



# Entering the Austrian market as a gas supplier

Information starter kit

June 2021

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To enter the Austrian gas market as a full supplier, you must comply with two types of obligations: there are conditions that must be fulfilled before you can take up activities, and there are tasks you must continuously fulfil while carrying out your activities.

## BEFORE TAKING UP ACTIVITIES

### A) Join the balancing system in the eastern market area

#### LEGAL BASIS

- > Sections 90, 91 and 93 [Gaswirtschaftsgesetz \(Gas Act\) 2011](#)

#### DESCRIPTION

To supply gas in Austria, you must be part of a balance group (cf. [section 90\(1\) Gas Act 2011](#)). You have two options:

- > **Option I:** get licensed as a balance responsible party yourself (i.e. form a new balance group)
- > **Option II:** get affiliated with an already existing balance group

Option I is more complicated, technically more difficult, and more expensive than option II.

Under option I, you can get registered with the other market players in the eastern market area via the market area and distribution area manager (MADAM), which acts as a one-stop shop. At the same time, you must contact E-Control to get your BRP licence ([section 93 Gas Act 2011](#)). For this purpose, we recommend that you ask E-Control in advance which documents need to be submitted and in which form. All required documents and the application should, however, be submitted to E-Control at the end of the registration process with the MADAM in bundled form. Once registered as a balance responsible party (BRP), you can set up new balance groups and must represent them vis-à-vis other system agents (market area and distribution area manager, operator of the virtual trading point, gas exchange at the virtual trading point and clearing and settlement agent).

#### Steps to take for option I: becoming a BRP in the eastern market area

Your first point of contact to become a BRP in the eastern market area is the MADAM; it coordinates the registration process with the other system agents. Besides acting as distribution area manager, [Austrian Gas Grid Management AG \(AGGM\)](#) has also been the market area manager for the eastern market area since 1<sup>st</sup> June 2017, i.e. it is now the market area and distribution area manager (MADAM). Even so, there is a range of operational checks that must be made, so you will most likely need to get in contact with the individual bodies anyways.

You also need a BRP licence from E-Control ([section 93 Gas Act 2011](#)). This is an official procedure, so it cannot be done through AGGM; you must contact us directly. We recommend that you ask us in advance which documents need to be submitted and in which form, but that you start the licensing procedure only after you have registered with the MADAM. In fact, this must confirm that certain conditions are fulfilled for the official licensing process to move along. At the end of the registration process with the MADAM, you should submit all required documents and the application for the licence in bundled form.

In addition to registering with the market area and distribution area manager and getting a BRP licence from us, you must get registered at the gas exchange that runs on the virtual trading point [CEGH](#). At the same time, you can kick off registration with the operator of the virtual trading point (so that you can trade at wholesale level) and with the clearing and settlement agent (so that you can supply gas to consumers). Please take some time to study the relevant legal provisions ([section 91 Gas Act 2011](#)).

#### Registering with the market area and distribution area manager

- a. You can register with the MADAM [here](#). You must enter the requisite information and upload an extract from the *Firmenbuch* (Commercial Register).
- b. Next, your information is checked and a Y code for a balance group is issued. To register several balance groups, you can apply for additional Y codes on the [AGGM online platform](#).
- c. Once your information has been cleared, you must deposit securities with the relevant partners (i.e. CEGH and, if you also want to act as a supplier, through a due diligence analysis with AGCS). You can find details about this step in the login area, where your registration status is shown.
- d. Once you have completed the above steps, the MADAM will send you the forms for the contracts with each market participant so that you can sign them electronically.

To be active as a balance responsible party in the eastern market area, you will need the following contracts:

- > For your operations at transmission and distribution level, if you do not service consumers: agreements with the MADAM, the operator of the virtual trading point, and the gas exchange at the virtual trading point
- > For your operations at transmission and distribution level, if you also service consumers: the agreements listed in the previous point and, additionally, with the clearing and settlement agent

The service provider DocuSign sends the contract forms to the e-mail addresses that you have indicated in the registration form as authorised signatories (and that

have been checked and confirmed by the MADAM). Once they have been properly signed, the system forwards them automatically. After the signing procedure is concluded, you receive signed copies of the contracts for your files. The registration form for the clearing and settlement agent is filled out with the information you entered into the MADAM registration form; you receive it through DocuSign also and must sign it electronically.

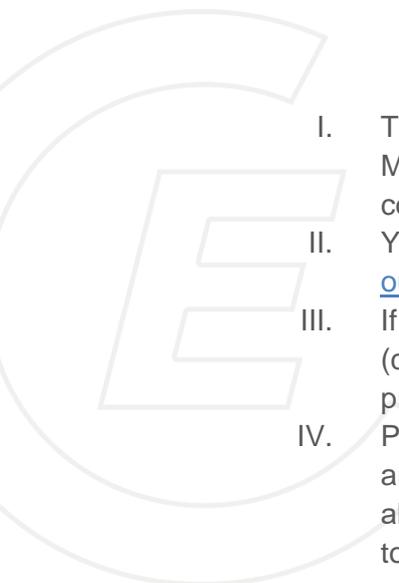
- e. Next, a number of checks must be run.
- > Clearance by the [MADAM](#). The market area and distribution area manager will clear you once it has properly signed the respective contracts.
  - > Clearance by the operator of the virtual trading point, once you fulfil the following conditions:
    - o You are a member of CEGH and have deposited your securities
    - o You are a member of [EEX](#), enabled to trade at CEGH
    - o You are a member of the clearing house [European Commodity Clearing AG \(ECC\)](#)
    - o You have a contract with a clearing bank (for a list of currently active clearing banks, click [here](#))
  - > A due diligence analysis conducted by the clearing and settlement agent
- f. As soon as all contract partners have confirmed clearance from their side through AGGM's platform, the MADAM sends a confirmation message and copies of the contracts necessary for the official licensing procedure to us. By now, you should have submitted all necessary documents in bundled form to us. If all other prerequisites are fulfilled, too, we issue an official licensing decision.
- g. It will then take at least three working days for the MADAM to clear you as a balance responsible party in the eastern market area. The MADAM coordinates this step with [European Energy Exchange \(EEX\)](#), where your account should be activated at the same time; this is necessary so that you can trade and be cleared at the exchange.

The following links offer further information about registering with the MADAM:

- > [General information](#)
- > [Registering as a BRP in the eastern market area](#)
- > [Background information on becoming a BRP in the eastern market area, including links to instructions and FAQ](#)
- > [Becoming a member](#) of the exchange's spot market

#### Obtaining a licence from E-Control

To receive a BRP licence, you need to submit to us the documents listed below (s. [section 93 Gas Act 2011](#)). We can forward all forms upon request.

- 
- I. The contracts you have concluded with the other market bodies through the MADAM. To make things easier for market entrants, we receive copies of these contracts from the MADAM; you do not have to hand these in yourself.
  - II. Your *Zulassungsantrag* (licensing application). You can download the form from [our website](#) (in German).
  - III. If you are applying as a legal person, a recent extract from the *Firmenbuch* (commercial register); if you are applying as a natural person, a certificate of principal residence.
  - IV. Proof that you fulfil the requirements and that none of the grounds for exclusion are present. If you are applying as a legal person, this must also be proven for all members of the company's representative body. For this purpose, you have to submit several [declarations](#) (in German) and extracts from the register of previous convictions.
  - V. Proof that at least one member of the representative body, one general partner or a senior staff member is technically qualified to act as a BRP. We consider someone to be technically qualified if he or she has adequate theoretical knowledge and practical experience in gas trading or in managing a gas business, especially as a trader or system operator. To state that, please submit extensive CVs, diplomas, etc.
  - VI. Proof that you have a liable equity capital of at least 50,000 EUR for performing BRP activities. (Please note that the contracts under point I might require you to have more capital, but that these are two separate issues.)

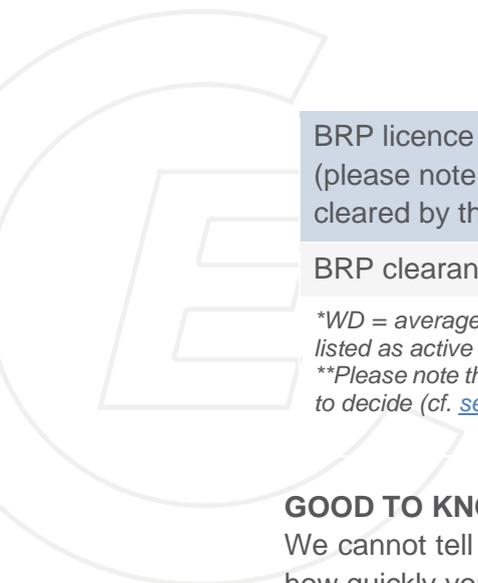
If your company seat or residence is outside of Austria, you must appoint someone who resides in Austria and is authorised to accept service of documents. You have to name this person on the application form and must submit a [declaration of consent](#) signed by that person (in German).

