2nd Gas System Charges (Amendment) Ordinance 2022 – explanatory notes

Introduction

Content

1. The 2nd amendment 2020 to the Gas System Charges Ordinance 2013, FLG II no 254/2020, for the first time applied the reference price methodology developed in line with Commission Regulation (EU) 2017/460 establishing a network code on harmonised transmission tariff structures for gas, OJ L 72/29, 17.03.2017 (TAR NC) to the calculation of the transmission system charges, whose amount must be determined based on the approved cost methodologies pursuant to section 69 para. 2 in conjunction with section 82 Gas Act 2011. Acknowledging the price increase for energy used to power network compressors, the E-Control Executive Board issued official decisions with revised costs based on section 69 para. 2 in conjunction with section 82 Gas Act 2011. Based on annex 3, the present amendment sets a commodity charge (more specifically, a flow-based charge) for the transmission network, thereby enabling cost-reflective allocation of the increased compression energy purchasing costs. The existing capacity tariffs remain unaffected.

2. In addition, the present amendment introduces mandatory minimum premiums on the system utilisation charge for incremental capacity at the Mosonmagyaróvár Minimum entry point with compression (project GCA 2021/01) for the 'small' and 'large' project variations.

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

1. The transmission system charges are set in accordance with 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 and implements the TAR NC. Pursuant to Article 6(1) and Article 27(4) TAR NC, the regulatory authority shall set the reference price methodology. This reference price methodology then is the basis for the capacity-based transmission tariffs. Pursuant to Article 4(3)(a) TAR NC, part of the transmission services revenue may exceptionally be recovered through a commodity charge to recover compression costs.

2. By setting the mandatory minimum premiums on the system utilisation charge for incremental capacity at the Mosonmagyaróvár Minimum entry point with compression (project GCA 2021/01), the present amendment executes the procedure foreseen for incremental capacity in Directive 2009/73/EC concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC, OJ L 2011/94, 14.08.2009, and in Commission Regulation (EU) 2017/459 establishing a network code on capacity allocation mechanisms in gas transmission systems (CAM NC), OJ L 72/1, 17.03.2017.

Particulars of the legislative process

The Ordinance is issued by E-Control's Regulation Commission in accordance with section 12 para 2 item 1 E-Control Act. In particular, this includes setting the reference price methodology, which determines a part of the transmission system charges, such as cost cascading, for example. In accordance with section 69 para. 3 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. The reference price methodology and the application of flow-based transmission tariffs must be subject to a consultation

process pursuant to Article 26 and Article 27 TAR NC. 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

1. The Gas Act 2011, coming into effect on 1 January 2013, entailed fundamental changes to the gas market model. Transmission-level system utilisation charges are set separately per entry/exit point on the one hand and per internal interconnection point into the distribution network on the other; the former charge is payable by injecting/withdrawing parties, the latter by the distribution area manager (DAM). The system charges are set based on the allowed cost and the transported volume established by E-Control's Executive Board in accordance with section 82 Gas Act 2011.

A rise in gas, electricity and CO2 prices has meant a considerable increase in prices for compression energy. To account for this price increase, the capacity-based transmission tariffs are supplemented by a commodity-based charge (flow-based charge) in line with Article 4(3)(a) TAR NC. It applies for the historical and forecasted additional costs in connection with the significantly increased costs. Considering that a flow-based charge is inherently volatile, it will be evaluated annually and revised when necessary.

The mechanism through which system operators recover their costs from system users needs to be changed because energy prices have multiplied since the costs for the current regulatory period were calculated in January-April 2020. In principle, the regulatory framework for transmission system operators provides that any deviations of the actual costs from planned costs be accounted for after the end of a regulatory period. However, energy prices have increased significantly during the last months, and the remainder of the current regulatory period is more than two years.

The tariffs that system users currently pay for transporting gas are much too low; in turn, tariffs during the next regulatory period would have to be too high. Adjusting the tariffs now thus better ensures that they are cost reflective.

