- Ruling Chamber 7 -

Decision

File reference: BK7-14-020

In the administrative procedure

pertaining to the determination on gas balancing (implementation of the Network Code on Gas Balancing, "GaBi Gas 2.0")

Ruling Chamber 7 of the Bundesnetzagentur für Elektrizität, Gas, Telekommunikation, Post und Eisenbahnen, Tulpenfeld 4, 53113 Bonn, legally represented by its President Jochen Homann,

by its chairman Christian Mielke,
its assessor Dr Chris Mögelin
and its assessor Diana Harlinghausen

decided on 19 December 2014:

1. Market area managers, transmission system operators and distribution system operators are obliged to perform balancing of gas quantities according to the following principles:
   a) All quantities transported and traded by the network users shall be balanced by the market area manager. The balancing period is the gas day ("D"), i.e. a daily balancing regime shall apply. The difference between the input and offtake quantities relevant for balancing during the balancing period shall be settled by the market area manager as imbalance gas at the end of the balancing period. The market area manager levies or pays imbalance charges for this in accordance with (2). In addition to the daily balancing regime, within day obligations in accordance with (4) shall be applied.
   b) Hourly nominated quantities, metered quantities and standard load profiles are relevant for balancing as follows:
      aa) As a general rule nominated quantities are included in the balance for the following points; the principle "allocated as nominated" generally applies to these points:
         (i) entry and exit market area interconnection points,
         (ii) entry and exit cross-border interconnection points,
         (iii) entry points from domestic production facilities,
         (iv) virtual entry and exit points and
         (v) entry and exit points from storage facilities.

      Notwithstanding this provision, metered values can also be used as data relevant for balancing groups at cross-border interconnection points that serve exclusively the supply of end users (in downstream networks) and in the case of entry points from domestic production facilities ("allocated as measured"). Use of the "allocated as measured" allocation principle at cross-border interconnection

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points that serve exclusively the supply of end users must be approved in advance by the Ruling Chamber. In the balancing regime such points shall be treated as exit points with consumption metering.

bb) Metered values (“actual offtakes”) are relevant for balancing for exit points with consumption metering (“RLM exit points”).

cc) Standard load profiles (“SLP exit points”) on the basis of a day ahead forecast are relevant for balancing for exit points with non-daily metered offtakes. Therefore, variant 2 from the Network Code on Gas Balancing (Article 33(4) in conjunction with Article 3(21) and Article 37(1)(b)) applies to SLP exit points. The distribution system operators as the forecasting party are obliged to develop and allocate standard load profiles for SLP exit points. The forecasts are sent to the balancing group managers by the market area manager on the day ahead (“D-1”) of the balancing period.
The information on the standard load profile procedure that is used, including procedure-specific parameters, shall be made available to the relevant market parties by the distribution system operator in appropriate form and scope. Balancing-period-dependent, application-specific parameters, fit for general business, shall be exchanged daily by electronic means in the format in which the data relevant for balancing is sent.

dd) Balancing group managers are obliged to ensure that the balance is as even as possible within the balancing period. The balancing group manager shall take all reasonable steps to prevent predictable deviations.

ee) In order to determine the daily differential quantities for each balancing group, the net balance of daily input quantities and daily offtake quantities shall be continuously calculated in one account per balancing group, insofar as they have been allocated to the balancing group. Exchanging differential quantities between balancing groups after the end of the balancing period (“ex post balancing”) is not permissible. The market area manager shall calculate the net balance of the provisionally allocated quantities determined by the entry or exit network operator with respect to the input quantities provisionally allocated to the balancing group or balancing subgroup and shall immediately notify the balancing group manager of the net balance. The same applies accordingly to the finally allocated quantities. The finally allocated quantities include adjustment for missing or erroneous metered values and shall be corrected by the calorific value used for settlement.

2. The market area managers shall determine and settle the imbalance gas using the following methodology:

a) The daily imbalance quantity shall be established for each balancing group on the basis of the net balance between daily inputs and offtakes using the finally allocated quantities in accordance with (1)(b). The calorific value correction shall not be included in this. Allocating multiple balancing groups to one master balancing group is permissible.

b) The imbalance price is determined as follows:
The daily positive imbalance price is the higher of the following two prices: “the highest price of all balancing gas purchases by the market area manager for the gas day in question” or “the weighted average price of gas in respect of that gas day, plus a small adjustment of two percent”.
The daily negative imbalance price is the lower of the following two prices: “the lowest price of all balancing gas sales by the market area manager for

the gas day in question" or "the weighted average price of gas in respect of that gas day, minus a small adjustment of two percent".

In order to determine the highest and lowest price of all balancing gas purchases and sales, only those balancing transactions shall be used that are carried out on a global (MOL rank 1) or quality-specific basis (quality-specific products within MOL rank 2) via the relevant trading platform in accordance with (c) with delivery at the virtual trading point (including day ahead and within day products). In the case of day ahead products, the day of delivery is the decisive date.

In order to determine the weighted average price of gas, the weighted average price formed at the relevant trading platform in accordance with (c) with delivery at the virtual trading point (including day ahead and within day products) shall be used.

c) The EEX – European Energy Exchange AG is approved as a relevant trading platform according to Article 22(3) of the Network Code on Gas Balancing.

d) If it is not possible to determine the imbalance prices on the basis of the principles described in (b), the respective imbalance price of the previous day shall be used. This also applies if the imbalance price of the previous day was already formed according to this default rule.

e) To determine the daily imbalance charges, the market area manager shall multiply the daily imbalance quantities in accordance with (a) by the daily imbalance prices in accordance with (b) or (d). The imbalance quantities are settled on a monthly basis between the market area manager and the balancing group manager for each balancing period using the positive imbalance price in the case of short supply and the negative imbalance price in the case of surplus supply. This methodology for calculation of the daily imbalance charge is approved according to Article 20(1) of the Network Code on Gas Balancing.

3. The following applies to the reconciliation, to be performed by the market area managers vis-à-vis the balancing group manager, of the differential quantities arising from the calorific value correction between the initial and final quantity allocation of a balancing group of RLM exit points ("RLM reconciliation quantities"):

a) The RLM reconciliation quantities shall be determined on a daily basis to the end of a month.

b) The weighted average price of gas established at the relevant trading platform in accordance with (2)(c) with delivery at the virtual trading point (including day ahead and within day products) shall be used for the reconciliation. This shall be applied to both higher and lower quantities arising from calorific value correction.

4. The market area managers are obliged to introduce within day obligations. The rules governing within day obligations do not affect daily balancing. The following applies to within day obligations:

a) For every hour within the gas day the market area managers shall net the inputs into the balancing group that are relevant for balancing within that hour against the offtakes from the balancing group that are relevant for balancing. The hourly net total shall be cumulated over the gas day. There shall be no separate consideration of inputs or offtakes at individual points.

b) The following allocation groups shall be distinguished:

aa) For points that are balanced according to the principle of "allocated as nominated" or "allocated as measured" in accordance with (1)(b)(aa), the allocated quantity is considered for each hour. No tolerances shall be allowed.

bb) For RLM exit points, either the hourly share of the actual daily offtake quantity distributed evenly (as a flat daily profile) over the entire gas day (subgroup RLMmT) or the actual offtake quantity for each hour (subgroup RLMoT) is relevant. The actual offtake quantity is the allocated offtake quantity without calorific value correction but with replacement value correction. A tolerance is allowed for both subgroups: the amount of the tolerance for each hour is +/- 7.5 percent of the daily offtake quantity.

Offtakes at RLM exit points are in principle categorised in the subgroup RLMmT. The balancing group manager authorises the network user to announce to the network operator that one or more RLM exit points in his balancing group shall not belong to the subgroup RLMmT. In this case the rules for the subgroup RLMoT shall apply to the relevant RLM exit points. The announcement of the balancing group manager or network user is binding for the market area manager. This option may be exercised in the context of the master data processes or in the context of a change of supplier.

cc) For SLP exit points, the hourly share of the daily quantity of the standard load profile distributed evenly over the entire gas day (as a flat daily profile) is relevant. No tolerances shall be allowed.

c) If cumulating the hourly net totals results in a surplus or short supply after taking into account any allowable tolerance in accordance with (4)(b)(bb) (within day flexibility quantity), the balancing group manager is obliged to pay the market area manager a flexibility charge in euros per MWh. The following applies to the imposition of the flexibility charge:

aa) The market area managers shall only impose a flexibility charge on those days on which opposing balancing actions (purchasing and selling of balancing gas) via MOL rank 1 in accordance with (6) have occurred in the market area and result in costs incurred for the market area manager. No flexibility charge shall be imposed on gas days on which these criteria are not fulfilled.

bb) The market area managers shall calculate the amount of the flexibility charge for the gas day in question as the quotient of the costs for the flexibility balancing gas weighted by quantity and the quantity of flexibility balancing gas.

5. In order to provide information on RLM exit points, the market area manager shall forward the quantities, which are determined and allocated twice a day by the exit network operator, to the balancing group manager in aggregated form. The gathering, allocating and forwarding must satisfy the following requirements:

a) The first within day information provision comprises the recording of quantities for the period from 06:00 to 12:00 hours on the gas day. The market area manager forwards the values, which he must be provided with by the exit network operator no later than 15:00 hours, to the balancing group manager no later than 16:00 hours.

b) The second within day information provision comprises the recording of quantities for the period from 12:00 to 15:00 hours on the gas day. The market area manager forwards the values, which he must be provided with by the exit network operator no later than 18:00 hours, to the balancing group manager no later than 19:00 hours. The second within day information provision also includes the recording period of the first within day information provision, if applicable in updated form.

6. The following applies to the procurement and use of balancing gas:

a) The market area managers are obliged to meet an existing need for balancing gas initially through the use of internal balancing gas. The reserva-

tion and use of internal balancing gas shall not be remunerated separately, neither between the network operators nor by the market area manager. If the use of internal balancing gas is not expedient or not sufficient enough to meet demand, the market area manager shall procure and use external balancing gas.

b) A four-level merit order list (MOL) shall be applied to the procurement and use of external balancing gas:

aa) The market area managers are obliged to give priority to meeting the demand for external balancing gas through the use of balancing gas procured on the exchange in their own market area without fulfilment restrictions (“global balancing gas”; MOL rank 1).

bb) If the use of MOL rank 1 products is not expedient because of a specific, network related operational requirement or is inadequate to meet existing requirements, the market area managers shall procure requirement-specific (e.g. quality-specific) products on the exchange in their own market area and use them accordingly (MOL rank 2). In addition, products can be procured on an exchange in an adjacent market area and used accordingly (likewise MOL rank 2).

The possibility of procuring or providing gas quantities in an adjacent market area and the transportation of gas to or from that market area by the market area managers are approved to this extent. For the transportation of gas to or from the adjacent market area the market area managers shall book capacities as short-term as possible or interruptible capacities, taking cost efficiency into consideration. The costs arising for transportation in the case of procurement or provision in an adjacent market area shall be taken into account accordingly in the procurement of MOL rank 2 products.

cc) If the use of MOL rank 1 and 2 products is not expedient because of a specific, network related operational requirement or is insufficient to meet existing requirements, the market area managers shall meet the demand with products procured on the physical balancing platform in their respective market area (MOL rank 3).

Only balancing products that are not tradable as exchange products are permitted to be procured on the physical balancing platform in the respective market area. The continued use of the existing physical balancing platform in the respective market area is approved to this extent until 16 April 2019.

dd) If the use of MOL rank 1 to 3 products is not expedient because of a specific, network related operational requirement or is insufficient to meet existing requirements, the market area managers shall use standardised long-term products and/or flexibility services procured in a market-based, transparent and non-discriminatory public tender procedure (MOL rank 4).

7. The market area managers are obliged to set up two separate neutrality charge accounts for balancing: for SLP exit points and for RLM exit points. No other points in the neutrality charge system shall be considered. All costs and revenues from the balancing gas and imbalance gas system shall be allocated to the two neutrality charge accounts. In this regard the following provisions must be satisfied:

a) The following shall be allocated to the neutrality charge account of the SLP exit points (SLP neutrality charge account):

aa) costs and revenues from SLP reconciliation,

bb) costs and revenues from the procurement or sale of external balancing gas, insofar as these are allocable to the SLP neutrality charge account,

cc) other costs and revenues in connection with the balancing activities undertaken by the market area manager, insofar as these are allocable to the SLP neutrality charge account,

dd) revenues from the SLP neutrality charge for balancing.

b) The following shall be allocated to the neutrality charge account of the RLM exit points (RLM neutrality charge account):

aa) costs and revenues from negative and/or positive imbalance gas,

bb) until 30 September 2016, revenues from structuring charges,

cc) revenues from the flexibility charge,

dd) costs and revenues from the procurement or sale of external balancing gas, insofar as these are allocable to the RLM neutrality charge account,

ee) other costs and revenues in connection with the balancing activities undertaken by the market area manager, insofar as these are allocable to the RLM neutrality charge account,

ff) revenues from the RLM neutrality charge for balancing.

c) The market area managers are obliged to divide the costs and revenues from the procurement or sale of external balancing gas and the other costs and revenues in connection with the balancing activities undertaken by the market area manager between the SLP and RLM neutrality charge accounts according to the following provisions:

aa) The costs and revenues shall be allocated to the two neutrality charge accounts for each gas day separately according to a distribution formula. If both costs and revenues arise from the use of positive and negative external balancing gas within day, the balance of these shall be netted at the end of the gas day.

bb) The daily distribution formula shall be determined as follows on gas days with a use of external balancing gas:

For SLP exit points the distribution system operators' differential quantities that are to be calculated according to the account system specified in (8) (network accounts) shall be used and aggregated across the market area (SLP net balance). For RLM exit points the net balances of all balancing groups shall be determined by comparing the relevant input and offtake quantities and aggregating them across the market area (RLM net balance).

If the two net balances have the same tendency, the ratio of the two net balances to the total shortfall with the same tendency determines the allocation of the costs or revenues for the procurement of external balancing gas established for that gas day by the market area manager. Depending on the corresponding share the respective neutrality charge accounts are allocated. If the two net balances do not have the same tendency, the costs or revenues for the procurement of external balancing gas calculated for that gas day shall be allocated to the neutrality charge account of the exit group whose net balance has the same tendency as the use of external balancing gas. If the two net balances have the same tendency with opposing balancing actions, the costs or revenues for the procurement of external balancing gas calculated for that gas day shall be distributed between the two neutrality charge accounts on the basis of the ex-post calculated mean of all daily calculated distribution formulae, for the contribution period in question (annual distribution formula with reference to the gas year and for the first gas year beginning on 1 October 2015 with reference to the six-month contribution period respectively).

cc) On gas days with no use of external balancing gas, the annual distribution formula calculated ex-post shall be used. The capacity prices of the long-term standardised balancing products or flexibility

services and the capacity charges shall be apportioned pro rata to the individual days of the contractual period and distributed between the two neutrality charge accounts using the annual distribution formula.

dd) The other costs and revenues connected to the balancing activities undertaken by the market area manager shall be allocated to the corresponding neutrality charge account according to causation. If allocation to a neutrality charge account according to causation is not immediately possible, the allocation is based on the annual distribution formula.

d) The market area managers shall determine the neutrality charges for balancing for the two neutrality charge accounts separately using the following methodology:

aa) The market area managers shall forecast the balance of the neutrality charge accounts by the end of the next contribution period without including the neutrality charge for balancing for the next contribution period, taking into account a liquidity buffer. Any deficits and surpluses in the neutrality charge account shall be taken into consideration correctively in the next forecast.

bb) If the forecasted costs exceed the forecasted revenues, the market area managers shall impose a neutrality charge for balancing in euros per MWh taken off, on the basis of a forecast of the respective offtake quantities relevant for balancing and separately for the SLP neutrality charge account and the RLM neutrality charge account. The neutrality charge for balancing for the SLP neutrality charge account shall be borne by the balancing group managers who supply SLP exit points. The neutrality charge for balancing for the RLM neutrality charge account shall be borne by the balancing group managers who supply RLM exit points.

cc) For the gas year beginning on 1 October 2015, two six-month contribution periods shall be set for the neutrality charge in both market areas. Starting with the gas year beginning on 1 October 2016, the contribution period for the neutrality charge in both market areas shall extend to the period of one gas year in each case.

e) If a surplus is generated in a contribution period (surplus period), the market area managers shall proceed as follows with this surplus:

aa) Determination of the surpluses and distribution shall be performed separately for the two neutrality charge accounts. Surpluses shall be used primarily to reduce the neutrality charge for balancing, to meet the forecast deficit for the next contribution period and to cover a liquidity buffer.

bb) If a surplus is generated in a contribution period (surplus period) which exceeds, after consideration of a liquidity buffer, a forecasted deficit for the contribution period following the surplus period (following period), the difference shall be distributed in two stages: first the balancing group managers receive a distribution up to the amount of the neutrality charge for balancing that they have paid in the surplus period. If further surpluses remain, these shall be distributed to all balancing group managers depending on the balancing-related transport gas quantity offtake of all SLP exit points (for the SLP neutrality charge account) and RLM exit points (for the RLM neutrality charge account) in the surplus period.

cc) Determination of the precise amount to be distributed and the distribution itself shall take place in the following period, immediately after submission of all the final data required for the distribution.

f) Surpluses remaining on the balancing gas and imbalance gas neutrality charge account on 30 September 2015 in accordance with the determina-

tion on balancing services (balancing group contract etc.) of 28 May 2008 (file reference BK7-08-002) shall initially be used to meet the forecast deficits and as a liquidity buffer for the first contribution period from 1 October 2015 and if applicable for distribution or offsetting in accordance with § 15(6) of the standard balancing group contract, annex 1 to the determination on balancing services (balancing group contract etc.) of 28 May 2008 (file reference BK7-08-002).

The remaining liquidity buffer shall be transferred to the SLP and RLM neutrality charge accounts. The amount shall be divided between the two neutrality charge accounts according to the distribution formula with a 40:60 ratio (SLP neutrality charge account:RLM neutrality charge account). Any remaining deficits on the balancing gas and imbalance gas neutrality charge account on 30 September 2015 shall be apportioned according to the same formula.

For a transitional period of two years, costs and revenues from services that have been performed before 1 October 2015 but are not settled until after that date shall be transferred to the two neutrality charge accounts according to the distribution formula for SLP and RLM with a 40:60 ratio.

g) The market area managers shall gather the following data in particular and on request shall provide them to the Ruling Chamber in a format suitable for further electronic processing by standard software:
   - aa) information about the forecast for the neutrality charges for balancing and the underlying assumptions and methods,
   - bb) the individual cost and revenue items and the balance of the neutrality charge accounts,
   - cc) data on the delineation of costs and revenues for gas balancing and conversion,
   - dd) offtake quantities relevant for balancing, per neutrality charge account.

8. The network operators in collaboration with the market area managers shall propose an incentive mechanism for the provision of a precise forecast for SLP exit points to the Ruling Chamber which envisages distributions by the market area managers to the distribution system operators and payments by the distribution system operators to the market area managers if offtake and allocated quantities for a day are higher or lower than the forecasted quantities. The proposal shall satisfy at least the following requirements:

   a) Determination of these differential quantities for SLP exit points shall be performed on the basis of comparing the forecasted daily quantities with the provisionally determined offtakes within the framework of an account system (network accounts). The account system contains all distribution system operators' inputs and offtakes that are required to determine the provisional daily offtake from SLP exit points. In the determination of the provisional SLP offtakes, the calculations shall exclude the daily differential quantities from RLM exit points. The incentive effect shall be ensured by a provisional settlement of the daily differential quantity or quantities, established by the comparison, with respect to the reconciliation of a distribution system operator's SLP exit points (§ 25 of the Gas Network Access Ordinance (GasNZV)). The balance of the provisional settlement can also be netted until the end of the respective month.

   b) The daily forecasting quality of the SLP exit points shall be established according to a uniform system, independently of the standard load profile procedure that is used. In the case of the synthetic standard load profile procedure the relevant daily quantity is obtained on the basis of demand profiles using the forecast temperature of the day ahead. In the case of the analytical standard load profile procedure the offtake quantity of the day

before the day ahead (D-2) may be taken into account in determining the relevant quantity of day D.

c) The forecasting quality of the standard load profiles determined daily with reference to the forecast and offtake quantities shall be evaluated on the basis of the level and the tendency of the deviation that has occurred. To evaluate the level of the daily deviation from the forecast, for surplus and short supply a threshold value shall be determined in each case with respect to the deviation of the forecasted quantity and if necessary shall be evaluated on the basis of further suitable criteria.

d) The SLP incentive system shall be implemented until 1 October 2016.

e) The market area managers are obliged to provide the Ruling Chamber each month with the network accounts with the comparison of each distribution system operator's inputs and offtakes in a format that can be used for further electronic processing by standard software.

f) Those distribution system operators which exhibit an above-average deviation from the determined threshold value in the application of an incentive mechanism for SLP exit points shall be published in a transparency list on the internet by the market area manager. An above-average deviation shall be determined by the distribution system operators in collaboration with the market area managers, using a threshold value differing from (c). The transparency list shall likewise include all system operators who do not properly comply with data transmission in terms of quality or quantity according to the relevant processes. This applies in particular to all of a distribution system operator's inputs and offtakes that are recorded on a daily basis within the framework of the account system. For the RLM exit points in particular the deviations of the within day data transmissions from the daily provisional data transmissions and the deviations of both of these from the final data transmissions shall be recorded, compared and evaluated. The market area managers in collaboration with the distribution system operators shall determine threshold values that are suitable for this purpose.

9. The following reporting and evaluation obligations shall be imposed:

a) The market area managers are obliged to send the Ruling Chamber a summary report on the procurement and use of internal and external balancing gas in their respective market area once a year, starting one year after the determination has come into force. This report should include, among other things, a description and review of the implemented and planned interim measures in accordance with Article 46 of the Network Code on Gas Balancing, a review of the use of flexibility services in accordance with Article 8(6) of the Network Code on Gas Balancing and an analysis of the procurement or provision of balancing gas in an adjacent market area in accordance with Article 9(3) of the Network Code on Gas Balancing.

b) The distribution system operators in collaboration with the market area managers shall regularly evaluate the forecasting quality of the standard load profiles and the incentive system for SLP exit points and shall report to the Ruling Chamber on the results of the respective evaluation every two years following the introduction of the incentive mechanism. The report shall contain details of the forecasting accuracy of the standard load profile procedures used by the distribution system operators which were achieved in the reporting period as well as recommendations for possible improvements to the standard load profiles and for possible changes to the incentive mechanism. The market area managers shall make the data available that is required for the evaluation.

c) Until 1 October 2018 the market area managers are obliged to assess the costs and benefits of an increase in the frequency of the provision of in-

formation to the network users, a shortening of the intervals between the provision of information and an improvement in the accuracy of the transferred information, and to report to the Ruling Chamber. This cost-benefit analysis shall contain a breakdown of costs and benefits for the affected parties.

10. The market area managers are obliged to publish the following information on their website in a format that can be used for further electronic processing by standard software:
    a) The methodology for calculating the imbalance charges, the imbalance charges used after the end of the balancing period and the information for determining the daily positive and negative imbalance prices taking account of the information required in accordance with § 40(2) nos. 1 and 2 GasNZV, in particular the evolution of the marginal purchase price and of the marginal sales price after each trade without undue delay. This includes the information required for the derivation, such as the highest balancing gas purchase price, the lowest balancing gas sales price, the weighted average price with an adjustment of +/- 2 percent and, updated on an hourly basis, the expected imbalance prices. The information on the daily values shall be held available retrospectively as daily values for at least the last 12 months.
    b) The quantities of flexibility balancing gas and the associated costs as well as the respective daily flexibility charge in euros per MWh on a daily basis.
    c) Information about the use of internal and external balancing gas retrospectively on a daily basis and for at least 12 months. For the use of external balancing gas, the following information in particular shall be published: day of use, delivery location, MOL rank, duration of use, lot size, quantity, gas quality and commodity price. For the use of MOL rank 4 products, information about the type of product, network area/location, lot size, period, price and gas quality of the contracted service shall be published in addition. Furthermore information about the costs and period of the capacities contracted for the procurement of balancing gas in adjacent market areas shall be published.
    d) The neutrality charges for balancing and the decision regarding a possible distribution six weeks before the start of the respective period of validity. The calculation basis and system for forecasting the neutrality charges for balancing and the distributions.
    e) The monthly net balances of the neutrality charge accounts, as soon as all final values required for the publication of a settlement month are available. All cost and revenue components to be apportioned according to the annual distribution formula shall be provisionally allocated to the two neutrality charge accounts according to the distribution formula of the previous year for the purpose of publication. In the first year the cost and revenue components shall be provisionally apportioned according to the distribution formula 50:50. After submission of the annual distribution formula, determined ex-post, the publication of the cost and revenue items to be apportioned according to the annual distribution formula shall be corrected retroactively. All cost and revenue items and the liquidity buffer of the neutrality charge accounts must be shown separately in the publication.
    f) A meaningful summary of each of the reports and evaluations according to (9) promptly after they have been submitted to the Ruling Chamber.

11. Market area managers, transmission system operators and distribution system operators are obliged to apply the specified provisions with effect from 1 October 2015 and where necessary shall include them in the relevant existing contracts and in future contracts. Excepted from this obligation are the provisions in (4)

(within day obligations) and (5) (information provision), which shall be applied from 1 October 2016 on and where necessary shall be included in the relevant existing contracts and in future contracts.

12. Attention is drawn to the following points:
    a) The special provisions for the input of biogas into the natural gas network in accordance with GasNZV remain unaffected by the provisions of this determination.
    b) In the event of the formation of cross-border market areas the Ruling Chamber may approve deviations from the provisions of this determination to the extent required for the formation of the cross-border market areas.

13. The following applies to existing determinations:
    a) The determination on balancing services (balancing group contract etc.) of 28 May 2008 (file reference BK7-08-002) is revoked with effect from 1 October 2015. This does not apply to § 10(1) (information obligations) and § 13 (hourly incentive system) of the standard balancing group contract, annex 1 to the determination of 28 May 2008, which shall not be revoked until 1 October 2016. The notifications published by the Ruling Chamber in this regard shall thus become invalid.
    b) The determination of 26 March 2012 (file reference BK7-11-044) remains in force. Note: In this respect the percentage of the tolerance is set at 0 percent in derogation of § 23(2) second sentence GasNZV.
    c) The provisional decision of 14 July 2014 (file reference BK7-14-020-E1) shall become invalid when this decision on the merits comes into effect.

14. The right of revocation is reserved.

15. The order for payment of costs is reserved.

Reasons

I.

This administrative procedure applies to the implementation of the Network Code on Gas Balancing (Commission Regulation (EC) No 312/2014 of 26 March 2014 establishing a Network Code on Gas Balancing of Transmission Networks, OJ EU No L 91/15 of 27 March 2014). The procedure reshapes the system of imbalance and balancing services on the German gas market. Hitherto it has largely been based on the determination on the basic model of balancing services and balancing rules in the gas sector (GABi Gas) of 28 May 2008 (file reference BK7-08-002). The procedure is addressed to all transmission system operators, distribution system operators and both market area managers.

The Network Code on Gas Balancing, which entered into force on 16 April 2014, establishes both material and formal requirements for the new system of imbalance and balancing services. The Network Code on Gas Balancing is intended to contribute to harmonisation of the various balancing regimes of the member states of the European Union. This objective is to be achieved

by means of Europe-wide standards for gas balancing regimes to be implemented by 1 October 2015 or 1 October 2016. Compliance with these uniform standards shall be ensured through the determination proceedings.

In order to ensure that the provisions set out in the Network Code on Gas Balancing are implemented in good time, in its letter of 3 December 2013 on the basis of the draft Network Code on Gas Balancing the Ruling Chamber invited the transmission system operators and market area managers to submit coordinated applications, proposals and recommendation documents pertaining to the design of the balancing system by 3 March 2014 and if applicable to conduct any necessary consultations by that date.

With their letter of 3 March 2014 the transmission system operators and market area managers sent the Ruling Chamber a recommendation document. The recommendation document contains proposals and applications for implementation of the European provisions, among other things relating to the price system for calculating imbalance charges, the introduction of within day obligations and the procurement of balancing gas. Specifically, they apply for:

1. approval of the procurement or provision of gas quantities within adjacent balancing zones and the transportation of gas to and from such balancing zones in accordance with Article 9(3) of the Network Code on Gas Balancing.

2. permission to take into account quality-specific exchange-traded products, and exchange-traded products traded within adjacent balancing zones which in terms of their impact can be deemed to be quality-specific products, in order to determine the daily imbalance price, in accordance with Article 22(5) of the Network Code on Gas Balancing.

3. continuation of the present structuring charges as prescribed under the GABi Gas ruling for a transitional phase until the new balancing regime is implemented.

4. approval to continue to use the market area managers' balancing platforms within the meaning of Article 47 of the Network Code on Gas Balancing, initially for a period of five years.

5. extension of the time limits as shown in table 8 of their recommendation document, subject to the condition that the Bundesnetzagentur keeps to the proposals in the recommendation document.

After reviewing the recommendation document from the transmission system operators and market area managers, on 3 April 2014 the Ruling Chamber introduced determination proceedings for redesigning the basic model for imbalance services and balancing rules in the gas sector. The Ruling Chamber announced the introduction of the proceedings in the Official Journal (07/2014 of 16 April 2014, Order no. 27/2014, page 798) and on the Bundesnetzagentur’s website. With the notification of proceedings the Ruling Chamber also presented specific proposals for the redesign of the balancing regime ("GABi Gas 2.0") for consultation by 5 May

2014 ("first consultation"). These proposals were based partly on applications and recommendations from the recommendation document from the transmission system operators and market area managers, but also on proposals from other market participants and on the Ruling Chamber's own deliberations. The Ruling Chamber published the proposals for the redesign of the balancing regime on 3 April 2014 on the Bundesnetzagentur's website, in both German and English. The national regulatory authorities of the adjacent member states were informed of the introduction of the proceedings and the start of the first consultation on 3 April 2014 via the Gas Working Group. In the course of this first consultation the Ruling Chamber received 34 comments from companies, business groups and associations. The Bundesverband der Energie- und Wasserwirtschaft e.V. (German Association of Energy and Water Industries – BDEW) and the Verband kommunaler Unternehmen e.V. (German Association of Local Utilities – VKU) submitted a joint comment, as did the Verband der Industriellen Energie- und Kraftwirtschaft e.V. (German Association of Industrial Energy Users and Self-Generators – VIK) and the Verband der Chemischen Industrie e.V. (German Chemical Industry Association – VCI). In addition, the Vereinigung der Fernleitungsnetzbetreiber Gas e.V. (association of gas transmission system operators – FNB Gas) and the two market area managers, GASPOOL Balancing Services GmbH (GASPOOL) and NetConnect Germany GmbH & Co. KG (NCG), submitted a joint comment. Furthermore, comments were received from the following associations, regulatory authorities, business groups and companies: AGGM Austrian Gas Grid Management AG (AGGM), Bundesverband Neue Energiewirtschaft e.V. (BNE), Creos Deutschland GmbH (Creos), Energie-Control Austria für die Regulierung der Elektrizitäts- und Erdgaswirtschaft (E-Control), European Energy Exchange AG (EEX), EFET Deutschland – Verband deutscher Gas- und Stromhändler e.V. (EFET), EnBW Energie Baden-Württemberg AG (EnBW), ENERVIE AssetNetWork GmbH (ENERVIE), E.ON SE (E.ON), erdgas schwaben gmbh, Gas-Union GmbH (Gas-Union), GDF SUEZ Energie Deutschland AG (GDF SUEZ), GEODE (European association of independent gas and electricity distribution companies), Netzgesellschaft Gütersloh (netze-gt), RheinEnergie AG, RWE AG (RWE), schwaben netz gmbh, SRD - Stadtwerke Ribnitz-Damgarten GmbH (SRD), Stadtwerke Neustrelitz GmbH, STADTWERK AM SEE GmbH & Co. KG, Statoil ASA (Statoil), SWB Netz GmbH, SWM Versorgungs GmbH (SWM), Stadtwerke Suhl/Zell-Mehlis Netz GmbH (SWSZ Netz), Thüga AG (Thüga), TEN Thüringer Energienetze GmbH (TEN), Trianel GmbH (Trianel), Verbundnetz Gas AG (VNG), Voralberger Energienetze GmbH, and WSW Netz GmbH (WSW Netz). Bilanzkreiskooperation (BKK) submitted a comment after the deadline for the submission of comments on 6 May 2014. The comments have been published on the Bundesnetzagentur's website.

On 12 June 2014 the Ruling Chamber held a discussion meeting at which the various gas industry associations were able to present their deliberations on the redesign of the balancing system and key substantive elements of the new balancing regime were discussed.

With its decision of 14 July 2014 (file reference BK7-14-001-E1), the Ruling Chamber issued a provisional order under which the continued application of the existing hourly incentive system, including the structuring charges, and the further use of the two market area managers' existing physical balancing platforms was approved and the transitional period according to Article 52 of the Network Code on Gas Balancing was extended until 1 October 2016. The Ruling Chamber announced the provisional order in the Official Journal (13/2014 of 23 July 2014, Order no. 40/2014, page 1752) and on the Bundesnetzagentur’s website. It also informed the European Commission and the Agency for the Cooperation of Energy Regulators (ACER) of the issuing of the provisional order on 14 July 2014.

Following evaluation of the results of the first consultation round and of the discussion meeting, the Ruling Chamber drafted the intended operative provisions. This draft operative part was published on the Bundesnetzagentur’s website on 11 August 2014 in German and on 19 August 2014 in English, and was presented for consultation until 14 September 2014 ("second consultation"). The national regulatory authorities of the adjacent member states were informed of the start of the second consultation on 11 August 2014 via the Gas Working Group. A total of 99 comments were received in the course of the second consultation. BDEW, VKU and GEODE submitted a joint comment, as did VIK and VCI. In addition, a joint comment was submitted by FNB Gas and the two market area managers GASPOOL and NCG, and by schwaben netz gmbh and Erdgas Kempten-Oberallgäu Netz GmbH. Furthermore, comments were received from the following associations, regulatory authorities, business groups and companies: AGGM, AVU Netz GmbH, Becker Büttner Held (on behalf of the following 84 companies: Albstadtwerke GmbH, Bad Honnef AG, Bayerische Rhöngas GmbH, Braunschweiger Netz GmbH, EGT Energie GmbH, eneREGIO GmbH, Energie und Versorgung Butzbach GmbH, Energie- und Wasserversorgung Rheine GmbH, Energie- und Wasserwerke Bautzen GmbH (EWB), Energieversorgung Halle Netz GmbH, Energieversorgung Nordhausen Netz GmbH, EWR GmbH, GeraNetz GmbH, Heilbronner Versorgungs GmbH, KNS-Kommunale Netzgesellschaft Südwest mbH, MAINGAU Energie GmbH, Netz Lübeck GmbH, NETZE Bad Langensalza GmbH, Netzgesellschaft Bitterfeld-Wolfen mbH, Netzgesellschaft Frankfurt (Oder) mbH, Netzgesellschaft Gütersloh mbH, Netzgesellschaft Potsdam GmbH, nvb Nordhorner Versorgungsbetriebe GmbH, Osterholzer Stadtwerke GmbH & Co. KG, Pfalzgas GmbH, PVU Energienetze GmbH, Siegener Versorgungsbetriebe GmbH, Städtische Betriebswerke Luckenwalde GmbH, Städtische Werke Netz + Service GmbH, Stadtwerk am See GmbH & Co. KG, Stadtwerke Annaberg-Buchholz Netz GmbH, Stadtwerke Bad Homburg v. d. Höhe, Stadtwerke Bad Salzuflen GmbH, Stadtwerke Brandenburg an der Havel GmbH, Stadtwerke Bretten GmbH, Stadtwerke Brunsbüttel GmbH, Stadtwerke Delmenhorst GmbH, Stadtwerke Dreieich GmbH, Stadtwerke Eilenburg GmbH, Stadtwerke Einbeck GmbH, Stadtwerke Eisenberg GmbH, Stadtwerke EVB Huntetal GmbH, Stadtwerke Friedberg, Stadtwerke Geldern Netz GmbH, Stadtwerke Glückstadt GmbH, Stadtwerke Iserlohn GmbH, Stadtwerke Itzehoe GmbH, Stadtwerke Karlsruhe Netzservice

GmbH, Stadtwerke Landshut, Stadtwerke Langen GmbH, Stadtwerke Lauffen am Neckar GmbH, Stadtwerke Lengerich GmbH, Stadtwerke Mainz Netze GmbH, Stadtwerke Menden GmbH, Stadtwerke Metzingen, Stadtwerke Neu-Isenburg GmbH, Stadtwerke Neustadt an der Weinstraße GmbH, Stadtwerke Nortorf AöR, Stadtwerke Oberursel (Taunus) GmbH, Stadtwerke Oerlinghausen GmbH, Stadtwerke Quickborn GmbH, Stadtwerke Radevormwald GmbH, Stadtwerke Riesa GmbH, Stadtwerke Sangerhausen GmbH, Stadtwerke Schaumburg-Lippe GmbH, Stadtwerke Schramberg GmbH & Co. KG, Stadtwerke Schwäbisch Hall GmbH, Stadtwerke Schwerte GmbH, Stadtwerke Sindelfingen GmbH, Stadtwerke Speyer GmbH, Stadtwerke Steinburg GmbH, Stadtwerke Suhl/Zella Mehlis GmbH, Stadtwerke Torgau GmbH, Stadtwerke Troisdorf GmbH, Stadtwerke Tübingen GmbH, Stadtwerke Verden GmbH, Stadtwerke Wedel GmbH, Stadtwerke Weinsberg GmbH, Stadtwerke Wilster, Stadtwerke Wolfenbüttel GmbH, STAWAG Netz GmbH, Strom- und Gasnetz Wismar GmbH, Versorgungsbetriebe Elbe GmbH und Versorgungsbetriebe Hann. Münden GmbH), DREWAG NETZ GmbH, E-Control, EEX, EFET, EnBW, Energienetze Apolda GmbH (ENA), ENERVIE, ENRW Energieversorgung Rottweil GmbH & Co. KG (ENRW), ENSO NETZ GmbH, Evonik Industries AG (Evonik), EWR GmbH, Gas-Union, Gasversorgung Dessau GmbH (GVD), GDF SUEZ, Gemeindewerke Bobenheim-Roxheim GmbH, GEODE, Greizer Energienetze GmbH (GreizerEN), Initiative Erdgasspeicher e.V. (INES), Kooperationsgesellschaft Ostbayerischer Versorgungsunternehmen mbH (KOV), Mittelhessen Netz GmbH (MIT.N), Neubrandenburger Stadtwerke GmbH (neu.sw), Netzgesellschaft Lübbecke mbH (NGL), N.V Nuon/Vattenfall, Rheinische NETZGesellschaft mbH (RNG), RWE, Schleswiger Stadtwerke GmbH, Stadtnetze Neustadt a. Rbge. GmbH & Co. KG, Stadtwerke Ahlen Netz GmbH, Stadtwerke Annaberg-Buchholz Netz GmbH, Stadtwerke Bad Nauheim GmbH, Stadtwerke Bochum Netz GmbH, Stadtwerke Borken/Westf. GmbH, Stadtwerke Brilon AöR / Energie GmbH, Stadtwerke Buxtehude GmbH, Stadtwerke Crailsheim GmbH, Stadtwerke Elmshorn, Stadtwerke Eschwege GmbH, Stadtwerke Ettlingen, Stadtwerke Fellbach GmbH, Stadtwerke Frankenthal GmbH, Stadtwerke Freudenstadt GmbH & Co. KG, Stadtwerke Haiger, Stadtwerke Herford GmbH, Stadtwerke Konstanz GmbH, Stadtwerke Lingen GmbH, Stadtwerke Metzingen, Stadtwerke Nettetal GmbH, Stadtwerke Ramstein-Miesenbach GmbH, Stadtwerke Rosenheim Netze GmbH (SWRO), Stadtwerke Schwentinental GmbH, Stadtwerke Velbert GmbH, Stadtwerke Villingen-Schwenningen GmbH, Stadtwerke Witten GmbH, Stadtwerke Lutherstadt Wittenberg GmbH, Statoil, STAWAG Netz GmbH, Südwestdeutsche Stromhandels GmbH (SüdWestStrom – one comment from a system perspective and one from a sales perspective), SWB Netz GmbH, SWE Netz GmbH, SWT Stadtwerke Trier Versorgungs-GmbH, Teutoburger Energie Netzwerk eG (TEN-EG), Thüga, Trianel, TWS Netz GmbH, VNG, WSW Netz, Westfalen Weser Netz GmbH, Zweckverband Gasfernversorgung Baar and ZVO Energie GmbH. After the deadline for the submission of comments, BKK, EnergieNetz Mitte GmbH, Energienetze Bayern GmbH, Energieversorgung Trossingen GmbH, E.ON, GWS Stadtwerke Hameln GmbH, REDINET Burgenland GmbH (Redinet), Stadtwerke

Saarbrücken AG, SWM Infrastruktur GmbH, Stadtwerke Neuruppin GmbH, Stadtwerke Passau GmbH, Stadtwerke Pirmasens Versorgungs GmbH, Stadtwerke Viernheim Netz GmbH, Stadtwerke Wunstorf GmbH & Co. KG, SWL Verteilungsnetzgesellschaft mbH and Versorgungswerke Heddesheim GmbH & Co. KG submitted comments on 15 September 2014, NCG on 16 September 2014, Hertener Stadtwerke GmbH on 17 September 2014, EVB Netze GmbH on 18 September 2014, Alliander Netz Heinsberg GmbH on 22 September 2014 and Stadtwerke Buchholz i.d.N. GmbH and Stadtwerke Weilburg GmbH on 30 September 2014. The comments have been published on the Bundesnetzagentur's website.

A further discussion meeting with various gas industry associations was held on 10 October 2014, at which the key substantive elements of the second consultation on the determination proceedings were discussed.

A further comment from VKU was received on 30 October 2014, and a comment from Dortmunder Netz GmbH was received on 28 November 2014.

