



- Ruling Chamber 7 -

File reference: BK7-14-020

25 March 2021

Notification no 7 regarding implementation of the "GaBi Gas 2.0" decision of 19 December 2014

Here: Implementation of the obligation to form a joint market area within the meaning of section 21(1) Gas Network Access Ordinance (GasNZV)

Pursuant to section 21(1) GasNZV, the transmission system operators that form the market areas according to section 20 are required to cooperate, with the objective of increasing the liquidity of the gas market, and to form a joint market area from the two existing market areas no later than 1 April 2022 onwards. The transmission system operators are fulfilling this obligation through the merger ahead of schedule of the current market areas NetConnect Germany (NCG) and GASPOOL Balancing Services (GASPOOL) to form the new "Trading Hub Europe" (THE) market area with effect from 1 October 2021. On 9 March 2021 the market area managers submitted to the Ruling Chamber a letter in which they set out further details of planned measures in connection with the balancing system and the forthcoming market area merger and requested that the Bundesnetzagentur provide them with feedback, ideally in the form of a corresponding notification.

Pursuant to section 21(2) first sentence GasNZV, the regulatory authority examines whether the obligations under section 21(1) GasNZV are fulfilled. For that reason, over the past months the Ruling Chamber has already been in close dialogue with the transmission system operators and market area managers, in particular regarding the future design of the joint THE market area. In the aforementioned letter the market area managers have now outlined several intended corporate decisions (for example on the merging of the neutrality charge accounts) relating to the joint market area. The Ruling Chamber is therefore using this letter as an opportunity to present its view on the compatibility of the decisions with the provisions of the determination on gas balancing (GaBi Gas 2.0) in order to establish sufficient transparency and legal certainty for all market participants at an early stage. This is necessary for the particular reason that GaBi Gas 2.0 includes no specific provisions concerning a future market area merger because no such merger was foreseeable at the time when the determination was issued in 2014.

On the date of the entry in the commercial register, expected to be 1 June 2021, the market area managers will carry out the corresponding merger under company law between NetConnect Germany GmbH & Co. KG and GASPOOL Balancing Services GmbH with a change of name to Trading Hub Europe GmbH in order in particular to implement processes at an early stage and ensure a smooth start for the joint market area from 1 October 2021 onwards. The Ruling Chamber considers an early merger of this nature to be expedient as it in particular ensures that the changeover of the various operational processes (for example those resulting from consoli-

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dition of the balancing group contracts, registrations etc) relating to the market area merger will proceed smoothly.

With regard to implementation of the provisions of GaBi Gas 2.0, however, this means that prospectively as of 1 June 2021 Trading Hub Europe GmbH will assume all rights and obligations. As a consequence of this, during the period from 1 June 2021 to 30 September 2021 it must be ensured that the two market areas continue to be operated separately by Trading Hub Europe GmbH since the provisions of GaBi Gas 2.0 will still apply separately to each of the two market areas that will continue to exist until 30 September 2021. That said, the market area managers have given assurance that this will be the case, such that there are no concerns regarding an early merger expected to take place on 1 June 2021.

As of 1 October 2021, all obligations under GaBi Gas 2.0 regarding the role of market area manager for the merged market area must be met by Trading Hub Europe GmbH. For example, as of 1 October 2021 the publication obligations within the meaning of operative provision 10 of GaBi Gas 2.0 shall apply solely in relation to the joint THE market area. However, it will continue to be necessary to publish historical data too (see operative provision 10(c) of GaBi Gas 2.0). With regard to publications from the past relating to the former market areas, however, the market area managers have already given assurance that these will continue to remain available on the THE website, which the Ruling Chamber expressly welcomes.

