Bundesnetzagentur

Ruling Chamber 9

BK9-24/612

DECISION

In the administrative proceedings pursuant to

section 29(1) of the Energy Industry Act (EnWG) in conjunction with section 56(1) sentence 1 para 2, sentences 2 and 3 EnWG in conjunction with Article 6(11) and Article 7(3) of Regulation (EC) No 715/2009 in conjunction with Article 41(6) point (a) of Directive 2009/73/EC in conjunction with Article 28 of Regulation (EU) 2017/460

concerning the determination of the level of multipliers, the determination of a discount at entry points from LNG facilities and at entry points from and exit points to infrastructure developed with the purpose of ending the isolation of Member States in respect of their gas transmission systems and the determination of the level of discounts for interruptible standard capacity products at all interconnection points for the calendar year 2026
("MARGIT 2026")

Ruling Chamber 9 of the Bundesnetzagentur für Elektrizität, Gas, Telekommunikation, Post und Eisenbahnen, Tulpenfeld 4, 53113 Bonn,

represented by

the Chair Dr Christian Schütte,

the Vice Chair Dr Björn Heuser

and the Vice Chair Roland Naas

decided on 22 May 2025:

1. The following determinations in this decision are effective from 1 January 2026 to 31 December 2026.
2. For the conversion from yearly standard capacity products to non-yearly standard capacity products, a multiplier is to be applied at all interconnection points. The multiplier of a within-day standard capacity product is 2.0, the multiplier of a daily standard capacity product is 1.4, the multiplier of a monthly standard capacity product is 1.25 and the multiplier of a quarterly standard capacity product is 1.1.
3. A discount at entry points from and exit points to infrastructure developed with the purpose of ending the isolation of Member States in respect of their gas transmission systems is not applicable.
4. A discount of 40% at entry points from LNG facilities is applicable solely for yearly and quarterly capacity products.
5. Reserve prices for standard capacity products for interruptible capacity at interconnection points must be calculated by multiplying the reserve prices for the respective standard capacity products for firm capacity calculated as set out in Articles 14 and 15 of Regulation (EU) 2017/460 and Determination BK9-23/610 ("REGENT 2026") by the difference between 100% and the level of an percentage ex-ante discount applicable at every interconnection point for the respective standard capacity product in accordance with Annex I.
6. The right to order payment of costs is reserved.

Rationale

I.

1 The ruling chamber opened own-initiative proceedings for the determination of the level of multipliers, the level of any discount at entry points from LNG facilities and at entry points from and exit points to infrastructure developed with the purpose of ending the isolation of Member States in respect of their gas transmission systems, and the level of discounts for interruptible standard capacity products at all interconnection points.

2 Notification of the opening of proceedings was given in the Official Gazette 21/2024 of 30 October 2024 and on the Bundesnetzagentur's website.

3 The draft decision in German and in English was published on the Bundesnetzagentur website on 29 January 2025 for consultation. The publication was accompanied by a brief statement that the consultation pursuant to Article 28(1) of Regulation (EU) 2017/460 would run until 17 February 2025. Only the German version is legally binding.

4 This publication and the consultations, by analogy with section 73(1a) sentence 1 EnWG and section 28(2) para 4 of the Administrative Procedure Act (VwVfG), took the place of the individual hearing required under section 67(1) EnWG for each party addressed.

5 Pursuant to Article 28(1) of Regulation (EU) 2017/460, the national regulatory authority must consider the positions of national regulatory authorities of directly connected Member States in its decision. The national regulatory authorities of the neighbouring Member States were informed of the start of the consultation in a letter dated 3 February 2025. On 3 February 2025, the consultation documents were submitted to the Agency within the meaning of Article 1(1) of Regulation (EC) No 713/2009 (hereinafter "ACER").

6 On 17 October 2024, the Bundesnetzagentur notified the regulatory authorities of the federal states of the opening of proceedings in accordance with section 55(1) sentence 2 EnWG and on 29 January 2025 gave the authorities the opportunity to comment on the intended determination in accordance with section 58(1) sentence 2 EnWG. Likewise, the Bundeskartellamt was given the opportunity to state its views on the intended determination on 29 January 2025 in accordance with section 58(1) sentence 2 EnWG.

7 The Committee of representatives of the federal state regulatory authorities was given the opportunity to comment in accordance with section 60a(2) sentence 1 EnWG on 20 February 2025.

8 Eight responses to the draft determination were received. They were published on the Bundesnetzagentur website in a version from which any trade and business secrets had been removed. The responses may be summarised as follows:

a. Multipliers

9 FNB Gas referred to the responses of last year and the year before concerning multipliers, in which it welcomed the continuation of the rules on them. It stated that this increased the planning certainty for all market participants and created suitable incentives for long-term capacity bookings. The gas network's vacancy costs could thus be distributed in as cost-reflective a manner as possible.

10 EFET, the European Energy Exchange and Uniper called specifically for a reduction in the within-day multiplier to 1.4 or 1.5 on the grounds that this would improve utilisation of the gas network by providing additional need for flexibility (eg for LNG terminals, gas storage facilities and gas-fired power plants) and strengthen short-term trade.

11 EFET argued that the high within-day multiplier would ultimately lead to less cross-border trade, fewer bookings of within-day products and thus also reduce revenue for transmission system operators.

12 The European Energy Exchange welcomed the Bundesnetzagentur's reasoning on the differentiated multipliers for daily and within-day capacity, judging it to be generally understandable. However, it viewed the disadvantages associated with a within-day multiplier of 2.0 as greater than the potential of the daily capacity with a lower multiplier to reduce vacancy costs.

13 EFET explained that in an existing trader's portfolio, shifting bookings from daily to within-day capacity would never make economic sense because daily bookings always covered 24 hours. Within-day bookings, by contrast, were triggered by requests arising during a day (such as additional demand for balancing energy or requests from interval-metered customers) and thus generated additional revenue and therefore also reduced vacancy costs.

14 EFET also stated that competition in Europe should take place on the commodity side. Comparable conditions should apply to access to infrastructure. With the exception of Czechia, all EU Member States bordering Germany had identical multipliers for daily and within-day capacity, namely 1.4, according to the European Energy Exchange. The German market was therefore at a disadvantage in the short-term sector. The European Energy Exchange thus presumed that the Bundesnetzagentur's reasoning was either inapplicable or only applied to Germany, in isolation.

15 Uniper and Equinor reiterated their criticism, voiced in previous proceedings, that the rationale for the functioning of multipliers has not yet been validly examined.

b. Seasonal factors

16 INES recommends considering the introduction of seasonal factors at cross-border interconnection points and entry points from LNG terminals to create incentives for steady and thus system-efficient network utilisation at import points. In particular, covering high loads close to consumers would enable the upstream infrastructure to be designed in a way that optimises costs. Steady import levels based on consumption could be maintained both in the summer and in the winter. Introducing seasonal factors at gas storage facilities, however, would be counterproductive since it is precisely the structured use of gas storage facilities that benefits the system/network.

c. Discount at entry points from LNG facilities

Security of supply

17 FNB Gas referred to its response of last year and the year before with regard to the discount at entry points from LNG facilities, stressing that diversifying the sources of supply with LNG terminals could have a positive effect on security of supply. The association largely shared the view of the ruling chamber on security of supply that the actual utilisation of terminals played a role as well as the existence of the infrastructure and that the current transport costs were of less significance than commodity prices. German LNG Terminal, however, commented that a maximum discount could certainly have a significant impact on the decision of suppliers.

Level of discount

18 German LNG Terminal responded that, while a 40% discount is likely to increase the attractiveness of LNG terminals to some extent, a 100% discount would appear to be necessary to make Germany competitive throughout Europe (especially when compared with the LNG facility in Poland) and to achieve higher market liquidity.

