

## **Energie-Control Austria Executive Board Ordinance on Provisions for the Gas Market Model (Gas Market Model Ordinance 2012)**

In exercise of section 41 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011, *BGBI.* (Federal Law Gazette [FLG]) I no 107/2011, in conjunction with section 7 para. 1 *Energie-Control-Gesetz* (E-Control Act), FLG I no 110/2010, as published in FLG I no 107/2011, the following Ordinance is issued:

(proliferated in *FLG II no 171/2012*, as amended by the *Gas-Marktmodell-Verordnung – Novelle 2013 [Gas Market Model (Amendment) Ordinance 2013]*)

### **Title 1**

#### **Principles**

##### **Scope of Application**

**Section 1.** (1) The present Ordinance regulates system access and capacity management as well as balancing, clearing and settlement in the market areas east, Tyrol and Vorarlberg.

(2) The technical rules as set out in annex 2 shall be binding on all market participants.

##### **Definitions**

**Section 2.** (1) For the purpose of this Ordinance, the term

1. "balancing period" shall mean the period of time for which imbalances of system users at entry, exit or metering points are calculated;
2. "booking" shall mean the conclusion of system access contracts at bookable entry/exit points;
3. "bookable entry/exit point" shall mean a bookable entry or exit point in the market area;
4. "day-ahead capacity" shall mean daily capacity bookable on the day before delivery;
5. "firm capacity" shall mean capacity that is guaranteed and may only be interrupted in cases of force majeure and planned maintenance;
6. "decoupled capacity" shall mean capacity that enables firm transports in the entire market area and gives access to the virtual trading point;
7. "gas day" shall mean the period of time from 6 a.m. on one calendar day until 6 a.m. on the following calendar day;
8. "bundled capacity" shall mean exit capacity and the corresponding entry capacity bookable by system users as one;
9. "bundled nomination" shall mean a single nomination at a bundled entry/exit point;
10. "bundled entry/exit point" shall mean a unit made up of a bookable exit point and a bookable entry point, connecting two neighbouring market areas, at which system users can book bundled capacity;
11. "cross-border interconnection point" shall mean an interconnection point that connects a market area to another market area;
12. "flow commitment" shall mean a contractual agreement of a system operator with a system user by which the latter commits to particular flows which are suitable and necessary to increase available decoupled entry/exit capacity;
13. "online platform" shall mean the platform pursuant to section 39 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011;
14. "physical balancing energy" shall mean the balancing energy volumes actually procured by the market area manager or the distribution area manager;
15. "rest of the day capacity" shall mean capacity bookable on the day of delivery for the rest of that same day;
16. "SLP consumer" shall mean a consumer that has an annual consumption of less than 400,000 kWh and has been assigned a standardised load profile by the competent distribution system operator;
17. "contracted maximum capacity" shall mean the technical or, if specified, the contracted connection capacity, which must correspond to the actual capacity needs of the party entitled to system access;

18. “within day capacity” shall mean capacity bookable on the day of delivery for periods of time on that same day.

(2) In addition to the above, the definitions in section 7 Natural Gas Act 2011 and in Article 2 of Regulation (EC) No 715/2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005, OJ L 211 of 14.08.2009, shall apply.

**Title 2**  
**Rules Governing the Eastern Market Area**  
**Part 1**  
**Access to the Network and Capacity Management**  
**Chapter 1**  
**Access to the Transmission Network**  
**Capacity Offers**

**Section 3.** (1) As a rule, the firm capacity offered by transmission system operators shall be decoupled.

(2) In close cooperation with the transmission system operators and the distribution area manager, the market area manager shall evaluate and, where necessary, coordinate the below measures to increase the amount of announced firm decoupled capacity in accordance with section 35 para. 1 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 to the extent that is economically feasible for the overall network, in the following order:

1. Contractual arrangements with system users for flow commitments;
2. Offers for entry and exit capacity which are, notwithstanding para. 1 above, subject to certain allocation restrictions.

(3) Services according to para. 2 above shall be handled through the online platform in non-discriminatory and transparent procedures under appropriate conditions. The transmission system operators, in close cooperation with the market area manager and the distribution area manager, shall take the economically reasonable measures as referred to in para. 2 if they are shown by an examination to be possible and suitable for increasing the decoupled capacity on offer. In examining economically reasonable measures to increase the offer of decoupled capacity, the market area manager, the transmission system operators and the distribution area manager shall work together with the aim to keep application of the measures referred to in para. 2 to a minimum. The transmission system operators shall notify the amount of available capacity determined on the basis of paras 1 to 3 to the regulatory authority prior to allocating capacity according to sections 6 and 7.

(4) To verify that network expansion adequately responds to capacity needs pursuant to section 35 para. 2 Natural Gas Act 2011, the transmission system operators shall cooperate with the market area manager to hold a standardised, binding open season procedure on the online platform, coordinate it with neighbouring system operators and publish its results.

**Bundling of Capacity**

**Section 4.** (1) Entry/exit at each transmission-level cross-border interconnection point between two neighbouring market areas shall be merged into one bundled entry/exit point for each flow direction at each point if the neighbouring system operator enables so.

(2) At bundled entry/exit points, system users can book bundled capacity on a firm or interruptible basis. This shall not apply to contracts concluded up to and including 31 March 2013 (existing contracts), except where system users that hold exit and the corresponding entry capacity request that their contracts be changed. To the extent that capacity is captured by an existing contract on the neighbouring side of the entry/exit point, the corresponding capacity on the Austrian side may be marketed as unbundled for no longer than until the end of term of such existing contract.

(3) At bundled or unbundled entry/exit points, transmission system operators may offer bundled or unbundled capacity that is subject to certain allocation restrictions.

**Combined Entry/Exit Points**

**Section 5.** (1) Transmission system operators shall integrate the entry capacity at all cross-border interconnection points into combined entry points that make it possible for gas to be fed in on the basis of an entry capacity booking at a single entry point, as far as this is technically reasonable and economically feasible. Before such integration into combined entry points takes place, the market participants shall be consulted and the regulatory authority shall be notified.

(2) Para. 1 above shall apply mutatis mutandis to exit capacity at cross-border interconnection points.

(3) The obligation pursuant to section 3 shall remain unaffected thereby.

### **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.

### **Capacity Allocation and Use for Particular Purposes**

**Section 7.** (1) Sections 4, 5, 6, 11 and 12 shall not apply to exit capacity from the transmission network into the distribution network in the market area, into storage or for consumer supply, or to entry capacity into the transmission network from storage or from production of natural gas or biogas. Such capacity shall be allocated on a first come first serve basis. Bookings for such capacity shall be made by the distribution area manager or the connected storage system operator, consumer or producer of natural or biogenic gas.

(2) Sections 13 and 14 shall apply mutatis mutandis to transmission-level system access for consumers.

### **Contract Duration**

**Section 8.** (1) At cross-border interconnection points, at least 10% of the technical annual capacity at each entry point shall be reserved for capacity products with contract durations of up to and including one quarter. This percentage shall be increased at individual cross-border interconnection points if a system user poll on the online platform, to be conducted annually by the market area manager in cooperation with the transmission system operators, indicates such a need. No more than 65% of the technical annual capacity at each entry point may be allocated to products with contract durations of more than four years. At cross-border interconnection points, at least 10% of the technical annual capacity at each exit point shall be reserved for capacity products with contract durations of up to and including one quarter. No more than 65% of the technical annual capacity at each exit point may be allocated to products with contract durations of more than four years. Capacity contracts in existence at the time of entry into force of this Ordinance shall be exempted from this stipulation.

(2) If the share of capacity at an entry/exit point that is captured in capacity contracts when this Ordinance enters into force exceeds the shares given in para. 1 above, the transmission system operators shall offer all capacity freed when such contracts expire as products with durations of up to and including one quarter until a share of 10% is reached; then, they shall proceed to offering such freed capacity as products with durations of up to and including four years until a share of 35% of the technical annual capacity of the entry/exit point is reached.

(3) In individual cases, the percentages pursuant to para. 1 above shall be adjusted so as to conform to the rules and resulting technical annual capacity in neighbouring states. Advance notice of any such deviations and the grounds for them shall be given to the regulatory authority.

(4) For entry/exit points integrated into combined entry/exit points under section 5 above, paras 1 and 2 shall apply accordingly in respect of the technical annual capacity of the combined entry or exit point.

### **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.

### **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.

### **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.

#### **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.

## **Chapter 2**

### **Access to the Distribution Network**

#### **Applications for System Access and Capacity Expansion**

**Section 13.** (1) Access to the distribution network is governed by the provisions of sections 27 et sqq. *Gaswirtschaftsgesetz* (Natural Gas Act) 2011. Applications for access to a system shall contain at least the information listed in annex 1.

(2) Once the distribution system operator has accepted a system access application, it shall proceed to send the system user the system access contract without delay.

(3) Applications for capacity expansion pursuant to section 33 para. 2 Natural Gas Act 2011 shall contain the same information as system access applications under para. 1. Handling of capacity expansion applications shall comply with the requirements set out in annex 1.

#### **Application for Admission to the System**

**Section 14.** (1) For establishing first connections to a system or changing existing connections, parties entitled to system access shall apply to the distribution system operator. The distribution system operator shall be responsible for establishing an operational line from the connection point to the entry point or end of the distribution system. The distribution system operator's responsibilities shall include construction, maintenance and decommissioning of this connection. The construction of connection lines shall comply with the minimum requirements set out in annex 1.

(2) The distribution system operator shall connect the applicant's installation to its distribution system in accordance with the provisions of section 59 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011.

(3) Applications for admission to a system shall contain at least the information listed in annex 1. Once the distribution system operator has accepted a system user's system admission application, it shall proceed to send the system user the system admission contract without delay.

(4) If other system users make use of a connection line within ten years of its being commissioned, the distribution system operator shall divide the system admission charge among the relevant system users so that the shares reflect their contracted maximum capacities at the time of cost division. The distribution system operator shall reimburse the excess charge collected resulting from such redistribution to the system users that paid for the construction, except in cases where the distribution system operator only charged a prorated share of the system admission charge from the start, anticipating that further connections would be made.

#### **Capacity Management at Distribution Level**

**Section 15.** (1) The distribution area manager shall set the total maximum firm capacity to be booked at the internal interconnection points from each transmission system to the distribution network in the market area together with the relevant transmission system operator once a year for the following calendar year, in accordance with the capacity needs resulting from the approved long-term plan pursuant to section 22 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011. Transmission system operators shall permanently reserve the firm capacity booked in a year for the next year. Booking less annual capacity than has been permanently reserved shall only be permissible to the extent that the system operator can market the capacity elsewhere. The amount of firm capacity to be reserved shall be adjusted as part of the long-term planning process pursuant to section 22 Natural Gas Act 2011. For 2013, the booking shall result from section 170 para. 6 Natural Gas Act 2011.

