

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, *BGBl.* (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 a number of adjustments, in particular of the system charges, in light of the imminent promulgation of the Tariff Network Code.

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 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

The *Gaswirtschaftsgesetz* (Natural Gas Act) 2011, FLG I no 107/2011, coming into effect on 1 January 2013, entailed fundamental changes to the gas market model. The core of the new market model is a uniform eastern market area, which includes both transmission and distribution level lines, and a newly established virtual trading point. The virtual trading point aims to considerably increase liquidity on the gas market. 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 volume situation 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.

While the Gas System Charges Ordinance 2013, FLG II no 309/2012, set the transmission system charges, the 2013 amendment to the Ordinance, FLG II no 478/2012, established distribution system charges and set the fee for the distribution area manager. The current amendment of the Ordinance adjusts the transmission and distribution system charges from 1 January 2017 in accordance with the regulatory regime.

The European network code on harmonised Transmission Tariff Structures for Gas (TAR NC) will likely come into force during the regulatory period that is about to start. This would entail a series of changes to the Gas System Charges Ordinance. The current amendment to the Ordinance already largely accommodates the provisions of the TAR NC, though the latter is not yet binding.

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. There is no provision that foresees exempting individual system users from certain components of the charges. As stated in section 72 para. 2 Natural Gas Act 2011, the distribution system charges are made up of the following components: a system utilisation charge, a system admission charge, a system provision charge, a metering charge and supplementary service charges. Without prejudice to separate provisions of the Natural Gas Act 2011, no other charges that directly relate to system operation are admissible. Section 162 Natural Gas Act 2011 foresees an administrative penalty of up to EUR 100,000 for deviations from these charges.

The system charges are to be set by ordinance, employing a cost cascading mechanism that corresponds to section 83 Natural Gas Act 2011 and based on the allowed cost and the volume situation established by E-Control's Executive Board in accordance with sections 79 et sqq. Prior to enacting the Ordinance, it must be submitted to a consultation and to a discussion at the Regulatory Advisory Council.

The Ordinance establishes new system charges from 1 January 2017 onwards. Section 11 para. 8 *Gasnetzdienstleistungsqualitätsverordnung* (Ordinance on Gas System Service Quality), FLG II no 172/2011, as amended by FLG II no 217/2013, requires distribution system operators to inform their customers in good time and in an adequate format that they have the possibility to submit their meter readings at the end of the year, so that actual consumption data can be used for billing.

Commentary on sections

Section 3 (System Utilisation Charge for Injecting and Withdrawing Parties)

The transmission system tariffs have largely been in force since 1 January 2013 and must be revised, in line with the regulatory regime, as of 1 January 2017.

They are generally based on a proposal made by the transmission system operators, which basically allocates the allowed cost depending on the distance from the virtual trading point (VTP). The VTP corresponds to the Baumgarten point on the network, which is the point of origin for most transmission gas flows in Austria.

In a first step, the entry-exit split is derived from the capacity-weighted distance (based on the technical circumstances). This then feeds into the VTP distance calculation. This method acknowledges the complexity of the Austrian transmission network, which is characterised by large differences in the distances between entry and exit points.

It also prevents inadmissible cross subsidies between domestic and cross-border network use (s. cost allocation assessment) and ensures that the tariffs do not distort cross-border trade.

The second step consists in making a number of prescriptions for the adjustments and forming tariff groups in accordance with the TAR NC (“equalisation”). This serves to improve predictability of grid charges for transmission customers and prevents extraordinary tariff increases.

To account for the different cost structures, the tariff for exits into the distribution network for the domestic customers group was split and a separate tariff was set for Carinthia. The TSOs’ cost reductions led to lower tariffs for most entry and exit points. However, due to the recalculated entry-exit split (in line with the TAR NC) tariffs are not reduced for all entry points and the reductions are generally higher for exit points.

As outlined above, entry tariffs at transmission level firstly depend on the distance from the VTP. Secondly, the tariffs were harmonised for homogeneous groups of entry points in line with the TAR NC. In the interest of competitive neutrality between the entry points and the gas fed into the eastern market area through these entry points, the spread between the groups was kept as small as possible.

Section 3 para. 4

The 2016 Coordinated Network Development Plan approved projects that will increase capacity at the Mosonmagyaróvár, Reintal, Baumgarten, Überackern/Oberkappel and Murfeld points.

