



Ref no: BK7-15-00127

February 2015

**Determination proceedings on capacity arrangements in the gas sector (implementation of the Network Code on Capacity Allocation, "KARLA Gas 1.1")**

**Here: Initiation of proceedings; consultation**

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#### **A. Basic principles of proceedings and further course of action**

Under reference number BK7-15-001 Ruling Chamber 7 has initiated determination proceedings for the adjustment of capacity provisions in the gas sector (KARLA Gas 1.1). The proceedings are addressed to all gas transmission system operators (Gas TSOs).

The legal bases of the proceedings are derived from the Network Code on Capacity Allocation (Commission Regulation (EU) No 984/2013 of 14 October 2013 establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems, OJ EU no L 273/5 of 15 October 2013), the Energy Act (EnWG) and the Gas Network Access Ordinance (GasNZV) (in particular § 29 EnWG in conjunction with § 50 (1) No 1 and No 12 and (3) GasNZV). The said code sets forth both the substantive and the formal requirements of the new system of capacity provisions and auction proceedings. In Germany, the substantive requirements under the Network Code have already, to a large extent, been fulfilled by way of the Gas Network Access Ordinance and the KARLA Gas Determination of 24 February 2011 (ref no BK7-10-001). The only remaining need for adjustments is in selected areas, and it is these that the present proceedings are intended to address. If this means that approvals become necessary, these are to be issued provided that the relevant conditions are met. Currently there is no planning for additional provisions, in particular as refers to the standardisation and design of capacity products. If the need arises, these matters will be dealt with in subsequent proceedings.

At present the Ruling Chamber does not intend to repeat all the contents of the Network Code on Capacity Allocation in a national Determination, except where there is a specific need for implementation. The said code is already, as European law, in force and it is therefore directly binding on the Gas TSOs without a repetitive Determination. The incorporation of the code's provisions in standard contracts and the detailed formulation are a task reserved for the amended version of the cooperation agreement and its annexes (standard contracts, guidance notes). Only in cases in which the code provides for approval from public authorities or allows scope for implementation is it necessary for the Bundesnetzagentur to effect implementation at the national level. Furthermore, all the provisions of the existing KARLA Gas Determination for which the code provides a final ruling are to be repealed. This will serve to prevent any contradictions arising between the provisions of European and national law.

Given the above, the Ruling Chamber proposes to repeal large parts of the KARLA Gas Determination of 24 February 2011 (Ref no BK7-10-001), as many of the provisions it contains are now expressly included in the network code, and there is no apparent need for an additional Determination in these areas.

The initiation of these proceedings constitutes a consultative framework for the Ruling Chamber to offer specific proposals for the adjustment of capacity provisions in the gas sector ("KARLA Gas 1.1"). The annex contains an overview of the most important new provisions that are

intended (Section B.), a draft of the operative provisions of a possible Determination of changes and an amended version of the standard contract clauses for capacity contracts (Section C.).

Comments can be submitted on the contents and the proposed proceedings by 13 April 2015. They can be submitted as joint or collective responses and must be sent, in a format allowing for further electronic processing, to [kapazitaeten.gas@bnetza.de](mailto:kapazitaeten.gas@bnetza.de). All comments will be published on the Bundesnetzagentur's website.

## **B. Proposals for the adjustment of capacity provisions in the gas sector**

### **1. Renomination rules for day ahead and within-day capacities**

Proposal: That both day-ahead and within-day capacities may be renominated without restriction.

The Network Code on Capacity Allocation requires gas transmission system operators to offer within-day capacities in addition to the already existing capacity products. The code does not regulate the question of whether within-day capacity may be renominated. Since the KARLA Gas Determination of 24 February 2011 (ref no BK7-10-001), however, there has been a ban on the renomination of day-ahead capacities (see section [5] No 10 of the standard offer). What the Ruling Chamber now proposes is that the day-ahead ban be repealed and that there be no restriction on the renomination of within-day capacity products either.

### **2. Reservation quotas for long-term capacity products**

Proposal: That Gas TSOs be obliged to set aside 20 percent of their technical capacity at each interconnection point and, under Article 8 No 7 of the Network Code, to place it on offer, provided that the available capacity, at the time this Determination comes into force, is at the same level as, or a higher level than, the proportion of technical capacity that is to be set aside. Hereby the exact proportion of technical capacity to be set aside for quarterly and annual auctions is approved.

The following reservation and offer quotas would then apply to every applicable interconnection point:

- A maximum of 80 percent of technical may be marketed for the next 15 years,
- 10 percent of technical capacity must be reserved for the award of annual capacities for the next 5 years,
- and another 10 percent of technical capacity must be reserved for short-term award starting with the annual quarterly auction.