19 In the opinion of German LNG Terminal, the fact that the transmission system operator required to connect a facility has to bear 90% of the costs (section 39f(1) of the Gas Network Access Ordinance, GasNZV) would not preclude a 100% discount either, since the responsibility to bear costs of itself does not adequately ensure Germany's competitiveness and mitigate the economic challenges of facility projects and thus contribute to Germany's security of supply. The resulting additional costs at the other booking points would be acceptable in view of the security of supply objective.

20 Equinor Deutschland pointed out that the LNG discount granted would lead to the network costs pool being borne by the remaining entry and exit points and the tariff gap to the comparable markets would thus widen further.

21 INES recommended equal treatment in principle for cross-border interconnection points and entry points from LNG terminals with no discount for any of the types of injection since there was no objective reason for an LNG discount.

22 FNB Gas referred to its response of last year and the year before and advised reassessing the discount rate when new information was available.

Restriction to yearly and quarterly standard capacity products

23 With reference to its response of last year and the year before, FNB Gas considers it logical to restrict the discount to yearly and quarterly standard capacity products as this would make longer-term capacity bookings more attractive and thus encourage constant levels of injection. It would thus not be appropriate to extend the discount to shorter durations, especially as trading on the secondary market would allow multiple (smaller) shippers to benefit from these discounts. The BDEW, also referring to its response last year, considered long-term booking by the terminal operator followed by trading on the secondary market ideal to make full use of the relevant discount.

24 EFET Deutschland questioned the restriction of the discount to yearly and quarterly standard capacity products. To achieve a continual use of the terminals, not just long-term but also short-term use should be attractive for customers buying free slots on the secondary market from primary users or acquiring them directly from the terminal operator under the use-it-or-lose-it principle, it argued. The effect of the discount would be reduced by restricting it to long-term capacity products.

25 German LNG Terminal maintained that the discount should be extended to short-term standard capacity products, otherwise smaller market participants would be placed in a worse position. Also, all capacity products contribute to security of supply and liquidity. Moreover, the restriction on discounting made using the reserve quota for short-term bookings comparatively unattractive, it added.

Other aspects

26 With reference to its response of last year and the year before, FNB Gas indicated that when there is a sufficient data basis, it must be examined whether the discount granted was leading to market distortions. The aim should be for the same competitive conditions to be considered among all reliable sources of supply.

27 According to Equinor Deutschland, however, the LNG discount leads to a disadvantage for pipeline procurement because the network costs pool must then be borne by the remaining entry and exit points, which widens the tariff gap to the comparable markets. Pipeline procurement is cheaper and lower in emissions.

28 Against the backdrop of the annual MARGIT procedure, German LNG Terminal suggested that, as a minimum, statements be made in the determination about how the discount will develop in the future and under what conditions and to what extent the discount could be changed.

d. Discounts for interruptible capacity

Historical data basis

29 The association BDEW pointed out with reference to last year's response that, while discounts for interruptible capacity are determined on the basis of historical data, the capacity situation prevailing at the time of booking may require a different discount. Specific characteristics such as market area mergers or changes in flow directions due to the Russian war of aggression would only have a strong impact on the discount in subsequent periods. According to BDEW, the probability of interruption could be calculated on the basis of a longer history (with weighting factors if necessary).

Factoring in of "involuntary re-nominations" as interruptions

30 FNB Gas explained that identifying and recording involuntary re-nominations creates a significant amount of additional work for the TSOs with a corresponding lead time for retrieving data. Due to the very low benefit involved, FNB Gas proposed refraining from recording involuntary re-nominations in future data surveys.

Contingency mark-up level

31 Equinor Deutschland also reiterated last year's comment that high discounts for interruptible capacity are borne by firm capacity, which leads to competitive and liquidity-related disadvantages for the German gas market compared with alternative markets. It called for a critical examination of the continuation of the contingency mark-up, because not only did it benefit interruptible capacity but also dynamically allocable capacity (DZK) and conditionally firm capacity (bFZK) at cross-border interconnection points. Among the DZK products, in particular, only cross-border transports bypassing the German gas market benefited, weakening its liquidity. This also pushed up entry tariffs at the trading hub as the increased contingency mark-up had to be compensated by the other tariffs.

Increasing adjustment factor A for storage facilities

32 INES recommended that the adjustment factor A be raised to above 1 exclusively for storage connection points to adequately reflect the increased loss in value of interruptible capacity at storage facilities. The discount for interruptible capacity would thus be larger at storage facilities than at all other booking points. INES justified the recommendation by stating that storage facilities are the key instrument for ensuring security of supply but that interruptible capacity products jeopardise the secured availability of gas. In this respect interruptible capacity significantly devalues the usability of storage facilities compared to other points.

33 For further details, reference is made to the content of the file.

II.

34 In accordance with Article 41(6) point (a) of Directive 2009/73/EC in conjunction with Article 28(1) of Regulation (EU) 2017/460, the Bundesnetzagentur is issuing a motivated decision on all points mentioned in Article 28(1) sentence 1 of Regulation (EU) 2017/460 by means of this determination.

35 The decision taken falls under the responsibility of the Bundesnetzagentur as provided for by section 29(1) EnWG in conjunction with section 56(1) sentence 1 para 2, sentences 2 and 3 in conjunction with Article 6(11) and Article 7(3) of Regulation (EC) No 715/2009 in conjunction with Article 41(6) point (a) of Directive 2009/73/EC in conjunction with Article 28(1) of Regulation (EU) 2017/460. Pursuant to section 59(3) sentence 3 EnWG, the Grand Ruling Chamber issues nationally applicable determinations on the conditions and methodologies for determining tariffs. It transferred competence for the MARGIT determination to the ruling chamber on 26 November 2024 in accordance with section 59(3) sentence 4 EnWG.

36 Article 2(1) sentence 1 of Regulation (EU) 2017/460 shows that the consultation and decision pursuant to Article 28(1) of Regulation (EU) 2017/460 refer to interconnection points, ie to cross-border and market area interconnection points of transmission system operators (see Article 3 point 2 of Regulation (EU) 2017/459). Pursuant to Article 2(1) sentence 2 of Regulation (EU) 2017/460, the regulatory authority can take a decision that the provisions of Chapter III also apply to entry points from third countries or exit points to third countries, or both. In its determination of 14 August 2015 (BK7-15/001 – “KARLA Gas 1.1”), the Bundesnetzagentur's Ruling Chamber 7 ruled that the provisions of the Network Code on Capacity Allocation Mechanisms (CAM NC) also applied to entry points from third countries and exit points to third countries within the meaning of Article 2(1) sentence 2 CAM NC from 1 November 2015. The consultation and decision pursuant to Article 28 of Regulation (EU) 2017/460 therefore also refer to these points.

1. Period of application

37 The requirements are to be implemented pursuant to operative part 1 as from 1 January 2026 and hence included in the publication referred to in Article 29 of Regulation (EU) 2017/460. Under Article 38 of Regulation (EU) 2017/460, Chapters II, III and IV of the Regulation apply as from 31 May 2019; thus Articles 13 to 16 of the Regulation are also covered, coming as they do under Chapter III and forming the basis of this decision. Accordingly, the TSOs had to apply the motivated decision pursuant to Article 28 of Regulation (EU) 2017/460 for the first time in respect of the tariff year 2020, ie from 1 January 2020. In accordance with Article 28(2) of Regulation (EU) 2017/460, the subsequent consultations will be conducted every tariff period as from the date of

the decision. After each consultation and as set out in Article 32 point (a) of Regulation (EU) 2017/460, the national regulatory authority takes and publishes a motivated decision on the aspects referred to in Article 28(1) points (a), (b) and (c) of Regulation (EU) 2017/460. Pursuant to Article 3 sentence 2 point 23 of Regulation (EU) 2017/460, “tariff period” means the time period during which a particular level of reference price is applicable, which minimum duration is one year and maximum duration is the duration of the regulatory period. As a particular level of reference price applies for a calendar year, in this case the tariff period is also the calendar year. The ruling chamber thus takes and publishes a motivated decision on the aspects referred to in Article 28(1) points (a), (b) and (c) each year and the decision is effective for a calendar year. The effectiveness of this decision thus ends at the end of the calendar year 2026.

