



Warsaw, 29 April 2021

**PRESIDENT
OF THE ENERGY REGULATORY
OFFICE**
Rafał Gawin, PhD

DRR.WRG.748.10.2020.ABu1

DECISION

Pursuant to Article 8 (9), Article 25 (1) and Article 28 (1) and (2) of Commission Regulation (EU) 2017/459 of 16 March 2017 establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation (EU) No 984/2013 (EU OJ L 72 of 17 March 2017, p. 1 et seq.) in conjunction with Article 23 para. 2 item 11a and Article 30 para. 1 of the Act of 10 April 1997 on the Energy Law (JoL of 2021, item 716) and Article 104 of the Act of 14 June 1960 on the Code of Administrative Procedure (JoL of 2021, item 735)

after having examined the application

of the energy undertaking Operator Gazociągów Przesyłowych GAZ-SYSTEM Spółka Akcyjna with its registered office in Warsaw, attached to the letter of 18 December 2020 ref. no.: PU.070.7.2019.30, entitled "Application for the Approval of an Incremental Capacity Project according to Article 28 (1) NC CAM for the Market Border of Poland (E-Gas Transmission System) and Germany (Trading Hub Europe)", supplemented by letter of 22 February 2021, ref. no.: PU.0712.4.2021.34, by letter of 22 March 2021, ref. no.: PU.0712.4.2021.41 and by letter of 31 March 2020, ref. no.: PU.0712.4.2021.46

I hereby resolve

to approve the project proposal for incremental capacity for the market border of Poland (E-Gas Transmission System) and Germany (Trading Hub Europe) attached as Annex 1 hereto.

JUSTIFICATION

In fulfilment of the obligation arising under Article 28(1) of Commission Regulation (EU) 2017/459 of 16 March 2017 establishing a network code on capacity allocation mechanisms in the gas transmission systems and repealing Regulation (EU) No 984/2013 (hereinafter: "Regulation (EU) 2017/459"), on 18 December 2020 Gas Transmission Operator GAZ-SYSTEM S.A. with its registered office in Warsaw (hereinafter: "GAZ-

SYSTEM", "TSO" or "Applicant) submitted to the President of the Energy Regulatory Office (hereinafter: "the President of ERO") the document entitled "Application for the Approval of an Incremental Capacity Project according to Article 28 (1) NC CAM for the Market Border of Poland (E-Gas Transmission System) and Germany (Trading Hub Europe)" (hereinafter: "the project proposal") prepared in coordination with ONTRAS Gastransport GmbH (hereinafter: "ONTRAS").

On 22 December 2020, Bundesnetzagentur notified the President of ERO that ONTRAS submitted an analogous application and further notified of its completeness as at the submission date, that is, 18 December 2020.

On 14 January 2021 the President of ERO notified Bundesnetzagentur of receipt of the TSO's application for approval of the project proposal, and subsequently, pursuant to Article 28(2) sentence 3 of Regulation (EU) 2017/459, notified of the completeness of the application as at 18 December 2020.

By letters dated 1 February 2021, 18 March 2021, the President of ERO called the Applicant to correct and complete the application for approval of the project proposal and to provide explanations.

By letter of 22 February 2021, ref. no.: PU.0712.4.2021.34, letter of 26 March 2021, ref. no.: PU.0712.4.2021.41, and letter of 30 March 2021, ref. no.: PU.0712.4.2021.46 the Applicant provided explanations, made the relevant corrections and supplements.

On 13 April 2021 the President of ERO notified the party about the completion of the taking of evidence in the present administrative proceedings and about an opportunity to become acquainted with the administrative case file and to comment on the collected evidence, materials and submitted demands within 7 days from the date of receipt of the notification. The Applicant did not use its right to familiarize itself with the evidence.

In consideration of the evidence gathered, the President of ERO established the following:

Pursuant to Article 26 of Regulation (EU) 2017/459, GAZ-SYSTEM together with ONTRAS in the period from 1 July 2019 to 26 August 2019 conducted a non-binding assessment of the market demand for incremental capacity at the interconnection point (IP) GCP GAZ-SYSTEM/ONTRAS, which connects the entry-exit-system of Poland (E-Gas Transmission System) and the entry-exit-system of the Trading Hub Europe¹.

As part of the above process, a non-binding demand for firm capacity for the future gas years was reported on the GCP GAZ-SYSTEM / ONTRAS connection.

Market demand has been estimated based on the following reports received by ONTRAS:

¹ Currently, on the German side of the market border the market area of GASPOOL is still in place and active. In 1 October 2021 this market area will be merged with the market area of Net-Connect-Germany to the common German market area named Trading Hub Europe. However as in market demand assessment report assessed the future capacity situation and the project proposal refers to a new German market area, this Decision also refers to the future market area, Trading Hub Europe.

From EXIT- Capacity	To ENTRY- Capacity	Gas year	Amount (kWh/h)/y	Request was submitted to other TSOs	Additional Information (e.g. type of capacity)
<i>Poland</i>	<i>THE</i>	<i>2021/22 – 2035/36</i>	<i>2,025,676</i>	<i>Yes, to OGP GAZ- SYSTEM S.A.</i>	<i>Freely allocable firm capacity</i>

The market demand was estimated on the basis of the following notifications received by GAZ-SYSTEM:

From EXIT- CAPACITY	To ENTRY- CAPACITY	Gas year	Amount (kWh/h)/y	Request was submitted to other TSOs	Additional Information (e.g. type of capacity)
<i>Poland</i>	<i>THE</i>	<i>2021/22 – 2035/36</i>	<i>1,468,176</i>	<i>YES, to ONTRAS Gastransport GmbH</i>	<i>Freely allocable firm capacity</i>

Initially an incremental capacity demand of 1,468,176 kWh/h was submitted to both TSOs. Ultimately, based on the received correction of the demand for incremental capacity, the demand was adjusted so that the total capacity on both sides (including the existing technical capacity) at the interconnection point was adjusted to the level of 2 029 300 kWh / h and as such has been adopted under the project scope presented during the first public consultation. The originally reported demand would lead to divergent capacities at the interconnection point and would not be consistent with the intention of the request for equalization of the capacity level on both sides of the interconnection.