Please send all documents and queries via e-mail. Please also take a look at chapter "Notify E-Control".

Once we have checked all documents, the E-Control Executive Board issues an official licensing decision and we inform the other system agents. There are no predefined dates or deadlines for market entry; you can enter the Austrian gas market at any time.

#### CHECK LIST

| Becoming a BRP in the eastern market area | WD* |
|---|-----|
| User registration verification by AGGM    | 3   |
| Receive and return contracts              | 30  |
| CEGH clearance / membership of EEX        | 64  |
| Clearance by AGCS                         | 10  |



|  |      |
|--|------|
| BRP licence from E-Control<br>(please note that this process can only move forward if you have been cleared by the MADAM and we have received all documents) | 15** |
| BRP clearance lead time  | 3-4  |

\*WD = average/observed number of working days for reference. These are times observed for BRPs listed as active on 30 March 2017. One outlier was excluded.

\*\*Please note that strictly speaking, the law allows for a two-month time frame for the regulatory authority to decide (cf. [section 93\(3\) Gas Act 2011](#)).

### GOOD TO KNOW

We cannot tell you how long licensing will take in your case, as it heavily depends on how quickly you submit the necessary documents. Therefore, we recommend that you carry out several steps at a time to shorten the whole process. Experience tells us that negotiating and concluding an agreement with a clearing bank is the most time-consuming of the steps.

In strictly legal terms, E-Control has two months to take a licensing decision. This period starts once we have received all the necessary documents that are listed in section 93 Gas Act 2011. It is recommended to ask us in advance which documents need to be submitted and in which form. All required documents and the application should, however, be submitted to us at the end of the registration process with the MADAM in bundled form.

If you already have a BRP licence for the Tyrol/Vorarlberg market areas, you do not need to run through the entire process again. You can follow these steps instead:

- > Hand in a new application with E-Control for the eastern market area. To facilitate the process, we will use the documents that we already have, if they are still valid.
- > In any case, send us an up-to-date extract from the commercial register.
- > If responsibilities have changed, please indicate these changes.
- > Operational processes differ slightly between the market areas Tyrol/Vorarlberg and the eastern market area, which means there are different general terms and conditions between distribution area manager (DAM) and BRP. For this reason, you need to register with the MADAM separately and you must include your registration confirmation with the BRP application you send to us.
- > In addition, you must send us the agreements with the MADAM and the operator of the virtual trading point and, if you also want to service final customers, the agreement with the clearing and settlement agent AGCS.
- > The clearing and settlement agent for the eastern market area is the MADAM AGGM (not A&B, which is only active in the Tyrol/Vorarlberg market areas). Therefore, you must conclude an agreement with AGGM and send it to us.

## STEPS TO TAKE FOR OPTION II: JOINING AN EXISTING BALANCE GROUP IN THE EASTERN MARKET AREA

Becoming a member of an existing balance group is relatively easy and quick. You do not need a BRP licence from E-Control for it. Instead, an existing balance responsible party manages your balance group for you.

Please note that this means you will largely depend on a third-party BRP (including for nominations), which will gain some insight into your business activities (procurement channels, quantities, etc.). Please also note that existing balance responsible parties are not legally required to accept you into their balance group.

AGGM has put up a [bulletin board](#) on their website where you can consult a list of all companies that offer balance group management services. You can also find a similar list on [our website](#) (in German). Please note, though, that these lists might not be exhaustive. For a list of all licensed balance responsible parties, please visit [AGGM's website](#).

When choosing which balance responsible party to contact, you should make sure that it offers services that correspond with your (planned) business activities. Membership is bilaterally agreed upon with the balance responsible party of your choice in form of a contract based on general terms and conditions. Your BRP then registers you (via your X code) as a member of one of its balance groups in AGGM's online platform. You, in turn, enter your capacity into this balance group vis-à-vis the transmission system operators (s. also chapter "Book cross-border transmission capacity").

To be able to supply consumers, you must also register with the clearing and settlement agent for the eastern market area, [AGCS](#) (in German). Here, a list of all suppliers is also published.

Please also see chapter "Notify E-Control".

### CHECK LIST

| Join an existing balance group in the eastern market area  | WD*          |
|--|--------------|
| Negotiation of the contract with the BRP of your choice  | 10           |
| Registration as supplier with the clearing and settlement agent AGCS                               | 7            |
| Waiting time until clearance in AGCS's system  | 2-3          |
| <b>Average total time</b> (may be shorter than sum of working days because some processes overlap) | <b>20-25</b> |

\*WD = average/observed number of working days for reference

### GOOD TO KNOW

We cannot tell you how long it will take for you to join an existing balance group, since progress mainly depends on how quickly you agree with your BRP of choice. Registration with the clearing and settlement agent and clearance in their system should not take more than a few working days.

## B) Join the balancing system in the Tyrol/Vorarlberg market areas

### LEGAL BASIS

- > Sections 13, 90, 91 and 93 [Gaswirtschaftsgesetz \(Gas Act\) 2011](#)

### DESCRIPTION

To supply gas in Austria, you must be part of a balance group (cf. [section 90\(1\) Gas Act 2011](#)). You have two options:

- > **Option I:** get licensed as a balance responsible party yourself (i.e. form a new balance group)
- > **Option II:** get affiliated with an already existing balance group

Option I is more complicated, technically more difficult, and more expensive than option II.

As in the eastern market area, you need a BRP licence from us ([section 93 Gas Act 2011](#)). There is no market area manager in Tyrol/Vorarlberg ([section 13 Gas Act 2011](#)), so you must get registered with the clearing and settlement agent and the distribution area manager directly.

### Steps to take for option I: becoming a BRP in Tyrol/Vorarlberg

Please note a couple of things before you get started. First, there is no market area manager in Tyrol/Vorarlberg ([section 13\(1\) Gas Act 2011](#)). Second, Tyrol/Vorarlberg are integrated with the German market area NetConnect Germany (NCG). For the system to work, each balance group in Tyrol/Vorarlberg needs to be linked with exactly one balance group in the NCG market area. Again, you can do this either by forming a new NCG balance group or joining an existing one. Please go to the [NetConnect Germany website](#) to do so.

### Registering with the system agents

Since there is no market area and distribution area manager in Tyrol/Vorarlberg, there is no one-stop-shop either, i.e. you must register with the [clearing and settlement agent A&B](#) directly.

### Obtaining a licence from E-Control

To receive a BRP licence, you need to submit to us the documents listed below (s. [section 93 Gas Act 2011](#)). We can forward all forms upon request.

- I. The agreements you have signed with the distribution area manager and the clearing and settlement agent.
- II. Your *Zulassungsantrag* (licensing application).
- III. If you are applying as a legal person, a recent extract from the *Firmenbuch* (commercial register); if you are applying as a natural person, a certificate of principal residence.
- IV. Proof that you fulfil the requirements and that none of the grounds for exclusion are present. If you are applying as a legal person, this must also be proven for all members of the company's representative body. For this purpose, you have to submit a declaration (form B1 for natural persons and B2 for legal persons, in German) and extracts from the register of previous convictions.
- V. Proof that at least one member of the representative body, one general partner or a senior staff member is technically qualified to act as a BRP. We consider someone to be technically qualified if he or she has adequate theoretical knowledge and practical experience with gas trading or with managing a gas business, especially as a trader or system operator. To state that, please submit extensive CVs, diplomas etc.
- VI. Proof that you have a liable equity capital of at least 50,000 EUR for performing BRP activities. (Please note that the contracts under point I might require you to have more capital, but that these are two separate issues.) For this purpose, you need to submit your most recent, audited annual accounts.

If your company seat or residence is outside of Austria, you must appoint someone who resides in Austria and is authorised to accept service of documents. You have to name this person on the application form and must submit a [declaration of consent](#) signed by that person (in German).

Please send all documents and queries via [e-mail](#). Please also take a look at chapter "Notify E-Control".

Once we have checked all documents, the E-Control Executive Board issues an official licensing decision and we inform the other system agents.

### CHECK LIST

| Becoming a BRP in Tyrol/Vorarlberg                  | WD*  |
|---|------|
| Registration with the clearing and settlement agent | 7    |
| Registration with the distribution area manager     | 8    |
| BRP licence from E-Control                          | 14** |

**Average total time** (may be shorter than sum of working days because some processes overlap)

25

*\*WD = average/observed number of working days for reference*

*\*\*Please note that strictly speaking, the law allows for a two-month time frame for the regulatory authority to decide (cf. section 93(3) Gas Act 2011).*

### GOOD TO KNOW

We cannot tell you how long licensing will take in your case, as it heavily depends on how quickly you submit the necessary documents.