2. General

38 In taking this decision, the ruling chamber has taken account of the fact that it is an administrative act that, in accordance with Article 28 of Regulation (EU) 2017/460, is to be consulted on and issued independently of other determinations issued or to be issued in accordance with this Regulation. This independence is shown partly by the fact that decisions in accordance with Article 26 in conjunction with Article 27 of Regulation (EU) 2017/460 have to be made every five years at the latest, while decisions in accordance with Article 28 have to be made in every tariff period.

3. Level of multipliers

39 The decision pursuant to operative part 1 on the level of multipliers is based on section 29(1) EnWG in conjunction with section 56(1) sentence 1 para 2, sentences 2 and 3 EnWG in conjunction with Article 6(11) and Article 7(3) of Regulation (EC) No 715/2009 in conjunction with Article 28(1) in conjunction with Article 13 of Regulation (EU) 2017/460.

40 Pursuant to Article 12(1) sentence 2 of Regulation (EU) 2017/460, for non-yearly standard capacity products, the reserve prices must be calculated as set out in Chapter III of Regulation (EU) 2017/460. With regard to the conversion of tariffs for yearly standard capacity products to tariffs for non-yearly standard capacity products, Article 13(1) of Regulation (EU) 2017/460 specifies ranges within which the multipliers must fall.

41 The multipliers determined by the Bundesnetzagentur fall within the specified ranges. For quarterly standard capacity products and monthly standard capacity products, the level of the respective multiplier must be no less than 1 and no more than 1.5, pursuant to Article 13(1) point (a) of Regulation (EU) 2017/460. The multiplier of 1.1 determined for quarterly standard capacity products and the multiplier of 1.25 determined for monthly standard capacity products fall within this range. Pursuant to Article 13(1) point (b) of Regulation (EU) 2017/460, for daily standard

capacity products and for within-day standard capacity products, the level of the respective multiplier must be no less than 1 and no more than 3. This is the case for the multipliers chosen of 1.4 for daily standard capacity products and 2.0 for within-day standard capacity products.

42 In the event of a (contractual) change to already booked capacity or a withdrawal of capacity, the previously calculated multiplier remains unchanged, even if the original standard capacity product would fall into another category after the change or withdrawal, for example, if a previously yearly capacity product would become a quarterly or monthly capacity product. No recalculation takes place; the multiplier is applied according to which product was booked when the contract was concluded. This provision applies to all scenarios in which the original capacity product changes, in particular due to the surrender of capacity, the repeated trading on the primary market (by TSOs) of part of the capacity rights, the conversion and the (partial) termination of capacity. By contrast, for the capacity product that is re-offered or re-booked after the surrender, termination or withdrawal, the "new product", a multiplier corresponding to the duration of the new product must be applied. In this case, too, the multiplier is applied according to which product was booked when the contract was concluded. The arrangements for changes or the withdrawal of capacity also apply to new products.

43 For clarity, it is pointed out here that trading on the secondary market, ie the leasing or transfer of usage by shippers to third parties, is not covered by the provisions of the paragraph above and is also not the subject of regulation in this determination. In the view of the ruling chamber, the multiplier continues to be applied on the basis of the original booking product for trading on the secondary market (leasing or transfer of usage). However, if the capacity is surrendered to the TSO rather than being traded on the secondary market, the explanations under the previous margin number apply.

44 In its decision on the level of multipliers, pursuant to Article 28(3) point (a) of Regulation (EU) 2017/460 the ruling chamber has taken into account the following aspects in particular:

45 The multipliers chosen serve to find a balance between promoting short-term trading and sending long-term signals for efficient investments in the transmission system. The ruling chamber introduced multipliers for all entry and exit points for which capacity tariffs are applied with effect from 1 January 2016 in its determination of 24 March 2015 (BK9-14/608, hereinafter referred to as "BEATE"). These were determined for interconnection points for the calendar year 2020 for the first time on the basis of Regulation (EU) 2017/460. The multipliers for daily, monthly and quarterly products determined in this decision correspond to the level of the multipliers determined for the years 2016 to 2025; a multiplier of 2.0 for within-day standard capacity products was determined for the first time in the decision BK9-18/612 ("MARGIT") for 2020 and has been the aforementioned level of 2.0 since then. Since the multipliers were introduced in 2016, it has become clear that they do not jeopardise liquidity in short-term trading, as it was neither the case that daily bookings were replaced by long-term bookings on a significant scale nor were they

simply not made at all. The introduction of multipliers has thus not led to a reduction in trading activities in the past. There are no indications that this will change in the future. At the same time, the multipliers lead to a moderate price rise compared to the reference price so signals showing which point of the network it would be appropriate to invest in, for example because of congestion, are not distorted.

46 Moreover, the introduction of the chosen multipliers has no influence on the extent to which transmission services revenue is covered by the reference or reserve prices. In particular, in its "REGENT 2026" Determination (BK9-23/610), the ruling chamber determined rescaling pursuant to Article 6(4) point (c) of Regulation (EU) 2017/460 at all entry and exit points of TSOs with the aim of actually being able to recover the transmission services revenue.

47 The determined multipliers improve the cost-reflectivity of reserve prices by reducing cross-subsidisation between user groups caused by duration. Cost-reflectivity in tariff setting means in this context that the level of tariffs for using a certain capacity must reflect the costs caused by using and providing this capacity. This in turn means that the level of network tariffs to be paid by a certain user group for capacity bookings should, as far as possible, reflect the costs caused by this user group through a specific contribution based on the corresponding costs. Put simply, the principle of causation means that whoever has caused certain costs should themselves, as far as possible, also pay these costs in the form of the network tariffs levied on them. These costs should not be subsidised by other user groups. A network user booking non-yearly capacity of different durations causes vacancy costs. The option of non-yearly booking allows network users to make structured bookings, ie they can book different amounts of capacity for different periods, whether within-day, daily, monthly or quarterly. If a network user books "x" amount of firm capacity in a particular hour or on a particular day, month or quarter of a year, the network operator will generally keep at least this amount of capacity available (for the whole year). This applies even if the network user only books smaller amounts of capacity than "x" on the other days of the year. Moreover, it is not just one network user that books "x" amount of capacity for a quarter, a month, a single day or within-day in the course of the year, but many other network users book a certain amount of non-yearly capacity during the year as well. The network operator therefore keeps capacity available for all non-yearly capacity bookings from all network users making such bookings. The network operator incurs vacancy costs from keeping available capacity for network users with non-yearly bookings. These costs should, in accordance with the principle of cost-reflectivity, also be borne by the network users responsible for the capacity being kept available.

48 The determined multipliers will ensure that the vacancy costs in the gas network will be distributed in a largely cost-reflective manner. Network users whose non-yearly capacity bookings cause the network operator to keep certain capacity available also contribute to covering the costs incurred through the increased network tariff calculated using the multiplier. In the view of the ruling chamber, the sum of the tariffs for non-yearly capacities should be prevented from corresponding to the tariff for the yearly capacity. This would lead to the vacancy costs of the network being borne

by all network users and in particular by the group of users that does not cause such costs on account of long-term capacity bookings.

