**-COURTESY TRANSLATION –
GERMAN VERSION PREVAILS-**

Decision

Ref: BK7-24-01-007

In the administrative proceedings

concerning capacity arrangements and management of network access in the gas sector – KARLA Gas 2.0

Parties to the proceedings:

EnBW Energie Baden-Württemberg AG, Durlacher Allee 93, 76131 Karlsruhe, legally represented by its management board,

Party summoned,

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

by its Chair	Anne Zeidler
its Vice Chair	Dimitri Wenz
and its Vice Chair	Claudia Aubel

decided on 12 September 2025:

1. The following general rules apply to the contractual arrangements of entry and exit contracts for network access to piped gas supply systems:

   a) Rights and obligations concerning network access, including the tariff payable, are to be regulated in entry and exit contracts.

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b) Shippers are entitled and required to conclude an entry and exit contract with the entry-exit system operator for access to the gas supply systems. This requirement does not apply if the shipper intends to trade gas solely at the virtual trading point (VTP) of the market area.

c) Shippers must register with the gas supply system operators with which they wish to conclude entry and exit contracts. The relevant system operator can require the address of the shipper or of a representative to be provided. Gas supply system operators can provide for a “one-stop shop” registration for the conclusion of entry and exit contracts in the market area, for example via a central registration site.

d) Gas supply system operators must base the entry and exit contracts on general terms and conditions; these must contain minimum information on

aa) the use of the entry or exit points;

bb) the management of network access, booking of capacity and nomination, especially the time by which a nomination must have been made and the extent to which subsequent changes to nominations are possible, and on an alternative nomination procedure;

cc) the quality and pressures of the gas in the network;

dd) interval metering or a standard load profile;

ee) the exchange of data and information between shippers and system operators and market area managers, which also specifies the formats and procedures to be used when data are exchanged electronically;

ff) the metering and reading of gas consumption, except for meter points operated by a third party and measuring the gas consumption of a final customer;

gg) possible disruptions to network use and liability for disruptions;

hh) the requirements for registration as a shipper;

ii) the termination of the contract by the system operator or by the shipper;

jj) the handling of data sent by the shipper under the terms of the contract;

kk) billing;

ll) contact persons at the system operator for queries on entry and exit contracts and their contact details;

mm) the requirements for charging a security in justified cases; and

nn) arrangements relating to the release of capacity pursuant to operative part 7 b).

2. Regarding the management of network access to piped gas supply systems in the market area, it is determined that:

a) In a Gas Cooperation Agreement, gas supply system operators must arrange the details of their cooperation that are necessary to ensure a transparent, non-discriminatory and efficient network access that is fit for general business under appropriate conditions.

b) Gas supply system operators are required to accept quantities of gas provided by shippers at the entry points of the market area named by the shipper and to hand them over with the same energy content at the exit points of the market area named by the shipper. The identity of the gas need not be kept in the withdrawal.

c) The following requirements apply to the gas quality:

aa) Shippers must ensure that gas for injection into the system adheres to generally recognised technical rules within the meaning of section 49(2) and (3) of the Energy Industry Act (EnWG) and is compatible within the meaning of point bb).

bb) Gas for injection into the system is compatible if the shipper provides the gas for handover at the entry point with a specification corresponding to that of the properties of the gas in the recipient system as published on the website of the system operator at the time of injection.

cc) The system operator must take any measures needed to equalise pressure or to convert gas in order to adjust to the particular conditions and circumstances or for reasons of applications engineering for the receipt of the gas in the relevant parts of the system, irrespective of compliance with the compatibility requirements set out in point bb). The system operator must bear the costs for measures pursuant to sentence 1.

dd) If the gas for injection into the system is not compatible within the meaning of point bb), the system operator must, as far as is technically possible and reasonable, make the shipper an offer to create compatibility on conditions complying with the requirements of section 21(1) EnWG. If it is not possible or not reasonable for the system operator to make such an offer, the system operator must provide reasons for this.

d) Transmission system operators must offer freely allocable capacity on a firm and interruptible basis in the market area in accordance with the KASPAR determination (BK7-18-052). Shippers are to be provided with the freedom to book entry and exit capacity independently, in different amounts and at different times. Transmission system operators must make the maximum amount of firm capacity, including conditional capacity, that can

be offered to shippers taking account of system integrity and the requirements of network operation (technical capacity) available for network access, whereby:

aa) The greatest possible amount of technical capacity must be offered as firm, freely allocable capacity (FZK).

bb) Any remaining technical capacity that is not suitable for offer as FZK due to network restrictions must be offered as conditional capacity.

e) Downstream system operators must order firm exit capacity at the interconnection points from the transmission system operators directly upstream of their system (internal ordering) to guarantee, in particular, permanent gas supplies to final customers in their own and in downstream networks. Operative parts 4 to 8 do not apply to internal orders.

f) The capacity-related management of transports between local distribution systems takes place after the use of the upstream local distribution system by the downstream local distribution system. The downstream local distribution system operator must notify the upstream local distribution system operator of the maximum supply capacity needed to manage the transports in good time.

g) The exit system operator can require technical exit notifications and compliance with technical limits for interval-metered final customers whose gas consumption cannot, as a rule, be planned, is extremely high and fluctuates greatly, where this is necessary for the integrity of the exit system and has been agreed accordingly.

h) System operators are required to conclude interconnection agreements with system operators to whose systems they are connected by means of an interconnection point. The arrangements must uphold the confidentiality of commercially sensitive data or information.

aa) Interconnection agreements must include arrangements on at least the following:

(1) the information that system operators need to provide each other with to manage transports;

(2) the technical criteria of the interconnection point, in particular pressure, gas quality and the technical capacity of the interconnection point;

(3) the exchange of data among system operators;

(4) metering and provision of the metering results;

(5) nomination or alternative procedures;

(6) the conditions for discontinuing or reducing the provision or receipt of gas.

bb) System operators must set up operational balancing accounts among themselves at their interconnection points to ensure that transport contracts are performed without

interruption during station down times and in the event of a change of direction of the gas flow, minimal gas flow or metering inaccuracies. Operational balancing accounts can also be used to provide and receive internal balancing gas. An operational balancing account must cover at least three hourly quantities of station capacity.

3. Regarding the calculating of technical capacity of the piped gas supply systems, it is determined that:

   a) Transmission system operators are required to calculate the technical capacity, taking into account the rules in operative part 2 d). They must calculate the entry capacity for every entry point and the exit capacity for every exit point.

   b) The entry and exit capacity in a market area must be calculated on the basis of state-of-the-art flow simulations that also include cross-network and cross-market area flows. Transmission system operators must also take account, in particular, of historical and forecasted capacity utilisation, historical and forecasted demand for capacity and reverse flows on the basis of probable and realistic flows. Transmission system operators and operators of downstream systems must work together in calculating capacity and simulating flows with the aim of maximising technical capacity. To this end, they must make all necessary information available to each other without delay.

4. For the access to transmission systems, the following special rules for the contractual arrangements of entry and exit contracts, the offer and allocation of capacity are determined:

   a) Transmission system operators must offer shippers standardised entry and exit contracts giving shippers capacity rights at entry and exit points of the entry-exit system of the market area. To this end, they must draw up and publish equivalent contractual terms and conditions upon which the entry and exit contracts will be based without discrimination. These can be developed as part of a Gas Cooperation Agreement and with the appropriate involvement of market participants and the Bundesnetzagentur. These contractual terms and conditions must be presented to the Bundesnetzagentur and may be deemed approved if the Bundesnetzagentur does not object to them within three months.

   b) Regarding the durations and allocation of capacity, the following rules apply:

      aa) Transmission system operators must offer firm and interruptible capacity on a yearly, quarterly, monthly, daily and within-day basis in accordance with the KASPAR determination (BK7-18-052).

bb) Transmission system operators must allocate entry and exit capacity at any entry or exit point via a capacity booking platform (primary capacity booking platform).

cc) Transmission system operators must combine entry capacity at different entry points into entry zones that make it possible for gas to be injected, on the basis of an entry capacity booking, at a single entry point, as far as this is possible in terms of fluid mechanics. Sentence 1 applies accordingly in respect of exit capacity. Where an offer pursuant to sentences 1 and 2 is not possible, in particular for reasons relating to fluid mechanics, the transmission system operators must work together to the extent required to make an offer pursuant to sentences 1 and 2 possible.

c) The following rules apply additionally to interconnection points, virtual interconnection points and entry points from and exit points to third countries:

aa) Operative part 5 of the KARLA Gas 1.1 determination (BK7-15-001) of 14 August 2015 is amended as followed:

(1) The words “Network Code on Capacity Allocation Mechanisms” are removed. The phrase “from 1 November 2015” is also removed.

(2) Note: The amended operative part 5 of KARLA Gas 1.1 thus reads:

“5. The arrangements of Regulation (EU) 2017/459 (Network Code on Capacity Allocation Mechanisms) also apply to entry points from and exit points to third countries within the meaning of Article 2(1) sentence 2 of the Network Code on Capacity Allocation Mechanisms.”

bb) Operative part 4 of the KARLA Gas 1.1 determination (BK7-15-001) of 14 August 2015 is amended as follows:

(1) In sentence 1, the phrase “With effect from 1 November 2015” is removed. In addition, a comma and the words “virtual interconnection points and all entry points from and exit points to third countries” are added and the words “Network Code on Capacity Allocation Mechanisms” removed.

(2) In sentence 2, a comma and the words “virtual interconnection point and all entry points from and exit points to third countries” are added.

(3) Note: The amended operative part 4 of the determination KARLA Gas 1.1 thus reads:

“4. The Gas TSOs are required to set aside 20% of the technical capacity at each interconnection point, virtual interconnection point and all entry points from and exit points to third countries and offer this amount pursuant to Article 8(7) of Regulation (EU) 2017/459 (Network Code on Capacity

Allocation Mechanisms) insofar as the available capacity at the time this Determination enters into force is equal to or greater than the amount of technical capacity to be set aside. The exact proportion of capacity to be set aside for the quarterly and annual auctions in accordance with Article 8(9) of the Network Code on Capacity Allocation Mechanisms is hereby approved for all interconnection points, virtual interconnection points and entry points from and exit points to third countries."

cc) Operative part 2 of the KARLA Gas 1.1 determination (BK7-15-001) of 14 August 2015 is amended as follows:

(1) In sentence 1, the phrase "with effect from 1 November 2015" is removed. In addition, the phrase "Article 3(10) of the CAM network code" is replaced by the phrase "Article 3 point 2 of Regulation (EU) 2017/459 (Network Code on Capacity Allocation Mechanisms).

(2) Following the newly inserted phrase "Article 3 point 2 of Regulation (EU) 2017/459 (Network Code on Capacity Allocation Mechanisms)", a comma and the words "virtual interconnection points within the meaning of Article 3 point 23 of the Network Code on Capacity Allocation Mechanisms and for entry points from and exit points to third countries" are added.

(3) Note: The amended operative part 2 of the KARLA Gas 1.1 determination thus reads:

"2. The gas transmission system operators (hereinafter the Gas TSOs) will be required to include the arrangements set out in the Annex ("Gas Standard Capacity Contract") in new capacity contracts to be concluded for interconnection points within the meaning of Article 3 point 2 of Regulation (EU) 2017/459 (Network Code on Capacity Allocation Mechanisms), virtual interconnection points within the meaning of Article 3 point 23 of the Network Code on Capacity Allocation Mechanisms and for entry points from and exit points to third countries and to adjust any existing capacity contracts to reflect the arrangements set out in the Annex."

dd) Holders of interruptible capacity or capacity with interruptible elements can submit bids in an auction of firm capacity products in order to convert their capacity into firm capacity products or capacity products with smaller interruptible elements. Holders of capacity that are not successful in the auction keep their original capacity.

d) The following additional rules apply to entry points from and exit points to gas storage facilities:

aa) Transmission system operators must allocate entry and exit capacity from and to gas storage facilities by means of auctions.

bb) The auction procedure must be in compliance with the rules for auctions at interconnection points, virtual interconnection points and entry points from and exit points to third countries. Chapter III of Regulation (EU) 2017/459 (Network Code on Capacity Allocation Mechanisms) applies accordingly. The introduction of competing capacity rules requires prior approval by the Bundesnetzagentur.

cc) Operative part 4a of the KARLA Gas 1.1 determination (BK7-15-001) of 14 August 2015 in the version of the determination of 6 December 2018 (BK7-18-087) is amended as follows:

(1) In sentence 1, the phrase “in conjunction with section 13(1) sentence 4 GasNZV” is removed. In addition, the phrase “of 16 March 2017 establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation (EU) No 984/2013 (Network Code on Capacity Allocation Mechanisms)” is replaced by “(Network Code on Capacity Allocation Mechanisms)”.

(2) In sentence 2, the phrase “in conjunction with section 13(1) sentence 4 GasNZV” is replaced by the phrase “in conjunction with operative part 4 d) bb) of the KARLA Gas 2.0 determination (BK7-24-01-007)”.

(3) Note: The amended operative part 4a of the KARLA Gas 1.1 determination (BK7-15-001) of 14 August 2015 in the version of the determination of 6 December 2018 (BK7-18-087) thus reads:

“4a. The Gas TSOs are required to set aside 20% of the technical capacity at each entry point from and exit point to storage facilities and offer this amount pursuant to Article 8(7) of Regulation (EU) 2017/459 (Network Code on Capacity Allocation Mechanisms) insofar as the available capacity is equal to or greater than the amount of technical capacity to be set aside. The exact proportion of capacity to be set aside for the quarterly and annual auctions in accordance with Article 8(9) of the Network Code on Capacity Allocation Mechanisms in conjunction with operative part 4 d) bb) of the KARLA Gas 2.0 determination (BK7-24-01-007) is hereby approved for all entry points from and exit points to storage facilities.”

dd) Holders of interruptible capacity or capacity with interruptible elements can submit bids in an auction of firm capacity products in order to convert their capacity into firm capacity products or capacity products with smaller interruptible elements. Holders of capacity that are not successful in the auction keep their original capacity.

e) The following additional rule applies to entry points from LNG facilities:

The capacity of the transmission system must be allocated in the order in which the requests were made.

f) The following additional rules apply to exit points to final customers and entry points for injection from production facilities and from facilities for the injection of biogas:

aa) The capacity of the transmission system must be allocated in the order in which the requests were made.

bb) The capacity can be booked by the connected final customer or by the operator of production facilities or facilities for the injection of biogas.

5. Regarding the trading of transport rights in the transmission system, the following applies:

a) Shippers may resell or transfer entry and exit capacity to third parties (secondary capacity).

b) The resale or transfer may only take place using the capacity booking platform via which the primary capacity is allocated.

c) The tariffs for traded entry and exit capacity may not be significantly higher than the original tariffs payable to the transmission system operator for the corresponding primary capacity.