On 4 April 2014 the Ruling Chamber informed the regulatory authorities of the federal states, the committee of representatives of the federal state regulatory authorities and the Bundeskartellamt (German Federal Cartel Office) about the introduction of the proceedings in accordance with section 55(1) second sentence EnWG (Energy Industry Act). The regulatory authorities of the federal states, the committee of representatives of the federal state regulatory authorities and the Bundeskartellamt were given the opportunity to comment by being sent the draft decision on 4 December 2014 in accordance with section 58(1) second sentence EnWG and § 60a(2) first sentence EnWG. No comments were received.

Evonik Industries AG addressed its request to be summoned to join the proceedings to the Ruling Chamber with its letter dated 23 May 2014. With its decision of 15 July 2014 (file reference BK7-14-020-B1), the Ruling Chamber summoned Evonik Industries AG to join the proceedings.

For further details, reference should be made to the files.

II.

Due to the scope of the presentation, the reasons for the decision set out below are preceded by an overview of the structure.

1. Competence 18
2. Legal basis 18
3. Formal requirements 23
   3.1. Opportunity to comment and to be heard 24

3.2. Participation of responsible authorities 24
4. Substantive legality of the decision 24
4.1. Addressee of the determination 25
4.2. Determination is necessary and required 26
4.3. The specific form of the determination is without legal error and without abuse of discretion 27
4.3.1. Principles of the daily balancing system (operative part (1)) 27
4.3.2. Calculation and settlement of the imbalance gas (operative part (2)) 34
4.3.2.1. Imbalance quantity 34
4.3.2.2. Imbalance price 36
4.3.2.3. Approval of the relevant trading platform 48
4.3.2.4. Default rule for determining the imbalance price 49
4.3.2.5. Determination of the daily imbalance charges 50
4.3.3. Settlement of RLM reconciliation quantities (operative part (3)) 51
4.3.4. Within day obligations (operative part (4)) 52
4.3.4.1. Arrangement in the determination 52
4.3.4.2. Recommendation document and comments 54
4.3.4.3. Reasons 56
4.3.4.3.1. Ensuring system integrity and minimising balancing actions 56
4.3.4.3.2. No undue barriers for new market participants 63
4.3.4.3.3. Adequate information provision 64
4.3.4.3.4. Main costs of balancing arise at the end of the day 66
4.3.4.3.5. Flexibility charge reflects costs 69
4.3.4.3.6. No within day settlement of balancing groups 73
4.3.4.3.7. Advantages outweigh potentially negative impacts 74
4.3.4.3.8. Incentives relating to the balancing portfolio 74
4.3.5. Within day information provision (operative part (5)) 75
4.3.6. Procurement and use of balancing gas (operative part (6)) 80
4.3.6.1. Internal balancing gas 81
4.3.6.2. External balancing gas 81
4.3.6.2.1. Principles – the merit order list 82
4.3.6.2.2. MOL rank 1 84
4.3.6.2.3. MOL rank 2 – approval for procurement in adjacent market areas 84
4.3.6.2.4. MOL rank 3 – approval for balancing platforms 89
4.3.6.2.5. MOL rank 4 94
4.3.7. Neutrality charge accounts for balancing (operative part (7)) 95
4.3.7.1. Establishment of two separate neutrality charge accounts 95
4.3.7.2. Dividing balancing costs and revenues 97
4.3.7.3. Methodology for determining the neutrality charges for balancing 101
4.3.7.4. Procedure for dealing with surpluses 104
4.3.7.5. Transfer arrangement 107
4.3.7.6. Data gathering and data transmission 112
4.3.8. SLP incentive system (operative part (8)) 113
4.3.9. Reporting and evaluation obligations (operative part (9)) 123
4.3.9.1. Summary report on balancing gas 124

4.3.9.2. Report on the forecasting quality of the standard load profiles and on the SLP incentive system 126
4.3.9.3. Cost benefit analysis 127
4.3.10. Transparency obligations (operative part (10)) 129
4.3.10.1. Prices for imbalance gas 130
4.3.10.2. Within day obligations and within day information 132
4.3.10.3. Balancing gas 133
4.3.10.4. Neutrality charges for balancing 134
4.3.10.5. Monthly net balances of the neutrality charge accounts 136
4.3.10.6. Publication obligations for reports and evaluations 137
4.3.11. Implementation (operative part (11)) 137
4.3.12. Notes: cross-border market areas and biogas (operative part (12)) 139
4.3.13. Revocation of previous determinations (operative part (13)) 140
4.3.14. Right of revocation (operative part (14)) 141
5. Costs (operative part (15)) 141

1. Competence

The competence of the Bundesnetzagentur for the following decision derives from Article 9(3), Article 18(1), Article 20(1), Article 22(3), (5) and (7), Article 26(1), Article 27, Article 30(2), Article 33(4), Article 34(4), Article 36(3), Article 39(4) and (5), Article 45(3), Article 46(4), Article 52(1) and (2) and recital 8 of Commission Regulation (EU) No. 312/2014 of 26 March 2014 establishing a Network Code on Gas Balancing of Transmission Networks, OJ EU No. L 91/15 of 27 March 2014 ("Network Code on Gas Balancing") in conjunction with Articles 6 and 24 of EC Gas Regulation 715/2009 in conjunction with § 56 sentence 1 no. 2 and sentence 2 and sentence 3 EnWG in conjunction with § 54(1) half-sentence 1 EnWG and from § 29 EnWG in conjunction with § 54(1) half-sentence 1 EnWG. The competence of the Ruling Chamber derives from § 59(1) sentence 1 EnWG.

2. Legal basis

The determination is based on various provisions from the Network Code on Gas Balancing and on the Energy Industry Act (EnWG) in conjunction with the Gas Network Access Ordinance (GasNZV). In detail:

(1) With regard to the determination of a daily balancing regime, the arrangements pertaining to the operative part (1) are based partly on recital 6 and on Article 4 and Article 6(1)(b) of the Network Code on Gas Balancing, according to which the information flows provided under the Network Code on Gas Balancing are intended to support the daily balancing regime and the market area managers conduct balancing actions in order to achieve an end of day linepack position in the transmission network. This shows that the principle of daily balancing is confirmed in the Network Code on Gas Balancing and shall therefore continue to apply.

The basic systematics of the current balancing system for offtakes according to the standard load profile procedures shall likewise be retained, which is why the concurrent provisions of information model variant 2 of the Network Code on Gas Balancing for exit points with standard load profiles were laid down. In this respect the determination is based on Article 33(4) in conjunction with Article 3(21) and Article 37(1)(b) of the Network Code on Gas Balancing, according to which the Ruling Chamber shall decide on a model for information provision. The designation of the distribution system operators as the forecasting party is based on the first and third sentences of Article 39(5) of the Network Code on Gas Balancing.

Furthermore the determination pertaining to the operative part (1) is based on § 50(1) no. 9 GasNZV in conjunction with § 29(1) EnWG, according to which the Ruling Chamber may take decisions on the balancing system by means of determinations.

(2) The determinations in the operative part (2) are based on Articles 19 to 23 of the Network Code on Gas Balancing.

Subsections (1) and (6) of Article 21 of the Network Code on Gas Balancing state that the market area managers shall calculate the daily imbalance quantity, which is the basis for the daily imbalance charge, for each network user's balancing portfolio for each gas day as the difference between inputs and offtakes. The calculation of the imbalance charge is based on Article 20(1) and (3) of the Network Code on Gas Balancing. Accordingly the Ruling Chamber approves the daily imbalance charge calculation methodology, which comprises calculation of the daily imbalance quantity in accordance with Article 21 of the Network Code on Gas Balancing, derivation of the applicable price referred to in Article 22 of the Network Code on Gas Balancing and any other necessary parameter. The small adjustment was set at two percent within the scope of Article 22(7) second sentence of the Network Code on Gas Balancing, according to which the small adjustment shall not exceed ten percent of the weighted average price. The inclusion of quality-specific balancing products in the calculation of the imbalance price is based on Article 19(3) of the Network Code on Gas Balancing, which provides that the imbalance charges shall be cost reflective and shall take account of the prices associated with the balancing actions.

Approval of the EEX – European Energy Exchange AG (EEX) as a relevant trading platform is based on Article 22(3) first sentence of the Network Code on Gas Balancing. This specifies that the Ruling Chamber shall approve those trading platforms whose trades are used to determine the marginal sell price, the marginal buy price and the weighted average price.

The definition of a default rule for the eventuality that it is not possible to determine the imbalance prices on the basis of the described principles is based on Article 22(4) of the Network Code on Gas Balancing. With regard to calculation of the imbalance charge, the determination is based on Article 23(1) of the Network Code on Gas Balancing. Accordingly, the daily imbalance charges for each network user are calculated by multiplying a network user's daily imbalance

quantity by the applicable price. The determination of the monthly settlement is based on § 50(1) no. 9 GasNZV in conjunction with § 29(1) EnWG.

(3) With reference to the operative part (3) the determination is based on § 50(1) no. 9 GasNZV in conjunction with § 29(1) EnWG. As a result of calorific value adjusted quantities being taken into account in balancing, the need arose to reconcile the provisional quantities with the calorific value used in billing at the end of the month and to evaluate their price.

(4) The determinations in the operative part (4) are founded on Article 25(2) and Article 26(1) of the Network Code on Gas Balancing, according to which the national regulatory authority has the right on its own initiative to take a decision on within day obligations which may combine features of the different types described in Article 25 of the Network Code on Gas Balancing. The determination of the various allocation groups is also based on Article 26(3) of the Network Code on Gas Balancing, according to which the national regulatory authority has the right on its own initiative to take a decision on distinct categories of entry or exit points in order to provide better incentives for different categories of network users.

(5) The provisions of the operative part (5) are based on Article 34(2) of the Network Code on Gas Balancing, according to which, for intraday metered inputs to and offtakes from the market areas, where a network user's allocation does not equal its confirmed quantity, on gas day D the network users must be provided with a minimum of two updates of their measured flows for at least the aggregate intraday metered inputs and offtakes. This regulation shall be applied to the intraday metered inputs to and offtakes from RLM exit points. The time frame for the first update was defined in accordance with Article 34(3) of the Network Code on Gas Balancing and covers four hours of gas flow, and must be provided within four hours after the gas flow and no later than 16:00 Central European Time (UTC+1). The determination of the second update is based on Article 34(4) of the Network Code on Gas Balancing, according to which the time of the second update provision shall be defined by the national regulatory authority.

(6) The determinations in the operative part (6) are based on § 50(1) no. 7 GasNZV in conjunction with § 29(1) EnWG, according to which the Ruling Chamber may take decisions on the procedure for the procurement, use and settlement of balancing gas by means of determinations. The priority for the use of internal over external balancing gas derives from § 27(1) second sentence GasNZV, and the principles of the four-level merit order list from Article 9(1)(a) to (c) of the Network Code on Gas Balancing.

The approval for the procurement or provision of gas quantities in an adjacent market area and the transportation of gas to or from that market area by the market area managers is based on Article 9(3) of the Network Code on Gas Balancing. The temporary approval of further use of the physical balancing platform as an interim measure until 16 September 2019 is based on Article 45(3) in conjunction with Articles 46 and 47 of the Network Code on Gas Balancing. The provisions on the procurement of MOL rank 4 products are based on Article 8(3) of the Network

Code on Gas Balancing, according to which balancing services shall be procured in a market-based manner, through a transparent and non-discriminatory public tender procedure in accordance with the national rules.

(7) The provisions in the operative part (7) have their basis in Articles 29 and 30 of the Network Code on Gas Balancing. Pursuant to Article 30(2) of the Network Code on Gas Balancing, the Ruling Chamber may set the methodology for the calculation of the neutrality charges for balancing, including their apportionment amongst network users and credit risk management rules. In addition, pursuant to Article 30(5) of the Network Code on Gas Balancing, where information model variant 2 is applied rules for a separate neutrality charge for balancing in respect of non-daily metered offtakes shall also be provided. The provisions regarding consideration of all costs and revenues of the market area managers that arise as a result of the balancing activities undertaken, on the two neutrality charge accounts, and regarding the formation of a liquidity buffer are based on the neutrality of costs and revenues required under Article 29(1) of the Network Code on Gas Balancing.

The imposition of a neutrality charge per MWh of off-taken gas is based on the requirements of Article 30(3) of the Network Code on Gas Balancing, according to which the neutrality charge for balancing must be proportionate to the extent to which the network user makes use of the relevant entry or exit points concerned or the transmission network.

The market area managers' obligation to collect data and to submit this data to the Ruling Chamber on request is based on § 50(5) sentence 1 and (1) GasNZV in conjunction with § 29(1) EnWG. Accordingly, Ruling Chamber determinations can oblige the market area managers to publish additional information, over and above that specified in § 40 GasNZV, which is necessary for competition in gas trade or with regard to the delivery to customers. The obligation to collect and submit the information to the Ruling Chamber is included as a lesser measure in the further-reaching obligation to publish.

(8) The provisions in the operative part (8) are based on Article 39(4) in conjunction with Article 11(4) of the Network Code on Gas Balancing, according to which the Ruling Chamber may ask the market area managers and network operators to propose an incentive mechanism regarding the provision of an accurate forecast for a network user's non-daily metered offtakes which meets the criteria set out in Article 11(4) of the Network Code on Gas Balancing. The submission of the network accounts to the Ruling Chamber by the market area managers for the purpose of observation and evaluation is based on § 50(5) first sentence and (1) GasNZV in conjunction with § 29(1) EnWG. The publication of the transparency list is based on § 50(5) first sentence and (1) GasNZV in conjunction with § 29(1) EnWG.

(9) With reference to the operative part (9)(a) the determination is based partly on Article 46 of the Network Code on Gas Balancing, according to which the market area managers, if they foresee implementing or continuing to implement interim measures, must prepare a report and

submit it to the Ruling Chamber for approval. In addition it is based on Article 8(6) of the Network Code on Gas Balancing, according to which the market area managers must review the use of their balancing services annually, and on Article 9(3) of the Network Code on Gas Balancing, according to which the applicable terms and conditions for the procurement of balancing gas in adjacent market areas are to be reconsidered on an annual basis.

The distribution system operators' obligation to review the forecasting quality of the standard load profiles and the incentive system for SLP exit points in the operative part (9)(b) is based on Article 42(3) of the Network Code on Gas Balancing, according to which the distribution system operators must publish a report on the accuracy of the forecast of a network user's non-daily metered offtakes at least every two years.

The reporting obligation in the operative part (9)(c) relating to the cost benefit analysis is founded on Article 38 of the Network Code on Gas Balancing, according to which the Ruling Chamber shall decide on any relevant changes of information provision on the basis of the results of consultation on an assessment, carried out within two years, of the costs and benefits of increasing the frequency of information provision to network users, of reducing the related timelines of information provision and of the market area managers improving the accuracy of the information provided.

(10) The operative part (10)(a) finds its legal basis in Article 20(2) first sentence of the Network Code on Gas Balancing, according to which the daily imbalance charge calculation methodology shall be published on the relevant website, and in § 40(2) nos. 1 and 2 GasNZV, according to which market area managers publish on their website the methods by which the imbalance and balance charges are calculated and immediately after the balancing period the charges used for imbalance gas, and with reference to the information for determining the daily positive and negative imbalance prices in § 50(5) first sentence in conjunction with § 29(1) EnWG.

The determination concerning the publication of information on balancing services in the operative part (10)(b) has its basis in Article 8(7) of the Network Code on Gas Balancing, which provides for annual publication of the information regarding the procured balancing services and the related costs incurred.

With regard to the publication of information about the use of internal and external balancing gas (the operative part (10)(c)), the determination is based on Article 9(4) of the Network Code on Gas Balancing. Accordingly the market area managers publish on a yearly basis information about the costs, frequency and quantity of the balancing actions undertaken.

The publication obligations with regard to the neutrality charge for balancing in the operative part (10)(d) and (e) are based on Article 29(4) of the Network Code on Gas Balancing, according to which the market area managers must publish the aggregate charges related to their balancing actions and the aggregate neutrality charges for balancing at least at the same frequency as the

respective charges are invoiced to network users, but no less than once per month. These determinations are also based on § 50(5) first sentence and (1) GasNZV in conjunction with § 29(1) EnWG.

The obligation to publish a meaningful summary of the reports and evaluations according to (9) is based on § 50(5) first sentence and (1) GasNZV in conjunction with § 29(1) EnWG.

(11) The implementation deadline of 1 October 2015 specified in the operative part (11) is based on Article 53 of the Network Code on Gas Balancing, so accordingly the Network Code on Gas Balancing applies as of 1 October 2015.

(12) References to the existing legal situation are made in the operative part (12); in this respect it does not have a regulatory nature. The reference to the special provisions for biogas balancing (reference to (a)) materially derives from part 6 of the Gas Network Access Ordinance, in particular § 35 GasNZV. Furthermore, according to § 29(2) first sentence EnWG the Ruling Chamber is authorised to subsequently change the conditions and methods that it has determined or approved in so far as this is necessary in order to ensure that they continue to satisfy the prerequisites for a determination or approval. If appropriate, use might be made of this in the event of the formation of cross-border market areas (reference to (b)).

(13) The operative part (13) is based on § 49(2) first sentence no. 1, (4) and (5) of the Administrative Procedure Act (VwVfG) in conjunction with § 36(2) no. 3 VwVfG and the operative part (4) of the determination on balancing services (balancing group contract etc.) of 28 May 2008 (file reference BK7-08-002) and the operative part (4) and (5) of the provisional order of 14 July 2014 (file reference BK7-14-20-E1), according to which the determination of 28 May 2008 (file reference BK7-08-002) and the provisional order of 14 July 2014 (file reference BK7-14-020-E1), which after due assessment of the circumstances was adopted subject to revocation, may be revoked by the Ruling Chamber in full or in part with effect for the future even after it has become final and ceases to be effective at a time determined by the Ruling Chamber.

With reference to the fact that the determination of 26 March 2012 (file reference BK7-11-044) remains in force, for the avoidance of doubt it was necessary to point out that the tolerance level continues to be set at 0% in derogation of § 23(2) second sentence GasNZV.

(14) The operative part (14) is based on § 36(2) no. 3 VwVfG.

3. Formal requirements

The formal requirements regarding the legality of the determination have been met. The Ruling Chamber conducted the necessary consultations and hearings (see section 3.1. below) and involved the authorities concerned (see section 3.2. below).

3.1. Opportunity to comment and to be heard

The transmission system operators affected by the change and those business circles that are affected were given opportunity to comment in accordance with § 67(1), (2) EnWG. To this end the Ruling Chamber published the notification of proceedings on 3 April 2014 on the website and in the Official Journal. The Ruling Chamber conducted two public consultations. Altogether 34 comments on the determination proceedings were received from companies and associations in the course of the first consultation round and 99 comments in the course of the second consultation round. All comments were then in turn published on the internet and taken into account in the decision-making. In addition, oral hearings were held with gas industry associations on 12 June 2014 and 10 October 2014.

In this respect the market consultations required under the Network Code on Gas Balancing (cf. Article 33(5), Article 39(5) of the Network Code on Gas Balancing) have also taken place.

3.2. Participation of responsible authorities

The responsible authorities and the committee of representatives of the federal state regulatory authorities were informed of the opening of the determination proceedings by being sent the notification of proceedings on 4 April 2014. The formal involvement of the committee of representatives of the federal state regulatory authorities in accordance with § 60a(2) EnWG took place on 4 December 2014. The Bundeskartellamt and the authorities responsible according to federal state law were likewise granted the opportunity to comment in accordance with § 58(1) second sentence EnWG on 4 December 2014.

The Ruling Chamber also initiated the participation of the national regulatory authorities of adjacent member states as required under the Network Code on Gas Balancing. This applies both to the introduction of new within day obligations (Article 27(2) Network Code on Gas Balancing) and the transitional continued validity of previous within day obligations (Article 28 in conjunction with Article 27(2) Network Code on Gas Balancing) and to the approval of interim measures (Article 46(5) in conjunction with Article 27(2) Network Code on Gas Balancing). The national regulatory authorities of the adjacent member states were informed of the planned within day obligations and interim measures on 3 April 2014 and 11 August 2014 via the Gas Working Group.

4. Substantive legality of the decision

The conditions for issuance of this determination are fulfilled. The determination is aimed at the correct addressees: market area managers, transmission system operators and distribution system operators (see section 4.1. below). In so far as it is entitled to exercise discretion, the Ruling Chamber correctly exercised its discretion regarding intervention and possible remedies. In other respects decisions were to be taken upon fulfilment of the requirements to the extent

apparent from the operative part. In this regard the determination is necessary and required (see section 4.2. below) and in its specific form without legal error and without abuse of discretion (see section 4.3. below).

4.1. Addressee of the determination

The determination proceedings are addressed in principle to all market area managers, transmission system operators and distribution system operators.

(1) Market area managers bear the primary responsibility in the balancing and imbalance gas system. They are expressly mentioned in the Gas Network Access Ordinance as being addressees of the regulation. According to § 2 para 11 GasNZV a market area manager is the natural or legal person designated by the transmission system operators who performs the services in a market area which a person must perform in a market area in order to realise efficient processing of gas network access in a market area. In particular these include operation of the virtual trading point (§ 20(1) GasNZV), managing the balancing group system (§ 22(1) second sentence GasNZV), balancing group settlement (§ 23(2) GasNZV) and the procurement and use of balancing gas (§§ 27, 28 GasNZV). Within this framework the regulatory authority is also authorised to issue determinations vis-à-vis the market area managers (cf. § 50(1) nos. 7 and 9 GasNZV). The role of market area managers is also mentioned in the Network Code on Gas Balancing. According to Article 4(4) second sentence of the Network Code on Gas Balancing, the rules apply to the entity to which the responsibility of keeping the transmission networks in balance has been transferred – therefore the market area managers.

(2) The transmission system operators are likewise directly addressed by the rules of the Gas Network Access Ordinance and the Network Code on Gas Balancing. Although the transmission system operators in Germany have ceded a majority of the responsibilities connected with the determination to the market area managers (cf § 20(1) second sentence GasNZV), individual areas remain in which they participate in the balancing regime on their own responsibility in cooperation with the market area managers. This relates among other things to the provision of data and the transmission of information (cf § 26 GasNZV, Article 34 Network Code on Gas Balancing) and to the determination of balancing gas requirements (§ 27(1) second sentence GasNZV, Article 6 Network Code on Gas Balancing). Within the scope of these responsibilities, transmission system operators are also applicable addressees of this determination (cf § 50(1) no. 9 GasNZV).

(3) The distribution system operators are named as addressees of the regulation in multiple respects in the Gas Network Access Ordinance and the Network Code on Gas Balancing. The Network Code on Gas Balancing includes provisions that apply to distribution system operators and that aim to harmonise their roles where and to the extent necessary for the due implementation of those provisions (recital 10 of the Network Code on Gas Balancing). Within the scope of

their role as exit network operators, distribution system operators – like transmission system operators – are obliged to provide data and transmit information (cf § 26 GasNZV, Articles 34 and 39 Network Code on Gas Balancing). In particular, distribution system operators are the possible addressee of a request by the regulatory authority to propose an incentive mechanism regarding the provision of an accurate forecast for a network user's non-daily metered offtakes ("settlement of network accounts") (see Article 39(4) of the Network Code on Gas Balancing). Within this framework, distribution system operators are also the correct addressees of this determination.

4.2. Determination is necessary and required

The determination is necessary and required. First and foremost the determination implements the provisions from the Network Code on Gas Balancing. The procedure establishes the legal certainty required for all market parties in the implementation of these provisions.

(1) The Ruling Chamber opened the procedure immediately after publication of the Network Code on Gas Balancing. The basis for the procedure is provided by the recommendation document of 3 March 2014 from the market area managers and transmission system operators, with which they submitted a series of applications (among other things on the determination of the imbalance charges, the procurement of balancing gas and the extension of deadlines) upon which the Ruling Chamber was obliged to take a decision.

(2) The Network Code on Gas Balancing provides that the provisions shall be implemented by 1 October 2015 or 1 October 2016 as applicable. It was therefore necessary to conduct the procedure swiftly in order to grant all market participants sufficient time to implement the new provisions in a legally secure manner. This applies in particular in light of the fact that legal implementation in the gas network operators' cooperation agreement, in this case in particular in the standard balancing group contract, has still to take place. At the same time it is necessary to adapt processes and IT applications.

(3) In order to speed up the process as a whole and to ensure implementation of the provisions from the Network Code on Gas Balancing on time, the Ruling Chamber decided against defining a balancing group contract. Holding standard offer proceedings in accordance with § 50(7) GasNZV would have significantly delayed the determinations. From the viewpoint of the Ruling Chamber, the process of standardising contracts for network access within the framework of the negotiations on the cooperation agreement is efficient and close to the market. In addition, the involvement of all market participants is ensured by holding network user forums. For this reason it is not necessary at the present time for the Ruling Chamber to prescribe a standard contract.

4.3. The specific form of the determination is without legal error and without abuse of discretion

The specific form of the determination is without legal error. Insofar as the Ruling Chamber is entitled to exercise discretion in the design of the balancing regime, it did so without error. There is no objection to the determination regarding the principles of the daily balancing system (see section 4.3.1. below), the calculation and settlement of the imbalance gas (see section 4.3.2. below), the settlement of the RLM reconciliation quantities (see section 4.3.3. below), the within day obligations (see section 4.3.4. below) or the within day information provision (see section 4.3.5. below), nor regarding the procurement and use of balancing gas (see section 4.3.6. below), the neutrality charge accounts (see section 4.3.7. below) or the incentive system for standard load profiles (see section 4.3.8. below). In a manner that complies with the law, the design of the new balancing regime is supplemented by reporting and evaluation obligations (see section 4.3.9. below), transparency obligations (see section 4.3.10. below), provisions on implementation (see section 4.3.11. below), reference to the formation of cross-border market areas (see section 4.3.12. below) and regulations on the revocation of previous determinations (see section 4.3.13. below). Likewise there is no objection to the provision of a right of revocation (see section 4.3.14. below).

4.3.1. Principles of the daily balancing system (operative part (1))

(1) With regard to the gas quantities relevant for balancing, essentially the principles of the existing GABi Gas ruling of 28 May 2008 shall continue to apply. According to the operative part (1), the market area managers, transmission system operators and distribution system operators are obliged to perform balancing of the gas quantities transported and traded by the network users in accordance with the principles of daily balancing. The difference between the input and offtake quantities relevant for balancing during the balancing period are settled by the market area manager as imbalance gas at the end of a gas day with the corresponding imbalance charges in accordance with the operative part (2). The balancing group managers are obliged to take all reasonable steps within the balancing period to achieve a ratio of inputs and offtakes that is as balanced as possible.

In order to determine the daily differential quantities, the net balance of daily input and offtake quantities is continuously calculated for each balancing group by the market area manager, insofar as the quantities have been allocated to the balancing group. Exchanging differential quantities between balancing groups after the end of the balancing period ("ex post balancing") is not permissible in this context. The market area manager calculates the net balance of the provisionally or finally allocated quantities determined by the entry or exit network operator with respect to the input quantities provisionally or finally allocated to the balancing group or balancing subgroup and immediately notifies the balancing group manager of the net balance. The

finally allocated quantities must be adjusted for missing or erroneous metered values and corrected by the calorific value used for settlement. Within day obligations must also be used.

Hourly nominated quantities, metered quantities and standard load profiles must be taken into account for balancing. Provided that entry and exit points are controlled by the network operators on the basis of nominations from network users (cross-border interconnection, market area interconnection, storage, input from domestic production, virtual trading point), the principle "allocated as nominated" applies. In derogation of this principle, in the case of cross-border interconnection points that are used exclusively to supply end users in downstream networks, metered values may also be used as data relevant for balancing groups if prior approval is granted by the Ruling Chamber. Use of the "allocated as measured" allocation principle also applies to entry points from domestic production facilities. Metered values ("actual offtakes") must be included in the balance for exit points with consumption metering ("RLM exit points").

Variant 2 from the Network Code on Gas Balancing (Article 33(4) in conjunction with Article 37(1)(b)) applies to exit points with standard load profiles ("SLP exit points"). The arrangements of variant 2 conform to the basic systematics of the current balancing system for offtakes according to the standard load profile procedures. The distribution system operators have been designated as the forecasting party in accordance with Article 39(5) of the Network Code on Gas Balancing and are thus obliged to develop, allocate and apply standard load profiles for the SLP exit points. The quantities of the balancing period (gas day D) that were forecast on the day ahead (D-1) must be taken into account for balancing in accordance with the standard load profile procedure being used.

The previous distinctions between the procedures will be retained for the application of standard load profiles. This means that for the synthetic standard load profile procedure the daily quantity that is to be considered relevant for balancing is that which is obtained on the basis of a forecast temperature from the day ahead for the delivery day, whereas for the analytical load profile procedure a time lag of 48 hours may be taken into account when determining the quantity relevant for balancing. For delivery day D, therefore, in this variant it is the offtake quantity of the day before the day ahead (D-2) that is relevant for balancing, using the corresponding actual temperature or the forecast temperature for the delivery day (see remarks in section 4.3.8.). The distribution system operator provides the affected market parties with all information necessary for application regarding the standard load profile procedure used, in appropriate form and scope. If application-specific parameters that change daily are used in a procedure, the parameters must be made available on a daily basis to the relevant market parties for data exchange by electronic means in the format that is used for the electronic exchange of data relevant for balancing, fit for general business.

(2) The arrangements for daily balancing, allocation and quantity allocations that already exist in the current balancing system are recognised and welcomed by the market participants without

exception. The companies submitting comments in the course of the consultations merely picked up and commented on individual aspects of the arrangements:

(a) BDEW, among others, stated that the limitation to the "allocated as nominated" allocation procedure at cross-border interconnection points contained in the draft determination contradicts Article 9(4) of the European Network Code on Interoperability. According to its interpretation of the still provisional Network Code, other procedures such as "allocated as measured" must also be taken into account at cross-border interconnection points. Furthermore, it stated that a one-sided determination at national level was to be viewed critically because it could potentially contradict regulations from adjacent states. E.ON, with reference to the Network Code on Interoperability, called for the balancing shipper procedure to be maintained.

Differentiation of the "allocated as nominated" allocation rule at cross-border interconnection points was also proposed by E-Control, AGGM and Vorarlberg Netz. In the case of cross-border interconnection points that exclusively supply end users in other states an allocation on the basis of metered values ("allocated as measured") was suggested, to be provided as a flat daily profile with tolerance within the framework of balancing, in the same way as the RLM exit group. In the opinion of the commenting organisations, such cross-border interconnection points are subject to a direct forecasting risk. If internal balancing gas is available in only small quantities at these points, they state that downtimes in the supply of end users must be expected at a cross-border interconnection point controlled by nominations, and in this respect this special case should be removed from the "allocated as nominated" allocation procedure.

BDEW also considered that an exemption of this nature is necessary for controlling the entry points from domestic production facilities. It said that to enable natural gas to be extracted economically, in a manner that adapts to production conditions, this cannot be done on the basis of nominations from network users but rather according to the principle of "allocated as measured". Extraction geared to nomination would lead to a reduction in production quantities, because a nomination would have to be based on the lowest possible and hence ultimately uneconomic outputs. Since different procedures would also be used for quantity allocation at the entry and exit points to storage facilities in individual cases at present, in the opinion of the INES association a different allocation rule on the basis of metered values should also be used for inputs and offtakes from storage facilities.

(b) With regard to the allocation rules for SLP exit points, only ENERVIE suggested generally transferring the forecast risk to suppliers in the same way as in the electricity sector, which according to the company should also include an obligation to balance the imbalance. The "analytical load profile procedure", under which the forecast for the next delivery day (D+1) is made on the basis of the offtake from the day before the day ahead (D-2), should also be provided as a standard procedure, since one main reason for the imbalance quantities in the standard load profile procedure is to be found in what is termed the "synthetic procedure", it

said. In the analytical procedure it also suggested abolishing the current time lag of 48 hours and reshaping the procedure as a forecasting procedure. BDEW called for the design of the standard load profile procedures given in the draft determination to be dispensed with entirely, as the detailed arrangements unnecessarily restrict the possibilities for appropriate improvement of forecasting quality within the framework of the standard load profile procedure incentive system. Instead, details of the procedures should be agreed by the market parties as part of the cooperation agreement and laid down in the associated guidelines.

BDEW and RWE in particular went on to criticise that – insofar as further additional information on standard load profiles would be required in the electronic exchange of data, for reasons of transparency – this is accompanied by considerable expense for network users and network operators. In this respect, they said, it is necessary to examine whether the benefit of the measure offsets the resultant costs, bearing in mind that procedure-specific or application-specific parameters are not transaction data that required continuous exchange and would already be exchanged between the network user and the distribution system operator under the supplier framework contract. Furthermore, this information is already published on the network operator's website. In addition, even today the SLP allocation process is structured in such a way that the allocated quantity is made available to the balancing group manager on the following day via the market area manager. In the opinion of the commenting organisations, a further increase in transparency is not necessary in this context.

(c) With regard to determining the daily differential quantities, from the viewpoint of Stadtwerke München it was not comprehensible why ex post balancing, in other words an exchange of differential quantities between balancing groups after the end of the balancing period, is ruled out, especially as this does not create a need for balancing gas, it said, with a retroactive exchange of this nature in principle being equivalent to balancing group pooling, which is permissible. In this case, for example, positive imbalance gas would be charged to one balancing group and negative imbalance gas to another balancing group, even though in aggregate the two are balanced. The balancing group managers should therefore be given an opportunity to net their deviations by ex post balancing, in order to be able to minimise costs in that way.

(3) The Ruling Chamber acted on some of the detailed comments from the market participants.

(a) With regard to the allocation rule "allocated as nominated", the Ruling Chamber accepted the comments to the extent that it also permits metered values as data relevant for balancing groups ("allocated as measured") at cross-border interconnection points that exclusively supply end users in other states and at entry points from domestic production facilities. At cross-border interconnection points that directly and exclusively serve to supply end users, it concurs with the assessment that more needs-based network control, avoiding balancing gas, is made more difficult by nominations. This applies all the more, the less internal balancing gas is available at these points and can be exchanged on a firm basis. As these points fully reproduce the forecast-

ing risk for the end user offtakes, the Ruling Chamber furthermore considers it to be justified in balancing terms to equate cross-border interconnection points to the exit points with consumption metering and the resultant rights and obligations. In this respect the within day obligations also apply to the points. In view of the far-reaching special treatment, the Ruling Chamber considers it to be justified to make the exception dependent on prior approval by the Bundesnetzagentur.

In the case of entry points from domestic production facilities, too, the Ruling Chamber accepted the arguments and also allows metered values as data relevant for balancing groups. The argument that the extraction of gas is subject to geophysical and technical requirements that run counter to fixed nomination is persuasive. Extraction restricted by nomination principles, which in certain circumstances might also lead to technically complex and costly adjustment and/or reduction of production quantities, does not appear appropriate. In contrast with this, apart from the remark that in individual cases different procedures would be used for quantity allocation at entry and exit points from storage facilities, from the comment from the INES association the Ruling Chamber can see no arguments why a different allocation rule on the basis of metered values should necessarily be allowed for these points.

The Ruling Chamber does not share the general criticism that limitation to the "allocated as nominated" allocation procedure at cross-border interconnection points contained in the draft determination contradicts Article 9(4) of the European Network Code on Interoperability. In the version available to the Ruling Chamber (version from 4 November 2014), the Network Code – which is not yet binding anyway – merely addresses possible alternatives to the "operational balancing account" (OBA) in Article 9(4). This alternative is referred to as the "allocation rule", but should not be equated with the allocation rules in the determination. The OBA merely describes an equalisation scheme on the network operator side for dealing with control or other differences in gas flows at cross-border interconnection points. Such arrangements are not affected by this determination, however, so cannot have a prejudicial effect on others. The Ruling Chamber also interprets the comment from E.ON in the same way, which with reference to the regulations in the Network Code on Interoperability calls for retention of the balancing shipper procedure, which is already impermissible according to the current determination. This does not affect this determination. Should there be urgent need for adjustment after the Network Code on Interoperability becomes binding, the Ruling Chamber shall of course respond to the change in the legal situation.

(b) The current balancing methodology for offtakes from SLP exit points, according to which no subsequent changes are allowed to be made to the values to be included in the balance, is reflected in variant 2 of the Network Code on Gas Balancing. This variant is the basis of the previous balancing regime and will be continued. At present, under § 24 GasNZV distribution system operators are responsible for developing and allocating standard load profile procedures.

Designating the distribution system operator as the forecasting party takes this fact into account. This system has proved its worth in practice and has resulted in considerable positive competitive effects in the household and small commercial customer sector. In the opinion of the Ruling Chamber there is thus no reason to make any fundamental changes to the way SLP exit points are taken into account in balancing. Apart from that, shifting the forecasting risk to other market roles would not result in a fundamental improvement in forecasting quality, since this is essentially dependent on the quality of the available data, in other words the parameters required for application of the load profile procedures.

Likewise the Ruling Chamber does not share the opinion that the causes of imbalance quantities with load profile procedures are attributable to the synthetic load profile procedure. The characteristic features of the analytical procedure are such that it has advantages over the synthetic procedure only in the monthly view. These advantages result from the procedure-related quantitative limitation of imbalances and the statistical compensation for temperature differences in the time lag. However, this ignores the fact that this procedure has to contend with greater forecasting inaccuracy on the individual days. With regard to a potential cause of balancing gas in the market area on the respective day, this ultimately poses a greater burden on the system than the lower variation rates of the synthetic procedure. Likewise it cannot be considered a benefit of the analytical procedure that in absolute terms the distribution system operators generate fewer imbalances in the individual market areas because the procedure is used by only around 10% of distribution system operators. In the final analysis, both load profile procedures are only approximation methods for determining the offtakes of (small) end users; while it is true that their imbalance quantities can be reduced in both procedures with the aid of improvements, they cannot be entirely avoided. For the Ruling Chamber, therefore, the submitted arguments do not indicate a need to give preference to either procedure at the present time.

In fact, an improvement to the quality of forecasting in the individual procedures can be promoted with the aid of an incentive system, the outlines of which the Ruling Chamber lays down in the operative part (8). As this incentive system evaluates the forecasting quality of standard load profile procedures on a daily basis, however, the rigid time lag of the current analytical procedure results in disadvantages compared with the synthetic load profile procedure. The Ruling Chamber is thus taking up this aspect of the objection that has been raised, and is opening the analytical procedure to a forecasting procedure (see remarks in section 4.3.8.). The means that, in addition to having a fixed time lag and account being taken of the actual temperature (D-2), in future the use of a forecast temperature for the delivery day will be enabled, in the same way as the synthetic procedure. Nevertheless it remains necessary to lay down uniform basic principles for standard load profiles in order ensure the greatest possible standardisation of procedures in future, and the associated simplified ease of use. The two procedural approaches – of which only their core elements are described, as in the existing determination – in no way hamper the opportunities available for future further development in the respective procedures, including

development with a view to improving forecasting. Adapting an incentive system to a daily basis, too, does not change a procedure's improvement potential nor its possibilities for improvement, it merely assesses the imbalance quantities occurring within a different time frame (see remarks in section 4.3.8.). The means of designing the incentive system are not restricted by the SLP procedure descriptions either, because they relate to the determination of a threshold value and if applicable further criteria for the imbalance quantities occurring.

The Ruling Chamber agrees with the objection raised by BDEW and RWE that a distinction should be drawn between procedure-specific parameters and "transaction data", which require continuous exchange, in the case of an exchange of information on standard load profiles. The intention of the regulation is that application-specific and thus daily changing parameters should be made available to the market parties in a form fit for general business by electronic means in the format that is used for the electronic exchange of data relevant for balancing. The Ruling Chamber considers it urgently necessary that the balancing group managers are informed at an early stage of the dynamic parameters that are used, to meet transparency requirements. The practice used to date, for example in the analytical procedure only publishing the daily changing data on remaining energy demand and corresponding factors retrospectively on the network operator's website, is not adequate. As a rule, therefore, the network users and balancing group managers do not receive the key information that they require to check the daily allocation and hence also to produce a prompt forecast of their delivery quantities for the day ahead until after the actual delivery day at the earliest (in some cases not even until the end of the month or even later). Although it is true that the allocated quantity is made available to the balancing group manager on the day following the delivery via the market area manager, this is not sufficient. The balancing group manager thus receives only a consolidated indication of quantities from the previous delivery day, with no other calculated reference figure. On the basis of this indication he is not able to estimate the order of magnitude to which an application-specific parameter for that day has been included in the calculation of the allocation. Regardless of which load profile procedure is used, therefore, the Ruling Chamber considers the electronic transmission, fit for general business, of such daily changing parameters to be indispensable in the standard load profile procedure. From both the content-related and procedural perspective it appears preferable to use a message exchange format that is used for the electronic exchange of data relevant for balancing. Linking it with the established allocation process, for example, offers the possibility of combining the actual quantity information with the parameters determining it. An expansion of existing formats appears to be feasible with minor changes, such that transmission can be designed in an appropriate manner in cost-benefit terms, too.

The procedure-specific parameters of the standard load profile procedure being used, which until now have been exchanged between the network user and the distribution system operator under the supplier framework contract and published on the network operator's website, shall not be included in this daily data transmission. This publication obligation remains in place, but shall

not be implemented elsewhere. In order to clarify the Ruling Chamber's intended separation of procedure-specific and dynamic, daily changing application-specific parameters when published by the distribution system operator, the Ruling Chamber has adapted the corresponding passages with respect to the draft version.

(c) The Ruling Chamber has not acted on the request from Stadtwerke München to allow ex post balancing again. The Ruling Chamber already pointed out in the context of the first GABi Gas determination that ex post balancing was only to be considered during the introductory phase of implementing the determination in 2008/2009, because this enabled a lack of data quality to be compensated for if the balancing group managers had not necessarily been able to perform intraday balancing. This transitional solution was meant to ensure that potential information deficits would not be to the detriment of the balancing group managers. Information deficits of this nature no longer occurred after this transitional period and will not occur in future, not least because of the expansion in information transmission as a result of this determination. In addition it should be pointed out that retroactive netting is not equivalent to the actual differential quantities of the individual balancing groups at the time of arising being determined by causation. Therefore, and also with respect to the effect triggering the need for balancing gas, the partial results of individual balancing groups must not be equated with the net result.