The Market Demand Assessment Report (MDAR) assessed the non-binding demand indications received in the demand assessment phase, and based on its conclusions, the involved TSOs developed technical studies based on Art. 27 (2) of Regulation (EU) 2017/459 related to the technical development of the Lasów gas station, together with a technical analysis of the required expansion of the national gas infrastructure.

Pursuant to Art. 27 (3) of Regulation (EU) 217/459 and the timeline indicated in the Demand assessment report for the incremental capacity between the Polish gas transmission system and the Trading Hub Europe, in the period from 10 August to 10 September 2020, GAZ-SYSTEM and ONTRA conducted public consultations of the incremental capacity preliminary project proposal.

Due to the fact that there are interlinkages between the incremental capacity project on the German side of the border and further incremental capacity projects stemming from demand requests on other German market borders, the consultation document states that the incremental capacity project for the GCP GAZ-SYSTEM/ONTRAS on the German side of the border cannot be considered solely and has different cost aspects.. Ultimately, the German TSOs analyzed alternatives for offering the incremental capacity of the GCP GAZ-SYSTEM / ONTRAS point in a way that would not affect the physical constraints between

the existing GASPOOL and NetConnect Germany entry/exit systems and the future THE exit/entry system. It was established that in the event of a reservation in the annual capacity auction in 2021 and a positive economic test result, ONTRAS will make an appropriate reallocation of the unused existing technical capacity within the ONTRAS network to the GCP GAZ-SYSTEM / ONTRAS entry point. Based on the above information, the subject matter and content of the application on the German side of the border have been amended accordingly.

In addition, in the above-mentioned public consultation of the initial project proposal ONTRAS and GAZ-SYSTEM received comments from one market participant. Comments received referred to the German aspects of the project proposal. The need for greater transparency in the application of a possible mandatory minimum premium (MMP) during the incremental capacity auction was indicated, and an explanation was requested in the process of the cancellation of capacities based on the provision laid down in consulted supplementary business terms and condition of ONTRAS for new capacities to be created. There was also a demand to provide the date and place of publication of the maximum tariff allowed for exercising the special right to terminate the contract. The Comments received referred to German aspects of the project proposal therefore, GAZ-SYSTEM did not react to the provided comments.

After the initial consultation of the project proposal on the Polish side, the project was also subjected to additional analysis, which showed that due to the observed significant increase in gas demand in the Lower Silesia region, it is necessary to reduce the level of offered incremental bundled capacity to 613,250 kWh/h.

Therefore, in the period from 17 November 2020 to 17 December 2020, a second market consultation was conducted, during which the TSOs received one inquiry regarding the possibility of including the existing firm capacity in the project and about the costs related to the reduction of the level of the related incremental capacity.

The project of the incremental capacity for the cross-border Poland - Germany interconnection point (GCP GAZ-SYSTEM / ONTRAS) consisting in enabling the physical flow of natural gas (group E) from Poland to Germany with an incremental capacity of 613 250 kWh / h, requires investments on both sides of the border. The capacities offered on the Polish and German sides of the GCP GAZ-SYSTEM / ONTRAS interconnection point are currently not equal, and the implementation of the project will allow for permanent and long-term equalization of the offered bundled capacities on a firm basis subject to the incremental capacity procedure, which are currently offered on the basis of annual TSO analyzes and system utilization forecasts.

The expansion of the GCP GAZ-SYSTEM / ONTRAS cross-border interconnection point on the Polish side involves:

- modernization of the measurement system at the Lasów station;
- construction of a reverse system at the Jeleniów compressor station,
- retrofitting drives / valves at the Lasów station.

The estimated investment will be approximately PLN 9.524 million (modernization of metering at the Lasów station - PLN 1.5 million, construction of a reverse connection at the Jeleniów compressor station - PLN 7.244 million and retrofitting with drives / valves at

the Lasów station - PLN 0.78 million). It is expected that the expenditure will be incurred in 2025, and the gas transmission service will start in the fourth quarter of 2026. The expenditure has been set for 2020 prices, therefore revenues and costs are discounted until this year. For the economic test, the power equal to 61 760 kWh / h was assumed, which is the minimum contractual power guaranteeing a positive test result.

In the course of these proceedings, the President of ERO considered the following:

The Applicant holds a licence for gas transmission within the territory of the Republic of Poland, granted by decision of the President of ERO of 30 June 2004, No. PPG/95/6154/W/2/2004/MS, as amended.

By decision of 23 June 2006, ref. no.: DPE-47-4(2)/6154/2006/BT, amended by decision of 18 December 2006, ref. no.: DPE-47-10(5)/6154/2006/MW, decision of 9 December 2009, ref. no.: DPE- 47-109(2)/6154/2009/BP, decision of 13 October 2010, ref. no.: DPE-4720-3(7)/6154/2010/BT and decision of 6 December 2018, ref. no.: DRG.DRG-1.4720.1.2018.KL, the President of ERO designated the Applicant as the gas transmission system operator in the territory of the Republic of Poland for the period until 6 December 2068.

By decision of 22 September 2014, No. DRG-4720-1 (13) / 2014/6154 / KF, the President of ERO granted the Applicant a certificate of compliance with the independence criteria specified in Art. 9d paragraph. 1a of the Energy Law in connection with the performance of the function of the transmission system operator on own networks.

Pursuant to Article 23 para. 2 item 11a of the Act of 10 April 1997 on the Energy Law (hereinafter: the Energy Law Act), the scope of activity of the President of ERO includes controlling the performance by a gas transmission system operator or an interconnected gas system operator and other gaseous fuel market participants of obligations arising from the provisions of Regulation (EC) No. 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No. 1775/2005, performance of other obligations of the regulatory authority under that Regulation and approval of the relevant points in the transmission system covered by the obligation referred to in Article 18 of that Regulation, as well as performance of the obligations of the regulatory authority under regulations adopted pursuant to Article 8 and Article 23 of Regulation 715/2009.

