E-CONTROL

# Introduction

**Content:**

The Ordinance regulates system access as well as balancing, clearing and settlement pursuant to section 41 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 and amends the *Gas-Marktmodell-Verordnung* (Gas Market Model Ordinance) 2012.

**Alternatives:**

none

**Effects on Austria as a place for doing business:**

Efficient and market-based mechanisms for capacity allocation in natural gas systems and the related rules for balancing, clearing and settlement promote a competitive, integrated EU natural gas market and contribute to secure and cost-effective natural gas supply.

**Financial effects:**

No impact on the budget of the state or the federal provinces

**Community legislation framework:**

The rules serve to put into practice the regulatory regime of Directive 2009/73/EC concerning common rules for the internal market in natural gas in consideration of Regulation (EC) No 715/2009 on conditions for access to the natural gas transmission networks, which is reflected in the Natural Gas Act 2011.

**Particulars of the legislative process:**

The Ordinance is issued pursuant to section 7 para. 1 *Energie-Control-Gesetz* (E-Control Act) by the Executive Board of E-Control. Pursuant to section 41 para. 1 Natural Gas Act 2011, the intended rules must be submitted to public consultation; in addition, pursuant to section 119 E-Control Act, the Ordinance must be presented to the Regulatory Advisory Council.

Draft explanatory notes
**2015 amendment to the *Gas-Marktmodell-Verordnung* (Gas Market Model Ordinance) 2012**

## General comments

The *Gas-Marktmodell-Verordnung* (Gas Market Model Ordinance) 2012 prepared the legal ground for the successful introduction of a new gas market model in Austria on 1 January 2013.

The present amendment eliminates provisions that become obsolete once Commission Regulation (EU) No 984/2013 establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems (CAM Network Code) enters into force on 1 November 2015. In addition, adjustments and clarifications are undertaken concerning the practical application of renomination limits, capacity expansion applications, system access contracts by storage and production system operators, capacity booking for isolated network areas, capacity reservation for storage system operators and producers of natural and biogenic gas, the determination of the balancing incentive markup at transmission level, and the clearing and settlement of amounts consumed without a supply contract.

## Commentary on sections

### Regarding section 2 para. 1 item 16b, section 4, section 6, section 8, section 9 and section 47 para. 10:

Regulation (EU) No 984/2013 establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems (CAM Network Code), issued on the basis of Regulation (EC) No 715/2009, provides for harmonised capacity allocation rules at transmission level. In particular, it comprises rules on standard capacity products and allocation mechanisms, along with provisions for the cooperation between the adjacent transmission system operators, so as to establish coordinated capacity marketing at interconnection points. The national legislator cannot issue its own rules on matters that are addressed in Regulation (EU) No 984/2013; should national law be in conflict with the Regulation, the former would need to remain unexecuted due to the primacy of directly applicable Union law. Against this background, the rules contained in the Gas Market Model Ordinance 2012 on the bundling of capacity (section 4), capacity allocation (section 6), contract duration (section 8) and the online platform for capacity offers (section 9) must be adjusted.

Bundling is dealt with in Articles 19 and 20 of Regulation (EU) No 984/2013. Capacity allocation must follow the method described in Articles 8 through 18 of Regulation (EU) No 984/2013; the main points here are the determination of standard capacity products, allocation methods (auctions) and algorithms. Instead of the Ordinance's provisions on contract duration (section 8), the provisions of Articles 8 and 9 of Regulation (EU) No 984/2013 apply. Concerning the online platform, the relevant provisions of Regulation (EU) No 984/2013 are contained in Article 27.

In particular, Article 6 para. 1 item a of Regulation (EU) No 984/2013 carries the obligation to maximise the capacity on offer; this is transposed in section 4 para. 2 of the amended Ordinance.

The adjustment made in section 8 in terms of the minimum amounts for short-term capacity, in line with Article 8 paras 6 through 8 of Regulation (EU) No 984/2013, only concerns capacity that becomes available as existing capacity contracts expire; there is no obligation to terminate existing contracts ahead of time.

The amended provisions will come into force at the same time as Regulation (EU) No 984/2013, i.e. on 1 November 2015.

