submitted are available on the ENERGYlink website at [http://www.energylink.at/de/registrierung/lieferanten\\_versorger](http://www.energylink.at/de/registrierung/lieferanten_versorger) (in German).

If you need further information or help completing the application form for your ENERGYlink registration, please contact the ENERGYlink customer service at [kundenservice@energylink.at](mailto:kundenservice@energylink.at).

<b>Checklist – registering at the switching platform</b>		<b>WD*</b>
Familiarisation with procedures, rules, deadlines, etc. based on the Gas Switching Ordinance and the technical documentation		
Preparation of customer data according to the requirements of automated data retrieval and processing		
Registration at the switching platform according to the general terms and conditions of the clearing and settlement agent		
Average total time (may be shorter than sum of AT because some processes overlap)		...
Optional if self-storage is used: Upload of customer data		

\*Currently no data available

### **Useful tips and hints:**

If your company is a small undertaking that has just entered the market and will only have to handle a small number of customer switches initially, we recommended using the self-storage service of the clearing and settlement agent to carry out the supplier switching process. This way, you can avoid complex IT implementations and adaptations. The self-storage solution is not intended for a larger number of customers or a high customer switching rate. In these cases, we recommend contacting the respective service and IT providers in time to adapt your IT systems to the rules. The total time required to register and implement the switching platform services depends on your corporate IT systems and their need for adaptation, and whether or not the self-storage solution suffices for your company (at least in the beginning).

## H) Register for the Tariff Calculators

### Legal basis

[Section 121 para. 3 Gaswirtschaftsgesetz \(Natural Gas Act\) 2011](#)

### Short description

The Tariff Calculator for households and the Tariff Calculator for business customers are online price comparison tools for use by customers with an annual natural gas consumption of up to 400,000 kWh. For a comparison, users simply enter their annual gas consumption in kWh and their postal code. The Tariff Calculator for households is one of the most frequently used sources of information for gas price comparisons in Austria.

Suppliers have to transmit all price-relevant data relating to standard products for consumer supply to E-Control in an electronic format defined by the regulatory authority as soon as they are available. The format defined by the regulatory authority is the electronic entry in the Tariff Calculator.

### Required steps

The registration procedure in the Tariff Calculator is as follows:

1. Complete and submit the registration form at [http://tarifkalkulatoradmin.e-control.at/tkadmin/new\\_account.html](http://tarifkalkulatoradmin.e-control.at/tkadmin/new_account.html) (in German)
2. Your application is processed within five working days. You will receive a written reply by e-mail.
3. If your application is accepted, you are authorised and activated as a supplier and receive the following items you need for the Tariff Calculator:
  - Link to the administration area (The login data chosen at the time of registration give you access.)
  - Tariff Calculator Administration Manual (in German)
  - Tariff Calculator guidelines (in German)
4. Optional: upon request, E-Control provides individual Tariff Calculator training sessions (duration: two hours).

Contact: [tarifkalkulator@e-control.at](mailto:tarifkalkulator@e-control.at) and at: +43 1 24724 extension 701 or 711

For further information, please visit: [http://www.e-control.at/en/market\\_players/information/tariff-calculator](http://www.e-control.at/en/market_players/information/tariff-calculator)

<b>Checklist – registering for the Tariff Calculators</b>	<b>WD*</b>
Completion and submission of registration form	0.25
Receipt of login data and relevant documents within...	2-5
Review of manual	1
Optional: Tariff Calculator training session	max. 1
<b>Average total time</b>	<b>5</b>

\*WD = Average/observed number of working days for reference

## **I) Enable exchange of system charges data for billing**

### **Legal basis**

[Gas Market Code – Chapter 7](#) (in German)

### **Short description**

The liberalised energy market gives system users the option of having their bills for system charges sent to their energy supplier by their system operator. This enables the supplier to issue combined bills which include not only the energy items but also the system charges.

To make this kind of billing as efficient as possible for suppliers, system operators must provide the system charges data for billing to the suppliers in a standardised electronic format (not on paper).

The introduction of a structured electronic transmission system for billing data has simplified and automated the billing process for suppliers who send combined (integrated) bills to their customers.

The format chosen for the information transmission process is the international open standard Extensible Markup Language (XML). The XML-based data format ebUtilities-Invoice is developed by Oesterreichs Energie, which represents Austria's energy industry, in close coordination with the regulatory authority. The rules and the XML-based data format have been defined by the regulatory authority in [Chapter 7 of the Gas Market Code](#) (in German).



The use of electronic invoice transmission is not compulsory for the supplier. This means that, as a supplier, you still have the option of requesting the system charges information for billing from the system operator on paper, provided you issue integrated bills.

### Required steps

If you opt for issuing integrated bills to your customers, IT experts should closely study the detailed provisions in [Chapter 7 of the Gas Market Code](#) (in German). In any case, the standardised data format ebUtilities-Invoice must be integrated into your undertaking's in-house systems. Moreover, you have to contact the relevant system operators to clarify technical details. Any rules beyond the scope of Chapter 7 of the Gas Market Code must be agreed upon bilaterally between the system operator and supplier in a data exchange contract. Implementation in the system operator's system may take a maximum of four weeks starting from the supplier's application.

<b>Checklist – enabling electronic exchange of system charges data for billing</b>	<b>WD*</b>
Strategic decision whether or not you will provide integrated bills to your customers	
For electronic transmission: integration of standardised data format ebUtilities-Invoice	
For electronic transmission: contact with the respective system operator and application for electronic transmission of system charges data for billing	
Additional arrangements set down in a data exchange contract	
Implementation in the system operator's system	max. 20
<b>Average total time</b> (may be shorter than sum of working days because some processes overlap)	

\*WD = Average/observed number of working days for reference

### Useful tips and hints:

The amount of time required can vary widely as existing IT infrastructure in your undertaking may shorten it considerably.

## Ongoing duties DURING your business operation

### J) Update data in the Tariff Calculators

#### Legal basis

[Section 121 para. 3 Gaswirtschaftsgesetz \(Natural Gas Act\) 2011](#)

#### Short description

Natural gas retailers supplying standard products to final customers have to provide up-to-date, price-relevant data for the Tariff Calculator for households and the Tariff Calculator for business customers in a timely manner. If you make alterations to your standard products or offer new standard products in the market for households or businesses (annual gas consumption of up to 400,000 kWh), you have to enter the price-relevant data into the Tariff Calculator immediately. To do so, use the specially developed data entry portal of the regulatory authority. You should register for the Tariff Calculator already before starting your business activities (see

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Register for the Tariff Calculators). All of your changes require clearance by the regulatory authority prior to their release.

### **Required steps**

If you change price-relevant data of standard products, please enter the relevant information into the Tariff Calculator via the data entry portal (<http://www.e-control.at/tkadminneu>, in German) as soon as it is available. When you enter the information, it is not automatically released in the Tariff Calculator, but the regulatory authority first checks whether the entry has been made correctly. After you click the “Freigabe anfordern” (request clearance) button, the regulatory authority will check and release the information after a maximum of five working days. If you need help entering data, please consult the Tariff Calculator Administration Manual which was presented to you upon registration for the Tariff Calculator.

Contact: [tarifkalkulator@e-control.at](mailto:tarifkalkulator@e-control.at) and at: +43 1 24724 extension 701 or 711

For further information, including information on the Tariff Calculator Administration Manual, please go to: [http://www.e-control.at/en/market\\_players/information/tariff-calculator](http://www.e-control.at/en/market_players/information/tariff-calculator)

<b>Checklist – updating data in the Tariff Calculators</b>	<b>WD*</b>
Entry of price-relevant data of a product	0.5
E-Control clearance of entered data	max. 5
<b>Average total time</b> (may be shorter than sum of working days because some processes overlap)	<b>3</b>

\*WD = Average/observed number of working days for reference

### **Useful tips and hints:**

If you need your data to be released particularly quickly, we advise you to inform the regulatory authority by phone in advance (+43 1 24724 extension 701 or 711).

## **K) Issue bills**

### **Legal basis**

[Section 126 para. 1 Gaswirtschaftsgesetz \(Natural Gas Act\) 2011](#)

[Section 127 para. 2 Gaswirtschaftsgesetz \(Natural Gas Act\) 2011](#)

[Chapter 7 of the Gas Market Code](#) (in German)

### **Short description**

Determining consumption figures that can be used for billing is among the tasks of the system operators. The supplier therefore receives all information relevant for billing from the system operator.

The legal rules for the supplier's billing system are mainly set down in [section 126 para. 1 Natural Gas Act 2011](#) and [section 127 para. 2 Natural Gas Act 2011](#).

These rules stipulate the minimum requirements for bills and the customer information sheet to be enclosed with bills.

E-Control has drawn up a sample bill for combined billing of energy supply and system charges that meets all legal requirements.

The supplier may (but does not have to!) offer consumers a so-called joint billing service. In this case, the system operator transmits the data relevant for the system charges bill to the supplier, who then bills both the energy supply and the system charges to the consumer. In this case, the

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combined bill must also comply with all legal stipulations regarding system charges bills – see [section 126 para. 3 Natural Gas Act 2011](#) and [section 127 para. 1 Natural Gas Act 2011](#).

### **Required steps**

The transmission of system charges data for billing between the system operator and the supplier is specified in [Chapter 7 of the Gas Market Code](#) (in German). The data received this way are then available for drawing up an energy bill (for energy supply only) pursuant to the minimum requirements stipulated in [section 126 para. 1 Natural Gas Act 2011](#) and [section 127 para. 2 Natural Gas Act 2011](#).

If you have opted for combined billing, please note the relevant stipulations of chapter XIX *Rechnungslegung* (billing) in the model version of the general terms and conditions for distribution network access.

Regarding turnover tax, the legal opinion stated in two decrees of the Ministry of Finance is expressed in margin number 1536 of the *Umsatzsteuerrichtlinien* (Turnover Tax Guidelines) 2000. There are basically three options. In practice, the so-called “advance service model” prevails:

For turnover tax purposes, it is assumed that the system operator has performed services for the supplier. This is merely a simplification as, in fact, the system operator naturally performs services for the customer. The civil law contract between the system operator and the customer remains unaffected.

The recipient of the bill is the supplier. The supplier can reclaim the input tax of this bill and therefore issue a bill for system services and energy plus VAT.

The prerequisite for this is a contractual agreement about the use of the model between the supplier, the system operator and the customer. Usually, a framework agreement is signed by the system operator and the supplier. The individual agreements regarding the customer are then concluded by the supplier on behalf of the customer.

The wording of margin number 1536 implies that it only applies to electricity. Pursuant to margin number 1536a, however, the former also applies mutatis mutandis for natural gas supply. The part relevant for the advance service model is the second paragraph of [margin number 1536 Turnover Tax Guidelines 2000](#).

Irrespective of which billing type is chosen, the regular annual bill must be prepared within a maximum of six weeks after the meters have been read for the relevant billing period. The system operator has to send the system charges bill to the supplier within three weeks so that the supplier can observe the six weeks' period according to [section 16 para. 1 Gas-Systemnutzungsentgelte-Verordnung \(Gas System Charges Ordinance\) 2013](#). In addition to the regular annual bills, consumers may also request billing during the year.

If a supplier switch takes place or the supply contact is terminated for another reason, the (previous) supplier has to issue a bill after six weeks at the latest ([section 127 para. 4 Natural Gas Act 2011](#)).

### Required steps

The regulatory authority has drawn up a sample bill for the combined billing of energy supply and system charges that meets all legal requirements. The sample bill provided by E-Control is available at <http://www.e-control.at/de/konsumenten/gas/gasrechnung> (in German).

The 4-page sample bill shows how to design a customer-friendly, clear and transparent invoice. Apart from the PDF version, the sample bill can also be viewed as an interactive document. If you click the information buttons in the sample bill, detailed descriptions of the individual points are displayed. These explanations can also be printed out.

Suppliers and system operators are invited to use the sample bill or parts of it as a template for their own bills.

<b>Checklist – billing</b>	<b>WD*</b>
Study of relevant legal rules and the E-Control sample bill	
Strategic decision whether or not to provide a combined bill for energy supply and system charges to the consumer	
For integrated bills: contact with the respective system operators	
Implementation of the billing system or contact with the respective service provider that delivers this service	
<b>Average total time</b> (may be shorter than sum of working days because some processes overlap)	

\*Currently no data available

### Useful tips and hints:

The amount of time required for implementing the billing system at your undertaking can vary widely and depends on whether or not you have chosen integrated billing, and the existing IT infrastructure at your undertaking or how quickly the billing service is assigned to an external service provider. In any case, adopting the sample bill (or parts thereof) will considerably shorten the entire process and potential post-processing time.

## L) Provide information

### Legal basis

[Section 126 Gaswirtschaftsgesetz \(Natural Gas Act\) 2011](#)

### Short description

Bills and information and advertising material must be transparent and consumer-friendly. The components of the system charges, taxes and surcharges as well as the natural gas price must always be stated separately. The rate that applies for energy has to be stated in cent per kWh, and any standing charges must be listed.

For customers whose facilities do not have load meters, general terms and conditions have to be drawn up. The general terms and conditions have to be published in a suitable format and there are legal stipulations regarding the information they must at least contain (see: Establish general terms and conditions for natural gas supply).

### Checklist – preparing information for customers

Familiarisation with relevant legal stipulations

Check of whether information material complies with legal stipulations

Check of whether advertising material complies with legal stipulations

**Average total time** (may be shorter than sum of working days because some processes overlap)

### Useful tips and hints:

The time required to meet the obligations to provide information always depends on the available (legal) capacities and the existing expertise at your undertaking, particularly regarding Austrian legislation and the Austrian natural gas market.

## M) Pay taxes and surcharges

### Legal basis

*Erdgasabgabengesetz* (Natural Gas Levy Act):

<http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10005028> (in German)

Provincial legislation on the *Gebrauchsabgabe* (community levy):

<http://www.e-control.at/de/marktteilnehmer/strom/strommarkt/preise/steuern-und-abgaben/gebrauchsabgabe> (in German)

*Umsatzsteuergesetz* (Turnover Tax Act):

<https://www.bmf.gv.at/steuern/selbststaendige-unternehmer/umsatzsteuer/umsatzsteuer.html> (in German)

### Short description

Taxes and surcharges are, next to energy costs and system charges, components of the total gas price and include natural gas tax, community levy (in some cities and municipalities) and VAT.