In strictly legal terms, E-Control has two months to take a licensing decision. This period starts once we have received all the necessary documents that are listed in [section 93\(3\) Gas Act 2011](#).

We recommend that you carry out several steps at a time to shorten the whole process. It is also recommended to ask E-Control in advance which documents need to be submitted and in which form. All required documents and the application should be submitted to E-Control at the end of the registration process with the MADAM in bundled form.

If you already have a BRP licence for the eastern market area, you do not need to run through the entire process again. You can follow these steps instead:

- > Hand in a new application with E-Control for the Tyrol/Vorarlberg market areas. To facilitate the process, we will use the documents that we already have, if they are still valid.
- > In any case, send us an up-to-date extract from the commercial register.
- > If responsibilities have changed, indicate these changes.
- > Operational processes differ slightly between the market areas Tyrol/Vorarlberg and the eastern market area, which means there are different general terms and conditions between distribution area manager (DAM) and BRP. For this reason, you need to register with AGGM separately and you must include your registration confirmation with the BRP application you send to us.
- > The clearing and settlement agent for the market areas Tyrol and Vorarlberg is A&B (not AGCS, which is active only in the eastern market area). Therefore, you must conclude an agreement with A&B and enclose it with the application you send to us.

### STEPS TO TAKE FOR OPTION II: JOINING AN EXISTING BALANCE GROUP IN THE TYROL/VORARLBERG MARKET AREA

Becoming a member of an existing balance group is relatively easy and quick. You do not need a BRP licence from E-Control for it. Instead, an existing balance responsible party manages your balance group for you.

Please note that this means you will largely depend on a third-party BRP (including for nominations), which will gain some insight into your business activities (procurement channels, quantities, etc.). Please also note that existing balance responsible parties are not legally required to accept you into their balance group.

[A list of all BRPs registered in Tyrol/Vorarlberg](#) (in German) can be found on the website of the clearing and settlement agent A&B. When choosing which balance responsible party to contact, you should make sure that it offers services that correspond with your (planned) business activities. Membership is bilaterally agreed upon with the balance responsible party of your choice in the form of a contract based on general terms and conditions.

Also, you need to register with the clearing and settlement agent for Tyrol/Vorarlberg, i.e. with [A&B](#) (in German). They also publish a list of all suppliers.

Please also take a look at chapter “Notify E-Control”.

#### CHECK LIST

| <b>Joining an existing balance group in the Tyrol/Vorarlberg</b>                                   | <b>WD*</b>   |
|--|--------------|
| Negotiation of the contract with the BRP of your choice  | 10           |
| Waiting time until inclusion in the BRP's system   | 2-3          |
| Registration as a supplier with A&B  | 7            |
| <b>Average total time</b> (may be shorter than sum of working days because some processes overlap) | <b>20-25</b> |

\*WD = average/observed number of working days for reference

#### GOOD TO KNOW

We cannot tell you how long it will take for you to join an existing balance group, since progress mainly depends on how quickly you agree with your BRP of choice. Registration with the clearing and settlement agent and clearance in their system should not take more than a few working days.

## C) Notify E-Control

#### LEGAL BASIS

- > Section 121 [Gaswirtschaftsgesetz \(Gas Act\) 2011](#)

#### DESCRIPTION

Regardless of the precise nature of the activities that you are planning, to be active on the Austrian gas market you need to notify us prior to commencing them (s. [section](#)

[121\(1\) Gas Act 2011](#)). This also holds if you are a prospective BRP or virtual trader. We keep, update, and publish a list of all gas traders.

#### STEPS TO TAKE

Send a stamped and signed letter to us, informing us of your planned business activities. You can download a template (in German) from our [website](#).

#### CHECK LIST

| Notify E-Control   | WD* |
|--|-----|
| Draw up and send a stamped and signed <a href="#">letter</a> to us | 0.1 |

\*WD = average/observed number of working days for reference

## D) Book cross-border transmission capacity

#### LEGAL BASIS

- > [Network Code on Capacity Allocation \(CAM NC, Regulation 2017/459\)](#)
- > Sections 36, 37, 38, 39 [Gaswirtschaftsgesetz \(Gas Act\) 2011](#)
- > Sections 6, 11, 12 [Gas-Marktmodell-Verordnung \(Gas Market Model Ordinance\)](#)

#### DESCRIPTION

To sell or buy gas across borders, you must book entry and exit capacity via the European booking platform PRISMA or, for the Mosonmagyaróvár interconnection point, via the booking platform RBP. You enter this capacity into your balance group (either directly through the booking platform or with the individual TSOs), and the BRP then nominates it.

#### STEPS TO TAKE

You need to register through PRISMA for the TSO whose capacity you want to book. Visit [PRISMA's website](#) for more detailed information.

You will be cleared for activities through PRISMA if you have at least

- > signed a framework contract with the TSO; and
- > made the 100,000 EUR activation deposit with the TSO (bank guarantee or cash deposit).

Capacity is sold to system users through auctions. Once your BRP has authorised you, you must enter all your capacity into your balance group. The BRP then nominates it.

#### CHECK LIST

| Book cross-border transmission capacity                                  | WD* |
|--|-----|
| Registration with PRISMA   | 0.1 |
| Sign capacity framework contract with TSO(s) and make activation deposit | 1-5 |

|  |         |
|--|---------|
| Purchase capacity at an auction (you will receive a confirmation e-mail from PRISMA) | 0.1-... |
| Enter capacity into a balance group  | 0.1     |
| <b>Average total time</b>  |         |

\*WD = average/observed number of working days for reference

### GOOD TO KNOW

Once you have proven that you fulfil all requirements, the TSO will clear you to participate in PRISMA auctions from the next gas day. The entire process is usually quicker if you can make a cash deposit with the TSO instead of depositing a bank guarantee, which can take a number of working days. Auctions can be very short (30 minutes for day-ahead capacity) or last several days (for annual capacity).

## E) Register as a REMIT market participant

### LEGAL BASIS

- > Articles 8(1) and 9(1) [Regulation \(EU\) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency \(REMIT\)](#)
- > [Commission Implementing Regulation \(EU\) No 1348/2014 of 17 December 2014 on data reporting implementing Article 8\(2\) and Article 8\(6\) of Regulation \(EU\) No 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency](#)
- > [Guidance on the application of REMIT by the Agency for the Cooperation of Energy Regulators \(ACER\)](#)
- > [Großhandelsdatenverordnung \(Ordinance on Wholesale Data Collection\)](#) (in German)

### DESCRIPTION

REMIT is the EU regulation on wholesale energy market integrity and transparency. It was adopted in 2011 to promote transparent and well-functioning electricity and gas markets in the EU. REMIT does not regulate the supply or production of gas, but instead complements the work of the Financial Market Authority: it focuses on trade in wholesale energy products, i.e. in contracts for supplying or transporting electricity or gas or their derivatives. To prevent market manipulation and insider trading, REMIT imposes extensive transparency obligations on market participants.

Under [REMIT](#), you need to report certain data to the Agency for the Cooperation of Energy Regulators. The European Commission's Implementing Regulation 1348/2014 states what data exactly these are and how you must report them.

In addition, wholesale markets are monitored at national level. E-Control has certain powers for this purpose and can impose sanctions (s. Gas Act 2011 and the E-Control Act). We also collect data at national level, i.e. you as a market participant must report some data to the Agency and to E Control and keep others on record for five years (cf. the [Ordinance on Wholesale Data Collection](#)).

As a market participant, you must register with us and provide a record of your wholesale energy market transactions pursuant to [Article 8\(1\) REMIT](#) (s. [Article 9\(1\) REMIT](#)). Further information on the data that need to be reported can be found in the [Commission Implementing Regulation \(EU\) No 1348/2014](#).

Upon registration, you receive an ACER code for unambiguous identification of market participants.

### STEPS TO TAKE

Under REMIT, you need to register in order to receive your ACER code and, consequently, be able to fulfil your obligations as a market participant. For market participants based in Austria, registrations are handled through the [Centralised European Register for Energy Market Participants \(CEREMP\)](#). Those market participants that are not established and do not reside in any EU country can register with any European regulatory authority. They are free to choose which one according to the activities they carry out, but they may register only with one. Further information on this matter and required documents can be found on the [REMIT registration page](#) on our website.

If you have any questions or queries about REMIT registration, please contact us via [e-mail](#).