(2) There shall be no capacity management and no congestion management at balance group level at the interface between the market area's transmission and distribution networks.

(3) Sections 8, 9 and 12 shall apply mutatis mutandis to system access at cross-border interconnection points in the distribution network. Entry/exit capacity offers and allocation at market area borders at distribution level shall be the task of the distribution area manager. The distribution area manager shall allocate capacity to system access applications on a first come - first served basis through an online platform.

## **Chapter 3**

### **System Access for Storage System Operators and Producers of Natural or Biogenic Gas**

#### **System Access for Storage System Operators**

**Section 16.** (1) Storage system operators shall set the maximum capacity to be reserved for injection into and withdrawal from storage together with the system operator to whose system the facility is or is to be connected once a year for the following calendar year. System operators shall permanently reserve the capacity

booked in a year for the next year. Booking significantly less annual capacity than has been agreed for a year between the storage system operator and the system operator shall only be permissible to the extent that the system operator can market the capacity elsewhere. If a capacity expansion project has been initiated by a single storage system operator, the annual booking may only be reduced insofar as this is foreseen in the capacity expansion contract. To increase the annual booking beyond the reserved capacity, a system access application pursuant to section 13 must be filed.

(2) The provisions of chapter 2 shall also apply to storage system operators whose facilities are connected at transmission level.

(3) The rights and obligations necessary for operation shall be agreed in contracts between the distribution area manager and the storage system operators whose facilities are connected at distribution level.

### **System Access for Producers of Natural or Biogenic Gas**

**Section 17.** (1) Producers of natural or biogenic gas shall set the maximum capacity to be reserved for production together with the system operator to whose system their facility is or is to be connected once a year for the following calendar year. System operators shall permanently reserve the capacity booked in a year for the next year. Annual capacity bookings that fall short of the capacity that has been permanently reserved by more than 10% shall only be permissible to the extent that the system operator can market the capacity elsewhere. To increase the annual booking beyond the reserved capacity, a system access application pursuant to section 13 must be filed.

(2) The rights and obligations necessary for operation shall be agreed in contracts between the distribution area manager and the producers of natural or biogenic gas whose facilities are connected at distribution level.

## **Part 2**

### **Balancing, Clearing and Settlement**

#### **Chapter 1**

#### **Basic Principles of the Balancing Regime**

**Section 18.** (1) All system users that are active in the eastern market area must be part of a balance group that is registered with the market area manager. A balance group brings together the infeed and off-take of one or more system users in the market area and offsets them against each other. Balance groups can only be established by balance responsible parties submitting corresponding statements to the market area manager.

(2) The market area manager shall be responsible for clearing all gas volumes that involve nominating and scheduling. Responsibility for clearing of physical deviations of actual consumption from consumption schedules, of cross-border interconnection points in the distribution network, of the special balance groups for distribution systems and of discrepancies between scheduled and actual biogas input shall lie with the clearing and settlement agent. Clearing shall be executed per balance group and in energy units (kWh or MWh).

(3) All balance groups and their direct members shall have access to the market area's virtual trading point.

(4) Balance responsible parties shall take measures that are suitable to ensure that volumes fed in and volumes taken off in their balance groups are properly balanced during a balancing period. They shall bear economic responsibility vis-a-vis the market area manager and the clearing and settlement agent for their balance groups' imbalances.

(5) The market area's balancing (measurement) period shall be the gas day. Supply to system users with a balancing period that corresponds to the gas day shall be constant throughout the gas day (24 equal hourly values, or 23/25 equal hourly values on the clock change days between normal and summer time). Any renominations shall also be constant for the rest of the gas day.

(6) Notwithstanding para. 5 above, the balancing (measurement) period for system users with a contracted capacity of more than 10,000 kWh/h per entry/exit/metering point shall be one hour.

(7) System users with a contracted capacity between 10,000 kWh/h and 50,000 kWh/h per entry/exit/metering point whose meter readings are available to the distribution system operator online may opt for daily balancing in accordance with para. 5 above. Declarations for one or the other balancing period shall be considered system access applications pursuant to section 13. A system user's balancing period can be changed once in twelve months.

(7a) Online meter data submission in accordance with para. 7 shall comply with the General Terms and Conditions of the Distribution Area Manager.

(8) Balance responsible parties shall draw up separate consumption schedules for system users under paras 5 and 7 on the one hand and those under para. 6 on the other hand. They shall submit schedules and nominations to the relevant contract partners in the market area with a lead time of at least two hours. Where

large consumers with a contracted maximum capacity of more than 50,000 kWh/h are concerned, balance responsible parties must submit individual schedules for each of them.

(9) Trading and transfer of gas volumes between balance groups shall only be possible at the virtual trading point. Trading after the end of the balancing period shall not be admissible.

(10) Balancing energy shall be procured primarily through trade in standardised products pursuant to section 33 para. 1 on the gas exchange at the virtual trading point.

### **Registration in the Market Area**

**Section 19.** (1) The market area manager shall organise the balance groups and assign a unique ID to each balance responsible party and each balance group; this ID shall be quoted in all communications, including data transfer, between the contract parties.

(2) The market area manager shall conclude contracts with the balance responsible parties based on the approved general terms and conditions pursuant to section 16 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011. In addition, the market area manager shall conclude contracts on behalf and for account of the operator of the virtual trading point with the balance responsible parties based on the approved general terms and conditions pursuant to section 31 para. 3 Natural Gas Act 2011. The operator of the virtual trading point shall authorise the market area manager to conclude contracts on its behalf and for its account.

(3) If a balance group representative's balance group also handles gas at distribution level, this shall be notified to the market area manager at the time of registering the balance group or, if the balance group has already been registered, as a prerequisite for taking up such activity.

(4) Where situations as described in para. 3 arise, the market area manager shall conclude contracts with the balance responsible parties on behalf and for account of the distribution area manager, based on the approved general terms and conditions pursuant to section 26 Natural Gas Act 2011. If natural gas for consumers is involved, the market area manager shall conclude additional contracts with the balance responsible parties, on behalf and for account of the clearing and settlement agent, based on the approved general terms and conditions pursuant to section 88 Natural Gas Act 2011. The clearing and settlement agent and the distribution area manager shall authorise the market area manager to conclude contracts on their behalf and for their account. The market area manager shall inform them about the conclusion of contracts. The market area manager shall only conclude contracts with the balance responsible parties after the due diligence analysis pursuant to para. 8 has been concluded.

(5) Within five working days of receiving a complete application and the due diligence pursuant to para. 8 having been concluded, the market area manager shall submit a contract offer to the applicant.

(6) The market area manager shall offer contract conclusion pursuant to paras 2 to 4 on the online platform. The necessary information and the pertaining documents shall be available through the online platform as well.

(7) Prior to concluding contracts with the operator of the virtual trading point, balance responsible parties shall fulfil all prerequisites for taking balancing actions through the natural gas exchange at the virtual trading point which are listed in the general terms and conditions of the operator of the virtual trading point.

(8) The clearing and settlement agent shall perform a due diligence analysis; this shall be updated on a regular basis, at least once a year after the annual accounts have become available. The clearing and settlement agent may request collateral from balance responsible parties.

(9) Before taking up activities, balance responsible parties shall prove to their contract partners that they can execute data exchange, scheduling and nomination procedures in accordance with the formats, interfaces, communication channels, security standards and contents defined in section 34 at all times. For this purpose, the market area manager shall coordinate a dry run with the relevant contract partners in the market area.

(10) Once all necessary contracts and documents are available and the dry run pursuant to para. 9 has been successfully concluded, the market area manager shall inform the regulatory authority in writing that the prerequisites for taking up activities as a balance responsible party are fulfilled.

(11) Balance responsible parties of balance groups in existence at the time when this Ordinance enters into force shall renew their existing contracts with the distribution area manager and the clearing and settlement agent. Also contracts with the market area manager and the operator of the virtual trading point must be concluded; if they have already been concluded, they must be renewed.

(12) Should any of the contracts to be concluded by balance responsible parties pursuant to paras 2 through 4 subsequently cease to be effective, the affected contract partner shall immediately inform the market area manager, the operator of the virtual trading point, the distribution area manager and the clearing and settlement agent thereof.



## Chapter 2

### Functioning of Balance Groups

#### Balance Group Membership

**Section 20.** (1) Balance groups may have the following types of members:

1. Consumers;
2. Natural gas undertakings;
3. Producers.

(2) Membership is established either by contracts with a balance responsible party (direct membership) or by contracts with suppliers that are balance group members (indirect membership). Indirect balance group members do not have any direct contractual relationship with the balance responsible party. While system users may be members of several balance groups, a metering point can only belong to one balance group.

(3) Insofar as balance group members have one or more metering points, balance group membership is established through such metering points.

(4) If direct balance group members intend to

1. conclude contracts with the clearing and settlement agent regarding the supply of positive or negative balancing energy;
2. make flow commitments towards a transmission system operator or the distribution area manager; or
3. execute energy trades through an energy exchange or an energy exchange's clearing house,

they shall inform their balance responsible party in due time of their intention to conclude such contracts. Balance group members may only make or accept offers for concluding such contracts subject to the agreement of the balance responsible party. The balance responsible party may only withhold its agreement if there is reason to believe that a contract would endanger the fulfilment of tasks and obligations by the balance responsible party or the direct balance group member. Such reason shall be stated in writing. If, in a direct balance group member's energy trades through an energy exchange, the balance group member defaults, execution, costs and liability shall be transferred to the member's balance group.

(5) Direct balance group members shall support their balance responsible parties in fulfilling their tasks and obligations. This duty to support shall particularly apply to

1. Contributing to forecasting infeed and/or off-take of natural or biogenic gas, as well as to submitting the necessary schedules and nominations to the balance responsible party;
2. Submitting the data that are a crucial prerequisite for the balance responsible party to fulfil the tasks and obligations listed in section 91 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 to the extent necessary for this purpose, subject to section 7 *Datenschutzgesetz* (Data Protection Act) 2000;
3. Abiding by the gas specification pursuant to annex 2 point 2 when injecting into the market area; and
4. Providing the data necessary for preparing the long-term plan and the network development plan.