E-Control’s Executive Board approved the method for determining the allowed cost and projected volume for these projects and approved the allowed costs and volume themselves in accordance with section 69 para. 2 in conjunction with section 82 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011. The costs and volumes for planned investment projects are determined so that an economic test can be conducted and the amount market participants are willing to pay for the capacity (determined via a market mechanism such as an auction or open season) can be weighed against the investment cost. Investments should only be realised if the binding commitments made by market participants are at least equal to the costs of the capacity to be created at a particular interconnection point. The reference price for the allocation procedure corresponds to the charge set by the *Gas-Systemnutzungsentgelte-Verordnung* (Gas System Charges Ordinance) based on the allowed cost and the capacity (specific tariff and markup, s. section 8 para. 4 Gas System Charges Ordinance 2013 as last amended).

Section 3 para. 5 and para. 6

Dynamically allocable capacity is no longer available at all entry and exit points where it was previously offered. The Ordinance is adjusted to take account of these changed circumstances, i.e. the concerned tariffs for these points are deleted. Where dynamically allocable capacity is available, the pricing methodology is maintained as it was previously.

Section 3 para. 9:

The multipliers for capacity bookings for less than one year are adjusted to conform with the TAR NC, which is why the maximum multiplier is reduced to 1.3. As proposed by the transmission system operators and in accordance with the TAR NC, there are different multipliers for entry and exit points. Also day-ahead and within-day products are no longer treated preferentially but are subjected to multipliers. The uniform levelling down of all entry points to the lowest entry tariff is discontinued. The multipliers thus serve as incentives for monthly, quarterly and yearly products. However, they are kept at a level that still enables efficient short-term trading.

Section 4

Dynamically allocable capacity is not offered in all previous combinations with storage anymore and the Ordinance is adjusted to account for these changes. Under the TAR NC, the tariffs for storage facilities must be reduced by at least 50%. This basically enables continuing the lower tariff applied previously. However, the calculation method implies an increase in the tariffs that is limited due to the above restrictions on tariff increases.

Section 8

The references to section 6 para. 3 *Gasmarktmodell-Verordnung* (Gas Market Model Ordinance) are removed as this provision was deleted in the 2015 amendment of the Gas Market Model Ordinance (FLG II no 276/2015).

This is due to Regulation (EU) No 984/2013 establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems (CAM NC), issued on the basis of Regulation (EC) No 715/2009, which provides for harmonised capacity allocation rules at transmission level and includes rules for capacity allocation.

Also in accordance with the CAM NC, the possibility to apply lower factors for implicit auctions is introduced. Implicit allocation methods are allocation methods where, possibly by means of auctions, both transmission capacity and a corresponding quantity of gas are allocated at the same time. The CAM NC requires upfront regulatory approval of implicit allocation methods. This approval also includes setting the applicable tariffs – which may differ from the tariffs for auctions under the CAM Network Code. Lower factors for implicit allocation might be justified as the prices for capacity allocated through implicit methods depend on the spread between the neighbouring markets. This is why Article 13(1) of the draft TAR NC allows for duly justified cases of multipliers between 0 and 1.5 or 3.

Section 10 para. 1

To avoid that network level changes which are detrimental- to the other connected users can be executed for purely economic reasons, changing network levels is only possible if changed technical needs can be proven.

Section 10 para. 8

The system utilisation charge is largely derived from the allowed costs. The adjustment of the grid utilisation charge is illustrated using two common examples: 90,000,000 kWh/7,000 h at grid level 2 and 15,000 kWh at grid level 3.

Graphical display of the adjustment of the grid utilisation charge

The development of the system utilisation charge depends on: the costs at grid level 1, which are cascaded (as provided in section 14) into the grid areas; the direct costs of the system operator in the grid utilisation charge; and the volume trends in each grid area.

