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Your ref./date	Our ref.	Liab/phone	in Malacky
	L-II/648-2020-ROaM	M.Beňa/034-772 5939 ext.214	on 4 th May 2020
	File Nr.: 648-2020-OaM		

Subject: **Response to the public consultation on the proposed amendments to the Gas System Charges Ordinance 2013**

Dear Ladies and Gentlemen,

We appreciate the possibility to take part in the consultation process for the 2020 amendment of the Gas System Charges Ordinance 2013 ("GSCO"). In the following, we would like to address in particular (1) our understanding of the proposed tariff increase at Speicher MAB, (2) the lack of the transparency of the system charge determination process in general and (3) other significant remarks.

1. Significant tariff increase despite overall cost reductions not justified

As a result of limited transparency we are unable to understand the reasoning behind the proposed tariff increase for firm capacity (FZK) at Speicher MAB (§ 4 (2) Z 2), especially taking into consideration the following:

- The **essential input factors (especially TSO costs) for the tariff calculation are lower** than in the previous tariff period as explained in the accompanying documentation (Annex 3). E-Control failed to explain how the general reduction of allowed costs of 5% can cause a tariff increase of 10% for storage exit points so far, especially considering that other points benefit from a generous tariff reduction of up to -43% (Exit Murfeld; -12% Entry Murfeld). Even without considering the Murfeld outlier the reduction of tariffs at other points, especially to the distribution network, is significant.
- As stated by E-Control itself Baumgarten is the only dominant system point. Thus, tariff calculation depends on the capacity-weighted distance from that dominant point (Baumgarten). However, the **distance between Baumgarten and Speicher MAB is marginal**. The approach of applying a storage exit cluster (with the storage 7 Fields) is flawed as it results in an unequal treatment of the two concerned storage operators with respect to RPM basic principle applied (distance to VTP).
- E-Control is justifying its approach with the alleged establishment of fair competition between Speicher MAB and 7 Fields. However, the two storages are connected to vastly different markets

and are therefore in a different competitive situation. The clustering approach even intensifies this unequal situation.

- In addition, E-Control did not consider the contracted UK capacity of the MAB Speicher when calculating the relevant reference volume. This approach is neither in line with the relevant legal provisions of NC TAR and the Gas Act nor the approach taken with other market players.
- We are not aware, that the TSO made any **new investments to improve the connection of Speicher MAB** to the Austrian grid.

All these factors clearly speak for a reduction of the tariff rather than an increase. However, the draft amendment of the GSCO shows a – though capped – significant tariff increase for the point Speicher MAB. Unfortunately, the explanatory notes fall short of providing a sufficient explanation for this approach.

It remains unclear, how E-Control applied the tariff setting principles set forth in Section 72 of the Natural Gas Act 2011 (in particular on cost causality and cost reflectiveness) and Article 7 NC TAR (in particular the actual costs incurred principles and the requirement not to distort cross-border trade).

2. Lack of transparency

Tariff levels are of utmost importance for market participants and we believe, as underlined by the NC TAR itself that their determination as well as the underlying cost elements need to be transparent for the concerned market participants. While we understand that certain commercially sensitive information cannot be shared with the public, large parts of the tariff setting process do not involve sensitive information and should be disclosed. Therefore, we would appreciate, for example, if E-Control would provide additional information on:

- The influence of specific infrastructure investments on tariff levels;
- Which cost components increased and decreased significantly since the last amendment;
- The reason why the tariff for certain points benefit from the overall cost reduction and others suffer from significant increases of tariffs;
- How the storage exit cluster shall help to establish fair competition between storage operators or on the gas market in general.

Furthermore, we very much appreciate the anticipation of the Tariff Network Code (NC TAR; Regulation (EU) 2017/460) which aims inter alia to approve the overall transparency during the tariff setting process. Even though we appreciate the efforts taken by E-Control as well as the general improvement of transparency, we regret that there is still a considerably lack of transparency in the system charges setting process for the transmission network.

Furthermore, we note that the process for establishing the draft system charges takes still place mainly behind closed doors and market participants, as well as directly connected storage system operators, are not presented with all relevant input information for deriving the final outcome in the form of the draft amendment. The fact that the important input parameters of allowed costs, investment cost estimations as well as reference volumes are set in a different proceeding (§ 82 Gaswirtschaftsgesetz 2011) where

non-Austrian EU companies such as POZAGAS have no possibility to be represented at all. This is a great concern to us as directly affected system user.

3. Others

In addition, we would like to raise a concern of a potential unequal treatment of IP and the storage point by introduction of different refund factors, which, in case of competition between these points should an interruption situation occur, will result in the interruption of storage point capacity.

Therefore, we would like to take this opportunity to reiterate our request to implement the time stamp procedure for the sequence of interruption of interruptible capacities according to the network code on capacity allocation mechanisms. This is not an issue to be dealt with in the GSCO itself, however, there is a direct link to the setting of tariffs and method of calculating the ex-post compensations for interruptible products' interruptions in GSCO. Therefore, we kindly ask E-Control to implement the time stamp procedure as soon as possible.

Finally, we would like to express our support for the changes proposed for section 4 item 5 draft GSCO that in case of planned maintenance, which last longer than 360 hours per gas year network users will receive a reduction of the payable charges. However, we note that the suggested wording in the draft ordinance (especially in the English version) might cause confusion and would appreciate a clarification.

We thank you in advance for answering the open issues and considering our comments. We are happy to discuss our comments with you in further detail.

Kind regards

A handwritten signature in blue ink, appearing to read "M-Beňa".

Martin Beňa

Sales and marketing director