### CHECK LIST

| Register as a REMIT market participant  | WD*      |
|---|----------|
| <b>Creation of a CEREMP user account</b>  |          |
| Receive <a href="#">authorisation</a> for REMIT registration from an authorised signatory of the market participant (template only available in German) | 5 min    |
| Creation and activation of a CEREMP user account in the European <a href="#">REMIT registration system</a>  |          |
| <b>Registration with REMIT as a market participant to receive ACER code</b>   |          |
| Complete the five-part REMIT registration   | 30 min   |
| Accept Agency code for market participant identification  |          |
| <b>Average total time</b>   | <b>5</b> |

\*WD = average/observed number of working days for reference

### GOOD TO KNOW

According to Article 9(5) REMIT, market participants have to make sure that the information submitted in the REMIT registration is correct and up-to-date. Therefore, the REMIT registration is to be considered a process and not a one-time procedure.

## F) Establish general terms and conditions for gas supply

### LEGAL BASIS

- > Sections 125 and 159 [Gaswirtschaftsgesetz \(Gas Act\) 2011](#)
- > Section 12(1)(4) [Energie-Control-Gesetz \(E-Control Act\)](#)

### DESCRIPTION

Suppliers must draw up general terms and conditions (GTC) for supplying gas to customers **whose consumption is not metered with load meters** (general terms and conditions for gas supply). Before you can start applying your GTC, you must send them to us electronically so that we can check them, and you must publish them in a suitable format (cf. [section 125\(1\) Gas Act 2011](#)); otherwise, there might be an administrative penalty (cf. [section 159\(2\)\(16\) Gas Act 2011](#)). You do not need to send us your GTC for other types of customers. Even so, there are other statutory provisions that you must comply with regardless of the type of consumer to be supplied (cf. particularly the Gas Act 2011). For instance, the law prescribes certain points that must be displayed either in the general terms and conditions or on contract forms, followed by a number of information obligations ([section 125\(3\) and \(4\) Gas Act 2011](#)).

If you want to change your general terms and conditions for gas supply, you must observe the relevant portions of the *Allgemeines Bürgerliches Gesetzbuch* (Civil Code) and the *Konsumentenschutzgesetz* (Consumer Protection Act). Also, you must send all your customers a personally addressed letter that explains the changes in an easy-to-understand manner. Your customers can also ask you to get this information via e-mail. They can also decide not to accept the changes. If they do so, this effectively terminates your contract with them on the last day of the month three months later (cf. [section 125\(2\) Gas Act 2011](#)).

The GTC gas supply that are submitted to us are checked by E-Control's Regulation Commission. If these violate a statutory prohibition or are unethical, the Regulation Commission can prohibit their application ([section 12\(1\)\(4\) E-Control Act](#), [section 125\(5\) and \(6\) Gas Act 2011](#)). You can find some examples of GTC provisions that were not allowed by the Commission on [our website](#) (in German).

The procedure before the Regulation Commission starts as soon as we receive your GTC, but please note that the meetings of the Commission take place at irregular intervals. We recommend handing in your GTC for gas supply at least two months before you want to apply them. This even gives you enough time to adjust them if the Commission requests any changes.

Once you have made all the necessary changes and the Commission does not request any additional ones, the procedure ends. Instead, if you do not make the changes requested by the Regulation Commission, we issue an official decision that forbids you from using the questionable passages in your GTC. We recommend that you wait for the final decision of the Regulation Commission before you start applying your GTC (also to avoid any administrative penalties under section 159(2)(16) Gas Act 2011). Please note that even after the procedure has ended, if anybody wants to take legal action against your GTC, they can still do so before the courts of law.

### STEPS TO TAKE

We strongly recommend that you study the relevant provisions of energy and civil law (in particular, consumer protection law) and already take them into account when you draft your GTC for gas supply.

We also suggest taking a look at the general terms and conditions of other companies (they usually publish these on their websites). If you do this, please bear in mind that the law might have changed since they were established and make sure that you stick to the legislation that is currently in force.

You can also informally check your draft with us before you hand it in; our experts will be happy to discuss any critical points with you so you are well prepared for the procedure before the Regulation Commission. Please note that these are informal suggestions and personal recommendations; the formal procedure and the final decision lie entirely with the Regulation Commission.

### CHECK LIST

| <b>Establish general terms and conditions for gas supply</b>                                    | <b>WD*</b> |
|---|------------|
| Review the relevant provisions of energy and civil law (in particular, consumer protection law) | 5          |
| Review other companies' GTC   | 1          |
| Review recent legal amendments  | 1          |
| First draft of GTC  | 10         |
| (Purely!) informal briefing with E-Control to fine-tune the draft                               | 14         |
| Officially notify your GTC  | 0.25       |

|  |                 |
|--|-----------------|
| Waiting time until official decision of the Regulation Commission                                  | max. 2 months** |
| <b>Average total time</b> (may be shorter than sum of working days because some processes overlap) |                 |

\*WD = average/observed number of working days for reference

\*\* Might be longer, e.g. if additional information must be collected

### GOOD TO KNOW

How long it takes you to draw up your GTC supply naturally depends on your available capacities and know-how (especially with regard to the legal situation and the gas market in Austria). A well-informed legal team might be able to handle informal checks with us quicker.

Please note that the meetings of the Regulation Commission take place at irregular intervals. If you want to make sure that the Commission can discuss your GTC at a particular meeting, you should officially hand them in at least one week in advance.

## G) Register at the switching platform (ENERGYlink)

### LEGAL BASIS

- > Section 123 [Gaswirtschaftsgesetz \(Gas Act\) 2011](#)
- > [Wechselverordnung \(Gas Switching Ordinance\) 2014](#), including its annex and explanatory notes (in German)
- > General terms and conditions of clearing and settlement agents: [AGCS](#) (for the eastern market area) and [A&B](#) (for Tyrol/Vorarlberg) (both in German)

### DESCRIPTION

Supplier switching and enabling/disabling metering points are essential elements of a liberalised energy market. For them to work, suppliers and system operators must be able to exchange data with each other. In Austria, data are exchanged through a “switching platform”, which is operated by the clearing and settlement agent (CSA) and ensures that all communication is secure. In the APG control area the agent is AGCS, while A&B fulfils this function in Tyrol and Vorarlberg.

Most steps in this communication process can be automated. Data are encrypted and exchanged via the switching platform. The platform itself does not save any customer data; these remain with the system operators and suppliers. To use the switching platform, you must register with the clearing and settlement agent, set up the required interfaces and run them as indicated.

If you are a smaller supplier and this would be too much of an administrative and IT effort for you, you can use the CSA’s so-called self-storage service. It enables you to

kickstart the switching process in line with the Gas Switching Ordinance by uploading data via a web portal. For this solution, you do not need to set up a data interface in your own IT system.

### STEPS TO TAKE

The Austrian switching platform is called [ENERGYlink](#). The general terms and conditions of the clearing and settlement agent (GTC CSA) state that you have to register with ENERGYlink to gain access.

The registration procedure starts when you submit your entirely filled out [application form](#) (in German). The clearing and settlement agent will then check whether you meet the registration requirements.

If all requirements are met, you receive a registration confirmation. Your electronic access to ENERGYlink is activated within ten working days. As soon as you receive your access data, you can start using the switching platform.

If you wish to use the self-storage service, you can register for it at the same time as you register at ENERGYlink or at a later point.

Registration forms, the recipient's address, and all required information regarding the documents to be submitted are available on the [website](#) of the switching platform (in German).

If you need further information or assistance with completing the application form, please contact the ENERGYlink customer service via [e-mail](#).

### CHECK LIST

#### Switching platform

Review procedures, rules, deadlines, etc. in the Gas Switching Ordinance and the [technical documentation](#)

Prepare customer data so that they are suitable for automated data retrieval and processing

Register at the switching platform according to the GTC of the clearing and settlement agent

**Optional** if self-storage is used: Upload customer data

### GOOD TO KNOW

If you are a small supplier that has just entered the market and will only have to handle a small number of customer switches initially, we recommend using the self-storage service of the clearing and settlement agent for switching, enabling and disabling

consumer connections. This way, you can avoid complex IT adaptations. However, once your customer numbers start growing and you are involved in more and more switches, the self-storage solution will become too cumbersome for you. In these cases, we recommend contacting the respective service and IT providers in time to adapt your IT systems to the provisions. The total time required to gain access to the switching platform depends on your corporate IT systems, i. e. the extent of the changes you need to make, and whether or not the self-storage solution is sufficient for you, at least in the beginning. The [technical documentation](#) (in German) for how to use the switching platform is continuously being further developed; we suggest that you get involved and state your views in the respective consultation processes.