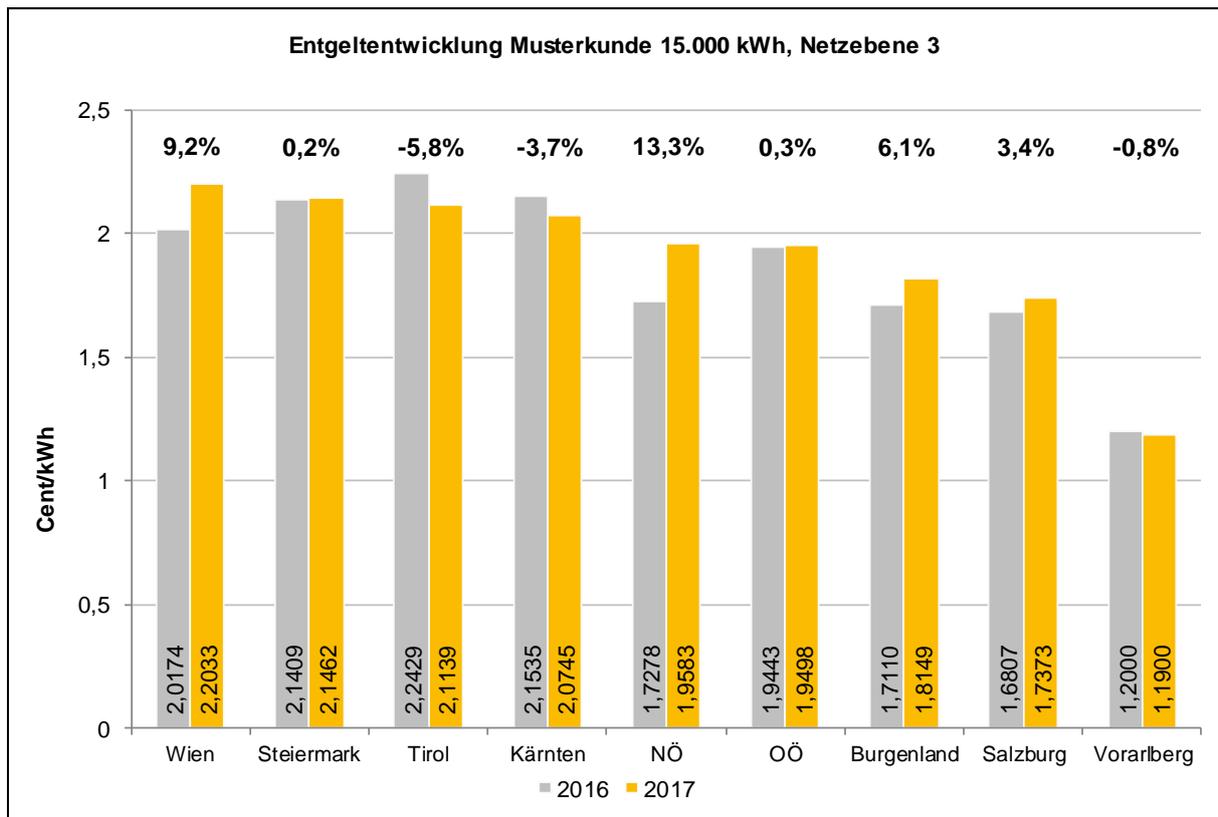
The Ordinance is amended to account for a slight contraction in volumes. Though volumes for the individual grid areas were slightly up compared to the previous year, the reference volumes for tariffication are down by about 4.5% because they are calculated as an average of volumes during the last three available years. This volume contraction (mainly at grid level 3) means that the tariffs had to be raised quite markedly in some network areas so that the lower consumption could still cover the costs of operating the gas network.

Another driver for higher tariffs are the increased allowed costs of network operators to compensate for lower revenues in 2015, which are to be included by way of the regulatory account in section 71 para. 1 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011. This development augments the upwards push on tariffs caused by the smaller volumes. The commodity-based system utilisation charge at (household) grid level 3 (zone 1) is raised most significantly in the Lower Austria, Vienna and Burgenland grid areas. The Tyrol and Carinthia areas see a strong reduction in the tariffs.