(d) Another point of criticism put forward by all commenting parties regarding the notification of proceedings was the fact that it envisaged shortening the clearing period to five business days. This proposal, introduced with a view to establishing finally agreed and finally allocated quantities at as early a stage as possible, had not been further pursued by the Ruling Chamber even in the draft determination that was the subject of the consultation. The Ruling Chamber thus concurred with the multiple objections that considered the set period of five business days for dealing with the mass clearing processes as being too short, and dispensed with this ruling.

4.3.2. Calculation and settlement of the imbalance gas (operative part (2))

The operative part (2) contains provisions on calculation and settlement of the imbalance gas, in particular calculation of the imbalance quantity (see section 4.3.2.1. below) and the imbalance price (see section 4.3.2.2. below). In this connection the trading platform relevant for calculation of the imbalance price is approved (see section 4.3.2.3. below). In addition a default rule is defined for determination of the imbalance charges (see section 4.3.2.4 below). Finally, the methodology for calculating the daily imbalance charge is laid down and approved (see section 4.3.2.5. below).

4.3.2.1. Imbalance quantity

(1) The operative part (2)(a) governs the determination of the daily imbalance quantity. This is established for each balancing group on the basis of the net balance between daily inputs and

offtakes using the finally allocated quantities in accordance with (1)(b). The calorific value correction shall not be included in this. Allocating multiple balancing groups to one master balancing group is permissible.

(2) The market area managers and transmission system operators also addressed the calculation of the daily imbalance quantity in their recommendation document of 3 March 2014 in the context of the methodology for determining the imbalance charges. As well as the basic systematics of determining the imbalance quantity (difference between the daily input and offtake quantities), among other things they also pointed out that there should be no adaptation of the logic underlying the calculation of the imbalance quantity in accordance with Article 21(2) of the Network Code on Gas Balancing because the stated exceptions such as linepack flexibility services are not used in the German balancing model.

According to the comments from some market participants, regarding the correction of the finally allocated quantities by the calorific value used for billing purposes and the corresponding adjustment for missing or erroneous metered values, there would be substantive imprecision with reference to the imbalance quantities (eg EFET). They said it was not clearly apparent from the regulation which quantity structure should be used to establish the daily imbalance gas or determine the reconciliation quantities at RLM exit points.

(3) According to the provisions of Article 21(1) of the Network Code on Gas Balancing, the daily imbalance quantity is calculated as the difference between the daily inputs and offtakes. The balancing group managers are obliged to keep their balancing groups balanced at the end of the day. If this balancing does not succeed, in other words the net balance between daily inputs and offtakes (determined on the basis of the finally allocated quantities in accordance with the operative part (1)(b)) is not zero, the market area manager makes imbalance gas available:

- negative imbalance gas if the balancing group is long, ie if more gas has been delivered than off-taken,
- positive imbalance gas if the balancing group is short, ie if less gas has been delivered than off-taken.

No tolerances are allowed.

In the operative part (2)(a) the Ruling Chamber clarified editorially that only the finally allocated quantities, corrected by replacement values, are to be used as data relevant for balancing to determine the daily imbalance quantity. Including calorific value correction in addition is not appropriate because these quantity proportions cannot be influenced by the balancing group managers or have been caused by them. This was not the intention of the Ruling Chamber in the submitted draft, however. An editorial clarification was thus necessary here. The differential quantities arising from the calorific value corrections are therefore not settled with the weighted average price of gas until a second step.

There is no need to adjust the imbalance quantity calculated as the difference between the daily inputs and offtakes in accordance with Article 21(2) of the Network Code on Gas Balancing. As the linepack is used as internal balancing gas in the German gas balancing system (see section 4.3.6.1), there is no provision for explicit linepack flexibility services. Network losses and metering inaccuracies are reflected in the external balancing gas. The transmission system operators' own gas use is allocated as an offtake.

Allocating multiple balancing groups to one master balancing group is permissible. In order to determine the imbalance quantity, therefore, imbalances arising in subordinate balancing groups or balancing subgroups are transferred to the master balancing group to which they are assigned and are aggregated at the level of the master balancing group. Consequently, imbalances in balancing groups connected in this way can be offset against each other by portfolio effects and hence the imbalance quantity of the balancing group as a whole can be reduced.

In order to provide incentives for the balancing group managers to keep the balancing groups in balance, the market area manager levies positive imbalance charges for the use of positive imbalance gas from the balancing group manager or in the case of negative imbalance gas pays negative imbalance charges to the balancing group manager in accordance with the operative part (2)(b). In conformance with Article 21(6) of the Network Code on Gas Balancing, the final imbalance quantity is determined on the basis of the data relevant for balancing, in accordance with (1)(b), the basis for the daily imbalance charge (see section 4.3.1. above)

4.3.2.2. Imbalance price

(1) The provisions in the operative part (2)(b) on imbalance prices deal with the two price elements that must be taken into account when determining the imbalance prices: the prices of the balancing transactions and the average price of gas plus a "small adjustment", ie a surcharge or deduction. The imbalance prices are determined as follows:

Daily positive imbalance price, according to formula 1): the higher of the following two prices

- highest price of all balancing gas purchases by the market area manager for the gas day in question or
- weighted average price of gas for the gas day in question
  plus a surcharge of two percent.

Daily negative imbalance price, according to formula 2): the lower of the following two prices

- lowest price of all balancing gas purchases by the market area manager for the gas day in question or
- weighted average price of gas for the gas day in question
  less a deduction of two percent.

Formula 1): AE_p = *max{highest balancing gas purchase MAM, average price of gas * 1.02}* *Formula 2):* AE_n = *min{lowest balancing gas purchase MAM, average price of gas * 0.98}*

Definitions:

AE_p: positive imbalance price or marginal purchase price in €/MWh.

AE_n: negative imbalance price or marginal sell price in €/MWh.

Highest balancing gas purchase MAM:	highest purchase price in €/MWh of all global (MOL rank 1) or quality-specific (quality-specific products within MOL rank 2) balancing transactions for the gas day in question via the relevant trading platform in accordance with the operative part (2)(c) with delivery at the virtual trading point (including day ahead and within day products) in which the market area manager is involved.
Lowest balancing gas purchase MAM:	lowest sell price in €/MWh of all global (MOL rank 1) or quality-specific (quality-specific products within MOL rank 2) balancing transactions for the gas day in question via the relevant trading platform in accordance with the operative part (2)(c) with delivery at the virtual trading point (including day ahead and within day products) in which the market area manager is involved.
Average price of gas:	the weighted average price of gas formed at the relevant trading platform in accordance with the operative part (2)(c) for the gas day in question with delivery at the virtual trading point (including day ahead and within day products).

In order to determine the highest and lowest price of all balancing gas purchases and sales, only those balancing transactions are to be used that are carried out on a global (MOL rank 1) or quality-specific basis (quality-specific products within MOL rank 2) via the relevant trading platform in accordance with the operative part (2)(c) with delivery at the virtual trading point. Both day ahead and within day products are taken into account here. In the case of day ahead products, the day of delivery is the decisive date. In order to determine the weighted average price of gas, the weighted average price formed at the relevant trading platform in accordance with the operative part (2)(c) with delivery at the virtual trading point (including day ahead and within day products) is to be used.

(2) In their recommendation document of 3 March 2014, the market area managers and transmission system operators referred to the calculation system laid down in Article 22 of the Network Code on Gas Balancing with regard to the methodology to be used to determine the

imbalance prices. With regard to the products to be taken into account in price determination, in accordance with Article 22(5) of the Network Code on Gas Balancing in addition to the products with delivery at the virtual trading point (VTP) the market area managers and transmission system operators requested that quality-specific exchange products and exchange products procured in adjacent balancing zones (e.g. TTF) be taken into account as well. Both day ahead and within day products are to be included in determining the price. The market area managers and transmission system operators currently do not consider it necessary to take account of local products, so no application in accordance with Article 22(5) of the Network Code on Gas Balancing was submitted. In the recommendation document the market area managers and transmission system operators proposed a "small adjustment" of zero.

Within the framework of the first consultation all market participants who commented on the choice of products were against taking account of local products in the determination of the imbalance charges (e.g. GEODE, EnBW). In so doing they referred among other things to considerable and unpredictable surcharges if local products were to be taken into account, even in small quantities. They said that this would be disproportionate relative to the costs actually arising for the market area managers (e.g. BDEW/VKU, VNG). With regard to account being taken of quality-specific products, opinions in the two consultations were not clear-cut: some market participants criticised account being taken of quality-specific products, among other things pointing to possible high price surcharges (e.g. E.ON), while others advocated their being taken into account against the background of the need for multi-quality management of the market areas (e.g. VIK/VCI). With regard to the "small adjustment", i.e. the surcharge on or deduction from the weighted average price of gas, most participants in the consultation did not see a need for a value of 10%, saying this would lead to a disproportionate financial burden on the balancing group managers (e.g. VIK/VCI), and that the system for determining the imbalance prices with the marginal purchase and marginal sell prices already provides sufficient incentives for the balancing group managers to deal with balancing group management themselves (e.g. RheinEnergie). Many market participants therefore proposed a reduction to 0% or at least to 2% or 5% (e.g. Bilanzkreiskooperation, EnBW, GEODE, Statoil).

In the second consultation all market participants – with the exception of one association (INES) – advocated disregarding local balancing products in the calculation of the imbalance charges (e.g. EnBW, Evonik, Vattenfall). Some market players were against quality-specific balancing products, in particular against L gas products, and proposed regular evaluation of L gas products (BDEW/VKU/GEODE, EFET, E.ON, VIK/VCI). The reduction of the "small adjustment" from 10% to 2% was for the most part rated very positively (e.g. EnBW, Evonik, Vattenfall). Only one company considered the figure of 2% to be too low to ensure an incentive effect and called for a figure of at least 10% (cf Gas-Union). Some market players called for an upper limit for imbalance prices in order to prevent charges being too high (GDF SUEZ, VNG). In both the first and

the second consultation a clear differentiation between balancing gas for conversion purposes and for the balancing system was considered essential (e.g. EFET, E.ON).

(3) The methodology for determining the imbalance prices with the two price elements, the price of all balancing gas purchases/balancing gas sales and the weighted average price of gas, is thus defined by the arrangements of Article 22(2) of the Network Code on Gas Balancing. As a consequence of this predefined methodology, there will be different imbalance prices in the two market areas GASPOOL and NCG – in contrast with the previous balancing system – because it is foreseeable that both the price for procuring balancing gas and the weighted average price of gas in the two market areas will vary. The only remaining scope for shaping the provisions of the Network Code within the framework of the determination is with regard to the products to be taken into account in determining the imbalance prices and with regard to the level of the "small adjustment", i.e. the surcharge on or deduction from the weighted average price of gas.

(a) Products to be taken into account

The global (MOL rank 1) or quality-specific (quality-specific products within MOL rank 2) balancing transactions via the relevant trading platform in accordance with the operative part (2)(c) (currently EEX) with delivery at the virtual trading point are to be used for the first price element of the imbalance prices. The weighted average price of gas formed at the relevant trading platform in accordance with the operative part (2)(c) (currently EEX) for the gas day in question with delivery at the virtual trading point is to be used for the second price element for each market area. To determine both the first price element and the second price element, day ahead and within day products are used in the determination of the imbalance prices, with the day of delivery being the decisive date in the case of day ahead products.

In the recommendation document of 3 March 2014, the two market area managers together with the transmission system operators requested that quality-specific exchange products and exchange products procured in adjacent balancing zones be taken into account, in accordance with Article 22(5) of the Network Code on Gas Balancing. These requests are granted, because exchange products come under the definition of "products with delivery at the virtual trading point" in accordance with Article 22(2)(a) of the Network Code on Gas Balancing anyway, and thus must be taken into account in the determination of the price. Locational and therefore local products are not to be taken into account in the determination of the first price element.

The fact that the networks for L gas and H gas within the German market areas are separate physical systems makes the use of quality-specific balancing products necessary (market area managers/transmission system operators), and has already occurred to a significant extent in the past. In the last gas year 2013/2014, for example, quality-specific balancing gas was used on 205 days in the NCG market area. According to the publication from GASPOOL, it is not possible to separate quality-specific and local balancing products for the last gas year on a clear, unambiguous basis. However, in light of the market area managers' remarks in the recommen-

dation document (see in particular Figures 2 and 3 in the recommendation document), the Ruling Chamber assumes that quality-specific products are highly relevant in both market areas. The Ruling Chamber shares the view of the market area managers and transmission system operators that quality-specific products, on account of the frequency with which they are used, have a decisive influence on the balancing costs. As the conversion fee falls, their influence is more likely to increase than decrease. Pursuant to Article 19(3) of the Network Code on Gas Balancing, the imbalance charges shall be cost reflective and take account of the prices associated with the balancing actions. Consequently it is appropriate when determining the price to include the prices of the quality-specific products which make up a significant proportion of the market area managers' balancing costs because of their volume, i.e. the frequency with which they are used and the used quantity. In this connection the argument put forward by some market participants that taking account of quality-specific products for the imbalance prices could lead to disproportionately high price volatility and that this could act as a barrier to market entry for small portfolios is not convincing (e.g. EFET, E.ON). After all, precisely because of the methodology defined in the Network Code on Gas Balancing for determining the imbalance prices, certain price volatilities are actually desired in order to reduce the predictability of the imbalance prices and hence the calculability. The aim in this is to provide the greatest possible incentives to balance the balancing groups. Solely taking account of global MOL 1 products would be contrary to this aim and at the same time be inconsistent with the criterion of cost-reflective imbalance charges pursuant to Article 19(3) of the Network Code on Gas Balancing.

In contrast with quality-specific products, in the past local balancing products have made up a very minor proportion of balancing products and therefore also of market area managers' balancing costs. In the last gas year 2013/2014 in the NCG market area, for example, no local products were used at all. At the start of the determination proceedings the Ruling Chamber, despite the low frequency of use in the past, was of the opinion that relevant local need for balancing gas may arise, especially with the introduction of the new balancing system, and hence the volume will increase. As these local products could then play a part in setting prices, they should be included in order to provide corresponding incentives to balance the balancing groups. In the course of the two rounds of consultation, however, with one exception (INES) all market players declared themselves against taking account of local products in the determination of imbalance charges. The market players pointed in particular to the low volume of local balancing products in comparison with other balancing products, and to the potential price distortions that even the smallest quantities of local balancing products could cause to the imbalance price (eg BDEW/VKU, VNG). This was said to constitute a barrier to market entry and thus disadvantages small portfolios in particular (e.g. E.ON). This argument from the market parties convinced the Ruling Chamber. After all, disproportionately large sudden price movements are more likely to be expected in the case of local balancing products, which are currently traded only on the balancing platform, than in the case of quality-specific exchange-traded

products. On the basis of the argument of the cost-reflective nature of the imbalance charges, too, it is only logical not to take account of the local balancing products in price determination, given the low proportion of balancing costs that they make up.

The argument that local balancing products should also be included in the calculation of the imbalance prices because otherwise there would be insufficient incentives for the balancing group managers from the imbalance prices, and furthermore domestic storage facility operators would be disadvantaged, cannot be accepted. Rather, the Ruling Chamber is of the view that the defined methodology for determining imbalance prices already provides additional incentives to balance the balancing groups when compared with the previous balancing system. In the previous balancing system the imbalance prices are established solely on the basis of the average exchange price with a surcharge or deduction. In contrast, under the new methodology the prices of the balancing transactions are also included in addition to the weighted average price of gas and the small adjustment. This increases the unpredictability of the imbalance prices, and the ability to forecast the commercial risks in the case of an imbalanced balancing group is reduced. This methodology in combination with account being taken of global and quality-specific balancing products in the first price element and the use of a "small adjustment" of 2% to the average price of gas provides sufficient incentives to balance the balancing groups. Although the inclusion of local balancing products would lead to greater volatility in the imbalance prices, it is highly questionable whether the hoped-for effect on domestic storage use would actually occur. Firstly, it is not only the level of the imbalance charges but in particular the unpredictability and therefore inability to plan that is crucial for the incentive effect of the imbalance prices. Secondly, when considering the correlation between the level of the imbalance prices and the incentive effect as of a certain level of imbalance prices it can be assumed that there is declining marginal utility, in other words that as of a certain level of imbalance prices any further increase in price would be associated with a lesser effect per unit on the incentives. Put simply, this means that for example an increase in imbalance prices from €20/MWh to €30/MWh is likely to provide a greater incentive to balance the balancing groups than an increase from €80/MWh to €90MWh. It is therefore not possible to draw clear conclusions as to the impacts of storage facility use from whether or not local balancing products are taken into account in the determination of imbalance prices. Rather, the Ruling Chamber assumes that the very fact of diminishing predictability increases the incentives for the balancing group manager not to optimise his gas purchases and gas sales via the imbalance gas system but instead to deal with balancing group management himself, for example through the use of booked storage capacities.

By not considering local balancing products in the context of the first price element, the Ruling Chamber is meeting the concerns repeatedly expressed by the market participants. The Ruling Chamber does not rule out, however, the possibility of the scope of local balancing products increasing in future. Therefore, by including regular monitoring of local balancing products within

the framework of the market area managers' balancing report (cf remarks in section 4.3.9.1), the Ruling Chamber is simultaneously ensuring that, as proposed by some market participants, the market area managers continuously examine the extent to which local balancing products are used, ie the frequency with which they are used and the used quantity. As a result, if necessary an approval for the local, ie locational balancing products could be granted in accordance with Article 22(5) of the Network Code on Gas Balancing, which would make it possible to adapt the choice of products for the first price element.

Some market players proposed using weighting with the local and/or quality-specific balancing products (eg Bilanzkreiskooperation, BNE, GEODE, VIK/VCI). However, the methodology for determining the imbalance prices prescribed by the Network Code on Gas Balancing in Article 22 rules this out. Whereas the Network Code on Gas Balancing expressly provides for weighting with the second price element in Article 22(2) and (3), it does not provide for weighting with the second price element but instead focuses solely on the "price" of all purchases or all sales of products. The same applies to the proposed upper limit for imbalance prices (eg BNE, GDF SUEZ). The Ruling Chamber sees no legal basis for this under the Network Code on Gas Balancing either. In the Ruling Chamber's view there is also no need for it, because precisely as a result of the local balancing products not being taken into consideration for the first price element and the lowering of the small adjustment from the initially intended 10% to 2%, disproportionately large changes in imbalance prices are prevented, and hence also risks for small portfolios in particular, while at the same time sufficient incentives are provided to balance the balancing products.

In both the first and second consultation rounds the market participants pointed out the relevance of appropriate and transparent differentiation between the balancing costs for conversion purposes and those for balancing purposes (e.g. BDEW, EFET, E.ON). However, differentiating between quality-specific products in terms of conversion and balancing is not possible with any clarity. After all, for any price-setting balancing product it is impossible to prove in individual cases whether the market area manager has requested this precise balancing product to meet a commercial conversion need or to meet a need for balancing gas for gas balancing purposes. If any attempt is made to allocate the individual quality-specific products to one of the two systems, from the Ruling Chamber's viewpoint it is all the more likely that one of the two systems will be cross-subsidised by the other. It is therefore necessary to distinguish between the procedure for determining the imbalance prices and the allocation of balancing costs and revenues to the conversion system or to the balancing system. Calculation of the imbalance prices involves determining the highest/lowest balancing gas purchase price/balancing gas sales price respectively for the global or all quality-specific balancing products, i.e. without removing certain quality-specific balancing products for the conversion system. When calculating the balancing costs and revenues for conversion purposes and for gas balancing purposes, on the other hand, it is possible and indeed urgently necessary to approach an appropriate differentia-

tion between the two systems in order to ensure that costs are allocated according to causation. This differentiation is currently already carried out by the market area managers during the allocation of costs and revenues between the two systems. Relevant evidence that appropriate differentiation of the costs and revenues for gas balancing and conversion has been carried out must be provided by the market area managers in accordance with both the operative part (7)(g)(cc) (see also remarks in section 4.3.7.6 in this regard) and the operative part (2)(d) of the determination on the introduction of a conversion system in cross-quality gas market areas (file reference: BK7-11-002) and be submitted to the Ruling Chamber on request.

(b) Level of the "small adjustment"

Pursuant to Article 22(2) of the Network Code on Gas Balancing, the second price element for determining the imbalance price can be augmented by a "small adjustment", which in the case of a positive imbalance price takes effect as a surcharge on the weighted average price of gas and in the case of a negative imbalance price as a deduction from it. The "small adjustment" must conform to the provisions of Article 22(6) and (7) of the Network Code on Gas Balancing. At the start of the determination proceedings the Ruling Chamber saw the need for a "small adjustment" of 10% in order to provide sufficient incentives to balance the balancing groups. Within the context of the first consultation round, the overwhelming majority of the market participants stated that there was no need for a surcharge or deduction of 10% on the weighted average price of gas. They said the fundamental methodology for determining the imbalance prices was sufficient to offer incentives for balanced balancing groups. Furthermore, with a "small adjustment" of 10% the market area managers would in some cases achieve revenues that did not match corresponding costs. This would firstly not satisfy the criterion of costs being reflected in the imbalance charges, and secondly significant surpluses would be generated on the RLM neutrality charge account (e.g. BDEW/VKU, BNE, GDF SUEZ, RheinEnergie, VIK/VCI). Instead, they proposed reducing the "small adjustment" to 0% or at least to 2% or 5% (Bilanzkreiskooperation, EnBW, GEODE, Statoil, VIK/VCI). In the second consultation round the reduction of the "small adjustment" from 10% to 2% was rated very positively (e.g. EnBW, Vattenfall), except for one company (Gas-Union). A "small adjustment" of 2% would be more likely to match the criterion of cost being reflected in the imbalance charges (Vattenfall).

In the Ruling Chamber's view there is a fundamental need for a "small adjustment" as a surcharge to or deduction from the weighted average price of gas in order to provide sufficient incentives to balance the balancing groups. This is intended to prevent the balancing group manager from optimising gas purchases and gas sales using imbalance gas. This consideration is based on the fact that in recent gas years external balancing gas was contracted by the market area managers on only one third of the days. If this trend – which is to be seen in a positive light – were to continue, the second price element used for the determination of the imbalance charges would become greatly significant in price determination. Without a surcharge

to or deduction from the average price of gas, on days with no procurement of balancing gas there would be insufficient incentive for the balancing group manager to carry out balancing group management himself because the market area manager would always cancel out the differences on the basis of the average price of gas. As the management of a balancing group involves costs, without a surcharge or deduction the incentive to supply customers from imbalance gas would actually be increased. This is also likely to have negative repercussions for the security of supply. Furthermore, current information on the cross-border price indicates that this price would be not inconsiderable and on many days above the imbalance price if merely the weighted average price of gas were to be used with no surcharge or deduction.

Having weighed up the arguments submitted in the course of the two rounds of consultations, the Ruling Chamber has met the demands of the market participants and has now set the "small adjustment" as a surcharge/deduction on the weighted average price of gas at 2% instead of the initially envisaged 10%. In the Ruling Chamber's view this figure is high enough to counter the risk of false incentives, but at the same time the level of the "small adjustment" is not too high to constitute an additional barrier to market entry for new market participants, for example, or to hamper the development of competition, or to be an excessive financial burden for network users. The "small adjustment" of 2% thus conforms to the provisions of Article 22(6) and (7) of the Network Code on Gas Balancing.

(c) Example of the method for determining imbalance prices

To improve understanding of the price system for determining the imbalance prices, by way of example in the following the imbalance prices for the two market areas GASPOOL and NCG are determined on the basis of past values for one day. In order to illustrate the methodology for determining the imbalance prices and the choice of products for determining the first price element, a day was selected on which both MOL rank 1/MOL rank 2 and MOL rank 3 products were contracted by the market area managers: 6 January 2014. As the previous definition of the merit order list for the procurement of balancing gas is adapted by the determination pursuant to the operative part (6) (see remarks in section 4.3.6.2. in this regard), certain assumptions must be made for the example of how to calculate imbalance prices given in this section in comparison with the currently applicable product definitions. Tables 1 and 2 show the first and second price elements and the resulting positive and negative imbalance prices for both market areas on 6 January 2014.

To determine the imbalance prices it is first necessary to select the products that can be included in the calculation for the first price element. The first column in tables 1 and 2 shows the procurement location, the second column the flow direction and the third column the gas demand. The next columns contain the daily quantity and the commodity price. These are followed by the allocation to the merit order list according to the currently applicable target model and according to the model pursuant to the operative part (6). For example, for NCG the first

product is allocated to MOL rank 2a according to the current target model, but to MOL rank 3 according to the operative part (6). The global exchange product is an MOL rank 1 product according to both the current target model and the new model. The third product was procured via the virtual trading point TTF, and according to the current target model is on MOL rank 2c and according to the new model on MOL rank 2.

The last column in the table shows whether the product is used for determining the imbalance prices. For example, the first balancing transaction is used for the calculation at GASPOOL, whereas the 14th balancing transaction is not chosen because it is a local balancing transaction. The same applies to NCG: the second balancing transaction is used for the calculation, whereas the first balancing transaction is not taken into account because it is a balancing transaction procured via the platform. The next step is to determine the highest and lowest price of all balancing transactions. In this example, balancing gas was purchased for a maximum of €34.50/MWh in the GASPOOL market area and a maximum of €27.57/MWh in the NCG market area. The delivery location for the purchase of balancing gas was the virtual trading point. No sales of balancing gas took place in either market area on 6 January 2014.

The second price element used is the weighted average price of gas taking account of the surcharge and deduction of 2%. The daily reference price listed by the EEX for 6 January 2014 was used for this purpose for the example calculation. In the numerical example the corresponding values obtained are €27.13/MWh and €26.07/MWh for the GASPOOL market area and €27.02/MWh and €25.96/MWh for the NCG market area.

To determine the positive imbalance price, the maximum value is calculated between the highest balancing gas purchase price and the weighted average price of gas plus the "small adjustment". In this numerical example the first price element, the highest balancing gas purchase price, determines the positive imbalance price in both market areas, because it is above the weighted average price of gas. The positive imbalance price in the GASPOOL market area is thus €34.50/MWh in the GASPOOL market area and €27.57/MWh in the NCG market area. To determine the negative imbalance price, the minimum value is calculated between the lowest balancing gas sales price and the weighted average price of gas less the "small adjustment". As no sales of balancing gas took place in either market area in this example, the second price element, the weighted average price of gas, determines the negative imbalance price. Consequently, the negative imbalance price in the GASPOOL market area is €26.07/MWh in the GASPOOL market area and €25.96/MWh in the NCG market area (cf figures in tables 1 and 2).

Table 1: Numerical example for determining the imbalance prices for the NetConnect Germany market area.

1. Preiselement							
Beschaffungsort	**Flussrichtung**	**Bedarf**	**Tagesmenge**	**Preis (€/MWh)**	**MOL (derzeitiges Zielmodell)**	**MOL (neues Modell)**	**Verwendung für die Ermittlung der Ausgleichs-energiepreise?**
Plattform	Kauf	Qualität	1400	27,25	2a	3	Nein
Börse	Kauf	Global	24.323	27,37	1	1	Ja
Börse/TTF	Kauf	Qualität	5.740	27,57	2c	2	Ja
	Kein Verkauf						
2. Preiselement							
Mengengewichteter Gasdurchschnittspreis NCG (€/MWh)							26,49
Mengengewichteter Gasdurchschnittspreis NCG (€/MWh) zuzüglich der „kleinen Anpassung“ von 2 %							27,02
Mengengewichteter Gasdurchschnittspreis NCG (€/MWh) abzüglich der „kleinen Anpassung“ von 2 %							25,96
Positiver Ausgleichsenergiepreis (€/MWh)							27,57
Negativer Ausgleichsenergiepreis (€/MWh)							25,96

Table 2: Numerical example for determining the imbalance prices for the GASPOOL market area.

1. Preiselement							
Beschaffungsort	**Flussrichtung**	**Bedarf**	**Tagesmenge (MWh)**	**Preis (€/MWh)**	**MOL (derzeitiges Zielmodell)**	**MOL (neues Modell)**	**Verwendung für die Ermittlung der Ausgleichs-energiepreise?**
Börse	Kauf	Global	11.040	27,27	1	1	Ja
Börse	Kauf	Global	11.040	27,35	1	1	Ja
Börse	Kauf	Global	1.080	27,28	1	1	Ja
Börse	Kauf	Global	4.302	27,38	1	1	Ja
Börse	Kauf	Global	10.800	27,40	1	1	Ja
Börse	Kauf	Global	6.930	27,43	1	1	Ja
Börse	Kauf	Global	2.160	27,45	1	1	Ja
Börse	Kauf	Global	540	27,48	1	1	Ja
Börse	Kauf	Global	7.644	27,50	1	1	Ja
Börse	Kauf	Qualität	2.640	28,00	2b	2	Ja
Börse	Kauf	Global	1.600	28,15	1	1	Ja
Börse	Kauf	Global	1.200	28,50	1	1	Ja
Plattform	Kauf	Qualität/Lokal	4.320	28,50	2a	3	Nein
Plattform	Kauf	Qualität/Lokal	2.400	29,00	2a	3	Nein
Plattform	Kauf	Qualität/Lokal	6.840	29,45	2a	3	Nein
Börse	Kauf	Qualität	900	29,80	2b	2	Ja
Börse	Kauf	Global	960	30,00	1	1	Ja
Börse	Kauf	Qualität	2.160	31,25	2b	2	Ja
Börse	Kauf	Qualität	180	31,73	2b	2	Ja
Plattform	Kauf	Qualität/Lokal	2.160	32,47	2a	3	Nein
Plattform	Kauf	Qualität/Lokal	180	33,77	2a	3	Nein
Börse	Kauf	Global	424	33,90	1	1	Ja
Börse	Kauf	Global	1.920	33,95	1	1	Ja
Börse	Kauf	Global	640	34,25	1	1	Ja
Börse	Kauf	Global	960	34,45	1	1	Ja
Börse	Kauf	Global	960	34,50	1	1	Ja
Plattform	Kauf	Qualität/Lokal	3.600	34,50	2a	3	Nein
Plattform	Kauf	Qualität/Lokal	3.960	35,05	2a	3	Nein
Plattform	Kauf	Qualität/Lokal	180	35,49	2a	3	Nein
Plattform	Kauf	Qualität/Lokal	180	36,50	2a	3	Nein
	Kein Verkauf						
2. Preiselement							
Mengengewichteter Gasdurchschnittspreis Gaspool (€/MWh)							26,60
Mengengewichteter Gasdurchschnittspreis Gaspool (€/MWh) zuzüglich der „kleinen Anpassung“ von 2 %							27,13
Mengengewichteter Gasdurchschnittspreis Gaspool (€/MWh) abzüglich der „kleinen Anpassung“ von 2 %							26,07
Positiver Ausgleichsenergiepreis (€/MWh)							34,50
Negativer Ausgleichsenergiepreis (€/MWh)							26,07

4.3.2.3. Approval of the relevant trading platform

(1) With the operative part (2)(c) the Ruling Chamber grants approval to the relevant trading platform in accordance with Article 22(3) of the Network Code on Gas Balancing. The EEX – European Energy Exchange AG (EEX) is approved as the relevant trading platform. The trades on the EEX are therefore to be used to determine the marginal sell price, the marginal buy price and the weighted average price.

(2) In their recommendation document of 3 March 2014, the market area managers and transmission system operators did not explicitly name the relevant trading platform according to Article 22(3) of the Network Code on Gas Balancing. They did state, however, that all exchange products with delivery at the virtual trading point, exchange-traded quality-specific H and L gas products and exchange products in adjacent balancing zones should be taken into account. As these are EEX exchange products, the Ruling Chamber considers the prerequisites of Article 22(3) first sentence to be fulfilled and approves EEX as the relevant trading platform according to Article 22(3) of the Network Code on Gas Balancing.

No objections regarding the planned approval of EEX as the relevant trading platform were submitted in the course of the two consultation rounds. Some market participants, however, proposed extending the approval of the relevant trading platform to the ICE Endex in order to create an additional possible means of procuring balancing gas (BDEW/GEDOE/VKU, market area managers/transmission system operators). One market participant suggested specifying criteria coupled among other things to the incurred investment costs for the approval of further trading platforms (EEX).

(3) Currently all exchange-traded procurement of balancing gas by the market area managers takes place via EEX. At present only EEX is operating as an exchange on the spot market at the NCG and GASPOOL virtual trading points. In conformance with the criterion that imbalance prices must be cost reflective, it is therefore appropriate to approve the trading platform on which the market area managers perform their balancing transactions as the relevant trading platform in accordance with Article 22(3) of the Network Code on Gas Balancing. This is the only way of ensuring that the balancing costs actually incurred are taken into account in the determination of the imbalance charges. EEX satisfies all requirements of trading platforms pursuant to Article 3(4) of the Network Code on Gas Balancing. The approval of EEX as the relevant trading platform according to Article 22(3) of the Network Code on Gas Balancing remains in force after 1 January 2015 even if the gas products currently offered on EEX are offered via Powernext under the brand PEGAS – Pan-European Gas Cooperation.

The daily reference price currently listed by EEX ("Daily Reference Price Natural Gas") does not meet the requirements of the weighted average price of gas. Only the day ahead products are reflected in the daily reference price, not the within day products. EEX is thus called upon to create and publish a new index that satisfies the requirements for determining the second price

element for the imbalance prices. The index must be published and the necessary data made available to the market area managers sufficiently promptly that the market area managers are able to meet their publication obligations in accordance with the operative part (10) (see remarks in section 4.3.10. in this regard). Within the framework of the first consultation, EEX promised to calculate and publish the envisaged indices for determining the imbalance price and in that way to support the market area managers in their reporting obligations (EEX).

The Ruling Chamber is not yet able to endorse the proposal made by some market participants to extend the approval of the relevant trading platform to the ICE Endex (BDEW/GEDOE/VKU, market area managers/transmission system operators) at present because to date the ICE Endex is not active on the spot market within the two market areas, NCG and GASPOOL, and the market area managers do not yet perform any balancing transactions on this trading platform. If this situation were to change in future and more than one exchange were to be active on the spot markets within a market area, the approval of the relevant trading platform according to Article 22(3) of the Network Code on Gas Balancing can be extended to include the corresponding trading platform identified by the market area managers, provided that the trading platform meets the requirements of Article 3(4) of the Network Code on Gas Balancing. The application must be submitted by the market area managers (jointly or individually).

The Ruling Chamber also does not support the proposal to specify criteria for the approval of further trading platforms. The Ruling Chamber considers provisions of this nature, such as comparing of the incurred investment costs and any additional conversion and adjustment costs with the advantages arising for the market participants (EEX), to be significant obstacles preventing the market area managers from carrying out their balancing activities on other exchange-type trading platforms. From the Ruling Chamber's viewpoint, however, it is certainly desirable that the market area managers should extend their balancing activities to other trading platforms, provided that those trading platforms satisfy the requirements set out in Article 3(4) of the Network Code on Gas Balancing. Diversifying the market area managers' balancing activities on different exchange-type trading platforms can have positive effects on the efficiency of the procurement of balancing gas and thus lead to lower balancing costs for the market area managers.

4.3.2.4. Default rule for determining the imbalance price

On days on which there are neither any balancing transactions performed by the market area managers nor is it possible to determine the weighted average price of gas, a default rule must be defined in accordance with Article 22(4) of the Network Code on Gas Balancing. The operative part (2)(d) prescribes a default rule for the formation of the imbalance prices if it is not possible to determine the imbalance prices on the basis of the principles described in the operative part (2)(b). In this case the respective imbalance price of the previous day is to be

used. This also applies if the imbalance price of the previous day was already formed according to this default rule. This is appropriate inasmuch as the imbalance price of the previous day constitutes the best possible estimator of the current imbalance price because of the close chronological link.

In fact, however, at present there is a low probability that the default rule will be used. It is true that it was more common in the past for the market area managers not to perform any balancing transactions. Indeed, the market area managers contracted balancing gas on only about one third of the days. This means that it would not have been possible to determine the first price element on two thirds of the days in the past. If this – positive – trend were to further intensify in future, the probability that the first price element cannot be determined would be relatively high. As a rule it is likely to be possible to resort to the second price element, however, because even if the weighted average price of gas at the relevant trading platform EEX cannot be formed, EEX has already defined a trading-platform-specific default rule. This rule provides that in this case the management of EEX can set the settlement price according to a procedure referred to as the chief trade procedure. In this, all trading participants have the possibility of specifying a market price for futures contracts or for spot instruments. On the basis of these prices, substitute value creation takes place with the aid of a simple determination of the average (see EEX website). This notwithstanding, it was necessary to define the default rule in order to create legal certainty in respect of this – rather improbable – case.

4.3.2.5. Determination of the daily imbalance charges

The operative part (2)(e) governs the determination of the daily imbalance charges. These are obtained by multiplying the daily imbalance quantities pursuant to the operative part (2)(a) by the daily imbalance prices pursuant to the operative part (2)(b) or (d). The imbalance quantities are settled on a monthly basis between the market area manager and the balancing group manager for each balancing period (day) using the positive imbalance price in the case of short supply and the negative imbalance price in the case of surplus supply. The Ruling Chamber grants approval for the methodology to be used for calculating the daily imbalance charge in accordance with Article 20(1) of the Network Code on Gas Balancing.

Consequently, on the basis of the calculated daily imbalance prices and daily imbalance quantities, the daily imbalance charges are obtained by multiplying the daily quantities by the corresponding daily prices. In the event of short supply the daily imbalance quantities are multiplied by the positive imbalance price, and in the event of a surplus by the negative imbalance price.

The market area managers and transmission system operators submitted the methodology to be used for calculating the daily imbalance charge to the Ruling Chamber within the framework of the recommendation document of 3 March 2014. This methodology is approved in this respect in

accordance with Article 20(1) of the Network Code on Gas Balancing, taking account of an adjusted small adjustment of 2% in comparison with the recommendation document from the market area managers and transmission system operators.

In the course of the two consultation rounds there were comments on the individual calculation components, such as the imbalance price with the "small adjustment", but not on the fundamental methodology for determining the imbalance charges on the basis of the daily imbalance prices and imbalance quantities. It was only with regard to the settlement intervals that some market participants requested clarification that settlement of the daily imbalance charges was to continue to take place monthly (BDEW/VKU/GEODE, market area managers/transmission system operators). The Ruling Chamber has acted on this suggestion by including the corresponding supplement in the operative part (2)(e).

4.3.3. Settlement of RLM reconciliation quantities (operative part (3))

(1) Pursuant to the operative part (3), the market area managers must perform a reconciliation of the differential quantities arising from the calorific value correction between the initial and final quantity allocation of a balancing group of RLM exit points ("RLM reconciliation quantities") vis-à-vis the balancing group manager on a daily basis. Prior to this the market area manager calculates the net balance of the initial and final quantities of a balancing group for this purpose. The market-area-specific reconciliation quantities established in this way are settled at the end of each month. The daily weighted average price of gas with delivery at the virtual trading point established at the relevant trading platform in accordance with the operative part (2)(c) is to be used for settlement of the reconciliation quantities arising from calorific value correction.

(2) The abolition of separate reconciliation for RLM exit points was unanimously welcomed in the consultations. The Ruling Chamber originally envisaged an evaluation of the reconciliation quantities pertaining to the imbalance price, but this was unanimously rejected by all market parties. As the calorific value correction is neither caused by the suppliers nor can it be avoided by them, reconciliation of these differences with an incentive-driven imbalance price that adds a surcharge in the case of short supply and a deduction in the case of surplus supply was not considered appropriate by the commenting parties. Instead, the market players preferred a day-specific market price, such as the hub price or some other daily reference price. At the same time BNE pointed out that the price setting should also apply to the reconciliation for SLP exit points.

(3) In contrast with the current arrangements, the fact that finally allocated, coordinated and calorific value adjusted quantities are taken into account in the balancing groups does not give rise to the need to perform separate reconciliation for RLM exit points. This was unanimously welcomed in the comments. Under the current system there was always a need for separate RLM reconciliation using the finally agreed data of the following day, because the finally agreed

quantities to be taken into account in balancing were based on a reference calorific value that had to be corrected by the actual calorific value used for billing purposes and then settled. The calorific value corrected quantities were not included in the balance, however. This separate settlement can now be dispensed with. Nonetheless, there is also a need when taking account of calorific value adjusted quantities in balancing to reconcile the provisional quantities (factored in with a reference value) with the billing calorific value imposed at the end of the month and to evaluate their price. In this regard the Ruling Chamber concurred with the unanimous opinion of the commenting parties not to perform the price evaluation of these differential quantities using the incentive-based imbalance price, but instead to reference the weighted average price of gas from the imbalance price system for this purpose (see remarks in section 4.3.2.2.). The Ruling Chamber is thus meeting both the request for a uniform evaluation of imbalances in both directions and the request for market-based price determination. The setting of reconciliation prices for SLP exit points, on the other hand, shall not be defined by this determination, because this reconciliation is not to be included as part of balancing group settlement. The design of an appropriate price system is left to the market parties within the framework of the cooperation agreement. It is not ruled out in this context, however, that the market parties will be guided by the arrangement made for the RLM exit points.

4.3.4. Within day obligations (operative part (4))

The within day obligations are laid down in the operative part (4). The sections below explain the operative part's determinations on the within day incentive system (see section 4.3.4.1. below) and the results of the consultations on the determination proceedings (see section 4.3.4.2. below). The main reasons for the design of the within day incentive system are then stated, and the system's conformity with the requirements for within day obligations from Article 24 and Article 26(2) of the Network Code on Gas Balancing is pointed out (see section 4.3.4.3 below).

4.3.4.1. Arrangement in the determination

According to the operative part (4) the market area managers are obliged to introduce a within day incentive system in which all physical and virtual inputs and offtakes are considered on an hourly basis, alongside the daily balancing regime. A flat daily profile is allocated as the daily offtake quantity in the balance for SLP and RLMmT exit points ("mT" – with flat daily profile). For RLMoT exit points the actual offtake quantity for each hour is allocated as an offtake quantity in the balance ("oT" – without flat daily profile). The payments within the framework of the within day incentive mechanism do not affect settlement in daily balancing.

