



joint-stock company
Natural gas underground storage

From:
POZAGAS a.s.
Malé námestie 1
901 01 Malacky
Slovak Republic

To:
E-Control
Rudolfsplatz 13a
1010 Vienna,
Austria

in Malacky, on 27th November 2019
No. L-II/1416-2019-MOM
File No. 1416-2019-OaM

RE: Response of POZAGAS a.s. to E-Control consultation on the reference price methodology

To whom it may concern,

POZAGAS a.s. ("**POZAGAS**") welcomes the opportunity to comment on the consultation regarding the implementation of the network code on harmonised transmission tariff structures for gas ("**NC TAR**") and appreciates the fact that E-Control also provided the document in English language.

As POZAGAS supports the harmonization of national laws with the European legal framework, we would like to note that the implementation of NC TAR does not only impact the consultation document at hand. The NC TAR has also implications for the ordinances, which are currently pending in the legislative process or which are already in force and have to be compliant with the European legal framework. In particular, this is the case for the Gas Market Model Ordinance 2020 ("**GMMO 2020**") and the Gas System Charges Ordinance 2020 ("**GSCO 2020**"), for both of which the consultation period has already ended. In this respect, we would like to draw your attention to the response of Gas Connect Austria GmbH ("**GCA**") in the consultation process for the GMMO 2020:

GCA suggested modifying Art. 14 GMMO 2020 by inserting the following sentence: "*Such interruptible capacity is in the class that reflects the greatest probability of interruption and does not provide for refund*". While it is not entirely clear, what shall be the purpose of this proposal; it seems to insinuate that no refund is justified and that a certain pre-categorization "*the class that reflects the greatest probability of interruption*" shall apply to capacity contracts with storage operators.

Tel.: +421 34/772 5945
Fax: +421 34/772 2406

COMPANY ID: 31 435 688
Tax ID: 2020357372
VAT ID: SK 2020357372

Malé námestie 1
901 01 Malacky
Slovak Republic

POZAGAS a.s. is recorded in the Commercial Register of the Bratislava I District Court, Volume Sa, Entry 1271/B

We would like to point out that this amendment is contrary to E-Control's efforts to harmonize Austrian national laws with the European legal framework and would in addition contradict the Austrian framework. Firstly, European law requires national law to provide for respective refunds. Art 16 NC TAR stipulates that the national regulatory authority has to apply discounts for interruptible capacity, compensating network users after interruptions occurred. Secondly, in its Section 4 para 4 and Annex 1, the GSCO explicitly regulates the refunds to be granted for interruption of capacity. There is no reason to change or even question this concept.

Furthermore, the removal of a refund would, in extreme cases, lead to a situation, in which capacity is interrupted every day and, although paying the same price as for firm capacity, POZAGAS has no possibility to predict and or control interruptions, while also not getting any refund. Such an understanding would clearly contravene the principles of equality and non-discrimination, the fundamental principles of capacity management under both European as well as Austrian law.

In addition, according to Art 35 of the network code on capacity allocation mechanisms in gas transmission systems (NC CAM), the order in which interruptions shall be performed is determined based on the contractual time stamp of the respective transport contracts on an interruptible basis. In case of an interruption, transport contract coming into force earlier, shall prevail over transport contract coming into force later. If two or more nominations are ranked at the same position, a pro rata reduction shall apply. Accordingly, the suggestion of GCA to attribute a capacity contract to a certain category would contravene the principle of non-discrimination under European and Austrian law.

We kindly ask you to take our comments into considerations.

Should have any questions, please do not hesitate to contact us.

Kind regards,

1.2. A handwritten signature in blue ink, appearing to read "M. Beňa", written over a dotted line.

Martin Beňa

Director for Sales and Marketing