6. Regarding the use of capacity booking platforms, the following applies:

a) For the allocation of entry and exit capacity pursuant to operative part 4 b) bb) and for the trading of secondary capacity pursuant to operative part 5 a), transmission system operators must set up and operate, or have operated by an agreed third party, one or a limited number of joint capacity booking platforms via which capacity is allocated and traded.

b) The costs of setting up and operating the capacity booking platform must be borne by the transmission system operators involved on a pro rata basis.

c) Operative part 3 of the KARLA Gas 1.1 determination (BK7-15-001) of 14 August 2015 is amended as follows:

aa) In sentence 1, the phrase “from 1 November 2015” is removed. Moreover, the words “interconnection points” are replaced by the words “booking points”.

bb) Note: The amended operative part 3 of the KARLA Gas 1.1 determination thus reads:

“3. Should a Gas TSO intend to allocate capacity at one or more of its booking points on a platform other than the one previously used, the Gas TSO must inform the Ruling Chamber of this without delay. The Gas TSO must document the general conditions applicable to the auction process and to the access to the new platform appropriately and in the German language. Notification must be given no later than three months prior to the intended start of the first capacity allocation on the new platform.”

d) On the capacity booking platform, all offers of the same kind of capacity and requests for the same kind of capacity are to be made transparent for shippers. Anonymity of trading must be safeguarded in relation to offering parties, requesting parties and third parties. Shippers must be registered in accordance with operative part 1 c) in order to participate in trading on the capacity booking platform.

e) The operators of the platforms pursuant to operative part 6 a) must set up a website to enable shippers to acquire primary and secondary capacity on a scale fit for general business.

7. Regarding the extent and requirements of congestion management procedures in the transmission system, it is determined that:

a) Point 2.2 of Annex I to Regulation (EU) 2024/1789 also applies to entry points from and exit points to third countries.

b) The following rules apply to the handling of unused capacity:

aa) Shippers are required, by the nomination deadline, to offer, without delay, firm capacity that is fully or partially unused as secondary capacity or to make it available to the transmission system operator for the period and to the extent of non-use.

bb) Where the shipper has not, or has not fully, nominated firm capacity booked by the shipper by the nomination deadline, the transmission system operator is required to offer the unused capacity as firm capacity for the following day, taking account of existing renomination rights. A shipper whose capacity has been offered by the transmission system operator in accordance with sentence 1 continues to be obliged to pay the entry or exit tariffs.

cc) Where there is contractual congestion, the transmission system operator must withdraw booked firm capacity with a duration of at least one year to the extent to which the shipper has not used its booked firm capacity for three months of the past calendar year on more than a temporary basis. One of these three months must have been the month of October, November, December, January, February or March. The shipper can object to the capacity being withdrawn if it:

(1) proves that it offered the capacity on the secondary market in accordance with operative part 5 or made it available to the transmission system operator for the period and to the extent of non-use;

(2) provides a convincing written or electronic statement, without delay, that it still needs all the capacity to meet existing contractual obligations, in particular from gas purchasing or supply contracts; or

(3) provides a convincing written or electronic statement, without delay, that it has various contractual gas procurement alternatives for which capacity has been booked at different entry points that it uses as alternatives and that it has made the unneeded capacity available on the secondary market for the period of non-use and to the extent of non-use or made it available to the transmission system operator for the period and to the extent of non-use.

dd) Transmission system operators must keep information as referred to in operative part 7 b) bb) and cc) for a period of two years and make such information available to the regulatory authority upon request. Upon request, the shipper must provide evidence as referred to in operative part 7 b) cc) (2) and (3) to the regulatory authority by submitting copies of the relevant contractual arrangements. Shippers denied entry and exit capacity must be provided, upon request, with the information referred to in sentence 1 by the transmission system operator, having regard to safeguarding the trade and business secrets of third parties.

c) Where capacity is reduced for technical reasons after conclusion of the entry or exit contract, the booked capacity is reduced in proportion to the volume booked by the shipper. The shipper is to be informed of the reasons without delay.

8. The following provisions apply to operators of storage, LNG and production facilities, operators of gas power plants and industrial customers that, after the start of the application of this determination, are to be connected to a transmission system or whose capacity for connection to a transmission system is to be increased after an expansion:

   a) The customer groups stated in operative part 8 sentence 1 can, within the limits of the technical capacity of the system to which they are to be connected, reserve exit capacity in the transmission system, unless such reservation would lead to the technical capacity designated by the transmission system operator being exceeded, account being taken of the already booked share of technical capacity of the relevant transmission system. Sentence 1 applies accordingly to entry points for the injection of gas from storage, LNG or production facilities into the relevant transmission system. Reserved capacity can be firmly booked before the end of the reservation period referred to in operative part 8 c) sentence 8.

   b) For the reservation, the operator of facilities as referred to in operative part 8 sentence 1 must meet, and demonstrate to the transmission system operator, the following requirements:

      aa) a brief description of the facility concept/the expansion measures,

      bb) a brief account of the stage reached in the approval process, and

      cc) the time of the first gas offtake.

   c) The transmission system operator is required, within two weeks of receiving the request, to inform the operator of facilities within the meaning of operative part 8 sentence 1 of the documents needed for further examination of the request and of the costs involved in the examination. The operator of the facility must inform the transmission system operator within two weeks of receiving the result whether the transmission system operator should carry out the necessary examinations. The operator of the facility must bear the costs for the examination pursuant to sentence 1. After receiving the complete documents, the transmission system operator must examine the operator’s request within two months and inform the operator of the result of the examination. If the examination shows that it is not possible to reserve capacity on account of insufficient technical capacity in the transmission system, the operator of the facility within the meaning of operative part 8 sentence 1 is not entitled to reserve capacity for the requested entry or exit point. If it is possible to make a reservation within the technical capacity of the transmission system, capacity in the system must be reserved for the operator of the facility in accordance with its request. The reservation takes effect upon payment of the reservation fee. The capacity reservation

lapses if the entry or exit point is not firmly booked from the transmission system operator within three years after receipt of the reservation declaration.

d) The operator of a facility within the meaning of operative part 8 sentence 1 must pay a reservation fee to the transmission system operator for the reservation. The reservation fee is 20% of the reference price within the meaning of Article 3 point 1 of Regulation (EU) 2017/460 (TAR NC) applicable for the booking at a corresponding entry or exit point at the time when the reservation agreement is concluded. The reservation fee payable by the operator of a facility within the meaning of operative part 8 sentence 1 must be counted towards the tariff payable to the transmission system operator after the capacity has been firmly booked.

e) If the reservation fee lapses in accordance with operative part 8 c) sentence 8, revenue from the reservation fees must be entered into the regulatory account.

9. Operative parts 1 to 8 apply with effect from 1 January 2026.

10. The right to order payment of costs is reserved.

Rationale

I.

1 These proceedings concern the issue of a determination for the management of network access to piped gas supply systems and the calculation, offer and allocation of capacity for the period after the Gas Network Access Ordinance (GasNZV) ceases to be in effect. The KARLA Gas 1.1 determination (BK7-15-001) of 14 August 2015 in the version of the determination of 6 December 2018 (BK7-18-087) is also amended.

The Court of Justice of the European Union (CJEU) found in its judgment of 2 September 2021 (C-718/18) with regard to the fourth plea in law in the infringement proceedings against the Federal Republic of Germany that the normative regulation in Germany was incompatible with the provisions of the Directives on the internal energy market (Directive 2009/72/EC and Directive 2009/73/EC, the Electricity and Gas Directives). The “advance structuring” of regulatory decisions by the normative provisions of the ordinances having the force of law issued by the federal government on the basis of section 24 EnWG (old version) – including the GasNZV – is a breach of the rules on the independence and exclusive powers of the national regulatory authority set out in the Electricity and Gas Directives, the court ruled. The German legislature took this judgment as an opportunity to amend the national legislative framework of energy regulation in line with European law. Article 1 of the Act amending energy industry law to take account of Union law and amending other provisions of energy law (Federal Law Gazette I 2023 No 405), which entered into

force on 29 December 2023, granted the Bundesnetzagentur far-reaching powers in the EnWG to make determinations in the field of tariff and access regulation of electricity and gas networks. At the same time, the legislature determined in Article 15(6) of the same Act that the GasNZV would no longer be in force after 31 December 2025.

2 As part of this process, the Grand Ruling Chamber conferred competence for the determination that is the subject of these proceedings on Ruling Chamber 7 on 19 April 2024. The ruling chamber opened own-initiative proceedings on 8 May 2024. They are directed at transmission system operators within the meaning of section 3 para 5 EnWG, distribution system operators within the meaning of section 3 para 8 EnWG and shippers within the meaning of section 3 para 31f EnWG. The initiation of proceedings has been published on the Bundesnetzagentur's website (www.bundesnetzagentur.de).

3 The ruling chamber launched an initial public consultation upon opening the proceedings, giving the addressees and all other stakeholders the opportunity to comment. In its introductory document, the ruling chamber outlined the possible subjects of the determination, including the contractual arrangements of the entry and exit contracts necessary for network access, the management of network access in the market area, the calculation of technical capacity including the necessary cooperation of the system operators, the offer and allocation of capacity and trading of transport rights, congestion measures and the reduction of booked capacity. The following associations, stakeholders and individual undertakings responded to the consultation, including the party summoned: BDEW Bundesverband der Energie- und Wasserwirtschaft e.V. (BDEW), ConocoPhillips (UK) Marketing and Trading Limited (ConocoPhillips), E.ON SE (E.ON), EFET Deutschland Verband Deutscher Energiehändler e.V. (EFET D), EnBW Energie Baden-Württemberg AG (EnBW), Vereinigung der Fernleitungsnetzbetreiber Gas e.V. (FNB Gas), German LNG Terminal GmbH (GLNG), Initiative Energien Speichern e.V. (INES), INEOS Energy Trading Limited (INEOS), RWE Supply & Trading GmbH (RWE ST), TEN Thüringer Energienetze GmbH & Co. KG (TEN), Uniper SE (Uniper), Verband der Chemischen Industrie e.V. (VCI), VNG Handel & Vertrieb GmbH (VNG), Verband der Industriellen Energie- und Kraftwirtschaft e. V. (VIK). The introductory document and the 15 statements received on it are available on the Bundesnetzagentur website (www.bundesnetzagentur.de).

4 The party summoned submitted a written request to be summoned to the proceedings dated 18 July 2024. The ruling chamber admitted the party summoned to the proceedings in its decision of 7 October 2024 (BK7-24-01-007-B01).

5 The ruling chamber drafted a specific proposal for the operative part taking into account the responses received and put it out for a further consultation on 14 December 2024. The following associations, stakeholders and individual undertakings responded to the consultation, including the party summoned: BDEW Bundesverband der Energie- und Wasserwirtschaft e.V. (BDEW),

Creos Deutschland GmbH (Creos), E.ON SE (E.ON), EFET Deutschland Verband Deutscher Energiehändler e.V. (EFET D), EnBW Energie Baden-Württemberg AG (EnBW), Vereinigung der Fernleitungsnetzbetreiber Gas e.V. (FNB Gas), Uniper SE (Uniper). The consultation document and the seven statements received on it are available on the Bundesnetzagentur website (www.bundesnetzagentur.de).

6 In view of the large number of subjects covered by the determination, reference is made to the content of the responses to both consultations in the respective part of the rationale.

7 The regulatory authorities of the federal states, the Bundeskartellamt and the Committee of representatives of the federal state regulatory authorities were informed of the opening of proceedings on 10 May 2024. The participation of the Committee of representatives of the federal state regulatory authorities for the purpose of official involvement, as well as the participation of the Bundeskartellamt and the regulatory authorities of the federal states, took place through the transmission of the draft decision on 4 August 2025 and 5 August 2025 respectively. The Committee of representatives of the federal state regulatory authorities responded to the request for official involvement on 21 August 2025.

8 For further details, reference is made to the contents of the file.

II.

9 The amendment to the determination is formally and substantively lawful. In particular, the ruling chamber has properly exercised its discretion.

10 Owing to the amount of information to be presented, the reasons for the decision are preceded by a structural overview:

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1. Legal basis

11 The ruling chamber based operative parts 1 to 3, operative part 4 a), b), c) dd) to d) bb) and d) dd) to operative part 6 b) as well as operative part 6 d) to operative part 9 of the determination on section 29(1) in conjunction with section 20(4) sentences 1 and 2 EnWG.

12 The ruling chamber based operative part 4 c) aa) to cc) and d) cc) and operative part 6 c) on section 29(2) in conjunction with section 20(4) sentences 1 and 2 EnWG.

13 A parallel or supplementary application of section 50(1) and (2) GasNZV is not necessary. The Act amending energy industry law to take account of Union law and amending other provisions of energy law (Federal Law Gazette I 2023 No 405), which entered into force on 29 December 2023, granted the Bundesnetzagentur a far-reaching power to determine the conditions for access to gas supply systems or the methodologies for setting these conditions in section 20(4) sentences 1 and 2 EnWG. This power covers the power to make determinations set out in section 50 GasNZV and goes beyond it in scope (see Bundestag printed paper 20/7310, page 80).

2. Formal legality

14 The formal requirements have been met.

2.1. Competence

15 The competence of the Bundesnetzagentur for the decision derives from section 54(3) sentence 3 EnWG. The competence of the ruling chamber derives from section 59(3) sentence 4 EnWG, since the Grand Ruling Chamber transferred the determination to it on 19 April 2024.

2.2. Hearing and consultation

16 The ruling chamber has given the parties involved and the representatives of the economic sectors affected by the proceedings the opportunity to state their views pursuant to section 67(1) and (2) EnWG.

17 The ruling chamber held a first consultation on 8 May 2024, presenting its basic deliberations. The ruling chamber published a specific proposal for the operative part, taking into account the responses received, on 13 December 2024 and released it for consultation.

2.3. Participation of other authorities

18 The participation of other authorities has taken place to the extent required. The regulatory authorities of the federal states were informed of the opening of proceedings on 10 May 2024 in accordance with section 55(1) sentence 2 EnWG; the Bundeskartellamt and the Committee of representatives of the federal state regulatory authorities were also informed. The formal participation of the Bundeskartellamt and the regulatory authorities of the federal states pursuant

to section 58(1) sentence 2 EnWG, with the opportunity to comment, took place in the form of the submission of the draft decision on 5 August 2025.

The Committee of representatives of the federal state regulatory authorities was officially involved in accordance with section 54(3) sentence 4 EnWG. To this end, the ruling chamber transmitted a draft decision to the Committee of representatives of the federal state regulatory authorities on 4 August 2025 in accordance with section 54(3) sentence 5 EnWG. The Committee did not provide a statement on the content of the decision.