Not only mineral oil, LP gas and electric energy are taxed, natural gas is taxed as well by a **gas levy**. The natural gas levy in Austria is 6.60 cent/normal cubic metre. The tax authority collects the energy tax from the system operator, who in turn charges it to the consumer.

The **community levy** is charged by some local authorities for the use of a municipality's public land and the airspace above. The community levy can be collected for the system share and/or the energy share, i.e. the system operator and/or the supplier is/are the party/parties paying the levy, depending on whether the community levy is collected for system costs, energy costs or both.

Pursuant to section 14 *Finanzausgleichsgesetz* (Fiscal Equalisation Act) 2008, the community levy is an exclusive levy of the municipality. The municipality can decide whether and at which amount the levy is collected through an ordinance of the municipal council. To find out the exact amount of the community levy collected in a municipality, you need to call the municipality office or the office of the federal province; a complete overview of municipal law is not available in publicly accessible legal databases. Therefore, we cannot make a clear statement about whether a levy is collected and, if so, at which amount.



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Supplying final customers with natural gas is subject to the Turnover Tax Act. In Austria, **VAT** of 20% is added to the invoice total.

### Required steps

As a supplier, you add the community levy (if it is to be collected for the share of energy costs) and the VAT to the invoice total that you charge your customer.

Whether a community levy must be collected depends on your customer's place of residence. The amount of the community levy varies. The various community levies must be considered in your billing system. For further information about community levy rules in the individual provinces, please go to <http://www.e-control.at/de/marktteilnehmer/strom/strommarkt/preise/steuern-und-abgaben/gebrauchsabgabe> (in German)

There is no comprehensive list of Austrian municipalities that currently collect community levies. The following list contains all municipalities (and their legal rules) that collect community levies for the supply of natural gas and were known to the regulatory authority as of November 2013:

<b>Municipality</b>	<b>Province</b>	<b>Amount</b>	<b>Taxable party</b>
Ried im Innkreis	Upper Austria	3% on net energy costs	Supplier
Klagenfurt	Carinthia	Fixed amount	System operator
Salzburg	Salzburg	Fixed amount	System operator
Vienna	Vienna	6% on net energy costs and system charges	Supplier and system operator

*Please note: above information is taken from a survey carried out by the regulatory authority in November 2013. We accept no liability for the accuracy or completeness of the information provided.*

<b>Checklist – paying taxes and surcharges</b>		<b>WD*</b>
Familiarisation with the relevant legal stipulations regarding taxes and surcharges		2
Establishment in which municipal areas community levies need to be collected from customers		0.5
Adjustment of billing system according to Austrian tax and surcharges system		?
Payment of community levies to respective local authority/authorities		ongoing
<b>Average total time</b> (may be shorter than sum of working days because some processes overlap)		...

\*WD = Average/observed number of working days for reference

### Useful tips and hints:

The amount of time required to implement changes regarding taxes and surcharges largely depends on the existing billing systems in your undertaking.

## N) Report for statistical, emergency and monitoring purposes

### Legal basis

Monitoring: reporting obligations according to the *Gas-Monitoring-Verordnung* (Gas Monitoring Ordinance), issued pursuant to section 131 para. 1 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011: [http://www.e-control.at/portal/page/portal/medienbibliothek/gas/dokumente/pdfs/BGBLA\\_2013\\_II\\_63.pdf](http://www.e-control.at/portal/page/portal/medienbibliothek/gas/dokumente/pdfs/BGBLA_2013_II_63.pdf) (in German)

Statistics: reporting obligations according to the *Gasstatistikverordnung* (Gas Statistics Ordinance), issued pursuant to section 147 Natural Gas Act 2011: [http://www.e-control.at/portal/page/portal/medienbibliothek/recht/dokumente/pdfs/GStat-VO-BGBLA\\_2012\\_II\\_475.pdf](http://www.e-control.at/portal/page/portal/medienbibliothek/recht/dokumente/pdfs/GStat-VO-BGBLA_2012_II_475.pdf) (in German)

Energy intervention measures: reporting obligations according to the *Erdgas-Energielenkungsdaten-Verordnung* (Natural Gas Energy Intervention Data Ordinance) 2006, as amended by the *Erdgas-Energielenkungsdaten-Verordnungs-Novelle* (Natural Gas Energy Intervention Data [Amendment] Ordinance) 2009, issued pursuant to the *Energielenkungsgesetz* (Energy Intervention Powers Act) 2012: <http://www.e-control.at/portal/page/portal/medienbibliothek/recht/dokumente/pdfs/erdgas-enld-vo-2006-konsolidierte-fassung-01072009.pdf> (in German)

### Short description

Natural gas traders, suppliers and balance responsible parties have to report to the regulatory authority for several purposes. Regarding their reporting obligations, they have to act without being prompted.

Normally, the regulatory authority approaches gas undertakings newly registered for the Austrian market (in particular gas traders, suppliers and BRPs) at the beginning of the next reporting year and asks them to submit data in line with their (applicable) reporting obligations. Undertakings that do not have to report at this time (for instance because they do not actually carry on business activities) but become active at a later point must start reporting data to the regulatory authority on their own accord as soon as they take up business.

### Required steps

If you have recently registered in the Austrian market, contact the regulatory authority ([datenerhebung@e-control.at](mailto:datenerhebung@e-control.at)) to check which reporting obligations according to the relevant legal stipulations apply for your undertaking. The regulatory authority will then contact you when data must be submitted. Click here for the applicable [survey forms](#) (in German) of the regulatory authority.

#### Checklist – reporting

Contact the regulatory authority

Wait until the regulatory authority prompts you to report

In case of a previous registration in the market: check your reporting obligations yourself

### Useful tips and hints:

The time required to comply with reporting obligations differs greatly according to the scope of the data collected about your undertaking, the degree of automation of data collection in your undertaking, and the scope of your undertaking's business activities.

## O) Comply with duties under REMIT

### Legal basis

Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency ([REMIT](#))

Market entry gas – trader and supplier

[Article 8\(1\) REMIT](#)

[Article 9\(1\) REMIT](#)

[Section 10a Gaswirtschaftsgesetz \(Natural Gas Act\) 2011](#)

[Section 25a para. 2 Energie-Control-Gesetz \(E-Control Act\)](#)

### **Short description**

As a market participant according to REMIT, you have to comply with reporting and publishing obligations while you carry out your business. In general, this concerns the following contents or circumstances:

Obligation to report transaction data according to REMIT and its implementing acts (not yet in force):

[http://www.e-control.at/portal/page/portal/medienbibliothek/recht/dokumente/pdfs/remit-1227\\_2011-en.pdf](http://www.e-control.at/portal/page/portal/medienbibliothek/recht/dokumente/pdfs/remit-1227_2011-en.pdf)

Obligation report transaction data pursuant to the ordinance according to [section 25a para. 2 E-Control Act](#).

Obligation to publish inside information pursuant to Article 4 REMIT and to report to E-Control pursuant to [section 10a Natural Gas Act 2011](#).

### **Required steps**

Market players have to fulfil reporting and publishing obligations without being prompted. As no final decisions have been made regarding the legal rules, especially with respect to the question to which energy wholesale products and undertakings the REMIT rules apply, we recommend keeping up to date on new developments via the subpage of the E-Control website specifically created for this purpose: <http://www.e-control.at/en/projects>. If you have any questions on REMIT, please address them to: [remit@e-control.at](mailto:remit@e-control.at).

## **Checklist – complying with duties under REMIT**

**WD\***

### **Please note:**

The time required differs significantly according to the scope of your business activities and the automation degree in your undertaking.

## **P) Comply with further obligations**

### **Supply standard**

As a supplier, you are obliged to supply natural gas to protected customers as defined in Article 2 Regulation (EU) No 994/2010 and to comply with the supply standard set in Article 8 Regulation (EU) No 994/2010.

### **Universal service**

Suppliers have to supply natural gas to consumers and small businesses (that claim this universal service) at a tariff capped by law. However, they can claim a prepayment or collateral for this supply, which is also limited regarding the maximum amount for consumers (see [section 124 paras. 1 and 2 Gaswirtschaftsgesetz \(Natural Gas Act\) 2011](#)). The law also provides stipulations regarding the return of the collateral and the waiver of prepayment ([section 124 para. 3 Natural Gas Act 2011](#)). If certain conditions apply, payment for universal service may also be made using a prepayment system ([section 124 paras. 4 and 5 Natural Gas Act 2011](#)).

### **Reminders, service points, prepayment meters**

In cases of contract breach by the customer, suppliers have to comply with a reminder system set by law before terminating the contract or disrupting supplies ([section 127 para. 3 Natural Gas Act 2011](#)). The cases to which this reminder system does not apply are also stipulated by law ([section 127 para. 4 Natural Gas Act 2011](#)). Under certain conditions, suppliers are also obliged to set up service points on specified topics for customers ([section 127 para. 7 Natural Gas Act 2011](#)). If a supplier requests a prepayment or collateral, customers have the right to use prepayment meters instead ([section 127 para. 5 Natural Gas Act 2011](#)).

### **Network development plan**

Traders and suppliers have to participate in the preparation of the long-term plan and the **network development plan** unless they only trade at the virtual trading point ([section 121 para. 4 Natural Gas Act 2011](#)).

### **Natural gas supply contracts with a duration in excess of one year**

Natural gas supply contracts with a duration in excess of one year and involving the purchase of a quantity of natural gas in excess of 250 million normal cubic metres per year from the territory of the European Union or from third countries, as well as their duration and the quantity of natural gas they relate to, are to be notified to the regulatory authority ([section 121 para. 6 Natural Gas Act 2011](#)).

### **Membership in the Economic Chamber Organisation (WKO)**

Membership in the Economic Chamber Organisation (WKO) is compulsory for anyone who lawfully operates or is entitled to operate an independent business venture listed in [section 2 \*Wirtschaftskammergesetz \(Economic Chambers Act\)\*](#). As a rule, you are entitled to operate an independent business venture if you have obtained a trade license. Business ventures especially include trade, industry and other service companies. Pursuant to section 2 para. 1 item 20 [Gewerbeordnung \(Industrial Code\) 1994](#) (in German), natural gas traders pursuant to [section 7 para. 1 item 14 Natural Gas Act 2011](#) are generally within the scope of application of the Industrial Code.

If an undertaking obtains a trade license to act as a natural gas trader at CEGH, it automatically becomes a member of the Economic Chamber Organisation by law. We recommend that you contact the Economic Chamber Organisation directly if you have any questions regarding membership.

### **Customs procedures for importing natural gas**

Unless customs duties for natural gas imported to Austria are already paid at the EU's external borders, they must be paid in Austria. In this case, certain requirements need to be fulfilled. They include an "*Anschreibebewilligung*", an entry into the local clearance records, pursuant to Article 76(1)(c) [Customs Code Regulation \(EEC\) No 2913/92](#) of the Council of 12 October 1992 establishing the Community Customs Code (OJ EC L 302/1, 19.10.1992) and the authorisation as authorised consignee pursuant to Article 406 of the [Customs Code Implementation Regulation, Regulation \(EEC\) No 2454/93](#) of the Commission of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ EC L 253/1, 11.10.1993) for a simplified procedure for transport by pipeline pursuant to Article 450 of the Customs Code Implementation Regulation.

Of course it is also permissible to charge a carrier who already fulfils these requirements with handling all customs-related matters.

In general, customs must be declared on a monthly basis, stating the amount of natural gas imported, the value and the country of origin. The bills and import records serve as a basis for these statements.

Market entry gas – trader and supplier

For further information, please contact the Central Customs Information Office or the competent customs office:

<https://www.bmf.gv.at/zoll/zollauskuenfte-zollstellen/zollauskuenfte.html> (in German)

## ANNEX: Legal basis

This document contains extracts of and links to non-binding English versions of a variety of legal texts. The document and links are provided for the reader's convenience only and in no way constitute a legally binding document. E-Control assumes no liability or responsibility whatsoever for the accuracy, correctness or completeness of the text in this document or the linked ones or any parts thereof. For a legally binding version of the texts, please refer to the relevant issues of the *Bundesgesetzblatt* (Federal Law Gazette).

### Links to referenced legal texts

#### Basic legal framework

The *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 and the *Energie-Control-Gesetz* (E-Control Act) form the main legal framework for activities in the Austrian natural gas market.

