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**Betrifft: Stellungnahme zu Begutachtungsentwurf Gas-Marktmodell-Verordnung 2012**

Sehr geehrte Herren!

Unter Bezugnahme auf Energie-Control's Webseite bzw. das Ersuchen an die Marktteilnehmer, sich zu den dort gestellten Fragen zu äußern, übermitteln wir Ihnen gerne TAG GmbH's diesbezügliche Stellungnahme zu Ihrer Verwendung.

Mit freundlichen Grüßen

Trans Austria Gasleitung GmbH



G. Peluso



R. Starzer

**Enclosure:** as mentioned

## Comments to Draft Market Rules

E-Control Austria (ECA) has submitted to consultation the draft of the ordinance that designs the new market rules (the “Draft Market Rules”) according to Section 41 of the *Gaswirtschaftsgesetz 2011* (GWG 2011).<sup>1</sup>

TAG welcomes the opportunity to comment on the Draft Market Rules. Although the current version provides additional details with respect to the preliminary version that was submitted for comments at the beginning of last February, we still believe that the lack of the implementing details for some key provisions of the proposed design would not allow a proper assessment.

As TAG has already commented on the previous version of this document, the Draft Market Rules appear to assign a relevant role to the Market Area Manager (MAM) – e.g. organise the online platform for capacity allocation and trading, calculation of transmission linepack available for balancing of the distribution network, etc. - but they do not clarify how such role will be implemented and which limits will be imposed to the MAM’s actions. In fact the role of MAM, as it is designed by the Austrian law, appears to be a *unicum* among European countries and need to be better clarified in order to avoid having a MAM which carries out some of the TSO’s functions without meeting the requirements imposed by the EU regulation for such specific circumstances.

The Draft Market Rules are organized in four titles:

- Title 1: Principles;
- Title 2: Rules for Market Area East;
- Title 3: Rules for Market Areas Tirol and Voralberg;
- Title 4: Final Provisions.

Each Title is, in turn, organized into parts and chapters.

In the following paragraphs we will provide specific comments to key provisions (from the TSO’s perspective) in Title 1 and Title 2 on the basis of information available so far. Such comments might be updated according to any further information that might be made available in the future.

### **1. Title 1: Principles**

#### *Section 1: Application*

No specific comments.

#### *Section 2: Definition*

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<sup>1</sup> Section 41 of the GWG 2011 (“Procedures set by Ordinance”) provides that the regulatory authority may issue ordinances with separate rules for each market area respecting the network codes adopted according to European regulation.

No specific comments

## **2. Title 2: Rules for Market Area East**

Title 2 is organized in 2 parts:

- Network Access and Capacity Management; and
- Balancing, Clearing and Settlement.

In the following paragraphs we will provide our comments to provisions included in the two parts.

### **2.1. Network Access and Capacity Management**

#### **2.1.1. Network Access**

##### **2.1.1.1. Access to the transmission network**

#### **Section 3 - Capacity Offers**

Rules for capacity offers provide, among others, that:

- The Market Area Manager (MAM), in close collaboration with the transmission system operators and the distribution area manager, shall evaluate and, where necessary, coordinate measures to increase the amount of announced firm decoupled capacity to the extent that is economically feasible
  - contractual agreements with third parties for flow commitments (Flow Commitments);
  - offers for entry and exit capacity which are subject to certain allocation restrictions;
- capacity has to be procured on the online platform using non-discriminatory and transparent procedures under appropriate conditions.

As we already commented to the previous version of the Draft Market Rules, we still believe that capacity maximisation is a typical operation of the TSO and that the MAM should have no role in evaluating which measures have to be implemented in order to increase such capacity. Furthermore, ECA does not clarify, neither in the Draft Market Rules nor in the accompanying technical assessment,<sup>2</sup> which are the criteria the MAM has to follow in evaluating which action is more effective and “economically feasible” in order to increase firm capacity and what the limits of the “coordination” actions.

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<sup>2</sup> Erläuterungen zum Begutachtungsentwurf Gas-Marktmodell – VO 2012, available at <http://www.e-control.at/de/marktteilnehmer/gas/marktregeln/aktueller-marktregelprozess/dokumentation>.

#### Section 4 - Bundling of capacity

This section provides for bundling of capacity at interconnection points among two adjacent market areas in the same flow direction (if the TSOs agree on such bundling) and for such bundling to be applied only to future transport contracts unless the shipper requires its contract to be changed.

Capacity bundling is provided for in the European regulation and in the Network Code prepared by EntsoG.

We agree on having bundled products and on bundling of capacity to be applied only to future contracts.

#### Section 5 - Entry and Exit Areas

We do not agree on having capacity at border points in the availability of different TSOs grouped into one single booking point, which would imply:

- the need to identify a party in charge of allocating capacity different from the involved TSOs (the operator of the online platform?);
- the rules for revenues allocation;
- the governance rules to be applied in case part of the available capacity is not sold;
- the rules to charge costs deriving from changes in use of the compressor stations.