49 It is appropriate to specify different multiplier values because doing so differentiates between the non-yearly capacity products in a way that appropriately reflects the different effects that the individual products have on vacancy costs. The result that the “multiplier for the within-day capacity product is higher than the multiplier for the daily capacity product is higher than the multiplier for the monthly capacity product is higher than the multiplier for the quarterly product” is due to the fact that the shorter the product duration, the greater the effects on the vacancy costs. The longer the period for which no capacity is booked, the higher the volume of vacant capacity based on a twelve-month period. The vacancy costs thus depend on the booking duration. Network users can make more structured capacity bookings if overall they book capacity for shorter periods. If, ultimately, they only book capacity specifically on a few days, they inevitably cause vacancy costs on more days. This must be taken into consideration appropriately in setting the multipliers, so that the multiplier is higher the shorter the capacity booking, in accordance with the ranking given in operative part 2.

50 The chosen multipliers ensure that the difference between the individual contributions to the costs is adequately expressed. This applies in particular also to the multiplier of 2.0 for within-day capacity products. The ruling chamber therefore takes the view that it is appropriate to determine a higher multiplier than for daily capacity products because, according to the principles stated, the vacancy costs rise further with the option of booking within-day capacity, ie as the day progresses. In setting a multiplier of 2.0, the ruling chamber has taken account of the fact that within-day capacity products do not often have a duration of a whole day or – as they are always booked for the rest of the gas day – nearly a whole day and the determined multiplier should therefore be clearly different to the daily multiplier. The ruling chamber takes the view that the determined multiplier of 2.0 appropriately reflects this fact. It is also necessary to make an adequate distinction from the daily multiplier due to the fact that the network tariff payable for within-day capacity products pursuant to Article 14 point (b) of Regulation (EU) 2017/460 is only determined pro rata, ie only for the remaining booked hours and therefore corresponds to only part of the daily tariff. In effect, this means that all bookings for the last 16 hours of a gas day are priced with a multiplier that is below the multiplier for daily capacity products of 1.4. It does not seem entirely implausible that at least some interval-metered customers might take this price differentiation into account in their cost considerations. Moreover, there is in principle no reason not to price bookings for 17 to 24 hours of a gas day higher than the multiplier of 1.4 for daily capacity products, given their particularly flexible provision.

51 The ruling chamber does not consider that the within-day multiplier of 2.0 is too high given the objectives explained in the paragraphs above. That a high multiplier (holding all else constant) would lead to less cross-border trade and the transactions not made could therefore not help to reduce vacancy costs corresponds to the intended interdependence of multipliers. This

interdependence applies to any level of multiplier as, at a given commodity price, a transaction gets more attractive the lower a multiplier is. The intended effect of multipliers thus cannot be seen as a reason to reduce the within-day multiplier. Nor can it be ruled out that a lower within-day multiplier would lead to a higher commodity price in the source market and these kinds of market adjustments would negate the reduction of the multiplier.

52 The main price effect of reducing a multiplier cannot be ignored either, the ruling chamber considers, as the reduction means that the contribution to lowering vacancy costs is (initially) smaller for transactions that are carried out with the applicable within-day multiplier (ie at the stated trading volume). By contrast, it is not possible to anticipate whether the price signal will spur demand to such an extent that a contribution to covering vacancy costs that is greater overall will be made.

53 Regarding the calls already made in earlier proceedings for valid analyses of the within-day multiplier, it should be noted that ACER carried out a Europe-wide sector survey[1] of daily and within-day multipliers on the basis of the provisions of Article 13(3) of Regulation (EU) 2017/460 at the end of 2020. This survey and the resulting analysis have not led to the issuing of the recommendation envisaged for 1 April 2023 to reduce these multipliers to no more than 1.5. ACER's last recommendation of 19 June 2021[2] actually only envisages an increased need for justification for daily and within-day multipliers that are less than 1 or more than 3.

54 The range of within-day multipliers in other EU Member States in the gas year 2020/21 went from 1.2 to 5.08, for example. This comparison also shows that the within-day multiplier of 2.0 chosen for Germany is moderate.

55 In conclusion, the ruling chamber does not see sufficient grounds to reduce the previous applied multiplier of 2.0 for within-day capacity products.

56 The ruling chamber does not expect the multipliers to cause or expand physical or contractual congestion. Booking behaviour does not provide any indication that multipliers affect congestion in long-term marketing, either. What is more, the reserve quota ensures that an adequate amount of non-yearly quarterly capacity will be offered. As far as the offer of daily capacity is concerned, the provisions of the re-nomination restriction will also have a positive effect, so no general shortage of capacity is to be expected.

57 The chosen multipliers will have no impermissible effect on cross-border gas flows. In particular, there is no excessive, and therefore discriminatory, participation of the network users that depend on cross-border gas flows (ie in particular those network users that execute cross-system bookings) in the addressed vacancy costs. With regard to requirements for converting yearly capacity prices into capacity prices for non-yearly capacity rights and requirements for appropriate

[1] https://documents.acer.europa.eu/Official_documents/Public_consultations/Pages/PC_2020_G_19_.aspx
[2] https://documents.acer.europa.eu/Official_documents/Acts_of_the_Agency/Recommendations/ACER%20Recommendation%2001-2021%20on%20Multipliers.pdf

arrangements for setting network tariffs pursuant to section 15(2) to (7) of the Gas Network Tariffs Ordinance (GasNEV), determination BK9-18/608 ("BEATE 2.0") introduced identical multipliers for corresponding non-yearly capacity products at points other than interconnection points. Regulation (EU) 2017/460 focuses on the avoidance of possibly differing (and therefore potentially discriminatory) treatment of cross-system and intra-system network use in several provisions, for example in Article 5 on the cost allocation assessments, in Article 7 points (c) and (e) on the assessment of the reference price methodology and in Article 28(3) point (a)(v) on the assessment of multipliers. However, no such differing requirement is made with respect to multipliers, so that the approach taken does not indicate any unacceptable effects on cross-border gas flows. For reasons of cost-reflectivity and non-discrimination, the ruling chamber does not judge it to be appropriate to apply lower multipliers for cross-border gas flows.

4. Seasonal factors

58 As provided for by section 29(1) EnWG in conjunction with section 56(1) sentence 1 para 2, sentences 2 and 3 EnWG in conjunction with Article 6(11) and Article 7(3) of Regulation (EC) No 715/2009 in conjunction with Article 28(1) in conjunction with Article 13 of Regulation (EU) 2017/460, seasonal factors may be set.

59 The Ruling Chamber has used its discretion to decide that no seasonal factors will be determined.

5. Calculation of reserve prices for non-yearly standard capacity products for firm capacity

60 The ruling chamber has not made use of the option to determine the level of seasonal factors in accordance with Article 28(1) point (b). Therefore, seasonal factors are not applied in the calculation of reserve prices for non-yearly standard capacity products for firm capacity.

61 In accordance with Article 14 of Regulation (EU) 2017/460, the following calculation of reserve prices for non-yearly standard capacity products for firm capacity ensues:

- The following formula is used for quarterly standard capacity products, monthly standard capacity products and daily standard capacity products:

  $P_{st} = (M \times T / 365) \times D$

  Where:

  P_{st} is the reserve price for the respective standard capacity product;

  M is the value of the multiplier for the respective standard capacity product (quarterly standard capacity product: 1.1; monthly standard capacity product: 1.25, daily standard capacity product:1.4)

  T is the reference price;

D is the duration of the respective standard capacity product, given in gas days.

In leap years, the number 365 in the formula is replaced by 366.