## H) Register for the tariff calculators

### LEGAL BASIS

- > Section 121(3) [Gaswirtschaftsgesetz \(Gas Act\) 2011](#)

### DESCRIPTION

E-Control runs two price comparison tools: a tariff calculator for households, and a tariff calculator for small businesses. They provide gas price comparisons for consumers with an annual consumption of up to 400,000 kWh. Users simply enter their annual gas consumption in kWh (or state how many square metres their home is) and their postal code and are then presented with a list of all products available for them.

As a gas supplier, you must send us the information we need for the tariff calculators (section 121(3) Gas Act 2011); this is all price-relevant data for all your standard products. In this context, “standard products” are the products for which you have general terms and conditions, contract forms, price sheets etc. and which are not designed for a particular, restricted group of customers. You need to submit this data through a dedicated tariff calculator interface that we have developed, and you must send it right when it becomes available.

To be able to register for the tariff calculators, you need:

- > the EC number that you have received from APCS or A&B;
- > a confirmation stating that you have notified your trading activities to us (s. chapter “Notify E-Control”);
- > channels for communicating with your customers (phone, e-mail address, website, link for online switching etc.); and
- > general terms and conditions that have not prohibited by the Regulation Commission (see chapter “Establish general terms and conditions for gas supply”).

## STEPS TO TAKE

1. Register your admins through our [service portal](#) (in German).
2. Send us an [e-mail](#) with written confirmation stating that you fulfil the registration requirements and add your admins' contact information (names, e-mail addresses, phone numbers, company name).
3. If all requirements are met, we will clear you and your admins will get access to the admin interface. This should not take more than five working days.
4. On our [website](#), you can find some useful information material (in German):
  - > Tariff calculator guidelines for electricity and gas suppliers
  - > Tariff calculator manual for administrators
5. To access the admin interface, please go through our service portal.
6. Optionally, we can arrange an individual two-hour training for your tariff calculator admins.

Our tariff calculator experts are happy to help with any questions you might have. You can contact them via [e-mail](#) or phone (+43 1 24724-701 or -723). You can also find further information (in German) [here](#).

## CHECK LIST

| Register for the tariff calculators  | WD*      |
|--|----------|
| Register through E-Control service portal  |          |
| Send required information via <a href="#">e-mail</a>   | 0.25     |
| Waiting time until clearance   | 2-5      |
| Review guidelines and manual   | 1        |
| <b>Average total time</b> (may be shorter than sum of working days because some processes overlap) | <b>5</b> |

\*WD = average/observed number of working days for reference

## I) Information and communication platforms for data exchange in the energy market ([ebUtilities](#), [EDA-Plattform](#))

### LEGAL BASIS

- > Section 58(1)(11) Gas Act 2011
- > [Chapter 5 of the Gas Market Code](#)<sup>1</sup>

<sup>1</sup> Chapter 5 Version 2.0 of the Gas Market Code was published on 14<sup>th</sup> May 2021 and came into force on 1<sup>st</sup> June 2021. Version 2.0 does not have any explanatory notes.

## DESCRIPTION

In order to carry out their activities, suppliers must engage in communication and exchange data with other market participants. Suppliers and distribution system operators exchange data through a specific platform for standardised data exchange in the energy sector (EDA-platform). For communication through the EDA-platform to be smooth, there is some information you need to pay attention to, such as descriptions of business processes, data formats and data transmission rules. This information can be found either in the various chapters of the Gas Market Code, in regulations and in other legal documents, or in the technical documentation. You can find the technical documentation on the information platform [ebUtilities](#) (in German). This platform is operated by the Association of Austrian Electricity Companies (OE), the Association of Gas- and District Heating Supply Companies (FWG), and the Association of Austrian power plants (VÖEW). They also make sure that the technical documentation is compliant to the rules.

Each market partner can contact the operators through [ebUtilities](#), e. g. for amendment requests, further information, inquiries about the roadmap, for temporary or content-related involvement in expert groups etc. With regard to the latter, it is possible to ask for a topic-related cooperation with other stakeholders. This will start as early as possible but has to be requested in time on [ebUtilities](#).

On [ebUtilities](#), you can find the technical documentation relevant for gas supply and concerning data exchange between system operators and suppliers. This includes, for instance:

- > Electronic billing
- > Refund processes
- > Customer processes

## STEPS TO TAKE

Seeing that you will need to comply with the documents published on [ebUtilities](#) (in German), we strongly recommend that you register on the website. This will enable you to stay up to date and participate in consultations. You can find some registration guidelines (in German) [here](#).

[Chapter 5 of the Gas Market Code](#) lists three options for how you can exchange data with other market players:

- > Integration into your own IT systems;
- > Contracting an IT service provider; or
- > Using the CSA's self storage service.

Regardless of the chosen option, the basic version of the data exchange software package is free of charge for you. Chapter 5 of the Gas Market Code also includes details about potential add-on costs, support packages and necessary contracts (licence, support, IT services).

### CHECK LIST

#### Registration on ebUtilities as a market partner

Read the information at [ebUtilities](#) (in German)

Registration as a market partner on [ebUtilities](#)

Decide which data exchange option you want to use

Conclude the necessary contracts

Implement business processes, data formats and data exchange

### GOOD TO KNOW

How long it takes you to implement these data exchange processes strongly depends on how many processes you need, what your current IT infrastructure looks like and which data exchange option you choose. We suggest that you get involved when the technical documentation at [ebUtilities](#) is revised and make your voice heard in the consultations that are conducted.

Whenever changes are made, all market participants must have a chance to contribute, as stated in [Chapter 5 of the Gas Market Code](#). Depending on the extent of the agreed changes, additional rules and longer deadlines apply, so that all market participants have a chance to take the necessary implementation steps. You can also actively suggest issues for improvement; they must then be discussed, and further steps must be formally stated.

## J) Set up electronic data exchange

### LEGAL BASIS

- > [Chapter 5 of the Gas Market Code](#)
- > [General terms and conditions of distribution system operators](#) (in German)

### DESCRIPTION

As a gas supplier on the liberalised Austrian market, you can offer combined bills to your customers. This means that you send them a single bill that lists both their network charges and their energy costs (and of course all related taxes and surcharges). To make this as efficient as possible, there is an obligation for system operators to send you their system charges data in a standardised electronic format.

## STEPS TO TAKE

If you opt for issuing combined bills to your customers, you should conclude framework agreements with the system operators about how to handle the tax aspect of system access services (e.g. about the retroactive refund model and the advance service model). Also, your IT experts should closely study the detailed provisions in the technical documentation *Elektronischer Rechnungsdatenaustausch Netzbetreiber-Lieferant* (electronic data exchanges between system operators and suppliers) at [www.ebutilities.at](http://www.ebutilities.at). Any additional details are a matter of agreement between you and the system operator. Visit [ebUtilities](http://ebUtilities) or [energylink](http://energylink) for further information in German.

## CHECK LIST

### Set up electronic data exchange

Decide whether or not you will provide combined bills to your customers

Conclude agreements with the system operators about tax aspects of system access services

Incorporate processes, formats and data exchanges in line with the technical documentation

Set down any additional arrangements in a data exchange contract

Set up your IT system and the system operator's

## GOOD TO KNOW

The entire setup of electronic data exchange can take more or less time depending on your IT infrastructure. Please also take a look at chapter "Information and communication platforms for data exchange in the energy market (ebUtilities, EDA-Platform)". We recommend that you get involved when the technical documentation at ebUtilities and the Gas Market Code are revised and make your voice heard in the consultations that are conducted.

Whenever changes are made, all market participants must have a chance to contribute, as stated in [Chapter 5 of the Gas Market Code](#). Depending on the extent of the agreed changes, additional rules and longer deadlines apply, so that all market participants have a chance to take the necessary implementation steps. You can also actively suggest issues for improvement; they must then be discussed, and further steps must be formally stated.

## K) Sign up for information e-mails by E-Control

### LEGAL BASIS

- > [General Data Protection Regulation \(Regulation \(EU\) 2016/679\)](#)

### DESCRIPTION

E-Control tailors its information services to the interests of subscribers; through our website, you can choose what kind of e-mails to receive (including e.g. alerts whenever we open a consultation).

### STEPS TO TAKE

To keep on top of developments and to make sure that you are informed e.g. when E-Control consultations take place, we suggest that you sign up for the e-mail information service by E-Control through our [website](#). For gas, the following categories might be particularly interesting for you:

- > Gas market rules and the Gas Market Model Ordinance
- > Gas events

### CHECK LIST

|   |              |
|---|--------------|
| <b>Sign up for information e-mails by E-Control</b>   |              |
| Subscribe through our <a href="#">website</a> and indicate what information you would like to receive | 5 min        |
| <b>Average total time</b>   | <b>5 min</b> |

### GOOD TO KNOW

You will only be informed about consultations if you subscribe to this service; in keeping with the GDPR, we cannot contact you if you do not sign up.