Regulation (EU) 2017/459 was adopted on the basis of Regulation 715/2009 and regulates capacity allocation mechanisms in the gas transmission systems for existing capacity and incremental capacity. The Regulation is binding in its entirety and directly applicable in all Member States of the European Union.

Pursuant to Article 28(1) of Regulation (EU) 2017/459, following the consultation and completion of the design phase for the incremental capacity project in accordance with Article 27 of that act, the relevant transmission system operators shall submit the incremental capacity project proposal to the relevant national regulatory authorities for coordinated approvals. The project proposal shall also be published by the transmission system operators concerned in at least one of the official languages of the Member States and, where possible, in English, and shall contain at least the following information:

- a) all offer levels reflecting the extent of the projected demand for incremental capacity at the relevant interconnection points following a market demand assessment and public consultation process;
- b) the general terms and conditions for network users to participate in, and gain access to capacity in the binding capacity allocation phase of the incremental capacity acquisition process, including any safeguards to be provided by network users, and how contractual arrangements will address any delays in the provision of capacity or disruptions to the project implementation;
- c) the schedule for implementing the incremental capacity project, including any changes that have occurred since public consultation, and measures to prevent delays and minimize their impact;
- d) economic test parameters;
- e) whether an extension of the time horizon for capacity contracting for an additional period of maximum 5 years beyond the allocation period of maximum 15 years from the beginning of exploitation may be required on an exceptional basis;
- f) where appropriate, the proposed alternative allocation mechanism, including its justification, and the conditions approved by the transmission system operator for the binding phase;
- g) where a fixed price approach is applied to the incremental capacity project, the indicators described in Article 24(b) of Commission Regulation (EU) No 2017/460 of 16 March 2017 establishing a network code on harmonized transmission tariff structures for gas (EU OJ L 72 of 17 March 2017, p. 29 et seq., hereinafter: "Regulation (EU) 2017/460").

Pursuant to Article 28(2) of Regulation (EU) 2017/459, within 6 months of receipt of a complete project proposal by the last of the competent regulatory authorities, they shall publish coordinated decisions on the project proposal. The national regulatory authorities shall inform each other of the receipt of the project proposal and its completeness in order to determine the start of the 6-month period.

When preparing the national regulatory authority's decision, each national regulatory authority shall consider the views of the other national regulatory authorities involved. In any case national regulatory authorities shall take into account any detrimental effects on competition or the effective functioning of the internal gas market associated with the incremental capacity projects concerned. If a relevant national regulatory authority objects to the submitted project proposal, it shall inform the other involved national regulatory authorities as soon as possible. In such a situation, all the national regulatory authorities involved shall take all reasonable steps to work together and reach a common agreement.

Pursuant to Article 8(9) of Regulation (EU) 2017/459, the exact proportion of capacity to be set aside in accordance with paragraph 8 of this Regulation shall be subject to approval by national regulatory authorities; this paragraph 8 stipulates that in the case of incremental capacity, an amount at least equal to 10% of the incremental technical capacity at the concerned interconnection point shall be set aside and offered no earlier than the annual quarterly capacity auction, held in accordance with the auction calendar during the gas year preceding the start of the relevant gas year.

In turn, pursuant to Article 25(1) of Regulation (EU) 2017/459, for a given incremental capacity project, the transmission system operator shall submit to the relevant national regulatory authority for approval the following information for each offer level:

- a) the reference prices estimated for the time horizon of the initial offer of incremental capacity that are used for the calculation of the parameter set out in Article 22(1)(a) and 24(2)(a), respectively in case separate or a single economic test is applied;
- b) the parameters set out in Article 22(1)(b) to (c) and 24(2)(b) to (c), respectively in case separate or a single economic test is applied;
- c) if applicable, the range of the level for the mandatory minimum premium referred to in Article 33(4) of Regulation (EU) 2017/460 for each offer level and interconnection point applied in the first auction and possibly in subsequent auctions in which the incremental capacity is offered as defined in Article 33(3) of Regulation (EU) 2017/460.

The project proposal submitted by the TSO contains all the formal elements necessary for its approval as listed in Articles 8(8), 25(1) and 28(1)(a-g) of Regulation (EU) 2017/459.

In view of the above, the following should be indicated:

1. Offer level (Articles 8(8) and 28(1)(a) of Regulation (EU) 2017/459)

In accordance with Article 3(5) of Regulation (EU) 2017/459, "offer level" means the sum of the available capacity and the respective level of incremental capacity offered for each of the yearly standard capacity products at an interconnection point.

The project proposal contains one offer level. The calculation of the offered existing capacity and the offered offer level 1 is presented in the tables below, which also provides information under Art. 11 sec. 6 of Regulation (EU) 2017/459, according to which the capacity to be offered in the annual capacity auction shall be equal to:

$$A - B - C + D + E - F$$

where:

A is the technical capacity of the transmission system operator for each standard capacity products;

B for annual yearly auctions offering capacity for the next 5 years, is the amount of technical capacity (A) set aside in accordance with Article 8(7); for annual yearly auctions for capacity beyond the first 5 years, is the amount of technical capacity (A) set aside in accordance with Article 8(7);

C is the previously sold technical capacity, adjusted by the capacity which is re-offered in accordance with applicable congestion management procedures;

D is additional capacity, for such year, if any;

E is the incremental capacity for such year included in a respective offer level, if any;

F is the amount of incremental capacity (E), if any, set aside in accordance with Article 8(8) and (9).