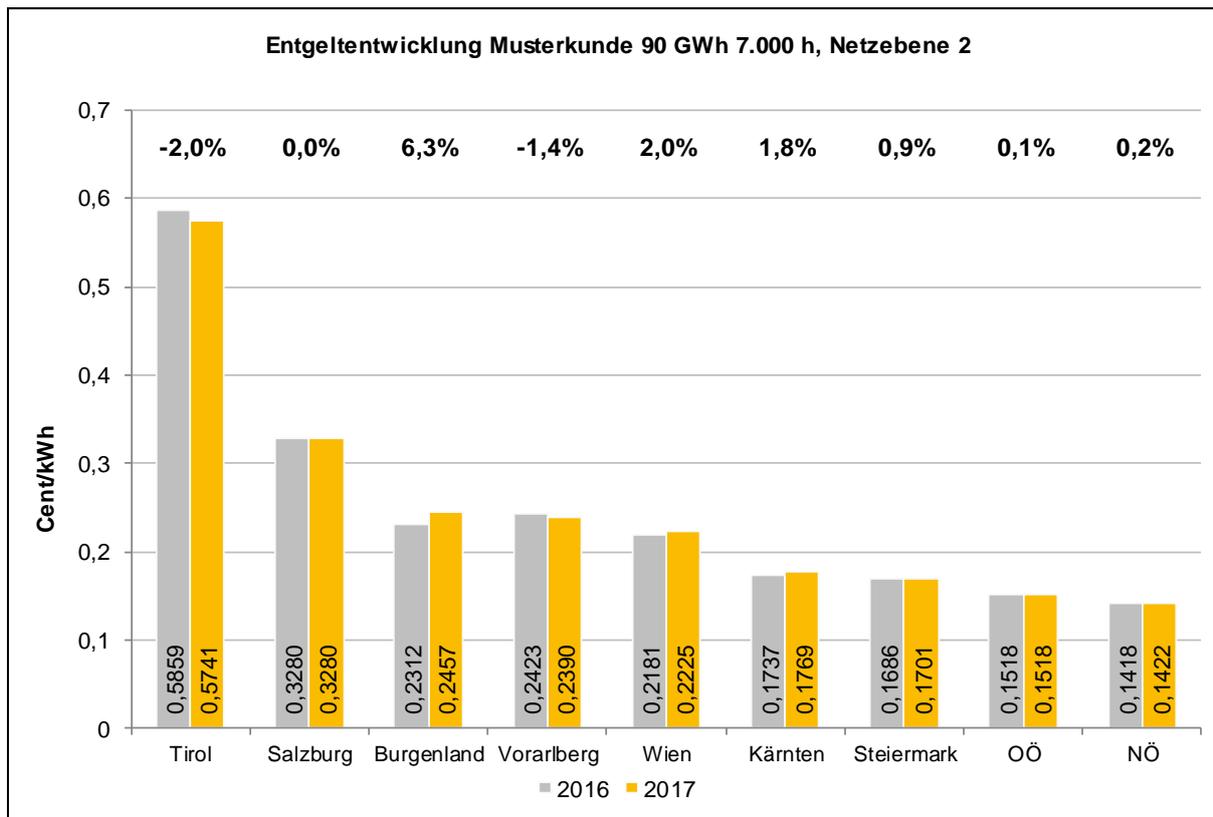
In addition to the lower sales volumes and higher costs brought in through the regulatory account, the Lower Austria network area witnessed increased investment activity, overall resulting in an average increase in the tariffs of 13.3%. Developments in the Vienna area were similar: the relative contribution of household customers to the grid is much higher than in other network areas, which is why a slowdown in volumes for this consumer group impacts Vienna and Lower Austria more strongly. Also, the energy transferred from Lower Austria into other network areas decreased, i.e. the proportion of overall grid level 1 costs for Lower Austria went up.

Tyrol, on the other hand, saw a marked volume increase and therefore a reduction in the commodity rate of roughly 6.4%. In Carinthia, tariffs for households are lowered (by 3.7% on average).

Please note that the overall costs paid by natural gas customers are largely determined by the energy price and taxes and surcharges. The share of the overall costs accounted for by system charges is relatively low (compared to other energy forms). Less consumption generally means much lower costs for consumers, even if the system charges increase due to the stable costs to be distributed across fewer kWh.



Unlike last year, significant increases in grid level 2 tariffs are not necessary for 2017. This is due to increased volumes, mainly from more intensive deployment of gas-fired power plant. Level 2 costs only require slight adjustments. The Burgenland grid area is an exception here: the smaller number of customers connected at grid level 2 means that grid charges are affected even if only a few customers change their consumption behaviour.



The grid utilisation charge for public installations at network levels 2 and 3 which serve to fuel natural gas vehicles is raised for the first time since it was introduced in 2005, to account for the overall gas market development. Full harmonisation with the development of consumer tariffs would mean a marked increase, which is why the present amendment provides a 5% increase of the flat rate and an 8% increase of the commodity-based charge.

Section 11 paras 2 and 3

Section 73 para. 4 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011 provides for a capacity-based grid utilisation charge to be paid by injecting and withdrawing parties for cross-border transfers at distribution level. System users must pay this charge even if the booked capacity is not nominated or only partially nominated.