## WHILE BEING ACTIVE

## L) Update the tariff calculators

### LEGAL BASIS

- > Section 121(3) [Gaswirtschaftsgesetz \(Gas Act\) 2011](#)

### DESCRIPTION

Our tariff calculators treat all competitors the same. They are transparent and non-discriminatory channels to publish all information that we get through this process. As you know, you are legally obliged to send us all price information relating to your standard products (for consumers with an annual consumption of up to 400,000 kWh)

right when it becomes available, i.e. you need to continuously keep your information in the tariff calculators up to date.

When registering with the tariff calculators, you receive access to an admin interface (see the chapter “Register for the tariff calculators”); this is also the place where you update your data and provide any new information.

### STEPS TO TAKE

In the interest of data quality, E-Control checks all the data you enter through the admin interface (product information, labelling, contact details, brand). We verify whether the product information you have entered is the same as in the documents you have sent us. In addition, we check whether your data comply with the tariff calculator guidelines (e.g. how to categorise discounts).

Once you have entered all your data, you can kick off our verification process by clicking the respective button in the interface. We will get back to you within five working days, and your information will either be cleared or rejected (asking for corrections).

Two documents can be useful if you are new to the system: the manual, which is a technical handbook for how to handle the admin interface; and the guidelines, which define the data you need to enter, thereby guaranteeing that the tariff calculator gets fed with comparable information. Both documents are available on our [website](#) (in German).

If you have any questions about the tariff calculator, you can always contact us via [e-mail](#) or call us at +43 1 24724-701 or -723.

### CHECK LIST

|  |                |
|--|----------------|
| <b>Update the tariff calculators</b>   | <b>WD*</b>     |
| Enter a product’s price-relevant data  | 0.5**          |
| E-Control clearance of entered data  | no more than 5 |
| <b>Average total time</b> (may be shorter than sum of working days because some processes overlap) | <b>3</b>       |

*\*WD = average/observed number of working days for reference*

*\*\*This can vary a lot depending on your product’s complexity*

### GOOD TO KNOW

If you need your data to be released particularly quickly, give us a call in advance. We will let you know how soon we can clear your data.

## M) Issue bills

### LEGAL BASIS

- > Sections 126 and 127 [Gaswirtschaftsgesetz \(Gas Act\) 2011](#)
- > [Gas-Systemnutzungsentgelte-Verordnung \(Gas System Charges Ordinance\) 2013](#) in its latest version
- > Margin number 1536 of the [Umsatzsteuerrichtlinien \(Turnover Tax Guidelines\) 2000](#)
- > [Chapter 5 of the Gas Market Code](#)

### DESCRIPTION

In Austria, it is the system operators that read meters or calculate how much gas each consumer has used. You will receive this information from them.

When you issue bills, you must comply with sections 126 and 127 Gas Act 2011; for instance, you must give your customers certain pieces of information on a separate sheet that you enclose with your bills.

You can issue combined bills to your customer, but this is completely optional for you. If you do so, you will receive all relevant data from the system operators so that you can list the system charges on your bills along with the price for your own product. Of course, your combined bills must then also comply with all legal rules for system charges bills (s. sections 126(3) and 127(1) Gas Act 2011).

E-Control has drawn up a sample bill for combined bills that meets all legal requirements.

Regarding turnover tax, the view of the Ministry of Finance is expressed in [margin number 1536 of the Umsatzsteuerrichtlinien \(Turnover Tax Guidelines\) 2000](#). There are basically three options, but in practice, the so-called “advance service model” prevails. Margin number 1536a specifies that margin number 1536 also applies for gas. The part relevant for the advance service model is the second paragraph of [margin number 1536 Turnover Tax Guidelines 2000](#).

For turnover tax purposes, it is assumed that the system operator has performed services for you. This is merely a simplification as, in fact, the system operator performs services for the customer. The civil law contract between the system operator and the customer remains unaffected.

You are the recipient of the bill. You can reclaim the input tax of this bill and therefore issue a bill for system services and energy plus VAT.

For this setup to be legal, you need a corresponding agreement with the system operator and the customer. The most common approach would be for you to sign a framework agreement with the system operator and your customers then authorise you to make individual agreements with the system operator on their behalf.

The retroactive refund model is an expansion of the advance service model, i.e. must be applied in the same cases. It regulates what happens if your contract with a customer is terminated prematurely because the customer has failed to pay their bills. If this happens and if you have made payments to a system operator on behalf of this customer during the previous 63 days, the system operator will refund this money to you. This includes all payments listed on system charges bills (e.g. system utilisation charge, the charge for system losses, metering charges, taxes and surcharges, renewables contributions and flat rates etc.). The system operator then issues a final bill that lists the open sum as a receivable, which enables you to issue a combined final bill to the customer.

If the consumer pays this bill, you pass the system charges on to the system operator. But if the customer fails to pay, even after the dunning procedure, you and the system operator enforce payment separately (through a debt collection agency or eventually legal action).

Whether you receive the data from the system operator electronically or in hard copy is a matter that you must agree on bilaterally (cf. chapter “Set up electronic data exchange”).

Regardless of whether you issue combined bills or not, you need to issue annual bills to your customers within six weeks after meter reading. To enable you to stick to this deadline, system operators are obliged to send you the relevant data within three weeks (cf. [section 16\(1\) Gas System Charges Ordinance 2013](#)). In addition to the regular annual bills, consumers can request bills during the year.

The six-week deadline also applies when a customer changes suppliers or ends their contract. Again, if you have chosen combined billing, the system operator must send you its own bill within three weeks so that you can issue a combined bill to the consumer (section 127(4) Gas Act 2011).

### **STEPS TO TAKE**

To assist you with billing, we have drawn up a [combined sample bill](#) (in German) that meets all legal requirements. The document shows how to design a customer-friendly, clear, and transparent invoice.

We invite you to use the sample bill or parts of it as a template for your own bills.

## CHECK LIST

### Billing

Study relevant legal rules and the E-Control sample bill

Decide whether or not to provide combined bills

For combined billing (optional): Incorporate processes, formats and data exchanges in line with the technical documentation; if necessary, contact the system operators or the Natural Gas and District Heat Association / Österreichs Energie about how to exchange billing data

Install a billing system or contact service providers that can do it for you

## GOOD TO KNOW

Installing a billing system can be more or less of an effort depending on whether or not you have chosen to issue combined bills, what IT infrastructure you currently have and/or how quickly you can contract an external service provider. In any case, adopting the sample bill (or parts thereof) will considerably shorten the entire process and potential post-processing time.

## N) Provide information to customers

### LEGAL BASIS

- > Section 126 [Gaswirtschaftsgesetz \(Gas Act\) 2011](#)

### DESCRIPTION

Information and advertising materials as well as bills for consumers must be transparent and consumer-friendly. The components of the system charges, taxes and surcharges, and the gas cost must be stated separately. The energy price has to be stated in cent per kWh, and any standing charges must be listed expressly. Further minimum requirements for bills and the billing system are stated in section 126 Gas Act 2011 (also see chapter "Issue bills"). Non-compliance with these requirements is an administrative offence, and a fine of up to EUR 75,000 applies (section 159(2)(19) Gas Act 2011).

### STEPS TO TAKE

We strongly recommend that you study the relevant provisions of energy and civil law (in particular, consumer protection law) to make sure that all your information and advertising materials are compliant.

## CHECK LIST

### Prepare information for customers

Review relevant legal provisions

Check whether information material complies

Check whether advertising material complies

## GOOD TO KNOW

How long it takes you to draw up your information and advertising materials naturally depends on your available capacities and know-how (especially with regard to the legal situation and the gas market in Austria).

## O) Pay taxes and surcharges

### LEGAL BASIS

- > [Erdgasabgabengesetz \(Gas Levy Act\)](#) (in German)
- > [Finanzausgleichsgesetz \(Fiscal Equalisation Act\) 2017](#) (in German)
- > [Community levy links](#) (in German)

### DESCRIPTION

Consumers pay for the energy they consume, they pay the system charges - and they pay taxes and surcharges. These include the gas tax, the community levy (in some cities and municipalities) and VAT.

The **gas tax** is the gas counterpart to the taxes on mineral oil, liquid gas and electricity. It is collected by system operators. You only have to collect it (and pass them on to the network operators) if you have decided to issue combined bills to your customers.

Some local authorities charge a **community levy** for using a municipality's public land and the airspace above. These community levies are usually a percentage that is applied either to the system charges or the energy cost on a consumer's bill. In the latter case, you need to collect the charge from your customers; in the former, you only need to get involved if you issue combined bills.