3. Substantive legality

19 The amended decision is also substantively lawful.

20 It may be directed at transmission system operators within the meaning of section 3 para 5 EnWG, distribution system operators within the meaning of section 3 para 8 EnWG and shippers within the meaning of section 3 para 31f EnWG (see section 3.1. below). The decision sets out conditions for network access and is limited to arrangements which the Bundesnetzagentur is empowered to lay down under section 20(4) EnWG (see section 3.2.). Regarding operative part 4 c) aa) to cc) and d) cc) and operative part 6 c), the requirements of section 29(2) sentence 1 EnWG are met. The operative parts concern the subsequent amendment of approved methodologies and conditions (section 3.3.). The amendment is also necessary to ensure that the determination affected by the amendment, KARLA Gas 1.1 (BK7-15-001) of 14 August 2015 in the version of the determination of 6 December 2018 (BK7-18-087) continues to meet the requirements for a determination (section 3.4.). The ruling chamber has correctly exercised its discretion (section 3.5.).

3.1. Addressees of the determination

21 The determination concerns the capacity arrangements and management of network access to piped gas supply systems. Piped gas supply systems in this sense are all gas transmission and distribution systems, but not LNG facilities or gas storage facilities. This meaning corresponds to the wording of section 1 GasNZV, which uses “supply networks”. In accordance with section 20(4) sentence1 EnWG, the regulatory authority can issue determinations in proceedings pursuant to section 29(1) EnWG directed at individual or multiple gas supply system operators. Piped gas supply systems are a group of system operators to which the regulatory authority can address determination decisions pursuant to section 29(1) EnWG.

22 This determination is addressed at gas transmission system operators within the meaning of section 3 para 5 EnWG and gas distribution system operators within the meaning of section 3 para 8 EnWG. In accordance with section 20(4) sentence1 EnWG, the regulatory authority can issue determinations in proceedings pursuant to section 29(1) EnWG directed at individual or multiple gas supply system operators. Pursuant to section 3 para EnWG, “gas supply systems”

include gas transmission and distribution systems. Gas transmission and distribution system operators are thus gas supply system operators within the meaning of section 3 para 7 EnWG. Both are a group of system operators to which the regulatory authority can address determination decisions pursuant to section 29(1) EnWG.

23 This determination is also addressed to shippers within the meaning of section 3 para 31f EnWG. In accordance with section 20(4) sentence 1 EnWG, the regulatory authority can make determinations concerning network users in proceedings pursuant to section 29(1) in conjunction with (2) EnWG. Section 3 para 28 EnWG defines network users as natural or legal persons supplying or being supplied with energy in an electricity or gas supply system.

24 This definition includes shippers within the meaning of section 3 para 31f EnWG, as the supplying or being supplied with energy within the meaning of section 3 para 28b EnWG is not related to the physical injection or withdrawal. Rather, the contractual usage relationship of the network user with the system operator is relevant from the energy sector perspective (see BeckOK EnWG/Peiffer, 10th ed. 1 March 2024, EnWG section 3 para 28, margin no 3). The contracting party of the system operator is the party paying for use of the network or able to bring a claim against the system operator for the restriction of such use (BeckOK EnWG/Peiffer, 10th ed. 1 March 2024, EnWG section 3 para 28 margin no 1). This sort of contractual usage relationship exists between shippers and system operators. Shippers conclude entry and exit contracts with entry and exit system operators, which entitle them to use the network to the extent of the capacity they have booked (see section 20(1b) sentences 1 and 2 EnWG). Moreover, the legislature has already created a market role of “customer”, which is distinct from “network user” and characterised by the purchase of energy in a contractual relationship between customer and supplier (see Bourwieg/Hellermann/Hermes, 4th ed 2023, EnWG section 3, margin no 74).

25 No other conclusion arises from considering section 3 para 28 EnWG in light of the background to section 20(4) GasNZV, either. It was the express intention of the legislature to grant the Bundesnetzagentur a power to make determinations that covers all the content hitherto regulated in the GasNZV (Bundestag printed paper 20/7310, page 52). This is only possible if the group of addressees is not smaller than the group of market roles affected by the GasNZV. The fact that section 20(4) sentence 1 EnWG expressly mentions suppliers among the addressees of the determinations although this group is already included in the market role of “network user” is merely an editorial error that does not impact the current understanding of the term.

3.2. Conditions for network access

26 The determination regulates conditions for access to gas supply systems. It is limited to arrangements which the Bundesnetzagentur is empowered to make by virtue of section 20(4)

EnWG. Operative parts 1 to 3, operative part 4 a), b), c) dd) to d) bb) and d) dd) to operative part 6 b) and operative part 6 d) to operative part 9 are determinations pursuant to section 29(1) EnWG.

27 Pursuant to section 20(4) sentence 1 EnWG, the regulatory authority can use transparent criteria to determine the conditions for access to gas supply systems or the methodologies to set these conditions. The powers of the regulatory authority are detailed in the non-exhaustive list of network access subjects set out in section 20(4) sentence 2 EnWG on which the regulatory authority can "in particular" make rules. The ruling chamber understands conditions for access to gas supply systems to mean all measures, circumstances and obligations associated with the granting of network access or of significance to the management of network access. Pursuant to section 20(4) para 1 EnWG, the subject of this determination is the contractual conditions of network access, in particular the content of entry and exit contracts, the general terms and conditions of such contracts and the procedures and requirements of the registration of parties interested in concluding such contracts. Pursuant to section 20(4) para 2 EnWG, further subjects of this determination are the conditions for the management of network access pursuant to section 20(1b) EnWG, in particular on the content and scope of the necessary cooperation of system operators, and the trading of transport rights pursuant to section 20(4) para 4 EnWG.

3.3. Subsequent amendments to determined methodologies and conditions

28 The provisions set out in operative part 4 c) aa) to cc) and d) cc) and in operative part 6 c) also represent a subsequent amendment, possible under section 29(2) EnWG, to a determination issued by the ruling chamber in accordance with section 29(1) EnWG. The determined conditions within the meaning of section 29(2) EnWG are specific access and connection conditions. In addition, determined methodologies enable the specific design of access conditions, with methodology and condition regulation not being mutually exclusive (see Hermann in: Bourwieg/Hellermann/Hermes, 4th ed 2023, EnWG section 29, margin no 9). The entitlement to make amendments set out in section 29(2) EnWG is intended to provide the competent authority with flexible regulatory instruments to undertake adjustments at short notice to secure and restore the effectiveness of regulation in the event of changed actual and legal circumstances (Vallone in BeckOK EnWG, Assmann/Peiffer, 9th edition, 1 September 2023, section 29, margin no 31). Section 29(2) EnWG thus enables a substantive amendment to the original regulatory decision. That means that the original decision must continue to apply, at least in essence. The regulatory authority's entitlement to make amendments does not go so far that it can completely replace the substantive content of its decision on the basis of section 29 (2) EnWG and issue a completely new (different) decision (Wahlhäuser in Kment, EnWG, 2nd edition 2019, section 29, margin no 43).

29 The methodologies and conditions determined in the KARLA Gas 1.1 determination (BK7-15-001) of 14 August 2015 in the version of the determination of 6 December 2018 (BK7-18-087) are substantively amended. However, the core of the original decision still stands following the amendments to operative part 4 c) aa) to cc) and d) cc) and operative part 6 c). For reasons of clarity, a non-binding reference version of KARLA 1.1 is provided and published on the ruling chamber website (www.bundesnetzagentur.de).

3.4. Necessity of amending the determination

30 The subsequent amendment of the KARLA 1.1 determination by operative part 4 c) aa) to cc) and d) cc) and operative part 6 c) is also necessary within the meaning of section 29(2) sentence 1 EnWG to ensure that the requirements for a determination are still met.

31 The aim and purpose of the provision is, as explained in section 3.3., to give the regulatory authority a flexible instrument that is necessary to adjust a decision made to a changed factual or legal situation (Wahlhäuser, in Kment, EnWG, 2nd edition 2019, section 29, margin no 34-35). An amendment is only possible if the decision would no longer meet the requirements for a determination without changing the determination. This situation may occur when, for example, the legal situation has changed (Hermes, in: Bourwieg/Hellermann/Hermes, EnWG, 4th edition 2023, section 29, margin no 31).

3.5. Discretion

32 The ruling chamber has properly exercised its due discretion in each case. Pursuant to section 40 VwVfG, an authority empowered to act according to its discretion must exercise this discretion in line with the purpose of empowerment and observe the legal limits of discretion. The ruling chamber decided to initiate proceedings in an unobjectionable manner and with consideration of the arguments for and against doing so. This was not contrary to the interests of the parties concerned.

33 Both issuing a determination pursuant to section 20(4) sentences 1 and 2 EnWG and amending a determination within the meaning of section 29(2) EnWG are within the discretion of the regulatory authority.

34 The CJEU had found in its judgment of 2 September 2021 (C-718/18) with regard to the fourth plea in law in the infringement proceedings against the Federal Republic of Germany that the normative regulation in Germany was incompatible with the provisions of the Directives on the internal energy market. The legislature took this judgment as an opportunity to amend the national legislative framework of energy regulation in line with European law to the effect that the provisions

of the GasNZV will cease to have effect on 31 December 2025 and will be replaced by powers to make determinations for the regulatory authority.

35 A particular argument in favour of issuing the determination is that the GasNZV will no longer be in force after 31 December 2025, see Article 15(6) of the Act amending energy industry law to take account of Union law and amending other provisions of energy law (EnWRAnpG 2024) of 22 December 2023. The proceedings to revise operative parts 1 to 3, operative part 4 a), b), c) dd) to d) bb) d) dd) to operative part 6 b) as well as operative part 6 d) to operative part 9 are a determination pursuant to section 29(1) EnWG that serves to transfer the content of sections 3, 4, 6, 8, 9, 11, 12, 13, 16, 18, 19 and 38 GasNZV into an official determination. In this way, it can be ensured that the management of network access to piped gas supply systems and the calculation, offer and allocation of capacity are not left unregulated once the GasNZV is no longer in force, so as to ensure a piped supply of gas for the general public that is as secure, low-priced, consumer-friendly, efficient, environmentally compatible and greenhouse gas-neutral as possible (see section 1(1) EnWG) as well as effective and undistorted competition (see section 1(2) EnWG). In this determination, the ruling chamber is following the purposes and objectives set out in section 1(1) and (2) EnWG to achieve a supply of gas for the general public that is secure, low-priced, consumer-friendly and efficient as well as, in particular, effective and undistorted competition. The determination contains an almost complete transfer (for details see section 3.5.2.) that contributes to these purposes and objectives. The determination thus also contributes to an efficient and non-discriminatory network access system within the meaning of section 20(1) EnWG and promotes the objectives of ensuring effective and undistorted competition in the supply of gas, ensuring efficient and reliable operation of gas supply systems and optimising the gas supply for the economy as a whole within the meaning of section 1(2) EnWG.

36 Various consultation responses (inc BDEW, EnBW, E.ON, EFET D, FNB Gas) brought up the transfer of section 5 GasNZV (liability for disruptions to network use) into the determination. There were calls for the section to be transferred without changes but also some calls for a transfer with content changes or for the section to be revoked. In this context, the ruling chamber wishes to draw attention to the fact that, according to the draft Act amending energy industry law to strengthen consumer protection in the energy sector, amending other provisions of energy law and revising energy industry law for legal compliance (Bundesrat printed paper 383/25), the federal government is to be empowered in section 11(3) EnWG (new) to regulate the liability of energy supply system operators in the event of disruptions to network use. Moreover, a new transitional provision is to be included in section 118(2) EnWG (new), pursuant to which section 5 GasNZV is to continue to apply to the same extent until such time as the federal government makes use of the power arising from section 11(3) EnWG (new). Given these intended legal

provisions that should enter into force in 2025, the ruling chamber still sees no need to transfer the provision of section 5 GasNZV into the determination.

37 A particular argument in favour of amending the KARLA Gas 1.1 determination (BK7-15-001) of 14 August 2015 in the version of the determination of 6 December 2018 (BK7-18-087) is that the subsequent amendment of the determination is necessary within the meaning of section 29(2) sentence 1 EnWG to ensure that the requirements for a determination are still met.

38 The ruling chamber has properly exercised its due discretion to make amendments with regard to the KARLA Gas 1.1 determination (BK7-15-001) of 14 August 2015 in the version of the determination of 6 December 2018 (BK7-18-087). Whether and to what extent the regulatory authority amends the conditions and methodologies of regulation within the meaning of section *29*(2) EnWG is essentially at its discretion. Nevertheless, limits are placed on the way in which the regulatory authority makes a discretionary decision in that it is bound to the principle of proportionality (Wahlhäuser, in Kment, EnWG, 2nd edition 2019, section 29, margin no 42). The existence of section 29(2) EnWG means that confidence in the continuation of a decision is less protected. This is limited in that a certain reliability of the authority's decisions must remain (Hermes in Bourwieg/Hellermann/Hermes, EnWG, 4th edition 2023, section 29 EnWG, margin no 34).

39 This is the case in this instance. The arrangements for capacity and for the management of network access in the gas sector are found, on the one hand, in determinations of the Bundesnetzagentur and, on the other, in the GasNZV and they complement each other. If the arrangements were not transferred from the GasNZV once it was no longer in force, there would be gaps even though the arrangements of the GasNZV are tried and tested (see margin no 41). It is therefore necessary to transfer the arrangements or to integrate them into the KARLA Gas 1.1 determination (BK7-15-001) of 14 August 2015 in the version of the determination of 6 December 2018 (BK7-18-087) in the form of an amendment in order to achieve coherent arrangements on capacity and the management of network access in the gas sector.

3.5.1. Basic deliberations

40 The decision to issue the determination is based on the following basic deliberations.

3.5.1.1 Unchanged transfer of GasNZV provisions

41 The ruling chamber intends to transfer the arrangements of the GasNZV into a determination essentially unchanged. The ruling chamber considers that an argument in favour of this approach is that the provisions of the GasNZV and the determinations issued on the base of it in the past have contributed to a consistent, reliable and predictable regulatory framework for gas network access in Germany. In substance, this regulatory framework is in line with European and German

legislation. In the judgment mentioned above, the CJEU found that normative regulation was not compatible with the exclusive independence of the national regulatory authority as intended by European law, but it did not object to any breaches by the applicable regulatory framework of substantive provisions of European legislative acts. The basic structure of the current framework regulating access to gas supply systems has proven itself over many years and is widely embedded in the contractual relationships of the various market participants relating to the structure and management of network access, in particular via the Gas Cooperation Agreement. While the ruling chamber does not wish to deny the essential purpose of further developing the regulatory framework, the key objective of the determination – to avoid regulatory gaps caused by the GasNZV no longer being in effect – requires the determination proceedings to be carried out in a timely manner. A revision of the regulatory framework going beyond individual points would have jeopardised this objective. Therefore, the ruling chamber has made only isolated changes to content where necessary or appropriate due to changed framework conditions or for other reasons.