#### Balance Responsible Parties

**Section 21.** (1) Where balance responsible parties represent balance group members in executing their tasks and obligations stated in section 91 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011, they shall act as indirect representatives. Direct representation only applies if such has been agreed in an individual case. Balance responsible parties shall provide the market area manager, the distribution area manager and the system operators with information about the identity and other data relating to balance group members to the extent that this is necessary for them to be able to fulfil their tasks and obligations.

(2) Capacity entered into a balance group by balance group members pursuant to section 23 shall be administered by the balance responsible party.

#### Compensation and Remuneration of Balance Responsible Parties

**Section 22.** (1) Balance responsible parties shall pay, for all balance group members, the imbalance charges pursuant to section 32 and the clearing fee pursuant to section 89 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 to the clearing and settlement agent, as well as the transaction costs of the operator of the virtual trading point based on the approved general terms and conditions pursuant to section 31 para. 3 Natural Gas Act 2011 to that party, and shall charge these on to their balance group members respecting the principle of causation. In addition, balance responsible parties shall pay the balancing incentive markup pursuant to section 26 to the market area manager.

(2) How exactly these costs are passed on shall be agreed between each balance responsible party and its direct balance group members. Discriminatory treatment of individual members shall not be admissible. This shall also apply to assigned members.

(3) The balance responsible parties' fee for their services shall be agreed between each balance responsible party and its direct balance group members.

#### **Entry of Capacity to Balance Groups**

**Section 23.** (1) To enable nomination or scheduling of gas volumes at entry/exit points in the market area, the capacity booked at these points must be entered into a balance group in due time. Based on the entry/exit contract concluded between the system operator and a system user, the latter enters all booked entry/exit capacity at market area borders to a balance group by informing the system operator thereof, making reference to the balance group's ID. System users may split their booked capacity into several parts with different amounts and enter such parts into different balance groups and sub-accounts. The system user must be either the balance responsible party or a direct balance group member of that balance group in accordance with section 20 para. 2 to which it wants to enter capacity.

(2) Balancing activities at the virtual trading point shall not require separate information regarding the entry of capacity.

#### **Special Balance Groups**

**Section 24.** (1) 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. Several system operators may form a joint special balance group. Special balance groups cannot contain metering points of consumers.

(2) Balance responsible parties of balance groups under para. 1 above and of the clearing and settlement agent's special balance group shall not require a formal licence to carry out their activities. To establish the special balance groups, distribution system operators shall conclude contracts with the clearing and settlement agent, transmission system operators shall conclude contracts with the market area manager and the operator of the virtual trading point, and the clearing and settlement agent shall conclude a contract with the market area manager; such contracts shall contain provisions on the rights and obligations connected with each party's tasks.

(3) The special balance groups shall draw up schedules and nominations for losses and own consumption. Should several system operators form a joint special balance group, the group's balance responsible party shall inform the clearing and settlement agent or market area manager, as may be the case, of the participating system operators.

(4) The losses schedule shall build on the known overall network losses and the own consumption during the previous year. These account for a percentage of the total energy supplied through each system and must be calculated in line with the following principles:

1. The system operator(s) shall use precise, metered values for schedules and nominations.
2. Should no meter readings be available or should meter reading not be economically feasible, values from the previous year or the best possible estimates shall be used for schedules and nominations.
3. Should the data available to the system operator(s) from own calculations be more accurate, these shall be used for schedules and nominations.
4. Should construction works create the need for the system operator(s) to empty and refill parts of the system(s), the volumes required shall be determined accurately and be included in the schedules or nominations.

(5) System losses and own consumption shall be covered by purchasing from a balance group at market prices.

(6) A losses schedule in accordance with the General Terms and Conditions of the Clearing and Settlement Agent shall be submitted to the clearing and settlement agent in advance either on a monthly basis, together with the aggregate meter readings, or on a daily basis.

(7) Where several distribution system operators have formed a joint special balance group, the balance responsible party of such balance group may send the clearing and settlement agent, after consulting with the latter, either overall or separate schedules and nominations for each distribution system operator; similarly, balance responsible parties of joint special balance groups at transmission level may opt for sending either overall or separate schedules and nominations to the market area manager after consulting with the latter.

(8) The special balance groups shall verify whether the calculation model for determining system losses and own consumption is accurate each year and, if necessary, adjust it.

#### **Information and Data Exchange Among Market Participants**

**Section 25.** (1) Market participants shall fulfil their information provision obligations in a timely manner.

(2) All data shall be sent in the formats specified in section 34.

(3) The market area manager shall, without limitations,

1. publish the market area's position based on recent information on the online platform each hour;
  2. send each balance group's inputs, off-takes and imbalances according to nominations and renominations to the relevant balance responsible party;
  3. publish all relevant capacity information at the market area's entry/exit points on the online platform;
  4. publish the imbalance prices for discrepancies between consumer schedules and meter readings on the online platform;
  5. publish the aggregate consumption forecasts for SLP consumers in the market area on the online platform;
  6. publish the storage data pursuant to para. 10 item 2 on the online platform;
  7. publish the amount and calculation method of the balancing incentive markup on the online platform;
  8. publish a list of the registered balance groups, their balance responsible parties and their activity or non-activity in the distribution area;
  9. publish the aggregate TSO data about the available linepack in the transmission network each hour.
- (4) The distribution area manager shall, without limitations,
1. send each balance group's allocated nominations and schedules at distribution-level entry and exit points at market area borders to the market area manager;
  2. send each supplier's aggregate forecasts for SLP consumers to the relevant balance responsible party, and send the total over all SLP consumption forecasts to the market area manager;
  3. send production and storage schedules for each balance group to the market area manager;
  4. send each balance group's consumer schedules to the market area manager and the clearing and settlement agent, differentiating between schedules for consumers under section 18 paras 5 and 7 on the one hand and those under section 18 para. 6 on the other;
  5. send the nominations for the internal interconnection points from the transmission to the distribution network to the relevant transmission system operators;
  6. send the biogas injection schedules to the clearing and settlement agent;
  7. send the nominations for cross-border interconnection points in the distribution network to the clearing and settlement agent.
- (5) The clearing and settlement agent shall, without limitations,
1. send the imbalance prices calculated pursuant to section 32 to the market area manager;
  2. send the standardised load profiles to the market area manager, the distribution system operators and the distribution area manager;
  3. publish the amount and calculation method of the contribution pursuant to section 32 para. 6 on the online platform.
- (6) Balance responsible parties shall, for each balance group separately and without limitations,
1. send the nominations and schedules for input and off-take at each entry and exit point to the transmission system operator, and for each entry and exit point at market area borders in the distribution network to the distribution area manager;
  2. send the storage schedules and nominations to the relevant storage system operator;
  3. send the production schedules to the relevant producer of natural or biogenic gas;
  4. send the trade nominations to the operator of the virtual trading point;
  5. send consumer schedules to the distribution area manager, as overall schedules for system users under section 18 paras 5 and 7 and as overall schedules for system users under section 18 para. 6. Where system users with a contracted maximum capacity of more than 50,000 kWh/h are concerned, individual schedules must be submitted to the distribution area manager.
- (7) Transmission system operators shall, without limitations,
1. send each balance group's allocated entry and exit nominations at each entry/exit point to the market area manager;
  2. send hourly information pursuant to section 29 regarding the linepack available to the market area at transmission level to the market area manager;
  3. send all relevant data about capacity at the market area's entry/exit points to the market area manager so that it can be published;
  4. send nominations for own consumption to the market area manager.
- (8) Distribution system operators shall, without limitations,
1. send information about the standardised load profiles assigned to the consumers in a balance group to the group's balance responsible party if it so requests;

2. draw up the consumption forecasts for SLP consumers in accordance with section 28 and send them to the distribution area manager, or send the necessary basic data (consumption during the previous year relating to each balance group, standardised load profile type and temperature zone, taking into consideration any changes to the system access situation on a daily basis) to the distribution area manager to that it can draw up the SLP consumption forecasts;
  3. submit meter readings of system users whose facilities are equipped with load profile meters that are read every day separately for each supplier to the clearing and settlement agent, the distribution area manager and the relevant supplier on a daily basis. Such meter readings shall be submitted to consumers without delay if they request so;
  4. submit the meter readings of system users with load profile meters to the distribution area manager without delay if they are available online;
  5. submit meter readings relating to the consumption of system users (aggregated for each supplier), to biogenic gas production facilities, to distribution-level cross-border interconnection points, to total storage and production movements, and to transfers of gas between systems in the distribution area to the clearing and settlement agent and the distribution area manager at least on a monthly basis.
- (9) The operator of the virtual trading point shall, without limitations, send each balance group's net trade volumes at the virtual trading point to the market area manager.
- (10) Storage system operators shall, without limitations,
1. send each balance group's allocated schedules, separately for input and off-take and as overall schedule for each storage point, to the distribution area manager for storage sites connected at distribution level and to the transmission system operator for storage sites connected at transmission level;
  2. send information about the gas volumes injected and withdrawn, the available capacity and the working gas volume to the market area manager and the distribution area manager on a daily basis.
- (11) Producers of natural or biogenic gas shall, without limitations, send each balance group's allocated production schedules, as well as overall schedules for each production point, to the distribution area manager.
- (12) Suppliers shall, without limitations,
1. draw up consumption forecasts for the SLP consumers assigned to it, both as overall schedule and in hourly intervals, and send these to their balance responsible party in due time;
  2. draw up consumption forecasts for the load-metered customers allocated to it, both as overall schedule and in hourly intervals, and send these to the relevant balance responsible party in due time.
- (13) Direct balance group members shall, without limitations, submit the data specified in section 20 para. 5 item 1.

### Chapter 3

#### Balancing and Clearing

##### Balancing and Clearing by the Market Area Manager

**Section 26.** (1) Balancing and clearing of all natural gas in the market area, except for the discrepancies between consumer schedules and their actual consumption, the discrepancies between schedules and meter readings at distribution-level cross-border interconnection points, the special balance groups for distribution systems and discrepancies between biogas production schedules and metered biogas input, shall be the task of the market area manager.

(2) Balancing and clearing shall be executed for each balance group separately; it relies on the allocated nominations or schedules at the entry/exit points to and from the market area according to annex 3, which the market area manager receives from the transmission system operators and the distribution area manager on an hourly basis, as well as the netted hourly volumes of trades at the virtual trading point and the submitted consumer schedules.

(3) Discrepancies between nominated and metered values shall be offset among the network operators by way of operational balancing agreements. At entry/exit points where no operational balancing agreements are in place yet, such discrepancies shall be borne by the system operators. The balance responsible party shall assume that confirmed nominated volumes correspond to allocated volumes.