Table 1: Depiction of the offered existing capacity (kWh/h/y) for **GAZ-SYSTEM** on the IP GCP GAZ-SYSTEM/ONTRAS (exit):

Table 1) Existing capacity	Sum of offered existing capacity (firm)	Available technical capacity [Art. 11 (6) NC CAM A]	Capacity set aside [Art. 11 (6) NC CAM B]	Previously sold technical capacity [Art. 11 (6) NC CAM C]	Additional capacity [Art. 11 (6) NC CAM D]	Incremental capacity [Art. 11 (6) NC CAM E]	Incremental capacity set aside [Art. 11 (6) NC CAM F]
GY 21/22	3,262	3,624	362	0	0		
GY 22/23	3,262	3,624	362	0	0		
GY 23/24	3,262	3,624	362	0	0		
GY 24/25	3,262	3,624	362	0	0		
GY 25/26	3,262	3,624 ²	362	0	0		

Table 2: Depiction of the offered Offer-level 1 (kWh/h/y) for **GAZ-SYSTEM** on the IP GCP GAZ-SYSTEM/ONTRAS (exit):

Table 2) Offer-level 1 (firm)	Sum of offered offer-level 1	Available technical capacity [Art. 11 (6) NC CAM A]	Capacity set aside [Art. 11 (6) NC CAM B]	Previously sold technical capacity [Art. 11 (6) NC CAM C]	Additional capacity [Art. 11 (6) NC CAM D]	Incremental capacity [Art. 11 (6) NC CAM E]	Incremental capacity set aside [Art. 11 (6) NC CAM F]
GY 21/22							
GY 22/23							
GY 23/24							
GY 24/25							
GY 25/26							
GY 26/27	493,499	3,624	725	0	0	613,250	122,650
GY 27/28	493,499	3,624	725	0	0	613,250	122,650
GY 28/29	493,499	3,624	725	0	0	613,250	122,650
GY 29/30	493,499	3,624	725	0	0	613,250	122,650
GY 30/31	493,499	3,624	725	0	0	613,250	122,650
GY 31/32	493,499	3,624	725	0	0	613,250	122,650
GY 32/33	493,499	3,624	725	0	0	613,250	122,650
GY 33/34	493,499	3,624	725	0	0	613,250	122,650
GY 34/35	493,499	3,624	725	0	0	613,250	122,650
GY 35/36	493,499	3,624	725	0	0	613,250	122,650
GY 36/37	493,499	3,624	725	0	0	613,250	122,650
GY 37/38	493,499	3,624	725	0	0	613,250	122,650
GY 38/39	493,499	3,624	725	0	0	613,250	122,650
GY 39/40	493,499	3,624	725	0	0	613,250	122,650
GY 40/41	493,499	3,624	725	0	0	613,250	122,650

Table 3: Depiction of the common offered existing capacity and of the common offered Offer-level 1 (kWh/h/y) for the marketing of bundled capacity for **GAZ-SYSTEM and ONTRAS** on the IP GCP GAZ-SYSTEM in direction Trading Hub Europe:

Common offered capacity	Existing capacity (FZK/firm)	Offer level 1 (FZK/firm)
GY 21/22	3,262	
GY 22/23	3,262	
GY 23/24	3,262	
GY 24/25	3,262	
GY 25/26	3,262	
GY 26/27		493,499
GY 27/28		493,499
GY 28/29		493,499
GY 29/30		493,499
GY 30/31		493,499
GY 31/32		493,499
GY 32/33		493,499
GY 33/34		493,499
GY 34/35		493,499
GY 35/36		493,499
GY 36/37		493,499
GY 37/38		493,499
GY 38/39		493,499
GY 39/40		493,499
GY 40/41		493,499

Table 3 presents the bundled offer level 1 to be offered by GAZ-SYSTEM and ONTRAS in the yearly product auction in 2021, taking into account the obligation to set aside capacity pursuant to Regulation (EU) 2017/459. The offer level will be made available to the market at the earliest from the gas year 2026/2027. According to Art. 8 (9) of Regulation (EU) 217/459, GAZ-SYSTEM and ONTRAS agreed that the amount of set aside technical capacity from the gas year 2026/2027 will be 20% of the existing and incremental capacity (for the previous gas years, 10% of the existing and incremental capacity will be set aside). The incremental capacity will be offered simultaneously with the existing capacity during the yearly product auction in 2021, while the existing capacity at the GCP GAZ-SYSTEM / ONTRAS point will be offered beyond the offer level from the gas year 2021/2022 to the gas year 2025/2026, in accordance with Art. 11 (3) Regulation (EU) 217/459.

Considering the above, it should be stated that the presented offer level in accordance with 28 (1) (a) of Regulation (EU) 2017/459 reflects the scope of the expected demand for incremental capacity and meets the legal requirements resulting from the above-mentioned regulation. The applicant, together with ONTRAS, has identified the standard bundled products to be offered in accordance with Art. 29 (1) of Regulation (EU) 2017/459. The offer level was prepared in accordance with Art. 11 (6) above the mentioned regulation and takes into account the obligation to set aside capacity according to the method indicated in that provision.

In the assessment of the ERO President, offering the amount of capacity specified in the project proposal serves as a possibly accurate assessment of the demand for capacity. In addition, what is important, the commitment of the auction participants to incur the fees for gas transmission service within the maximum allowed capacity even before the TSO starts to incur the expenses for the preparation and then implementation of the investment reduces the Applicant's risk related to the uncertainty of future revenues. This serves to protect the legitimate interests of both the TSO and all the users of the Polish transmission system. A similar justification applies to the proposed period of transmission service provision - 15 years. This is the number of years allowed by the provisions of Regulation (EU) 2017/459, assessed by the Applicant as a period providing sufficient protection of its interests.

2. General terms and conditions (Article 28(1)(b) of Regulation (EU) 2017/459)

Pursuant to Article 28(1)(b), the project proposal shall include the general rules and conditions that a network user must accept to participate and access capacity in the binding capacity allocation phase of the incremental capacity process, including any collaterals to be provided by network users and how possible delays in the provision of capacity or the event of a disruption to the project are dealt with contractually.