- The following formula is used for within-day standard capacity products:

  $P_{st} = (M \times T / 8760) \times H$

  Where:

  P_{st} is the reserve price for the within-day standard capacity product;

  M is the value of the multiplier, ie 2.0;

  T is the reference price;

  H is the duration of the within-day standard capacity product, given in hours.

  In leap years, the number 8760 in the formula is replaced by 8784.

  Thus a network user booking a within-day standard capacity product only has to pay for the hours booked for the rest of the gas day, including the multiplier.

6. Discounts pursuant to Article 9(2) of Regulation (EU) 2017/460

62 At entry points from and exit points to infrastructure developed with the purpose of ending the isolation of Member States in respect of their gas transmission systems, pursuant to Article 9(2) of Regulation (EU) 2017/460 a discount may be applied to the respective capacity-based transmission tariffs for the purposes of increasing security of supply.

63 However, there is currently no reason to determine such discounts. There is currently no infrastructure in Germany developed with the purpose of ending the isolation of Member States in respect of their gas transmission systems. The ruling chamber is not aware of any such infrastructure likely to be put into operation in 2026, the year relevant for this determination. Given that the consultation pursuant to Article 28(1) of Regulation (EU) 2017/460 takes place annually, there is no need to explore further the advantages and disadvantages of introducing such discounts in this determination.

64 Pursuant to Article 9(2) of Regulation (EC) No 2017/460, at entry points from LNG facilities a discount may be applied to the respective capacity-based transmission tariffs for the purposes of increasing security of supply.

65 Germany's first LNG terminals, in Brunsbüttel, Lubmin and Wilhelmshaven, were put into operation in 2023. The ruling chamber assumes that these, along with the other planned LNG regasification terminals, will provide a link to additional sources of supply and thus improve the diversity of gas sources in the country. Greater diversity is connected to improved security of supply. However, the wording of Article 9(2) of Regulation (EU) 2017/460 does not specify an

actual or direct increase in security of supply. Rather, it states that a discount may be determined/applied “for the purposes of increasing security of supply”.

66 Security of supply is generally increased when the number of entry points is increased or the diversity of natural gas procurement is increased in the form of new gas suppliers or new procurement technology. The integration of new LNG regasification terminals into the existing natural gas system thus leads to an increase in security of supply by these standards.

67 This is also confirmed, for example, by Deutsche Terminal GmbH’s comment in the BK9-23/612 proceedings that the commissioning of all German FSRU LNG terminals will compensate in part for the lost procurement by pipeline from Russian sources. Data collected to determine the discount for interruptible capacity also shows that the increased disruptions on the transport route from Belgium to Austria since April 2022 are on a downward trend in the second gas year since the beginning of Russia’s war of aggression against Ukraine.

68 Connecting new LNG regasification terminals also improves the opportunities for filling storage facilities and thus also for complying with statutory storage level requirements. Integrating new LNG regasification terminals thus increases security of supply (both for the present and preventively) on a long-term basis.

69 Looking at this transport chain, network tariff discounts at entry points from LNG terminals generally benefit natural gas transport from the supplier to the customer. They increase the actual utilisation of LNG terminals since they can potentially influence the decisions of investors and suppliers. A network tariff discount granted in the interest of increased security of supply thus leads to more utilisation potential of LNG terminals and as a result increases security of supply.

70 However, it should be noted that granting a discount may also result in costs being passed on to other booking points. Thus in particular the aspects discussed below must be taken into account when determining the size of the discount.

71 When considering security of supply, the ruling chamber takes the view that, besides the construction of LNG regasification terminals, the actual utilisation of the terminals plays a decisive role. Only if the facilities are in continual use and the degree of utilisation is high, especially in the winter months, will there actually be an improvement in the security of supply in Germany and LNG will be able to contribute significantly to a reasonably priced energy supply. By contrast, if LNG terminals are only used at certain times this will not so much benefit security of supply as a whole but rather, and mainly, individual corporate interests at high market prices.

72 Looking at the current transport costs for the relevant market area, THE, which are €0.58/MWh (annual booking) or €0.81/MWh (daily booking), compared to the future achievable commodity prices of €27/MWh to €36/MWh for the calendar years 2026 and 2027 in the THE market area, the actual transport costs play a secondary, marginal role. It is barely imaginable that the transport costs, at such a low proportion of the commodity price, would be the decisive factor for the long-

term booking behaviour of potential users of an LNG terminal. The majority of FNB Gas members have shared this view in the past.

73 In considering whether and at what level a network tariff discount should be applied to entry points from LNG facilities, the effects on other booking points in the transmission system also had to be taken into account. Equinor Deutschland pointed out that the LNG discount granted would lead to the network costs pool being borne by the remaining booking points. It must be noted that the construction of LNG connection lines causes additional costs and 90% of these are borne by the TSOs as per section 39f GasNZV. If a discount of 100% were to be determined, the other booking points would have to bear the additional costs purely because of the extra costs for the connection lines and the fact that bookings at LNG entry points would not bear any costs. Besides the costs for the connection lines, there are other costs for the expansion of the network needed so that the potential new volumes of LNG can be transported from the entry to the final consumer on a firm (non-interruptible) basis.

74 Apart from that, it is not possible to answer the question about the specific effects of a discount on the other booking points with sufficient certainty owing to the many unknown factors. The booking forecast, as well as the total achievable revenues of all TSOs, is the decisive factor in the determination of the REGENT postage stamp. This booking forecast, and thus also the size of the REGENT tariff in 2026, depends heavily on the estimate of the future booking volume. The difficulty of estimating booking behaviour does not occur only at existing, pipelined booking points, but at the new LNG entry points as well. As a result, the ruling chamber does not assume that a discount at entry points from LNG facilities would automatically lead to the cost pool being borne by the remaining entry and exit points alone. Finally, it must also be noted that a partial discount from long-term bookings or non-discounted short-term bookings at entry points from LNG facilities leads to additional cost attribution.

75 The aim and purpose of Regulation (EU) 2017/460 is security of supply, as well as the creation of harmonised natural gas transmission tariff structures (recital 1). But that does not mean general security of supply throughout the entire value-added chain, because that would mean that economically uncompetitive new LNG terminals could only be implemented by (indirect) subsidisation from another sector (natural gas transport), which would have to be separated from it under unbundling requirements. This is not the regulatory aim. If there is an actual need for subsidisation to make LNG terminals economically viable, this must be made possible another way, such as from state support or financing by means of taxation. This argument is thus in opposition to the viewpoint of German LNG Terminal and its call for a 100% discount.

76 The upstream value-added chain is different for LNG terminals than for pipelines. Those involved in transporting LNG are not bound to a fixed route to move natural gas from A to B. LNG tankers can change the port they are heading for at any time, even at very short notice. Therefore, unlike with traditional pipeline systems, there is a risk that physically, little or no LNG will be brought to a

terminal in Germany even if little natural gas is being injected into the pipeline systems and market prices are therefore rising. If, despite rising prices in Germany or Europe, somewhere else on the world market is even more attractive, the LNG will be taken there. In the second half of 2021, for example, the average market price in Germany was over €90 daily, more than four times higher than in 2019, for example. It was a similar situation in north-west Europe. Nevertheless, the LNG terminals in north-west Europe were on average only half physically utilised in the second half of 2021. That means that over a period of several months, despite the prices having risen fourfold, LNG was supplied not to Europe but to other regions. This shows that suppliers' primary focus was generally commercial considerations when deciding where the LNG deliveries were to be brought. The LNG imports made a smaller contribution to the reduction of the wholesale prices in north-west Europe than they potentially could have done, whereas the high wholesale prices over a period of several months formed an indication of the security of supply situation. The ruling chamber, unlike German LNG Terminal and EFET Deutschland, is therefore not convinced that expanding the discount to capacity products with shorter durations would further increase security of supply. Rather, on the basis of commercial considerations, the deadweight effects of LNG suppliers would probably increase if the discount were to be expanded to all capacity products by, for example, leading to less long-term capacity products being booked. The consequently lower tariff income at entry points from LNG terminals would then have to be borne by the remaining entry points, including pipeline ones. The ruling chamber does not consider this further discounting proportionate or expedient when the effect on all booking points is taken into account.