Natural Gas Act:

<http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=2000752>

[3](#) (in German)

[http://www.e-](http://www.e-control.at/portal/page/portal/medienbibliothek/recht/dokumente/pdfs/GWG%202011_konsolidierte%20Fassung_18.09.2013_en.pdf)

[control.at/portal/page/portal/medienbibliothek/recht/dokumente/pdfs/GWG%202011\\_konsolidierte%20](http://www.e-control.at/portal/page/portal/medienbibliothek/recht/dokumente/pdfs/GWG%202011_konsolidierte%20Fassung_18.09.2013_en.pdf)

[Fassung\\_18.09.2013\\_en.pdf](http://www.e-control.at/portal/page/portal/medienbibliothek/recht/dokumente/pdfs/GWG%202011_konsolidierte%20Fassung_18.09.2013_en.pdf) (in English)

E-Control Act:

[http://www.e-control.at/portal/page/portal/medienbibliothek/recht/dokumente/pdfs/E-ControlG-](http://www.e-control.at/portal/page/portal/medienbibliothek/recht/dokumente/pdfs/E-ControlG-Fassung-vom-16-09-2013.pdf)

[Fassung-vom-16-09-2013.pdf](http://www.e-control.at/portal/page/portal/medienbibliothek/recht/dokumente/pdfs/E-ControlG-Fassung-vom-16-09-2013.pdf) (in German)

#### Legal references relating to particular topics

Depending on the topics you are interested in, you might want to look at the following legislation:

*Gas-Monitoring-Verordnung* (Gas Monitoring Ordinance):

<http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=2000828>

[7](#) (in German)



*Gas-Marktmodell-Verordnung* (Gas Market Model Ordinance) 2012, as amended in 2013:

<http://www.e-control.at/portal/page/portal/medienbibliothek/recht/dokumente/pdfs/GMMO-VO-2012-idF-GMMO-VO-Novelle-2013-konsolidiert-final.pdf> (in German)

[http://www.e-control.at/portal/page/portal/medienbibliothek/recht/dokumente/pdfs/GMMO-VO%202012%20idF%20GMMO-VO%20Novelle%202013\\_0.pdf](http://www.e-control.at/portal/page/portal/medienbibliothek/recht/dokumente/pdfs/GMMO-VO%202012%20idF%20GMMO-VO%20Novelle%202013_0.pdf) (in English)

*Gas-Systemnutzungsentgelte-Verordnung* (Gas System Charges Ordinance) 2013:

<http://www.e-control.at/portal/page/portal/medienbibliothek/recht/dokumente/pdfs/GSNE-VO%202013%20konsolidierte%20Fassung%2031.1.2014.pdf> (in German)

*Energiegroßhandels-Transaktionsdaten-Aufbewahrungsverordnung* (Ordinance on Records of Energy Wholesale Transaction Data):

<http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20008014> (in German)

*Wechselverordnung Gas* (Gas Switching Ordinance) 2012:

<http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20007864> (in German)

[http://www.e-control.at/portal/page/portal/medienbibliothek/gas/dokumente/pdfs/VS\\_16\\_TOP\\_06\\_Wechselverordnung%20Gas%202012\\_310512.pdf](http://www.e-control.at/portal/page/portal/medienbibliothek/gas/dokumente/pdfs/VS_16_TOP_06_Wechselverordnung%20Gas%202012_310512.pdf) (in English)

*Gasstatistikverordnung* (Gas Statistics Ordinance) 2012:

<http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20008146> (in German)

*Erdgasabgabengesetz* (Natural Gas Levy Act):

<http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10005028> (in German)

*Konsumentenschutzgesetz* (Consumer Protection Act):

<https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=Bundesnormen&Dokumentnummer=NOR40096149> (in German)

*Gewerbeordnung* (Industrial Code) 1994:

<http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10007517> (in German)

*Wirtschaftskammergesetz* (Economic Chambers Act) 1998:

<https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10007962>

Commission Regulation (EU) No 984/2013 of 14 October 2013 establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:273:0005:0017:EN:PDF> (in English)

Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency (REMIT) and its implementing acts (not yet in force):

[http://www.e-control.at/portal/page/portal/medienbibliothek/recht/dokumente/pdfs/remit-1227\\_2011-en.pdf](http://www.e-control.at/portal/page/portal/medienbibliothek/recht/dokumente/pdfs/remit-1227_2011-en.pdf) (in English)

ACER Guidance on the application of REMIT:

<http://www.e-control.at/en/projects/remit-documents/guidance-from-acer> (in English)

Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31992R2913:en:HTML> (in English)

Regulation (EEC) No 2454/93 of the Commission of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31993R2454:EN:HTML> (in English)

Gas Market Code, chapter 7 (5 documents):

<http://www.e-control.at/de/recht/marktregeln/sonstige-marktregeln-gas> (in German)

General Terms and Conditions of Balance Responsible Parties:

<http://www.e-control.at/de/recht/allgemeine-bedingungen/allgemeine-bedingungen-gas/ab-bko> (in German)

## Reproduction of legal provisions quoted

The below compendium reproduces the legal provision that are quoted and referenced in the market entry guidelines. Please again note that the texts are non-binding English translations of legal texts.

### Section 7 *Gaswirtschaftsgesetz (Natural Gas Act) 2011 – Definitions*

Section 7. (1) For the purposes of this Federal Act, the term

1. “Agency” shall mean the Agency for the Cooperation of Energy Regulators according to Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators, OJ L 2011, 14.08.2009, p. 1;
2. “portfolio balancing energy” shall mean the difference between injection and withdrawal of a balance group during each defined measurement period, where the energy per measurement period may be either metered or calculated;
3. “exit point” shall mean a point at which natural gas can be withdrawn from a system operator’s system by a party other than a consumer;
4. “balance group” shall mean the combination of system users in a virtual group within which injection and withdrawal are balanced;
5. “clearing and settlement agent”, aka “balance group coordinator”, shall mean the operator of a clearing and settlement agency as defined in item 67;
6. “balance responsible party”, aka “balance group representative”, shall mean the natural or legal person or registered partnership that represents the members of a balance group and is responsible vis-à-vis other market participants and the clearing and settlement agent;
7. “direct line” shall mean a natural gas pipeline complementary to the interconnected system;
8. “third-party states” shall mean states which have not acceded to the Agreement on the European Economic Area or which are not members of the European Union;
9. “injecting party” shall mean a natural or legal person or registered partnership feeding natural gas or biogas into the network at an entry point so that it can be transported;
10. “entry point” shall mean a point at which gas can be fed into a system or part of a system of a system operator;
11. “consumer” shall mean a natural or legal person or a registered partnership purchasing natural gas for own use;
12. “withdrawing party” shall mean a natural or legal person or a registered partnership taking off natural gas at an exit point;

13. “ENTSO for Gas” shall mean the European Network of Transmission System Operators for Gas as defined in Article 5 Regulation (EC) No 715/2009;

14. “natural gas trader” shall mean a natural or legal person or a registered partnership buying and selling natural gas without carrying out the functions of transmission or distribution within or outside the system in which such natural gas trader is established;

15. “natural gas pipeline system” shall mean an installation constructed or operated for the purpose of transmitting or distributing natural gas via pipelines or a system of pipelines, or as a system of direct lines, but shall not include upstream pipeline systems (item 77); the term “natural gas pipeline system” shall in particular include compressor stations, pig traps, gate valves, metering stations and gas pressure regulator stations;

16. “natural gas undertaking” shall mean any natural or legal person or registered partnership which carries out, with a view to profit, at least one of the functions of transmission, distribution, supply, sale, purchase or storage of natural gas, including liquefied natural gas, and which is responsible for the commercial, technical and/or maintenance tasks related to such functions, excluding consumers; undertakings according to item 58 and sections 13 and 17 shall be deemed natural gas undertakings;

17. “schedule” shall mean the document specifying the energy per time unit foreseen for supplying consumers or for injection into and withdrawal from the distribution network, in a constant time pattern (measurement periods);

18. “transmission” shall mean the transport of natural gas through a network which mainly contains high-pressure pipelines, other than an upstream pipeline network and other than the part of high-pressure pipelines primarily used in the context of local distribution of natural gas, with a view to its delivery to customers, but not including supply;

19. “transmission line” shall mean a natural gas line for the purpose of transmission;

20. “transmission system operator” shall mean a natural or legal person or a registered partnership that carries out the function of transmission and is responsible for operating, ensuring the maintenance of, and, if necessary, developing the transmission network in a given area and, where applicable, its interconnections with other networks, and for ensuring the long-term ability of the system to meet reasonable demands for the transport of gas;

21. “service connection branch” shall mean that part of the distribution network which connects the distribution system with the customer’s facilities; the service connection branch commences at the connection point to the system (item 40) of the distribution system existing at the date of the contract to provide a connection, and it terminates at the main shutoff valve or – if available – the house pressure controller. A house pressure controller, if available at the consumer’s facility, shall be part of the service connection branch;

22. “house pressure controller” shall mean a pressure controller owned by the system operator which has a pressure control range ranging from an input side excess pressure  $>0.5$  bar (0.05 MPa) and  $\leq 6$  bar (0.6 MPa) to an output side excess pressure  $\leq 0.5$  bar (0.05 MPa), except when the pressure controller is part of a commercial facility;

23. “horizontally integrated natural gas undertaking” shall mean a natural gas undertaking performing at least one of the functions of transmission, distribution, supply, sale, purchase or storage of natural gas, as well as another non-gas activity;

24. “hub service company” shall mean an undertaking offering services that support transactions in natural gas trading;

25. “integrated natural gas undertaking” shall mean a vertically or horizontally integrated natural gas undertaking;

26. “smart meter” shall mean a piece of technical equipment that records actual meter readings and periods of use as they occur and allows for remote meter reading. Smart meters are intended for blanket installation and therefore generally differ from load profile meters in their design, installation and data transmission technology;

27. “promotional material subject to labelling obligations” shall mean any promotional material addressed to consumers and designed to sell natural gas. This includes

- a) promotional materials for selling products to individual customers, such as product brochures;
- b) other standardised printed product materials for sales purposes;
- c) online product promotion;

28. “small business” shall mean an entrepreneur according to section 1 para. 1 item 1 *Konsumentenschutzgesetz* (Consumer Protection Act) that has fewer than 50 employees, that consumes less than 100,000 kWh of natural gas per year and whose annual turnover or balance sheet does not exceed 10 million EUR;

29. “commercial hub services” shall mean services in support of natural gas trading transactions such as, without limitation, title tracking (the tracing of transfers of title to natural gas in commercial deals);

30. “control” shall mean any rights, contracts or any other means which, either separately or in combination and having regard to the considerations of fact or law involved, confer the possibility of exercising decisive influence on an undertaking, in particular by

- a) ownership or the right to use all or part of the assets of the undertaking;
- b) rights or contracts which confer decisive influence on the composition, voting or decisions of the organs of an undertaking;

31. “cost cascading” shall mean a calculation method used to apportion, on a pro-rata base, to a group of consumers the costs of all network levels above the connection level;

32. “customers” shall mean consumers, natural gas traders and natural gas undertakings which purchase natural gas;
33. “long-term plan” shall mean the long-term plan of the supply and transportation capacity of natural gas undertakings with a view to covering the system’s natural gas requirements, to diversifying sources and to ensuring the supply of customers with natural gas;
34. “load profile” shall mean the quantity drawn by a withdrawing party or delivered by an injecting party, shown in time intervals;
35. “load profile meter” shall mean a piece of technical equipment which registers actual load at hourly intervals;
36. “market area” shall mean a combination of systems of different system operators within which a party entitled to system access can flexibly use its booked capacity at entry and exit points;
37. “market rules” shall mean the sum total of all legal or contractual rules, regulations and provisions which natural gas market participants must comply with in order to facilitate and guarantee the proper functioning of this market;
38. “market participants” shall mean balance responsible parties, balance group members, suppliers, natural gas traders, producers, system users, customers, consumers, clearing and settlement agents, transmission system operators, distribution system operators, market area managers, distribution area managers, storage system operators, natural gas exchanges and hub service companies;
39. “system” shall mean any transmission or distribution system owned and/or operated by a natural gas undertaking, including any facilities of this undertaking which are used to provide ancillary services (such as control and metering equipment), as well as any facilities of affiliated undertakings which are required for access to transmission and distribution facilities;
40. “connection point” shall mean a point in the system existing at the date of the contract to provide a connection which is technically suitable for withdrawal or injection of natural gas, with due regard to the economic interests of the system user;
41. “system user” shall mean any natural or legal person or registered partnership feeding into or out of a system or being supplied by a system or whose facility is connected to a system;
42. “network area” shall mean that part of the network for the use of which the same system charges apply;
43. “system operator” shall mean any transmission or distribution system operator;
44. “network level” shall mean a section of the network mainly defined by its pressure level;
45. “interconnection point” shall mean a point at which systems of different system operators are connected with each other;
46. “system access” shall mean use of a system;

47. “party entitled to system access” shall mean a natural or legal person or registered partnership that wishes to gain access to a system, including but not limited to natural gas undertakings, to the extent required to fulfil their responsibilities;

48. “system access contract” shall mean the individual agreement made between a party entitled to system access and a system operator in accordance with sections 27 or 31, regulating connection as well as entry and exit points and utilisation of the system;

49. “system admission” shall mean the initial connection to a system or the change of capacity of an existing connection;

50. “new infrastructure” shall mean new natural gas infrastructure, i.e. interconnectors and storage facilities not completed by 4 August 2003;

51. “nomination” shall mean the amount of energy during a certain time interval that is to be handed over or received at an entry or exit point of the transmission network or at the virtual trading point;

52. “producer” shall mean a legal or natural person or a registered partnership extracting natural gas;

53. “technical rules” shall mean any technical rules containing principles derived from academic knowledge or experience in technology which are generally considered to be correct and expedient in practice; compliance with the technical rules shall be assumed if the rules of the ÖVGW (Austrian Association for the Gas and Water) as well as the relevant ÖNORMs (Austrian standards) are complied with in construction, expansion, modification, operation and maintenance activities;

54. “control energy” shall mean the energy required for the short-term compensation of pressure variations in the system which occur within a given interval;

55. “security” shall mean security of supply and provision of natural gas as well as operational and technical safety;

56. “gas market code” shall mean that part of the market rules and arrangements which are established under section 22 para. 1 item 1 *Bundesgesetz über die Regulierungsbehörde in der Elektrizitäts- und Erdgaswirtschaft (Energie-Control-Gesetz [E-Control Act])*, Federal Law Gazette I no 110/2010, and which applies due to legal instructions by way of the approved general terms and conditions;

57. “storage facility” shall mean a facility used for storing natural gas, owned and/or operated by a natural gas undertaking, excluding any parts used for activities pursuant to the *Mineralrohstoffgesetz* (Mineral Resources Act), and excluding facilities reserved exclusively for system operators in carrying out their functions;

58. “storage system operator” shall mean a natural or legal person or a registered partnership that carries out the function of storage and is responsible for operating a storage facility; this includes undertakings that merely manage a storage facility;



59. “party entitled to storage access” shall mean a natural or legal person or a registered partnership that wishes to gain storage access, including but not limited to natural gas undertakings, to the extent required to fulfil their responsibilities;

60. “state of the art” shall mean the state of tried and tested advanced technological processes, facilities and operating methods based on the relevant academic findings; determination of the state of the art shall primarily be based on comparable processes, facilities and operating methods;

61. “standardised load profile” shall mean a load profile characteristic of a certain group of injecting or withdrawing parties which has been drawn up by a suitable procedure;

62. “system charges” shall mean the fees payable for the injection of natural gas into a system or the withdrawal of natural gas from a system;

63. “interconnector” shall mean a transmission line which crosses or spans a border between member states for the sole purpose of connecting the national transmission networks of those member states;

64. “affiliated natural gas undertaking” shall mean

a) an affiliated undertaking pursuant to section 228 para. 3 *Unternehmensgesetzbuch* (Business Enterprise Code);

b) an associated undertaking pursuant to section 263 para. 1 Business Enterprise Code; or

c) two or more undertakings with identical shareholders;

65. “interconnected system” shall mean a number of systems which are connected with each other;

66. “available line capacity” shall mean the difference between the maximum technical capacity at entry/exit points accessible via transmission or distribution lines and the actual load at a given time at these points of the natural gas pipeline system;

67. “clearing and settlement agency for transactions and price formation for balancing energy” shall mean a body pursuant to section 85 in the distribution network;

68. “supplier”, aka “retailer”, shall mean a natural or legal person or a registered partnership executing the function of supply;

69. “supply” shall mean the sale, including resale, of natural gas, including LNG, to customers;

70. “distribution area” shall mean a delimitable geographic area covered by the entire distribution network within a market area;

71. “distribution system” shall mean a natural gas pipeline system for the purpose of distribution;

72. “distribution system operator” shall mean a natural or legal person or a registered partnership that carries out the function of distribution and is responsible for operating, ensuring the maintenance of, and, if necessary, developing the distribution network in a given area and, where applicable, its interconnections with other systems, and for ensuring the long-term ability of the system to meet reasonable demands for the distribution of gas;



73. “distribution” shall mean the transport of natural gas through local or regional pipeline networks with a view to its delivery to customers, but not including supply;

74. “vertically integrated natural gas undertaking” shall mean a natural gas undertaking or a group of undertakings in which the same person or the same persons are entitled, directly or indirectly, to exercise control, and where the undertaking or group of undertakings perform at least one of the functions of transmission, distribution, LNG or storage, and at least one of the functions of production or delivery of natural gas;

75. “management of natural gas storage facilities” shall mean the conclusion of contracts with third parties for making storage capacity available, including stipulations regarding injection and withdrawal rates;

76. “virtual trading point” shall mean a notional point in a market area at which natural gas can be traded within the market area after injection and before offtake. The virtual trading point is not a physical entry/exit point but enables natural gas buyers and sellers to purchase and sell natural gas without the need to book capacity;

77. “upstream pipeline network” shall mean any pipeline or system of pipelines operated or constructed as part of a gas production or storage project, or used to convey natural gas from one or more such projects to a processing plant or terminal; the term “upstream pipeline network” shall also include storage stations;

78. “metering point” shall mean any injection or withdrawal point where natural gas volumes are metered and registered. Combining several metering points shall not be admissible.