### Regarding section 11:

The adjustments introduced clarify how the renomination limits work in practice: the consequences described in paras 3 and 5 apply whenever the limits are exceeded in any direction, upwards or downwards.

In paras 9 and 10 obsolete references are eliminated (s. above explanations on section 2 etc.).

### Regarding section 13 para. 3:

The first come first serve principle that applies for capacity expansion applications at distribution level is explicitly laid down.

**Regarding section 14 para. 3:**

Section 67 para. 1 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 obliges system operators to conclude interconnection point agreements following the specifications of the distribution area manager. For storage and production system operators, conclusion of such agreements is desirable but not obligatory. To the degree that system admission contracts impact operation of the distribution system, which forms part of the distribution area manager's responsibilities, it is in the interest of secure and efficient system operation that the distribution area manager's right to prescribe specifications should be extended to system admission contracts that concern storage and production system operators.

**Section 15 para. 4 (new):**

Parts of the network area of Upper Austria are physically isolated from the rest of the eastern market area; they can only be supplied from the neighbouring German market area (Schärding, Ach). So far, this has prevented consumers in this area from being able to switch suppliers. The distribution area manager and its neighbouring German distribution system operator have developed a solution that will enable these consumers to choose their supplier freely. In order for this solution to work, the distribution area manager in the eastern market area must have the right and obligation to book the necessary capacity with its neighbouring distribution system operator.

**Regarding section 16:**

In the interest of expediency and legal certainty, the addition in para. 1 creates a rule for cases when market participants fail to book capacity on time. The distribution area manager will then assume that the most recent capacity booking made by that market participant continues to apply for the next year.

Para. 1a is amended to clarify that any expansion of reserved capacity (by way of a system access application) only applies for up to the residual duration of the existing system access contract, i.e. the extended capacity ends at the same time as or before the originally agreed capacity.

**Regarding section 17:**

The amendment in this section corresponds to that in section 16 para. 1 (s. above).

**Regarding section 19:**

Storage system operators should also be among the market participants that register with the market area manager. This is particularly relevant for storage system operators that are connected to the transmission network, i.e. are not active in the distribution area.

**Regarding section 26:**

The adjustment in para. 6 increases flexibility in setting the balancing incentive markup. Experience with the new gas market model has proven that balance groups' short positions create more difficulty for the system than long positions. If a balance group is long, it can always sell the excess gas at the virtual trading point (at an appropriate price); being short, however, means that additional gas must be purchased. This might create congestion, which in turn can endanger the stability of the overall gas supply system. Therefore, the market area's position (which reflects the state of the system as a whole) must be taken into account when setting the balancing incentive markup. The precise amount and settlement modalities for the balancing incentive markup are to be defined and publicly consulted by the market area manager; they are then approved by the regulatory authority as part of the market area manager's general terms and conditions. Also, the cap on the balancing incentive markup that applied until 1 January 2013 is removed as it is no longer relevant.

**Regarding section 27 para. 1 and section 37 para. 4:**

The adjustments in these paragraphs (both for the market area east and for the market areas Tyrol and Vorarlberg) are designed to address cases where consumption contracts end, i.e. the respective metering point is no longer associated with a particular balance group and the prerequisites for rendering system services are no longer fulfilled, but where the system operator cannot disconnect such point form its system immediately. Energy consumed before the facility is actually disconnected is registered in the special balance group for distribution systems pursuant to section 24. For this purpose, it is not necessary or assign the metering point to a particular balance group or to submit a separate schedule for the metering point. Detailed rules on how system operators can pass on the cost for energy consumed as part of such unauthorised use of grid services are to be included in the General Terms and Conditions for the Distribution Network to facilitate legal enforceability for the system operators. In any case, the system operator concerned must end the unauthorised use of grid services as soon as possible.

**Section 47 para. 10 (new):**

The amended provisions enter into force at 6.00 hrs on 1 October 2015. Exceptions are the adjustments concerning the balancing incentive markup in section 26 para. 6 and the alignments with Regulation (EU) No 984/2013, which come into force at the same time as that Regulation, i.e. at 6.00 hrs on 1 November 2015.