77 As well as the existence of terminals, the actual physical utilisation of the terminals plays a decisive role in the improvement of security of supply. The ruling chamber considers that a discount on network tariffs at LNG terminals could increase the number of hours these were used. The ruling chamber is convinced that continual LNG deliveries to Germany would have a positive effect on the aim of a reasonably priced natural gas supply to Germany. Moreover, continuous, large injections of LNG into the German transmission system would increase security of supply, especially in the winter months. The ruling chamber is thus creating a rule for entry points from LNG terminals to the transmission system that will make capacity bookings with longer durations more attractive and thus create an incentive to continually transport LNG to Germany. The ruling chamber does not, by contrast, assume that by not discounting capacity bookings with shorter durations the continual LNG injection into the German transmission system would be reduced. In the view of the ruling chamber, this also applies to the booking by third parties of terminal capacity coming free at short notice and being offered, due to non-use by the primary capacity holders, on the secondary market or due to the UIOLI principle. The discount for capacity bookings with shorter duration would mean that the discount on capacity bookings with longer durations determined here would not create a sufficient incentive for the continual injection of LNG on the basis of long-term bookings. In this hypothetical case, however, it would be even more unlikely that the lack of injection of LNG (despite discounting) by long-term booking customers in the terminal – because

it was supposedly unattractive at market prices – would lead to other market participants bringing significant amounts of alternative LNG volumes/ships to the terminal under the same unattractive market conditions, regasifying it and injecting it into the system. The ruling chamber is not convinced by this. It also seems unlikely, for reasons including the higher multipliers, that significant additional volumes of LNG would be continually fed into the German gas network on the basis of successive capacity bookings with shorter durations rather than one capacity booking with a longer duration, assuming otherwise the same market conditions. By this argument, other sources would only be opened up on a lasting basis by incentives for the capacity bookings with longer durations and the security of supply thus actually raised in Germany and also for the European market (Germany as transit country) and a contribution made to keeping energy supply prices low.

78 The ruling chamber does not see that smaller market participants would be disadvantaged by the restriction of the discount to capacity bookings with longer durations. For one thing, it is usual at LNG terminals for users to make agreements between themselves to lend each other volumes of LNG with the purpose of a steadier rate of regasification and this is often set out in the terminal operators' terms and conditions (borrowing and lending principles). What is more, long-term terminal capacity is not only marketed on the basis of short-term slots, but there are also marketing concepts for the booking of a proportion of terminal capacity over the full year. These allow both larger and smaller customers to regasify a proportion of LNG continually over the whole year and inject it into the network. There is also the option of the terminal operator booking the network-side capacity long-term, at a discount, and making it available for its customers. Thus, with the help of capacity leasing/transfer, (smaller) shippers can also benefit from the discount. German LNG Terminal and EFET Deutschland's arguments are therefore not convincing on this issue. The ruling chamber takes the view that any network tariff discount that has been booked can also be passed on in the event of free slots that are acquired at short notice via the secondary market or the UIOLI principle. Where customers with long-term terminal bookings have acquired discounted network capacity and then do not use individual slots or offer them on the secondary market, the ruling chamber expects that these customers will also have a great interest in offering their acquired and unneeded, discounted network capacity to terminal customers making short-term bookings. The goal of discounting is to increase security of supply by creating incentives for early, long-term terminal and network bookings and their physical use – not to make short-term terminal bookings more attractive than other booking points. Consequently, the ruling chamber does not consider it appropriate to expand the discount to products with shorter durations. The comments by FNB Gas and the BDEW ultimately confirm the ruling chamber's view.

79 The explanation of the effects of capacity changes on multipliers given in margin numbers 42-43 applies accordingly to the change of a yearly or quarterly standard capacity product booked at a discount at entry points from LNG facilities. In this case, too, the possible application of the discount depends on the circumstances at the time the capacity contract was concluded. In the

event of a subsequent (contractual) change, already discounted booked capacity (eg capacity leasing/transfers on the secondary market, in some cases surrendered capacity, etc) does not then lose its discount (neither for already used capacity nor for the remaining duration of the non-surrendered capacity). This remains the case. For any capacity products newly booked from the TSOs, however, the network user has to pay the tariff, whether discounted (yearly or quarterly product) or undiscounted (monthly, daily or within-day product) according to its duration, where applicable plus a multiplier or other discount.

80 For the reasons given above, the ruling chamber has determined a discount of 40% on the standard capacity tariff at entry points from LNG facilities for the purposes of increasing security of supply. This discount applies exclusively to yearly and quarterly standard capacity products.

81 As shown in the determination MARGIT 2023 (BK9-21/612), there are many theoretically possible approaches to calculating an entry discount, but sufficient data and information for their practical application are generally not available. A discount does not necessarily have to be calculated according to a mathematical formula either. Rather, it can also result from a decision weighing up the various factors. In doing so, the ruling chamber takes the effects on the entire tariff system and in particular imports via pipeline routes into consideration as far as possible.

82 The analysis of individual past examples is not to be equated with a mechanism that would lead to a dynamic adjustment of the discount, as explained in the determination MARGIT 2023 (BK9-21/612). The intention is not to permanently prescribe the mechanism originally used.

83 Rather, with a view to national consumption and the considerable transit of natural gas in Germany, it must be ensured that the pipeline injections from other reliable sources that are essential to security of supply are not disproportionately burdened by the discount granted here.

84 The ruling chamber does not see a risk that the market would be distorted by substitution with other, reliable sources of pipeline supply in the event of a 40% discount on yearly and quarterly standard capacity products. In this context, it must also be noted that the construction and use of LNG infrastructure is associated with higher costs than sourcing gas via existing pipeline infrastructure. As Deutsche Terminal GmbH pointed out in its comments in the BK9-23/612 proceedings, even if all German FSRU LNG terminals were commissioned, it would not fully compensate for the lost procurement by pipeline from Russian sources. Compared with pipeline procurement, regasification from FSRU LNG terminals is also subject to risks due to extreme weather conditions, which are partially absorbed by the LNG discount. At the same time, the stable discount makes a positive contribution to a reliable and continuous regulatory regime.

85 By applying the entry discount exclusively to yearly and quarterly standard capacity products, the ruling chamber considers – unlike Equinor Deutschland in its response – that there continues to be a level playing field for all reliable sources of supply and thus a significant incentive to increase the security of supply in Germany.

7. Level of discounts for standard capacity products for interruptible capacity

86 The decision pursuant to operative part 5 on the level of discounts for standard capacity products for interruptible capacity is based on section 29(1) EnWG in conjunction with section 56(1) sentence 1 para 2, sentences 2 and 3 EnWG in conjunction with Article 6(11) and Article 7(3) of Regulation (EC) No 715/2009 in conjunction with Article 28(1) in conjunction with Article 16 of Regulation (EU) 2017/460.

87 Pursuant to Article 12(1) sentence 2 of Regulation (EU) 2017/460, for both yearly and non-yearly standard capacity products for interruptible capacity, the reserve prices must be calculated as set out in Chapter III of Regulation (EU) 2017/460.