With regard to the merging of the neutrality charge accounts, the market area managers intend to carry over the balances of the SLP and RLM neutrality charge accounts at the end of the 2020/2021 gas year contribution period to the THE neutrality charge accounts by arithmetical addition of the balances. In the opinion of the Ruling Chamber there are no regulatory concerns regarding the merging of the neutrality charge accounts in this way. In particular, in the view of the Ruling Chamber a "full distribution" would not be an equivalent or more appropriate alternative. A "full distribution" would possibly result in Trading Hub Europe GmbH initially not having sufficient financial resources available on 1 October 2021 to perform its tasks to the proper extent under GasNZV or GaBi Gas 2.0, for example, especially with regard to the procurement of balancing gas. Instead the necessary financial resources, partly in the form of the corresponding liquidity buffer, would have to be built up by levying high charges. In the past, however, stabilisation of the neutrality charges was very much an important issue for many market participants. This goal, which is also a matter of considerable importance for the Ruling Chamber, would be contradicted by a "full distribution". Likewise the Ruling Chamber sees no regulatory requirement to continue running the existing neutrality charge accounts after 1 October 2021 until all existing periods have been fully settled. As long as proper settlement of the existing periods is guaranteed by Trading Hub Europe GmbH even after 1 October 2021, which the market area managers have assured will be the case, continuation of the existing neutrality charge accounts alongside the THE neutrality charge accounts offers no advantage in the opinion of the Ruling Chamber. The resulting additional effort and costs would bear no reasonable relationship to the benefit. It must be pointed out, however, that an arithmetical addition of the balances can only be considered if the cost and revenue forecast including the liquidity buffer reveals a corresponding financial need for the joint THE market area, because otherwise a "partial distribution" would have to be issued in accordance with the provisions of GaBi Gas 2.0 (operative provision 7(e)).

Furthermore, the Ruling Chamber shares the opinion of the market area managers that a provisional annual distribution formula is required from 1 October 2021 until the definitive annual distribution formula for the joint THE market area is available in order to distribute the balancing costs and revenues appropriately between the two neutrality charge accounts (SLP and RLM) within the meaning of operative provision 7(c) of GaBi Gas 2.0 on days on which no use is made of external balancing gas. This is because it needs to be taken into account that the definitive daily distribution formulas from which the definitive annual distribution formula for the respective neutrality charge account is generated as an average value ex post are not expected to be available for the first gas year of the joint market area (2021/2022 gas year) until January 2023. Until then, therefore, the market area managers intend to use a provisional annual distribution

formula obtained from the arithmetic mean of the most recently available definitive annual distribution formulas in the two previous market areas for the respective neutrality charge account. The Ruling Chamber considers this calculation methodology to be appropriate. The fact that a definitive annual distribution formula for the respective neutrality charge account in the joint THE market area will not be available until January 2023 onwards is, as explained above, in itself sufficient reason why it is necessary to fall back on the most recently available definitive annual distribution formulas in the previous market areas. In the opinion of the Ruling Chamber, it is only logical to use the arithmetic mean of the most recently available definitive annual distribution formulas in the previous market areas for the respective neutrality charge account to determine the provisional annual distribution formula for the joint THE market area. This is because firstly, the two previous market areas are being merged to form one joint THE market area, so definitive annual distribution formulas from both previous market areas should be taken into consideration, and secondly the respective annual distribution formulas in the two previous market areas for the respective neutrality charge account are currently generated on the basis of an arithmetic mean of all daily distribution formulas, so this methodology should also be used to generate a provisional annual distribution formula for the joint THE market area from the definitive annual distribution formulas of the two previous market areas. In the view of the Ruling Chamber, calculation using a volume-weighted methodology does not currently constitute a more appropriate alternative on account of the methodology's greater complexity with no resultant significant increase in cost-reflectivity, which is why the market area managers do not use it at present either. Consequently, in the opinion of the Ruling Chamber it is appropriate to use the aforementioned provisional annual distribution formula for the joint market area for the period from 1 October 2021 until the first definitive annual distribution formula for the respective neutrality charge account is available in January 2023. Once the definitive annual distribution formula is available in January 2023, the relevant retrospective correction of the publication within the meaning of operative provision 10(e) of GaBi Gas 2.0 must then be made.

Finally, it must be pointed out that, until the market area merger takes place on 1 October 2021 and beyond, the Ruling Chamber will of course continue to support the corresponding process and will be at the disposal of the market participants as a point of contact on matters that for example have already been discussed in detail in the context of the market dialogues and network forums on Cooperation Agreement XII, in order in particular to continue to ensure compliance with the regulatory requirements.