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Object: Comments to the Amendment of Market Model (GMMO-VO, Novelle 2014)

On June 30th, 2014 a public consultation was launched by "Energie-Control Austria für die Regulierung der Elektrizitäts- und Erdgaswirtschaft" (ECA) with the purpose of receiving comments or reactions to the draft amendment of the Gas Market Model Ordinance, including the relating explanatory notes as well as an amendment to the Gas Market Code - Chapter 2.

In this framework, Trans Austria Gasleitung GmbH (TAG) would like to react to the following amended points:

SECTION §12 - Long-Term Use-It-Or-Lose-It Mechanism

In the section §12 ECA proposes to amend the content currently in force introducing the following changes:

- 1) Introducing the additional possibility for Network Users to surrender unused capacity to the TSO(s). (*Paragraph 1*)
- 2) Introducing the concept of effective contractual duration (Effektive Vertragslaufzeit) which means that if a System User has stipulated a Capacity Contract(s) with a duration longer than one year (existing long term contract) or multiple capacity contracts with a duration of one year each (Regulation 984/2013) and does not make use of them according to the provisions defined in the regulation 715/2009, the Transmission System Operator (TSO) is entitled to withdraw unused capacity for the entire remaining duration. The TSO(s) can withdraw an unused capacity only with a prior written notice. (*Paragraph 2*)

- 3) Further in paragraph 2 points 1, 2, 3, the definition of “Network user(s)” has been replaced with the definition “Balance Group Responsible Party” (Bilanzgruppenverantwortlicher) and “Balance Groups / Sub-accounts”.

TAG Comments:

Point 3)

The replacement of the definition “Network User” with “Balance Group Responsible Party” (Bilanzgruppenverantwortliche) could generate a potential discrimination among system users because it does not take into account the different capacity utilization by the individual network users within the joint balancing unit.

Indeed in the Balance groups/sub-accounts which have one System User, the single nomination is known to the TSO(s) and therefore, in case of unused capacity, the withdrawal of unused capacity by the TSO(s) affects just the only System User (e.g. in TAG many Balance groups contain only one System User). Differently, in the Balance Groups/Sub-accounts having more than one System User, these undergo a different treatment since the withdrawal of unused capacity by the TSO(s) occur proportionally among them taking into account the capacity allocated by each system user to the Balance group(s)/sub-account(s) (single nominations are unknown to the TSO). Therefore, the provision stated in section §12 para 2 as proposed in the amendment allows “*de facto*” to penalize a customer although he fully uses his capacity and is fully compliant with the rules. For this reason, the proposed amendment is in our opinion potentially highly discriminatory for Balance groups with more than one system user.

TAG considers that this risk of discrimination can be avoided by introducing a second sentence in paragraph 3 as follows:

“In case a TSO detects unused capacity by a Balance group/Sub-account having more than one system user, the Balance Group Responsible Party upon request of the involved TSO(s) has to provide to the TSO(s) the requested nomination of each system user which nominates/re-nominates for the relevant period in the dedicated transmission system. In case the Balance Group Responsible Party refuses to provide such information, the TSO(s) shall notify ECA in this regard”.

SECTION §24 - Special Balance Groups

The amended Para.1 of section §24 states:

"System operators shall establish special Balance groups for the purpose of determining system losses and own consumption. The System operators shall nominate Balance responsible parties for these Balance groups. In addition, several System operators may establish jointly such special Balance groups, in particular with an eye to the procurement of energy to cover network losses. Special Balance groups cannot contain metering points of consumers."

The amended §24 para.1 therefore does not deviate, "de facto" , from the previous version and still foresees the establishment of a joint special Balance group by several TSO(s) "in particular with an eye to the procurement of energy to cover network losses" recognizing the possibility of the TSOs to nominate a responsible of this Balance group. However in the explanation provided by ECA referring to the amendment of para 1 section §24, ECA states that the role of balancing responsible group should not be compulsorily taken over by a Network operator, "but can be taken over also by a third party, such as the Distribution Area Manager (DAM)".

TAG recommends both maintaining the role of DAM just as a reference entity for Distribution Network Operators (DSO(s)) and not for TSO(s) and in general not to involve third entities in managing, in particular but no limited to, the Balance groups with the purpose of determining system losses and own consumption which should remain under the only responsibility of TSO(s).

Best regards,

Trans Austria Gasleitung GmbH



G. Peluso



R. Starzer