(2) Insofar as reference is made in this Federal Act to provisions of other federal acts or to directly applicable Union law, such provisions shall apply as amended.

(3) Where reference is made to particular natural persons, the applicable grammatical gender has been used; general references to natural persons are intended to refer to all sexes and neutral wording has been chosen.

(4) Any references to “natural gas” or “gas” in this Federal Act shall be taken to also refer to biogenic gas that has been processed to meet natural gas quality standards.

### **Section 10a *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 – Disclosing Inside Information**

Section 10a. Any market participant obliged to publish inside information pursuant to Article 4 of Regulation (EU) No 1227/2011 shall submit such information to E-Control at the same time as publishing it.

### **Section 13 *Gaswirtschaftsgesetz (Natural Gas Act) 2011 – Market Area Managers***

Section 13. (1) The transmission system operators of a market area shall designate a market area manager which performs the tasks according to section 14. The designation of the market area manager shall be subject to approval by the regulatory authority. Market areas without transmission lines shall not have a market area manager. The appropriate cost of the market area manager shall be borne by the transmission system operators and be allowed as costs of the transmission system operators.

(2) Approval shall be given if it is expected that the designated market area manager is capable of efficiently exercising the tasks according to section 14 and fulfils the conditions in section 15.

(3) In market areas where, by 3 March 2012, no market area manager has been designated according to para. 1, the regulatory authority shall ex officio choose an undertaking suitable for this role, respecting the preconditions laid down in para. 2 above, and oblige it to exercise the tasks of a market area manager on an interim basis. The authority shall revoke this official decision as soon as a suitable market area manager is designated in accordance with para. 1.

### **Section 36 *Gaswirtschaftsgesetz (Natural Gas Act) 2011 – Capacity Allocation***

Section 36. (1) The transmission system operators shall offer firm and interruptible capacity. The capacity offers of transmission system operators shall be designed to enable the capacity on offer to be booked and used without predefining a transport path or fulfilling other additional preconditions. System users shall be enabled to book capacity at entry and exit points independently of each other, in different amounts and for different times.

(2) System users shall be offered at least annual, monthly and daily contracts for the capacity calculated pursuant to sections 34 and 35 at each entry/exit point. How much of the capacity is allocated to contracts of each term shall depend on demand.

### **Section 37 *Gaswirtschaftsgesetz (Natural Gas Act) 2011 – Interruptible Capacity***

Section 37. (1) Interruptible capacity differs from firm capacity only in its interruptible character and the charge to be set pursuant to sections 72 et sqq.

(2) Interruptible capacity offers shall enable use of the system capacity that is not used by holders of firm capacity rights or cannot be firmly calculated beforehand.

(3) Transports may only be interrupted if it is to be expected that the transports nominated on an interruptible basis cannot all be executed even if use is made of all short-term coordinated options at the system operators' disposal. Any interruptions shall be announced in due time ahead of the interruption to enable the system user to take compensatory steps.

### **Section 38 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 – Trading of Capacity Rights**

**Section 38.** System users shall have the right to resell or sublet, without the agreement of the transmission system operator, their capacity rights entirely or partially to third registered system users. System users may trade their capacity rights on the secondary market through the common online platform pursuant to section 39 or, after consultation of the market in cooperation with the market area manager, through an energy exchange.

### **Section 39 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 – Online Platform for Capacity Offers**

Section 39. (1) Capacity allocation in each market area shall be executed through an electronic online platform. The platform shall be designed in a user-friendly way and shall particularly enable anonymous capacity trading. It shall be available at least in German and English.

(2) The information about relevant points in the market area's transmission network in accordance with Regulation (EC) No 715/2009 shall be published on the online platform. The list of relevant points shall be drawn up by the transmission system operators and shall be subject to approval by the regulatory authority.

(3) The information about the distribution area, including but not limited to the information pursuant to section 18 para. 1 item 19, shall be published on the online platform.

(4) The market area manager shall offer a balance group contract for the establishment of balance groups in accordance with section 91 para. 2 item 1 on the online platform.

### **Section 68 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 – Tasks and Obligations of the Operator of the Virtual Trading Point**

Section 68. (1) The virtual trading point is a notional point in a market area at which market participants can trade natural gas even without having the right to system access for the market area. Access to the virtual trading point shall be subject to the operational rules of the market area manager and the transmission system operators, in line with the market rules. The virtual trading point is not a physical entry or exit point but enables natural gas buyers and sellers to purchase and sell natural gas without the need to book capacity.

(2) The market area manager shall designate the operator of the virtual trading point and notify such designation to the regulatory authority.

(3) The operator of the virtual trading point shall be independent, especially from the vertically integrated natural gas undertaking, in terms of its legal form, organisation and decision-making power. In addition,

1. it shall take the legal form of an *Aktiengesellschaft* (public limited company under Austrian law) and have a share capital of at least 2 million EUR;

2.the persons responsible for the management shall have no other professional position or responsibility, interest or business relationship, directly or indirectly, with any other part of the vertically integrated natural gas undertaking or with its controlling shareholders;

3.the operator of the virtual trading point shall inform the regulatory authority without delay of the identity of and the conditions governing the function as well as term and termination of office of the persons responsible for the management, and the reasons for their nomination or termination of their contract.

(4) For the purpose of concentrating gas trade at the virtual trading point, the operator of the virtual trading point shall have the following responsibilities:

- 1.to autonomously operate the virtual trading point in cooperation with the market area manager;
- 2.to offer commercial hub services, including, without limitation, title tracking to prove the transfer of ownership rights in natural gas at the virtual trading point;
- 3.to electronically record and settle energy quantities from trades at the virtual trading point;
- 4.to continuously handle trade nominations (168 hours per week) regarding market participants at the virtual trading point;
- 5.to provide for an electronic back-up/back-down platform to maintain continuous handling of trades as much as possible in cases of undersupply or oversupply to the virtual trading point;
- 6.to provide for supraregional interconnection with adjoining market areas, in cooperation with neighbouring system operators;
- 7.to cooperate with exchanges and clearing houses to enable settlement of exchange nominations relating to the virtual trading point on behalf of the clearing house;
- 8.to provide for a supraregional balancing platform, in cooperation with the system operators concerned and in line with Union law.

(5) Furthermore, the operator of the virtual trading point may offer all other services and fulfil all functions which are necessary for and conducive to the operation of the virtual trading point in line with this Act, as long as the tasks listed in para. 4 above are not impaired thereby.

(6) The operator of the virtual trading point shall actively consult market participants and the regulatory authority. In addition, the regulatory authority may request the operator of the virtual trading point to provide services a demand for which is expressed during these consultations by the market participants. Such request is subject to the consistency of such services with the international standards of EASEE-gas, the Agency for the Cooperation of Energy Regulators (ACER), the European Network of Transmission System Operators for Gas (ENTSO for Gas) and the European Federation of Energy Traders (EFET) and their economic and legal feasibility.

(7) The operator of the virtual trading point shall comply with the following obligations and conditions:

1. The operator of the virtual trading point shall refrain from discriminating against potential and actual users of its services, in particular if this would be to the benefit of vertically integrated natural gas undertakings.
2. To enable a factual assessment of the legal compliance of the operation of the virtual trading point, the operator of the virtual trading point shall keep records of the operation and permit the regulatory authority, upon its substantiated request, to inspect these records.
3. Without prejudice to its statutory obligation to disclose information, the operator of the virtual trading point shall preserve the confidentiality of any economically sensitive information and of any business or trade secrets of which it obtains knowledge in the course of carrying out its business.
4. Unless otherwise provided in other statutory obligations, the operator of the virtual trading point shall particularly ensure the strict confidentiality of bilateral price information. Special confidentiality obligations apply regarding its shareholders.
5. The shareholders of the operator of the virtual trading point shall refrain from any actions which would impair or endanger the performance of the obligations of the operator of the virtual trading point. Any contractual relations between the operator of the virtual trading point with contractors or service providers shall include the requisite confidentiality clauses.
6. In addition, the operator of the virtual trading point shall take the appropriate compliance actions to ensure that confidentiality is also maintained with regard to its functions in exchange and OTC trades.
7. The persons responsible for OTC trading at the operator of the virtual trading point shall not be responsible for exchange trading at the same time. The area of confidentiality “middle office” established by the operator of the virtual trading point shall comprise all OTC activities and physical hub services, while the area of confidentiality “market operations” shall ensure compliance with the statutory requirements for tasks concerning gas exchanges. The operator of the virtual trading point shall appoint a compliance officer to monitor compliance with these stipulations. This compliance officer shall submit his or her annual report to the regulatory authority.
8. In the interest of transparency, the operator of the virtual trading point shall regularly publish anonymous and aggregate general market information on the internet. It shall also provide any information of which it obtains knowledge and which might have an impact on the market in a non-discriminatory manner and without undue delay, in an appropriate format.
9. Sections 9 to 11 shall also apply to the operator of the virtual trading point.

## **Section 90 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 – Grouping System Users into Balance Groups**

Section 90. (1) System users shall be obliged either to join a balance group or to form a balance group of their own.

- (2) In accordance with their legal and contractual obligations, system users shall be obliged
1. to make available and transmit to market area managers, distribution area managers, system operators, balance responsible parties and the clearing and settlement agent, in accordance with their obligations under contractual agreements, any data, meter readings and other information required to determine their consumption or transport needs insofar as this is required with a view to maintaining a competitive gas market and affording consumer protection;
  2. to comply with the technical specifications of system operators inasmuch as they use their own metering and data transmission equipment;
  3. to submit information in connection with supplier or balance group switches, and keep to the time limits provided therefore;
  4. to report contract data to bodies charged with drawing up indices;
  5. to submit schedules to the system operator and to the distribution and market area managers in the event that this should be required for technical reasons;
  6. to enter into contracts on the exchange of data with other system operators, the balance responsible parties, the clearing and settlement agents, the market area manager, the distribution area manager and other market participants in accordance with the market rules.

Balance groups may be formed within a market area or for several market areas. The establishment and alteration of balance groups shall be carried out by the balance responsible party. Information about whether the balance group intends to be active in the transmission network only or in the distribution network as well shall be given.

(3) The activities of a balance responsible party for a balance group active in the distribution network may be exercised by a natural or legal person or a registered partnership domiciled or seated in Austria or in another EU or EEA member state.

(4) If a system user should fail to meet his or her obligations pursuant to paras 1 and 2 above, section 24 *Energie-Control-Gesetz* (E-Control Act) shall apply subject to the proviso that the obligated system user shall be requested to comply with these obligations within a reasonable period to be specified by the authority. Should the system user fail to comply with this request within the period specified, compliance with the law shall be established by assigning the consumers that are customers of this system user to a balance group by official decision (section 95).

### **Section 91 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 – Tasks and Obligations of Balance Group Representatives**

Section 91. (1) The balance responsible party shall be obliged to perform its responsibilities and obligations and to comply with the market rules. The balance responsible party shall have the following responsibilities:

- 1.to draw up schedules and submit them to the clearing and settlement agent and market area manager or distribution area manager, as applicable;
- 2.to nominate capacity at the transmission network's entry/exit points with the transmission system operator, with the exception of the internal interconnection points from the transmission to the distribution network;
- 3.to balance its balance group's infeed and takeoff during each measurement period by taking suitable action, while including all information available to it already in drawing up schedules and nominating;
- 4.to enter into contracts on the availability of reserves and the supply of customers of those suppliers assigned to the balance group by the regulatory authority in accordance with section 95;
- 5.to report certain procurement and consumption data for technical purposes;
- 6.to submit procurement and purchase schedules of large withdrawing and injecting parties for technical purposes, following predefined rules;
- 7.to pay the applicable charges (fees) to the clearing and settlement agent;
- 8.to pay the imbalance charges to the clearing and settlement agent and pass on these charges to the balance group members;
- 9.to nominate trade transactions with the operator of the virtual trading point.