42 The revocation of individual provisions of the GasNZV is also compatible with the objective of transferring provisions of the GasNZV unchanged. The ruling chamber does not intend to substantively change these provisions by revoking them. Where provisions are revoked, they are already set out in European or national law or other determinations. The ruling chamber has thereby also taken account of the legal framework created by the European Gas and Hydrogen Package adopted on 21 May 2024 (Directive (EU) 2024/1788 and Regulation (EU) 2024/1789).

3.5.1.2 No deviation from GasNZV before it ceases to be in force, section 20(4) sentence 3 EnWG

43 The ruling chamber can also deviate from existing provisions in the above-mentioned legal ordinances even before they cease to be in force or make supplementary provisions on them (section 20(4) sentence 3 EnWG). Operative part 9 sets out that the provisions of this determination will apply from 1 January 2026. This provision ensures a seamless transition once the GasNZV ceases to be in force on 31 December 2025 due to Article 15(2) to (6) EnWRAnpG. The ruling chamber is not making use of the regulatory authority's power, set out in section 20(4) sentence 3 EnWG, to deviate from or make supplementary provisions on the provisions of a legal ordinance pursuant to section 24 EnWG in the version applicable up to and including 28 December 2023. An argument in favour of this is that, since the provisions of the GasNZV are to be transferred essentially unchanged, no significant deviation or supplement would be achieved anyway. Moreover, the applicability from 1 January 2026 is intended to ensure that all addressees of the determination and other market participants have sufficient time to adjust to the regulatory framework with its amendments in some details.

3.5.1.3 No framework determination

44 In the process of the GasNZV ceasing to be in force, the ruling chamber has decided against a framework determination that would cover all or some of the GasNZV provisions relating to several of the implementing determinations focusing on different topics (specifically BK7-24-001-007, BK7-24-001-008, BK7-24-001-009, BK7-24-001-010). The ruling chamber acknowledges the concern expressed by some respondents to the consultations to this determination (FNB Gas, E.ON) that the loss of the established provisions of the GasNZV could create a risk that new provisions in individual, specific determinations would reduce the transparency and legal certainty of the regulatory framework. Nevertheless, the ruling chamber considers that integrating the GasNZV provisions into the relevant individual determination is more useful since these provide practitioners with a topic-specific summary of the provisions that will apply in future to individual topics rather than creating a new level of regulation with a framework determination. Areas of thematic overlap will be made clear for legal practitioners by notes and references.

45 This applies also and in particular to the transfer of legal definitions from the GasNZV, whereby the ruling chamber has only included these kinds of overarching provisions in the specific determination to which the fundamental content reference of the provisions needs to be made. Where there are points of contact with the subject matter of the other determinations, reference will be made to the determination containing the fundamental aspects. The ruling chamber considers that this approach will sufficiently avoid the duplications and inconsistencies between the different determinations that were warned of in the consultation responses.

3.5.1.4 Legal redress

46 The transfer of the provisions of the GasNZV to a determination does not restrict the possibilities for legal redress of the determination addressees. Regardless of the fact that this form of decision-making is provided for by law in section 20(4) EnWG, it has also raised the transparency and clarity regarding the effective judicial redress against the relevant provisions. While it generally only used to be possible to scrutinise the provisions of the GasNZV in the course of an indirect challenge, transferring the provisions into determinations gives the parties concerned, at least, the opportunity to take direct action against the provisions in the form of an appeal in accordance with section 75 EnWG.

3.5.2. Deliberations on the individual subjects of the determination

47 The individual subjects of the determination are based on the following considerations:

3.5.2.1 Deliberations on operative part 1

48 Operative part 1 determines the general rules for the contractual arrangements of the entry and exit contracts within the meaning of section 20(1b) sentences 2 and 3 EnWG necessary for network access to piped gas supply systems.

49 Operative parts 1 a) and b) transfer with no change in content the provision of section 3(1) sentence 1 GasNZV on the basic content of contracts and the right and obligation to conclude entry and exit contracts.

50 Operative parts 1 a) and b) thus further substantiate the right set out in section 20(1b) EnWG of access to gas supply systems and give shippers the right to conclude the necessary contracts to carry out gas transport. At the same time, it is clarified that shippers are also required to conclude an entry or exit contract. The counterparties are the entry or exit system operators. The ruling chamber considers it necessary to transfer the provisions so that the basic content of contracts and the right and obligation to conclude entry and exit contracts continue to apply in future, because section 3(1) GasNZV has proven its worth. The consultation responses did not raise any arguments against transferring the provisions with no change in content either.

51 Operative part 1 b) sentence 2 thus sets out an exemption to sentence 1, in that the obligation does not apply if the shipper only intends to trade gas at the virtual trading point of the market area. In the course of the second consultation, E.ON called for operative part 1 b) sentence 2 to clarify that only those shippers only acting as balance responsible parties come under the exemption. The amended transfer from the GasNZV would provide the opportunity for the role of shipper to be defined more precisely, since in the case described the shipper is actually not a shipper. The ruling chamber agrees that this is not the “traditional” role of shipper, but does not see a need for an addition since the content of the provision (exemption to the provision of operative part 1 b) sentence 1) is sufficiently clear. Moreover, the proposed wording would in fact lead to an undesirable mixing of the market roles. The requested amendment would be contradictory under the EnWG regime, because a market role that had already been specifically named (in this case, the shipper) would merely be acting as another market role (in this case, the balance responsible party).

52 The ruling chamber has upheld its decision not to transfer the provision of section 3(3) sentence 2 GasNZV. The decisive reason for this was that possible contractual arrangements in entry and exit contracts could be restricted by this provision. In particular, operative part 1 a) and b) and operative part 4 a) provide detailed enough provisions on the basic content of these contracts. Contrary to the remarks in the second consultation (E.ON) that are not further expanded on, the ruling chamber does not see a disadvantage with regard to transparency and clarity caused by not transferring the provision of section 3(3) sentence 2 GasNZV.

53 Operative part 1 c) sentences 1 and 2 transfer the provisions of section 6(1) GasNZV on registration in the exact same wording. It is determined that shippers have to register with the system operator. These provisions are proven in practice and were therefore transferred to maintain a consistent, reliable and predictable regulatory framework (see section 3.5.1.). Operative part 1 c) sentence 3 gives operators of gas supply systems the opportunity to introduce a joint shipper registration “one-stop shop” for the conclusion of entry and exit contracts in the market area. “One-stop shop” here means a simplified registration procedure in which all the registration activities necessary to conclude entry and exit contracts are handled on a central platform. The ruling chamber does not consider it necessary to set out more detailed provisions on this aspect in this determination. Rather, details ensuring appropriate, transparent and non-discriminatory network access, including with regard to the registration, can be included in the Gas Cooperation Agreement. By creating the possibility of a one-stop shop, the ruling chamber is responding to a request from the first consultation (VNG). However, in the second consultation, legal concerns were raised (E.ON) that this was a serious intervention in the freedom of contract and it was, moreover, not understandable that the addition had only been put into the determination after the first consultation. It was not necessary to introduce a central registration, which would require additional effort and would therefore further push up network tariffs in a dwindling market, the response argued. The ruling chamber considers that this statement neglects the fact that the provision is expressly not mandatory. The use of the word “can” and the addition “for example via a central registration site” merely give system operators the opportunity to provide for joint registration for the conclusion of entry and exit contracts in the market area. As no more specific provisions are made in the determination, for example regarding the technical design of a central platform, the gas supply system operators have leeway in the implementation of a one-stop shop registration. They have the possibility to accommodate legal concerns such as those raised in the consultation response. The ruling chamber does not therefore see an intervention in the freedom of contract of the gas supply system operators in operative part 1 c). This provision was expressly supported by other consultation respondents with particular mention of the fact that it is formulated as an option with “can” (FNB Gas) and that it allows for a compromise in implementation (BDEW).

54 Respondents to the second consultation (BDEW, FNB Gas) also called for a sentence 3 to be added to operative part 1 c) expressly allowing system operators to require other admission requirements from shippers in addition to the registration. While the ruling chamber has decided not to amend the operative part to this effect, it wishes to point out that the previous – and thus also the transferred – provision does not prevent system operators from requiring other appropriate and non-discriminatory admission requirements from shippers.

55 Operative part 1 d) transfers the requirements of section 3(5) GasNZV to base the entry and exit contracts on general terms and conditions and the provisions of section 4(1) sentences 1 and 3

GasNZV on the minimum information to be included in the general terms and conditions of entry and exit contracts. The transfer does not make any changes to content and is almost identical in wording. The aim of this continuation is to ensure that contracts contain a comparable minimum amount of information so that key elements for network access continue to be contractually agreed between system operators and shippers.

56 In the second consultation, E.ON called for it to be clarified that operative part 1 d) bb) and mm) only apply to transmission system operators. With a particular view to the general aim of maintaining a consistent, reliable and predictable regulatory framework (see section 3.5.1.), the ruling chamber has decided not to introduce a clarification in the two provisions. Moreover, as far as operative part 1 d) bb) is concerned, there are at least some distribution system operators – as shown in Annex 2 to the Gas Cooperation Agreement (terms and conditions for the entry/exit contract among distribution system operators with entry-exit system and shippers) of 22 March 2024 – that operate their networks as an entry-exit system and thus also have to fulfil the minimum information requirements. Where the management of network access by distribution system operators occurs outside the entry-exit system, it is still sufficient for this fact to be made clear in the contracts, thus already meeting the minimum requirement in operative part 1d) bb).

57 The ruling chamber has not accepted another request from the first consultation (INES) not to transfer section 4(1) sentence 3 GasNZV and to require minimum information on the metering and reading of gas consumption even when the meter point is operated by a third party (see operative part 1 d) ff). If a meter point is operated by a third party, the contractual arrangement for the metering and reading of gas consumption is up to the third party. In addition, the contractual arrangements of entry and exit contracts may neither prevent nor impede the right to switch meter operator (see section 20(1c) EnWG).

In the second consultation, there was a call (Creos) to add a new point cc) to operative part 1 d) as follows:

> *“Distribution system operators can offer shippers freely allocable capacity on a firm and interruptible basis. To do so, they must draw up and publish equivalent contractual terms and conditions upon which the entry and exit contracts will be based without discrimination, for example as part of a Gas Cooperation Agreement and with the appropriate involvement of market participants and the Bundesnetzagentur. These contractual terms may be deemed approved where the Bundesnetzagentur does not object to them.”*

According to the respondent, this is a proven process that is already allowed for and legitimised, in particular in Annex 2 of the Gas Cooperation Agreement as confirmed by the Bundesnetzagentur. Including it in the determination would also make it transparent, reliable and communicated/set in a legally secure manner, the statement maintained. Regardless of the fact that the more appropriate place for such an amendment would be operative part 2 d) rather than

with the minimum contractual information of the system operators, the ruling chamber has decided not to introduce such a provision. The argument in the consultation response makes clear that this process is already possible and used in practice at the distribution system level. The ruling chamber therefore sees a risk that such an amendment would lead to uncertainty and resultant problems and including it would therefore be precisely in contradiction to the overarching objective of this determination to ensure continuity and legal certainty (see section 3.5.1.).

3.5.2.2 Deliberations on operative part 2

58 Operative part 2 determines provisions on the management of network access to piped gas supply systems, including gas quality requirements.

59 The provisions on the management of network access to piped gas supply systems in the market area are regulated in line with the current content of the GasNZV. This includes in particular the continuation of the existing principles on the management of access, gas quality and the proven system of a Gas Cooperation Agreement.

60 Operative part 2 a) specifies the requirement for gas supply system operators to work together in the form of a Gas Cooperation Agreement, as set out in section 20(1b) sentence EnWG. The system operators are required to agree the necessary details of their cooperation in a Gas Cooperation Agreement to permit shippers a standard, transparent, non-discriminatory and efficient network access that is fit for general business under appropriate conditions. The provisions of section 8(6) GasNZV, which have been proven in practice, are thus transferred with no change in content. No criticism was expressed of this transfer in either the first or second consultation.

61 Operative part 2 b) requires gas supply system operators to accept quantities of gas provided by shippers at the entry points of the market area named by the shipper and to hand them over with the same energy content at the exit points of the market area named by the shipper (operative part 2 b) sentence 1) although the identity of the gas need not be kept in the withdrawal (sentence 2). Section 8(1) GasNZV is thus transferred with the exact same wording. Sentence 1 entitles shippers to have the quantities of gas they provided at entry points transported and made available for withdrawal. Sentence 2 takes account of the fact that, under the existing physical conditions (such as gas flow speed), it is actually not possible for precisely the same gas that was injected in to be provided simultaneously at the exit point. The quantity of gas in the network is regarded as a whole, so the physical identity of the gas injected in and withdrawn cannot, and does not need to, be maintained. These provisions are proven in practice and no criticism of the transfer was expressed in the consultations.

62 Operative part 2 c) determines rules for the quality of the gas that is to be injected into the network. These provisions transfer section 19 GasNZV with no change in content. This operative part splits

the responsibility between shippers and system operators as far as ensuring the necessary compatibility between the gas that is to be injected into the network and the gas that is already in the network. Operative part 2 c) aa) requires shippers to ensure that the gas for injection into the network corresponds to the specifications published by the entry system operator. This is a reasonable demand of shippers, since they are bringing gas for injection into a network that already contains gas with a certain quality. Operative part 2 c) bb) contains a rule that the compatibility of gas quality will be assumed if shippers meet the specifications published by the system operator at the time of injection. This is appropriate, particularly given that shippers cannot know the exact quality (eg the precise calorific value) of the gas at the time of injection from their own information – unlike the system operator itself – and therefore have to rely on the data of the system operator on its website. Operative part 2 c) cc) contains the requirement of the entry system operator to take the necessary measures if the gas for injection into the system is not compatible with the gas already in the system. Sentence 2 makes clear that the system operator has to bear the costs for these additional measures. This is proportionate and reasonable, because deviations between, for example, the calorific value in the system during the relevant time period and the calorific value published on the website of the entry system operator can be influenced by the system operator and not by the shipper. Operative part 2 c) dd) requires the system operator, as far as is technically possible and reasonable, to offer to the shipper to create the necessary compatibility for injection if the gas for injection into the network is not compatible. Where this is technically not possible or reasonable for the system operator, the system operator is required to provide reasons. For the sake of completeness, the ruling chamber wishes to point out that any costs for making the gas for injection into the system compatible before its injection into the system must be borne by shippers. This is a logical continuation of the requirement on shippers arising from operative part 2 c) aa).