Until ECA clarify the above key points, no proper assessment can be made of such provision.

#### Section 6 - Capacity allocation

We agree on having auctions to allocate entry and exit capacity as provided for in the CAM Network Code published by EntsoG (both for annual/pluriannual capacity and for day-ahead capacity) and in having interruptible capacity differentiated by classes which reflect a different probability of being interrupted. The latter methodology is the one currently used by TAG to classify its interruptible capacity.

#### Section 7 - Special Rules for capacity allocation and capacity utilization

This section provides that:

- rules for capacity allocation do not apply to exit capacity from the transmission network into the distribution network, into storage or for consumer supply, or to entry capacity from storage or from production of natural gas or biogas into the transmission network; in such cases, capacity shall be allocated on a first come first served basis.
- bookings for such capacity will be made by the distribution area manager or each connected storage system operator or consumer or producer of natural or biogenic gas.

We believe that in order to minimise the impact on the TSOs activities, a unique procedure should be adopted to allocate capacity.

However, for existing capacity, in cases where there are few operators (e.g. DAM, storage operators) booking such capacity, a different procedure can be applied (first come, first served).

For new capacity, we believe that a unique competitive market capacity allocation procedure should be used.

#### Section 8 - Contract duration

ECA has not provided a rationale for the calculation of such percentages except for a general statement on the need to increase market competition.

As commented on the past version of this provision, we believe that the share of capacity reserved to annual contracts, pluriannual contracts, etc will have to comply with EU regulation and take into account the expected market needs and the information provided by the TSOs in this respect.

We agree on TSOs being allowed to make adjustments to the provided percentages in order to comply with regulation and available capacity in neighbouring States.

We also observe that ECA is still allowing for contracts to have a pluriannual duration (4 years). It is to note that in the Draft CAM NC, which was submitted to ACER last April, the maximum allowed contractual duration is one year. The TSOs can offer the yearly contracts over a time horizon including more than one year (e.g. 15 years). We believe, therefore, that such provision should be adjusted to comply with the EU regulation.

#### Section 9 – Online platform for capacity offer

The Draft Market Rules do not clarify yet the extent of the “cooperation” between the MAM and the TSOs in organising and managing such platform. In the accompanying technical relation, ECA specify that the paragraph does not regulate the details of construction and operation of the online platform, whose design is subject to the decision of the online platform operator. We believe that the lack of the platform’s construction and operation details do not allow a proper assessment of the provisions under this section.

Furthermore, the online platform has to operate such as to allow the Austrian TSOs to coordinate with neighbouring TSOs for the sale of bundled capacity. This would be consistent with the aim of having a unique platform at a European level.

The draft regulation has not identified the operator of the online platform so far. As the online platform has to be organised and managed by the MAM in cooperation with the TSOs, we envisage two alternatives:

- the operator of the online platform is the MAM; or
- the operator of the online platform is a consortium of all TSOs and the MAM.

We Believe that the second alternative, (i.e. a consortium of all TSOs and the MAM as operator of the online platform) appears to better fit provisions in the EU regulation (the EU regulation provides that the TSO has to market its own capacity and set several TSO's obligations in terms of publication of information, preservation of the confidentiality of sensitive data [e.g. of bid prices], etc, which have to be taken into account in the establishment and operations of the online platform) although we believe that in order to be compliant with such provisions the TSO has to be able to market capacity using its own platform. This implies that governance rules of the online platform should be such as to allow TSOs to market their capacity in a way which is compliant with EU regulation.

Whichever the option, we believe that ECA should:

- clarify the extent of the “cooperation” between the MAM and the TSOs; and
- provide general criteria to be met in designing and operating the platform.

As for functioning costs, we believe that the expression “free of charge” need to be clarified and that the Draft Market Rules should clarify that costs incurred by the MAM and the TSOs to operate the platform have to be remunerated.

#### Section 10 - Secondary market for the entry and the exit capacity

Although the new version of the market rules has provided for the secondary market platform to make available some trading procedures, the secondary market is a market on which shippers willing to resell or sublet capacity or shippers looking for capacity place a sell/purchase notice and start an anonymous trading process.

We might agree in principle on having such an organisation, provided that the TSOs are the ones who provide the final confirmation of capacity sale/subletting, as provided for in current TSOs' General Terms and Conditions.

This would ensure that the TSO receive all information required to manage the transportation contracts as appropriate (e.g. amend existing transportation contracts, sign new transportation contracts etc) and to carry out the transportation service.

#### Section 11 - Nomination and Re-Nomination Rules

We agree in principle with provisions included in Section 11. However, we believe that such provisions have to allow for some flexibility in order to take into account nomination and re-nomination rules of interconnected TSOs (generally included in the interconnection agreements) that might have a negative impact on application of internal rules.

