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Head of the Gas Department – Dennis Hesseling

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Subject: public consultation of the Gas System Charges Ordinance 2013 – 2nd Amendment 2020

Dear Sir/Madam,

We would like to thank you for the renewed opportunity to engage in the debate on the Austrian gas transmission system charges. As in the past, our participation to the discussion aims at ensuring:

- Cost reflectivity;
- Efficient use of infrastructure;
- Reasonable cost levels for all.

In our mind, pursuing these objectives means contributing to a well-functioning market with high liquidity and high competition and to increased overall welfare.

In this context we would like to thank you for the publication of a more comprehensive tariff model, as well as for the choice to use the same reference volumes both for influenceable and non-influenceable costs, insofar this ensures a more cost-reflective tariff setting. We also regard the application of the reference price methodology to the TSOs' total costs as a step towards enabling system users to better calculate transmission tariffs themselves as prescribed by Article 7 of the TAR NC.

On a different aspect, while improvements in this respect are still possible, as indicated by the very assessment of both ACER and E-Control, we would like to express appreciation for a cost allocation methodology that shows a commitment to reduce, to the extent possible, elements of cross-subsidies among different class of users.

This said, some material concerns do remain:

- While we assume that "non-influenceable" costs correspond to operational costs, e.g. fuel gas, it remains unclear what exactly are the costs included in the two buckets, i.e. "influenceable" and "non-influenceable" costs. Transparency in this regard is still very limited when compared to the level of information disclosure we encounter in other EU gas markets;
- It is still unclear how under-recovery potentially determined by the 10% cap on tariff increase at individual system points would be recouped in a way that prevents future cross-subsidies among different classes of network users;
- In the explanatory note at page 7 we find this sentence: "Without the cap, entry rates would continuously rise, to the benefit of exit rates [...]; if this were the case, long-term contracts could be expected to be terminated, reducing capacity bookings. This would drive up entry rates even further. Both effects would increase costs for domestic transports while decreasing those for transits". It is unclear on what ground this assertion is relevant, considered that in Austria it is not possible to terminate long-term contracts. Please note that we would very much favour the introduction of a reset mechanism.

Moreover and notwithstanding the above, we are of the opinion that the Austrian tariffs setting procedure unfortunately remains in part a black box:

- It is unclear how TSOs' volume risk is assessed and compensated and how this is linked to the actual remaining TSOs' asset value following the yearly depreciation;
- We have no visibility on how TSOs assets are revalued on a year on year basis.

The documents published as part of this the consultation are simply silent on these aspects and, until relevant explanations are not provided, network users and end users will not be in a position to deem appropriate, or even cost reflective, a compensation level that is far beyond what we observe for TSOs in the rest of Europe.

We understand very well that, to an extent, these aspects fall beyond the scope of the TAR NC and that the limited transparency available to network users is linked to sections of Austrian Gas Act (§§ 69-84 GWG) and to the identification of the so-called Legalparteien.

However, the limited transparency entrusted by Austrian Law should not give room to a definition of transmission tariffs that are not in line with article 13 of EU Regulation 715/2009. Therefore, as long full compliance is not proven, or until full compliance does not become provable by all market participants, we will regard any decision as unsatisfactory.

This is more so on the back of the outcome of the meeting between Shell and E-Control which took place on March 2nd, 2020. In that occasion Shell representatives came to Vienna to discuss views on the existing TSOs' allowed revenues methodology, as well as on the one applicable post-October

2020 (exclusively based on publicly available information) and offered views in the spirit of remedying aspects of non-compliance with article 13 of EU Regulation 715/2009 encouraging E-Control to reflect on the appropriate level of tariffs for the TSOs.

Unfortunately, our understanding of the feedback we received is that E-Control believes that an excessive high level of Austrian TSOs' revenues is necessary and instrumental for them to make investments in support of future energy related developments, possibly outside of Austria, as well as to protect past investment made by TSOs' shareholders. While this would confirm that E-Control is aware that Austrian TSOs are overcompensated, both arguments represent a deviation from Regulation 715/2009.

In this respect we would like to stress that, as long as this remains E-Control's approach, we will continue to use our best efforts to call for transmission costs in Austria that are comparable with transmission costs incurred in other European gas markets and appeal to all the relevant bodies to seek remedies.

As always, we remain available to discuss the content of this letter as well as any other matter you may deem appropriate.

Sincerely,



Regulatory Affairs Team Lead - South and East Europe
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