63 In the first consultation, INES stated that it should be ensured that quantities of gas injected via the gas supply systems into connected gas storage facilities although they did not meet the gas quality specifications should be accepted again by the gas supply system operators when they are withdrawn, even though they still do not meet the gas quality specifications. The ruling chamber shares this view in principle but does not see the need for an explicit rule relating to access. The situation described relates to the import of odorised gas from France to ensure national security of supply in Germany. The regulatory handling of this is set out in the VOLKER determination (BK9-22/606) of 8 November 2022 by Ruling Chamber 9 and extended in a decision of 26 April 2024. This includes the temporary regulatory approval for gas supply system operators to accept quantities of gas that do not meet gas quality specifications. On the access side, the legal requirements to provide non-discriminatory network access on appropriate terms apply. These would be the standards with which to measure the behaviour of a system operator that refused to accept quantities of gas from a gas storage facility on the grounds of non-compliance

with the gas quality specifications, even though the transport of this gas had previously been accepted when it was put into storage.

64 The ruling chamber also did not accede to a further request from the first consultation (VNG) that the compatibility of the gas for injection into the system should be assumed if it would not cause the properties of the gas in the system to significantly deviate from the published properties. Besides the fact that introducing the term “insignificant deviation” would bring with it considerable difficulties in interpretation and legal uncertainty, the ruling chamber does not consider it expedient or necessary to water down the compatibility requirements. Doing so could negatively affect the secure operation of the system and raise doubts about the current balance of obligations between shippers and system operators in this context.

65 Operative part 2 d) transfers the provisions of section 8(2) GasNZV, which relate to the offer of technical capacity in the GasNZV system (as explicitly stated in section 9(1) sentence 1 GasNZV), without changes in content. At the same time and also without changes in content, the requirement set out in section 11(1) sentence 1 first half-sentence GasNZV about the offer of interruptible capacity is transferred to operative part 2 d). Operative part 2 d) sentence 1 thus requires transmission system operators to offer freely allocable capacity on a firm and interruptible basis in accordance with the still applicable KASPAR determination (BK7-18-052). The ruling chamber wishes to point out here that the determined definitions of all permissible capacity products in accordance with the KASPAR determination reflect all the properties of free allocability as required by section 8(2) sentences 1 and 3 GasNZV with a view to the offer of technical capacity. Operative part 2 d) sentence 2 further transfers the provision of section 8(2) sentence 2 GasNZV, which contains specifications for the entry-exit system laid down in section 20(1b) EnWG, in the exact same wording.

66 Operative part 2 d) sentence 3 sets out the requirements for transmission system operators in relation to the offer of technical capacity. Pursuant to this, the greatest possible amount of technical capacity must be offered as firm, freely allocable capacity (FZK), while only the remaining part of the technical capacity, which is not suitable for offer as FZK due to network restrictions, may be offered as conditional capacity. This provision is in line with European law: Article 2 point 19 of Regulation (EU) 2024/1789 defines technical capacity as the maximum firm capacity that can be offered to the network users, taking account of system integrity and the operational requirements. Firm capacity in this context is to be understood as the pipeline capacity contractually guaranteed by the system operator as uninterruptible (see Article 2 point 17 of Regulation (EU) 2024/1789). Under Article 2 point 35 of Regulation (EU) 2024/1789, firm capacity includes conditional capacity that entails transparent and predefined conditions for either providing access from and to the virtual trading point or limited allocability. Conditional capacity is thus also part of the technical capacity. However, in accordance with recital 17 of

Regulation (EU) 2024/1789, it should be offered only where system operators are not able to offer firm (in the sense of “firm and freely allocable”) capacity. Moreover, system operators should define the conditions for conditional capacity on the basis of operational constraints. The regulatory authority should approve the conditions and ensure that the number of conditional capacity products is limited to ensure compliance with the principle of providing efficient third-party access. This system, anchored in European law, is reflected in operative part 2 d) sentence 3, which corresponds to the previous regulatory regime of the GasNZV and the understanding upon which the ruling chamber has already based previous determination proceedings. An exhaustive list of permissible capacity products in Germany was determined in KASPAR (BK7-18-052). The permitted firm capacity products are FZK and the conditional capacity products, conditionally firm, freely allocable capacity (bFZK) and firm, dynamically allocable capacity (DZK). The ruling chamber expressed the view in the KASPAR determination (see sentence 20) that attaching technical restrictions to the offer and design of conditional capacity is in line with the goals and purposes of the law (see section 20(1b) sentences 1 and 10 EnWG) and the GasNZV. Pursuant to this, transmission system operators are unable to attach restrictions to the firm, free allocability of capacity that are not technically necessary, either on their own or with the involvement of individual shippers. The consequent restrictions on companies and the market are offset by the goal of efficient and non-discriminatory network access in the entry-exit system.

67 The provisions of section 8(3) and (4) GasNZV are transferred to operative part 2 e) (internal ordering) and f) (management of transports between local distribution systems) in the exact same wording.

68 Operative part 2 e) contains the basic principles according to which a gas transport within a market area is managed among system operators.

69 The two-contract model, the introduction of which did away with the need for booking between system operators, has proven itself. For the operational management of the two-contract model, it is still necessary for the upstream system operator to be informed how much capacity from its network is needed by downstream operators to reliably supply their final customers. So that the upstream operator receives reliable data on this, the downstream operator is still required to order the relevant amount of needed capacity in the upstream network internally. Operative part 2 e) sentence 2 makes clear that operative parts 4 to 8 do not apply to internal orders and the interconnection points therefore cannot be booked separately.

70 Operative part 2 f) regulates the management of network access between two local distribution system operators in the event that one local distribution system is upstream to another one. It makes clear that in this case, capacity is managed on the basis of a maximum supply capacity that must be notified.

71 The ruling chamber has not accepted a suggestion from the second consultation to replace the words “system operators” in operative part 2 e) with “distribution system operators” (FNB Gas, BDEW, Creos) and the words “transmission system operators” with “upstream system operators” and, as a consequence of this amendment, to turn the provision of operative part 2 f) into an optional (“can”) provision (Creos). The intention of this amendment would be to continue to prevent internal ordering between transmission system operators, it was argued. The wording of section 8(3) GasNZV also does not cover the usual practice of ordering firm exit capacity (internal ordering) between distribution system operators, which is why the requested amendments should be made to create transparency, reliability and legal certainty, it was stated. The amendment would communicate the process of internal ordering, regardless of the system operator level, in a transparent and reliable way. The ruling chamber is able to understand these arguments. However, the main reason why it decided against the amendment is that the current practice, which has precisely established itself under the current wording of section 8(3) GasNZV, has proven itself and works and may also be specified as part of the Gas Cooperation Agreement. In light of this and because the proposed amendments are not intended to make substantive changes but merely clarifications, the ruling chamber sees a risk that they would rather lead to uncertainty and resultant problems. The subsequent amendment in operative part 2 f), for example, would represent a substantive change that was essentially unnecessary and not suggested in the consultation responses either. Accepting these proposed amendments would actually be contrary to the overarching objective of this determination to ensure continuity and legal certainty (see section 3.5.1.).

72 The ability to require technical exit notifications and compliance with technical limits set out in section 8(5) GasNZV is transferred to operative part 2 g) in the exact same wording. Some responses to the second consultation (FNB Gas, BDEW) essentially welcomed the transfer of section 8(5) GasNZV. At the same time, however, it was suggested that clarification should be made about the contractual agreement of the quantity notification for interval-metered customers. It was argued that the existing provision was contradictory in that it first granted system operators a right (“can require”) but then at the end made this subject to a contractual arrangement (“and has been agreed accordingly”). This point is already agreed in the cooperation agreement, including the arrangements for exit notifications, in a manner fit for general business and is included in the system operators’ terms and conditions (see section 15 and 15a of Annex 1 to the Gas Cooperation Agreement XIV.1) and is thus unnecessary, it was argued. The associations thus proposed not transferring the final phrase (“and has been agreed accordingly”). The ruling chamber has decided not to delete this phrase as requested because it sees the current wording not as contradictory, but rather including a clarification. The wording of the final phrase actually makes clear that there is an additional need for a contractual agreement. Deleting it would change the meaning of the sentence in such a way that the system operator could make the demand in

the abstract with no need for a contractual arrangement. The argument that the process is already set out in the Gas Cooperation Agreement is, therefore, insufficiently convincing because expressly including it in this determination guarantees a higher degree of legal certainty.

73 The provisions of section 7 GasNZV are transferred to operative part 2 h) (interconnection agreements) in the exact same wording. The ruling chamber has thus accepted calls (FNB Gas, BDEW) from the first consultation to include these provisions in this determination and not in the balancing determination, GaBi Gas 2.1 (BK7-24-01-008).

74 Operative part 2 h) sentence 1 requires system operators to conclude interconnection agreements so that unclear contractual relationships do not lead to disruptions in the transport of gas that could ultimately jeopardise the security of gas supply for customers. Operative part 2 h) sentence 2 serves to protect commercially sensitive data. The main beneficiaries of this provision are the shippers, even though these confidentiality requirements are included in contracts between system operators. However, justified interests in confidentiality on the part of the system operators concluding the contracts are equally protected. Operative part 2 h) aa) contains the minimum information that has to be included in all contracts. Regulating minimum information ensures that the interconnection agreements have a standardised content, making it easier to conclude them and make them compatible. Operative part 2 h) bb) requires system operators to set up operational balancing accounts at the physical interconnection points via which their system is connected to that of another system operator. The intention of this is to ensure that gas is transported without interruption even at times when deviations from the normal physical state of the system occur, for example, relating to the normal flow direction and size of the gas volumes in the system. The aim is to ensure a secure supply of gas for final customers even in situations that diverge from the usual conditions in the system. In addition, the gas held in the operational balancing accounts at the interconnection points contributes to stability within the balancing energy system since it can be used by the system operator as internal balancing gas without a prior request to the adjacent system operator.

75 Remarks were made in the second consultation (FNB Gas, BDEW) that operative part 2 h) bb) could be omitted because, since the merger of the market areas, there are no nominated points within Germany and no existing transport contracts to be settled between network operators at the relevant points. Keeping this provision thus only made sense for cross-border interconnection points, but these were already covered by Article 9 of Regulation (EU) 2015/703 (INT NC), noted the responses. Although the ruling chamber generally understands and agrees with these remarks, it has decided to transfer the tried and tested provision of section 7(2) GasNZV and not to change it, in particular with a view to as yet unforeseeable future European and national developments. Besides, the transfer of section 7(2) GasNZV in identical wording does not stand in the way of the established practice being continued.

3.5.2.3 Deliberations on operative part 3

76 Operative part 3 determines the specific rules on the calculation of the technical capacity of piped gas supply systems.

77 The requirement of transmission system operators to calculate technical capacity set out in section 9(1) GasNZV is transferred to operative part 3 a) with no change in content; the process that transmission system operators have to use is also continued unchanged from section 9(2) GasNZV in operative part 3 b). Operative part 3 b) sentences 1 and 2 set out that transmission system operators must calculate capacity in a market area on the basis of state-of-the-art flow simulations. Cross-network and cross-market area flows are also included in the flow simulations so that new findings are taken into consideration in the capacity calculation and, at the same time, a reduction of the total offer of available capacity due to outdated assumptions or methods is avoided. The capacity calculation should take account, in particular, of historical and future, forecasted capacity utilisation, historical and forecasted demand for capacity and reverse flows on the basis of probable and realistic flows. The determination thus expressly provides for a “more dynamic” capacity calculation based on current specificities and developments in the relevant system. Taking utilisation and demand into account is intended to make it possible to adjust the parameters or methods for the capacity calculation so that capacity in the network can be increased, for example at points with consistently strong demand or full utilisation, even if this is just for a shorter period of time. The requirement that the flow assumptions be probable and realistic ensures that the parameters used in the capacity calculation are reliable. This may avoid inefficient network expansion, for example. Operative part 3 b) sentence 3 sets out that transmission system operators and operators of downstream networks must work together in calculating capacity with the aim of maximising it. This cooperation requirement is intended to ensure that the network infrastructure is used as well as possible. In particular, any synergy effects can be made proper use of that might otherwise be overlooked if operators only concentrated on their own networks. To enable this, operative 3 b) sentence 4 requires system operators to provide the necessary information. The primary purpose of this provision is to increase the transparency of the calculation, but the choice of parameters applied or the relevant capacity calculation model is left up to the respective transmission system operator.

78 In the first consultation, E.ON called for an addition to the provision to ensure that there would be enough freely allocable capacity in light of the transformation of the gas networks. The ruling chamber, however, considers that the offer of freely allocable capacity is sufficiently ensured by the existing legislative provisions and those from the ANIKA determination (BK7-23-043). In accordance with operative part 2 d), the largest possible amount of FZK always has to be offered. If a sufficiently large offer is not possible, it is possible to increase the amount of FZK using capacity-increasing measures. System operators must work together to calculate and maximise FZK.

79 The ruling chamber also decided not to accept another request from the first consultation (INES) to raise the transparency requirements in the calculation of technical capacity. INES wanted a requirement for a nationwide, transparent calculation of capacity to be included. It also called for transparency on historical and forecasted capacity usage to be increased by a publication requirement of the usage data broken down by point. Moreover, transmission system operators should be required to calculate the utilisation of existing capacity and the procedure should be transparent for market participants.

80 The ruling chamber has decided not to make a new provision on the calculation of technical capacity along these lines because existing European regulations contain sufficient transparency requirements and the transfer of section 9(2) GasNZV to operative part 3 b) sufficiently ensures a nationwide process for the necessary capacity calculations. A detailed, uniform procedure for calculating capacity at interconnection points exists at the European level (Article 6(1) of Regulation (EU) 2017/459, CAM NC). Moreover, under Article 33(3) in conjunction with point 3.1.2 m) of Annex I to Regulation (EU) 2024/1789 (as of the date of application of 5 February 2025), on the key points listed in point 3.2 of Annex I to Regulation (EU) 2024/1789, transmission system operators must also publish a detailed and comprehensive description of the methodology and process used to calculate the technical capacity, including information on the parameters employed and the key assumptions.

81 The ruling chamber wishes to point out here for the sake of clarity that the provisions of the ANIKA determination (BK7-23-043) of 21 March 2024 remain unaffected. The provisions of section 9(3) GasNZV on the consideration and use of capacity-increasing measures, including market-based instruments and the capacity buy-back, were transferred to ANIKA. There is therefore no need to include additional rules on this subject in this determination. With a view to ANIKA, various respondents to the first consultation (EFET D, EnBW) called for a clearly defined order for considering capacity-increasing measures to increase FZK depending on their economic reasonableness to be included and for the transparency requirements for system operators to be tightened up at this point. However, the ruling chamber does not see any reason to amend or add to the provisions of ANIKA at this time. The order of consideration and use defined in the ANIKA determination ensures that the use of capacity-increasing measures achieves the greatest possible increase of FZK in the market area.