Owing to terminations of capacity contracts and a discernible trend towards short-term procurement of capacities at daily and monthly auctions, the Ruling Chamber does not at present intend to raise the minimum quotas specified in the Network Code on Capacity Allocation. The aim is to have uniform quota levels for all interconnection points.

### **3. Booking points for third countries**

Proposal: That the rules of the Network Code on Capacity Allocation shall apply also to entry points from third countries and to exit points in third countries within the meaning of Article 2 (1) of the said code.

Under the aforesaid article, cross-border capacities are also to be awarded in the same auction proceedings as for the other cross-border/interconnection points.

### **4. Repeal of KARLA Gas Determination of 24 February 2011 (ref no BK7-10-001); new Determination on the gas standard capacity contract**

The above Determination is to be repealed because most of its provisions are now expressly stated in the Network Code on Capacity Allocation or in European transparency obligations. Some of the requirements (e.g. regular evaluation reports) can be dropped.

The gas standard capacity contract is intended to contain only the articles for which the code does not lay down any specific requirements, namely the "precondition for the use of the booked

capacity", the "return of capacity" and "nomination and renomination" (see section C). The changes as against the original text of the standard contract are clearly identified.

#### **5. Note on the award of competing capacity**

The relevant auction processes shall start simultaneously for all concerned interconnection points. Each auction process, relating to a single standard capacity product, shall allocate capacity independently of every other auction process except where, subject to the agreement of the directly involved transmission system operators and the approval of relevant national regulatory authorities, competing capacity is allocated (Article 8 (2) Network Code on Capacity Allocation).

Gas TSOs that wish to market competing capacities as from 1 November 2015 are hereby requested to submit details to the Ruling Chamber on the relevant booking points, the capacity products and the relevant periods of validity. The submission for approval must include the consent of the Gas TSOs directly involved.

**C. Draft operative provisions and other clauses of the gas standard capacity contract**

1. The operative provisions of No 1 to 6 of Determination BK7-10-001 of 24 February 2011 as amended by Determination BK7-12-201 will be repealed with effect from 1 November 2015.
2. The Gas TSOs will be required, with effect from 1 November 2015, to include the provisions laid down in Annex 1 ("Standard Clauses for Gas Contracts") in capacity contracts concluded and to be concluded for interconnection points as defined in Article 3 No 10 of Commission Regulation (EU) No 984/2013 of 14 October 2013 establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems and supplementing Regulation (EG) No 715/2009 of the European Parliament and the Council (hereinafter: Network Code on Capacity Allocation).
3. If a Gas TSO intends to award capacities at one or more than one of its interconnection points on a different platform from that used hitherto, it must notify the Ruling Chamber thereof without delay. The framework conditions applicable to the conduct of the auction and for access to the new platform must be documented in German. This notification must be delivered no later than three months before the intended start of the first capacity auction on the new platform.
4. The Gas TSOs will be required to set aside 20 percent of their technical capacity at each interconnection point and, under Article 8 No 7 of the network code, to place it on offer, provided that the available capacity, at the time this Determination comes into force, is at the same level as, or a higher level than, the proportion of technical capacity that is to be set aside. Article 8 (9) of the code would thus permit, for all interconnection points, the exact proportion of technical capacity to be set aside for quarterly and annual auctions.
5. The provisions of the Network Code for Capacity Allocation will also apply to entry points from third countries and to exit points in third countries as defined in Article 2 (1) of the said code.
6. The right of revocation is herewith reserved.
7. The right is reserved to rule on costs.

Reference: BK7-15-001

February 2015

**Determination in the matter of capacity management and auction proceedings in the gas sector**

**Annex 1: Gas standard capacity contract**

**Section [1] repealed**

**Section [2] repealed**

**Section [3]**

1. A precondition for use of bundled capacity is entering, in the particular balancing groups, the bundled booking point [in the meaning of Art. 19 \(3\) Regulation \(EC\) 984/2013](#), as the exit point in the donor market area and as the entry point in the recipient market area.
2. The shipper designates a balancing group manager to be responsible for bundled nomination at a bundled booking point and informs the transmission system operators accordingly.
3. A precondition for use of capacity is the prior conclusion of a balancing group contract or, in the case of bundled capacity, the prior conclusion of balancing group contracts and the prior fulfilment of the technical requirements (most notably the communication test) for use of the capacity.
4. Shippers must enter the bundled or non-bundled booking point at which they have acquired bundled or non-bundled day ahead capacity without delay, not later than 18:00 hours on the day before supply, in the balancing groups. To this end, as part of day ahead booking, they must inform the transmission system operators of the balancing group codes. Entry within the prescribed period likewise requires a communication test to have been successfully carried out beforehand between the transmission system operator and the designated balancing group manager in accordance with the transmission system operators' access conditions and one-off presentation of authorisation as referred to in section [5] subsection 2.
5. A bundled booking point can be entered in more than one balancing group. Shippers wanting the bundled capacity they have booked at this point to be split between different

balancing groups/sub-balancing accounts must inform the transmission system operators concerned of the split per bundled booking point. Subsections 2 to 3 apply accordingly. Subsection 5 sentences 1 and 2 do not apply in respect of day ahead ~~and within-day~~ capacity.