(4) The market area manager shall net the volumes nominated for each balance group and inform the balance responsible parties of any imbalances over the day. Should the relevant balance responsible party fail to renominate and thereby eliminate any daily imbalances in the balance group within one hour, gas shall be purchased or sold at the virtual trading point to ensure that the group is in balance. The market area manager may extend the one-hour reaction period. Any such extension shall be made public through the online platform. Exchange transactions at the virtual trading point shall be executed on behalf and for account of the balance

responsible party, at the purchase/selling price applicable at that time. This provision shall not apply to the clearing and settlement agent's special balance group.

(5) Transactions according to para. 4 above shall not be made if the balance group's imbalance over the day is less than the minimum trade size at the exchange of 1 MWh/h. Should it be impossible to balance the group by the end of the day due to the lead times at the virtual trading point, the imbalance for that gas day (D) shall be taken into account in clearing on the next gas day (D+1).

(6) The market area manager shall collect a balancing incentive markup from the balance responsible parties to cover for within-day balancing of the hourly imbalances in each balance group. The market area manager's, clearing and settlement agent's and transmission system operators' special balance groups shall be exempt from payment of the balancing incentive markup. The amount of this markup shall reflect the cost involved in within-day balancing pursuant to para. 7. The market area manager shall recalculate this markup at least annually, based on the gas needed for offsetting hourly imbalances during the previous twelve months and the costs connected to its purchase. Such calculation shall be based on the General Terms and Conditions of the Market Area Manager. The resulting balancing incentive markup shall be notified to the regulatory authority and published on the online platform. For the period from 1 January 2013, the markup shall be capped at 0.4 cent/kWh. The market area manager shall send the regulatory authority an annual report on the within-day balancing measures that were taken to uphold system integrity. The balancing incentive markup shall be charged monthly, within five working days after the end of the month in question.

(7) The market area manager shall calculate the market area's position on an hourly basis. The market area manager shall procure, including a certain time lag and employing linepack pursuant to section 29, any physical balancing energy needed for within-day balancing of the transmission network on the natural gas exchange at the virtual trading point, on its own behalf and for its own account. Should this be insufficient to ensure network stability, the market area manager may impose within-day obligations on those balance groups that are causing the hourly imbalances and therefore endanger system stability.

#### **Clearing by the Clearing and Settlement Agent**

**Section 27.** (1) Balancing and clearing of discrepancies between consumer schedules and their actual consumption, the special balance group for distribution systems and discrepancies between biogas production schedules and metered biogas input shall be the task of the clearing and settlement agent.

(2) Clearing of system users under section 18 para. 6 shall be based on the consumer schedules submitted by the balance responsible parties and the network operators' meter readings, following an hourly rhythm.

(3) Clearing of system users under section 18 paras 5 and 7 shall be based on the consumer schedules submitted by the balance responsible parties and the network operators' meter readings, following a daily rhythm.

(4) Clearing of the distribution-level cross-border interconnection points and of the special balance groups in the distribution network in accordance with section 24, as well as for biogas injections, shall follow a daily rhythm. If no operational balancing agreement has been concluded with the adjacent system operator, clearing of entries and exits at distribution-level cross-border interconnection points shall be based on metered hourly values. Where operational balancing agreements have been concluded, the balance responsible parties shall assume that confirmed nominated volumes correspond to allocated volumes.

(5) Financial settlement shall make reference to the volumes determined in accordance with paras 2 through 4 and the imbalance prices determined in accordance with section 32 and shall take place on a monthly basis, within three working days after the end of clearing for the month in question. The end of clearing corresponds to the deadline by which system operators must submit the relevant data to the clearing and settlement agent; this deadline is published by the clearing and settlement agent.

(6) The distribution area manager shall primarily use the market area's linepack as in section 29 to balance deviations of the aggregate consumption schedules from actual consumption. If needed, the distribution area manager may also procure gas pursuant to paras 8 and 9.

(7) Balance responsible parties shall submit the consumer schedules of their balance groups, taking into consideration the consumption forecasts for SLP consumers which they have drawn up themselves or which have been drawn up and sent to them by the distribution area manager in accordance with section 28 para. 1. Customers with standardised load profiles are cleared in accordance with the consumption data submitted by the distribution system operators based on actually metered temperatures.

(8) The distribution area manager shall calculate the actual or forecast position of the distribution area for each hour and procure the physical balancing energy needed for the secure operation of the distribution network, primarily on the natural gas exchange at the virtual trading point and on behalf and for account of the clearing and settlement agent.

(9) Should there be no suitable offers on the gas exchange at the virtual trading point, or should the distribution area manager need locational or short-term products to maintain operational security of the distribution network, it may procure gas from the merit order list pursuant to section 31.

(10) The imbalances calculated for each balance group in accordance with paras 2 and 3 above shall be corrected using actually metered or read annual consumption and production values no later than 14 months after clearing pursuant to para. 5 has taken place.

#### **Standardised Load Profiles**

**Section 28.** (1) The distribution area manager shall cooperate with the relevant distribution system operator to draw up consumption forecasts for SLP consumers for each network area, balance group and type of standardised load profile, based on the standardised load profiles submitted by the clearing and settlement agent and using adequate temperature forecasts, by noon each day for the next day and send such forecasts to the relevant balance responsible parties and an overall forecast to the market area manager.

(2) The distribution area manager shall update the SLP consumption forecasts pursuant to para. 1 thrice a gas day before 24.00 hrs, using recent temperature forecasts and cooperating with the distribution system operator concerned, and shall send such updated forecasts to the balance responsible parties concerned, if necessary, and to the market area manager as overall forecast.

#### **Interconnection Point Agreements and Linepack**

**Section 29.** (1) The interconnection point agreements to be concluded in accordance with section 67 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 shall ensure the efficient deployment of linepack as control energy.

(2) The market area manager shall use the data provided by the transmission system operators and the distribution area manager each hour in accordance with para. 7 below to calculate how much linepack is available in the market area.

(3) The market area manager shall use the linepack at transmission level and, in coordination with the distribution area manager, that at distribution level to balance the transmission network until the balancing energy it has procured becomes physically available.

(4) In addition to the linepack at distribution level and following advance coordination with the market area manager, the distribution area manager may use the linepack at transmission level to balance short-term pressure fluctuations in the distribution network until the balancing energy it has procured at the virtual trading point becomes physically available. While maintaining network integrity, transmission system operators shall make the maximum technically possible linepack volume and the maximum injection and withdrawal rates of the linepack in the transmission lines available to the distribution area manager, via the market area manager, and shall send a monthly report, relating to the previous month, on the hourly available volume and the available injection and withdrawal rates of linepack at transmission level, as well as the linepack volume made available, including calculations, technical parameters, load flow assumptions and actual load flows, to the regulatory authority.

(5) The transmission system operators shall record use of transmission linepack in an account. The distribution area manager shall record use of the linepack in the distribution area in an account. The distribution area manager shall commit to offsetting the OBA accounts by way of distribution linepack, purchases of balancing energy on the gas exchange at the virtual trading point or from the merit order list in coordination with the market area manager without undue delay. The transmission system operators shall commit to offsetting the linepack account by way of transmission linepack or purchases of balancing energy at the virtual trading point in coordination with the distribution area manager without undue delay.

(6) There shall be no separate compensation for the availability and deployment of control energy from interconnection point agreements, neither bilaterally between the transmission system operators nor between the transmission system operators and the distribution system operators, nor from the market manager, the distribution area manager or clearing and settlement agent. The availability and deployment of control energy from interconnection point agreements shall be recorded as foreseen in such agreements. Where tolerance levels are exceeded, the OBA accounts shall be offset without undue delay. Control energy from interconnection point agreements that is used for the distribution area shall be recorded in accounts established for this purpose by the clearing and settlement agent. Where control energy from interconnection point agreements is purchased on the gas exchange at the virtual trading point or through the merit order list, such purchases shall be executed on behalf and for account of the clearing and settlement agent.

(7) All transmission system operators and the distribution area manager shall inform the market area manager about the linepack that can be made available to the market area, after considering their own linepack needs, on an hourly basis and whenever requested to do so. The market area manager shall inform the

distribution area manager about the linepack available for the distribution area, after considering the linepack needs at transmission level, on an hourly basis. This communication shall at least include information about

1. the maximum hourly positive and negative linepack capacity at transmission level for use in the distribution area;
2. the available linepack volume;
3. the planned use of the distribution linepack by the market area manager during each hour.

(8) The rights and obligations necessary for the implementation of the deployment of control energy shall be laid down in contracts between the market area manager, transmission system operators, distribution area manager and distribution system operators.

## **Chapter 4**

### **Settlement Rules**

#### **Prerequisites for Balancing Energy Providers**

**Section 30.** (1) Balance group members that have registered as balancing energy providers for the merit order list in line with the prerequisites laid down in the General Terms and Conditions of the Clearing and Settlement Agent may offer balancing energy pursuant to section 31, subject to the agreement of their balance responsible party in accordance with section 20 para. 4. As part of the registration process, balance group members must prove that they have at their disposal appropriate flexibility instruments such as gas in storage with injection/withdrawal capacity, gas at entry/exit points to and from the market area or large consumers whose consumption is metered online and whose data is transmitted to the distribution area manager online. Balancing energy providers shall inform the clearing and settlement agent about the points at which they will offer balancing energy.

(2) The clearing and settlement agent shall keep an up-to-date list of registered balancing energy providers and send it to the distribution area manager after each update.

(3) Balancing energy providers may start offering balancing energy in accordance with para. 1 two days after they have been registered with the clearing and settlement agent and the distribution area manager has noted at which points balancing energy will be offered.

(4) Balancing energy providers shall commit to actually injecting/withdrawing the balancing energy procured by the distribution area manager pursuant to para. 1 into/from the market area.

#### **Merit Order List**

**Section 31.** (1) The balancing energy providers on the merit order list must technically ensure that 30 minutes upon the distribution area manager accepting their offer, balancing energy is actually fed into the network or withdrawn from it to the extent, with the load and at the entry/exit point specified in their offer.

(2) Balancing energy providers may place their offers for input or off-take solely on the online platform provided by the clearing and settlement agent. Offers shall state the ID assigned to the provider's balance group by the market area manager, the hour(s) of the day and the amount of capacity for which the offer is made, the energy price offered and the entry/exit point concerned. The minimum duration for offers shall be one hour, the minimum size 1 MWh/h. The offers shall state fixed prices.

(3) Offers shall be made by 16.00 hrs (gate closure) for the following gas day; on days before Saturdays, Sundays and statutory holidays, they shall be made for the time up to and including the next working day. After gate closure, the offers shall be binding on the providers and cannot be changed or withdrawn anymore. Under exceptional, reasoned circumstances, such as in the case of technical difficulties, subsequent weekend days and holidays or where insufficient offers have been received, the clearing and settlement agent may postpone gate closure after having informed market participants.