88 Article 16(1) of Regulation (EU) 2017/460 lays down that the reserve prices for standard capacity products for interruptible capacity must be calculated by multiplying the reserve prices for the respective standard capacity products for firm capacity calculated as set out in Articles 14 or 15, as relevant, by the difference between 100% and the level of an ex-ante percentage discount. As an alternative to this, in accordance with Article 16(1) of Regulation (EU) 2017/460, the national regulatory authority may decide to apply an ex-post discount. The ruling chamber has not made use of this option.

89 The ex-ante discount determined as per operative part 5 ($Di_{ex\text{-}ante}$) was calculated in accordance with Article 16(1) of Regulation (EU) 2017/460 separately for each standard capacity product using the following formula:

$$Di_{ex\text{-}ante} = Pro \times A \times 100\ \%$$

a. *Pro* factor

90 *Pro* is the factor for the probability of interruption which is set or approved in accordance with Article 41(6) point (a) of Directive 2009/73/EC and in line with Article 28, and which refers to the type of standard capacity product for interruptible capacity.

91 The *Pro* factor is calculated for each, some or all interconnection points per type of standard capacity product for interruptible capacity offered in accordance with Article 16(3) of Regulation (EU) 2017/460. The ruling chamber has decided in a first step to calculate the *Pro* factor separately for each interconnection point using the prescribed formula. This approach ensures to the greatest extent possible that the probability of interruption, which can vary from point to point, is specifically reflected in the level of *Pro*. In a second step, the *Pro* calculated for each point will be standardised per standard capacity product at all entry and all exit points to the same entry-exit system or comparable systems for each gas quality (L-gas and H-gas). To do this, the weighted average of the *Pro* factors calculated per standard capacity product for all interconnection points in the

respective entry-exit system is calculated. The standardisation of the *Pro* factor per standard capacity product at all entry and all exit points of the same entry-exit system or comparable systems is based on the fact that within each gas quality the affected entry and exit points are interchangeable for the network user. Moreover, Article 21 of Regulation (EU) 2017/460 provides for a standardisation of the tariffs there. This standardisation is applied in principle at all interconnection points connecting the same foreign entry-exit system or the same third country with the German market area. However, a distinction is made between H-gas and L-gas interconnection points. The ruling chamber also considers it appropriate to look at the interconnection points "Zone Kiefersfelden-Pfronten" and "RC Lindau" (previously known as "Vorarlberg") to Austrian networks separately, in addition to the Austrian balancing zone. These interconnection points connect the German market area with physical "network islands" on the Austrian side, so they are not substitutable with the other interconnection points for shippers on the German side. In addition, the interconnection points to the market areas E-Gas Transmission System (GCP) (formerly known as "Polish E-Gas Balancing Zone") and Transit Gas Pipeline System (TGPS) (formerly known as "YAMAL (TGPS) Pipeline") are also considered separately because two separate market areas are operated on the Polish side.

92 For the interconnection points between Switzerland and Germany, the three interconnection points (RC Thayngen-Fallentor, RC Basel, Wallbach) were considered together only for the determination of the interruption discount and are put down in Annex I as "Switzerland". To clarify, it is emphasised here that the joint consideration only applies to this Determination. It is therefore only determined that a uniform discount is to be applied for interruptible standard capacity products at the three Swiss interconnection points. Only the setting of tariffs for interruptible capacity products is thus regulated. Other aspects, in particular the ability to book these individual points, are unaffected by these provisions.

93 The calculation of the *Pro* factor for the individual interconnection points, broken down by standard capacity product, is carried out in accordance with Article 16(3) on the basis of forecast information related to the individual components of the formula below:

$$Pro = \frac{N \times D_{int}}{D} \times \frac{CAP_{av.int}}{CAP}$$

Where:

N is the expectation of the number of interruptions over *D*.

D_{int} is the average duration of the expected interruptions expressed in hours.

D is the total duration of the respective type of standard capacity product for interruptible capacity expressed in hours.

$CAP_{av.int}$ is the expected average amount of interrupted capacity for each interruption where such amount is related to the respective type of standard capacity product for interruptible

capacity. In determining this value, the fact is taken into account that within-day capacity will be interrupted before daily capacity, daily capacity before monthly capacity, monthly capacity before quarterly capacity, and quarterly capacity before yearly capacity. This is because, in accordance with Article 35(1) of Regulation (EU) 2017/459, the order in which interruptions are performed is determined on the basis of the contractual time stamp of the relevant transport contracts for interruptible capacity. It follows from Article 9 in conjunction with Articles 11 to 15 and Article 32 of Regulation (EU) 2017/459 that yearly capacity will be auctioned or over-nominated before quarterly capacity, quarterly capacity before monthly capacity, monthly capacity before daily capacity, and daily capacity before within-day capacity; given that the order of interruptions is based on the time stamp, it can therefore be assumed that capacity will be interrupted in the reverse order to which contracts were concluded.

CAP is the total amount of interruptible capacity for the respective type of standard capacity product for interruptible capacity.

The discount calculated using the above formula is rounded up to the full percent.

94 Expected values from N, D_{int} and $CAP_{av.int}$ contribute to the calculation of the *Pro* factor. The ruling chamber takes the view that sufficiently reliable forecast figures can only be derived from examining a period in the past. The past values can be used as the basis to indicate the probability of a future interruption. However, it is not appropriate to use a reference period that goes back too far. That could lead to distortions, for example if changes to the actual conditions at a connection point that occurred long ago (eg due to network expansion) affect the probability of interruption in the present. In addition, for reasons of practicability a reference period that is too long should not be used, because network operators cannot easily identify interruptions from the distant past. On the other hand, a reference period that is too short is not appropriate either, because of the possibility of distortions and special circumstances that occur in the short term and are not representative of the general probability of interruption. The ruling chamber takes the view that a reference period of three years is appropriate. The variables N, D_{int} and $CAP_{av.int}$ must therefore be calculated on the basis of interruptions in interruptible capacity over a period of three years. This reference period is expected to minimise the risk of, on the one hand, taking account of conditions that no longer correspond to the actual circumstances and, on the other, distortions caused by an insufficient and unrepresentative data basis. A reference period of three (equally weighted) years therefore provides an appropriate balance. The last three complete gas years will be used.

95 In the calculation of the *Pro* factor, re-nominations of marketed interruptible capacity undertaken due to the announcement of a possible interruption by the TSO at the relevant booking point ("involuntary re-nominations") also count as interruptions. The ruling chamber will now also take involuntary re-nominations into account in response to repeated calls from traders in earlier proceedings. This approach seems appropriate given that, without the involuntary re-nomination,

an actual interruption could occur, which would then (as previously) be included in the calculation of the *Pro* factor. It is therefore expedient to count a prevented interruption as an actual interruption in this context.

96 Since the values for N, D_{int} and $CAP_{av.\ int}$ are based on data referring to the past, the ruling chamber has included a contingency mark-up of 10 percentage points in the calculation of the *Pro* factor. This ensures that the provisions of Article 16(3) of Regulation (EU) 2017/460 are applied with regard to the use of forecast values. The contingency mark-up is necessary because a period in the past is used to calculate the probability and it cannot be guaranteed that the probability of interruption in the present can be calculated with absolute accuracy by looking at the previous year. The framework conditions could have changed, affecting the actual probability of interruption. In any case, it cannot be ruled out that the calculation would not fully correspond to the real conditions. Moreover, the values calculated for N, D_{int} and $CAP_{av.\ int}$ are only forecast values, indicated by past experience. The contingency mark-up thus covers any differences between the calculation based on historical data and the current situation. In addition, any inaccuracies caused by unforeseeable special circumstances at the time of booking (which may lead to a "pork cycle" effect) will be compensated in whole or in part by the contingency mark-up. The wording of Article 29 point (b)(ii)(3) of Regulation (EU) 2017/460 (“historical or forecasted data, or both, used for the estimation of the probability of interruption referred to in point (2)”) also indicates that it is appropriate to combine past and forecast values to calculate the probability of interruption appropriately.