Under the within day incentive mechanism, every hour the market area manager calculates the net balance of all allocated inputs and offtakes for each master balancing group. Any net balances are considered cumulatively over the next hours, irrespective of the direction. The

balancing group manager must pay a flexibility charge to the market area manager for the cumulative deviation, after deduction of any tolerance granted, in euros per MWh. The quantity for which the flexibility charge must be paid is referred to as the "within day flexibility quantity". This "within day flexibility quantity" is added irrespective of the direction, i.e. hourly surpluses and short supply quantities are added – after deduction of any tolerance granted. The hourly imbalance shall not be compensated. According to formula 3), the flexibility costs for the balancing group manager are obtained from the flexibility charge multiplied by the within day flexibility quantity. The flexibility charge is calculated by dividing the costs for the flexibility balancing gas by the quantity of flexibility balancing gas (formula 4)). The costs for the flexibility balancing gas in turn are obtained using formula 5), as the difference between the weighted average price of balancing gas purchases less the weighted average price of balancing gas sales multiplied by the smaller of the opposite balancing gas quantities. The quantity of flexibility balancing gas is obtained from the smaller of the opposite balancing gas quantities multiplied by two (formula 6)).

Formula 3):	*Flexibility costs = flexibility charge * within day flexibility quantity*
Formula 4):	*Flexibility charge = costs of flexibility balancing gas / quantity of flexibility balancing gas*
Formula 5):	*Cost of flexibility balancing gas = ($P_{BG\ purchase}$-$P_{BG\ sale}$)*(smaller of opposite balancing gas quantities)*
Formula 6):	*Quantity of flexibility balancing gas = 2* (smaller of opposite balancing gas quantities)*
Definitions:	
$P_{BG\ purchase}$:	weighted average price of balancing gas purchases
$P_{BG\ sale}$:	weighted average price of balancing gas sales

The following allocation groups must be distinguished for the purposes of the within day incentive mechanism:

- For entry and exit points at market area and cross-border interconnection points, entry points from domestic production facilities, entry and exit points to/from storage facilities and purely trading nominations (VTP nominations), which are balanced according to the principle "allocated as nominated" or "allocated as measured" (insofar as this is permissible), the allocated quantity is considered in the balance for each hour. There is no pro-

vision for tolerances under the within day mechanism. An exception applies in cases when use of the "allocated as measured" allocation principle at cross-border interconnection points that serve exclusively the supply of end users has been approved in advance by the Ruling Chamber. Such points are to be treated as RLM exit points.

- For RLM exit points, either the hourly share of the actual daily offtake quantity distributed evenly (as a flat daily profile) over the entire gas day (subgroup RLMmT) or the actual offtake quantity for each hour (subgroup RLMoT) is relevant. The actual offtake quantity is the allocated offtake quantity without calorific value correction but with replacement value correction. A tolerance is allowed for both subgroups: the amount of the tolerance for each hour of the gas day is +/- 7.5% of the daily offtake quantity at RLM exit points.

  Offtakes at RLM exit points are in principle categorised in the subgroup RLMmT. The balancing group manager authorises the network user to announce to the network operator that one or more RLM exit points in his balancing group shall not belong to the subgroup RLMmT. In this case the rules for the subgroup RLMoT shall apply to the relevant RLM exit points. This option may be exercised in the context of the master data processes or in the context of a change of supplier.

- For SLP exit points, the hourly share of the daily quantity of the standard load profile distributed evenly over the entire gas day (as a flat daily profile) is relevant. There is no provision for tolerances under the within day mechanism.

The market area managers shall impose a flexibility charge only on those days on which opposing balancing actions (purchasing and selling of balancing gas) via MOL rank 1 in accordance with the operative part (6) have occurred in the market area and result in costs incurred for the market area manager. No flexibility charge shall be imposed on gas days on which these two criteria are not fulfilled. The balancing gas quantity for within day structuring is calculated from the smaller of the two opposite balancing gas quantities plus an equal balancing gas quantity in the opposite direction ("flexibility balancing gas"). The flexibility charge is calculated using formula 4) for the gas day in question as the quotient of the costs for the flexibility balancing gas and the quantity of flexibility balancing gas, and thus constitutes the quantity-weighted costs for flexibility balancing gas in euros per MWh.

4.3.4.2. Recommendation document and comments

(1) In their recommendation document of 3 March 2014, the market area managers and transmission system operators proposed the introduction of a within day incentive system. To explain the fundamental need for a within day incentive system, in the recommendation document the market area managers and transmission system operators calculated three scenarios which set out possible operational and financial consequences for the balancing system with and without within day incentives for balancing group management. The market area managers and

transmission system operators came to the conclusion that a within day incentive system is necessary from a system perspective. They stated that the absence of incentive mechanisms would result in a requirement for a disproportionately high level of flexibility in order to secure the provision of the required balancing gas and thus give rise to extremely high costs, which ultimately would have to be borne by all network users. Furthermore, from the current perspective it would be by no means certain that the balancing gas requirements could be met to the calculated extent.

In the recommendation document the market area managers proposed the following within day incentive system: the net balance between the sum of all physical and virtual inputs recorded for a balancing group and the sum of all physical and virtual offtakes recorded for the same balancing group is calculated for each hour of the gas day. Any hourly imbalances remaining after netting are added to a cumulative balance carried forward over the course of the gas day. Where the cumulative hourly imbalance exceeds a defined tolerance limit, the quantity exceeding the tolerance limit is treated as the quantity relevant for billing purposes In respect of this quantity a flexibility charge is applied. The flexibility charge is applied only on those gas days on which balancing actions are taken in opposite directions (purchasing and selling of external balancing gas). The marginal price spread of opposite balancing transactions is used as the basis for determining the flexibility charge. The calculated value could if necessary be multiplied by a factor X in order to reduce the risk of flexibility charges being too high for the balancing group managers. The market area managers likewise defined three allocation groups for the incentive system:

- For entry and exit points at market area and cross-border interconnection points, entry points from domestic production facilities, entry and exit points to/from storage facilities, exit points to end users with alternative nomination procedures and purely trading nominations (VTP nominations). At these points the allocated quantity is considered in the balance for each hour. No tolerances are applied under the within day mechanism.
- For all RLM exit points the measured quantities are allocated (“allocated as measured”) and taken into account under the hourly mechanism (i.e. only RLMoT). In respect of exit points falling into group 2, an ex-post tolerance of +/-7.5% is applied on the allocated daily quantity.
- For SLP exit points the quantity relevant for the within day incentive mechanism is the hourly share of the daily quantity as obtained using the applicable standard load profile and distributed evenly over the gas day. No tolerances are applied in respect of these quantities under the hourly mechanism.

(2) Within the framework of the consultations on the determination proceedings conducted by the Ruling Chamber, some consultees stated that a within day incentive mechanism was not

necessary to maintain system stability and should therefore be abolished (EEX, EFET, E.ON). However, no unanimous opinion on the necessity of the mechanism emerges from the comments.

A large majority of the consultees supported the proposal from the market area managers to provide for imposition of the flexibility charge only on those gas days on which opposing balancing actions have occurred. Two comments expressly called for the inclusion of balancing gas according to MOL rank 2. They said that this is absolutely necessary because balancing gas according to MOL rank 2 is also used for within day network balancing.

The majority of consultees were in favour of the flexibility charge being formed according to the methodology presented as "variant 1" by the Ruling Chamber in the notification of proceedings leading to the determination proceedings of 3 April 2014. Several consultees also called for the introduction of an upper limit for the flexibility charge (BDEW/VKU/GEODE, EFET, EnBW, E.ON, GDF Suez, market area managers/transmission system operators). In addition, some consultees proposed settling only the highest cumulative deviation over any tolerance applied within the framework of the within day incentive mechanism (EFET, E.ON).

The retention of both allocation groups for the supply of RLM exit points (RLMmT and RLMoT) – as proposed by the Ruling Chamber in the course of the proceedings – was mainly rated positively. Over and above this, the consultees suggested integrating the change of allocation group between RLMmT and RLMoT into the master data process between network users and the network operator.

4.3.4.3. Reasons

The specified within day obligations and the flexibility charge are appropriate and necessary. In particular, the prerequisites for the application of within day obligations in accordance with Article 24(1) of the Network Code on Gas Balancing are fulfilled (see section 4.3.4.3.1. below). The incentive system according to the operative part (4) likewise fulfils requirements for within day obligations from Article 26(2)(a) to (f) of the Network Code on Gas Balancing (see sections 4.3.4.3.2. to 4.3.4.3.7. below).

4.3.4.3.1. Ensuring system integrity and minimising balancing actions

Pursuant to Article 24(1) of the Network Code on Gas Balancing the market area managers are only entitled to apply within day obligations in order to ensure the system integrity of the transmission network and to minimise the need to undertake balancing actions. The within day incentive system proposed by the Ruling Chamber according to the operative part (4) is suited to producing a positive effect on system stability and reducing the number of balancing actions in comparison with a balancing system in which transport behaviour during the long balancing period of a gas day is entirely at the discretion of network users.

(1) The Ruling Chamber does not share the assessment of some consultees (E.ON, EFET, Statoil) that within day obligations are not necessary to maintain system stability and should accordingly be abolished. In a day-based balancing regime with no incentives at all for network users to adapt their transport behaviour within the gas day, there is nothing to prevent network users from arranging input of their entire gas requirements as late as possible, i.e. within a few hours at the end of the gas day. If several network users act in this manner, it could lead to considerable surpluses in the networks towards the end of the gas day and to short supply in the earlier part of the gas day. The market area managers would have to compensate for these within day differences through the use of costly balancing gas (flexibility balancing gas), which would ultimately be paid for by all network users. Possible effects of this type of market behaviour on the balancing system were described by the market area managers and transmission system operator in their recommendation document of 3 March 2014 with the aid of various scenarios. Scenario 1 in particular shows that a purely day-based balancing regime is liable to cause enormously high structuring effort (purchasing and selling of external balancing gas) in the networks. In the opinion of the market area managers, it is by no means certain that the calculated potential balancing requirements can be met by external balancing gas. In principle the Ruling Chamber concurs with the assessments by the market area managers and transmission system operators, although the Ruling Chamber considers scenario 1 as outlined by the market area managers and transmission system operators to be an extreme scenario which is not very likely to occur in this form. Nevertheless, it is impossible to rule out network users behaving in the manner presented in scenario 1 unless within day obligations are introduced.

The within day obligations described by the Ruling Chamber in the operative part (4) create incentives for network users to input their gas requirements at cross-border or market area interconnection points, storage facilities and virtual exit points for each hour according to their offtake. Either a flat daily profile (RLMmT) or the actual hourly offtake quantity (RLMoT) should be input for the daily consumption of exit points with consumption metering. The network users' incentivised transport behaviour increases the calculability of system control for the transmission system operators and minimises risks to system integrity. At the same time, the lower structuring effort potentially reduces the need for balancing gas when compared with a system without any within day incentives.

(2) Differentiation of the three allocation groups in the within day incentive system is necessary in order to take appropriate account of the special features of the inputs and offtakes at the various points and their effects on the system as a whole.

(a) The first allocation group includes entry and exit points that because of their technical design and economic significance are able to exert substantial influence on gas flows within the market area and thus also on the stability of the entire system. Especially for interconnection points on borders with other market areas or countries and for entry and exit points to/from storage

facilities and domestic production facilities, therefore, it was necessary to establish a system in which the hourly inputs and offtakes in a balancing group are brought into line with each other as precisely as possible.

As the hourly imbalance is geared to nominations, there is a strong incentive for network users to structure their transport behaviour to fit exactly within the day. The resultant precise coordination of the gas flow enables dispatching arrangements within the market area to be optimised overall because of the great significance of the above-mentioned points for the operation of the network. For the network users, on the other hand, this means that there is no disproportionate burden to balance their hourly inputs and offtakes with each other at these points. Since essentially it is the nominated quantities that are included in the balance for these points, the network users can plan the inputs and offtakes precisely in advance, without having to fear the risk of a major deviation. As the latter also applies to the virtual entry and exit points, these also needed to be included in the first allocation group.

(b) The arrangements envisaged for the second allocation group are likewise an appropriate means of encouraging network users to adopt transport behaviour that reduces the need for balancing gas, without being a disproportionate burden on them. The arrangement in the operative part (4)(b)(bb) provides that as a general rule the hourly share of the daily actual offtake quantity (subgroup RLMmT – "RLM with flat daily profile") distributed evenly over the entire gas day is included in the within day incentive consideration for the RLM exit points belonging to the second allocation group. By focusing on the total daily metered quantity in the subgroup "high-volume consumers with flat daily profile" the Ruling Chamber takes account of the fact that in the case of plannable daily consumption it is fundamentally simpler and more cost-effective for suppliers to input a flat daily profile than to carry out precise hourly structuring for their RLM exit points. At the same time the current market situation shows that system stability is ensured even if supply to RLM exit points is based to a large extent on flat daily profile inputs. As described in some comments, as of 1 October 2013, as a consequence of the system and portfolio balancing energy apportionment fees being reduced to zero, supply to most RLM exit points is provided in accordance with the allocation group RLMmT (cf. figures 1 and 2).

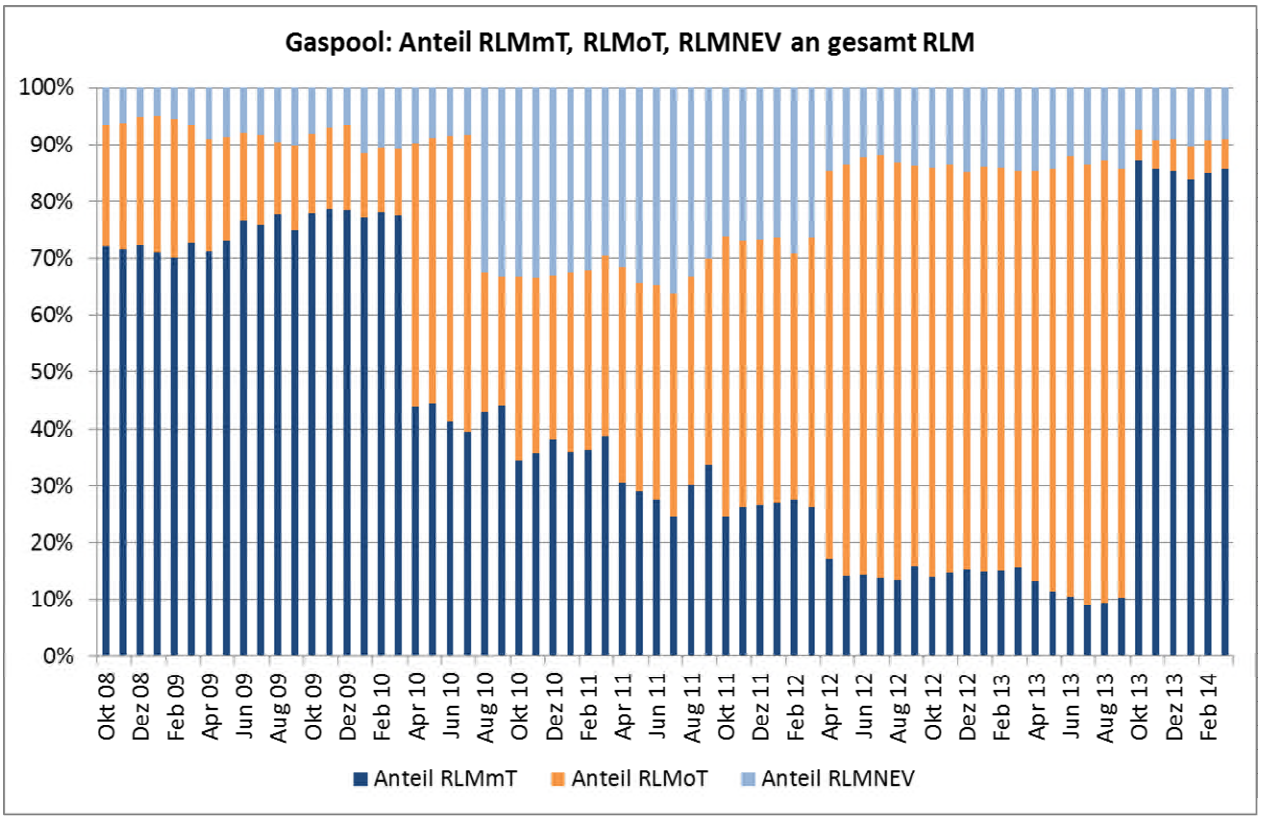

Figure 1: Relative share of the quantities of natural gas offtaken at RLMmT, RLMoT and RLMNEV in the GASPOOL market area in the period from October 2008 to March 2014. Data source: GASPOOL.

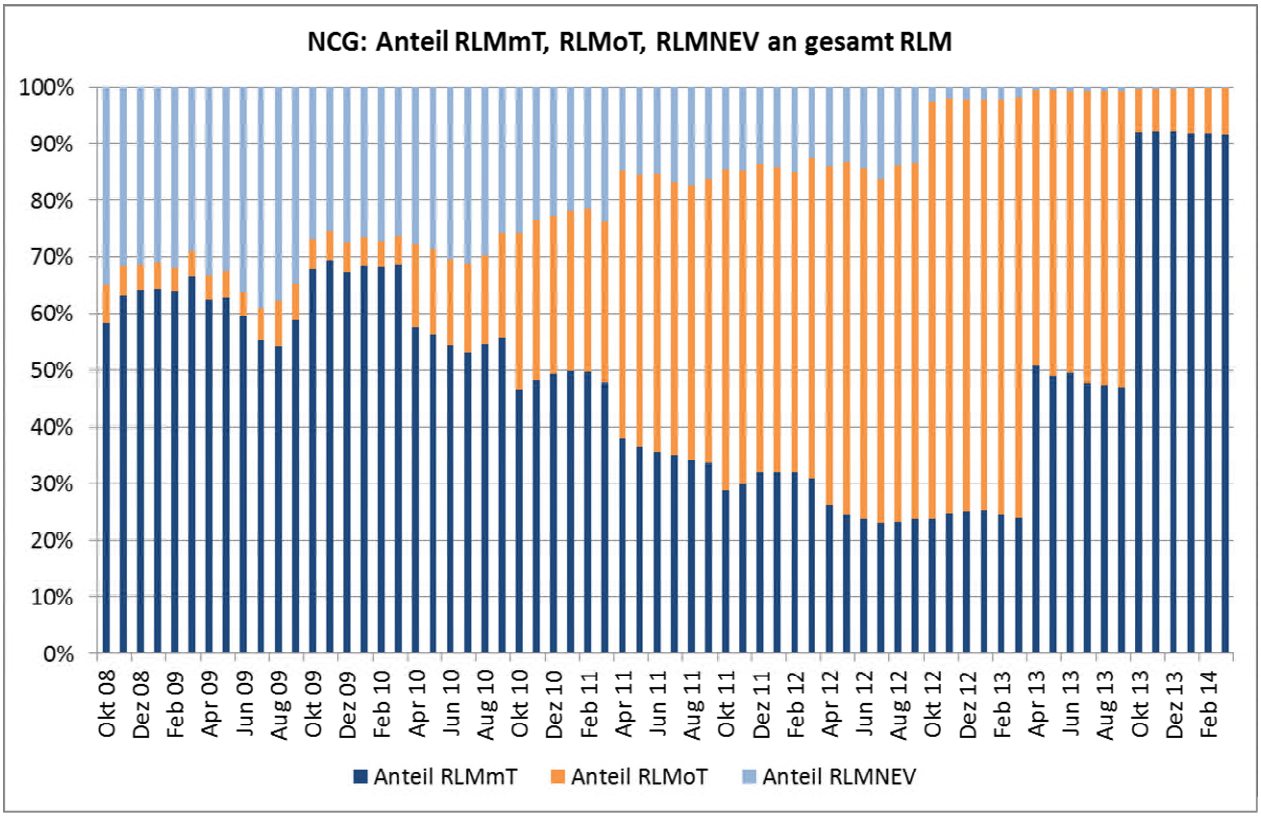

Figure 2: Relative share of the quantities of natural gas offtaken at RLMmT, RLMoT and RLMNEV in the NCG market area in the period from October 2008 to March 2014. Data source: NetConnect Germany.

Nevertheless, to date no significant increase can be identified in the frequency of opposite balancing actions in the two market areas. Accordingly, the overwhelming part of the flexibility required for within day structuring is provided via internal balancing gas or the linepack. It is therefore appropriate to let the network users continue to participate in the flexibility available in the networks as much as possible. The fundamental focus on flat daily profile supply makes for a much less restrictive within day incentive system than would be the case with hourly within day obligations – as proposed by the market area managers and transmission system operators in their recommendation document. The forecast for the exit points belonging to the RLMmT subgroup is greatly facilitated by the allocation under a flat daily profile.

It was however also appropriate to enable the network users to have the option of participating in the RLMoT subgroup ("RLM without flat daily profile") with regard to RLM exit points. The retention of this option is widely welcomed in the comments (RheinEnergie, GDF Suez, Trianel, E.ON, EFET) and is above all appropriate in light of non-plannable daily consumption patterns (e.g. with the use of gas-fired power plants in the electricity balancing market or in the case of demand side management measures) and smaller portfolios. The retention of the RLMoT allocation group prevents "ex post allocation" – rightly criticised by many market participants – in the case of non-plannable daily consumption. It is possible to switch allocation group in the course of the master data processes or in the event of a change of supplier. It is not necessary, however, to include a time restriction ("monthly") in the determination. Process definition is incumbent upon the market participants as part of the process of cooperation agreement. A change on only a monthly basis is therefore permissible, but it is not prescribed by the determination.

In the case of the RLMoT subgroup, the actual offtake quantity for each hour is relevant for the within day incentive system. The Ruling Chamber thereby takes account of the fact that numerous particularities can arise at various RLM exit points with regard to their individual procurement behaviour and procurement sequence. In addition, in this way it is also possible to take account of the different extent of the structuring possibilities available to the network users. The Ruling Chamber therefore supplemented the within day incentive system presented in the notification of proceedings of 3 April 2014 such that a de facto right to choose the classification of the RLM exit points (RLMmT or RLMoT) is guaranteed. The right to choose enables the network users to take account of the procurement-specific particularities at their various exit points. If the network users are of the opinion that they are able to give an accurate forecast of the offtakes at an RLM exit point and thus largely avoid hourly imbalances, they are at liberty to allocate this RLM exit point to the subgroup "RLM without flat daily profile".

Especially in light of the freedom to allocate the RLM exit points to the two subgroups and generous within day tolerance described in the following, as a basic principle the network users can be expected to make use of the readjustment options available to them. At the same time,

from the Ruling Chamber's viewpoint, inputs and offtakes balanced on an hourly basis for the supply of RLM exit points in the geographically extensive market areas, each comprising a multiplicity of transport networks, cannot generally be considered as an ideal type of behaviour. This is particularly true if the input source and offtake point are a long distance apart and are located in sections of the transport network that are only partly interconnected in terms of flow mechanics, such that it is barely possible for coordinated control of consumption at specific times to have a positive effect on the need for balancing gas in the market area. In this respect the Ruling Chamber agrees with the objections from E.ON, VNG and EFET. Consequently it would not be appropriate for it to be mandatory to group certain RLM exit points in the RLMoT subgroup. Instead, thanks to the right to choose in accordance with the operative part (4)(b)(bb) network users are to be granted the opportunity to group the RLM exit points that they supply according to their own structuring possibilities and the procurement behaviour of the respective facility.

The obligation for transmission system operators to offer network users an alternative nomination procedure in addition to the standard nomination procedure, in accordance with § 15(3) GasNZV, insofar as this is technically feasible and economically reasonable, remains unaffected by the arrangements in the determination. The possibility of using an alternative nomination procedure is thus retained with this determination. If alternative nomination procedures are used at RLM exit points, as a rule these exit points are likely to be allocated to the RLMoT allocation group, including the generally applicable arrangements for this allocation group. The decision on allocation is thus also made by the balancing group manager or the network user authorised by the balancing group manager.

The Ruling Chamber recognises that even with a careful load forecast, unpredictable fluctuations in consumption or temperature can give rise to fluctuation risk in the case of offtakes at the RLM exit points to high-volume consumers. In order to cushion these fluctuation risks that trigger a flexibility charge, with regard to the offtake quantities at these points for each hour of the gas day the network users are to be granted a tolerance of +/- 7.5% with respect to the metered offtake quantities in the gas day. This arrangement is appropriate and sufficient to limit the financial risks arising for the network users. After all, this applies partly and above all against the background that the granted tolerance amounting to +/- 7.5% of the daily offtake quantity can be utilised within an hour and therefore in particular far exceeds the tolerance of +/- 2% (RLMoT) or +/- 15% (RLMmT) with respect to the hourly offtake quantity granted under the currently applicable hourly incentive system. In the Ruling Chamber's view this tolerance enables the network user to cover, to a sufficient degree, the risk that arises as a result of the actual offtake being subject to unpredictable consumption fluctuations.

In its setting of the level of tolerance the Ruling Chamber is following the proposal put forward by the market area managers and transmission system operators in the recommendation docu-

ment. In this, the market area managers and transmission system operators derive the tolerance from the applicable balancing regime and in particular from the tolerance granted in the hourly incentive system at RLM exit points that are allocated to the RLMmT allocation group: in this case balancing group managers receive an hourly tolerance of +/- 15% based on their allocated hourly offtakes. With an assumed daily quantity of 2,400 QUs and an hourly allocation quantity of 100 QUs (arithmetic mean) the hourly tolerance is +/-15 QUs. Assuming that the balancing group is balanced at the end of the gas day the balancing group manager can make use of the granted tolerance in one direction for a maximum of 12 hours without having to pay the structuring charge currently applied. The balancing group manager would thus use an overall flexibility of 180 QUs. This corresponds to 7.5% of the daily quantity (cf. recommendation document from the MAMs/TSOs of 3 March 2014, p 22f.). The within day incentive system defined in the operative part (4) is likewise in principle based on a flat daily profile regime for the supply of RLM exit points. Deriving the tolerance from the currently applicable balancing regime that has proven its worth for several years thus appears proper and appropriate. The Ruling Chamber therefore does not share the criticism put forward in the comment from the VIK and VCI associations that the tolerance of +/- 7.5% is not sufficiently justified in terms of efficiency of energy use. In order to retain the incentive for network users to produce a – within this context – careful forecast of their offtakes, in the Ruling Chamber's view it was not advisable to set a tolerance at a percentage greater than +/- 7.5%.

(c) The SLP exit points covered by the third allocation group are to be included in the within day incentive consideration with the hourly share of the daily quantity of the respective standard load profile distributed evenly over the entire gas day. Orientation towards the actual daily offtake is not appropriate because this figure is not available at the SLP exit points due to a lack of corresponding metering. Moreover, network users have no means of forecasting or influencing the actual offtake at these exit points, nor therefore of gearing their input behaviour accordingly. In relation to these exit points it is initially incumbent upon the exit network operators to map actual procurement in their network as precisely as possible by specifying appropriate standard load profiles and in that way to contribute to reducing the need for balancing gas in the market area. The arrangement provided for the SLP exit points is sufficient incentive for the network users to undertake structuring of their inputs: they, too, may be liable to flexibility charges if their inputs deviate from the value obtained from the hourly total of relevant SLP quantities.

Any further incentive to encourage even more precise structuring, on the other hand, is ruled out in the SLP area, and would necessarily be ineffective. By its very nature the SLP procedure does not focus on the actual gas flows but on abstracted load profiles, generally recognised as being typical, for certain groups of exit points. It is not possible for network users to obtain knowledge of the specific offtake quantities at these exit points. They therefore cannot be expected to adapt their inputs to these offtakes that are unknown to them. To compensate for the fact that suppliers make use of the network's structuring services for SLP customers, the

corresponding network users are involved in the SLP neutrality charge for balancing with regard to all SLP quantities (see section 4.3.7.).

4.3.4.3.2. No undue barriers for new market participants

According to Article 26(2)(a) of the Network Code on Gas Balancing within day obligations and related charges must not pose any undue barriers to cross-border trade or to new network users entering the relevant market. The introduction of any within day obligation essentially constitutes a restriction for network users vis-à-vis a situation without a within day incentive system. However, restricting cross-border trade and the entry of new network users onto the market by means of the within day incentive system in accordance with the operative part (4) and the associated flexibility charge is appropriate for the following reasons.

(1) When considering the effects of within day obligations on cross-border trade, it is in particular the trading opportunities between the balancing zone in question (GASPOOL or NCG) and the balancing zones connected via a cross-border or market area interconnection point that are relevant.

In the within day incentive system according to the operative part (4), the gas quantities to be transported via cross-border or market area interconnection points are nominated precisely for each hour of the day and are fundamentally taken into account according to the "allocated as nominated" principle. Network users are therefore able to plan and implement the cross-border transport that they require without any forecasting or balancing risk. The re-nomination opportunities available to network users are not restricted by the within day obligations. There is similarly no compulsion for network users to ensure within day balancing of their input and offtake nominations. Cross-border trade is thus not unduly restricted by the within day incentive system according to the operative part (4).

(2) The within day obligations according to the operative part (4) are designed such that network users are granted an hourly tolerance of +/- 7.5% of the daily offtake quantity at RLM exit points in the case of supply to RLM exit points subject to a forecasting risk. There is no settlement of within day deviations within the tolerance. In the view of the Ruling Chamber the tolerance is sufficiently high to enable network users with relatively small portfolios to supply end users without necessarily being exposed to the risk of flexibility charges. Furthermore, the flexibility charge (see section 4.3.4.3.5.) is collected only on those days on which the market area manager has used flexibility balancing gas and has incurred costs as a result. There is no settlement of within day deviations unless these prerequisites apply, even if the granted tolerances are exceeded. The level of the flexibility charge is strictly aligned with the weighted average costs for the market area manager for the use of flexibility balancing gas and does not include any punitive elements above and beyond that. There is no undue barrier to entry for new market participants under the conditions outlined above.

The Ruling Chamber's view is likewise supported by the fact that the comments on the determination proceedings did not include any specific concerns regarding possible undue barriers to cross-border trade or to new network users entering the relevant market.

4.3.4.4.3. Adequate information provision

Pursuant to Article 26(2)(b) of the Network Code on Gas Balancing within day obligations are only applied where the network users are provided with adequate information and where the network users have reasonable means to keep their balancing groups balanced within the day. There is adequate information provision for the network users pursuant to the operative part (5) to permit the use of the within day incentive system described in the operative part (4). The network users likewise have reasonable means to keep their balancing groups balanced within the day. In addition, the network users are regularly provided with the data necessary for balancing their balancing portfolios, as required in Article 24(2) of the Network Code on Gas Balancing.

(1) Taking account of the requirements from the Network Code on Gas Balancing, in future the balancing group managers will be provided twice daily with information on the intraday consumption of RLM exit points. The first report will cover the first six delivery hours of the gas day and must be sent to the balancing group managers by 16:00 hours. The second report, as well as updated data from the first data report, additionally includes information on the period from 12:00 hours to 15:00 hours and must be sent to the balancing group manager no later than 19:00 hours. Upon implementation of the determination, therefore, the number of within day information reports provided to the balancing group manager is doubled. In addition, the period between measuring the gas flow and sending the data to the balancing group manager is reduced.

(2) In the view of several consultees (EFET, BDEW, VNG, Statoil), twice daily information provision would not be sufficient for the control of hourly quantities and thus for compliance with within day obligations for each hour. The Ruling Chamber essentially concurs with this view. With the introduction of a within day incentive system that on the entry side basically requires hourly retracing of the actual offtake quantity at the RLM exit point – for example as envisaged within the framework of the proposed within day incentive system in the recommendation document from the market area managers and transmission system operators – a twice daily provision of information would not satisfy the requirements of Article 26(2)(b) of the Network Code on Gas Balancing.

Nonetheless, twice daily information provision may be sufficient in a less restrictive incentive system. The within day incentive system according to the operative part (4) constitutes such a less restrictive incentive system. All offtakes at RLM exit points are in principle categorised in the RLMmT allocation group. This allocation group enables the network user to avoid paying

flexibility charges given adequate forecasting of the daily actual offtake quantity and input of a corresponding flat daily profile. In addition, in each hour of the gas day the network users are granted a tolerance of +/- 7.5% of the daily offtake quantity at RLM exit points. In the Ruling Chamber's view this tolerance enables the network users to cover, to a sufficient degree, the risk that arises as a result of the average actual daily offtake quantity being subject to unpredictable consumption fluctuations. Besides, the two reports on consumption of the RLM exit points give the network users the possibility of responding to precisely these consumption fluctuations by means of relevant trades or input-side re-nominations in an appropriate form.

(3) As well as this, as an option the network users are also able to allocate RLM exit points to the subgroup "RLM without flat daily profile" (RLMoT). This might be particularly appropriate for RLM exit points with unpredictable within day consumption fluctuations, e.g. gas-fired power plants. In this case, too, in accordance with the within day incentive system as set out in the operative part (4) a tolerance of +/- 7.5% of the daily offtake quantity at RLM exit points is granted each hour. This is therefore significantly higher than the hourly tolerance of +/- 2% with respect to the metered hourly quantity granted under the currently applicable balancing regime. In the case of an RLM exit point being allocated to the RLMoT subgroup, the Ruling Chamber assumes that intraday data reports on consumption at the exit point are available to the network user more often than twice because as a rule the corresponding facilities are equipped with infrastructures for within day remote data reading and the hourly transmission of metered values is obligatory according to the determination on business processes for change of gas supplier – GeLi Gas (cf. annex to decision BK7-06-067 of 20 August 2007, "Metered value transmission" process, 1.6.2., no. 4). Although the Ruling Chamber agrees with the comment from E.ON in this context that these hourly transmitted metered values do not necessarily have to match the data relevant for balancing groups, in the view of the Ruling Chamber there is no resultant significant increase in forecasting risk. In particular, in each hour of the gas day the network user is granted a considerable tolerance for any within day deviations between inputs and offtakes that clearly reduces the forecasting risk in comparison with the presently established hourly incentive system. All information necessary for adjusting the inputs and offtakes is thus available to the network user in a timely manner. The fact that network users may have to procure their own data is reasonable and appropriate, especially against the background of the high hourly tolerance and the restrictive conditions under which a flexibility charge is permitted to be collected at all.

Thanks to the preparation of a suitable forecast of consumption at the RLM exit point, the possibility of re-nominating inputs and the within day provision of information on the RLM consumption quantities in conjunction with the hourly granted tolerance, the network users have reasonable means at their disposal to keep their balancing groups balanced, or within the granted tolerance, with respect to the RLM exit points within the day.

(4) Entry and exit points at market area and cross-border interconnection points, entry points from domestic production facilities, entry and exit points at storage facilities and purely trading nominations (VTP nominations) are always balanced according to the "allocated as nominated" allocation principle. The allocated quantity is taken into account in the balance for each hour. The network users thus have the information required for within day balancing of the balancing group available to them at all times and therefore have the means to be able to respond appropriately to any deviations.

(5) For SLP exit points the quantity relevant for the within day incentive mechanism is the hourly share of the daily quantity (flat daily profile) as obtained using the applicable standard load profile and distributed evenly over the gas day. The respective daily quantity for gas day D is notified to the network user on D-1 by the exit network operator. The input of an appropriate flat daily profile enables the network user to keep his balancing portfolio balanced within the day with reference to the SLP exit points.

4.3.4.3.4. Main costs of balancing arise at the end of the day

In accordance with Article 26(2)(c) of the Network Code on Gas Balancing, the main costs incurred by the network users from their balancing obligations relate to their position at the end of the day. The methodology for forming the flexibility charge pursuant to the operative part (4)(c)(bb) and the determination of the quantity of flexibility balancing gas according to the operative part (4)(c)(aa) ensure that the main costs from the network users' balancing obligations relate to their position at the end of the day.

(1) The network users' balancing obligations essentially comprise keeping their balancing groups balanced in the day within any granted tolerances and at the end of the gas day. If there is a remaining net balance between the inputs and offtakes in the respective balancing group at the end of the gas day, an imbalance charge is imposed by the market area managers in accordance with the operative part (2) (see remarks in section 4.3.2.).

(2) Under the within day incentive system, in each hour of the gas day the network users are granted a tolerance of +/- 7.5% of the daily offtake quantity at RLM end users. A flexibility charge may be imposed on the network users by the market area managers only for deviations above or below the tolerance. The charge is imposed only on those days on which opposing balancing actions (purchasing and selling of external balancing gas) via MOL rank 1 in accordance with the operative part (6) have occurred in the market area and result in costs incurred for the market area manager. The flexibility charge for the gas day in question is calculated as the quotient of the costs for the flexibility balancing gas and the quantity of flexibility balancing gas, and thus constitutes the quantity-weighted costs for flexibility balancing gas in euros per MWh.

The Ruling Chamber does not consider it necessary for there to be a static or dynamic upper limit for the flexibility charge, as called for in some comments (BDEW, VKU, GEODE, EFET,

EnBW, E.ON, GDF Suez, market area managers and transmission system operators). The introduction of an upper limit would make sense in particular if extremely high prices were to be expected in connection with the formation of the flexibility charge and these prices do not reflect the market area manager's costs for the flexibility balancing gas. In the within day incentive system to be implemented according to the operative part (4), the flexibility balancing gas is always procured via MOL rank 1 pursuant to the operative part (6). The products traded via MOL rank 1 are not subject to any fulfilment restrictions regarding the place of fulfilment and/or gas quality, and represent the most liquid part of the wholesale gas market in the two market areas. Accordingly, no unduly high price differences between purchased and sold gas quantities are to be expected via MOL rank 1. Possible price spikes are additionally smoothed by the formation of weighted average prices. The flexibility charge is therefore not calculated from the difference of the marginal balancing gas purchase and sales prices on the respective gas day but from the weighted average costs for flexibility balancing gas, and thus reflects the actual costs incurred by the market area manager for the use of flexibility balancing gas (for precise details of price determination, see also section 4.3.4.3.5.). In this regard, the statement that the same charges would be imposed for deviations under the within day incentive system as in the case of balancing group imbalances at the end of the gas day (see EFET) is not accurate (cf. table 4).

The sole use of MOL rank 1 to determine the flexibility balancing gas and the flexibility charge is widely welcomed in the comments (EFET, EnBW, E.ON, GDF Suez, Statoil, VNG). Apart from the effects on price determination as outlined above, this will also result in the within day charge flexibility charge having to be imposed on only a few days in the year. On the basis of past data, in the period from 1 October 2013 to 30 September 2014 a flexibility charge would have had to be imposed on twelve days in the NCG market area and only on four days in the GASPOOL market area:

Table 3: Gas days with opposing balancing gas actions via MOL rank 1 in the gas year 2013/14.

GWJ 13/14	NCG	Gaspool
12.10.2013	Flexibilitätskostenbeitrag	
16.10.2013		Flexibilitätskostenbeitrag
20.11.2013	Flexibilitätskostenbeitrag	
21.11.2013	Flexibilitätskostenbeitrag	Flexibilitätskostenbeitrag
06.12.2013	Flexibilitätskostenbeitrag	
11.12.2013		Flexibilitätskostenbeitrag
01.01.2014	Flexibilitätskostenbeitrag	
29.01.2014		Flexibilitätskostenbeitrag
03.02.2014	Flexibilitätskostenbeitrag	
24.02.2014	Flexibilitätskostenbeitrag	
06.03.2014	Flexibilitätskostenbeitrag	
07.03.2014	Flexibilitätskostenbeitrag	
12.03.2014	Flexibilitätskostenbeitrag	
03.07.2014	Flexibilitätskostenbeitrag	
03.09.2014	Flexibilitätskostenbeitrag	

The amount of the flexibility charge in the NCG market area on the relevant days would have ranged between €0.29/MWh and €4.68/MWh:

Table 4: Hypothetical flexibility charge in the NCG market area in the gas year 2013/2014.

GWJ 13/14	Hypothetischer Flexibilitätskostenbeitrag NCG	Hypothetisches positives Ausgleichsenergieentgelt NCG	Hypothetisches negatives Ausgleichsenergieentgelt NCG
12.10.2013	4,68 €/MWh	29,88 €/MWh	20,00 €/MWh
20.11.2013	0,44 €/MWh	28,60 €/MWh	27,34 €/MWh
21.11.2013	1,41 €/MWh	30,39 €/MWh	27,05 €/MWh
06.12.2013	1,54 €/MWh	33,25 €/MWh	27,92 €/MWh
01.01.2014	4,44 €/MWh	36,10 €/MWh	26,27 €/MWh
03.02.2014	0,69 €/MWh	26,52 €/MWh	24,69 €/MWh
24.02.2014	0,29 €/MWh	24,51 €/MWh	23,32 €/MWh
06.03.2014	0,90 €/MWh	24,82 €/MWh	23,08 €/MWh
07.03.2014	0,63 €/MWh	24,44 €/MWh	23,48 €/MWh
12.03.2014	1,08 €/MWh	24,12 €/MWh	21,84 €/MWh
03.07.2014	0,74 €/MWh	17,29 €/MWh	15,93 €/MWh
03.09.2014	1,05 €/MWh	21,29 €/MWh	18,08 €/MWh

The above-described methodology for forming the flexibility charge based on the quantity-weighted costs for flexibility balancing gas, the granting of a sufficiently large tolerance and in particular the fact that the flexibility charge is imposed on only a few gas days in the year together ensure that the main costs incurred by the network users from their balancing obligations relate to their position at the end of the day.

(3) In the comments from the market area managers and transmission system operators and from the BDEW, VKU and GEODE associations it is requested that opposite balancing gas

actions via MOL rank 2 should also be included in the formation of the flexibility charge. The Ruling Chamber has not met this request. Although the Ruling Chamber agrees with the above-named consultees to the extent that balancing actions via MOL rank 2 can also be used for within day structuring, in the view of the Ruling Chamber there does not appear to be any compelling need to take account of MOL rank 2 within the within day incentive system.