For the purpose of offering incremental capacity, GAZ-SYSTEM and ONTRAS have prepared individual general terms and conditions in line with the national legal regulations.

In the opinion of the President of the Energy Regulatory Office, the provisions of the "General Terms and Conditions of participation in and access to capacity in the binding phase of incremental capacity auction on the border between Poland (E-Gas Transmission System) and Germany (Trading Hub Europe)" (hereinafter: "INC GT&C") are consistent with European and national law and adequately ensure a balance of protection of the Applicant and network users. In particular, the general provisions concerning the method of making incremental capacity available and the provisions concerning financial security and the consequences of a possible delay in making incremental capacity available or disruptions to the incremental capacity project for the market border of Poland (E-Gas Transmission System) and Germany (Trading Hub Europe) serve this protection.

3. Timelines of the incremental capacity project and measures to prevent delays and minimize the impact of delays (Article 28(1)(c) of Regulation (EU) 2017/459)

Pursuant to Article 28(1)(c) of Regulation (EU) 2017/459, timelines of the incremental capacity project, including any changes since the consultation described in paragraph 3 of Article 27, and measures to prevent delays and minimize the impact of delays are subject to approval.

In the opinion of the ERO President, the Applicant has correctly described and justified the project implementation schedule included in the project proposal. The construction of the necessary investments projects providing capacity at the GCP point will commence when market participants commit to purchase adequate amounts of incremental capacity in the yearly product auction in 2021 and if each TSO obtains a positive result of the economic test.

The schedule provides that the deadline for the completion of investment tasks and the commissioning of the new infrastructure will take place in the third quarter of 2026.

The above-mentioned stages on the Polish side are the expected latest dates for the completion of further activities, taking into account the general schedule of the incremental capacity project and the requirement to ensure capacity at the beginning of the 2026/2027 gas year.

Measures to prevent delays and minimize their effects are defined in the INC GT&C as obligations of the TSO towards the network users. According to point 6 of the INC GT&C, such measures include:

- a. imposing on GAZ-SYSTEM an obligation to inform the System Users about the occurrence of any delays well in advance (6 months) while limiting the possibility of postponing the date of commencement of service provision (the notification may be submitted only once) and the maximum period of delay (24 months);
- b. the possibility for the System User to resign from all or part of the proposed reduced capacity allocation due to delays without the obligation to pay transmission fees;
- c. the ability to convert all or part of the capacity allocated to a System User under a yearly product to interruptible capacity.

4. Information and parameters of the economic test (Article 25 and Article 28(1)(d) of Regulation (EU) 2017/459)

Pursuant to Article 22(3) of Regulation (EU) 2017/459, an incremental capacity project shall be initiated if the economic test has a positive outcome on both sides of an interconnection point for at least one offer level that includes incremental capacity. The results of the economic tests shall be made available no later than 2 business days after the closing of the bidding round, simultaneously to individual network users participating in the respective auction (Article 11(10) of Regulation (EU) 2017/459).

Pursuant to Article 22(2)(a) of Regulation (EU) 2017/459, the outcome of the economic test application shall be positive, where the value of binding commitments of network users for contracting capacity is at least equal to the value of the share of the estimated increase in the allowed or target revenue of the transmission system operator associated with the incremental capacity included in the respective offer level as defined by the f-factor.

Pursuant to Article 25(1) and Article 28(1)(d) of Regulation (EU) 2017/459, parameters of the economic test for present values of binding commitments of network users and of the estimated increase in the allowed or target revenue of the TSO, f-factor and the reference prices and the range of the level for the mandatory minimum premium included in the application for project proposal approval are subject to approval by the relevant national regulatory authority.

I. Present value of binding commitments of network users for contracting capacity

The purpose of the economic test is to ensure the economic viability of the project and thus network users demanding incremental capacity are required to assume the corresponding financial risks associated with their demand to avoid captive customers from being exposed to the risk of such investments (recital 11 of Regulation (EU) 2017/459).

The economic test parameter specified in Article 22(1) is the present value of binding commitments of network users for contracting capacity, which is calculated as the discounted sum of the following parameters:

- (1) the sum of the respective estimated reference prices and a potential auction premium and a potential mandatory minimum premium multiplied by the amount of contracted incremental capacity;
- (2) the sum of a potential auction premium and a potential mandatory minimum premium multiplied by the amount of available capacity that was contracted in combination with the incremental capacity;

When calculating the present value of binding commitments of network users at the GCP GAZ-SYSTEM / ONTRAS exit point, the following was adopted:

- a) a reference price of PLN 1,854 / (MWh / h) / h (EUR 0.431) / (MWh / h) / h);
- b) in order to obtain a positive result of the economic test, the obligatory auction premium or the obligatory minimum premium is not required;
- c) reserved annual transmission capacity at the GCP exit point of 61 375 kWh / h.

The discounted value of binding commitments of network users at the GCP GAZ-SYSTEM / ONTRAS point, with a discount rate of 6% for the 15-year test period, is PLN 6,927,172.00.

II. Present value of the estimated increase in the allowed or target revenue of the TSO

A parameter of the economic test referred to in Article 22(1)(b) of Regulation (EU) 2017/459 is the present value of the estimated increase in the allowed or target revenue of the transmission system operator associated with the incremental capacity included in the respective offer level.

Definitions of the “allowed revenue” or “target revenue” are included in Regulation 2017/460. Pursuant to Article 3(11) thereof, “allowed revenue” means the sum of transmission services revenue and non-transmission services revenue for the provision of services by the transmission system operator for a specific time period within a given regulatory period which such transmission system operator is entitled to obtain under a non-price cap regime and which is set in accordance with Article 41(6)(a) of Directive 2009/73/EC.

The value of the current estimate of the allowed incremental capacity-related revenues of the transmission system operator corresponds to the value of the cost base of investment assets pertaining to the project implemented by the transmission system operator settled in the period covering contracted incremental capacity made available under bids submitted in the auction procedure for the GCP GAZ-SYSTEM / ONTRAS interconnection point.