82 The request made in the first consultation (VNG) in relation to section 9(1) and (2) GasNZV in conjunction with section 17 GasNZV to require transmission system operators, as part of the calculation of technical capacity, to carry out a market survey to evaluate the forecasted capacity demand as part of the scenario framework is not the subject of this determination. The legal or procedural requirements of the scenario framework are decided on in the network development planning process.

83 Finally, the provisions of section 9(4) GasNZV are not transferred to this determination. Since the expiry of the oversubscription and buy-back scheme temporarily introduced in Germany (KAP+, BK7-19-037), these no longer have any practical significance. The responses to the consultations saw no need to transfer them, either.

3.5.2.4 Deliberations on operative part 4

84 Operative part 4 determines special rules for access to transmission systems relating to the contractual arrangements of entry and exit contracts as well as the offer and allocation of capacity.

85 Operative part 4 a) sentence 1 requires transmission system operators to offer shippers standardised entry and exit contracts giving shippers capacity rights at entry and exit points of the entry-exit system of the market area. Section 3(3) sentence 1 GasNZV is thus transferred with no change in content. The ruling chamber does not, however, consider it necessary to expressly transfer section 3(3) sentence 2 GasNZV (contractual arrangement of free allocability of capacity by transmission system operators) into operative part 4. The requirement to make capacity freely allocable already arises from operative part 2 d) sentence 1 and the production definitions of the KASPAR determination (BK7-18-052), which is still applicable.

86 In accordance with operative part 4 a) sentence 2, to do so, the transmission system operators must draw up and publish equivalent contractual terms and conditions upon which the entry and exit contracts will be based without discrimination, for example as part of a Gas Cooperation Agreement and with the appropriate involvement of market participants and the Bundesnetzagentur. These contractual terms must be presented to the Bundesnetzagentur and, under operative part 4 a) sentence 3, may be deemed approved if the Bundesnetzagentur does not object to them within three months.

87 Operative part 4 a) sentences 2 and 3 take account of European legislation. Pursuant to the second subparagraph of Article 6(1) of Regulation (EU) 2024/1789, transmission system operators must offer their customers equivalent contractual terms and conditions, either using harmonised transport contracts or a network code approved by the regulatory authority. The ruling chamber considers that the drafting of equivalent contractual terms and conditions for network access has become established in the process of the Gas Cooperation Agreement, which enables the appropriate involvement of market participants and the Bundesnetzagentur. This is made clear in operative part 4 a) sentence 2. The approval requirement set out in the European Regulation is sufficiently taken account of in operative part 4 a) sentence 3 so that individual approval procedures will continue to be unnecessary in future in view of the periodic revisions of the Gas Cooperation Agreement. However, as part of its powers, the ruling chamber continues to reserve its right to object to contractual terms and conditions of entry and exit contracts should they be

incompatible with the provisions of laws or determinations. The period granted of three months is appropriate and reasonable for the Bundesnetzagentur to undertake the necessary examination while longer periods of uncertainty are avoided, thus creating prompt legal certainty for the market participants. The reference to the Gas Cooperation Agreement in operative part 4 was expressly welcomed in the second consultation (FNB Gas, BDEW). No criticism was expressed on this issue in either the first or second consultation.

88 Operative part 4 b) aa) requires transmission system operators to offer firm and interruptible capacity on a yearly, quarterly, monthly, daily and within-day basis in accordance with the KASPAR determination (BK7-18-052).

89 This provision transfers the capacity product durations specified in section 11(1) sentence 1 half-sentence 2 GasNZV with no change in content. By contrast, in the view of the ruling chamber, section 11(1) sentence 2 GasNZV does not need to be transferred. The cooperation requirement it contains for the purpose of offering harmonised capacity products on as large a scale as possible is partially already regulated in section 20(1b) sentence 8 EnWG and also follows from the obligation to maximise technical capacity. Moreover, the aim of harmonised/standardised capacity products is already implemented in the KASPAR determination (BK7-18-052).

90 Various responses to the first consultation (BDEW, EFET D, VNG, Uniper) pointed to the current process of revising Regulation (EU) 2017/459 (CAM NC). The introduction of additional product durations is being discussed as part of this process. The ruling chamber agrees that harmonising the product durations valid in Germany with the product durations from the scope of the Regulation (EU) 2017/459 is likely to make sense, but the process should be concluded at the European level before the relevant amendments are considered at the national level.

91 Operative part 4 b) bb) reproduces the content of section 12(1) sentence 1 GasNZV requiring transmission system operators to allocate entry and exit capacity via a primary capacity booking platform. The other provisions of section 12 GasNZV on the operation, costs and requirements of the primary capacity booking platform are not directly related to the provisions to be determined in operative part 4 about access to transmission systems and are therefore transferred to operative part 6 (use of capacity booking platforms) with no change in content. It is thereby taken into consideration, in line with a request from the first consultation (FNB Gas), that in Europe multiple booking platforms exist and can be operated. This provision is tried and tested and was not criticised in either the first or second consultation.

92 Pursuant to operative part 4 b) cc), transmission system operators are required to combine entry and exit capacity at different entry points into zones that make it possible for gas to be injected, on the basis of an entry capacity booking, at a single entry point, as far as this is possible in terms of fluid mechanics. The calculation and subsequent designation of capacity at individual points are based on various calculation scenarios. It is possible that the calculation of capacity at a point

shows that, for example, the injection of gas is not possible in all scenarios considered at this point and the allocation of capacity thus cannot take place. If this occurs at different entry points in different scenarios, the capacity needed should still be allocated. If a scenario occurs in which the injection can no longer be guaranteed by the system operator at the booked point, it is the task of the system operator to flexibly adjust the gas flows in order to inject the gas provided into the system via a different entry point in the entry zone. This provision allows the gas system to be used more flexibly and contributes to increasing the amount of technical capacity available. Operative part 4) b) cc) sentence 3 requires transmission system operators to work together with the aim of enabling the formation of entry and exit zones if this is not initially possible due to fluid-mechanical conditions. This provision transfers the rules set out in section 11(2) GasNZV with no change in content. These rules are proven in practice and no criticism of them was expressed in the consultations.

93 Operative part 4 c) determines additional rules for interconnection points within the meaning of Article 3 point 2 of Regulation (EU) 2017/459 (CAM NC), virtual interconnection points within the meaning of Article 3 point 23 CAM NC and entry points from and exit points to third countries.

94 Where the KARLA Gas 1.1 determination (BK7-15-001) of 14 August 2015 is amended by virtue of operative part 4 c) aa) to cc), the ruling chamber, mindful of the aim of essentially transferring the provisions of the GasNZV unchanged, considers it appropriate to do and present this jointly and in conjunction with the other provisions transferred into the new KARLA 2.0 determination. The ruling chamber sees no considerable difficulties in legal application caused by this approach. In particular, it has clearly presented the amended provisions of the KARLA Gas 1.1 determination in the notes in the operative part following each amendment order. It will also publish a non-binding reference version of the KARLA Gas 1.1 determination in the version applicable from 1 January 2026 on its website (www.bundesnetzagentur.de).

95 Regarding the call in the second consultation (BDEW) to clarify that where the provisions of operative part 4 refer to interconnection points, this only relates to interconnection points of transmission systems and not of distribution systems, the ruling chamber considers it unnecessary to amend the operative part to this effect since operative part 4 as a whole only applies to transmission system operators. Moreover, the term “interconnection point” corresponds to the definition in Article 3 point 2 of Regulation (EU) 2017/459 (CAM NC), the provisions of which are transferred here.

96 Operative part 4 c) aa) updates operative part 5 of the KARLA Gas 1.1 determination (BK7-15-001) of 14 August 2015 in light of the fact that the Regulation (EU) No 984/2013 (former CAM NC) referred to there has since been replaced by the currently applicable Regulation (EU) 2017/459 (CAM NC). The update makes clear that the currently applicable Regulation (EU) 2017/459 (CAM NC) also covers entry points from and exit points to third countries in accordance with

Article 2(1) sentence 2 CAM NC. This corresponds to the transmission system operators' current practice.

97 Operative part 4 c) bb) updates operative part 4 of the KARLA Gas 1.1 determination (BK7-15-001) of 14 August 2015. It states that the reserve quotas approved still apply under the currently applicable Regulation (EU) 2017/459 (CAM NC). The reserve quotas also apply at virtual interconnection points and entry points from and exit points to third countries, as introduced by the currently applicable Regulation (EU) 2017/459 (CAM NC). This also corresponds to the transmission system operators' current practice.

98 Operative part 4 c) cc) updates operative part 2 of the KARLA Gas 1.1 determination (BK7-15-001) of 14 August 2015. Reference is made to the currently applicable Regulation (EU) 2017/459 (CAM NC). In addition, it is set out that the Gas Standard Capacity Contract in the Annex to the KARLA Gas 1.1 determination (available at www.bundesnetzagentur.de) is not only to be included in new capacity contracts to be concluded for interconnection points but also in those for virtual interconnection points and entry points from and exit points to third countries and that any existing capacity contracts are to be adjusted. These provisions, too, merely reproduce from a regulatory perspective the current practice of the transmission system operators. Operative part 4 c) dd) sentence 1 permits holders of interruptible capacity or capacity with interruptible elements for interconnection points within the meaning of Article 3 point 2 of Regulation (EU) 2017/459 (CAM NC), virtual interconnection points within the meaning of Article 3 point 23 CAM NC and entry points from and exit points to third countries to submit bids in an auction of firm capacity in order to convert their capacity into firm capacity products or capacity products with smaller interruptible elements. Pursuant to operative part 4 c) dd) sentence 2, holders of capacity that are not successful in the auction keep their original capacity.

99 Operative part 4 c) dd) takes account of the fact that firm capacity is essentially more economically valuable than interruptible capacity. Given this background, holders of interruptible capacity can participate in an auction of firm capacity pursuant to sentence 1 and, if they are successful, convert their interruptible capacity into firm capacity. The consequence of such a capacity "conversion" is that successful holders of interruptible capacity have the tariff they have already paid for interruptible capacity counted towards the price of the firm capacity acquired in the auction. This avoids them paying multiple, essentially "double", tariffs, first for the interruptible and then for the acquired firm capacity, at least insofar as the volume of newly acquired firm capacity corresponds to the interruptible capacity already "available" for the capacity holder. Sentence 2 ensures that the transport risk already existing as a result of the interruptibility is not increased for the holder of interruptible capacity due to the participation in the auction. This provision transfers section 13(2) GasNZV with no change in content. It has been proven in practice and no criticism of it was expressed in the consultations. There was merely a call in the second consultation (FNB Gas) to

clarify that this operative part only applies to transmission system operators and only to bookable points in the transmission system. The ruling chamber has decided not to include such a clarification because operative part 4 as a whole only applies to transmission system operators and the provision is thus already clearly worded.

100 Operative part 4 d) determines additional rules for entry points from or exit points to gas storage facilities. These provisions correspond to the previous regulatory regime with no changes in content. Operative part 4 d) aa) determines that transmission system operators must allocate entry and exit capacity by means of auctions. This means that those shippers wanting to offer flexibility by injecting gas into interconnection points and those shippers wanting to create flexibility by injecting gas into or withdrawing gas from storage facilities still have identical framework conditions as regards the acquisition of transport capacity. This should also ensure future growth in the competitive intensity of flexibility provided via different infrastructure.

101 The transferred provisions correspond to the general rules of section 13(1) sentence 1 in conjunction with (3) GasNZV with no change in content. These provisions are proven in practice and no criticism of them was expressed in the consultations.

102 Operative part 4 d) bb) determines that the auction procedure must be in compliance with the rules for auctions at interconnection points, virtual interconnection points and entry points from and exit points to third countries. Chapter III of Regulation (EU) 2017/459 (CAM NC) applies accordingly. The ruling chamber has already expressed the view in the past that the reference in section 13(1) sentence 4 GasNZV relates to at least the whole of Chapter III of Regulation (EU) 2017/459 (CAM NC) (see determination of 6 December 2018, BK7-18-087, page 6 et seq). This is now expressly stated in operative part 4 d) bb) sentence 2. The introduction of competing capacity rules is thus (still) possible with the prior approval of the Bundesnetzagentur, as clarified by operative part 4 d) bb) sentence 3. This provision transfers the content of section 13(1) sentence 4 GasNZV unchanged as regards entry points from and exit points to gas storage facilities, was not criticised in the consultations and corresponds to the current practice of the transmission system operators.

103 Operative part 4 d) cc) updates operative part 4a of the KARLA Gas 1.1 determination (BK7-18-087) of 6 December 2018. The reserve quotas approved therein for entry points from and exit points to gas storage facilities, which correspond to the reserve quotas at interconnection points, virtual interconnection points and entry points from and exit points to third countries, are to apply unchanged in future. This provision, too, merely reproduces from a regulatory perspective the current practice of the transmission system operators.

104 Operative part 4 d) dd) sentence 1 permits holders of interruptible capacity or capacity with interruptible elements for entry points from and exit points to gas storage facilities, as in the parallel provision in operative part 4 c) dd), to submit bids in an auction of firm capacity in order to convert

their capacity into firm capacity products or capacity products with smaller interruptible elements. Pursuant to operative part 4 d) dd) sentence 2, holders of capacity that are not successful in the auction keep their original capacity. The deliberations relating to operative part 4 c) dd) also apply here.

Operative part 4 e) determines that, for entry points from LNG facilities, the capacity of the transmission system is allocated in the order in which the requests are made. Operative part 4 e) maintains the first-come, first-served procedure (FCFS) for the allocation of capacity at entry points from LNG facilities, corresponding to the provision of section 13(3) sentence 2 GasNZV.

105 The ruling chamber has decided against changing the capacity allocation procedure at entry points from LNG facilities to an auction procedure at this time, in particular in light of the understandable concerns expressed in the first consultation (FNB Gas, ConocoPhilips, EFET D, German LNG, INEOS, Uniper) about insufficient compatibility with the operative processes of LNG injection. It had justified its original proposal firstly with the fact that auctions at network points at which potentially several shippers requested capacity would be a transparent and non-discriminatory allocation procedure. Secondly, changing to auctions would open up the possibility of establishing competing capacity allocation in the event of a capacity shortage, including in competition zones with other categories of network points at which auctions are held. A number of responses to the first consultation (FNB Gas, ConocoPhilips, EFET D, German LNG, INEOS, Uniper) pointed to the lower flexibility associated with the use of an auction calendar. In particular, it was stated that the auction calendar of Regulation (EU) 2017/459 (CAM NC) did not fit in with operations and the time situation of LNG injection with regard to unloading slots. There was insufficient compatibility regarding the booking of long-term regasification capacity and non-yearly, short-term regasification capacity. Switching to auctions would therefore lead to lower flexibility for injections into the network, which could have negative effects on security of supply and provoke booking behaviour that was less in line with demand, it was argued. In addition, shippers could face higher costs, which would reduce the attractiveness of Germany’s LNG facilities.