97 In determining the safety margin of 10 percentage points, the ruling chamber has also taken into account that, even if a discount of 10 percentage points were not sufficient in individual cases to cover the costs of an interruption completely, it would still be more than sufficient especially considering the entire trading portfolio. The level of the relevant safety margin is usually a multiple of the *Pro* factor calculated using the formula in Article 16(3) of Regulation (EU) 2017/460, so any inaccuracies in the determining of this factor for storage facilities used only seasonally or exclusively by network users would be adequately compensated for. The legislature has accepted these potential inaccuracies. This is shown in particular in Article 16(3) in conjunction with Article 21 of Regulation (EU) 2017/460, which permit the *Pro* factor to be standardised for each standard capacity product at all entry and all exit points to the same entry-exit system or to comparable systems.

b. Adjustment factor *A*

98 As well as *Pro*, *A* is the other factor in the calculation of the ex-ante discount. *A* is the adjustment factor which is set or approved by the regulatory authority in accordance with Article 41(6) point (a) of Directive 2009/73/EC and pursuant to Article 28 and that reflects the estimated economic value of the type of standard capacity product for interruptible capacity. The ruling chamber sets the

value of *A* for all standard capacity products at 1. This complies with Article 16(2) of Regulation (EU) 2017/460, pursuant to which *A* must be calculated for each, some or all interconnection points and must be no less than 1. While Article 16(2) of Regulation (EU) 2017/460 provides for the possibility of estimating the economic value of each standard capacity product to calculate *A*, the ruling chamber takes the view that this estimation is neither necessary nor appropriate. An estimate relating to standard capacity products would not take into account the fact that the adjustment factor would have to have very different economic values depending on the type of network user and the purpose of the booking. In this case, differentiating purely by standard capacity product would not be an appropriate way of forming an average. There is no indication that applying the *Pro* factor in conjunction with the contingency mark-up of 10 percentage points would lead to the calculation of inappropriate discounts, which would require adjustment using the adjustment factor *A*.

99 As explained above, the ruling chamber assumes that a discount of at least 10 percentage points is more than sufficient, especially when taking into account the whole portfolio. Also given the fact that the calculation formula used in the past worked well for the majority of market participants, the ruling chamber does not currently see any need for an adjustment.

100 The explanation of the effects of capacity changes on multipliers given in margin numbers 42-43 applies accordingly to the change of an interruptible standard capacity product. In this case, too, the calculation of a discount (including its level) depends on the facts at the time the contract was concluded. The discount is not subsequently lost if an interruptible standard capacity product is converted into a firm one. This remains unchanged for the period already passed and for the remaining duration of the non-converted capacity. However, for the firm capacity product that is booked during the conversion, the network user must pay the tariff for a firm standard capacity product without the discount that results from the probability of interruption, plus a multiplier or other discounts where applicable.

101 The discounts calculated in line with these explanations ($Di_{ex\text{-}ante}$) may be found in Annex I.

8. Payment of costs

102 Regarding costs, a separate notice will be issued as provided for by section 91 EnWG.

9. Public notification

103 Since the determination is issued in relation to all German TSOs within the meaning of section 3 para 5 EnWG, the ruling chamber is giving public notification of the determination in place of service pursuant to section 73(1) sentence 1 EnWG in accordance with section 73(1a) sentence 1 EnWG. According to section 73(1a) sentence 2 EnWG this public notification is effected by publication of the operative part of the determination, the notification of appellate remedies and a

brief statement that the decision in full has been published on the regulatory authority's website in the Bundesnetzagentur’s Official Gazette. In accordance with section 73(1a) sentence 3 EnWG the determination is considered to have been served on the day on which two weeks have elapsed since the date of public notification in the regulatory authority’s Official Gazette.

10. Annex

104 Annex I forms part of this decision.

Notification of appellate 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).

Chair	Vice Chair	Vice Chair
_____	_____	_____

Trading Hub Europe (THE)							
			$Di_{ex\text{-}ante}$				
Flussrichtung am Netzkopplungspunkt Flow direction at connection point	Name des angrenzenden Marktgebietes Name of adjacent market area	Gasqualität Gas quality	untertägige Kapazität within-day capacity	Tageskapazität daily capacity	Monatskapazität monthly capacity	Quartalskapazität quarterly capacity	Jahreskapazität yearly capacity
Entry	Czech Balancing Zone	H-Gas	10%	10%	10%	10%	10%
Exit	Czech Balancing Zone	H-Gas	10%	10%	10%	10%	10%
Entry	Austrian Balancing Zone	H-Gas	10%	10%	10%	10%	10%
Exit	Austrian Balancing Zone	H-Gas	13%	13%	13%	10%	10%
Entry	RC Lindau (ehem. Vorarlberg; Österreich)	H-Gas	10%	10%	10%	10%	10%
Exit	RC Lindau (ehem. Vorarlberg; Österreich)	H-Gas	10%	10%	10%	10%	10%
Entry	Zone Kiefersfelden-Pfronten (Österreich)	H-Gas	10%	10%	10%	10%	10%
Exit	Zone Kiefersfelden-Pfronten (Österreich)	H-Gas	10%	10%	10%	10%	10%
Entry	Belgian and Luxembourg Balancing Zone	H-Gas	27%	27%	12%	12%	12%
Exit	Belgian and Luxembourg Balancing Zone	H-Gas	10%	10%	10%	10%	10%
Entry	Dutch Balancing Zone	H-Gas	11%	11%	10%	10%	10%
Exit	Dutch Balancing Zone	H-Gas	10%	10%	10%	10%	10%
Entry	Dutch Balancing Zone	L-Gas	10%	10%	10%	10%	10%
Exit	Dutch Balancing Zone	L-Gas	10%	10%	10%	10%	10%
Entry	Danish Balancing Zone	H-Gas	11%	10%	10%	10%	10%
Exit	Danish Balancing Zone	H-Gas	11%	11%	10%	10%	10%
Entry	Norwegen	H-Gas	11%	11%	11%	11%	11%
Exit	Norwegen	H-Gas	10%	10%	10%	10%	10%
Entry	Schweiz (ehem. RC Thayngen-Fallentor, RC Basel, Wallbach)	H-Gas	11%	10%	10%	10%	10%
Exit	Schweiz (ehem. RC Thayngen-Fallentor, RC Basel, Wallbach)	H-Gas	11%	11%	10%	10%	10%
Entry	Trading Region France (ehem. PEG North)	H-Gas	10%	10%	10%	10%	10%
Exit	Trading Region France (ehem. PEG North)	H-Gas	10%	10%	10%	10%	10%
Entry	E-Gas Transmission System (GCP; ehem. Polish E-Gas Balancing Zone)	H-Gas	10%	10%	10%	10%	10%
Exit	E-Gas Transmission System (GCP; ehem. Polish E-Gas Balancing Zone)	H-Gas	11%	11%	10%	10%	10%
Entry	Transit Gas Pipeline System (TGPS; ehem. YAMAL (TGPS) Pipeline; Polen)	H-Gas	10%	10%	10%	10%	10%
Exit	Transit Gas Pipeline System (TGPS; ehem. YAMAL (TGPS) Pipeline; Polen)	H-Gas	10%	10%	10%	10%	10%
Entry	Russland	H-Gas	10%	10%	10%	10%	10%
Exit	Russland	H-Gas	10%	10%	10%	10%	10%