#### Section 12 - Long-term use-it-or-lose-it

We agree on using UIOLI provisions. The way in which UIOLI provisions are designed and applied has to be consistent with the CAM NC, which provides that unused capacity has to be offered on a day-ahead basis.

2.1.1.2. Access to the distribution network

Section 13 - Request for system access and capacity expansion

No specific comments.

Section 14 - Application for admission to the system

No specific comments.

Section 15 - Capacity management at distribution level

No specific comments.

2.1.1.3. System Access for Storage System Operators and Producers of Natural or Biogenic Gas

Section 16 - Network access for storage system operators

No specific comments.

Section 17 - Network access for producers of biogenic gas

No specific comments.

**2.1.2. Balance, Clearing and Settlement**

Section 18 - Basic Principles of the Balancing Regime

No specific comments.

Section 19 - Registration in the Market Area

No specific comment

Section 20 - Balance group membership

No specific comments.

Section 21 and 22 - Balance Responsible Parties

No specific comments.

Section 23 – Entry of Capacity into Balance Groups

No specific comments.

Section 24 - Special balance groups

No specific comments.

Section 25 - Information and Data flow between market participants

Information that have to be provided by the transmission system operators are:

- each balance group's entry and exit nominations at each entry/exit point to the MAM;
- hourly information regarding the available linepack available at transmission level to the MAM;
- all relevant data on capacity at entry and exit points from the market area to the MAM for publication.

We agree in principle on providing the above information to the MAM provided that all requirements in terms of confidentiality of sensitive data are met.

#### Section 26 – Balancing of the Market Area Manager

No specific comments.

#### Section 27 – Balancing of the Clearing and Settlement Agent

No specific comments.

#### Section 28 – Rules for standardised load profiles

No specific comments.

#### Section 29 – Interconnection Point Agreements and Linepack

This section provides that:

- On the basis of hourly data provided by the TSOs, the MAM calculates how much linepack is available in the transmission network;
- The distribution area manager (DAM) can use the excess linepack to balance the distribution network;
- The DAM that uses excess transmission linepack commits to promptly return the linepack given to him;
- Terms and conditions for the use of linepack have to be defined in the interconnection agreements (IPA).

We agree on having TSOs communicating to the MAM the excess transmission linepack. However, although we believe that each TSO should communicate its excess linepack to the MAM, we believe that the MAM should have no role in calculating parameters that are typically calculated by the TSOs, unless (i) the calculation is carried out according to a methodology defined and approved by the regulator; and (ii) calculations are transmitted by the MAM to the TSOs in order for them to know the amount of excess linepack given to the DAM.

The Draft Market Rules provides that the DAM using excess transmission linepack commits to “promptly” return the linepack he was given but the rules does not clarify



what “promptly” means, i.e. the time horizon by which the DAM has to return the excess linepack to the TSO.

Furthermore, the draft market rules provides that terms and conditions for the use of linepack have to be defined in the interconnection agreements. We believe that the Draft Market Rules should provide the basic criteria such terms and conditions have to comply with. As we already commented to previous versions of the draft market rules, we believe that the Draft Market Rules should:

- clarify which are the criteria for use of the transmission linepack by the DAM and provide for the TSO and the DAM to sign an OBA which clarify terms and conditions (e.g. setting a balancing account) for the use of excess transmission linepack and for its returning to the TSO;
- Provide for the possibility for the TSO to appeal against the MAM in case the MAM’s decision endangers the ability of the TSO to comply with its duties. To such extent, rules should clarify that a contract should be signed between the TSO and the MAM which regulates terms and conditions under which the MAM allows the DAM to use the linepack.

#### Section 30 – Pre-requisite for balancing energy providers

No specific comments.

#### Section 31 – Merit order list

No specific comments.

#### Section 32 – Imbalance prices

No specific comments.

#### Section 33 – Virtual Trading Point

No specific comments.

#### Section 34 – Format for Data Exchange, Schedule and Nomination

No specific comments.

### **3. Conclusion**

This new version of the Draft Market Rules provides more details on the design of the new market, although documents available are still missing the assessment of the rationale at the basis of ECA’s proposals in many cases and the lack of basic criteria to be met in implementing some of the key provision (e.g. use of excess transmission linepack) still make not possible to provide a complete assessment of some basic feature of the proposed design.

Although the current draft represent an improvement of the past one, many elements are still missing, which prevent a proper assessment.

TAG has already commented that the proposed entry-exit system will have to take into account that the bulk of transportation services currently provided in Austria are related to transit and that the approach to the new system has to carefully balance transit and domestic transportation needs in order not to harm gas transit through Austria. If this were not the case, operators' decisions might be biased and this would harm competitiveness of infrastructures and development of competition.