With the introduction of within day obligations, too, the flexibility existing in the networks is to be made available to the network users to the greatest degree possible. Accordingly, local bottlenecks and flexibility needs should not lead to flexibility charges being imposed on all network users in a market area. However, in accordance with the operative part (6) balancing gas via MOL rank 2 is also used for the balancing of geographically limited balancing gas needs. A geographically established need for opposite balancing actions within a market area (network operator A in the market area has to sell local balancing gas, network operator B in the market area has to purchase local balancing gas) could therefore lead to a flexibility charge having to be imposed in the respective market area if MOL rank 2 were included. In addition, due to the limited supplier structure on the market for local balancing gas, it can be assumed that the price differences between purchased and sold balancing gas and thus also the flexibility charges would be significantly higher if MOL rank 2 were included. One objective of the within day incentive system according to the operative part (4) is to make the existing flexibility in the networks available to the network users to the greatest degree possible. If flexibility charges were to be triggered by a local lack of flexibility, this would contradict this objective. In this case the criteria of Article 26(2)(c) of the Network Code on Gas Balancing would tend no longer to be satisfied owing to the greater frequency of imposition and the rising flexibility charge.

4.3.4.3.5. Flexibility charge reflects costs

Article 26(2)(d) of the Network Code on Gas Balancing requires that, to the extent possible, within day charges must be reflective of the costs to the market area manager for the undertaking of any associated balancing actions.

(1) The flexibility charge is calculated ex-post on the basis of the actually incurred costs for the use of flexibility balancing gas. As a prerequisite for determining the flexibility balancing gas, opposite balancing actions (purchasing and selling of external balancing gas) via MOL rank 1 must first have taken place on the respective gas day. Opposite within day balancing actions indicate the use of within day flexibility by the network users, which the market area manager must balance by purchasing and selling external balancing gas. The balancing gas quantity for within day structuring (flexibility balancing gas) corresponds to the smaller of the two opposite balancing gas quantities plus an equal balancing gas quantity in the opposite direction. Remaining quantities of balancing gas over and above this, however, are not used for within day

structuring but for the general balancing of a surplus or short supply in the networks and are to be disregarded here.

(2) Initially the quantity of flexibility balancing gas is used to determine the market area manager's costs for the within day structuring service. The market area manager's structuring costs are obtained by multiplying the respective weighted average price for purchasing and selling balancing gas by the quantity of flexibility balancing gas. The example below illustrates the methodology.

Table 5: Example of determination of costs and revenues for the within day structuring service.

Day D	**Price**	**Balancing gas quantity**	**Costs/revenues**
Purchase (MOL1)	- €25/MWh	240 MWh	- €6,000
Purchase (MOL1)	- €30/MWh	240 MWh	- €7,200
Sub-total Purchase (MOL1)		**480 MWh**	**- €13,200**
Sale (MOL1)	€20/MWh	50 MWh	€1,000
Sale (MOL1)	€15/MWh	40 MWh	€600
Sub-total Sale (MOL1)		**90 MWh**	**€1,600**
Total quantity of balancing gas in figures (MOL1)		**570 MWh**	
Total costs/revenues			**- €11,600**

In this case the quantity of flexibility balancing gas is 180 MWh (90 MWh x 2). The remaining positive balancing gas quantity amounting to 390 MWh is not considered to have been caused by within day structuring.

The cost of flexibility balancing gas is calculated from the quantity-weighted revenues for the sale of the flexibility balancing gas and the quantity-weighted costs of the purchase of the flexibility balancing gas (each 90 MWh).

Table 6: Example of determination of costs and revenues with the use of flexibility balancing gas

Revenues from flexibility balancing gas	**Cost of flexibility balancing gas**	**Net balance: cost of flexibility balancing gas**
(€1,600 / 90 MWh) x 90 MWh = €1,600	(- €13,200 / 480 MWh) x 90 MWh = - €2,475	€1,600 - €2475 = **- €875**

In this case the market area manager's costs for within day structuring, i.e. the costs of flexibility balancing gas, are €875.

The flexibility charge corresponds to the quantity-weighted costs for the flexibility balancing gas in euros per MWh and is calculated using formula 4) (see section 4.3.4.1.) as the costs for flexibility balancing gas divided by the quantity of flexibility balancing gas. The costs for the flexibility balancing gas in turn are obtained using formula 5) (see section 4.3.4.1.) as the difference between the weighted average price of balancing gas purchases less the weighted average price of balancing gas sales multiplied by the smaller of the opposite balancing gas quantities.

In this example case the flexibility charge is:
(€27.50/MWh – €17.78/MWh) * 90 MWh / 180 MWh = €4.86/MWh.

As a result of the methodology described above, the market area managers' costs for within day structuring are adequately reflected by the flexibility charge arising within the day. The criterion formulated in Article 26(2)(d) of the Network Code on Gas Balancing is thus sufficiently satisfied.

(3) In the notification of proceedings for the determination proceedings of 3 April 2014, the Ruling Chamber presented a further variant for calculating the flexibility charge. In the alternative variant, precise coverage of the market area managers' costs for the use of flexibility balancing gas would always be ensured by the flexibility charges. However, the overwhelming majority of comments were against this variant and in favour of the variant described above. The main reason given was the financial risk for individual network users, namely of having to bear the entirety of the market area managers' flexibility costs on the respective gas day in certain circumstances. The Ruling Chamber shares the consultees' concerns in this regard and has defined the methodology for calculating the flexibility charge according to formula 4 (see section 4.3.4.1.) as binding, as suggested by the commenting parties.

(4) Within the framework of the Ruling Chamber's consultations on the determination proceedings, in some comments (EFET, E.ON, Stadtwerke München) it was proposed that the flexibility charge should not be applied to the whole quantity exceeding any tolerance. Instead, the flexibility charge should be imposed solely on the marginal deviation. In the Ruling Chamber's view, while such a system would be consistent with the criterion that the main costs incurred by the network users from their balancing obligations must relate to their position at the end of the day, the marginal settlement would result in several disadvantages for the system as a whole, so the Ruling Chamber has refrained from changing the within day incentive system according to the operative part (4). Settlement of the marginal excess quantity would extend the tolerance of +/- 7.5% of the daily offtake quantity at RLM exit points granted in each hour by the value of the marginal excess less the tolerance of +/- 7.5%. Any number of other overshoots or undershoots

of the originally granted tolerance within the gas day would no longer lead to the imposition of the flexibility charge. This is likely to be difficult to reconcile with the principle of the charge being appropriate in terms of causation. Furthermore, it effectively cancels out the incentive to reduce the within day discrepancy in the balancing portfolio as quickly as possible. Figure 3 below illustrates this problem.

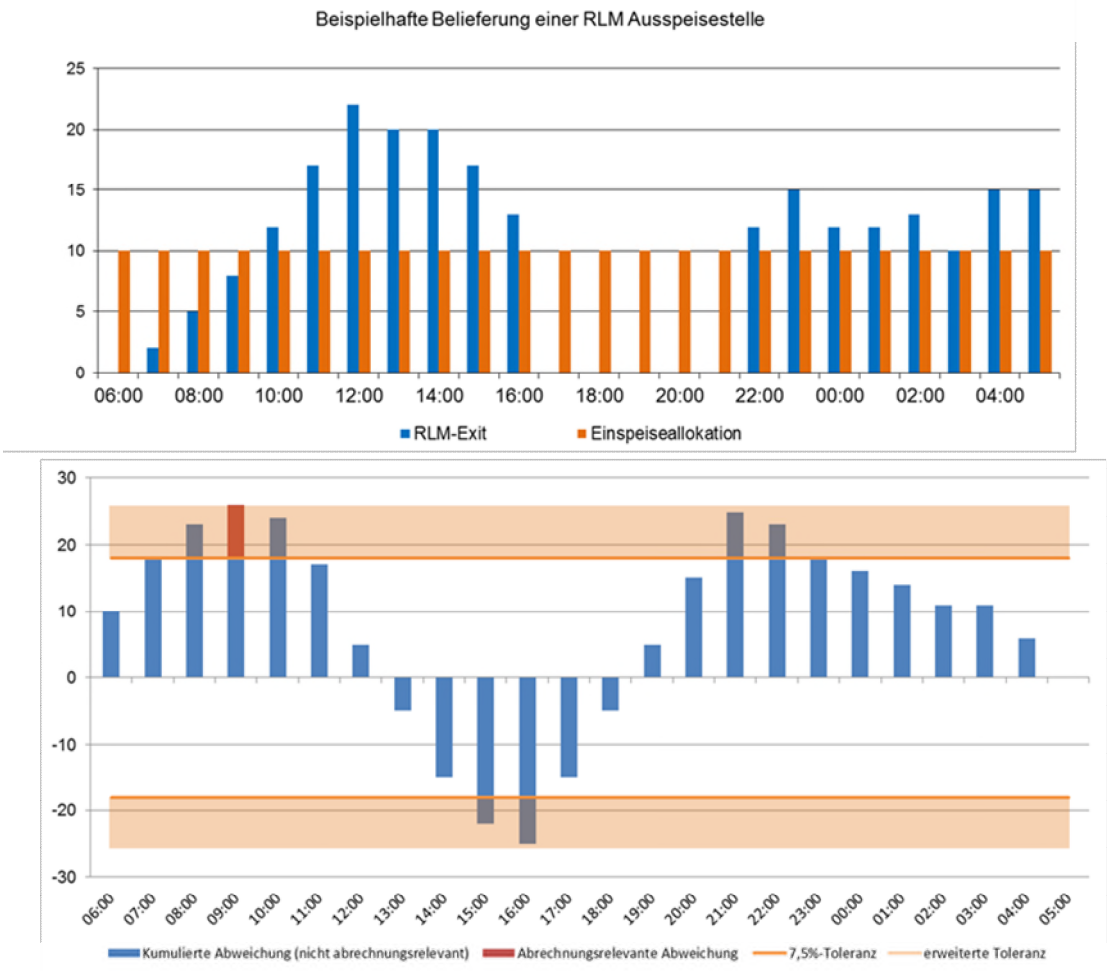

Figure 3: Example of supply to an RLM exit point. Settlement of marginal overshooting within the framework of the within day incentive system.

In order to detect multiple overshooting or undershooting of the tolerance within the within day obligations it would be necessary to implement additional instruments in the incentive system, which in turn would result in greater complexity in the incentive system. Likewise, coverage of the market area managers' costs for the use of flexibility balancing gas through the flexibility charges in the case of marginal settlement of excess quantities would tend not to be ensured. The remaining costs would ultimately have to be paid by all network users in the market area via the balancing gas and imbalance gas neutrality charge.

4.3.4.3.6. No within day settlement of balancing groups

In accordance with Article 26(2)(e) of the Network Code on Gas Balancing, within day obligations will not result in network users being financially settled to a position of zero during the gas day.

Payments made under the within day incentive mechanism according to the operative part (4) do not affect settlement in daily balancing. There is also no balancing of within day deviations. The requirement set out in Article 26(2)(e) of the Network Code on Gas Balancing is thus satisfied.

4.3.4.3.7. Advantages outweigh potentially negative impacts

Pursuant to Article 26(2)(f) of the Network Code on Gas Balancing, the benefits of introducing within day obligations in terms of economic and efficient operation of the transmission network must outweigh any potential negative impacts thereof, including on liquidity of trades at the virtual trading point.

(1) The defined within day incentive system according to the operative part (4) provides targeted incentives for the network users to keep their balancing portfolios balanced or within any granted tolerances within the day. If the tolerance is exceeded despite this, there is an incentive to counteract this overshooting promptly in order to avoid a potential flexibility charge. The thus incentivised simultaneous input and offtake at the entry and exit points of the first allocation group and the RLMoT or RLMmT and SLP allocation groups improves predictability for system control by the market area managers/transmission system operators and reduces the need for balancing gas for balancing within day structuring (see section 4.3.4.3.1.). Associated with that, the cost of balancing gas will also tend to be reduced and at the same time efficient operation of the transmission network encouraged.

(2) The network users have various means available to them of achieving within day adjustment of their balancing portfolio. As well as by booking flexibility at domestic storage facilities, adjustment can also be made by booking cross-border and/or market area interconnection capacity and in particular via the virtual trading point in the respective balancing zone. In both the GASPOOL market area and the NetConnect Germany market area so-called "rest-of-the-day" products, which allow within day adjustment of the balancing portfolio, can be contracted through the exchange all year round in 24/7 operation. The within day incentive system according to the operative part (4) incentivises the network users to deal with within day balancing of their balancing portfolios themselves and if necessary to ensure this by undertaking within day trades at the virtual trading point. In this respect no negative effects on liquidity at the virtual trading point are to be expected as a result of introducing within day obligations in accordance with the operative part (4). No concerns in this regard were expressed in the comments either.

(3) One negative effect of the within day incentive system that can be identified is the restriction of network users' transport behaviour when compared with a system without any within day obligations. However, as explained (section 4.3.4.3.2), these restrictions imposed by the within day incentive system defined in the operative part (4) are rather minor and therefore appropriate.

4.3.4.3.8. Incentives relating to the balancing portfolio

According to Article 25(2) of the Network Code on Gas Balancing, balancing portfolio within day obligations must be designed to incentivise network users to keep their individual position within a predefined range during the day. In particular the following key points must be specified: for each balancing portfolio the range must be specified within which this balancing portfolio has to

stay, and how the range is determined (Article 25(2)(a) and (b) of the Network Code on Gas Balancing). In addition it is necessary to specify the consequences arising for network users if they do not stay within the defined range. If a charge is to be imposed based on the network user's within day position, this must also be specified and, where appropriate, details given of how the charge is derived (Article 25(2)(c) and (d) of the Network Code on Gas Balancing). These requirements are likewise met:

The operative part (4)(b) specifies for each balancing portfolio the range within which the within day inputs into the balancing portfolio and the within day offtakes from the balancing portfolio are allowed to move in order to satisfy the requirements of the defined within day obligations. The range for each balancing portfolio, or the tolerance, is determined individually for each balancing portfolio depending on the exit points allocated to the particular balancing portfolio, belonging to the three allocation groups in accordance with the operative part (4)(b)(aa) to (cc). In principle in each hour the range amounts to +/- 7.5% of the actual offtake quantity at RLM exit points within the gas day.

The operative part (4)(c) states that under certain circumstances network users who overshoot or undershoot the within day tolerance granted to them have to pay the market area manager a within day charge, namely a flexibility charge, in euros per MWh, depending on their respective within day position. The conditions under which the market area manager has to impose a flexibility charge are set out in the operative part (4)(c)(aa). The methodology for determining the flexibility charge is defined in the operative part (4)(c)(bb).

4.3.5. Within day information provision (operative part (5))

(1) Article 34(2) of the Network Code on Gas Balancing provides that a minimum of two updates of the measured gas flows shall be made available to the network user on gas day D if the allocations do not correspond to the nominations. This provision is to be applied to exit points with intraday metered inputs and offtakes, i.e. exit points with consumption metering (RLM exit points). With regard to the data reports to the balancing group managers, the provision in the Network Code on Gas Balancing goes beyond previous practice. Taking account of the new within day obligations, the current practice of data submission had to be supplemented by the submission of a second set of data to the balancing group managers.

For this purpose, the previous recording period from 06:00 hours to 12:00 hours is supplemented by the provision of a second update covering the period from 12:00 hours to 15:00 hours. The distribution system operator must send the first report on RLM offtakes to the market area manager by no later than 15:00 hours, whereas the market area manager must submit the data to the balancing group manager by no later than 16:00 hours. The submission period is thus reduced to a total of four hours, in contrast with the previous arrangement. This submission deadline and allocation also apply to the second update. The data recorded by the distribution

system operator must therefore be submitted to the market area manager by no later than 18:00 hours. The report from the market area manager to the balancing group manager must be made by no later than 19:00 hours. The second data report also contains a renewed and if applicable updated submission of the gas flows from the beginning of the gas day, ie the data from the recording period from 06:00 hours to 12:00 hours must also be included in the second within day data report.

Pursuant to Article 38 of the Network Code on Gas Balancing, furthermore the market area managers are obliged to perform a comparison of costs and benefits of increasing the frequency of and shortening the intervals between the provision of information to the network users and improving the accuracy of the information provided. These aspects must be analysed and assessed on a user-specific basis.

(2) In their recommendation document, taking account of the hourly allocation model that they proposed, the market area managers and transmission system operators considered the twice daily provision of within day information on offtakes at RLM exit points to be sufficient. The market area managers and transmission system operator did not propose specific time windows or submission times. The recommendation document therefore merely formulates framework conditions. For example, it states that the second within day data report should be received by the balancing group manager no later than 18:00 hours because adequate data quality cannot be guaranteed if it is sent later, given the fact that so far there is still a need to exert manual influence in the process of information provision. It also recommended that the second data report should contain an update of the data from the first time window in addition to data from the second time window, and that the data from the first time window should be overwritten and/or updated. Furthermore the distribution system operators and market area managers agreed that the distribution system operators should be allowed three hours (currently six hours) and the market area managers one hour (currently also one hour) to process and forward the data.

In the comments to the Ruling Chamber the companies did not question the distribution system operators' within day processing period of three hours for responding to meter faults, performing plausibility checks and sending the data as included in the draft version of the determination. Only GEODE considered the time frame provided by this to be too short, and in this connection called for plausibility checking to be dispensed with. In addition, with regard to the time window for data transmission, reference was made to usual working hours, which would restrict transmission of the two data time windows under the given conditions (GEODE, Netzgesellschaft Gütersloh) and would make it necessary to make adjustments to the proposed periods. In contrast, ENERVIE pointed out that collecting data until 15:00 hours would ensure that the data could be transmitted without setting up shift operation, which would incur additional costs. A shortening of the distribution system operators' submission period to two hours, which at the

same time could be used for an extension of the recording period, was requested only by BNE. Extending the second time window in this way was likewise called for by some market participants because of the – in the companies' view – associated improvement in the informative quality of the entire forecasting period (Creos, E.ON, VNG). In line with the arguments put forward, the alternative recording periods suggested in the comments included the following:

- 06:00 to 10:00 hours and 10:00 to 14.00 hours (GEODE);
- 06:00 to 12:00 hours and 12:00 to 18:00 hours (VNG, E.ON, CREOS);
- 06:00 to 11:00 hours and 11:00 to 15:00 hours (ENERVIE);
- 06:00 to 12:00 hours and 12:00 to 16:00 hours (BNE).

In general, extending the provision of information relating to intraday metered inputs and offtakes to two submission periods was not disputed, except by a few commenting parties (e.g. EFET, BDEW, Statoil, E.ON). These noted that in their view the provisions of Article 26(2)(b) of the Network Code on Gas Balancing were not generally satisfied by twice daily within day data transmission. More frequent within day data reports would be necessary for this, with a minimum of three submissions (VNG). These commenting parties did not consider the alternatively applicable submission obligation in accordance with the GeLi Gas determination to be an adequate alternative, because in their opinion it covers only individual exit points and does not, as in the case of a general submission within the framework of balancing, include all RLM exit points.

(3) The within day information provision defined in the operative part (5) is lawful.

In comparison with the current situation, the design of within day information provision with two data reports leads to a doubling of within day submissions to the balancing group managers, an expansion of the network users' information base by three hours and a shortening of the submission periods to the relevant market parties.

(a) As a result, overall the balancing group managers obtain better means of assessing the intraday status of their balancing group with regard to the incentive system of within day obligations chosen in the determination. The Ruling Chamber therefore considers the twice daily provision of within day information to be in conformity with Article 26(2)(b) of the Network Code on Gas Balancing. Because in the determination's future balancing system the RLN exit points are in principle to be allocated to the RLMmT allocation group, the possibility is granted of appropriately restricting the remaining forecasting risk by twice daily information transmission. In the RLMmT allocation group, taking account of a flat daily profile and the granted hourly tolerance of +/- 7.5% of the daily quantity, the balancing group manager/network user has adequate scope to enable the payment of flexibility charges to be avoided. It should also be taken into consideration that the RLMoT allocation group, with an exclusive hourly tolerance of +/- 7.5% of the daily quantity, must be understood as being only an option; it is to be assumed

that the balancing group manager/network user will only choose this option if he already has sufficient information about consumption behaviour at his disposal to keep the potential consumption deviations within the prescribed hourly tolerance (see remarks in section 4.3.4.). In this case this can also be achieved through the existing hourly obligation to submit metered values on an hourly basis according to the GeLi Gas determination. The stricter requirements of this allocation group therefore cannot be considered a yardstick for the general design of the within day information obligations, because it only constitutes an option. The opinion of some companies that designing the within day obligations would entail a considerable extension of the information obligations is shared by the Ruling Chamber only in the case of stricter design of the requirement for within day obligations in standard circumstances. In contrast with the Ruling Chamber, the market area managers and transmission system operators do not necessarily consider this inevitable even for an incentive system on an hourly basis. However, since in this model the arrangements for the RLMmT allocation group allow the network users considerably further-reaching arrangements for deviations, the Ruling Chamber is of the opinion that the twice daily reports on consumption at the RLM exit points in combination with the granted tolerances offer sufficient opportunity to respond appropriately to any arising consumption fluctuations with relevant measures.

(b) When it came to determining the recording periods it was necessary to weigh up the market parties' different demands regarding the information depth, availability, usability and processing possibilities. The first update from 06:00 hours to 12:00 hours corresponds to the previous recording period described in the Cooperation Agreement on Gas (version from 30 June 2014). In the Ruling Chamber's opinion this combines an adequate information depth for the first submission with the earliest possible submission of data on the gas day. The first hours of the gas day largely characterise the consumption level and the emerging consumption pattern for commercial and industrial customers. In order to cover this period as fully as possible, the Ruling Chamber went beyond the minimum recording duration of four hours required in Article 34(3) of the Network Code on Gas Balancing. Shortening the first submission period, as called for by some companies and associations, would have moved important information on the consumption pattern of the beginning gas day into the second report, which in the opinion of the Ruling Chamber cannot be considered appropriate, because of the later time of submission. Furthermore, as the period matches today's data submission practice, synergies are likewise expected in setting up and converting the IT systems, because it is only necessary to add the second recording period.

When determining the second update, it is necessary to consider the balance between ensuring an adequate amount of data and practical handling of the communication processes. The recording period from 12:00 hours to 15:00 hours, together with the first data submission segment, enables the main forecasting-related consumption parameters and patterns of RLM gas offtakes in a day to be recorded for a total of nine hours of the gas day. At the same time the

end of the submission period remains within the framework envisaged for it today, ie the data is reported by no later than 19:00 hours.

The Ruling Chamber did not accept a further extension of the recording period, as called for by some commenting parties, which would be associated with considerable additional expense and effort, especially for the smaller distribution system operators. Even if it can be assumed, as indicated by individual companies (e.g. E.ON), that an extension of the data submission obligation would also ensure the further processing of the time series by the balancing group managers, in the opinion of the Ruling Chamber the use of human, organisational and financial resources required for this by the distribution system operators would at present not counterbalance the additional information obtained as a result, among other things with regard to the defined system of within day obligations. In the medium term, however, a further increase in the information provision requirements cannot be ruled out.

(c) The arrangements for the submission periods also had to be adjusted in line with Article 34(3) of the Network Code on Gas Balancing and thus reduced to a total of four hours.

With regard to the necessary sharing of this processing period between the distribution system operator and market area manager, the Ruling Chamber concurred with the proposal in the recommendation document from the market area managers and transmission system operators, which envisages a three-hour period for the distribution system operators to collect, edit and send the data and one hour for the market area managers to process it and forward it to the balancing group managers. The data submission periods are to be seen as maximum time limits. In the consultations there was less focus on specific proposals for changes to the division of the periods between the parties, more on the distribution system operators' general assessment that the restricted time frame under the Network Code on Gas Balancing is an ambitious time limit if the current data quality is to be preserved in data collection, data preparation and plausibility checking, under the given circumstances. However, only one commenting party drew the conclusion from this that the current standard of data quality should be further reduced on account of the requirements, and requested for example that plausibility checking of the data should be dispensed with entirely. The Ruling Chamber assumes that the within day processing time proposed by the market parties is sufficient for the distribution system operators to collect, prepare, check the plausibility of and forward the within day data in full to the same level of quality as that achieved today.

(d) Also with regard to the existing obligation in the determination on business processes for change of gas supplier (GeLi Gas determination, annex to decision BK7-06-067 of 20 August 2007, "Metered value transmission" process, 1.6.2., no. 4) to be able to send the network users hourly metered values every hour and the continuing further development of measurement and transmission systems and of computing and IT in general, the Ruling Chamber expects an increase in quality and efficiency compared with today's procedures. The fact that in this respect

there are plainly still some fundamental shortcomings in technical capability in the industry, for example in measuring equipment, was shown to the Ruling Chamber by the almost exclusively negative comments on the plan to bring forward the time of submission for RLM allocation reports on the following day (D+1). Even if, after a unanimous vote by the market parties in the second hearing in connection with this determination, the Ruling Chamber is not continuing to pursue this proposal, which ultimately provided for the same time window being used for processing the data as for within day provision, particular attention must be paid in future to the quality of the intraday data to be transmitted. The data quality is the key prerequisite for a potential increase in the frequency of provision of information, a shortening of the length of the periods for the provision of information or the definition of data from the delivery day as data relevant for billing purposes. The Ruling Chamber does not consider it expedient that any necessary (further) developments in the provision of information will in future be determined exclusively by inadequate technical capability. In the context of the cost benefit analysis to be established by the market area managers according to Article 38 of the Network Code on Gas Balancing, in the Chamber's view, therefore, analysis and assessment of the quality of the submitted data should be considered as one of the central aspects of a future assessment.

Based on the idea of keeping the quality of the data transmitted within the day to the highest level of quality, the Ruling Chamber accepted the proposal from the market area managers and transmission system operators that the second data transfer will overwrite the data of the first time window. This view was shared by the commenting companies. The Ruling Chamber did not concur with the approach of some commenting parties (e.g. EFET, BDEW) that overwriting the data in the first transmission window with a new data set will only correct the data gaps and not also the erroneous data, or that a correction is only to take place after approval by the balancing group manager. As far as the processing system is concerned it appears to be more expedient to provide for overwriting of the data of the first time window as a routine process without additional approval from individual market parties. Otherwise it would be necessary to provide a technical IT facility for additional feedback of the exchange of information with the distribution system operator, but this can therefore be dispensed with. Similarly, with regard to the aimed-for data quality, in the Ruling Chamber's view it is more appropriate to correct erroneous values as well as data gaps. Only knowledge of and inclusion of all correct data will result in the best possible forecasting quality at a given point in time. It is up to the recipient whether to include all data in an updated forecast. However, if the incorrect data from the first submission were not corrected in the second submission, the recipient would not have the necessary option of choosing whether or not to include the data in further processing.

4.3.6. Procurement and use of balancing gas (operative part (6))

The fundamental principles of the procurement and use of balancing gas are defined in the operative part (6). It establishes that priority is to be given to the use of internal balancing gas

over external balancing gas (see section 4.3.6.1 below) and that a four-level merit order list (MOL) is to be applied to the procurement and use of external balancing gas (see section 4.3.6.2 below).

4.3.6.1. Internal balancing gas

(1) Pursuant to the operative part (6)(a), the market area managers are obliged to meet an existing need for balancing gas initially through the use of internal balancing gas, before external balancing gas is procured and used. It further provides that the reservation and use of internal balancing gas shall not be remunerated separately, neither between the network operators nor by the market area manager.

(2) The provisions on the priority use of internal balancing gas correspond to the currently applied principles on the use of internal balancing gas in accordance with annex 2 of the GABi Gas determination of 28 May 2008 (file reference BK7-08-002). These provisions have proved their worth in practice in the past and are therefore to be continued unchanged. Internal balancing gas is understood to be balancing gas that results from use of the so-called linepack and other storage facilities to be assigned to the networks. This comprises both internal storage facilities belonging to the relevant network operator in whose network the technical balancing requirement has originally occurred, and internal balancing gas that is made available by another network operator inside or outside the market area for the purpose of optimising the system as a whole (cf § 23 GasNZV). The use of internal balancing gas is planned and coordinated by the respective market area manager together with all network operators in the market area and with the operators of adjacent networks in other market areas. The aims are to make the most efficient use possible of internal balancing gas and to avoid or reduce the demand for external balancing gas. External balancing gas is only used when a network situation cannot be mastered with the use of internal balancing gas, although this does not preclude the predictive procurement and use of external balancing gas. The reservation and use of internal balancing gas shall not be remunerated separately, neither between the network operators nor by the market area manager.

4.3.6.2. External balancing gas

Pursuant to the operative part (6)(b), the market area managers are obliged to apply a four-level MOL to the procurement and use of external balancing gas. In addition, the operative part (6)(b) also includes approval to procure or provide quantities of gas in adjacent market areas in accordance with Article 9(3) of the Network Code on Gas Balancing and approval for continued use of the physical balancing platforms already in existence in the respective market area until 16 April 2019 in accordance with Article 46(4) of the Network Code on Gas Balancing (see sections 4.3.6.2.1. to 4.3.6.2.5. below).

4.3.6.2.1. Principles – the merit order list

(1) The four-level MOL to be applied by the market area managers in the procurement and use of external balancing gas provides for a general priority for short-term standardised balancing products procured on the exchange over other products, either not procured on the exchange or long-term or non-standardised products. Accordingly, a requirement for balancing gas is always, wherever possible, to be met by balancing products with the lowest MOL rank (beginning with MOL rank 1). Only if the use of products on this MOL rank is not expedient because of a specific, network-related operational requirement or is inadequate to meet the existing requirement is the market area manager able to switch to the products on the next MOL rank. The costs of the individual measures are only taken into account within the MOL ranks, not between the various MOL ranks.

This means that an existing demand for external balancing gas must initially be met through the use of global balancing gas procured on the exchange in the market area manager's own market area (MOL rank 1). If this is not possible owing to the existence of a specific, network-related operational requirement, the market area manager can procure and use requirement-specific products on the exchange in the market area manager's own market area or balancing gas on the exchange in an adjacent market area (MOL rank 2). The market area manager can likewise switch to exchange products from an adjacent market area if the liquidity of the exchange in the market area manager's own market area is inadequate. If the use of MOL rank 1 and 2 products is not expedient because of a specific, network-related operational requirement or is insufficient to meet the existing requirement, the market area manager can use local balancing products that have been procured on the physical balancing platform in his respective market area (MOL rank 3). Standardised long-term products or balancing services are only permitted to be used if short-term standardised products (MOL rank 1-3) are not available in sufficient quantity or are not suitable for maintaining the network within its operational limits (MOL rank 4). The various MOL ranks 1 to 4 are shown in figure 4. The specific nature of various aspects of the procurement and use of balancing gas procured from shippers shall be regulated in the cooperation agreement and its annexes.

Balancing gas – merit order list				
Product group	**Product**	**MOL rank**	**Trading platform**	**Delivery location**
Short-term standardised products	Title market transactions	**1**	Exchange	VTP own market area global
	Locational market transactions	**2**	Exchange	VTP own market area requirement-specific

				VTP adjacent market area requirement-specific
		3	Balancing platform	Local
Long-term products/balancing services	Flexibility service	**4**	Tender / balancing platform	Requirement-specific

Figure 4: Four-level merit order list (MOL).

(2) Only a small number of comments on the MOL system were received in the course of the consultations, the overwhelming majority of them rating it positively (VNG, VIK/VCI, BDEW/VKU, EEX, Statoil). The fundamental focus on the exchange was welcomed in particular, because, it was said, the priority given to short-term procurement of balancing gas on the exchange in the market area manager's own market area or in adjacent market areas enabled balancing gas to be procured at normal market prices (VNG, EEX).

(3) The provisions of the Network Code on Gas Balancing on the procurement and use of external balancing gas are defined and further specified by the four-level MOL.

The core elements of the provisions from the Network Code on Gas Balancing are that priority is to be given to procuring external balancing gas via the exchange, as much as possible, and that priority is to be given to the use of short-term standardised products, as much as possible (cf Article 6(3)(a) and Article 9(1)(a), (b) and (c) of the Network Code on Gas Balancing). The costs of the individual measures are only to be taken into account within the respective level of the MOL (Article 9(1)(d) of the Network Code on Gas Balancing). Furthermore, within the respective MOL ranks, priority is to be given to the use of within day products over day ahead products (Article 9(2) of the Network Code on Gas Balancing).

The target model for the standardised procurement of balancing gas, which was jointly developed by the market area managers, was successfully launched in October 2013. In accordance with this target model, since then the procurement of balancing gas in both German market areas has been heavily focused on exchange-traded procurement. As this form of balancing gas procurement is the approach with the greatest market proximity and the German wholesale market now has a high level of liquidity for spot market products, this focus is further reinforced by the MOL that has been defined. According to the provisions of the MOL, need for external balancing gas is to be met first and foremost and as much as possible through the purchase or sale of short-term standardised products on the exchange. The aim of this is that as a general principle balancing gas should be procured on the exchange at competitive, normal market prices, which also has the effect of reducing the costs of the use of balancing gas by the market area managers. Against this background, the procurement and provision of gas quantities in adjacent market areas and the transportation of gas to and from those market areas was also

approved. This extends the market area managers' opportunities for the exchange-traded procurement of short-term standardised products and further increases the quantities procured on a market basis. The use of products procured via physical balancing platforms, or of balancing services, on the other hand, is to be restricted to cases in which the liquidity of the short-term wholesale market is inadequate or short-term standardised products are not available in sufficient quantity or are not suitable for maintaining the network within its operational limits.

4.3.6.2.2. MOL rank 1

The operative part (6)(b)(aa) obliges the market area managers to meet demand for external balancing gas in the first instance through the use of global balancing gas (MOL rank 1). Global balancing gas comprises short-term standardised balancing products procured on the exchange with delivery at the virtual trading point which are not subject to any fulfilment restrictions, for example qualitatively or locally. Given the absence of fulfilment restrictions, therefore, it can be assumed that this product is the balancing product with the highest liquidity. In order to maximise the offers and increase cost efficiency, the market area managers are therefore obliged to give priority to meeting their balancing gas needs with this product. Exchange products with fulfilment restrictions (MOL rank 2) should only be used in the next step if global balancing gas is not available or not to a sufficient extent, or if there is a specific, network-related operational requirement.

4.3.6.2.3. MOL rank 2 – approval for procurement in adjacent market areas

(1) The operative part (6)(b)(bb) contains regulations on the market area managers' procedure in the event that the use of MOL rank 1 products is not expedient because of a specific, network-related operational requirement or is inadequate to meet existing requirements. This may be the case if there is a quality-specific or local requirement, for example, but also in the event of the (complete or partial) unavailability of global balancing gas on the exchange in the market area manager's own market area. In such instances the market area managers can switch to the exchange-traded procurement of requirement-specific products (MOL rank 2). In this connection the term "requirement-specific products" may mean both the quality-specific balancing products that are currently already tradable on the exchange and other short-term standardised products that are tradable on the exchange and are necessary for a specific balancing gas requirement (e.g. local or point-specific products). In addition, in such instances the market area managers can also procure balancing gas on an exchange in an adjacent market area and use it (likewise MOL rank 2).

The necessary approval for the procurement and provision of gas quantities in an adjacent market area and the transportation of gas to or from that market area by the market area managers is granted in accordance with Article 9(3) of the Network Code on Gas Balancing.

This approval is granted with the proviso that the market area managers book capacities as short-term as possible or interruptible capacities for the transportation of gas to or from the adjacent market area, in order not to restrict other network users' possibilities of acquiring and using cross-border or cross-market area capacities. Cost efficiency must also be taken into consideration when the capacities are booked.

The requirement-specific exchange products from the market area manager's own market area and the exchange products from the neighbouring market area are both allocated to MOL rank 2 and to this extent are equivalent. Within MOL rank 2 the sole determining criterion for the decision on the use of available and suitable products is the price, as before. However, appropriate account must be taken of the capacity costs additionally arising for transport in the case of procurement in a neighbouring market area both when establishing the order of the individual products and when deciding on their use within MOL rank 2.

(2) In their recommendation document of 3 March 2014 the market area managers requested approval for the procurement or provision of gas quantities from adjacent market areas and for gas transportation to or from these market areas in accordance with Article 9(3) of the Network Code on Gas Balancing. They consider this procurement of balancing gas quantities in adjacent market areas to be appropriate as it provides them with an opportunity to achieve local and quality-specific effects while taking advantage of the high liquidity of products traded on the virtual trading point. Moreover, they state that procurement in adjacent market areas in this way can reduce the risk of oligopolistic prices within individual sub-markets. The market area managers aimed to book primarily interruptible capacities at the cross-border and market area interconnection points concerned in order not to restrict the network users' access to these capacities.

Various comments on the arrangements pertaining to MOL rank 2 were received in the course of the consultations. Apart from individual comments that looked for clarifications regarding the possibility of taking account of future exchange-traded balancing products (BDEW/VKU/GEODE, market area managers/transmission system operators) and regarding the optional nature of the procurement of balancing gas in adjacent market areas (BDEW/VKU/GEODE, market area managers/transmission system operators), the majority of the comments focused on the capacity bookings required for the procurement of balancing gas in adjacent market areas. The possibility of procuring balancing gas in adjacent market areas was viewed critically in various comments because, they stated, that held the risk that the capacity bookings required for market area managers would reduce the capacities available to network users (EFET, E.ON, Statoil, Trianel, VNG). It would therefore be necessary to ensure that the relevant capacity bookings were subordinate to the market, ie were booked at very short notice and if possible were interruptible (EFET, E.ON, VNG). In addition, one comment expressed the criticism that there was a lack of incentives for the market area managers to keep transport costs to a minimum. A

high degree of transparency was therefore required, especially with regard to capacity costs and the runtimes of the respective capacities (Trianel). Other comments essentially supported the booking of short-term or interruptible capacities, but they also pointed out that the provisions on capacity booking had to be implementable with appropriate operational overhead and must not lead to risks to system stability and security of supply that would also need to be hedged (BDEW/VKU, market area managers/transmission system operators). In another comment there was criticism of the priority for procuring balancing gas in adjacent market areas over obtaining local balancing gas within the manager's own market area. As a consequence, the procurement of balancing gas from domestic sources would be at an inadmissible disadvantage compared with procurement in neighbouring countries. In order to avoid this, therefore, there should be a comparison of the relevant costs of procurement according to MOL rank 2 vis-à-vis procurement according to MOL rank 3 or 4 (INES).

(3) Classification of requirement-specific balancing products procured on the exchange in MOL rank 2 is a logical continuation of the priority for exchange-traded balancing gas procurement prescribed by the Network Code on Gas Balancing. The requirement-specific balancing products of MOL rank 2 are also short-term standardised balancing products procured on an exchange. However, because of their fulfilment restrictions their use must always be subordinate to that of global balancing gas from MOL rank 1. At present only quality-specific products are tradable on the exchange in the two market areas as products in terms of MOL rank 2. In response to the suggestion from the comments, the operative part (6)(b)(bb) was deliberately worded in an open way with the extension to include "requirement-specific products" in order to have the possibility of taking account of other potential exchange-traded balancing products (e.g. local products) in MOL rank 2.

(4) Pursuant to Article 9(3) of the Network Code on Gas Balancing, the Ruling Chamber may grant the market area managers approval for the procurement of gas quantities in an adjacent market area and the transportation of gas to or from that market area. The Ruling Chamber exercised its discretion without error by granting approval in the operative part (6)(b)(bb) second paragraph, with the proviso that capacities booked for the transportation of gas are to be as short-term as possible or interruptible, and the corresponding capacity costs are to be taken into account appropriately when the decision is taken on their use within MOL rank 2.

The approval for the procurement of balancing gas in adjacent market areas gives the market area managers the option of using other liquid wholesale markets outside their market area and to further increase the balancing gas quantities procured via the exchange, ie on a market basis. As well as this, the potential for exchange-traded procurement in adjacent market areas means that even in the event of temporary illiquidity on the exchange in the market area manager's own market area it is possible to continue to carry out exchange-traded procurement of the required balancing gas in accordance with the provisions of the Network Code on Gas Balancing. The

Ruling Chamber shares the market area managers' assessment that the risk of oligopolistic prices within individual sub-markets (in particular for L gas) can be reduced by the possibility of procuring balancing gas in adjacent market areas. Procuring balancing gas on liquid wholesale markets in adjacent market areas can thus make an important contribution to system integrity and have positive effects on the price trend. These positive effects are also confirmed by NCG's experience with the procurement of balancing gas via TTF in the Netherlands. In their recommendation document the market area managers stated that since the introduction of balancing gas procurement through the TTF on 1 June 2011 the prices of balancing gas have largely been moving within a price range that reflects the spread between the positive and negative imbalance prices.

The requirements from Article 9(3) fourth sentence of the Network Code on Gas Balancing and the concerns expressed in various comments regarding the booking of capacities by the market area managers are taken into account by the provision in the operative part (6)(b)(bb) second paragraph that booking of the capacities required for the transportation of gas to and from the adjacent market area is to be as short-term as possible or on an interruptible basis. The determination takes account of both the interests of the shippers in terms of available capacity and the interests of the market area managers and network users in terms of secure and diversified balancing gas procurement.

On the one hand, the booking of the capacities required for processing the procurement of balancing gas in adjacent market areas by the market area managers, as also put forward in some comments (EFET, E.ON, Statoil, Trianel, VNG), must not restrict other network users' possibilities of acquiring and using cross-border or cross-market area capacities. It is essentially a matter for the traders to procure or provide gas quantities in adjacent market areas and to organise the corresponding gas transportation. Nevertheless, it is conceivable that these possibilities of cross-market area trade will not always be used to an adequate extent by gas traders. It is therefore necessary that the market area managers are also able to procure or sell gas in adjacent market areas and transport it accordingly in order to ensure system stability and security of supply. On the other hand, in some comments (BDEW/VKU, market area managers/transmission system operators) it was likewise put forward that situations are conceivable in which booking short-term and/or interruptible capacities is either not possible or would result in risks to system stability, which in turn would have to be protected against by greater procurement of MOL rank 4 products, for example. The Ruling Chamber is essentially of the opinion that the need to procure or provide balancing gas in adjacent market areas should only arise if the corresponding cross-border or cross-market area capacities are not used in full by the shippers. In light of this, booking short-term or interruptible capacities for the procurement of balancing gas in adjacent market areas should basically be sufficient. The market area managers should therefore aim to book short-term or interruptible capacities at the relevant cross-border and market area interconnection points whenever possible. If this is not possible or expedient

because of special circumstances in an individual case, however, following appropriate consultation with the Ruling Chamber it may also be permissible for the market area managers to book firm and/or longer-term capacities. The creation of additional incentives to reduce transport costs, as suggested in one comment, is not necessary in the Ruling Chamber's view in light of the market area managers' existing general obligation from Article 6(4)(b) of the Network Code on Gas Balancing to take account of cost-effectiveness and efficiency when undertaking balancing actions.

