

## Cover page

### **Content:**

The *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 fundamentally changed the method according to which the system charges are set. The *Gas-Systemnutzungstarife-Verordnung* (Gas System Charges Ordinance) 2013, *BGBI.* (Federal Law Gazette, FLG) II no 309/2012, and the transmission system charges it set from 1 January 2013 were the first step in implementing these changes. The 2013 amendment to the Ordinance, FLG II no 478/2012, set the distribution system charges and the fee for the distribution area manager. The present amendment introduces the annual update of the distribution system charges and includes a number of minor adjustments.

### **Alternatives:**

None

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

Economic system charges and efficient operation of gas networks enable a liberalised gas market, which in turn has positive effects on the economy as a whole.

### **Financial effects:**

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

### **Union legislation framework:**

The distribution and transmission system charges are set in accordance with the Natural Gas Act 2011, which in turn transposes Directive 2009/73/EC concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC.

### **Particulars of the legislative process:**

The Ordinance is issued by E-Control's Regulation Commission in accordance with section 12 para 2 item 1 *Energie-Control-Gesetz* (E-Control Act). In accordance with section 69 para. 3 Natural Gas Act 2011, the concerned system operators and system users and the stakeholder representations mentioned in section 69 para. 3 Natural Gas Act 2011 must be consulted before issuing the Ordinance. In addition, the Ordinance must be discussed by the Regulatory Advisory Council in line with section 19 para. 2 E-Control Act.

## Explanatory notes

### General comments

In accordance with section 70 para. 1 Natural Gas Act 2011, the system charges for the distribution network are to be set by ordinance, employing a cost cascading mechanism that corresponds to section 83 and based on the allowed cost and the transported volume established by E-Control's Executive Board in accordance with sections 79 et sqq. The system charges for the transmission network are to be enacted by E-Control's Regulation Commission.

According to section 72 para. 1 Natural Gas Act 2011, system users have to pay system charges for all services provided by the system operators in exercising the duties imposed upon them. The system charges must respect the principles of equal treatment of all system users, facilitation of efficient gas trade and competition, cost reflectiveness and, to the greatest possible extent, cost causality, and they must ensure that natural gas is efficiently used and that the amount of energy distributed or transported is not unnecessarily increased.

The present draft Ordinance also introduces system utilisation charges for new and incremental capacity at the Reintal, Überackern, Mosonmagyaróvár and Murfeld entry points. For details of the corresponding projects in the network development plan, please consult <https://www.e-control.at/de/recht/entscheidungen/vorstand-gas> (in German).

### Commentary on sections

#### Section 3 para. 2 item 8 and para. 3 item 8:

The Ordinance fixes the system utilisation charge for the relevant point Reintal, which is being established at the border with the Czech Republic as part of the GCA 2015/01a Bidirectional Austria Czech Interconnector (BACI) project, approved as part of the coordinated network development plan 2017. The charge is calculated in accordance with the cost allocation methodology chosen. The project will connect the eastern market area in Austria with the Czech market area; the latter receives imports from northern Europe and has a wholesale price level that is well below prices on the Austrian wholesale market. Austrian consumers could benefit from these lower prices.

E-Control's Executive Board confirmed the planned costs and capacities for this project in a procedure pursuant to section 82 Natural Gas Act 2011. The E-Control Executive Board decided that, given the welfare effects to be expected from this project, the costs would not be allocated to the entry/exit point itself. This means there is no requirement to fix and apply a mandatory minimum premium. Even without long-term bookings for the incremental capacity at the Reintal point, BACI and downstream points are expected to be well booked, i.e. socialising BACI costs will have negligible effects on shippers.

In line with the incremental capacity process provided for in Commission Regulation (EU) 2017/459 establishing a network code on capacity allocation mechanisms in gas transmission systems (CAM Network Code, OJ L72/1, 17.03.2017), there will be coordination with the adjacent transmission system operator so that the capacity created by the project can be offered as part of the annual auction in 2019 at the latest.