Transmission system operators currently pre-finance the increased costs without being able to recover them until new tariffs come into force; these additional costs jeopardise the capacity of the transmission system operators to continue operation of the network. For this reason, the amendment comes into force on 1 June 2022, based on Article 12(3)(b) TAR NC.

2. The present amendment introduces mandatory minimum premiums on the system utilisation charge for incremental capacity at the Mosonmagyaróvár entry point for the project Mosonmagyaróvár Minimum with compression (project # GCA 2021/01) for the ‘small’ and ‘large’ project variations. For details of the corresponding projects in the coordinated network development plan, please consult https://www.e-control.at/documents/1785851/0/_601234966__LETZTFASSUNG_KNEP_220321.pdf/5156b8c5-f852-a462-0d01-606c8e0b3ce3?t=1617100987077 (in German).

Commentary on sections

Section 1 para. 1 item 1, section 2 para. 1 item 5a, and section 2 para. 1 item 8a

The amendment introduces a flow-based charge along with the existing capacity-based charge, which is why both of these transmission tariff types must be listed in section 1 para. 1 item 1. The terms ‘capacity part of the system utilisation charge’ and ‘commodity part of the system utilisation charge’ are included in the definitions. The capacity part of the system utilisation charge is based on the contracted capacity, while the commodity part of the system utilisation charge makes reference to actual use of that capacity (i.e. to the gas quantities that are nominated for transport and confirmed).

Section 3 para. 1, section 3 para. 2a, section 3 para. 3a, and section 4 para. 2a

The flow-based charge is calculated based on the input parameters presented in annex 3. These input parameters are taken from the E-Control Executive Board decisions V MET G 02/21 and V MET G 03/21. The planned costs, based on which the additional costs have been calculated in these official decisions, were themselves in turn based on the following price assumptions:

Prices in EUR	2022	2023	2024
Gas	77.94/MWh	50.56/MWh	33.62/MWh
Electricity	207.74/MWh	166.86/MWh	133.81/MWh
CO_2	92.27/t	93.35/t	95.02/t

The transmission system operators conduct annual transparent procurement tenders to procure their fuel gas. The conditions for participating in the tender are published on the TSO's website. In line with the tender conditions, the price for the fuel gas depends on the average daily TTF day-ahead/weekend prices that are published for the relevant month of delivery.

The flow-based charge is stated in EUR/MWh and applies to the contracted capacity at each entry or exit point that is actually used, i.e. to confirmed nominations. The flow-based charge is payable by system users to the TSOs. If several system users have entered capacity into the same balance group, balance sub-accounts must ensure that nominations can be correctly assigned to each user.

At storage points, the flow-based charge applies to the contracted capacity that is actually used, i.e. to confirmed nominations.

The revised official decisions on the TSOs' allowed costs assume that prices for electricity and gas are high at the moment but will retract during the years to come. Based on this, the current tariffs will be reduced as of 1 October 2023, unless new official decisions on the allowed costs are issued.

Section 3 para. 4 items 1 and 2

In line with the CAM NC, a procedure for incremental capacity at the Mosonmagyaróvár entry point was initiated in 2019.

In line with the incremental capacity process provided for in the CAM NC, there will be coordination with the adjacent transmission system operators so that the capacity created by the project can be offered as part of the annual auction in 2022.

Pursuant to Article 33(3-5) TAR NC, when allocating incremental capacity, a mandatory minimum premium may be added to the regulated rate under the reference price methodology. This premium is meant to guarantee that capacity allocation generates sufficient revenues for a positive economic test outcome, so that the project can proceed.