(5) The balancing products procured in an adjacent market area are likewise classified in MOL rank 2 and thus are equated to requirement-specific balancing products procured on the exchange in the market area manager's own market area. This equality of status of the two products is justified by the fact that both products are short-term standardised balancing products procured on the exchange. Furthermore, because of the additional transport and the capacity bookings required for this, the balancing gas procured in an adjacent market area has clearly allocable gas-quality-specific and local effects and therefore constitutes an alternative to procuring requirement-specific exchange-traded products in the market area manager's own market area.

Within the various MOL levels it is only the price of the individual measures that determines the use of the measures. This applies in particular to the requirement-specific exchange products allocated to MOL rank 2 from the market area manager's own market area and to exchange products from an adjacent market area. Since, in addition, costs also arise for the necessary transport capacities in the case of procurement in an adjacent market area, in the Ruling Chamber's view it appears appropriate to take these capacity costs into account accordingly when determining the order within MOL rank 2. Otherwise the balancing gas offers in the market area manager’s own market area could be at a disadvantage. It would be conceivable in this respect, for example, to impose a surcharge in €/MWh in connection with balancing gas call orders to take account of relative transport costs, as is common practice for NCG and GASPOOL at present.

In one comment it was stated that the cost of balancing gas procured in neighbouring market areas was regularly above the procurement costs for balancing gas within the market area because of the transport costs that have to be paid in addition. The priority nevertheless applying to balancing gas procured on the exchange in the neighbouring market area over obtaining local balancing gas within the manager's own market area, the comment continues, thus constitutes an inadmissible disadvantage for balancing products from domestic sources (INES). This criticism is not shared by the Ruling Chamber. The priority of exchange-traded balancing gas procurement over procurement via physical balancing platforms or in other tender procedures is expressly prescribed by the Network Code on Gas Balancing. The reason for classifying balancing products from adjacent market areas in MOL rank 2 and the associated

equivalence with requirement-specific exchange-traded balancing products from the market area manager’s own market area is to be found in the previously mentioned comparability of the two balancing products. Furthermore, by classifying both the requirement-specific exchange-traded balancing products from the market area manager’s own market area and the products procured on the exchange in the adjacent market area in MOL rank 2 it is possible to take account of the cost efficiency of the various measures. Taking appropriate account of the arising transport costs when determining the order within MOL rank 2 prevents balancing products within the market area manager’s own market area from being placed at an inadmissible disadvantage. Under Article 9(1)(d) of the Network Code on Gas Balancing, the proposed cost comparison between products in different MOL ranks is not permissible. From the Ruling Chamber's viewpoint it is not necessary, either, in order to avoid placing balancing gas from domestic sources at an inadmissible disadvantage, because suppliers of balancing gas from domestic sources have the possibility of supplying their balancing gas on the exchange in their own market area either as global balancing gas (in MOL rank 1 with corresponding priority over balancing gas offers from adjacent market areas) or as quality-specific balancing gas (in MOL rank 2 of equal status to balancing gas supplies from adjacent market areas, but not including transport costs that need to be taken into account). As far and as soon as local products are traded on exchanges, these products are to be classified in MOL rank 2 and included in the rank-specific price comparison.

4.3.6.2.4. MOL rank 3 – approval for balancing platforms

(1) The operative part (6)(b)(cc) governs the market area managers' procedure in the event that the use of MOL rank 1 and 2 products is not expedient because of a specific, network-related operational requirement or is inadequate to meet existing requirements. This may be the case if there is a local or point-specific requirement or if there is insufficient liquidity on the exchange. In such cases the market area managers shall meet the demand with products procured on the physical balancing platform in their respective market area (MOL rank 3). The continued use of the existing physical balancing platform in the respective market area is approved to this extent within the meaning of Article 45 ff. of the Network Code on Gas Balancing until 16 April 2019. These physical balancing platforms are used by the market area managers for the standardised procurement of short-term external balancing gas, in addition to trading on the exchange. Prequalified suppliers of balancing gas can place bids and offers on the platforms for the purchase and sale of balancing gas; the market area managers then issue call orders when the need arises. However, approval for continued use of the existing physical balancing platforms is granted with the limitation that only those balancing products that are not tradable as exchange products are permitted to be procured via these platforms.

(2) In their recommendation document of 3 March 2014 the market area managers presented a report on the implementation of interim measures in accordance with Article 46 of the Network Code on Gas Balancing and applied for approval to continue to use the physical balancing

platforms in accordance with Article 47 of the Network Code on Gas Balancing, initially for a period of five years. According to the report, while the German wholesale gas market constitutes a liquid trading venue for non-quality-specific quantities delivered at the VTP that is on a level with the other European wholesale trading hubs, there is nevertheless a need to continue using the existing balancing platforms because the trading opportunities provided on the exchange are not always sufficient to meet balancing requirements. This is especially the case, it says, whenever a balancing action is required in a specific network zone or even at a specific system point, because the balancing products required in this situation are not offered by the exchange. Although theoretically a local or point-specific requirement could also be met by long-term options (balancing services), high hourly quantities would then have to be held available to ensure system stability and security of supply on a lasting basis. This would disproportionately increase costs, the report states. Furthermore, the physical balancing platforms would also represent a fall-back solution for cases in which the exchange is unavailable for technical reasons. Continued use of the platforms was therefore urgently necessary in order to guarantee physical stability of the system cost-effectively. In addition, pursuant to Article 47(2) of the Network Code on Gas Balancing the market area managers considered merging the two physical balancing platforms from the NCG and GASPOOL market areas, but they came to the conclusion that merging the platforms would not achieve synergies in terms of costs, complexity of administrative processes or transparency.

Various comments on the continued use of the physical balancing platforms and their classification in MOL rank 3 were received in the consultations. The focus on the exchange-traded procurement of balancing gas and the lower priority of balancing products procured via the physical balancing platforms was fundamentally welcomed in all comments (BDEW/VKU, market area managers/transmission system operators, EEX, EnBW, VNG). In addition, continued use of the platforms exclusively for the procurement of local or point-specific products for a period of five years was considered appropriate in several comments (VNG, EEX). It would give the market area managers, market participants and the exchange sufficient preparation time to maximise the use of the priority products from MOL ranks 1 and 2 and to introduce other products necessary for the use of balancing gas (EEX). In other comments, however, it was pointed out that liquidity on the exchange would first have to be ensured to restrict the use of balancing platforms. Furthermore, with the possible introduction of local products on the exchange, the offer via the platform should not be stopped automatically but rather the liquidity trend of these products on the exchange should first be observed and coordination should take place between the Bundesnetzagentur and the market area managers/transmission system operators (BDEW/VKU, market area managers/transmission system operators).

(3) Pursuant to Article 46(4) of the Network Code on Gas Balancing, within six months following receipt of the complete report according to Article 46 of the Network Code on Gas Balancing the Ruling Chamber must take a decision on approval of the report, in particular on the continued

use of the physical balancing platforms. With its decision of 14 July 2014 (file reference BK7-14-020-E1), the Ruling Chamber issued a provisional order on the further use of the GASPOOL and NCG market area managers' existing physical balancing platforms. This provisional order applies subject to a decision on the merits of the case and is intended to create legal certainty for all market participants for the transitional phase until the new balancing regime is applied. The market area managers' report was submitted on 3 March 2014; because at that time the Network Code on Gas Balancing did not yet apply, not coming into force until 16 April 2014, the period specified in Article 46(4) of the Network Code on Gas Balancing could not begin until the latter date at the earliest. Accordingly, it ended at the end of the day on 16 October 2014 and was preserved by the issuing of the provisional order on 14 July 2014. In accordance with the operative part (13)(c), the provisional order becomes invalid on 1 October 2015 and will be replaced by this determination. The consultation with the national regulatory authorities of the adjacent member states pursuant to Article 46(5) in conjunction with Article 27(2) of the Network Code on Gas Balancing also took place in the course of two public consultations in April and August/September 2014.

(4) The Ruling Chamber also correctly exercised its discretion to choose by approving the continued use of the existing physical balancing platform in the operative part (6)(b)(cc) with the limitation that only balancing products that are not tradable as exchange products are permitted to be procured via the platform and these products are subordinate to all available exchange-traded products in the market area manager's own or an adjacent market area according to MOL ranks 1 and 2.

The prerequisites for setting up or continuing the use of a physical balancing platform in accordance with Article 47(1) of the Network Code on Gas Balancing are in place in both German market areas. According to the provisions of the Network Code on Gas Balancing, as a general principle procurement of short-term standardised balancing products should take place exclusively via the exchange. According to Article 47(1) of the Network Code on Gas Balancing the temporary establishment or use of a physical balancing platform is therefore possible only in the case of insufficient liquidity on the short-term wholesale gas market or if temporal or locational products required by the market area managers cannot reasonably be procured on this market. The latter is the case here. In their report submitted in accordance with Article 46 of the Network Code on Gas Balancing, the market area managers presented a description of the state of development and the liquidity of the short-term wholesale gas market in the two market areas, NCG and GASPOOL. According to this, while the German wholesale gas market constitutes a liquid trading venue for non-quality-specific quantities delivered at the VTP that is on a level with the other European wholesale trading hubs (TTF, Zeebrugge and National Balancing Point), no local products are offered on the exchange at present. Usually, therefore, existing local or point-specific balancing gas requirements cannot be met with standardised exchange products but instead have to be met by the market area managers buying or selling local balancing products

on the physical balancing platforms. The Ruling Chamber shares the market area managers' assessment that no synergies can be achieved by merging the two balancing platforms

The Ruling Chamber was not prevented from approving this interim measure by the provisions of Article 52 of the Network Code on Gas Balancing. According to this article, extending the implementation deadline is only permissible provided no interim measures are implemented. From this it could be concluded that the extension of implementation deadlines under Article 52 of the Network Code on Gas Balancing and the approval of interim measures are mutually exclusive per se. However, this shortened and simplified interpretation cannot be upheld because there is no objective justification why the necessity for longer transitional deadlines in one area (e.g. within day obligations) should affect the need for interim measures in another area (e.g. the procurement of balancing gas), let alone preclude it, especially as the conditions in the two areas are different. Rather, the extension of implementation deadlines under Article 52 of the Network Code on Gas Balancing should only be precluded for those areas in which interim measures are indeed to be used. In the present case this is not the problem, however, because no use is made of extended implementation deadlines under Article 52 of the Network Code on Gas Balancing (see section 4.3.11.).

Furthermore, in deciding whether to approve the report according to Article 46(4) of the Network Code on Gas Balancing, the Ruling Chamber took account of the effects of the intended interim measure on the balancing regimes' harmonisation, facilitation of market integration, ensuring non-discrimination, effective competition and the efficient functioning of the gas market.

In particular with a view to effective competition and the efficient functioning of the gas market, but also with a view to maintaining system stability and security of supply, the Ruling Chamber therefore considers it appropriate to approve the continued use of the existing physical balancing platforms for a period of five years with certain provisos regarding the products to be procured and the MOL rank.

In contrast with the market area managers' target model, the short-term standardised products procured via the physical balancing platforms are not of equal status to quality-specific exchange products from the market area manager’s own market area or to exchange products from an adjacent market area but are subordinate to all available exchange products in the market area manager’s own market area or an adjacent market area. The background to this change is on the one hand the above-explained provision from the Network Code on Gas Balancing to meet the need for external balancing gas primarily and as much as possible through the procurement of short-term standardised products on the exchange. On the other hand, this lower priority also derives from Article 45(4) and Article 47(3) of the Network Code on Gas Balancing, according to which the market area managers' balancing platforms are set up only as an interim measure for a maximum period of ten years and their establishment and maintenance requires explicit approval from the regulatory authority. The aim of these provisions is to further expand the

procurement of balancing gas on the exchange and increase liquidity on the wholesale gas market so that platform procurement can be steadily reduced and if possible ended completely after ten years at most.

For this reason the Ruling Chamber approved the continued use of balancing platforms with the proviso that only balancing products that are not tradable on the exchange may be procured via these platforms. This means that it is not permitted to procure any global or requirement-specific/quality-specific balancing products according to MOL ranks 1 and 2 via the physical balancing platforms. Accordingly, given the balancing products currently offered and traded on the exchange, use of the physical balancing platforms is limited to the procurement of local and point-specific products. In light of the fact that the continued use of the platforms is an interim measure and the German wholesale gas market is sufficiently liquid, in the Ruling Chamber's view this restriction appears appropriate in order to ensure the maintenance of system stability when local requirements arise but also to preserve or further increase the liquidity of the exchanges and the market-based procurement of balancing gas at competitive prices. This restriction is also confirmed by the market area managers' remarks in their recommendation document of 3 March 2014. They state that the continued use of the balancing platforms in the interim is necessary not because of insufficient liquidity on the wholesale market but because of the fact that the products needed in the event of a local or in certain circumstances even point-specific balancing gas requirement are not offered by the exchange; however, meeting such a requirement is essential to ensure system stability. They also stated that theoretically the local or point-specific requirement could also be met by contracting balancing services, although high hourly quantities would then have to be held available to ensure system stability and security of supply on a lasting basis, which would disproportionately increase costs. In the Ruling Chamber's view too, as well as ensuring system stability there are therefore also cost criteria in favour of continuing use of the balancing platforms in the interim. The Ruling Chamber likewise agrees with the other argument put forward by the market area managers in their application, namely that the platforms are also needed as a fall-back solution in cases where the exchange is unavailable for technical reasons.

The Ruling Chamber does not fully share the concerns expressed in one comment that, as a result of restricting the balancing platform, in the event of insufficient liquidity in MOL rank 2 the products that would then be required in MOL rank 3 would not be sufficient and therefore in such cases there should be the possibility of trading via the balancing platform (BDEW/VKU). In the Ruling Chamber's view it is conceivable that in the event of insufficient liquidity in MOL ranks 1 and 2 and likewise inadequate availability of products in MOL rank 3 the market area managers will actively request the submission of balancing gas offers (global, requirement-specific or local) via their website or also via the balancing platform. For this purpose, however, there is no need for the general possibility of unrestricted procurement of global or requirement-specific balancing products via the physical balancing platforms.

The continued use of the existing balancing platforms in the NCG and GASPOOL market areas is approved in accordance with Article 45(4) of the Network Code on Gas Balancing, initially for a period of five years from the entry into force of the Regulation, in other words until 16 April 2019. During this time, however, the need for continued use of the platforms shall be continuously examined in the reports to be produced annually by the market area managers in accordance with Article 46 of the Network Code on Gas Balancing, in particular the trend in the degree to which local or point-specific demand is met against the background of the supply of quality-specific exchange products and the possibility of procuring locally acting exchange products in adjacent market areas (see also section 4.3.9.1. in this regard). In the case of the possible introduction of local products on the exchange, following an appropriate implementation phase during which the liquidity trend of these products on the exchange can be observed, procurement of these products via the platform should be ended in order to pool the liquidity on the exchange and facilitate operational processing by the balancing gas suppliers.

4.3.6.2.5. MOL rank 4

Pursuant to the operative part (6)(b)(dd), standardised long-term products and balancing services are assigned to MOL rank 4. Classification in MOL rank 4 means that they are not permitted to be used to meet a requirement for balancing gas unless the use of MOL rank 1 to 3 products is not expedient because of a specific, network-related operational requirement or is insufficient to meet existing requirements. Furthermore, only products that have been procured through a market-based, transparent and non-discriminatory public tender procedure in accordance with Article 8(3) of the Network Code on Gas Balancing may be used. The decision on the use of the various products within MOL rank 4 depends on the actual needs and on the costs.

All balancing products and services that are not short-term standardised products are grouped in MOL rank 4. Accordingly, the standardised long-term products and balancing services included under MOL 3 and MOL 4 in the market area managers' target model are now to be classified in their entirety within MOL rank 4. As these products are neither exchange products nor short-term standardised products, their use is ranked below that of short-term standardised exchange products or platform products (cf Article 8(1) and Article 9(1)(c) of the Network Code on Gas Balancing). Accordingly, they are only permitted to be used if short-term standardised products (MOL rank 1-3) are not available in sufficient quantity or are not suitable for maintaining the network within its operational limits. Which of the products available under MOL rank 4 is used in specific cases depends on the specific requirement or on the effect the product is specifically intended to achieve. If more than one product under MOL rank 4 comes into consideration for use in a particular case, the choice is to be made according to cost criteria.

In accordance with Article 8(3) of the Network Code on Gas Balancing, MOL rank 4 products are to be procured through a market-based, transparent and non-discriminatory public tender

procedure. The market area managers' balancing platforms can also be used for these tender procedures, as before. The duration of the procured products should be as short as possible, and in accordance with Article 8(5) of the Network Code on Gas Balancing must not exceed one year. Since MOL rank 4 products by their very nature are procured in advance, so that they can be used in case of need, at the suggestion of some consultees (BDEW/VKU, market area managers/transmission system operators) a clarification to this effect was provided in the operative part.

The Ruling Chamber assumes that the possibility – which will continue to exist in future and is to be used as a priority – of procuring local or point-specific balancing products via the balancing platforms will be taken into account accordingly when calculating the level of peak supplies to be covered by MOL rank 4 products.

4.3.7. Neutrality charge accounts for balancing (operative part (7))

The operative part (7) contains provisions on the establishment of two different neutrality charge accounts for SLP and RLM exit points (see section 4.3.7.1. below), on the dividing of the balancing costs and revenues between the two accounts (see section 4.3.7.2. below), on the methodology for determining the neutrality charges (see section 4.3.7.3. below) and on the procedure for dealing with surpluses (see section 4.3.7.4. below). In addition, the operative part (7) contains provisions on the transfer of remaining surpluses from the current balancing gas and imbalance gas neutrality charge account to the two neutrality charge accounts (see section 4.3.7.5. below) and on data gathering and data transmission (see section 4.3.7.6. below).

4.3.7.1. Establishment of two separate neutrality charge accounts

(1) The operative part (7) obliges the market area managers to set up two separate neutrality charge accounts for balancing: for SLP exit points and for RLM exit points. No other exit or entry points in the neutrality charge system are considered. All costs and revenues from the balancing gas and imbalance gas system are to be allocated to the two neutrality charge accounts. The costs and revenues from SLP reconciliation, including the deductions from the monthly settlement of network accounts, as well as revenues from the SLP neutrality charge for balancing, are to be allocated to the neutrality charge account of the SLP exit points (SLP neutrality charge account). Costs and revenues from negative and/or positive imbalance gas, revenues from structuring charges (until 30 September 2016), revenues from the flexibility charge (from 1 October 2016) and revenues from the RLM neutrality charge for balancing are allocated to the neutrality charge account of the RLM exit points (RLM neutrality charge account). In addition, costs and revenues from the procurement or sale of external balancing gas and other costs and revenues in connection with the balancing activities undertaken by the market area manager, including costs arising from payment defaults pursuant to Article 31 of the Network Code on Gas

Balancing, are to be divided between the SLP neutrality charge account and the RLM neutrality charge account in so far as they are allocable to the corresponding neutrality charge account.

(2) In their recommendation document, referring to their neutral position regarding the neutrality charge for balancing, the market area managers and transmission system operators refrained from submitting a proposal on the methodology for determining the neutrality charge. They merely referred to the provisions of Article 29(1) of the Network Code on Gas Balancing, which deals with the principles of the neutrality of costs and revenues. In the course of the two consultation rounds some market participants expressly welcomed the establishment of two separate neutrality charge accounts (e.g. GDF SUEZ, VIK/VCI). Some market participants suggested setting up another neutrality charge for balancing, namely dividing the RLM neutrality charge for balancing between RLMoT and RLMmT (Bilanzkreiskooperation, GDF SUEZ, VIK/VCI). There were no objections regarding the apportioning of the cost and revenue items to the two neutrality charge accounts. One market participant expressly pointed out that the individual posting items for the neutrality charge accounts are essentially considered to be valid and ensure appropriate allocation of the costs (VIK/VCI). Two supplements to the items in the neutrality charge account were named: the item "costs for within day balancing services" (VKI/VCI) and the item "deductions from the settlement of network accounts" (market area managers/transmission system operators).

(3) In accordance with the provisions of Article 30(5) of the Network Code on Gas Balancing, where information model variant 2 is applied the market area manager or transmission system operator must establish a separate neutrality charge for balancing in respect of non-daily metered offtakes. The arrangements in the operative part (7) conform to the provisions of the Network Code on Gas Balancing in that two separate neutrality charges for balancing are created for SLP and RLM exit points.

In the Ruling Chamber's view there is no need to further divide the RLM neutrality charge for balancing for RLMoT and RLMmT. Some market participants considered it justified to distinguish between RLMoT and RLMmT regarding the neutrality charge for balancing, and pointed out that flexibility procurement in the case of RLMoT is not performed by the market area manager but by the balancing group manager. The Ruling Chamber is unable to uphold this argument, however, because despite greater precaution on the part of the balancing group manager it is impossible to rule out the envisaged tolerance being exceeded, and hence potentially a need for balancing gas arising. Furthermore, both allocation groups are subject to the same system, and are thus involved in both the balancing neutrality charge and the flexibility charge. Providing different allocation groups in the balancing system does not so much reflect the fundamental idea of controlling the balancing system by means of different tolerance requirements but rather that of being able to provide an adequate representation of different offtake behaviours in balancing terms. In this context it can generally be assumed that both allocation groups can also

trigger balancing gas. Consequently, when compared with the current balancing system the obligations structure also does not give rise to a distinction that would justify additional division of the neutrality charge for balancing.

The consideration of all the market area managers' costs and revenues in both neutrality charge accounts arising as a result of the balancing activities undertaken is in conformance with the principles of the neutrality of costs and revenues according to Article 29(1) of the Network Code on Gas Balancing. After all, the market area managers are not permitted to either profit or lose from the balancing activities undertaken. The stated allocation of the market area managers' costs and revenues to the two neutrality charge accounts is an appropriate allocation of costs because those items that are caused by the SLP exit points (such as SLP reconciliation or the revenues from the SLP neutrality charge) are directly assigned to the SLP neutrality charge account, whereas items caused by the RLM exit points (such as costs and revenues from imbalance gas or revenues from the RLM neutrality charge) are directly assigned to the RLM neutrality charge account. Costs and revenues caused by SLP and RLM exit points are shared between the two accounts according to an appropriate distribution formula (see remarks in section 4.3.7.2. below).

Regarding the two additional items for the neutrality charge accounts, "costs for within day balancing services" and "deductions from the settlement of network accounts", which were named in the course of the consultations, the Ruling Chamber sees no need for amendment in the operative part (7)(a) and (b). Both items are after all already part of the listed cost and revenue items: deductions from the settlement of network accounts can already be posted under the item "costs and revenues from SLP reconciliation". Costs for within day balancing services are part of the costs and revenues from the procurement or sale of external balancing gas. Appropriate allocation of these costs to the two neutrality charge accounts is ensured through use of the distribution formula in accordance with the operative part (7)(c).

4.3.7.2. Dividing balancing costs and revenues

(1) The operative part (7)(c) governs the division of the costs and revenues from the procurement or sale of external balancing gas and the other costs and revenues in connection with the balancing activities undertaken by the market area manager between the SLP and RLM neutrality charge accounts. According to this, the costs and revenues must be allocated to the two neutrality charge accounts for each gas day separately according to a distribution formula. If both costs and revenues arise from the use of positive and negative external balancing gas within day, the balance of these must first be netted at the end of the gas day.

(a) On gas days with a use of external balancing gas the daily distribution formula for SLP exit points is determined on the basis of the distribution system operators' differential quantities that are to be calculated according to the network account system. These are aggregated across the

market area (SLP net balance). For RLM exit points the net balances of all balancing groups are determined by comparing the relevant input and offtake quantities and likewise aggregating them across the market area (RLM net balance). Three fundamentally different cases can be distinguished regarding the allocation of costs and revenues to the neutrality charge accounts on gas days with a use of external balancing gas:

- The SLP net balance and RLM net balance have the same tendency, the use of balancing gas corresponds to the SLP and RLM net balance. In this case the ratio of the two net balances to the total imbalance with the same tendency determines the allocation of the costs or revenues for the procurement of external balancing gas established for that gas day by the market area manager. Allocation to the respective neutrality charge account depends on the corresponding share.
- The SLP net balance and the RLM net balance do not have the same tendency. In this case the costs or revenues for the procurement of external balancing gas calculated for that gas day are allocated to the neutrality charge account of the exit group whose net balance has the same tendency as the use of external balancing gas.
- The SLP net balance and RLM net balance have the same tendency, but the use of balancing gas is opposite to the SLP and RLM net balance. In this case the costs or revenues for the procurement of external balancing gas calculated for that gas day are distributed between the two neutrality charge accounts on the basis of the ex-post calculated mean of all daily calculated distribution formulae, for the contribution period in question (annual distribution formula with reference to the gas year and for the first gas year beginning on 1 October 2015 with reference to the six-month contribution period respectively).

(b) On gas days with no use of external balancing gas, the annual distribution formula calculated ex-post is used. The capacity prices of the long-term standardised balancing products, flexibility services and the capacity charges are also allocated on the basis of the annual distribution formula. For this purpose, before the annual distribution formula is applied the corresponding products must be apportioned pro rata to the individual days of the contractual period.

(c) The other costs and revenues connected to the balancing activities undertaken by the market area manager are allocated to the corresponding neutrality charge account according to causation. If allocation to a neutrality charge account according to causation is not immediately possible, the allocation is likewise based on the annual distribution formula.

(2) In the consultation rounds the system for dividing the costs and revenues between the two neutrality charge accounts was welcomed (e.g. VIK/VCI). Of the two variants for determining the annual distribution formula proposed in the first consultation round, namely 50:50 sharing (variant 1) or the mean of all daily distribution formulae calculated ex-post (variant 2), variant 2

was preferred by the market participants because it was said to be more appropriate (e.g. BDEW, VIK/VCI).

(3) Costs and revenues from imbalance gas, within day obligations, reconciliation and the SLP or RLM neutrality charge are clearly delimitable and can thus be directly assigned to the two neutrality charge accounts. In contrast, an allocation mechanism is required for the external balancing gas procured or sold on the respective gas day, for quantities being held available, for capacity charges and for other costs and revenues arising for the market area manager in connection with balancing activities undertaken.

(a) The system for dividing the costs and revenues between the two neutrality charge accounts on days with a use of external balancing gas on the basis of the SLP and RLM net balance, as laid down in the operative part (7)(c), is an approximation of the external use of balancing gas caused by the group of SLP and RLM exit points. However, the use of external balancing gas arises from the respective network state in the market area as a whole and is caused by various factors. Each distribution method can therefore only be a best possible approximation, but cannot claim absolute accuracy for dividing the costs between the two neutrality charge accounts according to causation. Furthermore, other causes of the use of balancing gas (e.g. transport speed) lead to a certain tolerable lack of precision.

Calculation of the net balances of the individual exit groups can be carried out by the market area manager on the basis of the existing data transmission obligations. The network account system is to be used for the SLP offtakes, because network account balance 1 specifies the imbalance quantity of the individual distribution system operators' SLP offtakes. Adding together the imbalance quantities of all distribution system operators in a market area produces the total surpluses or shorty supply caused by the SLP offtakes in one gas day. The net balances of the individual balancing groups must also be calculated and totalled by the market area managers each day on the basis of the quantities relevant for balancing; they are considered to be caused by RLM exit points.

(b) If the SLP and RLM net balance have the same tendency, first the ratio of the two net balances is calculated. The costs or revenues for the procurement of external balancing gas are allocated to the relevant neutrality charge account according to the respective share of the SLP or RLM net balance.

If the SLP and RLM net balances do not have the same tendency, the costs or revenues for the procurement of external balancing gas calculated for that gas day shall be allocated to the neutrality charge account of the exit group whose net balance has the same tendency as the use of external balancing gas. No (virtual) offsetting takes place if there is a simultaneous occurrence of opposite net balances and use of balancing gas. This appears to be inappropriate for reasons of energy management efficiency alone. In such a case it is first merely necessary to establish that neither the use of internal balancing gas nor any opposing imbalance quantities

have prevented the use of external balancing gas. In this respect it is appropriate that only the exit group that has imbalance quantities with the same tendency as the use of external balancing gas on one gas day should be involved in the costs and revenues that have arisen from the use of external balancing gas. There is no need for offsetting, because it is not clear that a certain quantity of balancing gas has actually been avoided. Furthermore, the neutrality charge system is only meant to produce appropriate allocation of costs that have actually arisen. Posting "virtual" costs is not compatible with this. A mechanism of this type would in the end be complex and involve effort to implement, without this being counterbalanced by any advantages.

If the SLP and RLM net balances have the same tendency but the use of balancing gas runs opposite to the SLP and RLM net balances, dividing the costs and/or revenues solely on the basis of the SLP or RLM net balance of the day in question could create misplaced incentives. It would be conceivable, for instance, that the two net balances are short, whereas the market area manager has to effect sales of external balancing gas and thus generate revenues. Distributing these revenues solely on the basis of the SLP and RLM net balance on this day would be tantamount to "rewarding" short supply. The distribution of costs and revenues on the basis of the annual distribution formula, on the other hand, leads (because of averaging) to a certain dilution of situations when revenues are paid out even though supply is short. This counteracts the possibility of there being misplaced incentives, while at the same time the provisions of Article 29(1) of the Network Code on Gas Balancing are met, namely that market area managers are not permitted to make either a profit or a loss.

(c) With the provision on determining the annual distribution formula on the basis of the mean of all daily distribution formulae calculated ex-post, the Ruling Chamber is accommodating the comments in the first consultation, although as a result of this there is a significant increase in complexity in the distribution of balancing costs and revenues in comparison with 50:50 sharing. The aim of achieving appropriate cost allocation is the predominant consideration in this case. Of the two proposed variants for the distribution formula, preference was given to variant 2 (the mean of all daily distribution formulae calculated ex-post) rather than variant 1 with 50:50 sharing, because this variant was said to be more fairly based on causation (BDEW, VIK/VCI).

However, the Ruling Chamber does not see the need for weighting for determining the mean of all daily distribution formulae calculated ex-post, as proposed in the second consultation round (VIK/VKU). The added value of such weighting with regard to fairer causation-based distribution of the costs and revenues of the procurement and sale of balancing gas is not apparent to the Ruling Chamber at present. Instead, the Ruling Chamber assumes that complexity in the distribution of costs and revenues would further increase if weighting were to be introduced. To be able to evaluate this better and potentially to be able to make adjustments if more recent findings are obtained regarding the added value and added effort of weighting, the market area managers are encouraged to address the advantages and disadvantages of weighting when

determining the annual distribution formula as part of their balancing gas report in accordance with the operative part (9)(a) (see also remarks in section 4.3.9.1. in this connection).

The annual distribution formula is also to be used for allocation of the costs from capacity prices of the long-term standardised balancing products, flexibility services and capacity charges. While the commodity components of the services can be allocated for each day depending on their use and can thus also be distributed between the neutrality charge accounts, the readiness of these products for use over the contract period is compensated with a one-off capacity price or capacity charge. Allocation to day-specific costs and revenues is necessary and must be made by offsetting the total costs of this contract component against the individual days of the contractually envisaged period of use. This is to be preferred over allocation to a specific day of use, because the products concerned meet a fundamental balancing gas purchase or sale risk, and their use is ensured by the supplier on each day of the period of the contract. The costs of holding quantities available are thus a kind of insurance premium. In this respect merely allocating the entire capacity price or the entire capacity charge to the actual days of use would not be appropriate.

(d) The other costs and revenues connected to the balancing activities undertaken by the market area manager are to be allocated to the corresponding neutrality charge account according to causation. Only if allocation to a neutrality charge account according to causation is not immediately possible must the allocation likewise be based on the annual distribution formula. This ensures that the other costs and revenues are directly allocated according to causation as far as possible and that use of the annual distribution formula is called upon only as the last possible option.

4.3.7.3. Methodology for determining the neutrality charges for balancing

(1) To determine the neutrality charge for balancing, according to the operative part (7)(d) the market area managers must first forecast the balance of the neutrality charge accounts by the end of the next contribution period without including the neutrality charge for balancing for the next contribution period, taking into account a liquidity buffer. Any deficits and surpluses in the neutrality charge account are taken into consideration correctively in the next forecast. The market area managers impose a neutrality charge for balancing in euros per MWh taken off, separately for the SLP neutrality charge account and the RLM neutrality charge account, if the forecasted costs exceed the forecasted revenues for the respective neutrality charge account. In order to impose the neutrality charge the market area managers must forecast the respective offtake quantities relevant for balancing for the SLP neutrality charge account and the RLM neutrality charge account. The neutrality charge for balancing for the SLP neutrality charge account is to be borne by the balancing group managers who supply SLP exit points, while the

neutrality charge for balancing for the RLM neutrality charge account is to be borne by the balancing group managers who supply RLM exit points.

For the first gas year from 1 October 2015 to 30 September 2016, two six-month contribution periods are set for the neutrality charge in both market areas. Starting with the gas year beginning on 1 October 2016, the contribution period for the neutrality charge in both market areas shall extend to the period of one gas year in each case.

(2) In both consultation rounds one of the demands put to the Ruling Chamber was for a stable and transparent neutrality charge for balancing (e.g. EnBW). A definition of the liquidity buffer was also requested, in order to prevent the market area managers from building an arbitrary and non-transparent cash balance (e.g. EnBW). Extending the contribution period from 6 to 12 months, with the aim of increasing predictability, was supported by many market participants (e.g. BNE, EnBW, GEODE). In some comments, on the other hand, an extension to 12 months was criticised with reference to the lack of experience with the new conditions of the balancing system (eg market area managers/transmission system operators). Some market participants proposed a six-month contribution period, at least as a transitional solution (e.g. BDEW, Bilanzkreiskooperation). In their recommendation document the market area managers and transmission system operators did not submit any proposals on determining the neutrality charge for balancing.

(3) The Ruling Chamber determines the methodology for calculating the neutrality charge for balancing in accordance with the provisions of Article 30 of the Network Code on Gas Balancing.

(a) Following the principle of the neutrality of costs and revenues (Article 29 of the Network Code on Gas Balancing), the market area manager has only to impose a neutrality charge for balancing if there is expected to be a shortfall in the cost items on the basis of the forecasted costs and revenues, ie the forecasted costs are expected to be higher than the forecasted revenues. This provision on imposition of the neutrality charge for balancing in combination with the arrangement that deficits and surpluses in the neutrality charge account are taken into consideration correctively in the next forecast and the arrangement on distribution (see remarks in section 4.3.7.4. below) ensures that the market area manager will make neither a profit nor a loss from balancing activities, in accordance with Article 29 of the Network Code on Gas Balancing.

(b) Pursuant to Article 30(3) of the Network Code on Gas Balancing, the neutrality charge for balancing must be proportionate to the extent the network user makes use of the relevant entry or exit points concerned or the transmission network. Imposition of the neutrality charge for balancing per MWh taken off thus complies with the provisions of the Network Code. The quantities relevant for balancing pursuant to the operative part (1)(b) are to be used for this. The market area manager can demand appropriate monthly deductions from the neutrality charge for balancing.

(c) In the Ruling Chamber's view, stable conditions regarding the level of the neutrality charge for balancing are essential for the market participants. Large fluctuations in the neutrality charge for balancing, which often cannot be adequately anticipated by the market participants, can sooner or later lead to an additional risk premium in the corresponding gas supply contracts. Large fluctuations in the neutrality charge for balancing can have a highly disadvantageous effect, especially for balancing groups with small portfolios. The increase in predictability is essential in the Ruling Chamber's view, and can even imply positive competitive effects for the gas market. Three measures are necessary for this:

- extension of the duration of the contribution period from currently six months to 12 months,
- consideration of a liquidity buffer for forecasting the neutrality charges for balancing, and
- an increase in transparency regarding determination of the neutrality charges for balancing.

Whereas extending the contribution period from six to 12 months provides stability for the neutrality charge contribution period within a gas year, it is the consideration of a liquidity buffer for forecasting the neutrality charges for balancing and determining a potential distribution that makes a 12-month contribution period possible at all, and furthermore makes a key contribution to stabilising the neutrality charge for balancing between gas years. Increasing transparency by publishing the calculation basis and calculation system for forecasting the neutrality charge for balancing and the level of the neutrality charge for balancing with the individual items (see remarks in section 4.3.10.4) has the effect that the market participants are better able to anticipate the trend of the neutrality charge for balancing over the individual gas years.

The extension of the contribution period was welcomed by many market participants in the consultations (e.g. BNE, EnBW, GEODE). Among other things they pointed out that a longer contribution period is in particular very useful for the costing of offers for standard load profiles (BNE). Some market participants did, however, criticise extending the contribution period, referring to the conditions that will change as a result of the determination on gas balancing on 1 October 2015. In their view, given these changed conditions and the lack of experience gathered by the market area managers with a 12-month contribution period, it is difficult to produce a valid forecast at the outset (market area managers/transmission system operators). In many comments there was a call for a transitional phase with a shorter contribution period (e.g. BDEW, Bilanzkreiskooperation).

After weighing up both positions, the Ruling Chamber has come to the conclusion that a transitional phase of one year during which the contribution period amounts to six months is necessary in order to gather experience with the changed conditions and to enable this experience to be incorporated accordingly into the forecasting for the neutrality charges for balancing.

The experience gathered during the transitional phase means that it will also be possible to produce a soundly based forecast for a contribution period of 12 months, so after the one-year transitional phase the contribution period can be increased to 12 months. This proposed arrangement largely met with approval in the course of the second consultation round.

(d) The principle of taking a liquidity buffer into account when determining the neutrality charges for balancing was not called into question in the course of the two consultations. Some market participants did, however, call for a definition of the liquidity buffer (e.g. EnBW, Evonik). This was meant to prevent the market area managers from building an arbitrary and non-transparent cash balance (EnBW).

The Ruling Chamber can understand this demand to some extent. Nevertheless, a detailed definition of the liquidity buffer is problematical. The purpose of the liquidity buffer is to absorb fluctuations in the market area managers' financial resources, caused by the seasonalities of balancing gas procurement for example, but also considerable forecasting uncertainties, such as regarding the demand for balancing gas in winter. This is firstly necessary in the interests of security of supply, so that the market area managers have sufficient means to procure balancing gas. Secondly it is necessary in order to enable neutrality charges for balancing to be stable, as called for by many market participants. To be able to ensure achievement of these objectives, especially in light of a 12-month contribution period, the market area managers need a certain amount of leeway in determining the liquidity buffer.

At the same time the market area managers are required to keep liquidity buffers as small as possible, especially with a view to the principles of neutrality of costs and revenues as set out in Article 29 of the Network Code on Gas Balancing. In order to strike a balance between these two opposing positions, in the Ruling Chamber's view supplementary measures are needed to impose certain disciplines on the market area managers: both the publication of the calculation basis and calculation system for forecasting the neutrality charges for balancing and the publication of the individual cost and revenue items and of the liquidity buffer in accordance with the operative part (9)(d) and (e), as well as the provisions of the operative part (7)(g), according to which the market area managers among other things have to gather details relating to forecasting of the neutrality charge for balancing and on request forward them to the Ruling Chamber (see also remarks in section 4.3.7.6. in this connection), fulfil this function.

4.3.7.4. Procedure for dealing with surpluses

(1) According to the operative part (7)(e), the market area manager must determine the surpluses and distribution for the two neutrality charge accounts separately. The surpluses generated in a contribution period (surplus period) must first be used to reduce the neutrality charge for balancing, to meet the forecasted deficit for the next contribution period and to cover a liquidity buffer. As soon as a surplus is generated which exceeds, after consideration of a liquidity buffer,

a forecasted deficit for the contribution period following the surplus period (following period), the difference is distributed. First the balancing group managers receive a distribution up to the amount of the neutrality charge for balancing that they have paid in the surplus period. Any further surpluses are distributed to all balancing group managers depending on the balancing-related transport gas quantity offtake of all SLP exit points (for the SLP neutrality charge account) and RLM exit points (for the RLM neutrality charge account) in the surplus period. Both the determination of the precise amount to be distributed and the distribution itself take place in the following period, immediately after submission of all the final data required for the distribution.

(2) The procedure for dealing with generated surpluses was welcomed in both consultation rounds (cf GEODE). It was pointed out that although a negative neutrality charge is also possible by way of alternative, this would not ensure that the financial return flows will reach the balancing groups that have contributed to creation of the surpluses. The approach to dealing with surpluses as proposed by the Ruling Chamber was therefore to be preferred (GEODE). One market participant saw a contradiction in the second stage of distribution with respect to the general determination and distribution of surpluses, and proposed instead distribution to all balancing group managers depending on the respective neutrality charge account and the balancing-related transport quantities of all SLP exit points or RLM exit points (Bilanzkreiskooperation).

(3) As a rule, the ex-ante calculation of the neutrality charge for balancing on the basis of the forecasted costs and revenues results in a certain difference when the forecasted values are compared with the actual values, so surpluses or deficits are liable to arise. These surpluses or deficits must first be transferred correctively into the next contribution period and taken into account in the forecasting of the neutrality charge for balancing for the next contribution period. Starting out from these surpluses or deficits, taking account of the forecast costs and revenues and the liquidity buffer for the next contribution period, the result can be either a full balancing of all variables, the forecast costs not being met or the forecast costs being exceeded. In the first case, illustrated by formula 7), neither a neutrality charge for balancing is imposed nor is there any distribution. If the costs are not met, the market area manager must impose a neutrality charge for balancing (see formula 8) and remarks in section 4.3.7.3). If the costs are exceeded, the market area manager must not impose a neutrality charge for balancing but instead instigate distribution (see formula 9)). The background to this ruling is the principle of the neutrality of costs and revenues set out in Article 29(1) of the Network Code on Gas Balancing, according to which the market area manager must not be left with any losses from balancing activities but also must not make any profits.