(4) Should the distribution area manager arrive at the opinion that the available balancing energy offers are insufficient, it shall inform the clearing and settlement agent thereof without delay and state the reasons for its view.

(5) The clearing and settlement agent shall then reopen the market, set a new gate closure time and inform all balancing energy providers. Such information shall be an invitation for the balancing energy providers to make new offers in addition to those that have become binding in accordance with para. 3 above.

(6) If requested so by the distribution area manager, the clearing and settlement agent shall keep the market open for new offers continuously. The clearing and settlement agent shall inform the balancing energy providers of such continuous market opening in advance. In continuous market situations, the offers submitted shall be sent to the distribution area manager at the times set and published by the clearing and settlement agent. Offers submitted up to these times may not be changed or withdrawn afterwards.

(7) The clearing and settlement agent shall separate the offers into offers for positive (input) and negative (off-take) balancing energy and sort them by their energy price (merit order list). Of two offers with the same price, the one for the larger volume shall come first. Of two offers with the same price and volume, the one received earlier shall come first. The clearing and settlement agent shall assign a unique number to each offer.

(8) The clearing and settlement agent shall send the merit order list to the distribution area manager immediately after gate closure. The distribution area manager shall then accept the providers' offers for positive or negative balancing energy as needed, following the merit order list. The distribution area manager may accept offers from the list for at least 1 MWh/h and up to the entire volume on offer, in discrete steps of 1 MWh/h.

(9) The distribution area manager shall be obliged to accept offers in the order given on the merit order list. Should this be impossible due to network congestion or technical difficulties, and should system control and balancing energy management be insufficient, the distribution area manager may take the following measures:

1. Deviating from the order of the merit order list when accepting balancing energy offers;
2. Accepting offers for positive and negative balancing energy at the same time if these can be executed at different locations.

(10) If the distribution area manager deviates from the order of the merit order list, it shall inform the clearing and settlement agent, the balancing energy providers that were skipped and the regulatory authority of its grounds and reasons for doing so within three working days.

(11) The distribution area manager shall accept offers for the balancing energy needed on behalf and for account of the clearing and settlement agent. The distribution area manager must ensure that the balancing energy it has procured is actually taken up by the network or can be taken off. Acceptance of an offer shall establish a contract between the clearing and settlement agent and the provider. Offers shall be accepted in units of one full hour that start at the full hour; a lead time of 30 minutes shall apply for accepting temporal and locational offers at entry/exit points in the distribution area or at large, remote-metered customers' facilities. If the distribution area manager accepts offers more than 30 minutes in advance and fails to cancel by e-mail at least 30 minutes ahead of delivery, acceptance shall be binding.

(12) Balancing energy offers shall be accepted by sending an e-mail to the balancing energy provider, to the e-mail address stated on the merit order list. The balancing energy provider must provide a phone number at which a person who is technically responsible and authorised to enter into contracts can be contacted by the distribution area manager and the balance responsible party during the entire time of the submitted offer. Such technically responsible and authorised person shall receive the e-mail with the acceptance message in copy at the same time.

(13) The balancing energy purchased by the distribution area manager shall be recorded in the balance group for balancing energy and in the provider's balance group for the purpose of determining imbalance charges pursuant to section 87 para. 4 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011.

(14) Should there be insufficient or no balancing energy offers, the clearing and settlement agent may introduce a market maker. The capacity to be reserved by the market maker shall be set by the distribution area manager. The introduction and management of a market maker shall comply with the General Terms and Conditions of the Clearing and Settlement Agent and be notified to the regulatory authority.

### Calculation of Imbalance Prices

**Section 32.** (1) The clearing and settlement agent shall calculate market-based imbalance prices for the purpose of settling the discrepancies between consumer schedules and their actual consumption, the special balance group for distribution systems and discrepancies between biogas production schedules and metered biogas input.

(2) Settlement of system users under section 18 para. 6 shall make use of a volume-weighted average price for each hour, based on the balancing energy procured by the distribution area manager on the gas exchange at the virtual trading point and the offers it has accepted from the merit order list. These prices shall be adjusted for a markup of 3% on the volume-weighted average hourly price for positive and an offset of 3% for negative balancing energy. If the distribution area manager has not procured balancing energy, the last available auction price from the within-day market on the gas exchange at the virtual trading point shall be used for the hour of the imbalance and adjusted for the applicable markup or offset to arrive at the imbalance price. If the gas exchange at the virtual trading point has not arrived at a price for that day, the last available hourly balancing energy price shall be used.

(3) The imbalance prices for system users under section 18 paras 5 and 7 shall be calculated from the balancing energy purchased by the distribution area manager on the gas exchange at the virtual trading point and the offers it has accepted from the merit order list. For purchases, the marginal buy price shall be used; for sales,



the marginal sell price. If the distribution area manager has not purchased any balancing energy on a day, the marginal prices of the previous day shall be applied.

(4) Settlement of the distribution-level cross-border interconnection points, of the special balance groups for the distribution systems and of the discrepancies between scheduled and metered biogas inputs shall make use of the volume-weighted spot price index for the relevant delivery period that is published by the gas exchange at the virtual trading point. If no price is arrived at for that delivery period, the last volume-weighted price index for spot products that was published by the gas exchange at the virtual trading point shall be applied.

(5) Imbalance prices shall be stated in cent/kWh and rounded away from zero to at least three decimal places.

(6) Should clearing of imbalances by the clearing and settlement agent result in a shortfall, an amount that corresponds to such shortfall shall be passed on to balance responsible parties by way of a contribution reflective of the volumes of network users according to section 18 paras 5 and 7, based on the provisions in the General Terms and Conditions of the Clearing and Settlement Agent. Such contribution shall form a part of the imbalance charges and must be stated in cent/kWh. The clearing and settlement agent shall fix the amount of this contribution for a six-month time period.

## **Chapter 5**

### **Virtual Trading Point**

**Section 33.** (1) The operator of the virtual trading point shall develop the products needed by the market area manager and distribution area manager to maintain network balance.

(2) Market participants that wish to trade on the gas exchange at the virtual trading point must be members of a balance group in the market area, must have the agreement of their balance responsible party, must have concluded a contract with the operator of the virtual trading point and must be admitted to exchange trading in accordance with the criteria published on the website of the operator of the virtual trading point.

## **Chapter 7**

### **Formats for Data Exchange, Schedules and Nominations**

**Section 34.** (1) Data, schedules and nominations shall be recorded and transmitted in the below formats; balance responsible parties shall support at least one of these formats:

1. Edig@s;
2. KISS-A;
3. MSCONS.

(2) In addition to the formats listed in para. 1 and if agreed by the contract parties, information may be exchanged through a web-based platform.

(3) All schedules and nominations shall contain hourly information.

(4) The smallest unit for schedules and nominations between the market participants in the market area shall be 1 kWh. Nominations and schedules containing information in MWh may use no more than three decimal places; those containing information in kWh may contain no decimal places. Numbers shall be rounded away from zero.

(5) If corresponding schedules or nominations do not match, the lower value nominated or scheduled shall apply ("lesser rule").

## **Title 3**

### **Tyrol and Vorarlberg Market Areas**

#### **Part 1**

#### **Principles**

**Section 35.** (1) In the interest of partial or full supply of customers in Tyrol and Vorarlberg and of cross-border balancing, operation and cooperation with the adjacent upstream market area shall be kept simple and straightforward.

(2) The clearing and settlement agent and the distribution area manager shall conclude the contracts necessary to implement the stipulations under this Title with the system operators and the market area manager of the adjacent upstream market area.

(3) Unless provided otherwise in this Title, the provisions of Titles 1 and 2 of this Ordinance shall apply.

## Capacity Management

**Section 36.** (1) The distribution area manager shall book the capacity resulting from the procedure conducted under para. 3 below at the individual exit points from the adjacent upstream market area to the distribution systems in the Tyrol and Vorarlberg market areas.

(2) There shall be no capacity management and no congestion management at balance group level at the cross-border interconnection points between the adjoining upstream systems on the one hand and the distribution systems in the Tyrol and Vorarlberg market areas on the other.

(3) Heeding the principles of economic efficiency and security of supply, the distribution area manager shall each year conduct a non-discriminatory, transparent procedure to determine the need for entry capacity at each entry point from the adjoining upstream market area into the Tyrol and Vorarlberg market areas during a five-year term. Capacity bookings pursuant to para. 1 above shall be based on the results of such procedures.

### Part 2

## Balancing, Clearing and Settlement

### Chapter 1

## Basic Principles of the Balancing Regime

**Section 37.** (1) All system users that are active in the Tyrol or Vorarlberg market areas must be part of a balance group that is registered with the clearing and settlement agent. A balance group brings together the input and off-take of one or more system users in the market areas and offsets them against each other. For every balance group a balance responsible party shall be nominated to the clearing and settlement agent. A balance responsible party may establish several balance groups.

(2) All balance groups and their direct members shall have access to the virtual trading point of the adjacent upstream market area. For this purpose, balance responsible parties shall name one balance group or balancing sub-account in the adjacent upstream market area that corresponds to their balance group in the Tyrol and Vorarlberg market areas.

(3) The balance responsible parties cause the gas needed to supply the consumers assigned to their balance groups in the Tyrol or Vorarlberg market areas to the extent recorded in each balance group's consumer schedules to be transferred at the virtual trading point of the adjacent upstream market area from the corresponding balance group or balancing sub-account into the clearing and settlement agent's balance group.

(4) Clearing of the physical discrepancies between the gas transferred in accordance with para. 3 and actual biogas input on the one hand and actual consumption on the other hand shall be the duty of the clearing and settlement agent. It shall be done for each balance group separately in accordance with section 41 paras 2 and 3 and in energy units.

(5) The balancing (measurement) period in the Tyrol and Vorarlberg market areas shall be the gas day. The transfer of gas between balance groups as described in section 37 para. 3 for the purpose of supplying consumers with a balancing period that corresponds to the gas day shall be constant throughout the gas day (24 equal hourly values, or 23/25 equal hourly values on the clock change days between normal and summer time). Any renominations shall also be constant, for the rest of the gas day.

(6) Notwithstanding para. 5 above, the balancing (measurement) period for system users with a contracted capacity of more than 10,000 kWh/h per entry/exit/metering point shall be one hour. The transfer of gas between balance groups as described in section 37 para. 3 for the purpose of supplying consumers with a balancing period that corresponds to the hour shall be executed for each hour in accordance with the forecast load.