Community levies are strictly within the municipalities' remit ([section 14 Fiscal Equalisation Act 2017](#)). They can decide whether to collect such a levy and how high it should be. (This is done via an ordinance of the municipal council.) To find out the exact amount of the community levy collected in a municipality, you need to call their office or the office of the federal province; a complete overview of municipal law is not available in publicly accessible legal databases. Therefore, we cannot reliably tell you whether and which municipalities' levies you need to collect.

Supplying consumers with gas is subject to turnover tax (VAT). The Austrian **VAT** is 20% on the invoice total.

### STEPS TO TAKE

You must collect VAT from your customers.

If your customers reside in a municipality where the community levy is calculated from their energy cost, you must also collect this community levy, the amount of which can vary. The various community levy charges have to be integrated into your accounting and billing system.

There is no authority or body that must publish a comprehensive list of all municipalities that apply a community levy. However, we have collected information about the community levy in the individual federal provinces and a list of the applicable rules in municipalities that we know of. This information is available through [our website](#) (in German).

### CHECK LIST

| Paying taxes and surcharges  | WD*                 |
|--|---------------------|
| Review relevant legal provisions on taxes and surcharges                     | 2                   |
| Verify where you need to collect community levies                            | 0.5                 |
| Adjust your billing system to comply with Austrian tax and surcharges system | varies considerably |
| Pass community levy on to local authority/authorities                        | ongoing             |

\*WD = average/observed number of working days for reference

### GOOD TO KNOW

How long it takes you to reflect changes that are made to the taxes and surcharges greatly depends on your in-house accounting system.

## P) Improve energy efficiency

### **Please note:**

*The Bundes-Energieeffizienzgesetz (Energy Efficiency Act) is going to be amended in 2021. It is expected that the obligations of suppliers to implement and report energy efficiency measures will be retained in the amended version.*

Further information on the amended legal provisions will be included in this chapter as soon as it is available.

## Q) Continuous reporting

### LEGAL BASIS

- > **Monitoring:** the [Gas-Monitoring-Verordnung \(Gas Monitoring Ordinance\) 2017](#) and its explanatory notes, both issued pursuant to section 131 Gas Act 2011 (in German)
- > **Statistics:** the [Gasstatistikverordnung \(Gas Statistics Ordinance\) 2017](#) and its explanatory notes, both issued pursuant to section 147 Gas Act 2011 (in German)
- > **Energy intervention measures:** the [Erdgas-Energielenkungsdaten-Verordnung \(Gas Intervention Data Ordinance\) 2017](#) and its explanatory notes, both issued pursuant to section 27 *Energielenkungsgesetz* (Energy Intervention Powers Act) 2012 (in German)

### DESCRIPTION

If you trade in gas, supply consumers or are a balance responsible party, you must send certain data to us. Normally, we ask all new market participants (in particular gas traders, suppliers and BRPs) to comply with reporting obligations when they become licensed. However, please note that legally, reporting is your own responsibility, and you have to send data without being prompted.

If you do not have to report at this time (for instance because you are not actually active at the time) but become active later, you must promptly start to report then.

### STEPS TO TAKE

Once you have registered and are licensed in Austria, we will contact you and ask you to submit data. The survey forms you will need to fill in are available on [our website](#) (in German).

Please note that we have designed the forms so that they serve gas statistics, crisis preparedness and monitoring purposes; this way, you have to submit each data item once only instead of having to enter data for each purpose separately (and possibly several times).

### CHECK LIST

#### Continuous reporting

Wait for us to prompt you

If you start up your business during the year: check what data you must report to us

## GOOD TO KNOW

Reporting can be more or less of an effort depending on your business activities (i.e. how much data you need to report) and depending on whether or not you have automated data collection.

## R) Ongoing REMIT duties

### LEGAL BASIS

- > Articles 4, 8(1), 8(5), and 9(1) [Regulation \(EU\) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency \(REMIT\)](#)
- > [Commission Implementing Regulation \(EU\) No 1348/2014 of 17 December 2014 on data reporting implementing Article 8\(2\) and Article 8\(6\) of Regulation \(EU\) No 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency](#)
- > Section 10a [Gaswirtschaftsgesetz \(Gas Act\) 2011](#)
- > Section 25a(2) [Energie-Control-Gesetz \(E-Control Act\)](#)
- > [Großhandelsdatenverordnung \(Ordinance on Wholesale Data Collection\)](#) and its explanatory notes (in German)

### DESCRIPTION

As a market participant according to REMIT, you have to comply with reporting and publishing obligations. Mainly

- > you must publish inside information (Article 4 REMIT); this has to be done on a [platform accepted by ACER](#).
- > you must report transaction data (Article 8(1) REMIT);
- > you must report the fundamental data laid down in Article 8(5) REMIT;
- > you must report inside information to E-Control (section 10a Gas Act 2011), but please note that this is not necessary if you publish inside information on a platform accepted by ACER. Most Austrian undertakings currently use the [CEGH's REMIT platform](#) and the [EEX platform](#) for this purpose.

Please note that you must use a registered reporting mechanism (RRM) to report data to ACER. RRM's are certified undertakings which submit to ACER the data that must be reported by market participants. In doing so, they comply to high security standards. You can find a list of certified RRM's [here](#). Please make sure that you conclude a service agreement with a RRM ahead of time, in order to comply with the deadlines for data submission to ACER.

### STEPS TO TAKE

Fulfilling your reporting and publishing obligations is your own responsibility. Please consult our [website](#) for details about REMIT rules. In particular, these pages explain

which energy wholesale products are subject to REMIT and/or the Ordinance on Wholesale Data Collection and which undertakings are market participants under REMIT.

For any questions or queries on REMIT, please contact us via [e-mail](#).

### CHECK LIST

#### Ongoing REMIT duties

Publish inside information...

...and report it to E-Control at the same time (unless you already published it through an ACER-accredited platform)

Report transaction data under 8(1) REMIT

Report fundamental data under 8(5) REMIT

Report transaction data under the Ordinance on Wholesale Data Collection

### GOOD TO KNOW

REMIT can mean more or less of an effort depending on how extensive your business activities are and on whether or not you have automated data flows.

## S) Further obligations

### SUPPLY STANDARD

[Regulation 2017/1938 \(the Gas SoS Regulation, previously Regulation 994/2010\)](#) defines a supply standard (Article 6). You must supply gas to protected customers (defined in Article 2 of that Regulation) so that this standard can be maintained (cf. also section 121(5) Gas Act 2011).

### UNIVERSAL SERVICE

Household consumers and small businesses that are consumers under section 1(1)(2) [Konsumentenschutzgesetz \(Consumer Protection Act\)](#) (in German) have a right to be supplied with gas (universal supply). If you have customers that fall within this category, you have a universal supply obligation. This means that you must supply gas to any such protected consumer who makes reference to their statutory right. The rate you can charge them for this service is capped by law: it may not be higher than the rate you charge to most other comparable customer categories. You must publish the universal supply rate in an appropriate format (e.g. on the internet). You can ask for a prepayment or collateral from the customer, but these are again capped (see section 124(1) and (2) [Gas Act 2011](#)). The law also regulates when you must return the collateral and lists cases where you cannot ask for prepayment (section 124(3) Gas Act 2011). If certain conditions apply, universal service can also be paid through a prepayment system (section 124(4) and (5) Gas Act 2011).

### **DUNNING, SERVICE POINTS, PREPAYMENT**

If one of your customers breaks their contract, there is a dunning procedure you must follow before you can terminate the contract or stop supplying gas (section 127(3) [Gas Act 2011](#)). The law also lists exceptions when the dunning procedure does not apply (section 127(4) Gas Act 2011). If you fulfil certain conditions, you must set up a customer service point for specified topics (section 127(7) Gas Act 2011). If you ask a customer for prepayment or a collateral, they have a right to use a prepayment meter instead (section 127(5) Gas Act 2011).

### **NETWORK DEVELOPMENT PLAN**

Unless you are a virtual trader (i.e. trade exclusively at the virtual trading point), you have to contribute to the network development plan (section 121(4) [Gas Act 2011](#)).

### **LONG-TERM CONTRACTS**

If buy gas through large long-term contracts, you must notify E-Control. Here, “large” means contracts for more than 250 million normal cubic metres per year, “long-term” means contracts with durations of more than one year, and “notify” means that you have to send us these details. Please note that you must inform us regardless of whether you are buying gas from inside or outside the EU (cf. section 121(6) [Gas Act 2011](#)).