At the first capacity auction and at any additional annual capacity auctions that take place before the line is commissioned, the mandatory minimum premium in section 3 para. 4 applies on top of the rates pursuant to section 3 para. 2. The regulated rate pursuant to section 3 para. 2 and the mandatory minimum premium together form the reserve price for the auction. These projects are only realised if an economic test yields positive results, i.e. only if the present value of the proceeds from binding commitments equals or is greater than the present value of the allowed costs, considering the cost recovery factor (f factor). The mandatory minimum volume denotes the amount of binding annual commitments constantly needed over the course of 15 years for the project to get a positive economic test outcome. This could also be achieved through binding commitments that are structured differently. Should the auction result in more capacity being requested than had been planned, the mandatory minimum premium is recalculated accordingly (cf. the mandatory minimum volumes below). The premium is calculated on the basis of the first auction and any further annual capacity auctions that take place before the line is commissioned. It is stated in EUR/kWh/h per year and then applies for the full duration of all contracts concluded up to that time. Free capacity that is allocated after the incremental capacity has been commissioned is subject to the regulated rate pursuant to section 3 para. 2, which is updated for every regulatory period, i.e. every four years currently, in accordance with the method laid down in section 82 Gas Act 2011, just like the rates that apply at any other entry and exit points. For capacity contracts concluded after the incremental capacity is commissioned, and for short-term products, only the charge pursuant to section 3 para. 2 in conjunction with paras 9 and 9a applies.

Item 1: The incremental capacity at the Mosonmagyaróvár entry point results from project GCA 2021/01 in the coordinated network development plan. Calculation of the mandatory minimum premium relied on

a mandatory minimum transport volume of 763,726 kWh/h/year, corresponding to about 60% of the incremental technical capacity created by the project.

Item 2: The incremental capacity at the Mosonmagyaróvár entry point results from project GCA 2021/01 in the coordinated network development plan. Calculation of the mandatory minimum premium relied on a mandatory minimum transport volume of 916,487 kWh/h/year, corresponding to about 72% of the incremental technical capacity created by the project.

In line with Article 28 CAM NC, the involved transmission system operators must submit the proposal for the above projects to the relevant national regulatory authorities for coordinated approvals. The E-Control Executive Board will publish such coordinated approvals ahead of the annual yearly capacity auction. This includes publication of the approved offer levels and corresponding parameters of the economic test under Article 22(1) CAM NC. After the first auction of incremental capacity has taken place, the TSO publishes the results of the economic test and informs all system users that participated in the auction. This mechanism is meant to enable system users to trigger capacity projects but at the same time it ensures that only economic projects go ahead. If the economic test yields positive results for both projects, only the one with the larger capacity will be realised (given that they have the same entry and exit point).

Section 3 para. 4a

E-Control's Executive Board confirmed the planned costs and capacities for this project in a procedure pursuant to section 82 Gas Act 2011. Given the expected positive net benefit for Austrian gas customers, it seems adequate to recover only part of the costs through the allocation of incremental capacity at the entry point. E-Control sets the f-factor at 0.75. We also assume that (short-term) bookings will greatly contribute to cost recovery, thus largely preventing cross-subsidisation between the project and other entry and exit points in the market area east. The costs that are not borne by the project itself (due to the 0.75 f-factor) are clearly less than 1% of the TSOs' overall costs. There can thus be no considerable effect on the costs at other points.

Section 7 para. 2

As a consequence of applying the same flow-based charge at the entry and exit points of both TSOs in the eastern market area, there is a systematic difference between the revenues based on tariffs in the ordinance multiplied by the quantities in the official cost decision (forecasted revenues) and the allowed cost of each TSO as stated in the individual official cost decision. The surplus of one TSO thereby amounts to the shortfall of the other TSO and thus determines the compensation amount to be paid. Section 70 para. 2 Gas Act 2011 provides that an ordinance with the compensation payments among the system operators be issued. In addition to the compensation payments related to the capacity charge, separate compensation payments related to the flow-based charge are set.