Formula 7):	$(surpluses_t \text{ or } deficits_t) + revenues_{forecast\_t+1} - costs_{forecast\_t+1} - liquidity\ buffer_{t+1} = 0$
	→ *no neutrality charge for balancing imposed, no distribution*
Formula 8):	$(surpluses_t \text{ or } deficits_t) + revenues_{forecast\_t+1} - costs_{forecast\_t+1} - liquidity\ buffer_{t+1} < 0$
	→ *neutrality charge for balancing imposed, no distribution*
Formula 9):	$(surpluses_t \text{ or } deficits_t) + revenues_{´forecast\_t+1} - costs_{forecast\_t+1} - liquidity\ buffer_{t+1} > 0$
	→ *no neutrality charge for balancing imposed, distribution*
Formula 10):	$distribution_t = surpluses_t + revenues_{forecast\_t+1} - costs_{forecast\_t+1} - liquidity\ buffer_{t+1}$

Definitions:

$Surpluses_t$:	surpluses that have been generated in the contribution period t (surplus period).
$Deficits_t$:	deficits that have been generated in the contribution period t.
$Revenues_{forecast\_t+1}$:	forecast revenues for the following period t+1.
$Costs_{forecast\_t+1}$:	forecast costs for the following period t+1.
Liquidity $buffer_{t+1}$:	liquidity buffer for the following period t+1.
$Distribution_t$:	distribution as a result of the surplus period t.

The amount of the distribution is determined according to formula 10) as the difference between the surplus generated in the surplus period, the deficit for the following period, ie the difference between the forecast revenues and costs of the following period, and the liquidity buffer for the following period. The liquidity buffer approach to determination of the level of distribution ensures that large fluctuations in the market area managers' financial resources caused by the forecast costs and revenues of the following period are absorbed, so that the market area managers have sufficient financial resources at their disposal for the procurement of balancing gas (see also remarks in section 4.3.7.3.). The distribution takes place in two stages. The first distribution is to the balancing group managers who have paid a neutrality charge for balancing in the surplus period. The distribution is limited to the level of the neutrality charge for balancing that they have paid in the surplus period. This is appropriate because when surpluses occur it can be assumed that the forecast carried out for the purpose of imposing the neutrality charge for balancing has not proved correct from an ex post perspective, for example because of changes to general conditions. If the findings identified ex post regarding the general conditions had applied at the time of the forecast, the prerequisites for imposing a neutrality charge for balancing would most probably not have been satisfied, so the balancing group managers would not have needed to have paid a neutrality charge for balancing at all. Consequently it is appropriate that this neutrality charge that has been paid is given priority for distribution in the event of surpluses that exceed the forecast deficit and the liquidity buffer for the following period.

Any further surpluses are distributed to all balancing group managers depending on the balancing-related transport gas quantity offtake of all SLP exit points (for the SLP neutrality charge account) and RLM exit points (for the RLM neutrality charge account) in the surplus period. After all, surpluses over and above the revenues obtained from the neutrality charge for balancing may have arisen from any of the other posting items in the neutrality charge account such as from SLP reconciliation or from imbalance gas. For the second stage of distribution, therefore, it is logical in the Ruling Chamber's view to widen the circle of those entitled to receive it to include all balancing group managers who have actually made contributions to the two neutrality charge accounts during the surplus period or potentially could have done. For the SLP neutrality charge account these comprise all balancing group managers depending on the balancing-related transport quantities of all SLP exit points and for the RLM neutrality charge account all balancing group managers depending on the balancing-related transport quantities of all RLM exit points.

Although in principle, as put forward by one market participant, it would also be possible to carry out a distribution to all balancing group managers in the second stage with reference to the contributions actually made to the neutrality charge accounts (cf Bilanzkreiskooperation), this procedure would signify considerably more expense and effort for the market area managers when carrying out the distribution and would not be proportionate to the added value in terms of fairer distribution of the remaining surpluses for the second stage.

In accordance with the operative part (1)(d), the market area managers must publish on their website the decision regarding a possible distribution (ie whether it will be made) together with the level of the neutrality charge for balancing six weeks before the start of the respective period of validity (cf remarks in section 4.3.10.4.). The actual level of the distribution can only be determined, however, on the basis of all the final data required for the distribution, ie the final allocation data. There is no need, though, for a final settlement of all SLP reconciliation quantities in order to determine the actual level of the distribution.

4.3.7.5. Transfer arrangement

(1) The operative part (7) covers the procedure for dealing with surpluses remaining on the balancing gas and imbalance gas neutrality charge account on 30 September 2015. In accordance with the determination on balancing services (balancing group contract etc.) of 28 May 2008 (file reference BK7-08-002) these surpluses must first be used to meet the forecast deficits for the first contribution period from 1 October 2015 and if applicable for distribution or offsetting in accordance with § 15(6) of the standard balancing group contract (annex 1 to the determination of 28 May 2008). Prior to that an appropriate liquidity buffer must be accounted for. This remaining liquidity buffer shall be transferred to the SLP and RLM neutrality charge accounts. The amount shall be divided between the two neutrality charge accounts according to the distribution formula with a 40:60 ratio (SLP neutrality charge account:RLM neutrality charge

account). Any remaining deficits on the balancing gas and imbalance gas neutrality charge account on 30 September 2015 shall be apportioned according to the same formula. For a transitional period of two years, costs and revenues from services that have been performed before 1 October 2015 but are not settled until after that date shall likewise be transferred to the two neutrality charge accounts according to the distribution formula for SLP and RLM with a 40:60 ratio.

(2) In the consultations a large number of market participants requested clarification on the procedure for dealing with surpluses remaining from the previous balancing gas and imbalance gas neutrality charge account. They said that a corresponding arrangement on how to deal with these surpluses was necessary, especially in order to create legal certainty (GEODE, market area managers/transmission system operators, BDEW/VKU). The procedure for dealing with surpluses proposed in the second consultation was rejected by two market participants. They criticised both the fact that the remaining surpluses were first to be used to meet the forecast deficits for the first contribution period from 1 October 2015 and the level of the distribution formula for transfer of the remaining liquidity to the new neutrality charge accounts (Evonik, VIK/VCI).

(3) The Ruling Chamber agrees with the market participants that an arrangement on how to deal with the remaining liquidity on the neutrality charge account after the end of the previous balancing system is necessary in accordance with the determination on balancing services of 28 May 2008 (file reference BK7-08-002) in order to create legal certainty. Before a transfer to the new balancing system can be carried out, however, it is first necessary to apply all arrangements of the previous balancing system, which according to the operative part (13)(a) will be revoked with effect from 1 October 2015. Firstly therefore it is necessary by the end of the 1 April 2015 to 30 September 2015 contribution period to clarify whether and at what level distribution or offsetting is required in accordance with § 15(6) of the standard balancing group contract (annex 1 to the determination of 28 May 2008).

The decision regarding distribution or offsetting, the level of the actual distribution or offsetting and the procedure for distribution or offsetting itself must be taken in accordance with the determination of 28 May 2008, which still applies until 30 September 2015. Consequently, contrary to one association comment, which expressed an opinion against first using the surplus to meet the forecast deficit (VIK/VCI), for the next period the surplus is to be used in accordance with the currently valid regulations first to meet the forecast deficit and to cover the liquidity buffer. The surplus that then remains is then to be distributed or offset in two stages in accordance with § 15(6) of the standard balancing group contract. It is merely for the sake of clarification that the operative part (7)(f) first sentence refers to this distribution and offsetting mechanism under the previous balancing system. As the provision on the balancing gas and imbalance

gas neutrality charge under the previous balancing system still applies until 30 September 2015, there is no need for a provision on this matter.

The situation is different, however, with the quantities remaining on the balancing gas and imbalance gas neutrality charge account after revocation of the determination of 28 May 2008, such as the liquidity buffer, costs and revenues from services that have been performed before 1 October 2015 but are not settled until after that date and the forecast deficits. In the latter case allocation to the two neutrality charge accounts is possible, on the basis of the market area managers' forecast of the individual items of the neutrality charge accounts, such as forecast costs and revenues from SLP reconciliation, forecast costs and revenues from imbalance gas or revenues from structuring charges. Distribution of the forecast costs and revenues from the procurement or sale of external balancing gas can be carried out on the basis of the provisions in the operative part (7)(c).

There is, however, a need for a separate distribution formula for transfer to the two neutrality charge accounts with regard to distribution of the liquidity buffer and of the costs and revenues from services that have been performed before 1 October 2015 but are not settled until after that date. In the context of the second consultation the Ruling Chamber proposed that the remaining financial resources on the neutrality charge account be shared in a 50:50 ratio. Some commenting parties did raise objections to this, however (Evonik, VIK/VCI). Instead of 50:50 sharing, for example, there was a call for appropriate allocation according to causation on the basis of the payments made into the balancing gas and imbalance gas neutrality charge account, founded on detailed information from the two market area managers (VIK/VCI). The Ruling Chamber accepted this proposal, and based on the market area managers' detailed data on the neutrality charge account balances and the individual groups' offtake quantities relevant for balancing it performed its own calculations to derive an appropriate distribution formula:

(a) The basis for determining the distribution formula is the percentage contribution to liquidity on the balancing gas and imbalance gas neutrality charge account made in the past. This approach is appropriate inasmuch as it is a matter of distributing the liquidity remaining on the neutrality charge account after application of the arrangements of the previous balancing system. The Ruling Chamber therefore considers it logical to choose the cause of the occurrence of the liquidity in the past as the basis for appropriate distribution to the two accounts. It is the percentage contribution of the SLP and RLM exit points to liquidity on the neutrality charge account that is crucial for this, and not, for example, as proposed in one comment, the "additional payments" of one group compared with the other group, seen in absolute terms (VIK/VCI). After all, the absolute values of the "additional payments" cannot provide any information about the respective contribution to the liquidity available on the neutrality charge account. That would be too narrowly focused. It is only when the absolute contributions to liquidity made by each group are

set against the total liquidity contributions that a well-founded statement can be made regarding the SLP and RLM groups' respective share of existing liquidity.

(b) The assessment period from February 2012 to March 2014 is chosen for determining the formula. The choice of this period is based on a weighing up the following three aspects: Firstly, as long a period as possible should be chosen in order to include seasonal fluctuations, among other things. Secondly, there should be a valid database available for both market areas for the chosen period, both for the neutrality charge account balances and for the offtake quantity relevant for balancing, which are necessary for determining the SLP and RLM groups' shares in neutrality charge revenues. This is the reason why the assessment period ends in March 2014, because at the time when the Ruling Chamber performed its calculations valid detailed data from the market area managers on the quantities relevant for balancing was available only up until that point in time. Thirdly, as it is a matter of distributing the liquidity on the neutrality charge account balance, a significant rise in liquidity on the neutrality charge account should have taken place within the period. To assess this, the Ruling Chamber analysed the trend for the neutrality charge account balances in the two market areas from April 2011 to August 2014. The results are shown in figure 5. The chart makes it clear that no liquidity was built up on the neutrality charge account at the start of the period under consideration; instead, the available financial resources were reduced, until finally in February 2012 the neutrality charge account registered an absolute low point in both market areas. It is only from this period onwards that the two neutrality charge account balances in the two market areas rose, steadily and very markedly, until reaching their high point in September 2013, when the neutrality charge account balance in the NCG market area was over three times as high as in February 2012 and in the GASPOOL market area it was as much as over 50 times as high. Subsequently the neutrality charge account balances were partially reduced as a result of the lowering of the neutrality charge to €0/MWh and the distributions at the beginning of 2014. For these reasons the Ruling Chamber considers it appropriate to set the start of the period for assessing the contributions to liquidity on the neutrality charge account at the point in time when the build-up of liquidity began (February 2012).

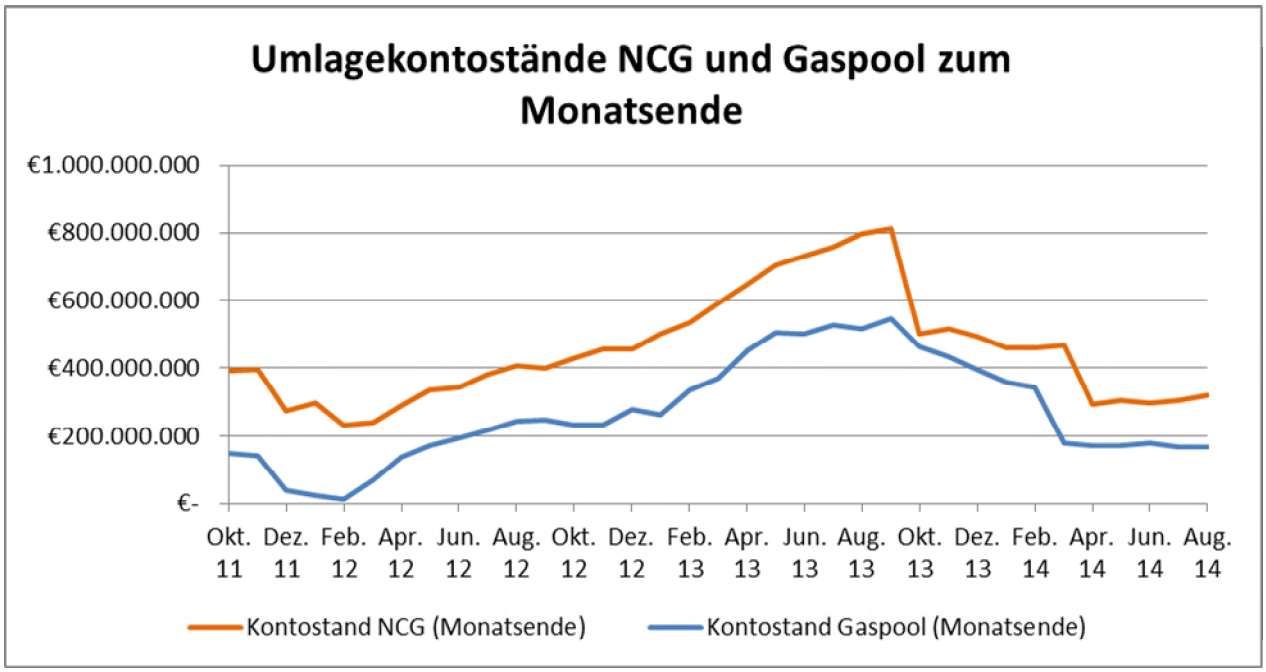

Figure 5: Trend in market area managers' neutrality charge account balances.

(c) To determine the contribution to the build-up of liquidity, the individual values of the neutrality charge account balance are differentiated according to SLP and RLM exit points. The revenues from the structuring charge, the costs and revenues from imbalance gas and a share of the revenues from the neutrality charge are assigned to the RLM exit points. The costs and revenues from reconciliation and a share of the revenues from the neutrality charge are allocated to the SLP exit points. In the neutrality charge account, with regard to the revenues from the neutrality charge, the market area managers currently do not differentiate between revenues from the neutrality charge of the SLP and RLM exit points. In order to assign this aggregated item to the two groups appropriately, the Ruling Chamber uses the offtake quantities relevant for balancing – also the basis for payment of the neutrality charge – to determine the RLM and SLP exit points' percentage share of the revenues from the neutrality charge. The offtake quantities relevant for balancing at the SLP exit points and the RLMmT exit points for the period from February 2012 to March 2014 are used for this purpose, ie exclusively those groups that are subject to a neutrality charge under the determination of 28 May 2008. Based on this data, for the period under consideration the average percentage distribution of the neutrality charge revenues for GASPOOL is 68.58% to SLP exit points and 31.42% to RLM exit points and for NCG it is 61.64% to SLP exit points and 38.36% to RLM exit points. The aggregated item of neutrality charge revenues is shared between the SLP and RLM exit points on the basis of the calculated monthly distribution of neutrality charge revenues.

(d) On the basis of this allocation of the items, for each market area first the absolute and then the percentage contribution to the liquidity on the neutrality charge account is determined separately according to SLP and RLM exit points. The result obtained for the assessment period

from February 2012 to March 2014 is a percentage contribution to liquidity on the neutrality charge account for GASPOOL of 43.14% for SLP exit points and of 56.86% for RLM exit points, and for NCG of 37.51% for SLP exit points and of 62.49% for RLM exit points. Across the market areas the average over the entire assessment period is thus around 40% (40.32%) for SLP exit points and around 60% (59.68%) for RLM exit points.

Given these calculations, on the basis of detailed data from the market area managers an appropriate distribution formula of 40:60 is defined (SLP neutrality charge account:RLM neutrality charge account). This distribution formula will be applied for a transitional period of two years, including for the allocation of the costs and revenues from services that have been performed before 1 October 2015 but are not settled until after that date.

4.3.7.6. Data gathering and data transmission

(1) The operative part (7)(g) obliges the market area managers to gather information in particular about the forecasting of the neutrality charges for balancing and the underlying assumptions and methods, information about the individual cost and revenue items and the balance of the neutrality charge accounts, information about data for differentiation of the costs and revenues for gas balancing and conversion, and information about offtake quantities relevant for balancing per neutrality charge account, and on request to provide it to the Ruling Chamber in a format suitable for further electronic processing by standard software.

(2) The obligation to gather and provide data on request fulfils two objectives.

Firstly, this obligation exerts a disciplinary effect on the market area managers in addition to the transparency obligations according to the operative part (10)(d) to perform both the forecasting of the neutrality charge for balancing and the distribution of the costs to the two neutrality charges for balancing for SLP and RLM but also between the balancing system and the conversion system in an appropriate and transparent manner. The relevance of the latter point in particular was stated by several market players in the consultation rounds (e.g. BDEW, EFET, E.ON).

Secondly, this arrangement enables the Ruling Chamber to reproduce and if applicable query the determination of the neutrality charge for balancing and the allocation of the individual cost and revenue items ex post, and to identify any need for further development or adjustment of the allocation system between the two neutrality charge accounts or between the balancing system and the conversion system in good time. Data gathering and data transmission to the Ruling Chamber must therefore be designed in such a way that a knowledgeable third party is able to understand the stages of the determination process and the individual values.

4.3.8. SLP incentive system (operative part (8))

(1) Pursuant to the operative part (8) the network operators in collaboration with the market area managers are obliged to propose an incentive mechanism for the provision of a precise forecast for SLP exit points, which is to be implemented until 1 October 2016.

In the standard load profile procedure, forecasting of the offtakes leads to differential quantities arising with respect to the actual volume of gas taken off on the exit day. Minimising these differential quantities is to be encouraged by the distribution system operators as the forecasting party, with the aid of an incentive mechanism. The daily differential quantities of SLP offtakes are to be calculated on the basis of the network account system, which remains in place, and compared to the forecast quantities. The forecasting quality established in this way is to be evaluated with an incentive mechanism. If a surplus or short supply above or below a limit value, to be defined in each case, is identified in the context of the daily netting of the SLP exit points, a distribution system operator's daily network account balance must be settled as a whole or in part with the future reconciliation of the SLP exit points. A short supply is to be paid by the distribution system operator to the market area manager as a deduction, and a surplus is to be reimbursed by the market area manager to the distribution system operator as a deduction.

The limit values to be determined by the distribution system operators in collaboration with the market area managers may be set at different levels for surpluses and short supply respectively. Apart from determination of a percentage threshold value, other criteria can be used to determine a more comprehensive limit value. Furthermore, a separate transparency mechanism (with separate threshold values) must be established for very large deviations in network account balances, ie deviations considerably beyond the limit value to be set for the incentive system. Distribution system operators who exhibit an above-average deviation of this nature are to be published in a transparency list on the internet by the market area manager. The transparency list must likewise include all system operators who do not properly comply with data transmission in terms of quality or quantity within the framework of balancing management. This applies to all of a distribution system operator's inputs and offtakes that are recorded on a daily basis within the framework of the network account system. For this purpose the market area managers in collaboration with the distribution system operators likewise determine suitable limit values that ensure there is an incentive to improve data quality on a lasting basis.

Settlement of the network account balance includes in its entirety or as a subset the total of all differential quantities that have occurred on the individual days as a result of overshooting or undershooting of the limit value. The settlement can also be performed monthly.

(2) According to Article 39(4) of the Network Code on Gas Balancing, an incentive mechanism can be provided that supports the provision of a more accurate SLP forecast and satisfies the criteria of Article 11(4) of the Network Code on Gas Balancing. Some of the commenting parties (EnBW, Erdgas Schwaben, Thüga) considered the requirements put forward by the Ruling

Chamber for an incentive system as being too far-reaching, because they understand the arrangement in the Network Code on Gas Balancing as merely being a mandate to the regulatory authority to call on the network operators and market area managers to submit a relevant proposal according to their own criteria. The commenting parties did not, however, fundamentally question the idea of an incentive system to improve forecasting of the standard load profile procedure. Instead, further critical remarks focused on aspects of a future design, in particular the imbalance quantities to be included and the day reference of the proposed incentive system. With the exception of EnBW, the market parties in their comments did not dispute the principle of a fundamental correlation between differential quantities occurring at SLP exit points and the need for balancing gas arising on one day. Rather, the market area managers and the association of transmission system operators pointed out that in the past balancing gas was caused to a significant extent by the differential quantities of the SLP exit points, and for that reason looking at an SLP incentive system on a daily basis would be considered appropriate and make sense.

With regard to the proposal published in the second consultation that the surpluses occurring above a limit value (and not just short supply) should be financially evaluated, the comment from BBH (representing 84 companies) drew attention to the requirement that the incentive effect should be designed with corresponding reciprocal deductions. According to a large number of identical comments, if a payment is envisaged for surpluses the current incentive system of network account settlement as an advance payment for subsequent reconciliation would be ruptured, because in this case it would now also be necessary to pay towards a potential payout amount in favour of the distribution system operator. The intended incentive would be lost, because on the other side of the coin there would be no costs for the market area manager in respect of the distribution system operator's surpluses.

Furthermore, apart from the market area managers, the association of transmission system operators, VNG, VIK/VCI and Bilanzkreiskooperation, all commenting parties rejected the introduction of the day reference. They said that the current monthly view with simultaneous further development of the standard load profiles on the basis of the recommended measures of the expert report currently commissioned by BDEW on further developing standard load profile procedures ("Status report on the standard load profile procedure for gas", compiled by FfE GmbH) should be retained for the incentive system. The key reason given for this was that the deviations that occur with a daily network account view for SLP procedures were said to be mostly caused by the chosen standard load profile procedures, dependent on the system, and could not be prevented by the respective network operator. An incentive to improve SLP allocation can be achieved to only a very limited degree in this way, they maintained, and did not justify the introduction of an incentive regime on a daily basis. Consequently, in the opinion of the commenting parties it is not possible to determine a threshold value with the necessary incentive effect that takes adequate account of these external factors for the individual network operators' different starting points. Rather, they said, there is a risk that the limit values would

either be set so low that they would be exceeded even with the greatest possible effort by the distribution system operators, or the thresholds would be set so high that any incentive effect would be lost. The threshold value of 15% presented for discussion by the Ruling Chamber in the context of the first consultation was judged by the majority of commenting parties as being much too low.

They said that in transitional periods, in particular, the current load profiles were not suited to daily issuing of allocation values that match the offtakes. Significant influencing factors such as the quality of the temperature forecast or the end user's individual offtake behaviour would be beyond the distribution system operators' sphere of influence, such that deviations between allocation and measurement would be very difficult to prevent. This was said to be especially the case in extreme temperature situations (Stadtwerke Am See). Furthermore, deviations of the forecast from the actual consumption data would have to be accepted to a certain level in order to enable standard load profiles to be as uniform as possible. Otherwise there would be a risk that the handling of competition on the gas market could be made difficult by overly individualised standard load profiles. Similarly, there was no longer any development potential in the synthetic load profile procedure (Thüga). In the course of the investigations for the status report on the standard load profile procedure for gas (see above) it was stated that no procedure could be found that enabled a lasting improvement to be made to the forecasting of daily consumption with simple approaches. Some comments (Rheinische Netzgesellschaft RNG, Creos) also pointed to the risk with a daily view, in their opinion, that load profiles individualised by distribution system operators can give rise to negative netting effects market-wide, which would run counter to the intended outcome of a reduction in the use of balancing gas. The entry and exit of gas into/from the network may also be asynchronous to a significant extent, so for this reason too a day-specific view would not appear expedient with regard to the technical conditions of gas transportation, for example system control and use of the linepack (Stadtwerke München, Energienetze Bayern).

In addition, the commenting parties considered themselves to be exposed to disproportionately large financial burdens as a result of the future deductions with the introduction of a daily network account view. They said that this was the case irrespective of whether the distribution system operator's payment would be made to the market area managers when a particular limit for over- and under-allocation was exceeded or only when a fixed threshold value was exceeded in the case of under-allocation. Even if there were to be subsequent offsetting with the SLP reconciliation quantities, in a daily regime greater cash outflows were to be expected when compared with today's monthly basis, especially in the winter months, and therefore substantial demands would be made of the distribution system operators' liquidity management. Moreover, as a rule the companies would suffer additional losses of interest as a result of the time lag between the occurrence of the deductions and the final reconciliation to be performed at the end of a calendar year at the earliest.

(3) By calling on the transmission and distribution system operators to develop an incentive mechanism, the Ruling Chamber is making use of the opportunity given to it under Article 39(4) of the Network Code on Gas Balancing to continue to support the provision of a more accurate SLP forecast by the forecasting party in future. In this respect it also fully meets the objection from EnBW, Erdgas Schwaben and Thüga to request the relevant market parties to submit an appropriate proposal for an incentive mechanism. Contrary to the opinion of the commenting parties, the right to request is not restricted solely to the formal placement of the order to those concerned; rather, Article 11(4) of the Network Code on Gas Balancing likewise opens up the possibility of specifying material minimum requirements of such an incentive system within the framework of the criteria listed there.

(a) In addition the Ruling Chamber has picked up on the suggestion from the commenting companies and associations to the extent that compared with the consultation version the arrangement in the determination now also explicitly includes the payout of over-supplied imbalance quantities to the distribution system operator. In this respect, the amendment of the consultation version has now produced unambiguous editorial clarity that deductions for both surplus and short supply are to be made by the respective market parties, ie that if necessary payments are to be made by the distribution system operators but also by the market area managers. At the same time it also follows from the criteria of the Network Code on Gas Balancing that the previous incentive system on a monthly basis (Cooperation Agreement on Gas) needs to be modified. In the latter, if a network account is found to be in short supply by more than 10%, the entire monthly network account balance (0) is deducted from the future reconciliation. An incentive system that is exclusively oriented to short supply, ie an asymmetric system, does not meet the requirements of the Network Code on Gas Balancing, which assumes capped payments by or to the transmission system operator for outperformance or underperformance by the distribution system operator (Article 11(4)(a) of the Network Code on Gas Balancing). For this reason alone, the request from many commenting parties to continue the current system is not implementable.

At the same time, with regard to the outcome, the concerns expressed by many commenting parties (BBH and identical comments) are rendered superfluous: they considered a general obligation on the distribution system operator to pay the market area manager to be contrary to the principle of reflecting causation, as no concerns would arise for the market area manager in the event of surplus supply. In such a case in future no payment is envisaged from the distribution system operator to the market area manager but instead from the market area manager to the distribution system operator.

(b) In the Ruling Chamber's opinion, however, the design of a symmetrical incentive system does not mean that the current situation with the occurrence of imbalance quantities has to be disregarded when setting the limit values for surplus and short supply. In fact the opposite is the

case. In this regard it must first be pointed out that one-sided imbalances, regardless of their direction, can cause balancing gas and are therefore to be avoided in principle. Thus in the Ruling Chamber's opinion it is necessary to look at surplus and short supply separately in order to examine the level at which limit values can guarantee an incentive for avoiding the imbalances that currently occur at SLP exit points. Since according to the Chamber's understanding these imbalances have so far been very much dominated by short supply, at least in the transitional period and in winter, it appears advisable to orient the incentive system accordingly. This may also include limiting the payments to the distribution system operators in the event of surplus supply, for example to the level of the set limit value per day, or to settle all short supply occurrences on one day as a deduction when a limit value is exceeded.

(c) The Ruling Chamber furthermore holds the fundamental view that an incentive system designed by the market parties constitutes an appropriate and practicable instrument for improving SLP forecasting quality. This instrument has proven its worth in the past on its merits and should therefore also be continued. Consequently the Ruling Chamber does not agree with the objection that it would be better to arrange the observance of SLP forecast deviations in bilateral contracts between the market parties and to disclose and punish inadequate behaviour by the distribution system operators when drawing up the SLP forecasts by means of contractual penalties on the part of the market area manager (Stadtwerke München). Continuing development of the current incentive mechanism on the basis of the existing network account system is in fact seen as a more expedient instrument that meets the requirements for continuous improvement of the standard loan profiles both more flexibly and more transparently, while at the same time ensuring further development of the SLP procedures for all market parties under uniform arrangements and conditions, than would be the case with bilateral contractual agreements. This is also illustrated by the system that has been in place to date, in which the allocation quality of standard load profiles has significantly improved in recent years while standardisation has been maintained. Giving the system a (limited) financial incentive is in conformance with the economic action of companies.

(d) The arrangement under Article 11(4)(d) of the Network Code on Gas Balancing further provides that the incentive system should be designed with reference to the state of development of the relevant gas market. The Ruling Chamber therefore considers a day-specific incentive mechanism to be necessary from which the link can be established between the need for balancing gas arising on one day and the differential quantities resulting from SLP exit points.

The introduction of a daily view within the framework of the SLP incentive system is a necessary adaptation and reflects the reference horizon of the balancing system as a whole. In today's monthly view it is not possible to establish the connection between the daily deviation between the forecast and the actual offtake of SLP exit points and the possibly resulting need for balancing gas, whether in terms of time or in terms of the actual level, because of the summary average view of all days of a month. Instead, with the monthly comparison of the transmitted

SLP forecasts and the calculated SLP offtakes in the distribution system operators' respective network accounts there are arithmetical netting effects which produce a quality of forecasting for the SLP offtakes that is significantly below the deviations that have actually occurred daily, and are thus relevant. This monthly view is no longer appropriate, among other things with an eye to establishing a daily view for the future allocation of costs between RLM and SLP offtakes.

The removal of the netting effects occurring in the monthly view enables the actual magnitude of the differential quantities occurring daily through SLP exit points to be presented transparently and allocation behaviour that is potentially not suitable for the system to be identified at an early stage. This is currently not possible in the summary monthly view. This transparency applies equally to the future improvement potential and the conclusions to be drawn from the existing daily deviations regarding the further development of the SLP procedures and the associated reduction in the use of balancing gas. Likewise, the effect of a daily view is to remove the improper balancing possibilities exploiting the monthly smoothing effect, which attempt to correct the predefined limit value by means of targeted allocation adjustments at the end of the month.

(e) Furthermore, the introduction of the daily view does not bring with it either a fundamental change to the ascertainment of the forecasting quality or a change to the parameters underlying the standard load profile procedures. A more accurate forecast for a network user's non-daily metered offtakes is also to be provided in future in accordance with the existing network account system under the Cooperation Agreement, which in the Ruling Chamber's opinion has proved its worth in the past. In this, the daily forecasting quality continues to be established on the basis of a comparison of the forecasted quantities at the SLP exit points with the arithmetically calculated offtake quantities in the network account. Changing the calculation basis from the currently applicable network account balance 0 to the network account balance 1 makes it possible to include those network accounts in the incentive effect that have only a small proportion of SLP offtakes in relation to RLM offtakes. In this respect the existing incentive system needs to be changed at this point. The details of the use and design of the incentive system will still need to be arranged by the affected market participants (in the Cooperation Agreement), as requested by most of the commenting parties.

Further, the Ruling Chamber does not intend to intensify the future system's incentive effect by moving the reference horizon to the day. It thus considers the assessment incorrect that, in the determination, a loosening of within day obligations for RLM allocations is accompanied by an inappropriate tightening of forecasting accuracy for SLP (Creos). Similarly, in the Chamber's view the change to the assessment period does not result in any changes to the parameters underlying the standard load profile procedures. In order to ensure that the future incentive system is designed to achieve the same effect, it will in fact be important to set the level of the future threshold value and if applicable any other criteria for an overarching limit value such that

as a result, as in today's monthly view, the distribution system operators who systematically (still) show an above-average deviation are subject to an incentive to improve.

The fact that a distribution system operator does not have a direct influence on all factors of the load profile procedure, such as the quality of the temperature forecast or the end user's individual offtake behaviour, applies to the existing monthly view and the daily view in equal measure. As the calculation system for the network account balance is likewise not changing in principle either, the objection from most of the commenting companies that the basis for evaluating the load profiles precludes the introduction of a daily view does not apply. The fact that the limit value to be set in the daily view will be higher than in the current monthly view arises from the smoothing effect of the summary view of the individual days at the end of the month, which is merely aimed at obtaining an average value. Ultimately, even today the monthly forecasting quality for the standard load profile procedures is determined by the SLP exit points' deviations on the individual days. The Ruling Chamber does not dispute that the deviations on the individual days will be more volatile in future than would be identifiable in the monthly comparison. This is not an argument against the use of a daily view, however, but in favour of it, because in future it will show the actual level of the deviation quantities at the SLP exit points and therefore can be set with reference to the day's arisings of balancing gas. In the monthly view this has not led to meaningful results in the past.

The increasing volatility can be countered by setting the threshold value accordingly. The Ruling Chamber deliberately did not impose any restrictive provisions on the market parties in this regard. The limit value of 15% put forward for discussion in the course of the first consultation, which the majority of the commenting parties considered too low, merely constituted an average of the daily deviations and thus served only to indicate that the limit value for a daily view will be higher than that for a monthly view. The Ruling Chamber does not dispute in principle that the volatility of the deviations may not be adequately taken into account with this value in terms of the incentive effect that is to be achieved. Neither, though, does it see the risk described by many commenting parties that in the case of a daily view the threshold values would either be set so low that the tolerance limits would be constantly exceeded even with the greatest possible effort by the distribution system operators or the threshold values would have to be set so high that any incentive effect would be lost. When looking at the volatility of the deviations, in the Ruling Chamber's opinion it is also necessary to consider applying further criteria as well as setting a percentage threshold for a maximum deviation, such as for example a number of non-applicable days that are to be excluded from consideration of the threshold. The limit value must reflect a realistic picture of the actual forecasting risk while taking account of the necessary incentive effect. As the Chamber has only prescribed the framework conditions for an incentive system, with this determination the market parties are not subjected to any additional restrictions in design with regard to the incentive effect to be achieved.

(f) It remains undisputed that certain deviations between the forecast and the actual consumption data generally have to be accepted in the case of standard load profile procedures. This applies to the standard load profile procedure as a general rule, regardless of the chosen time frame of an assessment. In comparison with consumption metering, the use of standard load profiles offers fewer opportunities for intervention to adapt forecasts (Thüga, Schwaben Netz). This is likewise inherent in the system and not due to a daily view.

There are still crucial differences in the various load profile procedures, however. Whereas the forecast in the "synthetic load profile procedure" is based on statistically determined standardised consumption, in the "analytical load profile procedure" the consumption determined for the day ahead is used for the forecast for the delivery day, taking account of the respective actual temperature. The temperature-related imbalance quantity for the delivery day is accordingly statically linked to the difference between the actual temperature of the day ahead (D-2) and the actual temperature of the delivery day (D). With a monthly view of the forecasting risk, this temperature risk is statistically cancelled out apart from the 2-day time lag, although this offsetting does not apply in the case of an incentive system on a day basis. In order to counter this structural disadvantage of the analytical load profile procedure it is necessary to open up the procedure, as requested by some commenting parties (e.g. BDEW). This should be done by in future enabling the use of a forecast temperature for the delivery day, in the same way as the synthetic procedure, in addition to having a fixed time lag. Even if the analytical procedure is used by only around 10% of the distribution system operators, the Ruling Chamber considers it to be still worth supporting the continued use of a procedure approach that uses metered offtakes as the basis for forecasting SLP exit points in the present form and thus also to regulate it in a fundamental manner. Contrary to the opinion of BDEW, this guarantees the standardisation of the procedure, which in the Chamber's opinion is necessary, and ensures that this procedure is used in the same way across the market (as in the case of the synthetic procedure). No other provisions have been imposed on the market parties for the further shaping of the principles of the standard load profile procedures, such that as before there remains sufficient scope for implementation of the procedure and the relevant improvement measures.

(g) The Chamber does not agree with several commenting parties that the daily view in the synthetic load profile procedure would increasingly result in individualised load profiles, which would be to the detriment of desired standardisation and the associated simplified use of load profiles. A sufficiently high threshold value in the future incentive system, possibly with the inclusion of further correction parameters, will counteract potential individualisation of the load profiles in the synthetic procedure at the outset. This applies all the more because the Ruling Chamber has no intention at all to bring about a tightening of the incentive system as suspected by many commenting parties with the introduction of the incentive system. Furthermore it should be pointed out that the standardised measures taken to date by the market parties to improve forecasting quality have already brought about significant improvements to the daily forecasting

quality of load profiles. Changing the evaluation time does not in any way change the improvement potential inherent in the system, especially that of the synthetic standard load profile procedure used by the majority of the network operators.

As far as the Ruling Chamber is aware, the status report on the standard load profile procedure for gas, commissioned by the associations, also certainly contains standardised improvement approaches (e.g. the linearisation of offtake behaviour in cold and warm temperature ranges) which can counteract known weaknesses of the most commonly used synthetic load profile procedure from TU München. The Ruling Chamber thus does not at all share the scepticism that the load profiles' potential for significant improvements has already been exhausted and that it is therefore impossible to counter an incentive effect on a day basis (Thüga). In this regard there is also a failure to recognise that the allocation quality is characterised not only by the procedure used but likewise by the corresponding preparation of and care taken with setting up the associated parameters, the processing of the standard load profile procedures and the transfer of the data to the market parties by the distribution system operators. According to current findings, even aligning the application standards with an average level causes significant improvements to forecasting among those distribution system operators who at present still have above-average imbalances.

(h) The Ruling Chamber also does not agree with the argument that the determination of deviations in SLP offtakes in the daily view has a significantly detrimental effect on the use of linepacks and technical system control under which the entry and exit of gas into/from the networks are asynchronous due to the nature of the system.

The imbalance quantities of SLP exit points in a network account are determined by comparing metered input and offtake values with the SLP allocations, ie the forecasted SLP offtakes. It cannot be ruled out that the network account balance determined in this way may also include hydraulic network inaccuracies in the undefined network account imbalance quantity, as well as metering inaccuracies. However, this effect is to be expected to only a very small extent in a geographically limited distribution system and does not significantly change the determined forecasting quality of the standard load profiles. According to the findings available to the Ruling Chamber, therefore, the impacts can essentially be ignored. Even if this effect were to reach a determinable size, such effects can also be compensated for by adding a supplement to the relevant limit values.

With regard to the linepack position it can be assumed that negative effects do not arise in normal case for distribution system operators with pressure control, because in this case a network balance is not obtained by active control but arises automatically because of the offtakes. Packing can only be actively planned and operated within the framework of a quantity-controlled network. Thus the level of the quantities requested from the upstream network for this purpose must in principle be known, and can therefore be appropriately assigned to the net-

work's quantity balance. If the linepack's quantity balance is known or can be determined using the relevant technical regulations, packing or unpacking can already be carried out on a neutral basis for the network account in today's monthly system at the end of the month. If it is possible to work out the linepack use in the monthly view, this must also be possible in the daily view. The transition to a daily view therefore does not lead to a systematic deterioration. Furthermore, the Ruling Chamber has so far had no complaints from affected network operators who have verifiably made packing or unpacking within the framework of normal network operation responsible for a limit value being exceeded in relation to SLP forecasting quality. Besides, this is likely to affect mainly transmission system operators anyway, who as a rule are not affected by an SLP incentive system, in the absence of SLP offtakes.

(i) Taking account of the limit values that are still to be determined and the establishment of a symmetrical incentive system, the Ruling Chamber sees few grounds for the fear expressed by many commenting parties that the distribution system operator is exposed to additional financial burdens upon the introduction of an incentive system on a daily basis. This impression may have arisen among the commenting parties partly as a result of the double payment obligation that was still emphasised in the text of the second consultation version, and was not further pursued by the Ruling Chamber. At the same time it should be highlighted that the fundamental approach of offsetting limit value transgressions as a deduction from future reconciliation will be retained. In this respect the advance financing occurring up until the time of reconciliation in turn contrasts with temporary revenues and interest benefits for excessive input quantities. Moreover, many example calculations by the commenting parties merely consider threshold values and neglect the potential need to include other criteria for a comprehensive limit value in order to achieve the intended constant incentive effect when compared with today's system.

(j) Alongside the evaluation of the incentive system by the market parties in accordance with Article 42(4) of the Network Code on Gas Balancing, the Ruling Chamber, in conformity with Article 11(4) of the Network Code on Gas Balancing, continues to consider it necessary to observe the effects of the new assessment period and the measures taken by the market parties to design the SLP incentive system, and to examine, at appropriate intervals, whether and to what extent any corrections may be needed. This applies in particular to the limit values that are to be set and their effect in comparison with today's system. The comments from the companies did not address in any further detail the transmission of network account data to the Bundesnetzagentur by the market area managers envisaged for this purpose.

After all, the transparency mechanism that has already been introduced is to be retained; by way of publication on the market area managers' website it lists those distribution system operators whose data transmission for the inputs and offtakes of the network accounts is not properly carried out in terms of quality or quantity. In this regard the Ruling Chamber concurred with the proposal from the majority of commenting parties that the relevant limit values should be set

jointly by all affected market parties, ie distribution system operators and market area managers. The criteria previously devised by the market area managers appear to present a suitable foundation for this. The market area managers' publications from the past show that there remains a need for continuation of the arrangement. Despite the – on average – improvements in the quality and transmission of the data, a not inconsiderable number of network operators plainly still suffer significant deficiencies that have so far not been eliminated. In qualitative terms, this applies in particular to the transmissions in the case of RLM exit points. The Chamber thus decided to separately highlight this group in the determination once again and to regulate the details. Both the market area managers' publications and the two hearings held in the course of the consultation showed that in some cases there are still considerable shortcomings in the transmission quality of the time series of RLM exit points (especially RLMmT, RLMoT), between the provisional transmissions and the values finally established at the end of the month. Variation rates of over 25% are still found for some network operators, which the Chamber considers to be absolutely inadequate, not least in light of the market participants' rising information needs, as also documented in the Network Code on Gas Balancing. It therefore considers it urgently necessary to identify, analyse and evaluate on the one hand the deviations of specifically these time series between the within day (D) transmissions and those made on the following day (D+1) and on the other hand the deviations between these two transmissions and the final values established at the end of the month.