106 Some responses to the first consultation (Uniper, BDEW, EFET D, VNG) pointed to the current process of revising Regulation (EU) 2017/459 (CAM NC). As part of this process, there is discussion at the European level about making the auction calendar more flexible, including with regard to injections from LNG facilities. The ruling chamber considers that it is better to wait for the outcome of this process. There will subsequently be a reassessment of the pros and cons of changing the allocation of capacity at entry points from LNG facilities to auctions in the German market area. This approach was expressly welcomed in the second consultation (FNB Gas, BDEW).

107 Some responses to the first consultation (EFET D, RWE ST) called in this context for network expansion or the use of capacity-increasing measures to be addressed first in the event of

insufficient capacity to meet demand, before establishing competing capacity allocations. If a capacity constraint is probable, suitable solutions, such as pro rata allocation, should be sought among affected stakeholders, it was argued. The ruling chamber wishes to point out that this determination neither changes nor calls into question the conditions for network expansion under the network development planning process or the rules for the use of capacity-increasing measures in accordance with the ANIKA determination (BK7-23-043). The proposed pro rata allocation is an approach that is already possible today and will continue to come into consideration in future. A pro rata division can come into consideration in the ex ante allocation of bookable capacity at the different booking points of the market area where this ensures appropriate and non-discriminatory network access. The ruling chamber thus maintains its position that the introduction of competing capacity allocation in the event of technical competition and competing demand may essentially be a suitable instrument (see BK7 position paper on the principles of capacity relocation within the market area of 10 December 2021, page 8, available at www.bundesnetzagentur.de). However, as at other network points, the instrument of competing capacity allocation should be subject to official approval as it represents an exception to the usual rule of capacity being allocated independently at different booking points of the transmission system (see for example also Article 8(2) of Regulation (EU) 2017/459, CAM NC).

108 It is generally possible with FCFS as well to bundle several network points into one competition zone in the event of technical competition, so that competing capacity can be marketed across multiple points. With FCFS, then, it is not the willingness to pay that decides on the allocation of capacity but the time of the request, across points. It is not possible to form a competition zone with network points at which capacity is allocated via auction and not under the FCFS principle. However, in the first consultation, special features of the management of capacity at entry points from LNG facilities were raised (German LNG), in particular the timing of LNG injection with regard to unloading slots and regasification capacity. The ruling chamber therefore sees the need to look more closely at the regulatory framework before possibly introducing competing marketing of capacity at entry points from LNG facilities, for example with regard to the possible introduction of reserve quotas or the establishment of a use it or lose it mechanism (UIOLI). The ruling chamber will undertake this assessment after these determination proceedings in a process again involving market participants.

109 Operative part 4 f) aa) determines that, for exit points to final customers and entry points for injection from production facilities and from facilities for the injection of biogas, the capacity of the transmission system must be allocated in the order in which the requests were made. These provisions transfer section 13(3) sentences 1 and 2 GasNZV with no change in content. They state that the FCFS principle should continue to be applied at exit points to final customers as well as entry points from production and biogas facilities. Pursuant to operative part 4 f) bb), the capacity can be booked by the connected final customer or by the operator of production facilities

or facilities for the injection of biogas. This provision transfers section 13(3) sentence 3 GasNZV with no change in content.

110 In the second consultation, it was commented (FNB Gas) that the keeping of the (within) day booking possibility is dubious, especially for power plants, due to the associated vacancy costs and that this cannot be continued long-term. The ruling chamber does not consider that this assertion is related to the network access rules. Rather, the multipliers set out in the tariff regime ensure that network users whose non-yearly bookings cause the network operator to keep certain capacity available also contribute to covering the costs incurred for keeping it available by paying increased network tariffs. The aim of this is precisely to prevent the tariffs for non-yearly capacity, including daily and within-day bookings, from merely corresponding to the pro rata tariff for yearly capacity. The multiplier is therefore higher, the shorter the duration of the capacity product.

111 As announced during the second consultation, the ruling chamber has decided against implementing the proposal it put forward in the consultation of the introductory document to allow transmission system operators to change the allocation mechanism to auctions at these network points, too, in order to establish competing capacity allocation in the event of technical competition and competing demand. This proposal was rejected almost unanimously (INES, RWE ST, Uniper, EFET D, EnBW) in the first consultation, using various arguments. The ruling chamber considers that a legal argument put forward in this context (FNB Gas), that the publication requirements for each point in auction proceedings could reveal the trade and business secrets of connected final customers, is likely to prove a hurdle that is difficult to overcome. Moreover, the transmission system operators (FNB Gas) have declared that they see no use case for the change. The approach now taken was expressly welcomed in the second consultation (Uniper, BDEW, EFET D).

The ruling chamber does not consider it necessary to change the addressees of the provision to “shippers”, as requested in the second consultation (FNB Gas, BDEW). It already follows from the basic capacity allocation system in this determination that any booking of capacity in the transmission system by the customer groups mentioned is done in their role as shippers within the meaning of operative part 1 b) and observing the obligations placed upon them.

3.5.2.5 Deliberations on operative part 5

112 Operative part 5 determines rules for the trading of transport rights.

113 Operative part 5 a) gives shippers the right to sell acquired capacity to third parties or to transfer the capacity rights to third parties for use (eg lease or rent), transferring section 12(2) sentence1 GasNZV in the exact same wording.

114 Operative part 5 b) requires shippers to use the capacity booking platform via which the primary capacity was allocated. To enable an effective and functioning secondary market for transport

capacity, the operative part sets out that the capacity may only be sold or transferred using the capacity booking platform via which the primary capacity was allocated. This ensures that market participants interested in secondary capacity can more easily get a full overview of the capacity on offer on the market. This provision transfers section 12(2) sentence 2 GasNZV in the exact same wording.

115 Both sentences 1 and 2 of section 12(2) have been proven in practice. No criticism of the transfer was raised in the consultations.

116 Operative part 5 c) sets out that the tariffs for traded entry and exit capacity may not be significantly more than the original tariffs payable to the transmission system operator for the corresponding primary capacity. The connection with the tariff originally paid for the primary capacity ensures that, when capacity rights are sold on, the tariff paid is not significantly higher than that paid for the relevant primary capacity. This provision is intended to protect shippers, and ultimately gas consumers, from tariffs speculatively raised excessively and to prevent a business developing in which merely trading with capacity rights (without an underlying need for transport) disadvantages network customers. The provision transfers section 12(2) sentence 4 GasNZV in the exact same wording.

117 One response to both the first and second consultations (BDEW) rejected the transfer of the content of section 12(2) sentence 4 GasNZV. The respondent pointed to a clarification in the Gas Cooperation Agreement XIV, according to which, when capacity is transferred to a third party, the multipliers agreed in the original capacity contract still apply. However, even after this point was raised again in the second consultation, the ruling chamber still does not see a contradiction with the provision of section 12(2) sentence 4 GasNZV. The arrangement in the Gas Cooperation Agreement is compatible with the content of this provision. The ruling chamber views a provision like that of section 12(2) sentence 4 GasNZV as useful and necessary. It stops primary capacity from being traded to make a profit. In principle, no incentive should be created for primary bookings to be made just to be traded on the secondary market and not because of an actual need for transport.

3.5.2.6 Deliberations on operative part 6

118 Operative part 6 sets out specific rules for the use of capacity booking platforms. They relate to the setting up and operating of, trading on and costs of booking platforms. With the additional rules in operative part 4 c) about the provisions for switching from the previous booking platform, by contrast, existing rules from the KARLA Gas 1.1 determination (BK7-15-001) of 14 August 2015 in the amended version of 6 December 2018 are updated. This allows point-specific features and characteristics to be taken account of, which is already the case due to the

Regulation (EU) 2017/459, the GasNZV and the existing determinations and corresponds to the current practice of the network operators.

119 Operative part 6 a) sets out that, for the allocation of entry and exit capacity pursuant to operative part 4 b) bb) and for the trading of secondary capacity pursuant to operative part 5 a), transmission system operators must set up and operate, or have operated by an agreed third party, one or a limited number of joint capacity booking platforms via which capacity is allocated and traded.

120 The provision is intended to enable shippers to book entry and exit capacity in an easy and uncomplicated way by reducing the number of "points of contact" for a capacity booking in the interests of a functioning capacity market. This will also, and in particular, make it easier for new market players to transport gas, for example with the aim of supplying customers. Pursuant to section 12(2) sentence 2 GasNZV (transferred to operative part 5 b)), secondary trading can also be conducted via the respective capacity booking platform, which is why operative part 6 a) imposes the requirement to set up and operate the platform with regard to trading on the secondary market, too. Operative part 6 a) transfers section 12(1) sentence 1 GasNZV with no change in content. It is thereby taken into consideration, in line with a request from the first consultation (FNB Gas), that multiple booking platforms exist and can be operated in Europe.

121 Operative part 6 b) sets out that the costs of setting up and operating the capacity booking platform must be borne by the transmission system operators involved on a pro rata basis.

122 The costs of the capacity booking platform may still be passed on via the network tariffs. The removal of the second half-sentence of section 12(1) sentence 2 GasNZV is merely an editorial change with no substantive amendment. The ability to pass on costs is not, however, the subject of this determination.

123 Operative part 6 c) amends operative part 3 of the KARLA Gas 1.1 determination (BK7-15-001) of 14 August 2015 by replacing the words "interconnection points" with the words "booking points". The notification procedure when changing booking platforms thus now applies to all booking points.

124 Where the KARLA Gas 1.1 determination (BK7-15-001) of 14 August 2015 is amended by virtue of operative part 6 c), the ruling chamber, mindful of the aim of essentially transferring the provisions of the GasNZV unchanged, considers it appropriate to do and present this jointly and in conjunction with the other provisions transferred into the new KARLA Gas 2.0 determination. The ruling chamber sees no considerable difficulties in legal application caused by this approach. In particular, it has clearly presented the amended provisions of the KARLA Gas 1.1 determination in the notes in the operative part following each amendment order. It will also publish a non-binding

reference version of the KARLA Gas 1.1 determination in the version applicable from 1 January 2026 on its website (www.bundesnetzagentur.de).

125 Operative part 6 d) sentences 1 and 2 determine that, on the capacity booking platform, all offers of the same kind of capacity and requests for the same kind of capacity are to be made transparent for shippers and that anonymity of trading must be safeguarded in relation to offering parties, requesting parties and third parties. This provision ensures in particular a functioning secondary market. When trading is completely anonymous, there is no chance for market participants to gain insights into the business practices of offering or requesting parties that could then be used to manipulate the market. Pursuant to operative part 6 d) sentence 3, shippers must be registered in accordance with operative part 1 c) in order to participate in trading on the capacity booking platform. This provision transfers section 12(3) GasNZV with no change in content.

126 Operative part 6 e) requires the operators of the platforms pursuant to operative part 6 a) to provide a website to enable shippers to acquire primary and secondary capacity on a scale fit for general business.

127 How intensive the cooperation of the platform operators will be for this purpose is their business decision. They could possibly set up an online portal enabling shippers to reach the offer of the independent platforms via links, or they could decide to work more closely together. What matters is that the selected form of cooperation permits the simplification objectives of operative part 6 c) and d) to be achieved. This provision transfers section 12(4) GasNZV with no change in content. It is proven in practice and no criticism of the transfer was expressed in the consultations.

3.5.2.7 Deliberations on operative part 7

128 Operative part 7 determines congestion management rules.

129 In operative part 7 a), the ruling chamber has made use of the opportunity offered by point 2.2.1.1 sentence 2 of Annex I to Regulation (EU) 2024/1789 and has extended the application of point 2.2 of Annex I to Regulation (EU) 2024/1789 (congestion management procedures in the event of contractual congestion) to entry points from and exit points to third countries. This extension is appropriate and will lead to congestion management at interconnection points, virtual interconnection points and entry points from and exit points to third countries being dealt with in a uniform manner. It corresponds to the transmission system operators' current practice.

130 Operative part 7 b) sets out a series of rules for dealing with unused capacity. Pursuant to operative part 7 b) aa), shippers are required, by the nomination deadline, to offer, without delay, firm capacity that is fully or partially unused as secondary capacity or to make it available to the transmission system operator for the period and to the extent of non-use. The aim is to increase the availability of firm capacity rights, which are restricted by the designated technical capacity

and the amount of capacity already booked. For the shipper, firm capacity is more valuable than interruptible capacity, so it is not sufficient merely to give shippers the possibility of offering capacity rights on the secondary market. Rather, there must be an obligation to release it. The requirements for efficient (trading) activities on the gas market will thus still be guaranteed.

131 Operative 7 b) bb) sets out that where the shipper has not, or has not fully, nominated firm capacity booked by the shipper by the nomination deadline, the transmission system operator is required to offer the unused capacity as firm capacity for the following day, taking account of existing renomination rights. A shipper whose capacity has been offered by the transmission system operator in accordance with this continues to be obliged to pay the entry or exit tariffs. This gives market participants the opportunity to book and use firm capacity, rather than interruptible capacity, for gas transport as needed and at short notice. Operative part 7 b) bb) sentence 2 creates financial incentives for shippers to release capacity they have booked but in fact do not need as early as possible, preventing them from possibly being incentivised to hoard capacity.

132 Operative part 7 b) cc) requires the transmission system operator, where there is contractual congestion, to withdraw booked firm capacity with a duration of at least one year to the extent to which the shipper has not used its booked firm capacity for three months of the past calendar year on more than a temporary basis. The shipper can object to the withdrawal in the cases listed in operative part 7 b) cc) (1) to (3). To do so, the shipper must (1) prove that it offered the capacity on the secondary market in accordance with operative part 5 or made it available to the transmission system operator for the period and to the extent of non-use, (2) provide a convincing written or electronic statement, without delay, that it still needs all the capacity to meet existing contractual obligations, in particular from gas purchasing or supply contracts; or (3) provide a convincing written or electronic statement, without delay, that it has various contractual gas procurement alternatives for which capacity has been booked at different entry points that it uses as alternatives and that it has made the unneeded capacity available on the secondary market for the period of non-use and to the extent of non-use or made it available to the transmission system operator for the period and to the extent of non-use. The intention is to prevent a restriction of liquidity on the primary capacity market caused by capacity hoarding, because, among other things, a liquid capacity market is an important prerequisite for more competition on the gas market. It is necessary for shippers to be able to object since the transmission system operator does not know the trading relationships behind the network usage of the shippers. The network operator concerned, therefore, cannot judge whether capacity is unused for objectively justifiable reasons or whether it is actually being improperly hoarded. In this situation, the transmission system operator has access to less information than the shipper. The transmission system operator must, therefore, always initiate a withdrawal procedure as soon as the objective requirements for the withdrawal of capacity in accordance with b) cc) are met. The justified

interests of the shippers are balanced out by the possibility to object set out in this provision. An exhaustive list of possible grounds for objection is set out in this operative part.