### **ECONOMIC CHAMBERS**

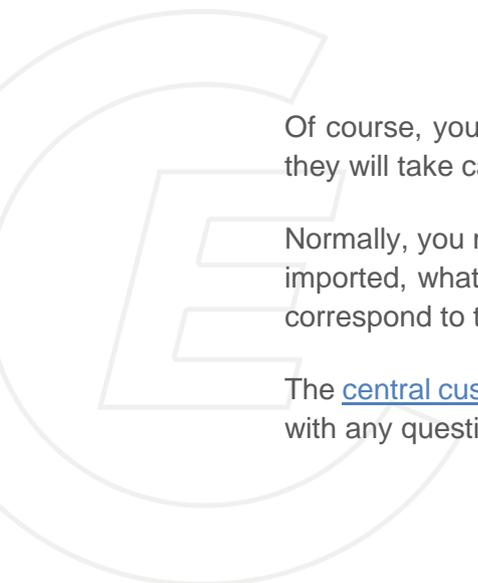
If you legally operate a business listed in section 2 [Wirtschaftskammergesetz \(Economic Chambers Act\)](#) (in German), or even if you have a licence to operate such a business, you are a member of the Austrian Economic Chambers. The businesses covered include trade, industry, and other services.

The Austrian [Gewerbeordnung \(Industrial Code\)](#) (in German) expressly states that as a gas trader under section 7(1)(14) [Gas Act 2011](#), you need a licence (section 2(1)(20) Industrial Code). Once you have a gas trading licence, which enables you to trade at CEGH, membership of the Austrian Economic Chambers is automatic. If you are not sure whether this applies to you, please contact the Austrian Economic Chambers directly.

### **GAS IMPORT CUSTOMS**

You must pay customs duties for any gas that is imported to Austria; you can either ensure that this is done when the gas enters the EU or you can pay them in Austria.

You need to fulfil a number of conditions so that you get an authorisation for entry in the declarant's records (Art. 182 [Regulation \(EU\) No 952/2013 \(the Union Customs Code\)](#)) and an authorisation as an authorised consignor (Art. 233 Union Customs Code).



Of course, you can always hire a shipper that already fulfils these requirements, and they will take care of customs for you.

Normally, you must declare customs once a month by stating how much gas you have imported, what it is worth and where you have imported it from; the information must correspond to the invoices and import records that you have for this gas.

The [central customs information office or your local customs office](#) will be happy to help with any questions.

## ANNEX: LEGAL BASIS

This document contains links to non-binding English versions of a variety of legal texts. The document and links are provided for the reader's convenience only and in no way constitute a legally binding document. E-Control assumes no liability or responsibility whatsoever for the accuracy, correctness or completeness of the text in this document or the linked ones or any parts thereof. For a legally binding version of the texts, please refer to the relevant issues of the *Bundesgesetzblatt* (Federal Law Gazette).

### BASIC LEGAL FRAMEWORK

The *Gaswirtschaftsgesetz* (Gas Act) 2011 and the *Energie-Control-Gesetz* (E-Control Act) form the main legal framework for activities in the Austrian gas market.

- > Gas Act 2010 (in [English](#) and in [German](#))
- > E-Control Act (in [English](#) and in [German](#))

### LEGAL REFERENCES RELATING TO PARTICULAR TOPICS

Depending on the topics you are interested in, you might want to look at the following legislation:

- > [Gas-Monitoring-Verordnung \(Gas Monitoring Ordinance\) 2017](#) and its explanatory notes (in German)
- > [Gas-Marktmodell-Verordnung \(Gas Market Model Ordinance\)](#)
- > [Gas-Systemnutzungsentgelte-Verordnung \(Gas System Charges Ordinance\) 2013](#)
- > [Wechselverordnung \(Gas Switching Ordinance\) 2014](#), including its [annex and explanatory notes](#) (in German)
- > [Gasstatistikverordnung \(Gas Statistics Ordinance\) 2017](#) and its explanatory notes (in German)
- > [Erdgas-Energielenkungsdaten-Verordnung \(Gas Intervention Data Ordinance\) 2017](#) and its explanatory notes (in German)
- > *Bundes-Energieeffizienz-Gesetz* (Energy Efficiency Act) (in German): in review
- > [Energieeffizienz-Richtlinienverordnung \(Regulation on Energy Efficiency Monitoring Rules\)](#) (in German)
- > [Regulation \(EU\) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC \(General Data Protection Regulation\)](#)
- > [Erdgasabgabengesetz \(Gas Levy Act\)](#) (in German)
- > [Community levy links](#) (in German)
- > [Konsumentenschutzgesetz \(Consumer Protection Act\)](#) (in German)
- > [Gewerbeordnung \(Industrial Code\)](#) (in German)
- > [Wirtschaftskammergesetz \(Economic Chambers Act\)](#) (in German)
- > [Network Code on Capacity Allocation \(CAM NC, Regulation 2017/459\)](#)

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- > [Regulation \(EU\) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency \(REMIT\)](#)
  - > [Commission Implementing Regulation \(EU\) No 1348/2014 of 17 December 2014 on data reporting implementing Article 8\(2\) and Article 8\(6\) of Regulation \(EU\) No 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency](#)
  - > [Guidance on the application of REMIT by the Agency for the Cooperation of Energy Regulators](#)
  - > [Großhandelsdatenverordnung \(Ordinance on Wholesale Data Collection\)](#) (in German)
  - > [Regulation 2017/1938 \(the Gas SoS Regulation\)](#)
  - > [Customs Code Regulation \(EEC\) No 952/2013](#)
  - > [Chapter 5 of the Gas Market Code](#)
  - > General terms and conditions of clearing and settlement agents: [AGCS](#) (for the eastern market area) and [A&B](#) (for Tyrol/Vorarlberg) (both in German)

## EXTRACTS FROM LEGAL TEXTS

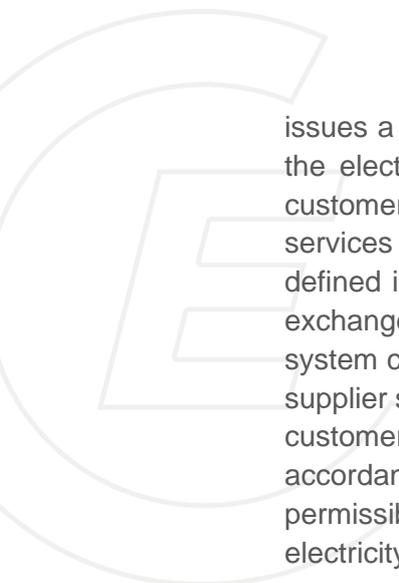
### General terms and conditions for DSOs (model version), chapter IXI – Billing

1. [...] Where a supplier also bills its customers for the system charges, the system operator shall submit the invoice for the system charges to the supplier within four weeks.

10. If there is a contractual agreement between the supplier, the system operator and the customer about the use of the advance service model pursuant to margin number 1536 *Umsatzsteuerrichtlinien* (Turnover Tax Guidelines) 2000, the formalities chosen for issuing and submitting bills must enable income tax deduction for the supplier in line with section 12 *Umsatzsteuergesetz* (Turnover Tax Act). In this case, the system operator shall send its bills to the customer's supplier. The supplier shall pay such bills and then issue combined bills for energy and system charges to the customer. The advance service model shall not be construed to imply a debt by the supplier towards the system operator. The system operator shall electronically submit the data necessary for billing in accordance with the format specified in the Market Code to the supplier, while ensuring that the data on the system charges bills (in particular with reference to the amount of energy consumed) corresponds to the consumption data submitted.

### Margin number 1536 para. 2 *Umsatzsteuerrichtlinien* (Turnover Tax Guidelines) 2000

If there is a contractual agreement on the application of this simplifying option between the electricity supplier, system operator and the customer, the services of the system operator shall be deemed rendered towards the electricity supplier for turnover tax purposes, notwithstanding civil law stipulations. In such a case, the system operator



issues a bill as defined in section 11 *Umsatzsteuergesetz* (Turnover Tax Act) 1994 to the electricity supplier, who in turn bills electricity and system charges to the final customer. For these purposes, it is sufficient for the system operator to bill the system services provided to an electricity supplier's customers through a collective invoice as defined in section 11 para. 1 item 4 Turnover Tax Act 1994 or through the electronic exchange of billing data pursuant to margin numbers 1561 to 1563. Regarding the system charges, the supplier shall have the right to input tax deduction. The electricity supplier shall pay taxes on both the electricity supply and the system charges. The final customer may deduct the input tax of the bill issued by the electricity supplier in accordance with section 12 Turnover Tax Act 1994. This procedure shall only be permissible as long as a respective agreement regarding its application between the electricity supplier, the system operator and the customer is in effect.