For the calculation of the discounted value of the allowed revenue related to the implementation of the incremental capacity project for the border of the market areas Poland (E-Gas Transmission System) - Germany (Trading Hub Europe) in the years 2026-2041, a discount rate of 6% was adopted. This value is equal to the risk-free rate adopted for the purpose of calculating the reference rates approved by the President of the ERO in force in 2021.

When calculating the allowed income, the following were taken into account:

- a) initial regulatory value (RAV) of the property related to the expansion of the GCP point in the amount of PLN 9,524 thousand PLN;
- b) the value of annual depreciation charges amounting to 405 thousand PLN;
- c) annual operating costs (OPEX) of PLN 195 thousand; PLN;
- d) WACC equal to 6% of the RAV.

The discounted value of the allowed revenue at the GCP GAZ-SYSTEM / ONTRAS point is - 6,926,822.00 PLN.

III. F-factor

Pursuant to Article 23(1) of Regulation (EU) 2017/459, the level of the f-factor for a given offer level shall be set, taking into account the following:

- a) the amount of technical capacity set aside in accordance with Article 8(8) and (9);
- b) positive externalities of the incremental capacity project on the market or the transmission network, or both;
- c) the duration of binding commitments of network users for contracting capacity compared to the economic life of the asset;
- d) the extent to which the demand for the capacity established in the incremental capacity project can be expected to continue after the end of the time horizon used in the economic test.

Taking into account the position of the TSO that the project for the expansion of the GCP cross-border interconnection, i.e. for the border of the market areas Poland (E-Gas Transmission System) - Germany (Trading Hub Europe), is only a commercial project and the fact that no positive effects have been indicated for the cooperating systems transmission and markets, it is justified to adopt the f-factor equal to 1, as requested by the TSO. The applicant indicated that the project is of a nature that allows for offering transmission capacity on the basis of physical flow, and not a virtual reverse. The project will not affect the implementation of key projects related to the expansion of the Polish transmission system, the level of gas fuel prices in Poland and the improvement of the security of fuel supplies to customers on the Polish market.

Considering the above, the President of ERO accepts the adoption of the f-factor equal to 1 (in words: one).

IV. Reference price

Pursuant to Article 25(1)(a) of Regulation 2017/459, under the proceedings conducted, reference prices (rates) of transmission fees estimated for the project for the time horizon from 1 October 2026 to 1 October 2041, that is the period of 15 gas years, have been approved by this decision.

Referring to the position of the TSO on the adopted reference price, it is necessary to agree with the assumption that for the calculation of the present value of commitments of network users for contracting incremental capacity made available under bids submitted in the auction procedure for the GCP interconnection point referred to in Article 22(1)(a) of Regulation (EU) 2017/459, the reference price will be applied at the level of the fixed fee rate for the provision of gaseous fuel transmission services at the exit point from the high-methane gas transmission system according to the "Tariff for gas transmission services no 14" approved by the decision of the President of ERO no DRG.DRG-2.4212.7.2020JDo1 of

5 June 2020, in the amount of 1.854 PLN/(MWh/h)/h. This price will be used in calculations related to the economic test for the entire project time horizon, i.e. from 1 October 2026 to 1 October 2041.

Thus, the provisions of Article 33(1) of Regulation No 2017/460 stipulating that for the calculation of the economic test, reference prices shall be derived by including into the reference price methodology the relevant assumptions related to the offer of incremental capacity will not apply. The adoption of such a solution is supported by the fact that in the near future the Applicant will start implementing capital-intensive investment projects aimed at ensuring diversification of gas supply for Poland, implemented in cooperation with other European operators. Their implementation is only partially dependent on the schedule of actions undertaken by the TSO, and therefore taking into account their impact on the reference price in a 15-year horizon is difficult and could lead to results bearing a significant error.

V. Mandatory minimum premium

No application has been submitted for approval of the application of the compulsory minimum premium referred to in Art. 33 paragraph. 4 of Regulation (EU) 2017/460.

5. Possible extension of time horizon for contracting capacity (Article (28)(1)(e) of Regulation (EU) 2017/459)

No application for extension of the time horizon for the incremental capacity project has been submitted. Based on a joint decision, GAZ-SYSTEM and ONTRAS see no need to extend the time horizon for the incremental capacity project.

6. Alternative allocation mechanism for incremental capacity (Article 28(1)(f) of Regulation (EU) 2017/459)

No application for an alternative allocation mechanism has been submitted. GAZ-SYSTEM and ONTRAS decided not to apply an alternative allocation mechanism for the acquisition of incremental capacity pursuant to Article 28(1)(f) of Regulation (EU) 2017/459. Based on the joint decision, both operators will apply the standard auction procedure for incremental capacity in 2021.

7. Fixed price approach (Article 28(1)(f) of Regulation (EU) 2017/459)

No application for the fixed price approach has been submitted. GAZ-SYSTEM and ONTRAS decided not to apply the aforementioned approach to acquire incremental capacity in 2021.

In consideration of the above, the ERO President concluded that the content of the project proposal is consistent with the provisions of Regulation (EU) 715/2009, including the provisions of the regulations adopted on its basis, the provisions of the Energy Law Act, as well as the Ordinance of the Minister of Economy of 16 May 2018 on detailed conditions of gas system operation (Journal of Laws of 2018, item 1158).

In the present proceedings, the ERO President found the evidence submitted by the Applicant credible.

In the opinion of the ERO President, the project does not have a harmful effect on competition or the efficient functioning of the internal gas market. Neither does the project

cause any adverse effects for the existing infrastructure, and the interests of market participants are fully protected.

The subject-matter elements of the project proposal, as set out in Article 28(1) of Regulation (EU) 2017/459, were established in coordination with Bundesnetzagentur, with whom the ERO President remained in close contact and good cooperation throughout the proceedings and prior to the initiation of the proceedings. Neither Bundesnetzagentur nor the President of ERO objected to the submitted project proposals and both informed each other, by email, on 22 and 26 March 2021, respectively, of their intention to issue a decision on the approval of the project proposal.