(2) The balance responsible parties shall be obliged

- 1.to conclude balance group contracts with the market area manager to establish balance groups and organise registration, balancing and settlement of the group's imbalances between injection and withdrawal for each defined measurement period;
- 2.to conclude agreements on the exchange of data with the market area manager, the distribution area manager, the clearing and settlement agent, the system operators and the balance group members;
- 3.to keep a record of balance group members;
- 4.to submit data to the clearing and settlement agent, the market area manager, the distribution area manager, the system operators and the balance group members in accordance with the market rules;
- 5.to manage the total capacities allocated to the direct balance group members at the internal interconnection points from the transmission into the distribution network in the market area and to pass on applications by their balance group members for system access or for capacity expansion to the distribution area manager;
- 6.to procure balancing energy for the balance group members with a view to supply;
- 7.to comply with the approved general terms and conditions for the system;



8. to submit general terms and conditions to the regulatory authority for its approval and, if so requested, to amend or rewrite them to the extent necessary to achieve a competitive market, provided that the balance group is active in the distribution network.

(3) If a balance group member switches to another balance group or supplier, the data of such member shall be furnished to the new balance group or new supplier and the distribution area manager.

### **Section 93 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 – Licensing of Balance Responsible Parties**

Section 93. (1) The activity performed by a balance responsible party shall be subject to a licence granted by the regulatory authority. The following documents shall be enclosed with the application for such licence:

1. agreements with the clearing and settlement agent, the distribution area manager, the operator of the virtual trading point, the natural gas exchange at the virtual trading point, and the market area manager as required to perform the responsibilities and obligations set forth in this Act, including, without limitation, those of an administrative and commercial type;

2. proof of entry in the *Firmenbuch* (Commercial Register) in the form of an extract from the Commercial Register or an equivalent register and the seat (principal residence);

3. proof that that the applicant and the bodies authorised to represent it

a) are legally competent and have completed their 24th year of age;

b) are Austrian citizens or citizens of another member state of the EU or the EEA;

c) are not excluded from exercising the licenced activities according to paras 4 through 7 below;

4. proof that the balance responsible party, at least one (general) partner or at least one managing director or managing board member or executive has the requisite technical qualifications;

5. proof that the balance responsible party has at its disposal a liable equity capital of at least 50,000 EUR for performing its activities as a balance responsible party, in the form of a bank guarantee or requisite insurance or similar, without prejudice to any higher capital which may be required for the type and scope of activities in accordance with the agreement to be submitted under item 1 above;

6. a current extract from the register of previous convictions or equivalent certificate by a court or administrative authority in the country of origin of the applicant (of the natural persons who control the applicant) from which arises that no grounds of exclusion within the meaning of paras 4 and 5 below exist.



(2) The criterion of technical qualification shall be deemed to be met if the person has adequate theoretical and practical knowledge of the handling of natural gas transactions or has worked in an executive position in the natural gas business, especially in natural gas trading, natural gas logistics, natural gas production or in operating a system or storage facility.

(3) The licence shall be issued, if necessary subject to additional stipulations, where all prerequisites as set forth in para. 1 above are met. Upon receipt of the complete documentation for the application, the regulatory authority shall decide within two months, failing which the applicant shall be authorised to be temporarily active as a balance responsible party. Prohibition of the activity shall be by analogous application of section 94.

(4) Any person sentenced by a court to more than three months' imprisonment or to payment of a fine of more than 180 daily rates shall be excluded from performing the activity of a balance responsible party if the sentence has been neither extinguished nor is subject to restriction of information from the register of previous convictions. This shall also apply to any crimes or offences committed abroad which are comparable to the above grounds of exclusion.

(5) Any person sentenced for the financial offences of *Schmuggel* (smuggling), *Hinterziehung von Eingangs- oder Ausgangsabgaben* (evasion of import or export duties or charges), *Abgabenhehlerei* (accessory after the fact with regard to duties and other charges) under section 37 para. 1 a *Finanzstrafgesetz* (Penal Code for Financial Offences), *Hinterziehung von Monopoleinnahmen* (evasion of monopoly revenues), *vorsätzlicher Eingriff in ein staatliches Monopolrecht* (wilful interference with a state monopoly) or *Monopolhehlerei* (accessory after the fact with regard to monopolies) under section 46 para. 1(a) Penal Code for Financial Offences shall be excluded from performing the activity of a balance responsible party if such person has been sentenced for such financial offence to payment of a fine in excess of 7,300 EUR or to imprisonment in addition to a fine and if five years have not yet passed since the punishment. This shall also apply to any crimes or offences committed abroad which are comparable to the above grounds of exclusion.

(6) Any entity whose assets have ever been subject of any kind of insolvency proceedings or for which such proceedings have not been finally opened due to lack of sufficient assets to cover costs shall be excluded from performing the activity of a balance responsible party. This shall also apply to any crimes or offences committed abroad which are comparable to the above grounds of exclusion.

(7) Any natural person shall be excluded from exercising the activities of a balance responsible party if any kind of debt management proceedings have been opened against such person's assets or if such person has or had a controlling influence on the business of an entity which is not a legal person to which para. 6 above applies or applied.

## **Section 121 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 – Obligations of Natural Gas Traders and Suppliers**

Section 121. (1) A natural gas trader shall notify its activities to the regulatory authority prior to commencing them. The regulatory authority shall keep, update and publish a list of natural gas traders.

(2) Natural gas traders and suppliers selling natural gas to consumers subject to the provisions of the *Konsumentenschutzgesetz* (Consumer Protection Act) shall always provide for an option to enter into noninterruptible natural gas supply contracts.

(3) Retailers supplying consumers shall be obliged to transmit all price relevant data relating to consumers supplied with standard products immediately upon their becoming available to the regulatory authority in an electronic format defined by the regulatory authority, for the purpose of entering such data in the Tariff Calculator. The Tariff Calculator of the regulatory authority shall treat all competitors equally and publish all such data made available to the regulatory authority in a transparent and non-discriminatory manner.

(4) Natural gas traders and suppliers, with the exception of traders that only trade at the virtual trading point, shall contribute to the preparation of the long-term plan and the network development plan.

(5) Retailers supplying natural gas to protected customers as defined in Article 2 Regulation (EU) No 994/2010 shall be obliged to comply with the supply standard set in Article 8 Regulation (EU) No 994/2010.

(6) The conclusion of natural gas supply contracts having a duration in excess of one year and involving the purchase of a quantity of natural gas in excess of 250 million normal cubic metres per year from the territory of the European Union or from third countries, as well as their duration and the quantity of natural gas they relate to, shall be notified to the regulatory authority. The regulatory authority shall keep a record of such natural gas supply contracts.

(7) The regulatory authority shall prohibit a natural gas trader from carrying out its business by official decision if it has been punished for gross infringement of any provisions of this Federal Act and further infringement is to be feared or if measures have been taken or are about to be taken in response to a natural gas trader's becoming insolvent or excessively indebted.

## **Section 123 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 – Switching, Enabling and Disabling Metering Points, Objections**

Section 123. (1) Consumers as defined in section 1 para. 1 item 2 *Konsumentenschutzgesetz* (Consumer Protection Act) and small businesses may terminate their supply contracts by giving two weeks' notice, without the need to adhere to any particular deadlines for giving notice. Suppliers may

terminate their contracts with consumers as defined in section 1 para. 1 item 2 Consumer Protection Act or small businesses by giving at least eight weeks' notice. Where minimum contract terms have been agreed, the first possibility for termination with notice shall be no later than at the end of the first contract year and then after a two-week notice period if the contract is terminated upon the wish of the consumer as defined in section 1 para. 1 item 2 Consumer Protection Act or a small business, or after an eight-week notice period if the contract is terminated upon the wish of the supplier.

(2) Without prejudice to existing civil-law obligations, the supplier switching process shall take no longer than three weeks from the system operator's being informed of the switch. In defining such process, particular attention shall be given, without limitation, to the technical and organisational measures to be taken by the system operator in connection with the switch, to the compatibility of terms and deadlines with settlement procedures under the balancing regime, to ensuring the security of supply, and to implementing the customers' wishes. Switching suppliers shall not give rise to any additional cost for consumers.

(3) Consumers without load profile meters may at any time, electronically and without adhering to any particular format, submit declarations of intent to suppliers through websites to be provided by the latter, in order to authorise such suppliers to instate and execute the switching process. Suppliers that have been authorised in this way shall submit suitable evidence to the system operators and other suppliers to establish the existence of such declarations of intent. The system operator shall inform the consumer immediately once the switch has been instated. Suppliers shall provide for user-friendly mechanisms to verify and authenticate the consumer's identity. The regulatory authority shall enable users to find supplier websites by including hyperlinks in its tariff calculator (section 22 *E-Control-Gesetz* [E-Control Act]). The suppliers shall provide and update the pertaining information to the regulatory authority without the latter having to request it.

(4) Any and all procedural steps that form part of the switching, enabling, disabling and objection processes shall be executed electronically through the platform to be operated by the clearing and settlement agent. This particularly applies to verifying the consumer identity, checking for minimum terms and notice periods, updating data, and submitting consumption data. If information is requested, the system operators and suppliers shall provide only the data necessary for the abovementioned processes, i.e. name, address, metering point reference number, load profile type, and current supplier for consumer identity verification, and notice periods, termination dates and minimum terms for minimum term and notice period checks, to all authorised suppliers through the online platform to be operated by the clearing and settlement agent, in a decentralised and non-discriminatory manner and in accordance with a standardised electronic format. The system operators and suppliers shall connect to the platform. Suppliers may not initiate any of the processes mentioned in this paragraph without the respective consumer's declaration of intent.

(5) The data transmission procedure (communication protocol) used for the platform (para. 4) shall be developed methodically in line with the state of the art and tested independently. In particular, the clearing and settlement agent shall introduce means to identify and authenticate new system operators and suppliers that request access to the platform.

(6) The clearing and settlement agent, the system operators and the suppliers shall keep revision-secure records of all requests and responses regarding consumer information handled by way of the platform pursuant to para. 4. On the part of the clearing and settlement agent, these records shall extend to all procedural steps that must be handled on the switching platform, in particular the duration of the steps, the degree to which the deadlines foreseen for verifying the existence of authorisations for each procedural step were used, access by authenticated persons, and the availability of the interfaces of the suppliers' and system operators' IT systems with the platform. The system operators and suppliers shall record date and time of any requests made and responses given, the requesting and responding entities, and the purpose of all requests and responses. In addition, suppliers shall record information relating to identifying the consumer concerned along with a unique code that enables identifying the person that has made or initiated a request pursuant to para. 4. Records shall be kept for three years and may only be used to verify whether a request was legitimate, to provide information, for the purposes of administrative penal law, and for the purposes of sections 24 and 26 E-Control Act. The clearing and settlement agent shall verify the legitimacy of requests in cases of suspected abuse and in addition as a matter of regular spot checks. It shall submit a report about the results of these verifications and checks to the regulatory authority every other year; the latter shall publish such report in an anonymised format.

(7) The regulatory authority may issue ordinances detailing any and all procedures relevant for supplier switching or enabling and disabling metering points. It may also issue an ordinance regulating the type and extent of the data listed in para. 4 and the additional data necessary to address the abovementioned purposes. The regulatory authority may also issue an ordinance detailing the minimum security standards for the type of data transmission (pursuant to paras 4 and 5) by system operators and suppliers through the platform operated by the clearing and settlement agent and the necessary data security measures, in particular with regard to the records to be kept. The regulatory authority may exempt individual processes from the obligation to be handled electronically through the platform to be operated by the clearing and settlement agent in accordance with the first and second sentences of para. 4 if it considers that this is necessary in the interest of straightforward and cost efficient processing.

**Section 124 Gaswirtschaftsgesetz (Natural Gas Act) 2011 – Universal Service**

Section 124. (1) Natural gas traders and other suppliers whose function includes supply to consumers as defined in section 1 para. 1 item 2 *Konsumentenschutzgesetz* (Consumer Protection Act) shall publish, in an appropriate manner (e.g. on the internet), their rates for universal service to consumers in the meaning of section 1 para. 1 item 2 Consumer Protection Act. They shall be obliged, at their general terms and conditions in force and at these rates, to deliver natural gas to consumers as defined in section 1 para. 1 item 2 Consumer Protection Act and small businesses that claim their right to be supplied with natural gas (universal service obligation). The regulatory authority may specify further details on the reasonableness of the universal service obligation and on the design of rates for universal service to consumers as defined in section 1 para. 1 item 2 Consumer Protection Act and small businesses by ordinance.

(2) The rates for universal service to consumers as defined in section 1 para. 1 item 2 Consumer Protection Act may not exceed the rates at which most of their customers that are consumers in the meaning of section 1 para. 1 item 2 Consumer Protection Act are supplied. The rates for universal service to small businesses may not exceed the rates applied to comparable customer groups. Commencement of supply of last resort to consumers as defined in section 1 para. 1 item 2 Consumer Protection Act who claim universal service shall not be made conditional on their payment of collateral or prepayment exceeding the amount due for one month.

(3) Any collateral paid shall be reimbursed if a consumer pays his or her debts in due time for six months, and no prepayments shall be requested unless he or she again fails to pay in due time.

(4) System operators shall provide system services to consumers as defined in section 1 para. 1 item 2 Consumer Protection Act and small businesses that claim universal service, regardless of whether they are in arrears with their payments or not. Provision of such system services shall not be made conditional on the consumers' payment of collateral or prepayment exceeding the amount due for one month. Para. 3 shall apply *mutatis mutandis*. Should a customer that has claimed universal service again fail to pay in due time, the system operator may physically disconnect such customer until the amount due has been paid, unless the customer commits to paying for future system use and supply in advance (prepayment). System operators may reject prepayments only if there are safety concerns. For cases of repeated payment arrears, section 127 para. 3 shall apply *mutatis mutandis*. The prepayment obligation shall not apply to small businesses with load profile meters.

(5) A prepayment system installed in connection with universal service shall be deactivated if requested so by consumers that have paid all amounts due for universal service to their suppliers and system operators, or if their debt has been cleared through other circumstances.

## **Section 125 Gaswirtschaftsgesetz (Natural Gas Act) 2011 – General Terms and Conditions for Natural Gas Supply**

Section 125. (1) Natural gas traders and suppliers shall draw up general terms and conditions for natural gas supply to customers whose consumption is not metered with load profile meters. Prior to their entry into force, the general terms and conditions and any amendments thereto shall be electronically notified to the regulatory authority and published in a suitable format.

(2) Any amendments to the general terms and conditions and the contractual charges shall be permissible only subject to the provisions of the *Allgemeines Bürgerliches Gesetzbuch* (Civil Code) and the *Konsumentenschutzgesetz* (Consumer Protection Act), Federal Law Gazette no 140/1979. Customers shall be informed of such amendments by way of a personally addressed written communication or, if so requested by the customer, electronically. This communication must logically reproduce the amendments introduced to the general terms and conditions. If the customer objects to the amendment of the general terms and conditions or the charges and this terminates the contractual relationship, such termination shall take effect on the last day of the month following a period of three months.

