E-CONTROL

Implementation of the Natural Gas Act 2011 (Gaswirtschaftsgesetz 2011 – GWG 2011) related to trading of natural gas and its place of delivery Interpretative note on section 170 para. 24 GWG 2011

The provision and its aim

Section 170 para. 24: “The place of execution of contracts in existence on 1 January 2013 for commercial hub services and the trades connected thereto shall be transferred to the virtual trading point in the market area concerned, and the corresponding nominations shall be made with the operator of such virtual trading point.”

The introduction of an entry-exit system with a virtual trading point (VTP) in the market area is one of the main elements of the GWG 2011. The aim of the provision in section 170 para. 24 is to ensure a concentration of trading activities at the VTP. A permanent co-existance of gas trading activities at physical trading points at cross-border flanges (current CEGH trading locations) and trading activities at the new VTP was considered by the legislator to be not beneficial for the well-functioning of the Austrian gas wholesale market. The provision in section 170 para. 24 thus requires traders to transfer the execution of gas trading contracts to the VTP.

Identification of the issues

The issues identified below arise at all current CEGH trading locations at cross-border TSO-flanges, i.e. at the future market area border. The issues are not valid for all current trading locations at flanges between inner-Austrian TSO-systems as these points will not be bookable anymore and will thus automatically be part of the VTP-access.

Capacity requirements are changed

The required transfer of the execution of gas trading contracts to the VTP changes capacity requirements for shippers to physically deliver or accept gas quantities. Under the current model entry capacity is not required by shippers to deliver gas quantities at a CEGH trading location. Under the new model, delivering shippers have to own respective entry capacities to deliver gas quantities at the VTP. Conversely, to take over gas quantities at a CEGH trading location and to inject it into the physical transmission system, a shipper needs capacity in the current regime. Under the new model, this shipper does not need entry capacity anymore as gas provided at the VTP is already in the Austrian market area.

Different price structure of traded gas quantities

Under the new model, gas quantities delivered at the VTP are automatically considered to be "entry-paid" which is not the case under the current model. This is problematic for contracts signed before 1 January 2013, where fulfillment spans over that date. Parties to a trading contract would have to take into account the respective entry charges when transferring the execution of a gas trading contract to the VTP.

Implications and recommendations

Under the new market model physical sellers require entry capacity at the market area border to fulfill present and future gas trading contracts at the VTP. Conversely, physical recipients do not need their entry capacity anymore (more specifically: entry split of current point-to-point contracts).

In case of direct contractual relations between physical sellers and physical recipients E-Control recommends that the physical recipients sublet the respective entry capacity to the physical sellers for the remaining term of the underlying gas trading contract. The obligations vis-à-vis the TSO will remain with the physical recipients but the capacity use will be transferred to the physical sellers to deliver the gas at the VTP.

In case of more complex contractual relations, i.e. gas trading contracts involving intermediate parties, including traders without transport capacities, E-Control recommends a coordinated and anonymous capacity transfer process, e.g. organized by CEGH and the TSOs, whereby capacity transfer shall be facilitated from shippers which currently hold entry capacity but will not need it under the new market model, to shippers which have capacity demand under the new market model.

Furthermore, in all contracts closed before the entry into force of the new market model for a future delivery, gas prices have to be adapted to "entry-paid" gas.

The capacity transfer process as well as the negotiations to adapt existing gas trading contracts require sufficient time. A transitional period not exceeding one year as of the publication of the new entry-exit tariffs (publication is foreseen until August 2012) shall ensure a smooth transition of gas trading activities to the VTP.