(7) System users with a contracted capacity between 10,000 kWh/h and 50,000 kWh/h per entry/exit/metering point whose meter readings are available to the distribution system operator online may opt for daily balancing in accordance with para. 5 above. Online meter data submission shall comply with the General Terms and Conditions of the Distribution Area Manager. Declarations for one or the other balancing period shall be considered system access applications pursuant to section 13. A system user's balancing period can be changed once in twelve months.

(8) Balance responsible parties shall draw up separate consumption schedules for system users under paras 5 and 7 on the one hand and those under para. 6 on the other hand. They shall submit schedules to the relevant market area's distribution area manager with a lead time of at least two hours. Where large consumers with a contracted maximum capacity of more than 50,000 kWh/h are concerned, balance responsible parties must submit individual schedules for each of them.

(9) Trading and transfer of gas volumes between balance groups shall only be possible at the virtual trading point of the adjacent upstream market area by way of the corresponding market areas or balancing sub-accounts.

## **Registration in the Tyrol and Vorarlberg Market Areas**

**Section 38.** (1) The clearing and settlement agent shall organise the balance groups and assign an ID to each contract partner and each balance group that is unique throughout the Tyrol and Vorarlberg market areas; such ID shall be quoted in all communications, including data transfer, between the contract parties.

(2) The clearing and settlement agent shall conclude contracts with the balance responsible parties based on the approved general terms and conditions pursuant to section 88 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011. The clearing and settlement agent shall conclude additional contracts with the balance responsible parties, on behalf and for account of the distribution area manager, based on the approved general terms and conditions pursuant to section 26 Natural Gas Act 2011. The distribution area manager shall authorise the clearing and settlement agent to conclude contracts on its behalf and for its account. The clearing and settlement agent shall inform the distribution area manager about the conclusion of contracts. The clearing and settlement agent shall only conclude contracts with the balance responsible parties after the due diligence analysis pursuant to para. 4 has been concluded.

(3) Within five working days of receiving a complete application, the clearing and settlement agent shall submit a contract offer to the applicant.

(4) The clearing and settlement agent shall perform a due diligence analysis; this shall be updated on a regular basis, at least once a year after the annual accounts have become available. The clearing and settlement agent may request collateral from balance responsible parties.

(5) Before taking up activities, balance responsible parties shall prove to their contract partners that they can execute data exchange, scheduling and nomination procedures in accordance with the formats, interfaces, communication channels, security standards and contents defined in section 34 at all times. For this purpose, the clearing and settlement agent shall coordinate a dry run with the relevant contract partners.

(6) Once all necessary contracts and documents are available and the dry run pursuant to para. 5 has been successfully concluded, the clearing and settlement agent shall inform the regulatory authority in writing that the prerequisites for taking up activities as a balance responsible party are fulfilled.

(7) To establish and register balance groups and balancing sub-accounts in the adjacent upstream market area, the legal framework and provisions applicable in such market area must be complied with.

## **Chapter 2**

### **Functioning of Balance Groups**

#### **Balance Group Membership**

**Section 39.** (1) Balance groups may have the following types of members:

1. Consumers;
2. Natural gas undertakings;
3. Producers.

(2) Membership is established either by contracts with a balance responsible party (direct membership) or by contracts with suppliers that are balance group members (indirect membership). Indirect balance group members do not have any direct contractual relationship with the balance responsible party.

(3) Insofar as balance group members have one or more metering points, balance group membership is established through such metering points. A balance group member's metering point may be assigned to one balance group only.

(4) If direct balance group members intend to

1. conclude contracts with the clearing and settlement agent regarding the supply of positive or negative balancing energy;
2. make flow commitments towards the distribution area manager; or
3. trade energy at an energy exchange or an energy exchange's clearing house on behalf and for account of the balance responsible party,

they shall inform their balance responsible party of their intention to conclude such contracts. Balance group members may only make or accept offers for concluding such contracts subject to the agreement of their balance responsible party. The balance responsible party may only withhold its agreement if there is reason to believe that a contract would endanger the fulfilment of tasks and obligations by the balance responsible party or the direct balance group member. Such reason shall be stated in writing.

(5) Direct balance group members shall support their balance responsible parties in fulfilling their tasks and obligations. This duty to support shall particularly apply to

1. Contributing to forecasting infeed and/or off-take of natural or biogenic gas, as well as to submitting the necessary schedules and nominations to the balance responsible party;
2. Submitting the data that are a crucial prerequisite for the balance responsible party to fulfil the tasks and obligations listed in section 91 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 to the extent necessary for this purpose, subject to section 7 *Datenschutzgesetz* (Data Protection Act) 2000;
3. Abiding by the gas specification pursuant to annex 2 point 2 when injecting into the market area.

#### **Balance Responsible Parties**

**Section 40.** (1) Where balance responsible parties represent balance group members in executing their tasks and obligations stated in section 91 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011, they shall act as indirect representatives. Direct representation only applies if such has been agreed in an individual case.

(2) Balance responsible parties shall provide the distribution area manager and the system operators with information about the identity and other data relating to the balance group members to the extent that this is necessary for them to be able to fulfil their tasks and obligations.

### **Chapter 3**

#### **Balancing, Clearing and Settlement in the Tyrol and Vorarlberg Market Areas**

##### **Balancing**

**Section 41.** (1) The clearing and settlement agent shall determine and invoice balancing energy to the balance groups based on

1. the difference between the inputs entered to a balance group and that balance group's consumers' actual consumption, separated into the groups specified in paras 2 and 3 below, while netting imbalances over the Tyrol and Vorarlberg market areas. Where special balance groups pursuant to section 24 are concerned, the inputs and off-takes of distribution systems are included in the calculation as well;
2. the costs and revenues from balancing energy procurement as well as the costs and revenues from financial settlement of imbalances from the balancing accounts beyond the tolerance levels set therein in accordance with section 43 para. 5.

(2) Clearing of consumers under section 37 para. 6 shall be based on the amounts of gas transferred by balance responsible parties in accordance with section 37 para. 3, considering any further inputs and off-takes to and from the balance groups and deducting the consumer schedules submitted by the balance responsible parties with reference to consumers under section 37 paras 5 and 7 and the hourly consumption metered by the system operators.

(3) Clearing of consumers under section 37 paras 5 and 7 shall be based on the consumer schedules submitted by the balance responsible parties and the daily consumption metered by network operators.

(4) Financial settlement shall make reference to the volumes determined in accordance with paras 2 and 3 and the imbalance prices determined in accordance with section 44 and shall take place on a monthly basis, within three working days after the end of clearing for the month in question. The end of clearing corresponds to the deadline by which system operators must submit the relevant data to the clearing and settlement agent; this deadline is published by the clearing and settlement agent.

(5) The distribution area manager shall primarily use the linepack of the Tyrol and Vorarlberg market areas pursuant to section 43 to balance any deviations of actual consumption in the market area from the gas volumes transferred by balance responsible parties in accordance with section 37 para. 3. If needed, the distribution area manager may also procure or sell gas pursuant to para. 8.

(6) The distribution area manager shall submit the consumption forecasts for SLP consumers pursuant to section 42 para. 1 to the affected balance responsible parties.

(7) When drawing up schedules for consumers as defined in section 37 paras 5 and 7, balance responsible parties shall make use of the forecasts for SLP consumers received from the distribution area manager in accordance with para. 6 or of their own such forecasts. SLP customers shall be cleared in accordance with the aggregate consumption data submitted by the distribution system operators based on actually metered temperatures.

(8) The distribution area manager shall calculate the actual or forecast position of the distribution area for each hour and procure the physical balancing energy needed for the secure operation of the network in the distribution area, considering para. 5 and on behalf and for account of the clearing and settlement agent, aiming to keep the aggregate hourly deviations of the gas volumes transferred by the balance responsible parties in accordance with section 37 para. 3 from the meter readings at the cross-border points below the thresholds defined for the balancing accounts pursuant to section 43 para. 1. Where necessary, the distribution area manager may request that the clearing and settlement agent draw up a merit order list pursuant to section 31.

(9) The imbalances calculated for each balance group in accordance with paras 2 and 3 above shall be corrected using actually metered or read annual consumption and production values no later than 14 months after clearing pursuant to para. 4 has taken place.

(10) With reference to load-metered consumers whose consumption information is available to distribution system operators online, the latter shall submit the data received to the affected suppliers, the clearing and settlement agent and the distribution area manager without undue delay and at least on a daily basis.

#### **Standardised Load Profiles**

**Section 42.** (1) The distribution area manager shall cooperate with the relevant distribution system operators to draw up forecasts of SLP consumers for each network area, supplier and type of standardised load profile, using adequate temperature forecasts, by noon each day for the next day and send such forecasts to the balance responsible parties concerned in aggregate format.

(2) The distribution area manager shall update the forecasts for SLP consumers pursuant to para. 1 thrice a gas day before 24.00 hrs, using recent temperature forecasts and cooperating with the distribution system operators concerned, and shall again send such updated forecasts to the balance responsible parties concerned.

#### **Interconnection Point Agreements**

**Section 43.** (1) The distribution system operators in the Tyrol and Vorarlberg market areas shall conclude interconnection point agreements with the adjoining upstream system operators, taking into consideration the requirements set in section 67 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011. Such agreements shall foresee the creation of operational balancing accounts to facilitate the mutual provision of control energy between the distribution system operators in the Tyrol and Vorarlberg market areas and the adjacent upstream system operators in line with technical requirements and possibilities. The agreements shall also foresee appropriate penalties for exceeding the account limits.

(2) The distribution system operators shall operate the cross-border interconnection points in line with the specifications made by the distribution area manager.

(3) The distribution area manager shall coordinate with the system operators located upstream of the Tyrol and Vorarlberg market areas regarding the mutual provision of control energy with the aim of financially optimising the deployment of physical balancing energy on both sides. The distribution system operators in the Tyrol and Vorarlberg market areas shall include provisions to this end in the interconnection point agreements pursuant to section 43 para. 1 for use by the distribution area manager.

(4) The distribution area manager shall calculate the position of the balancing accounts and ensure that their limits are respected. For this purpose, the distribution system operators in the Tyrol and Vorarlberg market areas shall provide the distribution system operator with the data read at all entry and exit points to and from their market areas online.

(5) The mutual provision of control energy between the adjacent upstream networks and the distribution systems in the Tyrol and Vorarlberg market areas, which corresponds to the amounts registered in the balancing accounts, shall be registered by the clearing and settlement agent in dedicated accounts.