4.3.9. Reporting and evaluation obligations (operative part (9))

The operative part (9) deals with reporting and evaluation obligations imposed on the market area managers and distribution system operators. The corresponding stipulations pertaining to the reporting and evaluation obligations already result from the Network Code on Gas Balancing. Beyond the rulings of the Network Code on Gas Balancing, among other things it is necessary to set the specific deadlines for submission of the reports. The reporting and evaluation obligations enable the Bundesnetzagentur to produce for itself a picture of the status and development of the balancing system on a regular basis. In this way the effectiveness and efficiency of the system can be evaluated and any changes that need to be made to the underlying mechanisms can be identified. The reporting and evaluation obligations thus for their part contribute to the overarching goal of the Network Code on Gas Balancing, to be able to manage balancing portfolios in an economically efficient and non-discriminative manner. The effect of pooling the various reporting and evaluation obligations from the Network Code on Gas Balancing is that the overall situation is taken into account and the information provided is ultimately presented more clearly and is thus easier to assess. This minimises administrative effort for both the Bundesnetzagentur and those subject to the obligations. In detail the reporting and evaluation obligations relate to the procurement and use of internal and external balancing gas (see section 4.3.9.1. below), the forecasting quality of the standard load profiles and the incentive system for SLP exit

points (see section 4.3.9.2. below), the costs and benefits of increasing the provision of information to the network users, a shortening of the intervals between the provision of information and an improvement in the accuracy of the transferred information (see section 4.3.9.3. below).

4.3.9.1. Summary report on balancing gas

(1) According to the operative part (9)(a), the market area managers are obliged to send the Ruling Chamber a report on the procurement and use of internal and external balancing gas in their respective market area once a year. The first report is to be sent one year after the determination enters into force. Among other things this report shall include the reports and evaluations prescribed under the Network Code on Gas Balancing, and group them in one report. This relates to the description and review of the implemented and planned interim measures in accordance with Article 46 of the Network Code on Gas Balancing, a review of the use of balancing services in accordance with Article 8(6) of the Network Code on Gas Balancing and an analysis of the procurement or provision of balancing gas in accordance with Article 9(4) of the Network Code on Gas Balancing.

(2) The reporting obligations on the description and review of the implemented and planned interim measures, the review of the use of balancing services and the analysis of the procurement or provision of balancing gas derive from the Network Code on Gas Balancing itself. In summary, the reporting obligations laid down in the Code relate to the experience that those obliged to submit reports have had with the procurement and use of internal and external balancing gas. In the interests of administrative convenience, for reasons of clarity and in order to place the individual reports in an overall context, the individual reports from the Network Code on Gas Balancing dealt with in the operative part (9)(a) are consolidated in one joint report.

The report is intended to encompass all experience with the procurement and use of internal and external balancing gas. It should therefore not be restricted to the reporting obligations from Articles 46, 8(6) and 9(4) of the Network Code on Gas Balancing. In this respect this determination is also based on § 50(1) no. 7 GasNZV in conjunction with § 29(1) EnWG and § 40(2) GasNZV. According to § 50(1) no. 7 GasNZV, the Ruling Chamber may adopt determinations on the procedure for the procurement, use and settlement of balancing gas in order to realise efficient network access and for the purposes stated in § 1(1) EnWG. If the Ruling Chamber is empowered to determine the procedure for the procurement, use and settlement of balancing gas, according to the principle a maiore ad minus it must also be able to determine less far-reaching reporting obligations. This is necessary among other things in order to ensure that the determination continues to satisfy the conditions, if appropriate by means of subsequent amendments pursuant to § 29(2) EnWG. The reporting obligation is also included as a lesser measure in the further-reaching obligation to publish in accordance with § 40(2) GasNZV.

(a) The determination in relation to the description and review of the implemented and planned interim measures is based on Article 46 of the Network Code on Gas Balancing. According to this, the market area managers must submit to the national regulatory authority a report on the planned implementation or the planned continuation of implementation of interim measures for approval. Interim measures according to Article 45 ff. of the Network Code on Gas Balancing are measures for operational balancing where the short-term wholesale gas market has or is anticipated to have insufficient liquidity or where temporal products and locational products required by the transmission system operator cannot reasonably be procured on this market.

In the recommendation document the two market area managers applied for approval to continue to use the balancing platforms in accordance with Article 47of the Network Code on Gas Balancing initially for a period of five years and presented the report in accordance with Article 46(3) of the Network Code on Gas Balancing. With the planned continuation of implementation of this interim measure, therefore, updated follow-up reports may need to be submitted annually. In the interests of pooling the various reporting obligations and in order to enable the market area managers to carry out consistent reporting, the term "annually" in Article 46(3) of the Network Code on Gas Balancing should not refer to the time of the submission of the first report but to the entry into force of the determination.

(b) The review of the use of balancing services is based on Article 8(6) of the Network Code on Gas Balancing. According to this, the market area managers review the use of their procured balancing services annually in order to assess whether available short-term standardised products would better meet the operational requirements and whether the use of balancing services could be reduced for the next year. The Network Code on Gas Balancing therefore obliges the market area managers first to review the use of balancing services and not directly to submit a report on the matter to the national regulatory authority. As explained above, the Ruling Chamber may determine reporting obligations relating to the procurement and use of balancing gas. The determination of such a reporting obligation is also proportionate and does not abuse the granted discretion. In this connection it should particularly be borne in mind that under the Network Code on Gas Balancing the market area managers are obliged to perform a review. The submission of a report with relevant content thus does not involve additional effort, and as the submission of the report enables evaluation to be carried out by the Ruling Chamber it contributes to the realisation of effective network access.

(c) According to Article 9(3) first sentence of the Network Code on Gas Balancing, the market area managers may submit an application for approval to procure or supply balancing gas in adjacent market areas as an alternative to procuring or supplying balancing gas in their own market areas. According to Article 9(3) third sentence of the Network Code on Gas Balancing, the applicable terms and conditions will be reconsidered on an annual basis.

In the recommendation document the two market area managers made an application for approval in accordance with Article 9(3) first sentence of the Network Code on Gas Balancing and submitted an analysis of the need for approval from their viewpoint. The Network Code on Gas Balancing does not directly demand that the market area managers submit such an analysis. However, as already explained above, the Ruling Chamber may determine reporting obligations relating to the procurement and use of balancing gas. The obligation to submit an analysis of the procurement or use of balancing gas in a neighbouring market area is also proportionate and does not abuse the granted discretion. The analysis is necessary in order to enable the Ruling Chamber to perform the review of the terms and conditions for the procurement and use of balancing gas in neighbouring market areas envisaged on an annual basis. This applies in particular in light of Article 9(3) second sentence of the Network Code on Gas Balancing, which allows the consideration of alternative solutions to improve the functioning of the domestic market when a decision is taken on the approval for the procurement and provision of balancing gas in adjacent market areas. A comprehensive analysis is needed as a decision-making basis in order to assess these alternative solutions.

(d) In addition, as part of the annual balancing gas report the market area managers have to carry out regular monitoring of local balancing products, in particular the frequency with which they are used and the used quantity, and the advantages and disadvantages of weighting when determining the annual distribution formula for the neutrality charges for balancing. On the basis of these results it is intended to be possible to assess whether the choice of product for determining the imbalance charges requires adjustment (see remarks in section 4.3.2.2.) and whether the advantages of weighting for determination of the distribution formula overcompensate for the disadvantages (see remarks in section 4.3.7.2).

4.3.9.2. Report on the forecasting quality of the standard load profiles and on the SLP incentive system

(1) The operative part (9)(b) obliges the distribution system operators to review the forecasting quality of the standard load profiles and the incentive system for SLP exit points on a regular basis. After the introduction of the incentive mechanism, the distribution system operators must report on the results of the respective evaluation to the Ruling Chamber every two years. The report must contain details of the forecasting accuracy of the standard load profile procedures used, as achieved in the reporting period. In addition the distribution system operators are to make recommendations on possible improvements to the standard load profiles and on possible changes to the incentive mechanism for SLP exit points. The market area managers participate in this procedure and provide the distribution system operators with the data needed for the evaluation. The first report is to be submitted on 1 October 2018.

(2) The operative part (9)(b) further specifies Article 42(3) of the Network Code on Gas Balancing. According to this, the forecasting party must publish a report on the accuracy of the forecast of a network user's non-daily metered offtakes at least every two years. The distribution system operators were named as the forecasting party by the Ruling Chamber in accordance with Article 39(5) of the Network Code on Gas Balancing, preserving the procedure described there (see section 4.3.1.).

The Ruling Chamber made use of the option offered by Article 39(4) of the Network Code on Gas Balancing. According to this the network operators are obliged to submit a proposal for an incentive mechanism for the provision of an accurate forecast for a network user's non-daily metered offtakes (see section 4.3.8.). Recommendations on potential improvement of the incentive system are to be submitted with the report. The purpose of the report is to continue to support the provision of a more accurate standard load profile forecast in future. As well as experience with the new incentive system, it is also necessary to take account of the current forms of the SLP imbalance quantities and the current incentive mechanism. In order to ensure a cross-market-area assessment of the standard load profile procedures that are used, the market area managers participate in preparing the report and in accordance with Article 42(4) of the Network Code on Gas Balancing make the data needed for an investigation available in the appropriate form. To allow assessment of the incentive mechanism that is to be introduced, therefore, the distribution system operators must be given enough time in the use of the system before they have to evaluate it in the report that they have to submit. The distribution system operators should therefore have the full period of two years specified by the Network Code on Gas Balancing available to them in order to gather experience with the mechanism before it is examined and recommendations on possible improvements and changes are to be submitted. The first report is therefore to be submitted to the Ruling Chamber two years after the incentive system has been implemented.

4.3.9.3. Cost benefit analysis

(1) According to the operative part (9)(c), the market area managers are obliged to conduct a cost benefit analysis and to report to the Ruling Chamber by 1 October 2018. The analysis must assess the costs and benefits of an increase in the frequency of the provision of information to the network users, a shortening of the intervals between the provision of information and an improvement in the accuracy of the transferred information. This cost benefit analysis must contain a breakdown of costs and benefits for the affected parties.

(2) The operative part (9)(c) is based on Article 38 of the Network Code on Gas Balancing. The cost benefit analysis to be produced according to this must contain a breakdown of costs and benefits for the affected parties, and the market area managers must consult the stakeholder groups in cooperation with the distribution system operators on matters where they are affected.

On the basis of the consultation results, the Ruling Chamber decides on any relevant changes of information provision. The market area managers must submit the assessment within two years of an information provision system established on the basis of the Network Code on Gas Balancing becoming effective, in other words on 1 October 2018. The Network Code on Gas Balancing provides that the cost benefit analysis is to be submitted within two years of the Network Code on Gas Balancing entering into force. Pursuant to Article 53 first sentence of the Network Code on Gas Balancing, it entered into force on the twentieth day following its publication in the Official Journal of the European Union. The Network Code on Gas Balancing was published in the Official Journal of the European Union on 27 March 2014, so accordingly it entered into force on 16 April 2014. Although according to Article 53 second sentence the Network Code on Gas Balancing applies only from 1 October 2015, this is the case notwithstanding Article 38(1) of the Network Code on Gas Balancing, which relates specifically to the market area managers' reporting obligation. According to the interpretation of the wording of the regulation, therefore, the market area managers ought to submit the report as soon as 16 April 2016.

However, the obligations arising from Article 24 ff. of the Network Code on Gas Balancing in relation to the within day obligations and the corresponding provision of information only apply from 1 October 2015 according to Article 53 second sentence of the Network Code on Gas Balancing. Article 28 of the Network Code on Gas Balancing is an exception, but this relates solely to existing within day obligations. The market area managers would then have less than a year to gather experience with the new arrangements for within day obligations within the framework of the Network Code on Gas Balancing. The Ruling Chamber judges this to be inadequate to be able to perform the assessment and submit the comprehensive cost benefit analysis, which furthermore also requires consultation with the stakeholder groups. An added difficulty is that the determination further specifies the requirements of the Network Code on Gas Balancing in the operative part (5). The changes to the existing system are far-reaching, and must also be backed up by the market area managers with further developments in the field of information technology processing. Among other things the changes to the existing system concern the design of within day information provision with two data reports. In comparison with the current status this leads to a doubling of submissions, an expansion of the network users' information base by three hours and a shortening of the submission periods. In addition, the arrangements for the submission periods were adjusted, and reduced to a total of four hours. These provisions are only to be applied with effect from 1 October 2016 according to the operative part (11).

Against this background, a report to be submitted on 16 April 2016 might provide no insights at all into the use of the new system and would thus not be suitable for fulfilling the purpose of evaluating or encouraging more detailed information provision. In order to be able to assess the costs and benefits of an increase in the frequency of the provision of information to the network

users, a shortening of the intervals between the provision of information and an improvement in the accuracy of the transferred information with a breakdown of costs and benefits for the affected parties, there is a need for comprehensive empirical values. The market area managers' obligation to consult on the assessment with the stakeholder groups in cooperation with the distribution system operators, and then if applicable adapt it, means there is a need for an additional time allocation, because the market area managers are supposed to produce and submit the cost benefit analysis on the basis of the results of the consultation. The market area managers must therefore be given sufficient time to be able to do justice to the tasks assigned to them and in particular any changes to the system of information provision by the Ruling Chamber must be based on as comprehensive an information and experience base as possible and with the inclusion of all possible stakeholder groups and their experience with the new system of information provision. This is the only way to promote the intended efficient development of the system of information provision. According to its spirit and purpose the statement "within two years as from the entry into force of this Regulation" in Article 38(1) first sentence of the Network Code on Gas Balancing is therefore to be interpreted such that the assessment is to be submitted within two years of an information provision system established on the basis of the Network Code on Gas Balancing becoming effective.

4.3.10. Transparency obligations (operative part (10))

The operative part (10) deals with the market area managers' publication obligations. In principle the previous high level of market transparency is maintained. In certain sub-areas supplements and further specifications have been added to the previous system of information provision from the obligations arising from EnWG, GasNZV, Regulation (EC) No 715/2009 of 13 July 2009 on conditions for access to the natural gas transmission networks and the determination on balancing services of 28 May 2008 (file reference BK7-08-002). Some additional obligations have been defined that derive indirectly from the new Network Code on Gas Balancing system. The publication obligations serve to promote market transparency and are a key prerequisite for an efficient and properly functioning balancing gas and imbalance gas system. The market participants need this information in order to be able to identify and evaluate possible balancing and economic risks and if necessary adapt their market behaviour accordingly. The transparency created by provision of the information strengthens trust in the functional capability of the balancing gas and imbalance gas system, in that way promotes the development of a competitive gas market and enables the market participants to balance their balancing groups efficiently. In order to achieve the greatest possible degree of transparency, the information that is to be published and regularly updated must be made available to all market participants promptly, to the appropriate extent and on a non-discriminatory basis. The information must therefore be published in a format suitable for further electronic processing by standard software on the market area managers' website in order to allow automated evaluation. In this way market

participants are able to access the published information quickly, evaluate it efficiently and thus make it the basis for their market activities. This supplements and further specifies the information provision requirements in Article 32 ff. of the Network Code on Gas Balancing.

The determinations over and above the publication obligations from the Network Code on Gas Balancing and § 40 GasNZV are based on § 50(5) first sentence GasNZV in conjunction with § 29(1) EnWG. According to § 50(5) first sentence GasNZV, by way of the determination the Ruling Chamber can oblige the network operators to publish additional information, over and above that specified in § 40 GasNZV, which is necessary for competition in gas trade or with regard to delivery to customers. The market area managers are also to be included under the term "network operators" of § 50(5) first sentence GasNZV. The term network operator is not defined in the GasNZV. § 50(5) first sentence GasNZV itself refers to the information on network operators according to § 40 GasNZV, where obligations are stated for both network operators and market area managers. This could be an argument for differentiating between the two terms, namely network operators and market area managers. However, § 20(1) fourth sentence GasNZV enables the transmission system operators to commission the market area managers with "further network operation tasks". The market area managers' statutory tasks according to § 20(1) third sentence GasNZV are therefore those of network operation, so market area managers are also "network operators". This applies in particular with consideration for an interpretation according to the spirit and purpose of the regulation, namely to enable the publication of network-related and market-relevant information in order to encourage competition in gas trade.

The individual publication obligations relate to the prices for imbalance gas (see section 4.3.10.1. below), within day obligations and within day information (see section 4.3.10.2. below), balancing gas (see section 4.3.10.3. below), neutrality charges for balancing (see section 4.3.10.4. below), the monthly net balances of the neutrality charge accounts (see section 4.3.10.5. below) and the reports and evaluations to be produced according to the operative part (9) (see section 4.3.10.6. below).

4.3.10.1. Prices for imbalance gas

(1) According to the operative part (10)(a), the market area managers are obliged to publish information relating to imbalance charges and prices. This concerns the methodology for calculating the imbalance charges, which is to be published following approval by the Ruling Chamber, the imbalance charges used, which are to be published after the end of the balancing period, and the information for determining the daily positive and negative imbalance prices taking account of the information required in accordance with § 40(2) nos. 1 and 2 GasNZV. This obligation also explicitly includes the information required for the derivation of the parameters, such as the highest balancing gas purchase price, the lowest balancing gas sales price, the

weighted average price with a small adjustment of +/- 2% and, updated on an hourly basis, the expected imbalance prices. The information on the daily values must be held available by the market area managers retrospectively for at least the last 12 months.

(2) With regard to the methodology for calculating the imbalance charges, the determination is based on Article 20(2) first sentence of the Network Code on Gas Balancing and essentially reproduces its wording. According to this, the market area managers must publish the daily imbalance charge calculation methodology on the relevant website following approval by the Bundesnetzagentur. The daily imbalance charge calculation methodology must be published at the earliest possible time, namely after being approved by the Bundesnetzagentur. Publication prior to approval, for example in the form of a draft version (as requested by Statoil), neither appears meaningful nor would it allow the market participants the required secure outlook.

In addition to the methodology for calculating the imbalance charges, the market area managers are also to publish the imbalance charges used after the end of the balancing period. This part of the determination is based on § 40(2) no. 2 GasNZV and essentially reproduces its wording. Insofar as the market area managers are obliged to publish information for determining the daily positive and negative imbalance prices, taking account of the information required in accordance with § 40(2) nos. 1 and 2 GasNZV, this obligation is the result of Articles 22, 23 of the Network Code on Gas Balancing, which contain provisions on how to calculate the daily imbalance prices, and the operative part (2), which is based on those articles.

The determination of a publication obligation is proportionate and does not abuse the granted discretion. The publication of this information is necessary for competition in gas trade. Its purpose is to make the imbalance prices transparent and thus plannable for the market parties, and it is therefore an important instrument for promoting competition in gas trade. Publication of the hourly updated expected imbalance prices and the final prices for positive and negative imbalance gas enables the balancing group managers to calculate and understand the costs of a possible balancing group imbalance. For the sake of clarification it must be pointed out that the hourly updated expected imbalance prices are only to be published by the market area managers within the respective day. Once the final imbalance prices are available, only the corresponding daily values are to be published. Furthermore, publishing the historical daily values from the past 12 months enables the market participants to follow the price trend and to forecast it as it is updated. The transparency created by provision of the information regarding the transparency created for the derivation of the marginal buy price and the marginal sell price boosts market confidence, in that way promotes the development of a competitive gas market and enables the market participants to operate efficiently in this market. In addition, publication of the data reduces the potential for discrimination.

In conformity with § 40(2) no. 3 GasNZV, the operative part (10)(a) obliges the market area managers to hold the information on the daily values available retrospectively for the last 12

months. Any obligation over and above this appears to be neither sensible nor appropriate. As a result of the determination the market area managers are free to hold this data available beyond the minimum envisaged period. If they do not make use of this possibility and individual market participants have a need to keep historical data for longer, it is possible and also reasonable that the relevant market participants store the published data for the period themselves and hold it available. To the Ruling Chamber this appears to be an appropriate balance between the interests of the market area managers and the market participants.

4.3.10.2. Within day obligations and within day information

(1) According to the operative part (10)(b) the market area managers are obliged to publish the quantities of flexibility balancing gas and the associated costs as well as the respective daily flexibility charge in euros per MWh on a daily basis.

(2) The publication obligations for the market area managers are accompanied by the introduction of within day obligations in the operative part (4). Publication obligations relating to balancing gas are provided for in § 40(2) GasNZV. The Network Code on Gas Balancing also imposes content-related requirements on the possible introduction of within day obligations in Article 24 ff. In addition, § 50(5) first sentence GasNZV enables the Ruling Chamber to oblige those affected to publish information over and above that specified in § 40 GasNZV.

The determination of a publication obligation of this nature is proportionate and does not abuse of the granted discretion. The information on the within day obligations is necessary for competition in gas trade. The within day obligations are intended to provide incentives for the network users to adapt their transport behaviour within the gas day such that system integrity is ensured and the need to undertake balancing actions is minimised. Publication obligations are necessary in order to support the positive incentive of the within day obligations system and boost the market's confidence in this system. The transparency created by provision of the information promotes the development of a competitive gas market as a result of the market's greater confidence. In addition, publication of this data reduces the potential for discrimination, improves predictability for the market participants and encourages efficient operation of the transmission network. Publication of the quantities and costs of flexibility balancing gas and of the flexibility charge enables the balancing group managers to calculate and understand the costs of a possible within day balancing group imbalance. This incentivises efficient behaviours appropriate to the market situation.

The request for the publication of examples of the way in which flexibility charges will be calculated in future (Statoil) is considered by the Ruling Chamber to have been met by the remarks on the operative part (4)(c), where the methodology for determining the flexibility charge is explained and also illustrated with the aid of examples (see section 4.3.4.). In this way market

participants are able to obtain an in-depth impression of the future system before the relevant arrangements are put into practice from 1 October 2016 (operative part (11) second sentence).

4.3.10.3. Balancing gas

(1) According to the operative part (10)(c) the market area managers are obliged to publish information about the use of internal and external balancing gas on a daily basis and retrospectively for at least 12 months. For the use of external balancing gas, this information comprises in particular: day of use, delivery location, MOL rank, duration of use, lot size, quantity, gas quality and commodity price. For the use of MOL rank 4 products, information about the type of product, network area/location, lot size, period, price and gas quality of the contracted service must be published in addition. Furthermore, concurrently with the granting of approval (see section 4.3.6.), information about the costs and period of the capacities contracted for the procurement of balancing gas in adjacent market areas must be published.

(2) Some comments were in favour of using the term "location" instead of the term "network area", as it was said to be more common (joint comment from BDEW, VKU and GEODE; joint comment from GASPOOL, NCG and FNB Gas; Thüga and RWE support the joint comment from BDEW, VKU and GEODE).

GDF Suez welcomed the market area managers' obligation to publish information about the use of internal and external balancing gas on a daily basis, stating that this made very much sense in order to be able to keep track of the market area managers' procurement behaviour and issuing a reminder that regular and consistent data maintenance is necessary in this connection.

(3) The Network Code on Gas Balancing and the GasNZV already include, in § 40(2) GasNZV and Articles 8(7), 9(1), (4) und (3) of the Network Code on Gas Balancing, publication obligations for the market area managers relating to balancing gas, flexibility services and balancing actions in general. The publication obligations for external balancing gas are further specified in Article 9(4) of the Network Code on Gas Balancing. The term balancing actions corresponds to that of external balancing gas within the meaning of the determination. The information generally described by costs, frequency and number is further specified and adapted to the requirements for external balancing gas in accordance with Article 9(1) of the Network Code on Gas Balancing. The publication of this information enables potential market participants to assess the market for external balancing gas and against this background evaluate the possibility of entering the market or adapting and optimising their own market behaviour.

With regard to MOL rank 4 products (balancing services), further publication obligations are specified in the operative part (10)(c) third sentence. In this respect, too, the determination is proportionate and does not abuse the granted discretion. The choice of this information is based in particular on the requirements imposed by Article 8(2) of the Network Code on Gas Balancing on the use of balancing services, and is necessary for competition in gas trade. The non-

discriminatory access to the information required for the procurement process for balancing services enables potential market participants to assess the technical and economic situation on the market and to design their offers accordingly. This paves the way for market entry and increases efficiency. The transparency thus created also establishes confidence in the market and minimises the potential for misuse and discrimination.

The determination relating to the information about the costs and period of the capacities contracted for the procurement of balancing gas in adjacent market areas is connected to the approval of a corresponding application by the market area managers in accordance with Article 9(3) of the Network Code on Gas Balancing (see section 4.3.6.2.3.). With the approval, the corresponding information according to Article 9(4) of the Network Code on Gas Balancing is to be published.

The Ruling Chamber has picked up on the suggestion relating to the term "network area". The term "location" is added to this term. The customariness of the term "location" is not apparent from the legal framework. In fact, § 20(3) second and third sentences GasNZV refer to "network areas". For reasons of linguistic certainty, therefore, the term "network area" already used in the GasNZV was not to be deleted but supplemented. Combining the two terms avoids uncertainty for those concerned in application of the obligation and the terminology of the GasNZV.

(d) The information to be published must meet the requirements from the Network Code on Gas Balancing and the determination, i.e. it must of course be maintained regularly and consistently. The market area managers must ensure that the required information is published in full and correctly for the specified period and is available for further electronic processing. The market participants are free to edit the available data to suit their individual requirements.

4.3.10.4. Neutrality charges for balancing

(1) According to the operative part (10)(d) the market area managers are obliged to publish the neutrality charges for balancing and the decision regarding a possible distribution six weeks before the start of the respective period of validity. The calculation basis and calculation system for forecasting the neutrality charges for balancing and the distributions must likewise be published.

(2) In some comments it was requested that the term "calculation steps" be replaced by "calculation system" (joint comment from BDEW, VKU and GEODE; joint comment from GASPOOL, NCG and FNB Gas; Thüga AG and RWE AG supported the joint comment from BDEW, VKU and GEODE). They said that publication of the calculation basis and steps should not, however, be allowed to lead to encouragement of a possible anticompetitive procedure. The information to be published should allow the market participants to gain a fundamental understanding of the calculation basis.

In their joint comment GASPOOL, NCG and FNB Gas called for the term "at least" to be deleted. Otherwise the market area managers would have to publish this information immediately as "insider information" as soon as they have determined the neutrality charge for balancing internally. This was said to derive from Article 3 ff. of REMIT (Regulation (EU) No 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency, OJ EU No L 326/1 of 8 December 2011). If, however, a precise time is defined according to national regulations, according to REMIT this point in time would be the applicable one for publication.

(3) In Article 29(4) the Network Code on Gas Balancing already provides for a publication obligation for the total of the (imposed) neutrality charges for balancing. The obligations regarding the neutrality charge for balancing for the respective validity period, the possible distribution, the calculation for forecasting the neutrality charge for balancing and distributions are based on § 50(5) first sentence GasNZV in conjunction with § 29(1) EnWG. These obligations are proportionate and without the abuse of discretion. Publication of the additional information that is not already stipulated in § 40 GasNZV is necessary for competition in gas trade. The provision of this information strengthens market confidence in the principle of the neutrality of costs and revenues of the balancing and imbalance gas system. The information provided enables the market participants to understand the market area managers' forecasts and by viewing and comparing the various data to assess the development of the market and to adapt and optimise their behaviour.

The Ruling Chamber complied with the request to replace the term "calculation steps" with "calculation system". The information to be published, however, is intended to allow the market participants to understand the forecast of the neutrality charge for balancing in the individual forecasting stages, in particular the formation of the liquidity buffer, without the full calculation having to be disclosed. In parallel with Article 30(2) and (4) of the Network Code on Gas Balancing, sufficient information is to be made available. This is intended to enable market participants to understand the market area managers' forecast calculation ex post. As a result, market confidence is meant to be strengthened and potential for discrimination reduced. Full disclosure of the forecast calculation was not intended with the draft version, so replacement of the term serves the purpose of clarification.

The Ruling Chamber has likewise met the request to delete the term "at least". As a result of this deletion, publication is in due time within the meaning of Article 4(1) first sentence of REMIT if it take place six weeks before the start of the validity period. The information does not have to be published immediately after internal calculation. A lead time of six weeks is considered reasonable to enable the market to plan and respond appropriately. This minimum requirement is to remain in place, even if the internal calculation has arrived at a result earlier than six weeks before the start of the respective validity period of the neutrality charge for balancing. In the

Ruling Chamber's view a lead time of six weeks on the one hand offers those concerned the possibility of taking appropriate account of the latest developments when forecasting while on the other hand the market participants still have sufficient time to include the level of the future neutrality charge for balancing and of the possible distribution in their planning.

4.3.10.5. Monthly net balances of the neutrality charge accounts

(1) The operative part (10)(e) obliges the market area managers to publish the monthly balance of the neutrality charge accounts with all revenue and cost items. This is done as soon as all final values required for the publication of a settlement month are available. As the annual distribution formula is determined ex post, all cost and revenue components to be apportioned according to the formula are provisionally allocated to the two neutrality charge accounts for SLP and RLM exit points according to the distribution formula of the previous year for the purpose of publication. In the first year there is as yet no distribution formula from the previous year, so the cost and revenue components are provisionally apportioned according to the distribution formula 50:50. After submission of the annual distribution formula, the cost and revenue items to be apportioned according to the annual distribution formula are corrected retroactively. For the first gas year beginning on 1 October 2015, determination of the distribution formula and retroactive correction of the provisional apportioning of the cost and revenue components are carried out with reference to the six-month contribution period. All cost and revenue items of the neutrality charge accounts, such as the costs and revenues from the procurement or sale of external balancing gas or those from negative or positive and negative imbalance gas, must be shown separately in the publication.

(2) Some comments called for a supplement to the wording of the operative part (10)(e) with the addendum that all cost components to be apportioned according to the annual distribution formula should be provisionally assigned to the two neutrality charge accounts according to the distribution formula 50:50 for the purpose of publication (joint comment from BDEW, VKU and GEODE; supported by Thüga and RWE). The market area managers would not know the annual distribution formula until 30 September 2016 at the earliest. As it would be unclear where the market area managers had booked the costs to by this point in time, until the annual distribution formula is known the costs and revenues should initially be apportioned on a 50:50 basis and finally apportioned ex post when the formula is known.

(3) The obligation to publish the monthly net balances of the neutrality charge accounts is based on Article 29(4) of the Network Code on Gas Balancing and § 50(5) first sentence GasNZV in conjunction with § 29(1) EnWG. The publication obligation is proportionate and does not abuse of the granted discretion, is necessary for competition in gas trade and serves to give planning certainty to the balancing group managers. They are put into a position to forecast whether to expect deficits or surpluses on the neutrality charge accounts and consequently an adjustment

of the neutrality charge for balancing or a distribution. This enables the balancing group managers to adapt their behaviour accordingly.

The Ruling Chamber met the request to supplement the wording in the operative part (10)(e). As there is no distribution formula from the previous year available in the first year, at this point in time a 50:50 distribution formula should be used for apportioning between the neutrality charge accounts for the purpose of publication. As in the case when the previous year's formula is applied to the cost and revenue components, this split is provisional and is for the purpose of publication. This was clarified for both cases in the wording of the operative part.

4.3.10.6. Publication obligations for reports and evaluations

(1) According to the operative part (10)(f), the market area managers must publish a meaningful summary of the reports and evaluations in accordance with the operative part (9).

(2) The obligation to publish the summary of the reports is based on § 50(5) first sentence GasNZV in conjunction with section 29(1) EnWG. It is proportionate and does not abuse of the granted discretion. The publication is necessary for competition in gas trade. The publication serves to establish transparency regarding the reporting and evaluation obligations from the operative part (9). The reports and evaluations to be prepared according to the operative part (9) are to be submitted to the Ruling Chamber only and are therefore not available to the market participants. As the reports are important for the further development of the balancing system, at least a meaningful summary should be published. Such a summary enables the market participants to understand and assess the technical and economic development of the system. The market participants should therefore be given the opportunity to obtain information about the state of development over and above the participatory processes as provided for within the framework of Article 38 of the Network Code on Gas Balancing, for example. This strengthens market confidence and paves the way for long-term strategies and market behaviour appropriate to developments, and thus contributes to competition in gas trade. In the Ruling Chamber's view, the obligation to publish meaningful summaries strikes an appropriate balance between on the one hand establishing the necessary transparency for market participants and on the other providing the opportunity to understand the analyses and results of the reports without individual market participants' and other concerned parties' economically sensitive data contained in the reports being made public.

4.3.11. Implementation (operative part (11))

(1) Pursuant to the operative part (11), market area managers, transmission system operators and distribution system operators are in principle obliged to implement the provisions made in the present determination from 1 October 2015. The implementation deadline is extended until 1 October 2016 only for the provisions of the operative part (4) (within day obligations) and (5)

(information provision). This means that the provisions from the determination are to be applied with effect from 1 October 2015 or 1 October 2016 respectively and where necessary are to be included in all relevant existing contracts and in future contracts. This may relate not only to existing or future balancing group contracts but also to other contracts whose provisions are changed as a result of the present determination.

(2) The staggered implementation of the determination on 1 October 2015 and 1 October 2016 was requested by the market area managers and transmission system operators with the recommendation document of 3 March 2014. In their recommendation document they had assumed, subject to the specific design of the balancing system by the Ruling Chamber, that in the majority they can implement by 1 October 2015 and had requested an extension of the implementation deadline until 1 October 2016 only for the arrangements on information provision and on within day obligations. The reason given for this extension of the implementation deadline was that additional intraday RLM data provision and processing would necessitate a significant change to existing IT systems and therefore would only be implementable from 1 October 2016. Furthermore, implementation of the arrangements on the within day obligations would require further extensive changes to the balancing system, which likewise could not be implemented until 1 October 2016.

(3) The Ruling Chamber ultimately decided to uphold the request from the market area managers and transmission system operators and to prescribe general implementation from 1 October 2015, and only to extend the implementation deadline until 1 October 2016 for the arrangements on within day obligations (the operative part (4)) and information provision (the operative part (5)). It shares the concerns put forward by the market area managers and transmission system operators that adapting the IT systems to the provision of additional intraday information by 1 October 2015 is not achievable. As the provision of this additional intraday information is linked to application of the new within day obligations, the deadline for implementation of the arrangements in the operative part (4) had to be extended until 1 October 2016 accordingly. In some comments it was suggested that if the old arrangements on within day obligations remain in force until 30 September 2016 this could lead to a significant increase in structuring charges in the transitional period, because the charges would be formed on the basis of the imbalance charges and the new arrangements on determination of the imbalance charges were already to be applied from 1 October 2015 (EFET, E.ON). In order to avoid this, until the new within day obligations are implemented the structuring charges are to be determined as before on the basis of the imbalance prices formed according to the determination on balancing services (balancing group contract etc.) of 28 May 2008 (file reference BK7-08-002).

For the sake of clarification it must be pointed out that the proposal for the new SLP incentive system (operative part (8)) is likewise to be submitted by the network operators and market area managers by 1 October 2015. The proposal is to be implemented by 1 October 2016.

(4) All in all the implementation deadline for the new within day obligations and the new arrangement on information provision do not alter the fact that, through the determination, the Network Code on Gas Balancing will be implemented in full from 1 October 2015 and no use will be made of the extension of the implementation deadline provided for under Article 52 of the Network Code on Gas Balancing.

It is true that the Ruling Chamber issued a provisional order within the three-month deadline of Article 52(2) of the Network Code on Gas Balancing on 14 July 2014 (file reference BK7-14-020-E1), in which the implementation deadline according to Article 52 of the Network Code on Gas Balancing is generally extended until 1 October 2016. However, this general extension was decreed because the result of the principal proceedings was still open at the time of the provisional order being issued and the decision has to be made within a three-month period. The provisional order has meanwhile become invalid with the decision in the principal proceedings.

An extension of the implementation deadline in accordance with Article 52 of the Network Code on Gas Balancing is not necessary because the provisions of the determination of 28 May 2008 (§ 10(1), information obligations, and § 13, hourly incentive system, standard balancing group contract, annex 1 to the determination), which continue to apply until 1 October 2016, satisfy the requirements from the Network Code on Gas Balancing. In the provisional order of 14 July 2014 (file reference BK7-14-020-E1) the Ruling Chamber had already given reasons for the compatibility of the existing within day obligations with the Network Code (loc cit, page 5 f.). The same applies to the information obligations provided for under Article 34(2) of the Network Code on Gas Balancing. In the wording this regulation requires that on gas day D the transmission system operator shall provide network users with a minimum of two updates of their measured flows. This obligation has already been implemented with the determination on business processes for change of gas supplier (GeLi Gas determination, annex to decision BK7-06-067 of 20 August 2007, "Metered value transmission" process, 1.6.2., no. 4), because on this basis hourly metered values are to be sent to the network users every hour – not just updates on two occasions. The present determination supplements the existing GeLi Gas determination inasmuch as now, in addition, metered values pertaining to the specified time windows are also to be reported to the balancing group managers twice daily via the market area managers.

4.3.12. Notes: cross-border market areas and biogas (operative part (12))

For reasons of clarification it was necessary to include in the operative part (12)(a) the indication that the special balancing rules for the input of biogas into the natural gas network (part 6 GasNZV, in particular § 35 GasNZV) remain unaffected by the determination. The separate rules and processes that were developed by the network operators within the framework of the cooperation agreement, and if applicable will be further developed in future, are to be used for this purpose. They are not the subject of this determination.

Likewise for reasons of clarification and at the suggestion of a market area manager, the indication was included in the operative part (12)(b) that in the event of the formation of cross-border market areas the Ruling Chamber may approve deviations from the provisions of this determination to the extent required for the formation of the cross-border market areas. Given the right of revocation in the operative part (14) and § 29(2) EnWG, this is self-evident anyway and would not have needed a separate formulation in the operative part. Beyond this indication it was not possible for the Ruling Chamber at the present time to determine specific deviations, because the pertinent deliberations on the formation of cross-border market areas have not yet progressed so far as to propose specific deviations and to give reasons for their justification with due consideration for all relevant aspects.

4.3.13. Revocation of previous determinations (operative part (13))

(1) Pursuant to the operative part (13)(a) the determination on balancing services (balancing group contract etc.) of 28 May 2008 (file reference BK7-08-002) is revoked with effect from 1 October 2015. Only § 10 (1) (information obligations) and § 13 (hourly incentive system) standard balancing group contract, annex 1 to the determination of 28 May 2008, are not revoked until 1 October 2016, in accordance with the request from the market area managers and transmission system operators from their recommendation document of 3 March 2014. In the operative part (4) of the determination of 28 May 2008 the Ruling Chamber reserved the right to revoke the determination. The provisions from the Network Code on Gas Balancing made it necessary to revise the balancing system, which has been done with the present determination. This new balancing system replaces the previous system from the determination from 28 May 2008. The Ruling Chamber therefore makes use of its right of revocation and revokes the determination of 28 May 2008 with effect from 1 October 2015 or 1 October 2016 respectively. The revocation of the determination of 28 May 2008 also renders the related published notifications invalid.

(2) The operative part (13)(b) contains the clarification that the determination of 26 March 2012 (file reference BK7-11-044) is not revoked. The provision made there that the percentage of the tolerance is set at 0% in derogation of § 23(2) second sentence GasNZV thus still applies. In the Ruling Chamber's view the main reasons that led to this determination have not significantly changed, and thus remain valid even against the background of the new balancing system.

(3) Pursuant to the operative part (13)(c) the provisional order of 14 July 2014 (file reference BK7-14-020-E1) becomes invalid when this decision on the merits comes into effect. With its decision of 14 July 2014, the Ruling Chamber had approved the continued application of the existing hourly incentive system determined by the decision of 28 May 2008 and the further use of the two market area managers' existing physical balancing platforms and extended the transitional period according to Article 52 of the Network Code on Gas Balancing until 1 October

2016. In the operative part (4) of the decision of 14 July 2014 it was furthermore decreed that the provisional order applies subject to a decision on the merits of the case. Accordingly, as a result of the present decision on the merits of the case, sections (2) to (5) of the provisional order become invalid with effect from 1 October 2015 and section (1) of the provisional order becomes invalid with effect from 1 October 2016.

4.3.14. Right of revocation (operative part (14))

Pursuant to § 36(2) no. 3 VwVfG the Ruling Chamber reserves the right to revoke this determination decision. In particular this proviso is intended to ensure that new findings can be taken into account where necessary. This is the only way to guarantee openness to further development given the fact that the need for adjustment is not specifically foreseeable at present. This does not affect the companies' justified need for planning certainty, because such considerations need to be taken into account in any amendment procedure, subject to proportionality.

5. Costs (operative part (15))

A separate decision regarding the costs is issued in accordance with § 91 EnWG.

Instruction on the right to appeal

An appeal may be lodged against this decision within a period of one month from the date of notification. The appeal is to be submitted in writing to the Bundesnetzagentur (street address: Tulpenfeld 4, 53113 Bonn, Germany). It is sufficient if the appeal is received by the Oberlandesgericht (Higher Regional Court) Düsseldorf (street address: Cecilienallee 3, 40474 Düsseldorf, Germany) within the set period.

Grounds for the appeal must be stated. The period for submitting the grounds for the appeal is one month. It begins with the lodging of the appeal and upon application may be extended by the president of the appeal court. The grounds for the appeal must include a declaration of the extent to which the decision is contested and its amendment or revocation is applied for, and a statement of the facts and evidence upon which the appeal is based.

The notice of appeal and the grounds for appeal must be signed by a lawyer.

The appeal has no suspensory effect (§ 76(1) EnWG).

Christian Mielke	Dr Chris Mögelin	Diana Harlinghausen
Chairman	Vice Chair	Vice Chair