6. Use of booked capacity must be in compliance with any capacity constraints and restrictions of use.
7. The possibility of entering ~~rest-of-the-day-or~~ within-day capacities will be given.

#### **Section [4] Capacity return**

1. Shippers can return booked firm capacity in full or in part, related to the booking period and volume, to the transmission system operators concerned via the joint booking platform at any time until 14:00 hours on the day before supply. Any subsequent primary use or secondary selling of the returned capacities by the shippers is ruled out, except as provided in subsection 8.
2. Bundled firm capacity can be returned in bundled form only.
3. Confirmation of capacity returned is given via the joint booking platform with a timestamp for the shipper. This confirmation does not release the shipper from its obligation to pay.
4. Return is possible for any day or days in the future and for any proportion of the originally booked capacity.
5. The transmission system operators sell returned capacities as primary capacity under the applicable rules. They can combine returned capacities and any primary capacity that is still available to offer products of longer duration. Returned capacity will be sold after other primary capacity available for the period in question.
7. If the transmission system operator sells some or all of the returned capacity, the shipper will be released accordingly from its obligation to pay. The extent of release from the obligation to pay depends on the proceeds obtained; however, the maximum extent of release will depend on the regulated network tariff for the period of primary selling and the volume of resold capacity. If the capacity returned by the shipper was obtained at auction, the obligation to pay the auction markup on the regulated tariff remains unaffected.

8. If several shippers return capacities for a particular day, the capacities will, in the case of oversupply, be resold by the transmission system operators in the order in which they were returned (timestamp).
9. Returned capacity that could not be resold will be made available again to the shipper daily, for the following day, after completion of day ahead selling but not later than 20:00 hours, for use in the balancing group in which it was entered prior to return.
10. The transmission system operator gives the shipper a credit note for the tariff referred to in subsection 6. The credit is paid monthly and set off against any outstanding transportation charges.

### **Section [5] Nomination and renomination**

1. Responsible for nomination and renomination is the balancing group manager designated by the shipper for this purpose.
2. The balancing group manager nominates the volumes of gas for transportation under the arrangements for the use of firm capacity at a particular booking point until 14:00 hours of the day before supply. This initial nomination is accepted if it is received by the transmission system operator by 14:00 hours. In other cases, zero will be considered the nominated volume unless the contracting parties have agreed otherwise. In respect of bundled nomination, the nominating balancing group manager must have been authorised accordingly, in writing, by the other balancing group manager whose balancing group is affected by the nomination, in relation to the transmission system operators concerned. Authorisation need be given once only.
3. The nominating balancing group manager can replace its initial nomination with a renomination made with a two-hour lead time, at least, to the full hour. Renomination is permitted if it does not exceed 90% of the total capacity booked by the shipper at the booking point and is not less than 10% of the booked capacity. With initial nominations of at least 80% of the booked capacity, half of the non-nominated volume can be used for renomination upwards. With initial nominations of, at most, 20% of the booked capacity, half of the nominated volume can be used for renomination downwards. Permissible renomination will be rounded up commercially to whole kilowatt-hours per hour.
4. Nominations will be assigned first to firm capacity and then to interruptible capacity.
5. Renominations for firm capacity that exceed the volume permitted under subsection 3 will not be accepted for more than the total volume of booked capacity. The part of the



nomination that exceeds the volume permitted will be treated as a nomination for interruptible capacity and interrupted first.

6. Renominations for firm capacity below the volume permitted under subsection 3 will be accepted. Should an interruption in the reverse flow direction become necessary, the renomination will be raised to the minimum permissible renomination level.
7. The restriction on renomination does not apply to shippers with firm bookings for less than 10% of the annual technical capacity offered at the booking point.
8. If more than one shipper enters a booking point in the same balancing group, a sub-balancing account can be set up by the balancing group manager for each shipper in this particular balancing group. In this case the nomination of gas volumes will be made by the balancing group manager for each shipper separately in its sub-balancing account. In this case the renomination limits referred to in subsections 3 and 7 apply to the shipper's total capacity entered in the sub-balancing accounts for the particular booking point. In the absence of sub-balancing accounts, the total capacity at the booking point in a balancing group serves as the basis for applying the renomination restriction.
9. Nominations must be made separately for each flow direction. Nomination of bundled capacity is made by means of a bundled nomination.
10. Day ahead capacity can be nominated until 20:00 hours. ~~Renomination of day ahead capacity is not possible.~~ No day ahead and within-day capacity is included in determining the renomination volume permitted as set out in subsection 3.

[Further general provisions]