

Energie-Control
Regulierungskommission
Rudolfsplatz 13a
A-1010 Wien
Austria

Malacky, February 17, 2014

Subject: Comments to the E – CONTROL Regulierungskommission to the 2. Gas-Systemnutzungsentgelte - Verordnung 2013 – Novelle

To whom it may concern:

For more than 20 years POZAGAS a.s. ("POZAGAS") as an operator of the Underground Natural Gas Storage Facility Láb IV has been contributing to the development of Austrian gas market and integrating the gas markets in the Central and East Europe. The connection of storage facility to the hub Baumgarten was supported also by European Investment Bank.

Even tough, we understand that the deadline for comments to the 2. Gas-Systemnutzungsentgelte-Verordnung 2013 – Novelle ("Amendment") was on 7 February 2014, we believe that given the severity and impact of the Amendment on POZAGAS, its current and future customers and whole gas market as such, our comments regarding the Amendment will be taken into consideration when adopting the Amendment.

POZAGAS as a concerned system user would like to submit following general remarks and comments regarding the proposal of Amendment as follows:

- i. The Amendment shall not regulate legal relations in the past, but **should be binding only for future legal relations**, after the Amendment will enter into force. No legal act shall stipulate obligations and fees retroactively.
- ii. Also in future, the principle of legal certainty and predictability of the legal framework should be respected. Therefore the **Amendment shall not affect the already existing contracts with our customers**, already concluded for storage season 2013/2014 and 2014/2015. We hope that new legislation would not have significant impact on such contracts with our customers on the Austrian side and no new obligations or rules will apply on POZAGAS in relation to them. Therefore we propose that the Amendment shall be binding first for the gas season 2015/2016.
- iii. At the moment we cannot see clearly the legislative basis for proposed changes. **We would appreciate more certainty in this legal issue.**
- iv. At the moment **we cannot see clearly the cost-based reasoning** of the proposed fees. Considering the absolute value of the proposed fee only, **it is higher in our case more than four (4) times than the current fee** (current fee of FZK recalculated to the daily basis – 0,09 cent/kWh/h)! Such an enormous increase of the fee deserves to be justified by real additional costs generated, if any. Total impact of the Amendment might cause, especially during the situation of narrow summer/winter spreads, that the physical storage will not be affordable for market participants due to unreasonably higher costs of storage system operators.

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- v. **The Amendment should include certain implementation period.** As Amendment stipulates obligation of regular reporting of additional information, **storage system operators need sufficient time for IT systems adjustment.** The extent and necessary implementation period of the IT changes is difficult to predict at the moment.
- vi. **The Amendment foresees additional administrative burden – installing independent auditor proving specific data of storage system operator.** This will cause unreasonable additional cost of storage system operators and at the moment it is difficult to assess the practicability of the process. We believe that the administrative burden connected with proposed rules will be limited as much as possible.

We believe that the specific position of storage systems, its irreplaceable role in ensuring the security of gas supply and their contribution to the cost efficiency of the whole gas system will be taken into account.

We would like to propose further discussion with the stakeholders, with the aim to prepare the Amendment helping the further and efficient development of the gas market.

We hope that our comments will be taken into consideration when adopting the Amendment. We are happy to discuss our comments with you.

We would like to kindly ask you, to include POZAGAS directly into the stakeholders' consultations in the future. We believe that POZAGAS could offer relevant knowledge, experience and contribution in such discussion.

Best regards



Martin Beňa
Director for sale and marketing