In view of the above, it has been decided to adjudicate as set out in the ruling above.

NOTES OF GUIDANCE

1. This decision may be appealed to the Regional Court in Warsaw - Court of Competition and Consumer Protection (SOKiK), by my intermediation, within two weeks of its delivery (Article 30, para. 2 and 3 of the Energy Law Act in conjunction with Article 47946 item 1 and Article 47947 § 1 of the Civil Procedure Code - consolidated text: Journal of Laws of 2020, item 1575, as amended). The appeal should be sent to the Energy Regulatory Office, Al. Jerozolimskie 181, 02-222 Warsaw.
2. An appeal against a decision of the President of the Office should meet the requirements for a pleading and contain a designation of the appealed decision and the value of the subject of the dispute, stating the pleas in law, brief justification thereof, indication of evidence, as well as include a motion to repeal or amend the decision in whole or in part (Article 47949 of the Code of Civil Procedure).
3. The appeal against the decision of the President of ERO is subject to a fixed fee of PLN 1,000 (Article 32 para. 3 in conjunction with Article 3 para 2 item 9 of the Act of 28 July 2005 on Court Fees in Civil Cases - Journal of Laws of 2020, item 755, as amended).
4. During the time limit for lodging an appeal a party may waive its right to appeal to the SOKiK against the President of ERO (Article 127a § 1 of the Code of Administrative Procedure). As of the date of delivery to the public administration body of the statement on the party's renouncement of the right to file an appeal to the public administration body, the decision becomes final and legally binding (Article 127a § 2 of the Code of Administrative Procedure).
5. A decision shall be enforceable before the expiry of the time limit for lodging an appeal if it complies with the demand of all parties or if all parties have waived the right to lodge an appeal (Article 130 § 4 of the Code of Administrative Procedure).

Pursuant to Article 1 para. 1 item 1 section a) of the Act of 16 November 2006 on Stamp Duty (Journal of Laws of 2020, item 1546, as amended) in connection with part I item 53 of the appendix to this Act, the stamp duty of PLN 10 was paid.

Annex No. 1: "Application for the Approval of an Incremental Capacity Project according to Article 28 (1) NC CAM for the Market Border of Poland (E-Gas Transmission System) and Germany (Trading Hub Europe)" including a proposal for an incremental capacity project, including the INC GT&C

Copies to:

Operator Gazociągów Przesyłowych GAZ-SYSTEM S.A.
ul. Mszczonowska 4
02-337 Warszawa

**Application for the Approval of an Incremental
Capacity Project according to Article 28 (1) NC
CAM for the Market Border of Poland
(E-Gas Transmission System) and
Germany (Trading Hub Europe)**

18 December 2020

The application for an incremental capacity project for the market border of Poland (E-Gas Transmission System) and Germany (Trading Hub Europe)¹ has to be approved by the respective national regulatory authority. This document presents a common project proposal for the interconnection point GCP GAZ-SYSTEM/ONTRAS, as agreed by:

Operator Gazociągów Przesyłowych

GAZ - SYSTEM S.A.

ul. Mszczonowska 4
02-337 Warsaw

Poland



ONTRAS

Gastransport GmbH

Maximilianallee 4
04129 Leipzig

Germany



¹ Hereinafter named as „THE”. THE is the common German market area to be established as of 1 October 2021.

According to Article 28 (1) NC CAM, GAZ-SYSTEM submits this project proposal for the approval through the President of the Energy Regulatory Office (URE) and ONTRAS submits this proposal for the approval through the Bundesnetzagentur (BNetzA) for an incremental capacity project for the market border of Poland (E-Gas Transmission System)² and the German THE. The interconnection point (IP) GCP GAZ-SYSTEM/ONTRAS connects abovementioned adjacent gas transmission systems.

In this document the following abbreviations are used:

- NC CAM = Commission Regulation (EU) 2017/459
- NC TAR = Commission Regulation (EU) 2017/460

² In the following the denotation of the Polish system is used without the addition "E-Gas Transmission System".

Table of Content

1. Introduction to the application of the project proposal for incremental capacity	5
2. Offer-level for incremental capacity (Art. 28 (1) lit. a) NC CAM).....	10
3. Terms and Conditions to be accepted by the network user for the acquisition of incremental capacity (Art. 28 (1) lit. b) NC CAM)	14
4. Timetable for the incremental capacity project (Art. 28 (1) lit. c) NC CAM).....	15
5. Parameters of the economic test (Art. 28 (1) lit. d) in conjunction with Art. 22 (1) NC CAM)	18
6. Possible extended time horizon for contracting incremental capacity (Art. 28 (1) lit. e) NC CAM)	23
7. Alternative allocation mechanism (Art. 28 (1) lit. f) NC CAM)	23
8. Application of a fixed price approach (Art. 28 (1) lit. g) NC CAM).....	24
9. Contact information.....	24

1. Introduction to the application of the project proposal for incremental capacity

Transmission System Operators, i.e. GAZ-SYSTEM and ONTRAS have received non-binding demand indications for firm capacity in future on the IP GCP GAZ-SYSTEM/ONTRAS as presented below.