(3) The general terms and conditions or the contract forms between suppliers and customers shall at least specify

- 1.name and address of the natural gas trader or supplier;
- 2.the services rendered and quality levels offered, as well as the prospective date of the start of delivery;
- 3.the method of making available to the customer current information on the applicable contractually agreed charges;
- 4.the term of the contract, the conditions for renewal and termination of services and of the contract, the existence of any right of withdrawal;
- 5.any compensation and refund arrangements which apply if contracted service quality levels are not met, including inaccurate and delayed billing;
- 6.information on the available dispute complaint procedures;
- 7.the modalities for partial payments by the customer; the customer shall have the possibility of spreading his or her dues across at least ten payments a year;
- 8.the energy rate in cent per kWh including any additional fees, levies and taxes;
- 9.the conditions for supply pursuant to section 124.

(4) The suppliers must be able to provide evidence that they have informed their customers of the essential contract contents prior to the conclusion of the contract. To this end customers shall receive



an information leaflet. This shall also apply to situations where the contract is concluded through an intermediary.

(5) The regulatory authority may prohibit the application of the general terms and conditions for natural gas supply notified pursuant to para. 1 above within two months to the extent that such terms violate a statutory prohibition or are unethical. This shall be without prejudice to the competences for reviewing general terms and conditions on the basis of other legislation.

(6) The provisions of paras 1 through 5 above shall be without prejudice to the provisions of the Consumer Protection Act and the Civil Code.

### **Section 126 *Gaswirtschaftsgesetz (Natural Gas Act) 2011 – Minimum Requirements for Bills and Information and Advertising Materials***

Section 126. (1) Information and advertising materials as well as bills directed at consumers shall be transparent and consumer-friendly. Where such documents are intended to inform both on the system charges and the price for natural gas (energy rate), to advertise for both of them, to offer the conclusion of a joint contract or to invoice such a contract, the components of the system charges, the surcharges for taxes, fees and levies, and the energy rate shall be itemised in a transparent manner. The energy rate shall, in any case, be stated in cent per kWh, and any standing charges shall be listed. Electronic delivery of bills shall be permissible upon the customer's wish, but the contract may not curtail the customer's right to receive paper bills. Receiving paper bills shall not give rise to any additional cost for the consumer.

(2) If the consumer requests so, he or she shall be billed several times during a year.

(3) Bills for system charges shall itemise all applicable taxes, fees and levies arising from federal and provincial legislation. The components of the system charges shall be itemised once a year. In addition, the information provided shall include, without limitation,

1.the allocation of the customer facilities to the network levels pursuant to section 84;

2.for load-metered customers, the contracted maximum capacity in kilowatt hours per hour (kWh/h);

3.the meter point administration numbers;

4.the meter readings used for billing;

5.information about how meters have been read. Such information shall specify whether meters have been read by the system operator, by the customer, remotely, or whether the meter data have been calculated;

6.the amount of energy transported per time of use during the billing period; for load-metered customers, also the load information used for billing; and a year-on-year comparison for each of these;

- 7.the calorific value in kWh/m<sup>3</sup> used for calculating the amount of energy billed as well as the conversion factor applied to convert the amount of gas in operating state into the amount of energy;
- 8.information on the option of meter reading by the customer;
- 9.telephone numbers for incidents and failures;
- 10.the process for instating a dispute settlement procedure pursuant to section 26 *Energie-Control-Gesetz* (E-Control Act).

(4) Suppliers shall use the calorific value set by the regulatory authority by ordinance pursuant to section 72 para. 3 for billing except where the calorific value is determined directly at the customer facility.

(5) For the purpose of confirming correctness and legality, and to be able to provide authorised consumers and, upon explicit request by such consumers, expressly named third parties, with data free of charge, system operators and suppliers shall keep records of consumption and billing data for a period of three years after their becoming available. Provided that such data are aggregated with other consumers' data as much as possible and anonymised immediately after being retrieved and are only used in such anonymised format, this shall be without prejudice to the competence of the regulatory authority pursuant to section 131.

(6) Instalments for the partial payment of system charges and energy supply shall be based on factual and appropriate calculations that refer to the amount of energy consumed during the preceding year. If the previous year's consumption information is not available, then the instalments shall be calculated based on the consumption estimated for comparable consumers. Consumers shall be informed about the amount of energy (in kWh) from which their partial payments are calculated in writing or, upon consumer request, electronically.

(7) Consumers with smart meters shall at least have the option to choose between monthly and annual bills.

(8) If the regulatory authority reasonably suspects non-transparent market conduct in relation to time-of-use tariffs combined with smart meters, it may issue an ordinance prescribing transparency requirements for such tariffs for suppliers. In addition, the regulatory authority may rule that each supplier must offer at least one constant tariff choice.

(9) Suppliers shall include information about the possibility to instate dispute settlement procedures in accordance with section 26 E-Control Act on their bills.



## **Section 127 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 – Disabling of Connections and Customer Information**

Section 127. (1) System operators shall provide consumers with the following information, free of charge and in an easily and directly accessible way through the internet and by way of an information sheet enclosed with bills once a year:

- 1.name and address of the undertaking;
- 2.the services provided, the service quality levels offered, as well as the time for the initial connection;
- 3.the types of maintenance services offered;
- 4.the means by which up-to-date information on all applicable rates may be obtained;
- 5.the term of the contract, the conditions for extending or terminating the services and the contract, and any right of withdrawal;
- 6.any compensation and refund arrangements which apply if contracted service quality levels are not met, including inaccurate and delayed billing;
- 7.the right to be supplied with gas pursuant to section 124;
- 8.any statements of the European Commission on energy consumer rights.
- 9.information about energy consumer rights pursuant to section 126b;
- 10.information about energy consumer rights pursuant to section 129;

(2) Suppliers shall provide consumers with the following information, free of charge and in an easily and directly accessible way through the internet and by way of an information sheet enclosed with bills once a year:

- 1.name and address of the undertaking;
- 2.the means by which up-to-date information on all applicable rates may be obtained;
- 3.the term of the contract, the conditions for extending or terminating the services and the contract, and any right of withdrawal;
- 4.information about energy consumer rights pursuant to section 126b;
- 5.the right to be supplied with gas pursuant to section 124;
- 6.any compensation and refund arrangements which apply if contracted service quality levels are not met, including inaccurate and delayed billing;
- 7.any statements of the European Commission on energy consumer rights.

(3) In cases of contract breach, in particular where payment delays or failure to provide prepayment or collateral are concerned, the system operator shall issue at least two reminders, each allowing for a grace period of at least two weeks. The second such reminder shall include information that the lapse of the two-week grace period would be followed by disconnection, and the expected costs related to

disconnection. The last reminder shall take the form of a registered letter. In each of the reminders in accordance with the first sentence, the system operator shall point out the option to make use of information services pursuant to para. 7. Where a breach of contract concerns the gas supply contract, the obligation to send reminders lies with the supplier.

(4) If an energy supply contract is terminated with notice, expires or terminates because of an objection pursuant to section 125 para. 2, neither the system operator nor the supplier shall issue reminders pursuant to para. 3. The same shall apply in cases of abusive consumer behaviour, e.g. if metering devices have been manipulated.

(5) Where system operators or suppliers request collateral or prepayment, consumers without load profile meters shall have the right, without prejudice to their rights under section 124, to use prepayment meters if this does not raise safety concerns.

(6) Suppliers shall bill customers no later than six weeks after a supplier switch or contract termination has become effective.

(7) Suppliers with more than 49 employees and a turnover or total assets of more than 10 million Euro shall make available information and service points for their customers to address with questions relating to supplier switching, energy efficiency, gas costs and energy poverty from 1 January 2015.

(8) If household consumers or small businesses are to be disconnected due to late payment, this shall not take place on the last working day before a weekend or before a statutory holiday.

### **Section 159 Gaswirtschaftsgesetz (Natural Gas Act) 2011 – Administrative Offences – General Penal Provisions**

Section 159. (1) Unless an act constitutes a criminal offence which is subject to the jurisdiction of a court, constitutes a finable offence according to sections 164 et sqq. or is subject to more severe punishment under different administrative penal provisions, whosoever

1. fails to comply with the obligations pursuant to section 106 para. 2 item 4;

2. fails to comply with the obligations pursuant to section 107 para. 2 item 4;

3. fails to comply with the obligations pursuant to section 111 para. 2 item 3;

4. fails to comply with the obligations pursuant to section 116 para. 1;

5. causes non-compliance with the time limit for switching set in section 123 para. 2;

6. in contravention of the last sentence of section 123 para. 4 initiates a process without a consumer's declaration of intent;

7. fails to comply with its obligations pursuant to section 123 paras 5 to 7;

8. in contravention of Article 4(1) of Regulation (EU) No 1227/2011 fails to publish inside information, to publish it correctly, to publish it in full, to publish it effectively or to publish it in a timely manner;

9.in contravention of Article 4(2) of Regulation (EU) No 1227/2011 fails to submit inside information, to submit it correctly, to submit it in full or to submit it without delay;

10.in contravention of Article 4(3) of Regulation (EU) No 1227/2011 fails to ensure simultaneous, complete and effective public disclosure;

11.in contravention of Article 8(1) of Regulation (EU) No 1227/2011 in conjunction with implementing legislation in accordance with Article 8(2) of Regulation (EU) No 1227/2011 fails to submit a record mentioned therein, to submit it correctly, to submit it in due time or to submit it in full;

12.in contravention of Article 8(5) of Regulation (EU) No 1227/2011 in conjunction with implementing legislation in accordance with Article 8(6) of Regulation (EU) No 1227/2011 fails to submit information mentioned therein, to submit it correctly, to submit it in due time or to submit it in full;

13.in contravention of Article 9(1) in conjunction with para. 4 of Regulation (EU) No 1227/2011 fails to register with the regulatory authority or fails to do so in due time;

14.in contravention of Article 9(1)(2) of Regulation (EU) No 1227/2011 registers with more than one national regulatory authority;

15.in contravention of Article 9(5) of Regulation (EU) No 1227/2011 fails to notify a change in the information necessary for registration without delay;

16.in contravention of Article 15 of Regulation (EU) No 1227/2011 fails to inform the regulatory authority, to inform it correctly or to inform it in due time;

17.uses inside information in the manner described in Article 3(1) of Regulation (EU) No 1227/2011, while without intending to generate a pecuniary advantage for itself or a third party, thereby counteracting the insider trading prohibition if it knows or should know pursuant to Article 3(2)(e) of Regulation (EU) No 1227/2011 that it is inside information as defined in Article 2(1) of Regulation (EU) No 1227/2011;

shall be deemed to have committed an administrative offence and shall be fined up to 50,000 EUR.

(2) Unless an act constitutes a criminal offence which is subject to the jurisdiction of a court, constitutes a finable offence or is subject to more severe punishment under different administrative penal provisions, whosoever

1.fails to comply with the obligations pursuant to section 8 paras 1, 2 or 3 or section 9;

2.fails to comply with its obligation to furnish information and provide access to documents and records pursuant to section 10;

3.fails to comply with its obligations as a market area manager pursuant to sections 14 to 16, 19 or 63;

4.fails to comply with its obligations as a distribution area manager pursuant to sections 18 to 23, 25 or 26;

5. fails to comply with its obligations as a system operator pursuant to sections 23, 28 and 29, section 32, sections 34 through 37, section 43, section 47, section 60 para. 5, sections 62 through 65 or section 67;
6. fails to comply with its obligation to appoint a technical director pursuant to section 45 para. 1 or para. 6 or to appoint a managing director pursuant to section 44 para. 1 item 4 b in conjunction with section 46 para. 1;
7. fails to comply with its notification obligations pursuant to section 45 paras 5 or 6, section 46 para. 2, section 51 para. 1, section 121 or section 139 paras 1 or 3;
8. fails to comply with its general obligation to connect pursuant to section 59;
9. fails to perform its responsibilities as a clearing and settlement agent pursuant to section 87;
10. fails to comply with its obligation as a balance responsible party pursuant to section 91;
11. fails to comply with its obligations as a storage system operator pursuant to sections 97 or 100, to section 105;
12. fails to comply with its obligation as a natural gas trader or supplier pursuant to sections 121 or 125;
13. fails to comply with its data provision obligation pursuant to section 123 para. 4;
14. fails to comply with its obligation to grant uniform rates pursuant to section 124;
15. fails to comply with its obligations pursuant to sections 126 to 126b;
16. fails to comply with obligations arising from an ordinance issued pursuant to sections 126a, 126b, 128 or 129a;
17. fails to comply with its obligations pursuant to sections 127 or 128;
18. fails to comply with its obligations pursuant to section 129;
19. fails to comply with its obligations pursuant to section 129a;
20. fails to comply with its obligation pursuant to section 133;
21. fails to comply with its obligation according to the ordinance issued pursuant to section 131 paras 2 and 3;
22. fails to comply with any stipulation set by an ordinance of the regulatory authority issued pursuant to sections 30 or 41;
23. fails to comply with the prerequisites imposed by an ordinance of the Federal Minister of Economy, Family and Youth pursuant to section 134 para. 3;
24. fails to comply with its obligation as a clearing and settlement agent to submit general terms and conditions pursuant to section 88 para. 1;
25. fails to comply with its self-monitoring obligation pursuant to section 140;

26. fails to comply with its obligations pursuant to section 141 para. 4;
  27. fails to cooperate in the statistical surveys ordered by an ordinance pursuant to section 147 para. 2;
  28. fails to comply with its information obligation pursuant to section 156;
  29. fails to comply with official decisions issued pursuant to this Federal Act or with any conditions, time limits and stipulations they impose;
  30. fails to comply with official decisions issued pursuant to section 24 para. 2 and section 12 *Energie-Control-Gesetz* (E-Control Act) for the scope of this Federal Act or the conditions, time limits and stipulations included therein;
  31. fails to comply with the provisions of Regulation (EC) No 715/2009 or Regulation (EC) No 713/2009, or with the guidelines issued pursuant to these regulations;
  32. fails to comply with decisions based on the provisions of Regulation (EC) No 715/2009 or Regulation (EC) No 713/2009 or of the guidelines issued pursuant to these regulations;
  33. fails to comply with the provisions of the guidelines issued in accordance with Directive 2009/73/EC;
  34. fails to comply with decisions based on guidelines issued pursuant to Directive 2009/73/EC;
- shall be deemed to have committed an administrative offence and shall be fined up to 75,000 EUR.