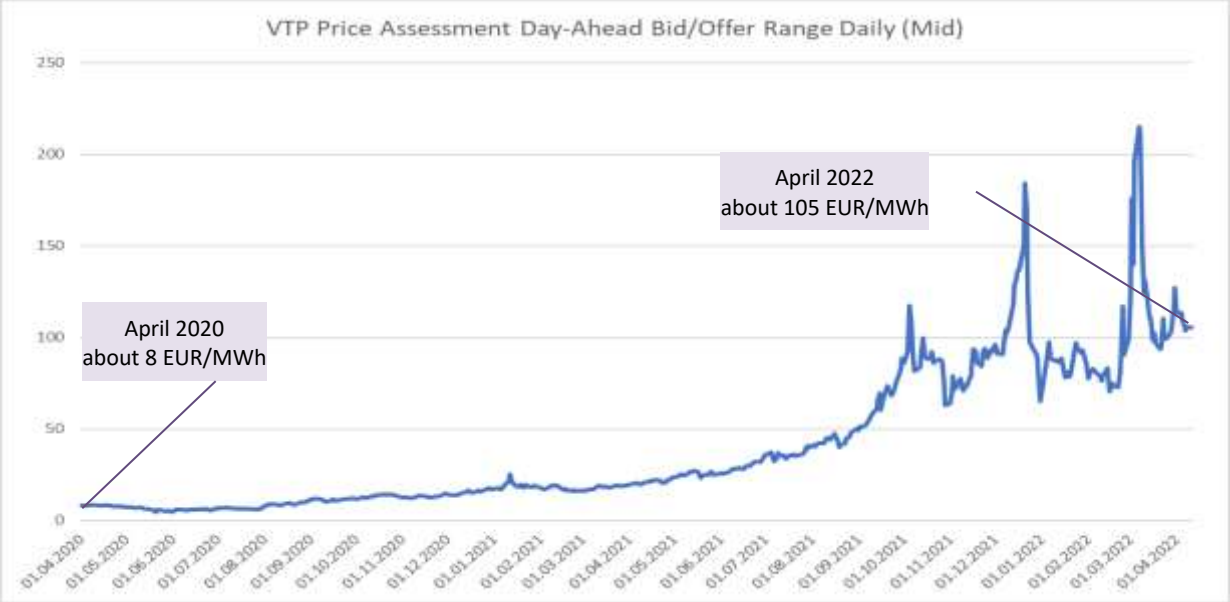
Section 21 para. 21

The transmission system operators' revenues are currently well below their procurement costs for compression energy. This is because the applicable capacity-based system charges are based on cost assumptions that no longer match the greatly increased actual compression energy costs. This has reached an extent where failure to introduce a (cost-reflective) flow-based charge would indeed jeopardise the TSOs' ability to operate the transmission systems.

In line with Article 12(3)(b) TAR NC, one of the two concerned TSOs has provided evidence of this situation through several up-to-date financial plans.

Before the Russian invasion of Ukraine, it was assumed that gas prices would abate in the medium term and it would be sufficient to introduce the flow-based charge in October 2022. However, since the invasion has started, gas prices have risen further or plateaued at a high level. Given the resulting liquidity plans and the development of prices on the gas market, the authority considers that operation of the TSOs is indeed jeopardised, as is stated in Article 12(3)(b) TAR NC.

The authority provides the following public information relating to the additional costs that have caused this situation:



The compression energy costs that form part of the currently applicable tariffs were estimated during the period from January to April 2020. At that time, costs stood at about 8 to 12.5 EUR/MWh. In October 2021, prices were between 65 and 125 EUR/MWh (excepting some extreme price spikes). Forecasts do not expect gas prices to abate in the near future. This has created the need for revising the tariffs. As discussed above, Russia's invasion of Ukraine has further aggravated the situation on the market.

Originally, compression energy costs (for gas, electricity and CO2 certificates) were estimated to be 65,401,9 kEUR, with the lion's share of this sum going towards fuel gas. Given the current price developments (including those for CO2 certificates), the additional costs (i.e. additional expenses) that have accrued since October 2021 already stand in the hundreds of millions, and each month adds a further figure in the tens of millions, none of which is recovered through the existing tariffs. Waiting to increase the tariffs until October 2022 would create a liquidity problem for the TSO, and indeed, the additional costs accrued would exceed the equity that the company held at the end of 2020, i.e. about 232 million EUR.

Thus, applying Article 12(3)(b) TAR NC, the flow-based charge will enter into force with the gas day on 1 June 2022.

Annex 3

Annex 3 is supplemented by a chapter on the calculation of the flow-based charge. In addition, the relevant input parameters (costs and quantities) are presented.