

DECISION NO. 772/29.05.2017

on the approval of the provisions within the competence of the National Energy Regulatory Authority established in the binding Open Season Rulebook for the Open Season to be jointly performed by the National Gas Transmission Company Transgaz S. A. Medias, Földgázszállító Zártkörűen Működő Részvénytársaság – FGSZ Ltd. and Gas Connect Austria for the allocation of incremental capacity at the Csanadpalota interconnection point between the Romanian and the Hungarian gas transmission systems and at the Mosonmagyaróvár interconnection point between the Hungarian and the Austrian gas transmission systems

Considering:

- the provisions of Regulation (EU) 2017/459 of the Commission of 16 March 2017 establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation (EU) No 984/2013,
- the provisions of Art. 99 (k) and Art. 130 (1) (d¹) of Electricity and Gas Law No. 123/2012, as further amended and supplemented.

Taking into account:

- the final version of the Open Season Rulebook for the Open Season to be jointly performed by the National Gas Transmission Company Transgaz S. A. Medias, Földgázszállító Zártkörűen Működő Részvénytársaság – FGSZ Ltd. and Gas Connect Austria for the allocation of incremental capacity at the Csanadpalota interconnection point between the Romanian and the Hungarian gas transmission systems and at the Mosonmagyaróvár interconnection point between the Hungarian and the Austrian gas transmission systems (*the Rulebook*), sent to the National Energy Regulatory Authority by Letter No. DJ/23901/25.05.2017 registered at ANRE under number 37352/26.05.2017,
- that between October 2014 – May 2017 the Austrian gas transmission system operator, Gas Connect Austria (GCA), the Romanian gas transmission system operator, the National Gas Transmission Company Transgaz S. A. Medias (*Transgaz*) and the Hungarian gas transmission system operator Földgázszállító Zártkörűen Működő Részvénytársaság – FGSZ Ltd. (FGSZ), together with the Austrian energy regulatory authority, Energie-Control Austria für die Regulierung der Elektrizität und Erdgaswirtschaft (*E-Control*), the Romanian energy regulatory authority, the National Energy Regulatory Authority (ANRE), the Hungarian energy regulatory authority, Magyar Energetikai és Közmű-szabályozási Hivatal (*MEKH*), and the European Commission Directorate-General for Energy (*DG Energy*) cooperated for the preparation of the draft versions and the final version of the Rulebook in English,
- that at the Rulebook preparation initiation date the applicable European regulatory framework, Regulation (EU) No. 984/2013 establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems and supplementing Regulation (EC) No 715/2009, did not contain explicit provisions enabling the allocation of future transmission capacity, simultaneously for two interconnection points connecting three gas transmission systems operated by three transmission system operators in three different Member States, and, therefore, for the preparation of the documentation, in addition to Regulation (EU) No. 984/2013, the Guidelines for good practice on Open Season procedures prepared by ENTSOG, the draft European regulation establishing the harmonised transmission tariff structures for gas (*TAR NC*) and the draft European regulation establishing a new network code on capacity allocation mechanisms in gas transmission systems (the new CAM NC), currently under public consultation, were considered,