(3) Unless an act constitutes a criminal offence which is subject to the jurisdiction of a court, constitutes a finable offence or is subject to more severe punishment under different administrative penal provisions, whosoever

1. unlawfully discloses data, contrary to the provisions of section 11, section 69 para. 3, section 123, section 129, section 129a or section 156 para. 4;
2. fails to comply with the obligations for distribution system operators pursuant to section 106, with the exception of section 106 para. 2 item 4;
3. fails to comply with the obligations for storage system operators pursuant to section 107, with the exception of section 107 para. 2 item 4;
4. fails to comply with the obligations of transmission system operators with ownership unbundling pursuant to section 108;
5. fails to comply with the obligations for independent system operators and transmission system owners pursuant to sections 109 through 111, with the exception of section 111 para. 2 item 3;
6. fails to comply with the obligations for independent transmission system operators pursuant to sections 112 through 116, with the exception of section 116 para. 1;
7. fails to comply with the obligations pursuant to section 117;

8. fails to comply with the stipulations set in the official declaratory decision pursuant to sections 119 or 120;

9. fails to comply with the notification requirements pursuant to section 119 para. 2 or section 119 para. 6;

shall be deemed to have committed an administrative offence and shall be fined up to 100,000 EUR.

(4) Unless an act constitutes a criminal offence which is subject to the jurisdiction of a court of law, constitutes a finable offence or is subject to more severe punishment under different administrative penal provisions, whosoever

1. in contravention of Article 5 in conjunction with Article 2(2) and (3) of Regulation (EU) No 1227/2011 manipulates the market or attempts to manipulate the market;

2. uses inside information in the manner described in Article 3(1) of Regulation (EU) No 1227/2011, while intending to generate a pecuniary advantage for itself or a third party, thereby counteracting the insider trading prohibition if it knows or should know pursuant to Article 3(2)(e) of Regulation (EU) No 1227/2011 that it is inside information as defined in Article 2(1) of Regulation (EU) No 1227/2011;

shall be deemed to have committed an administrative offence and shall be fined up to 150,000 EUR.

(5) Unless an act constitutes a criminal offence which is subject to the jurisdiction of a court of law, constitutes a finable offence or is subject to more severe punishment under different administrative penal provisions, whosoever

1. fails to comply with its obligation to notify inside information pursuant to section 10a;

2. fails to submit data as ordered by an ordinance pursuant to section 25a para. 2 *Energie-Control-Gesetz* (E-Control Act);

3. fails to comply with its information and cooperation obligation pursuant to section 25a para. 3 E-Control Act;

shall be deemed to have committed an administrative offence and shall be fined up to 10,000 EUR.

## **Section 6 *Gas-Marktmodell-Verordnung* (Gas Market Model Ordinance) 2012 – Capacity Allocation**

Section 6. (1) Firm and interruptible entry and exit capacity shall be auctioned by transmission system operators through the online platform in transparent and non-discriminatory procedures.

(2) To allocate interruptible capacity, transmission system operators may create categories that reflect the probability of interruptions.

(3) Pursuant to section 11, day-ahead capacity shall be allocated in daily auctions for the following gas day.

## **Section 9 *Gas-Marktmodell-Verordnung* (Gas Market Model Ordinance) 2012 – Online Platform for Capacity Offers**

Section 9. The market area manager shall, in cooperation with the transmission system operators, organise the establishment and operation of the online platform on which capacity is allocated pursuant to section 6 (primary capacity platform) and traded by system users (secondary capacity platform).

(2) The operator of the online platform shall enable system users to handle primary capacity purchases and secondary capacity trading in an automated way and on a suitable scale for general business.

(3) On the primary and secondary capacity platforms all the offers of like capacity and all the demand for like capacity shall be made transparent for system users.

(4) The information to be published on the online platform pursuant to section 39 paras 2 and 3 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 shall be accessible to system users without having to register. Usage of the online platform shall be free of charge.

(5) To book capacity, system users must register; the registration process shall comply with the General Terms and Conditions of the operator of the online capacity allocation platform.

(6) Capacity at cross-border interconnection points that is bundled pursuant to section 4 may be allocated through other platforms that comply with the provisions of this Ordinance. This shall be notified to the regulatory authority in advance.

## **Section 10 *Gas-Marktmodell-Verordnung* (Gas Market Model Ordinance) 2012 – Secondary Market for Entry and Exit Capacity**

Section 10. (1) System users may resell or sublet entry and exit capacity to third parties. Such reselling or subletting shall take place exclusively through the online platform (secondary capacity platform). The design of the platform shall be such that anonymous information about the price at which capacity is traded is automatically published. Anonymity of pre-trading actions in relation to buyers, sellers and third parties must be safeguarded.

(2) In addition to the search procedure, the operator of the online platform shall enable at least one of the capacity trading procedures listed in items 1 to 3 below and make available the related standard trading contracts. The operator of the online platform shall enable the procedures after having consulted the market participants.

1. Auction procedure: Bids are made in response to an offer, and the highest bid is successful. The reserve price shall not exceed the charge originally payable to the transmission system operator for the corresponding primary capacity.



2. Buy-it-now procedure: The first bidder in response to a fixed price offer obtains the capacity.
3. Keyed procedure: An anonymous invitation to tender is issued, and anonymous bids are submitted to the tenderer, who can choose from among them.
4. Search procedure: Offers are submitted in response to a capacity search, and the searcher can choose from these.

## **Section 11 *Gas-Marktmmodell-Verordnung* (Gas Market Model Ordinance) 2012 – Nomination and Renomination**

Section 11. (1) The responsibility for nominating and renominating lies with the balance responsible party of the balance group into which the system user has entered its capacity in accordance with section 23 para. 1.

(2) The balance responsible party shall nominate the gas volumes to be transported as usage of firm capacity at a bookable entry/exit point by 14.00 hrs on the day before transport. Should the transmission system operator not receive any nomination by this time, it shall assume that nothing has been nominated. Bundled nominations must be handled in accordance with the applicable balancing rules.

(3) The nominating balance responsible party may replace its initial nomination by a renomination with a lead time of at least two hours on the full hour. Renomination shall be permitted up to 90% and down to 10% of the total firm capacity allocated to the balance group or balancing sub-account. Where original nominations were for at least 80% of the firm capacity allocated to the balance group or sub-account, renominations may extend nominations by up to half of the capacity not initially nominated. Where original nominations were for no more than 20% of the firm capacity allocated to the balance group or sub-account, renominations may reduce nominations by up to half of the capacity initially nominated. Acceptable renominations shall be rounded (half away from zero) to whole kilowatt hours. Day-ahead capacity shall be left aside when calculating these renomination limits.

(4) The transmission system operator shall allocate first firm, then interruptible capacity products to the balance responsible parties' nominations and renominations. The reference time frame for such allocation, as well as for the limits in paras 3 and 7, shall be the hour.

(5) Should a renomination for firm capacity exceed the limits stated in para. 3 above, it shall be accepted to the extent of the booked capacity. The part of the renomination exceeding the limits shall be treated as a nomination of interruptible capacity and be interrupted first if a congestion occurs.

(6) The renomination limits stated in paras 3 and 5 shall not apply to system users whose average capacity rights during the past 365 days accounted for less than 10% of the technical annual capacity in one direction at the bookable entry/exit point if the following conditions are met. The balance group or sub-account into which the system user's capacity is entered:



1. accounts for less than 10% of the technical annual capacity in the relevant direction at the bookable entry/exit point; and

2. holds no capacity of a network user who does not comply with the first sentence of this paragraph.

Day-ahead capacity shall not be counted towards the share of firm capacity booked and/or allocated.

(7) Balance responsible parties may establish balancing sub-accounts. In this case, gas is nominated by the balance responsible party and counted towards the corresponding sub-account; nomination and renomination rules shall apply *mutatis mutandis*.

(8) Nominations shall be made for each flow direction separately. Bundled capacity shall be nominated through bundled nominations.

(9) The transmission system operator shall offer any capacity freed by the application of the renomination limits pursuant to paras 3 and 5 above as day-ahead capacity in accordance with section 6 para. 3.

(10) Day-ahead capacity allocated pursuant to section 6 para. 3 shall be nominated by 20.00 hrs for the following day.

(11) Short-term capacity products (day-ahead, rest of the day, within day) shall be entered into balance groups without delay.

(12) System users whose capacity has been offered by the transmission system operator in accordance with section 6 para. 3 continue to be obliged to pay entry/exit charges.

(13) Where neighbouring system operators apply similar provisions at cross-border interconnection points, transmission system operators may deviate from the renomination limits pursuant to paras 3, 5 and 6 as well as the second sentence of para. 8 at such cross-border interconnection points if this is necessary to ensure compatibility with the neighbouring market area. In particular, bundling of capacity shall not be complicated. Advance notice of any such deviations and the grounds for them shall be given to the regulatory authority.

(14) Paras 1 through 13 shall also apply to contracts concluded before this Ordinance enters into force.

## **Section 12 *Gas-Marktmodell-Verordnung* (Gas Market Model Ordinance) 2012 – Long-Term Use-It-Or-Lose-It Mechanism**

Section 12. (1) System users shall be obliged to offer fully or partially unused firm capacity as secondary capacity on the online platform without delay.

(2) Transmission system operators shall partially or fully withdraw systematically unused firm booked capacity from a system user and offer it on the primary capacity market if and to the extent that other system users request firm capacity at the relevant interconnection point, there is contractual

congestion and the system user has not offered the unused capacity on the online platform pursuant to para. 1. This shall apply to all contracts with a duration of at least one year that have been concluded for that entry/exit point. Booked capacity is considered to be systematically unused if

1. the system user has been using less than on average 80% of its booked capacity both from 1 April until 30 September and from 1 October until 31 March with a contract duration of more than one year; or
2. the system user systematically nominates close to 100% of its booked capacity and renominates downwards with a view to circumventing the rules laid down in section 11 para. 3; or
3. the system user has not used its booked firm capacity during a period of at least three consecutive months during the last calendar year, not even during individual hours. One of these three months must have been the month of October, November, December, January, February or March.

(3) Transmission system operators shall withdraw capacity

1. in the cases of para. 2 items 1 and 2, to the average extent of non-use for the remaining contractual term;
2. in the case of para. 2 item 3 to the extent that the system user has not used its booked firm capacity during a period of at least three consecutive months during the last calendar year, not even during individual hours. One of these three months must have been the month of October, November, December, January, February or March. Where several such periods of three calendar months can be identified, capacity may be withdrawn from the system user up to the lowest instance of non-use during this entire time. Calculations of how much capacity is to be withdrawn shall be based on the amount of capacity available to the system user by way of contracts with durations of at least one year. Should the system user have resold or surrendered its capacity, or booked it for a shorter period of time, this shall be taken into account.

(4) Capacity shall not be withdrawn under para. 2 above if the system user, within 14 days following written notification of the capacity withdrawal, provides written proof confirming that

1. it has offered the capacity in accordance with para. 1 on the secondary market for a price that is not significantly higher than the original price payable to the transmission system operator for the corresponding primary capacity or surrendered the capacity to the transmission system operator for the period and extent of non-use;
2. it still needs all the capacity to meet existing contractual obligations, from gas procurement or supply contracts in particular; or
3. it has various contractual gas procurement options for which capacity has been booked at different entry points that it uses as alternatives and that it has made available on the secondary market capacity that is not required, for the period and to the extent of non-use.

(5) The transmission system operator shall inform the regulatory authority without delay when a situation as described in para. 2 arises; if applicable, it shall also submit the proof provided under para. 3.

(6) The system user shall retain its rights and obligations under the capacity contract until the capacity is reallocated by the transmission system operator as primary capacity and to the extent the capacity is not reallocated by the transmission system operator. As far as collateral is concerned, the relevant provisions in the system operator's general terms and conditions shall apply.

(7) Transmission system operators shall retain the information as referred to in paras 2 and 3 for each system user, particularly information about the booked and actually used capacity, for a period of five years and make such information available to the regulatory authority if it so requests.

## **Section 12 *Energie-Control-Gesetz* (E-Control Act) – Responsibilities of the Regulation Commission**

Section 12. (1) (constitutional provision) The E-Control Regulation Commission shall handle, by official decision, the following tasks:

1. decisions on refusal of system access in proceedings pursuant to section 21 para. 2 *Elektrizitätswirtschafts- und -organisationsgesetz* (Electricity Act) 2010 in conjunction with section 22 para. 1 Electricity Act 2010 and section 33 para. 4 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 in conjunction with section 132 para. 1 item 1 Natural Gas Act 2011;
2. the settlement of any other disputes pursuant to section 22 para. 2 Electricity Act 2010 and section 132 para. 2 Natural Gas Act 2011;
3. the settlement of disputes on matters related to section 30 para. 3 item 2 Electricity Act 2010 and pursuant to section 114 para. 3 item 2 Natural Gas Act 2011;
4. the prohibition of the application of unlawful or unethical general terms and conditions for the supply of electrical energy or natural gas pursuant to section 80 Electricity Act 2010 and section 125 Natural Gas Act 2011;
5. the settlement of disputes between suppliers pursuant to section 40 para. 3 Natural Gas Act 2011 in conjunction with section 132 para. 1 item 3;
6. decisions regarding a refusal of access to storage facilities in proceedings pursuant to section 97 para. 4 in conjunction with section 132 para. 1 item 2 Natural Gas Act 2011;
7. the setting of storage charges pursuant to section 99 para. 2.

(2) (constitutional provision) The E-Control Regulation Commission shall issue ordinances regarding the following matters:

1. the setting of system charges by ordinance pursuant to section 49 Electricity Act 2010 and section 24 para. 2 and section 70 Natural Gas Act 2011;

2. the issuing of ordinances pursuant to section 59 para. 6 item 6 Electricity Act 2010 and section 79 para. 6 item 4 Natural Gas Act 2011.

(3) In cases relating to para. 1 items 2, 3 and 4, the Regulation Commission shall issue an official decision within a period of two months from the date the application is received. This period shall be extended by another two months if the authority requests further information. A further extension of the period shall be permissible provided that all parties to the proceedings agree.