133 Operative part 7 b) dd) sentence 1 requires transmission system operators to keep information as referred to in operative part 7 b) bb) and cc) for a period of two years and make such information available to the regulatory authority upon request. Pursuant to operative part 7 b) dd) sentence 2, upon request, the shipper must provide evidence as referred to in operative part 7 b) cc) (2) and (3) to the regulatory authority by submitting copies of the relevant contractual arrangements. Operative part 7 b) dd) sentence 3 requires transmission system operators to provide shippers denied entry and exit capacity, upon request, with the information referred to in sentence 1, having regard to safeguarding the trade and business secrets of third parties. The requirements to keep and provide information enable the regulatory authority to check the lawful application of the instrument. The right for shippers to inspect information is necessary for reasons of transparency, because this is the only way for shippers to be able to understand if the process was lawful.

134 The provisions of section 16 GasNZV are transferred to operative part 7 b) with no change in content and largely in the same wording. These provisions are proven in practice and no criticism of transferring them was expressed in the consultations.

135 Operative part 7 c) determines that where capacity is reduced for technical reasons after conclusion of the entry or exit contract, the booked capacity must be reduced in proportion to the volume booked by the shipper and the transmission system operator must inform the shipper of the reasons without delay. If capacity has to be reduced after booking for technical reasons, it would not be appropriate to place the negative consequences of the reduction only on some shippers. It is appropriate and non-discriminatory to reduce all booked capacity on a pro rata basis to ensure that all shippers bear the same consequences of the reduction. Operative part 7 c) transfers the provisions of section 18 GasNZV on the handling of necessary reductions of already booked firm capacity in the exact same wording.

136 Both provisions are tried and tested and were therefore transferred to maintain a consistent, reliable and predictable regulatory framework (see section 3.5.1.).

3.5.2.8 Deliberations on operative part 8

137 Operative part 8 determines a right for operators of storage, LNG and production facilities, operators of gas power plants and industrial customers to reserve capacity they will need in future in the transmission system.

138 Operative part 8 a) transfers section 38(1) GasNZV with no significant change in content. The customer groups mentioned are entitled to reserve entry and exit capacity in the transmission system within the limits of the technical capacity of the network to which they are connected.

Industrial customers have been added to the wording of section 38(1) GasNZV and are now also a customer group with this right. The ruling chamber considers it necessary and appropriate to extend the entitled customer groups in this manner. The objective of the provision was and is the appropriate balance between the network operator's obligation to offer as much capacity as is available and the interest of the installation operator only to enter into long-term contractual obligations when/after the final investment decision has been made. Industrial customers have this same justified interest in safeguarding the final investment decision. For reasons of equal treatment and non-discrimination, this has now been taken into consideration. No grounds for not extending the entitled customer groups in this manner were put forward in the consultation responses.

139 The ruling chamber decided not to transfer section 38(1) sentence 4 GasNZV since it is of a merely informational nature. The fact that the special rules on the connection of and network access to biogas plants are unaffected by the right of reservation is anyway the case, the ruling chamber considers. It was therefore not necessary to transfer this sentence.

140 Operative part 8 b) sets out the conditions that the parties seeking connection have to prove to the transmission system operator before making a reservation. A situation should be avoided in which reservations are made to have "in hand" although the project in question has not yet, and might never, reach the necessary planning stage, thus blocking scarce capacity. So as not to make the requirements for reserving capacity too demanding, operative part 8 b) lists three criteria that need to be fulfilled for this purpose. First, in accordance with operative part 8 b) aa), there must be a brief description of the concept so that the transmission system operator can assess whether the relevant capacity can theoretically be made available. Operative part 8 b) bb) and cc) contain criteria designed to enable transmission system operators to evaluate whether the capacity needed will be available at the time requested. The time of the first gas offtake mentioned in b) cc) is synonymous with the time of the first capacity use for supply or withdrawal from the connected facility.

141 Operative part 8 b) transfers section 38(2) GasNZV with no change in content and in largely the same wording. The formal procedural rules have proven themselves in practice and are to be continued to ensure continuity in procedural economy. No reasons not to transfer them were raised in the consultations.

142 Operative part 8 c) sets deadlines within which the individual examinations need to be carried out. This provision avoids the conclusion of examinations depending solely on events that can be influenced by the network operator. It also ensures that the party seeking connection gets a quick result. If the result is negative, the party seeking connection can then decide if it wishes to make a request for another point. Sentence 8 places a time limit on the possibility of reserving capacity, which is necessary to avoid capacity being blocked by individuals for other projects in the long-

term. The ruling chamber wishes to clarify that in cases where it turns out during the original reservation period that the project will be delayed and it will not be possible to make a firm capacity booking within three years, a new reservation can be made, in practical terms extending the reservation period. The reservation requirements set out in operative part 8 must be looked at again for an extension and another reservation fee for the new three-year reservation period needs to be paid. If the firm capacity booking is made during the second reservation period, the fees for both periods are counted towards the tariff that has to be paid to the transmission system operator after the firm capacity booking.

143 Operative part 8 c) transfers section 38(3) GasNZV with no change in content and in largely the same wording. The formal procedural rules have proven themselves in practice and are to be continued to ensure continuity in procedural economy. No reasons not to transfer them were raised in the consultations.

144 Operative part 8 d) transfers section 38(4) GasNZV with a change in content, in that the fee for capacity reservations pursuant to operative part 8 a) is set for all facility operators at 20% of the reference price within the meaning of Article 3 point 1 of Regulation (EU) 2017/460 (TAR NC) applicable for the booking at a corresponding entry or exit point at the point in time when the reservation agreement is concluded. The reservation fee was previously €0.50 per kilowatt hour per hour per year for gas power plants and €0.40/kWh/h/a for storage, LNG and production facilities.

145 The reservation fee is a means of avoiding reservations of capacity being made that are not serious. It thus needs to be high enough to discourage requests that are not serious while not posing a barrier to market entry. Since it was introduced, the reservation fee has been proven in practice and the transfer of the capacity reservation provisions from section 38(4) GasNZV was expressly welcomed in some responses to the second consultation (BDEW, FNB Gas, Uniper). In the detailed formulation of the reference in operative part 8 d), the ruling chamber adjusted its original wording in line with a suggestion made in the second consultation (BDEW, FNB Gas) for the sake of clarification. The adjustment takes particular account of the point made in the responses that the ruling chamber's original wording, which referred to the "the tariff to be paid", was too vague and left room for interpretation. The ruling chamber has created the necessary clarity by referring to the reference price at the entry or exit point valid at the time the reservation agreement was concluded. The reservation fee can be set at the time of reservation depending on the point class (eg storage facility, network connection point), while the tariffs of the transmission system operators are the same within the relevant product classes in accordance with the current REGENT 2026 determination (BK9-23/610) of Ruling Chamber 9. Article 3 point 1 of Regulation (EU) 2017/460 (TAR NC) defines the valid "reference price" as firm yearly capacity. The provision is therefore based on yearly FZK capacity with reference to the KASPAR

determination (BK7-18-052). Any surcharges and multipliers are thus irrelevant to the determining of the reservation fee.

146 The existing mechanism has been appropriately developed by amending the previous, static reservation fee, which has been unchanged since the provision was introduced in 2010 at €0.50/kWh/h/a for gas power plants and €0.40/kWh/h/a for storage, LNG and production facilities, to a dynamic reservation fee of 20% of the respective reference price. Linking the fee to reference prices ensures that this provision sets a threshold for serious capacity reservations that responds to future developments and does not present a disproportionate burden for market participants. It is appropriate and in line with the principle of non-discrimination to apply the same percentage for all entitled customer groups. If the network tariffs were to develop differently in future for different customer groups owing to changed processes in setting them, the uniform percentage applied to calculate the reservation fee would take adequate account of this development, too. No concerns were raised in the consultation responses about applying a uniform percentage for all entitled customer groups.

147 The ruling chamber is aware that, as some responses pointed out (BDEW, EnBW, Uniper), the amendment of the calculation to a dynamic reservation fee is in practice an increase compared with the €0.40/kWh/h/a and €0.50/kWh/h/a fees that had been applicable since 2010. Nevertheless, the dynamic design now chosen is logical. The ruling chamber considers that the reservation of capacity is directly connected to the actual costs of the reserved capacity and thus the network tariff, making it appropriate to link the reservation fee to the relevant reference price. This link also corresponds to a market-oriented perspective of the mechanism: in times when network tariffs are low, the reservation fee will be correspondingly lower, while when they are high, it will increase.

148 The setting of the reservation fee at 20% of the relevant reference price is also appropriate and, while it is in practice higher than the status quo, does not pose a market entry barrier, as underlined by the development of network tariffs in recent years. For example, the uniform postage stamp tariff calculated in accordance with the applicable REGENT determination of Ruling Chamber 9 has risen in the THE market area from €3.51/kWh/h/a in 2022 to €6.71/kWh/h/a in 2025 – an increase of around 91%. The major cost drivers in this trend are much higher costs for materials and civil engineering, which are largely responsible for the development of network tariffs and are now included in the reservation fee under the calculation method now determined. The general inflation rate since 2010 may also be included as a partial aspect of the overall picture. However, the ruling chamber wishes to make clear that its primary aim is not to raise the reservation fee. Rather, the reservation fee should be calculated using a transparent method and linked to the actual network costs as reflected in the network tariff. In 2024, the uniform postage stamp tariff

was €5.10/kWh/h/a, well below that of 2023 (€6.03/kWh/h/a), which would have led to a reduction in the reservation fee of over 15%.

149 One consultation response (EnBW) called for the percentage applied not to exceed 8%, if the ruling chamber decided to stay with a dynamic fee. It did not, however, provide any further justification for the proposed percentage. The ruling chamber assumes that the percentage was derived from the relationship of the previous reservation fee for gas power plants to the existing uniform postage stamp tariff. The ruling chamber does not consider this approach appropriate, because a fee that has not been changed for 15 years is being compared to a network tariff that has been clearly dynamic over the years, as explained above. That the figure of 8% is inappropriately low is also indicated by a look at the first uniform postage stamp tariff from 2020, which was €4.07/kWh/h/a in the NCG market area and €3.36/kWh/h/a in the GASPOOL market area. Even then, the static fee amounted to 10-15% of the network tariff, depending on the combination.

150 Operative part 8 d) sentence 3 sets out, with the same content as section 38(4) sentence 4 GasNZV, that the reservation fee paid is offset against the network tariff when the capacity is finally booked. This ensures that parties seeking connection pay for the capacity reservation but securing their right to access is cost-neutral overall and parties seeking connection are not put off making a request. The argument put forward by EnBW in the consultation, that the dynamic fee and the resulting practical increase would prevent the construction of new gas power plants, is thus not convincing. On the contrary, the dynamic calculation of the reservation fee using the percentage of 20% takes account of the developments in network tariffs and ensures that the reservation fee continues to act as a steering mechanism. It does so by defining a threshold for serious capacity reservations but also upholding the party seeking connection’s right to access by keeping the reservation cost-neutral in the event that the capacity booking is made and not being so high as to discourage a request.

151 Operative part 8 e) sets out that the revenues from the reservation fee are booked into the regulatory account if the reservation fee lapses. Operative part 8 e) transfers section 38(5) GasNZV with no significant change in content and in the exact same wording. No reasons not to transfer this section were raised in the consultations. The ruling chamber merely made an editorial change by removing the reference to section 5 of the Incentive Regulation Ordinance (ARegV) in anticipation of the fact that the ARegV will no longer be in force after 31 December 2027. No substantive change is intended.

152 As stated in the introductory document, the ruling chamber has decided not to transfer section 39 GasNZV.

153 The Second Act amending the Energy Industry Act of 14 May 2024 caused a paradigm shift in the network development planning for gas and hydrogen, away from a planning system primarily

based on specific notifications towards the scenario-based identification of future developments aligned, in particular, with the federal government's legally defined objectives and other climate and energy policy goals.

154 Sections 38 and 39 GasNZV were introduced before this shift and assume a network development plan that is still primarily demand-based, as can be seen, for example, in the reference to section 15a EnWG (old version) in section 39 GasNZV.

155 It is therefore not appropriate to transfer section 39 GasNZV. Nevertheless, there will still be procedures in future to establish the individual demand of the relevant stakeholders, both for natural gas and hydrogen, in order to take adequate account of them in the network development planning while considering climate and energy policy goals. For example, the gas and electricity transmission system operators conducted a joint survey of large consumers in the current network development plan cycle in which individual hydrogen requirements could be reported. This kind of survey could be carried out for natural gas needs, too.

156 Some requests were made in the first consultation (BDEW, EnBW, FNB Gas) for clarification that claims made in accordance with section 38 and 39 GasNZV before the GasNZV ceased to be in force but not yet implemented by that time would be safeguarded. With respect to this, the ruling chamber's legal opinion is that the decisive time for the existence of such claims pursuant to sections 38 and 39 GasNZV is the time of application. The provisions of sections 38 and 39 GasNZV will therefore continue to apply in the last applicable version to reservation requests under section 38 GasNZV and expansion requests under section 39 GasNZV made by 31 December 2025, even after the GasNZV has ceased to be in force. Applications made before 1 January 2026 will be processed in accordance with section 38 or 39 GasNZV, as applicable. As this is merely a clarification, there is no need to put it in the operative part.

3.5.2.9 Deliberations on operative part 9

Operative part 9 regulates the duration of applicability of the determination. It gives an appropriate preparation period to market participants to implement the determination, while avoiding the looming regulatory vacuum on 1 January 2026 caused by the GasNZV ceasing to have effect. The ruling chamber is not making use of the power conferred on it by section 20(4) sentence 3 EnWG to deviate from the provisions of the GasNZV or make supplementary provisions, nor does European legislation require it to do so. In the judgment mentioned above, the CJEU found that normative regulation was not compatible with the exclusive independence of the national regulatory authority as intended by European law, but it did not object to any breaches by the applicable regulatory framework of substantive provisions of European legislative acts.

4. Reservation of right to order costs

157 The right to order payment of costs (fees and expenses) in accordance with section 91 EnWG is reserved.

Information on legal remedies

Appeals against this decision may be brought within one month of its service. The appeal must be submitted to the Higher Regional Court of Düsseldorf (address: Cecilienallee 3, 40474 Düsseldorf).

The appeal must be accompanied by a written statement setting out the grounds for appeal. The written statement must be provided within one month. The one-month period begins with the filing of the appeal; this deadline may be extended by the court of appeal's presiding judge upon request. The appeal and the grounds for appeal must be signed by a lawyer.

The appeal does not have suspensory effect (section 76(1) EnWG).

Anne Zeidler	Dimitri Wenz	Claudia Aubel
Chair	Vice Chair	Vice Chair