(6) The distribution system operators shall pass the charges for exceeding the limits of the balancing accounts pursuant to para. 1 on to the competent clearing and settlement agent, enclosing proof of the excess situation. The clearing and settlement agent in turn shall include these payments in the contribution pursuant to section 44 para. 5.

(7) The rights and obligations necessary for the implementation of the deployment of control energy shall be laid down in contracts between the distribution area manager and the distribution system operators in the Tyrol and Vorarlberg market areas.

#### **Calculation of Imbalance Prices**

**Section 44.** (1) To enable financial settlement of balancing deviations of consumption from the balance groups' inputs and off-takes, the clearing and settlement agent shall set market-based imbalance prices for each gas day.

(2) The imbalance prices for consumers as defined in section 37 paras 5 and 7 shall be market-based prices for positive and negative balancing energy for each gas day. The daily imbalance prices shall be calculated from the balancing energy purchased by the distribution area manager on the gas exchange at the virtual trading point in the adjacent upstream market area and the offers it has accepted from the merit order list. For positive balancing energy, the marginal buy price shall be used; for negative balancing energy, the marginal sell price. If the distribution area manager does not require balancing energy during a day, the daily reference prices on the gas exchange at the virtual trading point in the adjacent upstream market area shall apply.

(3) The imbalance prices for consumers as defined in section 37 para. 6 shall be volume-weighted average prices for each hour, based on the balancing energy procured by the distribution area manager on the gas exchange at the virtual trading point in the adjacent upstream market area and the offers it has accepted from the merit order list; in the case of balancing energy needs, these prices shall be adjusted for a markup of 3% for positive and an offset of 3% for negative balancing energy. If the distribution area manager does not procure balancing energy during a day, the reference price for that day on the gas exchange at the virtual trading point in the adjacent upstream market area shall apply, adjusted for the applicable markup or offset. If the gas exchange at the virtual trading point in the adjacent upstream market area does not arrive at a price for that day, the last available hourly imbalance price shall be used.

(4) Imbalance prices shall be stated in cent/kWh and rounded away from zero to at least three decimal places.

(5) Should clearing of imbalances by the clearing and settlement agent result in a shortfall, an amount that corresponds to such shortfall shall be passed on to balance responsible parties by way of a contribution reflective of the volumes of network users with daily balancing, based on the provisions in the General Terms and Conditions of the Clearing and Settlement Agent. Such contribution shall form a part of the imbalance charges and must be stated in cent/kWh. The clearing and settlement agent shall fix the amount of this contribution for a six-month time period. In addition to the above, the contribution shall also offset any costs or revenues related to financial settlement of a balancing account's imbalances that exceed the tolerance levels specified in accordance with section 41 para. 1 item 2.

### Schedules and Nominations

**Section 45.** (1) Schedules at the exit points from the adjacent upstream market area into the distribution systems in the Tyrol and Vorarlberg market areas shall take the form of hourly time series sent by balance responsible parties to the distribution area manager.

(2) The transfer of gas from balance responsible parties to the distribution area manager in accordance with section 37 para. 3 shall comply with the rules in place at the virtual trading point in the adjacent upstream market area for transferring gas between balance groups by way of nominations.

(3) The distribution area manager shall cause the gas received from the balance responsible parties in accordance with section 37 para. 3 to be transported into the Tyrol and Vorarlberg market areas, while the risk for these operations shall be borne by the balance responsible parties.

(4) The distribution area manager shall forecast total consumption in the Tyrol and Vorarlberg market areas and nominate the corresponding exits with the adjacent upstream system operators.

## Title 4

### Final Provisions

#### Transitional Provisions

**Section 46.** (1) The order for assessing measures in accordance with section 3 para. 2 shall not apply in the case of changes under section 170 para. 6 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011.

(2) Notwithstanding section 32 para. 6, the contribution shall be calculated on a monthly basis until 31 March 2013.

(3) Provided that the contractual prerequisites are fulfilled, the distribution area manager shall start booking exit capacity from the adjacent upstream market area into the Tyrol and Vorarlberg Market areas pursuant to section 36 para. 1 on 1 January 2013, but in any case no later than upon entry into force of Title 3.

(4) Notwithstanding section 44 para. 5, the contribution shall be calculated on a monthly basis until 31 December 2013.

(5) Balance responsible parties that have been licensed following a licensing application filed before this stipulation is promulgated but that did not fulfil the prerequisites for taking balancing actions through the natural gas exchange at the virtual trading point at 16.00 hrs on 17 December 2012 are exempted from the following stipulations for as long as they do not fulfil such prerequisites:

1. Renominations pursuant to the first sentence of point V.1 of the general terms and conditions for transmission network access;
2. Access to the virtual trading point pursuant to section 18. para. 3, unless they have a valid contract with the operator of the virtual trading point;
3. Registration in the market area pursuant to the second and third sentences of section 19 para. 2 and section 19 paras 5 and 7;

4. Balancing and clearing by the market area manager pursuant to the second and third sentences of section 26 para. 4, as well as point 3.2.1 and the first, second, third and fourth sentences of point 6.5 of the general terms and conditions for the market area manager's legal relationship with the balance responsible parties.

(6) For as long as they do not fulfil all prerequisites for taking balancing actions through the natural gas exchange at the virtual trading point, balance responsible parties pursuant to para. 5 above shall:

1. submit balanced nominations for each hour of a gas day D and for each balance group in the market area by 14.00 hrs on the day before (D-1). If the balance group(s) of a balance responsible party pursuant to para. 5 are imbalanced, the market area manager may request that nominations be curtailed or otherwise changed and the recipients of such nominations shall comply with such requests. In this case, the deadlines stipulated in chapters 2 and 3 of the Gas Market Code do not apply.
2. not be permitted to renominate unless expressly requested to do so by the market area manager;
3. deposit collateral of at least EUR 50,000 in cash with the market area manager by 27 December 2012. Should the market area manager not receive a balance responsible party's collateral in time or should such collateral be exhausted, the former may suspend services pursuant to point 5.2 of the general terms and conditions for the market area manager's legal relationship with the balance responsible parties. The collateral shall be returned to the balance responsible parties on 31 March 2013.

(7) In the case of failure of the relevant IT systems, the market area manager may temporarily extend the lead times for renominations or suspend renomination arrangements and the balance groups' balancing actions at the natural gas exchange, and instead register imbalances in the carry forward account.

(8) The nomination and renomination rules in section 11 paras 3, 5, 6, 9 and 10 shall apply to nominations and renominations starting on 1 October 2013.

### **Entry Into Force**

**Section 47.** (1) This Ordinance shall come into force on 1 January 2013 unless otherwise provided in paras 2 and 3 below.

(2) Notwithstanding para. 1 above, section 6 paras 1 and 3, sections 9 and 10 and section 11 paras 3, 5, 6, 7, 8 and 10 shall enter into force on 1 April 2013.

(3) Notwithstanding para. 1 above, the stipulations contained in Title 3, with the exception of section 36 para. 1, shall enter into force on 1 October 2013.

(4) Section 46 paras 5 through 7 of this Ordinance as amended by the *Gas-Marktmodell-Verordnung Novelle 2012* (Gas Market Model [Amendment] Ordinance 2012) shall come into force on 1 January 2013 and cease to be in force at 6.00 hrs on 28 February 2013.

(5) Section 9 para. 5, section 11, section 15 para. 3, section 18 paras 2 and 7a, section 19 para. 12, section 23 para. 1, section 24 paras 1 through 4 and 7, section 25 para. 4 items 2, 6 and 7, section 25 para. 8 item 5, section 26 paras 1, 4 and 6, section 27 paras 4, 5 and 10, section 28 para. 2, section 32 paras 2 and 4 to 6, section 46 para. 8 and annex 1 point III (1)(1), as amended by the Gas Market Model (Amendment) Ordinance 2013, FLG no 88/2013, shall come into force on 1 April 2013, unless otherwise provided in paras 6 and 7.

(6) Section 9 para. 5, section 11, section 35 para. 2, section 37 paras 6 and 7, section 41 para. 4, section 42 and section 44 paras 3 through 5 of the Gas Market Model Ordinance 2012, FLG II no 171/2012, shall cease to be in force at the end of 30 March 2013.

(7) Section 26 para. 5 as amended by the Gas Market Model (Amendment) Ordinance 2013, FLG no 88/2013, shall come into force on 1 June 2013. Section 18 paras 6 and 7, section 35 para. 2, section 37 paras 6 and 7, section 41 para. 4, section 42 and section 44 paras 3 to 5 as amended by the Gas Market Model (Amendment) Ordinance 2013, FLG no 88/2013, shall enter into force on 1 October 2013.

### **Energie-Control Austria für die Regulierung der Elektrizitäts- und Erdgaswirtschaft**

Executive Board

Walter Boltz

Martin Graf

## System Access, System Admission and Capacity Expansion

### I. System Access

#### 1. End-user system access applications must contain at least the following information:

- (a) Identification of the facility to be supplied (exact address and customer name);
- (b) Supply start date; where fixed-term contracts have been concluded, start and end date of supply must be stated;
- (c) Maximum capacity in kWh/h. This is the technical or contractual capacity of the connection, which corresponds to the actual capacity needs of the party entitled to system access;
- (d) Forecast annual consumption in kWh;
- (e) Consumer category: household - business (up to 50,000 kWh/h) - industry (above 50,000 kWh/h) - power stations (up to 50,000 kWh/h) - power stations (above 50,000 kWh/h);
- (f) Purpose of the connection (multiple options possible): space heating - water heating - cooking - processing;
- (g) Minimum desired and maximum allowed pressure at the desired withdrawal point in bar;
- (h) Supplier;
- (i) Metering point reference number at the withdrawal point (where new metering points are concerned, the distribution system operator shall assign a metering point reference number before forwarding the system access application);
- (j) Where consumption is strictly seasonal, an indication of the months when there will be consumption;
- (k) A note stating that the system access application is made in accordance with the General Terms and Conditions for the Distribution Network.

[Please note: It is recommended for the system operators' forms to state that the maximum transport capacity in accordance with (c) above is the contracted maximum capacity and therefore constitutes the basis for determining the minimum capacity and detecting any excessive capacity use of load-metered customers in accordance with the ordinance pursuant to section 70 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011.]