- that between 8 February 2016 and 24 February 2016 a public market consultation was held for choosing out of four incremental capacity allocation concepts proposed for consultation the concept of incremental capacity allocation at the Csanadpalota interconnection point between the Romanian and the Hungarian gas transmission systems and at the Mosonmagyaróvár interconnection point between the Hungarian and Austrian gas transmission systems, to be used in the binding open season (*RO-HU-AT Open Season*), the allocation concept foreseen in the final version of the Rulebook being the one indicated in most of the replies received,
- that between 29 November 2016 and 9 January 2017 the first version of the Rulebook was submitted to an international public consultation by its publishing on the websites of the three gas transmission operators, GCA, Transgaz and FGSZ,
- that the final version of the Rulebook includes the reasonable and justified proposals and comments of the economic operators in the gas sector following the international public consultation, the workshop held on 8 March 2017 at Budapest, the joint work meeting on 11-12 April 2017 in Vienna, and the publication of the final version of the Rulebook on the web sites of GCA, Transgaz and FGSZ on 16 May 2017,
- that the involved gas transmission system operators (GCA, Transgaz and FGSZ) assessed the non-binding market demands and included infrastructure projects in their network development plans relevant for offering incremental capacity in the RO-HU-AT Open Season,
- the fact that within the RO-HU-AT Open Season 10% of the incremental capacity will not be offered to the market, this capacity being retained for offering over the short term, following to be allocated in a non-discriminatory way, according to Regulation (EU) No. 2017/459,
- that the incremental capacity allocation method under the Rulebook is compliant with the principles established at Art. 30 of Regulation (EU) No. 2017/459, covering a period of maximum 15 years from the start of the operational use, and has as scope an incremental capacity project involving more than two entry/exit systems, offers for more interconnection points are requested for a duration of more than one year within the allocation procedure, and the applicants may submit conditional binding offers for contracting capacity,
- that the economic tests in the final version of the Rulebook will be performed compliant with the principles established at Art. 22 and Art. 25 of Regulation (EU) No. 2017/459, and the parameters used in the economic tests were set according to Art. 23 and Art. 24 of this Regulation,
- that the economic tests in the final version of the Rulebook contain parameters determined by the technical solution foreseen in the Study for ensuring gas export capacities through the Horia – Csanadpalota interconnection with Hungary and implicitly the related investment effort,
- that the final version of the Rulebook is compliant with the provisions of Art. 28 (1) of Regulation (EU) No. 2017/459,
- that the competence of ANRE cannot be extended to the approval of the elements in the Rulebook regarding the reserve price, supplements, reserve price evolution and supplements evolution following incremental capacity allocation, parameters used at the substantiation of the economic tests, financial guarantees and incremental capacity booking contracts of FGSZ and GCA, such approval being the competence of MEKH and E-Control.

Based on

- Art. 28 (2), Art. 30 (1) and Art. 31 of Regulation (EU) 2017/459 of the Commission of 16 March 2017 establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation (EU) No 984/2013,
- Art. 5 (1) (d) and Art. 10 (1) (a) and (o) point 2 of Government Emergency Ordinance No. 33/2007 on the organising and functioning of the National Energy Regulatory Authority, approved as further amended and supplemented by Law No. 160/2012,

The President of the National Energy Regulatory Authority adopts the following

DECISION

Art. 1. – The provisions within the competence of the National Energy Regulatory Authority established in the binding Open Season Rulebook for the Open Season to be jointly performed by the National Gas Transmission Company Transgaz S. A. Medias, Földgázszállító Zártkörűen Működő Részvénytársaság – FGSZ Ltd. and Gas Connect Austria for the allocation of incremental capacity at the Csanadpalota interconnection point between the Romanian Gas Transmission System and the Hungarian Gas Transmission System and at the Mosonmagyaróvár interconnection point between the Hungarian Gas Transmission System and the Austrian Gas Transmission System (*the Rulebook*) are approved, according to the Annex which part of this Decision.

Art. 2. – If following economic tests III and/or IV the supplements have to be revised, the National Gas Transmission Company Transgaz S.A. Medias has to submit to the National Energy Regulatory Authority, the substantiation of the new amount of the supplement until the completion of each of such economic tests at the latest, for endorsement by the decision of the President of the National Energy Regulatory Authority.

Art. 3 – If the economic test is positive, the National Gas Transmission Company Transgaz S.A. Medias has to submit to the National Energy Regulatory Authority a detailed report including information related to the performed incremental capacity allocations, within no more than 15 days from the completion of such economic test.

Art. 4 – If during the period comprised between the date of the last positive economic test established in the Rulebook and 1 October 2022 the National Gas Transmission Company Transgaz S.A. Medias implements another technical solution, with a reduced level of costs, to offer the same firm annual capacity product, the supplement will be re-calculated in line with the new necessary investment effort and endorsed by the decision of the President of the National Energy Regulatory Authority.

Art. 5 – In case of interpretation discrepancies, the English language will prevail, except for Annex 3 – ‘Framework Gas Transmission Contract Concluded Subsequent to the Binding Open Season Procedure for Capacity Booking at the Csanadpalota Interconnection Point between the Romanian Gas Transmission System and the Hungarian Gas Transmission System’ where the Romanian language will prevail.

Art. 6 – (1) The Decision is communicated to the National Gas Transmission Company Transgaz S.A. Medias and it is published on its website.

(2) The National Gas Transmission Company Transgaz S.A. Medias publishes the entire Rulebook in Romanian and English, on its website.

Art. 7 – The National Gas Transmission Company Transgaz S.A. Medias will carry out the provisions of the Decision, and the specialist divisions of the authority will monitor compliance with such provisions.

President
of the National Energy Regulatory Authority
Niculae Havrilet