The tariff for cross-border distribution-level entries at the Hochburg/Ach and Schärding points was eliminated by the 2016 amendment to the Gas System Charges Ordinance 2013, FLG II no 427/2015. It had become superfluous as the capacity at these points, needed to supply the consumers who live in these isolated network areas, is no longer marketed but booked by the distribution area manager as part of the DIANE model (the framework for handling network islands).

The amendment to this Ordinance now adjusts the remaining points in paras 2 and 3 for the effects of the newly set transmission tariffs and for the changes in contractual capacity.

Section 12 (Distribution System Utilisation Charge for Storage System Operators)

Section 73 para. 5 provides for a system utilisation charge to be paid for exits from the distribution network into storage. It is a charge per unit of contractual capacity and per exit point.

The calculation methodology for this charge remains as it was before: in addition to the costs directly related to storage facilities, they must also cover capacity costs corresponding to the average storage exits over the three last years for which data are available.

Section 13 para. 2 items 1, 2 and 3 (Distribution System Utilisation Charge for Producers of Natural and Biogenic Gas)

Section 73 para. 6 provides for a system utilisation charge to be paid by producers of natural and biogenic gas for entry into the distribution network. It is a charge per unit of contractual capacity and per entry point. Section 17

para. 1 *Gas-Marktmodell-Verordnung* (Gas Market Model Ordinance) 2012 foresees that once a year, producers of natural and biogenic gas agree the contractual capacity for the following calendar year; this is the reference period for the corresponding charges. The differences in the tariffs per network area (which continues from previous tariff periods) is caused by the differing injection parameters at the production facilities of each network area. The tariffs are mainly amended to account for the new booking status of production entry capacity. Also, the present amendment integrates overhangs or shortfalls of the system utilisation charge for producers of natural and biogenic gas, which is why there are changes of different sizes.

The system utilisation charge for biogenic gas production and entry at distribution level increases by 9% – this is the first adjustment of this charge since it was introduced in 2013. A slight increase for biogenic gas production is justified to mimic the development of the grid utilisation charge for natural gas production.

Section 14 para. 7 item 1:

As in the previous amendment of the Gas System Charges Ordinance, also this amendment incorporates equalisation payments in the eastern market area for Netz Niederösterreich GmbH, Austrian Gas Grid Management AG and Gas Connect Austria GmbH. The table should be read as follows: all distribution system operators listed in the table, with the exception of Netz Niederösterreich GmbH, make the stated payments to Austrian Gas Grid Management AG and Gas Connect Austria GmbH. These two use the money collected to make payments that correspond to the negative amounts in the table to Netz Niederösterreich GmbH. The payments to Netz Niederösterreich GmbH must be made as soon as they receive the money from the distribution system operators.

Section 17 (general comments)

Section 70 para. 2 Natural Gas Act 2011 provides for appropriate equalisation payments among the system operators in a grid area. Section 83 para. 2 Natural Gas Act 2011 adds that in the case of several system operators that are active within one network area, the costs and volume situation identified for each of these system operators is to be summed up at each network level for the purpose of setting the system charges. Any differences between the allowed costs and the proceeds that result from each system operator's volumes must be compensated; the corresponding equalisation payments are to be laid down in the ordinance that is to be issued pursuant to section 72 para. 3 Natural Gas Act 2011. The amount of the compensation payments is derived from the same allowed cost and volume data which are also used to set the system charges.

Section 18

Previously, when service connection branches were disconnected, consumers had to pay the actual costs that arose. The present amendment introduces a flat charge instead. This increases planning security. The amount of the charge is derived from the average costs that arise. This way, consumers know how much removing their connection will cost and there can be no unexpected cost items.

Section 19

The E-Control Executive Board sets the allowed cost pursuant to section 24 para. 1 *Gaswirtschaftsgesetz* (Natural Gas Act) 2011. The Regulation Commission issues an ordinance that sets a charge, based on this allowed cost, payable by a distribution system operator of the relevant network area which is named in the ordinance. The share of the distribution area manager fee payable by a network area reflects the energy delivered to consumers in that network area.

Section 20 para. 5 and section 21 para. 11

The amendment enters into force at 06.00 hrs on 1 January 2017. The new multipliers under section 3 para. 9 first apply to day-ahead, rest-of-the-day and within-day contracts that start at 6.00 hrs on 1 October 2017. Before that, the previous multipliers (1) apply.