#### 2. System access applications of injecting parties and storage system operators must contain at least the following information:

- (a) Supply start date; where fixed-term contracts have been concluded, start and end date of supply must be stated;
- (a) Desired entry point to the distribution system, exact address and name of the customer;
- (c) Maximum capacity in kWh/h. This is the technical or contractual capacity of the connection, which corresponds to the actual capacity needs of the party entitled to system access;
- (d) Forecast annual input in kWh;
- (e) Type of input: biogas - natural gas from production - storage - synthetic gas;
- (f) Minimum desired and maximum allowed pressure at the desired entry point in bar;
- (g) Metering point reference number at the injection point (where new metering points are concerned, the distribution system operator shall assign a metering point reference number before forwarding the system access application);
- (h) A note stating that the system access application is made in accordance with the General Terms and Conditions for the Distribution Network.



**3. System access applications for curtailable connections must contain the following information in addition to what is stated under points 1 and 2 above:**

- (a) Actual maximum load during the previous year in kWh/h as indicated in the load profile (where new customers are concerned, the contracted capacity in kWh/h);
- (b) Identifier of the online meter;
- (c) Type and extent of accepted curtailments;
- (d) Periods of time for and maximum number of curtailments;
- (e) Maximum uninterrupted duration of curtailments;
- (f) Maximum total duration of curtailments during a year;
- (g) Maximum hourly load during curtailments (necessary minimum supply).

**4. System access contracts for curtailable connections must, in particular, contain the following information:**

- (a) The distribution system operator's duty to inform consumers of any curtailments following a request of the distribution area manager in due time. Such shall be considered to be fulfilled if consumers are informed about curtailments two hours in advance. However, a longer lead time for informing consumers about curtailments may be agreed in coordination with the distribution area manager;
- (b) The consumer's agreement to execute the agreed curtailment himself/herself following a request of the distribution system operator. Where this requirement is not complied with, the distribution system operator may execute the ordered curtailment and charge the related costs to the consumer;
- (c) A definition of the type and extent of accepted curtailments;
- (d) Remuneration rules for curtailments pursuant to the ordinance issued in accordance with section 70 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011;
- (e) Periods of time for and maximum number of curtailments;
- (f) Contact persons and communication rules for information concerning individual curtailments;
- (g) Rules for data submission from the distribution system operator to the distribution area manager;
- (h) Rules for financial settlement of the system utilisation charge for curtailable connections pursuant to the ordinance issued in accordance with section 70 Natural Gas Act 2011.

**5. System access contracts concluded with consumers must contain the following information in addition to what is stated under point 1 above:**

- (a) Place for meter installation if no volume corrector is used;
- (b) Contractual location in m a.s.l. if no volume corrector is used;
- (c) Conversion factor at the time of contract signature (including information about possible adjustments of this factor pursuant to the ordinance issued in accordance with section 70 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011);
- (d) The assigned grid level in accordance with the Natural Gas Act 2011;
- (e) The assigned standardised load profile, where applicable;
- (f) The type and identification of the metering devices installed;
- (g) Rules and regulations for seasonal system access, where applicable.

## **6. System use that temporarily exceeds contracted off-take capacity**

The contracted off-take capacity may be exceeded in exceptional cases, in particular where short-term withdrawal (e.g. for start-up or unexpected needs) is concerned which is not reflected in the distribution area manager's long-term plan because it is no continuous capacity need - this might be made available after coordination and agreement. Excess use is subject to prior agreement of the distribution system operator in each individual case. The distribution system operator shall ask for the approval of the distribution area manager and give its own agreement only upon receiving such approval. System users may only exceed contracted off-take capacity in such individually agreed cases. Anticipating such cases, corresponding conditions may already be laid down in the system access contract; such conditions are likewise subject to the approval of the distribution area manager. System users shall receive positive or negative answer in reply to their need for temporary excess use of contracted off-take capacity within two working days after their written (e.g. e-mail) request has been received.

## **II. System Admission**

### **1. System admission applications must contain at least the following information:**

- (a) Identification of the facility to be supplied (exact address and customer name);
- (b) Forecast annual consumption in kWh;
- (c) If the connection line is to be installed on third party property, name and contact details of that property's owner;
- (d) Minimum desired and maximum allowed pressure at the desired withdrawal point in bar;
- (e) Connected capacity in kWh/h.

### **2. Minimum Requirements for Building and Dismantling Connection Lines**

(1) The distribution system operator shall inform the system user about the type and extent of envisaged property use in due time. Such use shall interfere with the property and buildings thereon as little as possible. In doing so, the legitimate interest of the system user shall be taken into account. The system user shall inform the distribution system operator about any circumstances on his/her property which might endanger the distribution system operator's installations.

(2) If the installations unduly interfere with the purpose of the property and the property owner requests that the installations be relocated after they have already been made, presenting a servitude or other written agreement, the distribution system operator shall bear the relocation costs, unless the installations also serve or served to supply that same property.

(3) The distribution system operator may remove its installations from the used properties at any time following the dissolution of the system access contract. The distribution system operator shall be obliged to remove its installations if such is requested by the property owner, except where there is a servitude or other written agreement or the installations served to supply that same property. The distribution system operator may continue using the property even after an appropriate period of time following contract dissolution has elapsed if such is necessary to maintain local supply. Where this is not the case, the distribution system operator shall remove its installations from the property and conclude works within an appropriate period of time.

(4) If necessary for safety reasons, the distribution system operator may request that the connection line be disconnected from its distribution system after the contract has expired; in such cases, the related costs must be borne by the (former) system user. Where lump sums apply, the amount of the disconnection costs shall correspond to the distribution system operator's price list. To facilitate administrative handling, the distribution system operator may charge a lump sum based on the related total costs. The costs-caused principle can be addressed by introducing factual categories (e.g. differentiating types of facilities).

### III. Capacity Expansion

#### 1. Handling of capacity expansion applications:

(1) The distribution system operator shall forward any customer application and information about any customers waiving their right to file applications to the distribution area manager without delay to enable the latter to consider the application or waiver in accordance with the stipulations on long-term planning (section 22 *Gaswirtschaftsgesetz* [Natural Gas Act] 2011).

(2) Capacity expansion applications may only be accepted if the distribution area manager confirms towards the distribution system operator that the necessary capacity is available, based on the occurrence of the following prerequisites and the conditions connected thereto:

(a) The long-term plan includes the measures necessary to satisfy the capacity need indicated in the application and this long-term plan has been approved by the regulatory authority;

(b) The system operators concerned have concluded network expansion contracts for the purpose of realising the measures contained in the long-term plan with the distribution area manager.

(3) Only after the applicant has duly signed the capacity expansion contract and fulfilled all conditions stated therein - such as depositing collateral - must the distribution system operator accept the application and sign the capacity expansion contract itself, i.e. only then are the distribution system operator, the upstream system operators and the distribution area manager obliged to execute the necessary expansion works.

(4) The applicant and the distribution system operator may agree to include non-discriminatory and factual conditions for the implementation of the capacity expansion measures in the capacity expansion contract. To offset the risk of the investment caused by an approved capacity expansion application, the capacity expansion contract shall foresee a charge for (partial) non-use of the connected capacity applied for via the capacity expansion contract, beginning with the contractually agreed start of service and to the extent of non-use. In cases of complete non-use of the connection capacity applied for via the capacity expansion contract, the charge shall at least correspond to the system provision charge payable for such connected capacity; in cases of partial non-use, the charge shall be reduced accordingly. The charge shall also be reduced to the extent that the unused capacity is used by third parties. Adequate collateral may be requested to ensure coverage of this charge. If the system user starts using (part of) the applied-for capacity after the contractually agreed start of service, offsetting the system provision charge pursuant to the ordinance issued in accordance with section 70 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 against the charge paid for (partial) non-use shall not be admissible.

(5) When accepting a capacity expansion application, the distribution system operator commits to granting the system user access to its distribution system starting on a defined date in the future pursuant to section 27 Natural Gas Act 2011.

(6) After being informed of the final date on which the capacity will be available and no later than ten working days before transports start, the system user shall file a system access application for new facilities pursuant to section 13 of this Ordinance. The distribution system operator shall expressly alert the system user in the capacity expansion contract to the necessity of filing a system access application. If such application is not filed in due time, transports cannot take place as agreed, without prejudice to the other rights and obligations of the parties to the capacity expansion contract.

## Technical Rules

### 1. Framework

System access in the market area shall comply with the relevant technical rules (section 7 para. 1 item 53 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011), which result from the following rules, guidelines and standards in particular:

- ***The regulations for the gas sector released by the Austrian Association for Gas and Water (OVGW)***
- ***The Austrian ÖNORM standards***
- ***The standards released by the European Committee for Standardisation (CEN)***
- ***The standards released by the European Committee for Electrotechnical Standardization (CENELEC)***
- ***The standards released by the German Institute for Standardisation (DIN)***
- ***The standards released by the International Organization for Standardization (ISO)***
- ***The EN standards***

### 2. Gas Quality

The quality requirements for injecting and transporting gas that are set in the General Terms and Conditions for the Distribution Network shall comply with OVGW regulation<sup>1</sup> G 31 *Gasbeschaffenheit* (Gas quality) or G B220 *Regenerative Gase - Biogase* (Renewable gas - biogas) in the version applicable at any one time.

### 3. Calculation of the Calorific Value for Consumers

Determination of the data needed for financial settlement of consumers for gas generally follows the technical methods laid down in OVGW regulation G 177 (version of November 2002) and the ordinance issued pursuant to section 70 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011.

Volume and calorific value (according to DIN EN ISO 6976 or 13686 natural gas) for determining the system charges shall be calculated in accordance with the methods following the technical rules.

System operators must notify the volumes and pertaining calorific values relating to injecting parties for all their injections into a market area during every month to the market area manager (in the Tyrol and Vorarlberg market areas: to the distribution area manager). From this information, the market area manager (in the Tyrol and Vorarlberg market areas: the distribution area manager) calculates a weighted average calorific value for all gas injected into the market area; the market area manager (in the Tyrol and Vorarlberg market areas: the distribution area manager) shall publish this value no later on the 10th day of the following month.

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<sup>1</sup> Please note that, given that the OVGW regulations are currently undergoing a revision process, the numbering of regulations may have changed.

If the calorific value calculated by the market area manager (or the distribution area manager) does not deviate from the current calorific value pursuant to the Ordinance issued in accordance with section 70 Natural Gas Act 2011 by more than 2%, the latter shall be used to calculate energy quantities.

### **Entry/Exit Points**

All physical entry and exit points to and from the network in the market area shall be considered entry/exit points.

All exit points from the transmission into the distribution network are handled centrally, by the distribution area manager, and are therefore treated as one exit point. The market area manager shall publish the entry/exit points on the online platform after it has coordinated with the distribution area manager and consulted the regulatory authority. Concerning the networks in the Tyrol and Vorarlberg market areas, the distribution area managers shall publish the entry points on the online platform after they have consulted the regulatory authority.