(4) (constitutional provision) A party that is dissatisfied with a decision pursuant to para. 1 items 2 or 3 shall have the right to bring an action at the competent court within four weeks after the official decision is served. A final decision by the court shall repeal the decision by the Regulation Commission. The right to rule on an application to approve *restitutio in integrum* against the end of the appeal period shall lie with the court; the restoration application shall be made directly at the court.

### **Section 25a *E-Control-Gesetz* (E-Control Act) – Inspecting and Monitoring the Functioning of Wholesale Energy Markets**

Section 25a. (1) Without prejudice to the jurisdiction of the courts of law, the law enforcement authorities, the Federal Competition Authority, the Financial Market Authority and the Federal Minister of Economy, Family and Youth, E-Control shall have inspection and monitoring powers in order to safeguard compliance with the prohibitions laid down in Articles 3 and 5 of Regulation (EU) No 1227/2011 and the obligation laid down in Article 4 of Regulation (EU) No 1227/2011. According to Article 13(1) of Regulation (EU) No 1227/2011, E-Control shall, while maintaining the principle of proportionality, therefore be entitled to:

1. have access to any relevant document in any form, and to receive a copy of it;
2. demand information from any relevant person, including those who are successively involved in the transmission of orders or conduct of the operations concerned, as well as their principals, and, if necessary, summon and hear any such person or principal; if there is suspicion of an abuse of inside information pursuant to section 108a *Elektrizitätswirtschafts- und -organisationsgesetz* (Electricity Act) 2010 or section 168a *Gaswirtschaftsgesetz* (Natural Gas Act) 2011, E-Control shall have the right to be present at and ask questions during investigation procedures of the law enforcement authorities pursuant to part 8 chapter 10 *Strafprozeßordnung* (Criminal Procedure Code); E-Control shall be notified of respective scheduled dates;
3. carry out investigations on site and demand access to information necessary for executing investigation procedures and ask all representatives or employees of the undertaking or group of undertakings to explain facts and circumstances or documents which are related to the subject and purpose of the investigations;

4. have access to and receive a copy (section 140 para. 3 Criminal Procedure Code) of already filed results of a provision of message transfer and message monitoring data (section 134 item 5 and section 145 Criminal Procedure Code);
  5. suggest a seizure of property pursuant to section 110 Criminal Procedure Code at the competent public prosecution authority;
  6. if there is suspicion of market manipulation, request the authority that has licensed or acknowledged the activity of the undertaking or the defendant to impose a temporary prohibition of professional activity on the accused party for the duration of the proceedings, provided that the defendant is a strong suspect, the professional activity is connected to the offence in question and there is a risk that the accused party would otherwise repeat the offence. E-Control shall be deemed a party to such proceedings.
- (2) E-Control shall request and collect data and information it needs to fulfil the responsibilities it is charged with pursuant to Regulation (EU) No 1227/2011 and section 24 para. 1 item 4. E-Control shall issue an ordinance to determine the parties to whom reporting obligations apply as well as the frequency, scope and format of the reporting obligations. To avoid double reporting, the respective parties' obligations to report to other competent national authorities as well as reporting obligations that are to be set by the European Commission pursuant to Article 8(2) and (6) Regulation (EU) No 1227/2011 shall be taken into account.
- (3) Exchanges and any other persons that professionally arrange transactions for the Austrian market shall provide to E-Control all information it requires to fulfil its responsibilities and shall support it in executing investigations. If there is suspicion that rules included in the exchange's scope of duties, especially trade rules, as well as rules that lie in the jurisdiction of E-Control have been violated, both parties shall cooperate and make relevant information available to each other. E-Control is entitled to order the exchange and any other persons that professionally arrange transactions for the Austrian market to cease to carry out investigations or any other measures if they complicate or obstruct the investigation of a case pursuant to Article 3 or Article 5 of Regulation (EU) No 1227/2011.
- (4) E-Control, the Financial Market Authority, the Federal Competition Authority and the Exchange Commissioners pursuant to section 46 *Börsegesetz* (Stock Exchange Act) 1989 shall inform each other about observations and findings including personal data that are necessary for fulfilling the responsibilities as defined in Regulation (EU) No 1227/2011. Confidentiality, integrity and protection of the information received shall be safeguarded.
- (5) E-Control has the right to conclude data exchange agreements with the regulatory authorities of other EU and EFTA member states and use the data thereby obtained for the purpose of fulfilling its responsibilities pursuant to Regulation (EU) No 1227/2011 and section 24 para. 1 item 4. Confidentiality, integrity and protection of the data received shall be safeguarded.

(6) E-Control is entitled to disclose to the public final decisions of the competent prosecution authority made due to violations of Regulation (EU) No 1227/2011, whereby section 36 para. 4 applies *mutatis mutandis*, stating all parties involved and the main content of the decision including sanctions imposed, unless such disclosure would cause disproportionate damage to the parties involved.

(7) The provisions of the *Allgemeines Verwaltungsverfahrensgesetz* (General Administrative Procedures Act) 1991 shall apply *mutatis mutandis*.

### **Article 8 REMIT – Data collection**

1. Market participants, or a person or authority listed in points (b) to (f) of paragraph 4 on their behalf, shall provide the Agency with a record of wholesale energy market transactions, including orders to trade. The information reported shall include the precise identification of the wholesale energy products bought and sold, the price and quantity agreed, the dates and times of execution, the parties to the transaction and the beneficiaries of the transaction and any other relevant information. While overall responsibility lies with market participants, once the required information is received from a person or authority listed in points (b) to (f) of paragraph 4, the reporting obligation on the market participant in question shall be considered to be fulfilled.

2. The Commission shall, by means of implementing acts:

(a) draw up a list of the contracts and derivatives, including orders to trade, which are to be reported in accordance with paragraph 1 and appropriate *de minimis* thresholds for the reporting of transactions where appropriate;

(b) adopt uniform rules on the reporting of information which is to be provided in accordance with paragraph 1;

(c) lay down the timing and form in which that information is to be reported.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21(2). They shall take account of existing reporting systems.

3. Persons referred to in points (a) to (d) of paragraph 4 who have reported transactions in accordance with Directive 2004/39/EC or applicable Union legislation on derivative transactions, central counterparties and trade repositories shall not be subject to double reporting obligations relating to those transactions.

Without prejudice to the first subparagraph of this paragraph, the implementing acts referred to in paragraph 2 may allow organised markets and trade matching or trade reporting systems to provide the Agency with records of wholesale energy transactions.

4. For the purposes of paragraph 1, information shall be provided by:

(a) the market participant;

(b) a third party acting on behalf of the market participant;

(c) a trade reporting system;



(d) an organised market, a trade-matching system or other person professionally arranging transactions;

(e) a trade repository registered or recognised under applicable Union legislation on derivative transactions, central counterparties and trade repositories; or

(f) a competent authority which has received that information in accordance with Article 25(3) of Directive 2004/39/EC or ESMA when it has received that information in accordance with applicable Union legislation on derivative transactions, central counterparties and trade repositories.

5. Market participants shall provide the Agency and national regulatory authorities with information related to the capacity and use of facilities for production, storage, consumption or transmission of electricity or natural gas or related to the capacity and use of LNG facilities, including planned or unplanned unavailability of these facilities, for the purpose of monitoring trading in wholesale energy markets. The reporting obligations on market participants shall be minimised by collecting the required information or parts thereof from existing sources where possible.

6. The Commission shall, by means of implementing acts:

(a) adopt uniform rules on the reporting of information to be provided in accordance with paragraph 5 and on appropriate thresholds for such reporting where appropriate;

(b) lay down the timing and form in which that information is to be reported.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21(2). They shall take account of existing reporting obligations under Regulations (EC) No 714/2009 and (EC) No 715/2009.

## **Article 9 REMIT – Registration of market participants**

1. Market participants entering into transactions which are required to be reported to the Agency in accordance with Article 8(1) shall register with the national regulatory authority in the Member State in which they are established or resident or, if they are not established or resident in the Union, in a Member State in which they are active.

A market participant shall register only with one national regulatory authority. Member States shall not require a market participant already registered in another Member State to register again.

The registration of market participants is without prejudice to obligations to comply with applicable trading and balancing rules.

2. Not later than 3 months after the date on which the Commission adopts the implementing acts set out in Article 8(2), national regulatory authorities shall establish national registers of market participants which they shall keep up to date. The register shall give each market participant a unique identifier and shall contain sufficient information to identify the market participant, including relevant details relating to its value added tax number, its place of establishment, the persons responsible for

its operational and trading decisions, and the ultimate controller or beneficiary of the market participant's trading activities.

3. National regulatory authorities shall transmit the information in their national registers to the Agency in a format determined by the Agency. The Agency shall, in cooperation with those authorities, determine that format and shall publish it by 29 June 2012. Based on the information provided by national regulatory authorities, the Agency shall establish a European register of market participants. National regulatory authorities and other relevant authorities shall have access to the European register. Subject to Article 17, the Agency may decide to make the European register, or extracts thereof, publicly available provided that commercially sensitive information on individual market participants is not disclosed.

4. Market participants referred to in paragraph 1 of this Article shall submit the registration form to the national regulatory authority prior to entering into a transaction which is required to be reported to the Agency in accordance with Article 8(1).

5. Market participants referred to in paragraph 1 shall communicate promptly to the national regulatory authority any change which has taken place as regards the information provided in the registration form.

#### **General terms and conditions for DSOs (model version), chapter IXI – Billing**

1. [...] Where a supplier also bills its customers for the system charges, the system operator shall submit the invoice for the system charges to the supplier within four weeks.

10. If there is a contractual agreement between the supplier, the system operator and the customer about the use of the advance service model pursuant to margin number 1536 *Umstanzsteuerrichtlinien* (Turnover Tax Guidelines) 2000, the formalities chosen for issuing and submitting bills must enable income tax deduction for the supplier in line with section 12 *Umsatzsteuergesetz* (Turnover Tax Act). In this case, the system operator shall send its bills to the customer's supplier. The supplier shall pay such bills and then issue combined bills for energy and system charges to the customer. The advance service model shall not be construed to imply a debt by the supplier towards the system operator. The system operator shall electronically submit the data necessary for billing in accordance with the format specified in the Market Code to the supplier, while ensuring that the data on the system charges bills (in particular with reference to the amount of energy consumed) corresponds to the consumption data submitted.

#### **Margin number 1536 para. 2 *Umsatzsteuerrichtlinien* (Turnover Tax Guidelines) 2000**

If there is a contractual agreement on the application of this simplifying option between the electricity supplier, system operator and the customer, the services of the system operator shall be deemed rendered towards the electricity supplier for turnover tax purposes, notwithstanding civil law



stipulations. In such a case, the system operator issues a bill as defined in section 11 *Umsatzsteuergesetz* (Turnover Tax Act) 1994 to the electricity supplier, who in turn bills electricity and system charges to the final customer. For these purposes, it is sufficient for the system operator to bill the system services provided to an electricity supplier's customers through a collective invoice as defined in section 11 para. 1 item 4 Turnover Tax Act 1994 or through the electronic exchange of billing data pursuant to margin numbers 1561 to 1563. Regarding the system charges, the supplier shall have the right to input tax deduction. The electricity supplier shall pay taxes on both the electricity supply and the system charges. The final customer may deduct the input tax of the bill issued by the electricity supplier in accordance with section 12 Turnover Tax Act 1994. This procedure shall only be permissible as long as a respective agreement regarding its application between the electricity supplier, the system operator and the customer is in effect.

### **Section 16 *Gas-Systemnutzungsentgelte-Verordnung* (Gas System Charges Ordinance) 2013 – Billing for System Charges**

Section 16. (1) Bills shall be issued no later than six weeks after the meter reading for the relevant billing period. Where a supplier also bills its customers for the system charges, the system operator shall submit the invoice for the system charges to the supplier within three weeks.

(2) If calculated consumption pursuant to section 73 para. 7 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 deviates from actual consumption, the relating bill shall be corrected free of charge.

(3) System operators shall publish the metering charges applied in an appropriate manner, e.g. on the Internet.

(4) Where a system operator applies a uniform rate for the charge for admission to the grid for similar system users in accordance with section 75 para. 2 Natural Gas Act 2011, it shall publish the rates applied in an appropriate manner, e.g. on the Internet.

### **Section 1 *Konsumentenschutzgesetz* (Consumer Protection Act) – Scope of Application**

Section 1. (1) This Part shall apply to legal transactions involving:

1. on the one hand, a person who makes the transaction in the course of carrying on their business (hereinafter called “entrepreneur”) and

2. on the other hand, a person to whom this does not apply (hereinafter called “consumer”).

(2) For the purpose of para. 1 item 1 above, “business” shall mean any organisation which is intended to be permanent for the purposes of independent commercial activity, even though it may be a non-profit enterprise. All legal entities governed by public law shall be deemed to be entrepreneurs.

(3) Transactions carried out by natural persons before starting a business in order to create the preliminary conditions for such business shall not be deemed as already being made in the course of carrying on a business within the meaning of para. 1 item 1 above.

(4) This Part shall not apply to contracts made by a person in their capacity as an employee or quasi-employee pursuant to section 51 para. 3 *Arbeits- und Sozialgerichtsgesetz* (Federal Act Governing Labour and Social Security Courts) with an employer.

(5) The provisions of Parts I and II shall also apply to the joining of and membership of associations where such associations require fees or other payments from their members but grant them only limited membership rights and where membership does not serve business purposes.

## **Section 2 *Wirtschaftskammergesetz* (Economic Chambers Act) 1998 – Membership**

Section 2. (1) All physical and legal persons and other entities that operate or are entitled to operate an independent business venture in the areas of crafts and trades, industry, mining, finance, banking and insurance, transport, information and communication, broadcasting, tourism and leisure or other services are members of the Austrian Economic Chambers and the relevant trade groups and associations.

(2) Business ventures that are subject to the *Gewerbeordnung* (Industrial Code) and businesses listed in the annex to this Act are considered to be members in accordance with para. 1 in any case.

(3) Holding companies that are listed in the Commercial Register and that include at least one member in accordance with para. 1 are also members themselves.

(4) Undertakings in the sense of paras 1 to 3 are not necessarily oriented towards the pursuit of profit or other economic advantages.