#### Section 3 para. 4 and section 8 para. 4:

Pursuant to Article 33(3-5) of Commission Regulation (EU) 2017/460 establishing a network code on harmonised transmission tariff structures for gas (Tariff Network Code), when allocating incremental capacity, a mandatory minimum premium may be added to the regulated rate under the cost allocation methodology. This premium is meant to guarantee that allocation generates sufficient revenues for a positive economic test outcome, so that the project can proceed.

At the first capacity auction and at any additional annual capacity auctions that take place before the line is commissioned, the mandatory minimum premium in section 3 para. 4 applies on top of the rates pursuant to section 3 para. 2. The regulated rate pursuant to section 3 para. 2 and the mandatory minimum premium together form the reserve price for the auction. These projects are only realised if an economic test yields positive results, i.e. only if the present value of the proceeds from binding commitments equals or is greater than the present value of the allowed costs, considering the cost recovery factor (f factor). The mandatory

minimum volume denotes the amount of binding annual commitments constantly needed over the course of 15 years for the project to get a positive economic test outcome. This could also be achieved through binding commitments that are structured differently. Should the auction result in more capacity being requested than had been planned, the mandatory minimum premium is recalculated accordingly (cf. the mandatory minimum volumes below). The premium is calculated on the basis of the first auction and any further annual capacity auctions that take place before the line is commissioned. It is stated in EUR/kWh/h per year and then applies for the full duration of all contracts concluded up to that time. Free capacity that is allocated after the incremental capacity has been commissioned is subject to the regulated rate pursuant to section 3 para. 2, which is updated every four years in accordance with the method laid down in section 82 Natural Gas Act 2011, just like the rates that apply at any other entry and exit points. For capacity contracts concluded after the incremental capacity is commissioned, and for short-term products, only the charge pursuant to section 3 para. 2 applies.

Item 1: The incremental capacity at the Überacker entry point results from project GCA 2015/02a in the coordinated network development plan 2017. Calculation of the mandatory minimum premium relied on a mandatory minimum transport volume of 1,375,001 kWh/h/year, corresponding to 55% of the additional technical capacity created by the project.

Item 2: The incremental capacity at the Mosonmagyaróvár entry point results from project GCA 2015/05 in the coordinated network development plan 2017. Calculation of the mandatory minimum premium relied on a mandatory minimum transport volume of 1,913,490 kWh/h/year, corresponding to 30% of the additional technical capacity created by the project.

Item 3: The incremental capacity at the Murfeld entry point results from project GCA 2015/08 in the coordinated network development plan 2017. Calculation of the mandatory minimum premium relied on a mandatory minimum transport volume of 2,775,120 kWh/h/year, corresponding to 40% of the additional technical capacity created by the project. The project also creates additional technical capacity at the Murfeld exit point.

Item 4: The incremental capacity at the Mosonmagyaróvár entry point results from project GCA 2017/01 in the coordinated network development plan 2017. Calculation of the mandatory minimum premium relied on a mandatory minimum transport volume of 6,714,000 kWh/h/year, corresponding to 60% of the additional technical capacity created by the project. The project also creates additional technical capacity at the Mosonmagyaróvár exit point.

In line with Article 28 CAM Network Code, the involved transmission system operators must submit the proposals for the above projects to the relevant national regulatory authorities for coordinated approvals. The E-Control Executive Board will publish the coordinated decisions concerning the project proposals no later than two months before the annual auction for annual capacity. This includes publication of the approved offer levels and corresponding parameters of the economic test under Article 22(1) CAM Network Code. After the first auction of incremental capacity has taken place, the TSO publishes the results of the economic test and informs all system users that participated in the auction. This mechanism is meant to enable system users to trigger capacity projects but at the same time it ensures that only economic projects go ahead.

In line with the incremental capacity process provided for in the CAM Network Code, there will be coordination with the adjacent transmission system operators so that the capacity created by the projects can be offered as part of the annual auction in 2018 at the latest.

#### **Section 21 para. 14:**

The amendment enters into force on the gas day that follows the day of promulgation, i.e. at 6:00 hrs on the calendar day after promulgation.