The following aggregated non-binding demand indication **finally received by ONTRAS** for firm capacity has been used as a basis for the demand assessment:

<i>From EXIT- Capacity</i>	<i>To ENTRY- Capacity</i>	<i>Gas year</i>	<i>Amount (kWh/h)/y</i>	<i>Request was submitted to other TSOs</i>	<i>Additional Information (e.g. type of capacity)</i>
<i>Poland</i>	<i>THE</i>	<i>2021/22 – 2035/36</i>	<i>2,025,676</i>	<i>Yes, to OGP GAZ- SYSTEM S.A.</i>	<i>Freely allocable firm capacity</i>

The following aggregated non-binding demand indication **received by GAZ-SYSTEM** for firm capacity has been used as a basis for the demand assessment:

<i>From EXIT- CAPACITY</i>	<i>To ENTRY- CAPACITY</i>	<i>Gas year</i>	<i>Amount (kWh/h)/y</i>	<i>Request was submitted to other TSOs</i>	<i>Additional Information (e.g. type of capacity)</i>
<i>Poland</i>	<i>THE</i>	<i>2021/22 – 2035/36</i>	<i>1,468,176</i>	<i>YES, to ONTRAS Gastransport GmbH</i>	<i>Freely allocable firm capacity</i>

Initially an incremental capacity demand of 1,468,176 kWh/h was submitted to both TSOs and as such presented in the joint Market Demand Assessment Report. However, this demand would have led to a divergent transmission capacity at the IP and this would not have been in line with the intention of the capacity request to align the capacity of the IP. Based on a received correction for the demand of incremental capacity, the final

incremental capacity demand has been adjusted so that the total capacity at both sides (including existing technical capacity) of the IP is matched to the level of 2,029,300 kWh/h/y and as such has been assumed under the project scope presented within **the first** public consultation.

Information on the conditions for the demand indications received by the operators

The capacity for physical flow towards Germany on the IP GCP GAZ-SYSTEM/ONTRAS shall equal the capacity towards Poland during the whole year.

The difference in the received indications is caused by the fact that at the moment, the capacities offered on the Polish and German side on the IP GCP GAZ-SYSTEM/ONTRAS differ. The capacity offered on the Polish side does not correspond to the capacity offered on the German side (the difference results from the Lasów station capacities on both sides of the border). Due to the lack of the respective capacity on German side – the offered capacity is neither booked nor used by market participants. Therefore, for the sake of clarity, in the following document, only the existing firm capacity on both sides of the border (firm capacity of the physical station Kamminke) in an amount of 3,624 kWh/h is considered as existing technical capacity.

The Market Demand Assessment Report (MDAR) assessed the non-binding demand indications received in the demand assessment phase from 1 July until 26 August 2019. Based on the conclusions of the MDAR for the incremental capacity process starting in 2019 between Poland and THE and published on both TSOs websites on 21 October 2019, concerned TSOs developed technical studies based on Article 27 NC CAM related to the technical development of the Lasów gas station together with a technical analysis of the required extension of the national natural gas infrastructure.

Public consultation of the technical studies

In the market consultation of the draft project proposal held from 10 August until 10 September 2020, it was stated that there are interlinkages between the incremental capacity project on the German side of the border and further incremental capacity projects stemming from demand requests on other German market borders. Various possible combinations of these requests have led to a multitude of modelling variants between the different capacity demands. These different variants were modelled and

formed the basis for the different technical studies published in the market consultation by the German TSOs. Consequently, in the consultation document it was stated, that the incremental capacity project for the GCP GAZ-SYSTEM/ONTRAS on the German side of the border cannot be considered solely and has different cost aspects.

Nevertheless, in the consultation document it was also stated that the German TSOs are still analysing alternatives to offer incremental capacity at GCP GAZ-SYSTEM/ONTRAS without influencing the physical congestion between existing GASPOOL and NetConnect Germany entry-exit systems and within future THE entry-exit system. It was mentioned that a possible solution could be the reallocation of not used existing technical capacity within the ONTRAS-grid to the entry point GCP GAZ-SYSTEM/ONTRAS. This would be possible, if the estimated costs for market-based instruments to provide freely allocable capacity were not increased within THE by this capacity reallocation. As a result, only the construction of the pressure security system would be necessary.

This solution has been finally investigated by the German TSOs with the conclusion, that this capacity reallocation would not have an impact on the costs for market-based instruments and could be exercised. In the case of bookings in the yearly capacity auction in 2021 and a positive result in the economic test, ONTRAS will reallocate the needed capacity to the IP GCP GAZ-SYSTEM/ONTRAS accordingly.

Based on the aforementioned information, the focus and content of the project application for the German side of the border has been revised accordingly.

Market responses to the public consultation

In addition, comments from one market participant were received by ONTRAS and GAZ-SYSTEM in the abovementioned public consultation of the draft project proposal. Comments received referred to German aspects of the project proposal thus, GAZ-SYSTEM did not react to the provided comments.

Notwithstanding the fact that the market response based on the published consultation document with a different focus of the technical study, ONTRAS considers an answer to a part of the market comments as appropriate³.

1. More clarity was requested in the application of a possible mandatory minimum premium (MMP) during an incremental capacity auction. The market participant stated that the bidding shipper should know exactly the maximum costs (including a MMP) prior taking the decision in participating the auction. Article 33 (3) NC TAR states, that a potential MMP may be applied in the first auction round. Consequently, a TSO is obliged to indicate this MMP during the bidding process of the shipper. In the case of an application of a MMP, ONTRAS would follow this obligation and would display the MMP (or a possible range) during the auction. Hence, the shipper could consider this information prior the submission of his commitment for the incremental offer. By submitting the bid, the shipper would then agree that in addition to the final price of the auction a MMP would be applied.

2. An explanation was requested in the process of the cancellation of capacities based on the provision laid down in Article 5.3. in the published and consulted supplementary business terms and condition of ONTRAS for new capacities to be created. An information of the date respectively of the place of publication of the maximum permitted tariff for exercising the special right of contract termination was also demanded. To exercise the special right of contract termination the shipper has to follow the published rules laid down in Article 5.3. of the supplementary business terms and condition of ONTRAS for new capacities to be created. The publication of the maximum permitted tariff will be conducted in the course of the publication of this project application for approval. The specific tariff information can be found in Annex 1 to the supplementary business terms and condition of ONTRAS for new capacities to be created.

³ The information presented under point 1 are of general nature and do not constitute final or binding information. Information provided under point 2 can be understand as the specific answer from ONTRAS to the raised question.

Final scope of the project submitted for NRAs' approval

Following the consultation of the draft project proposal and before submitting the final project proposal for approval by the President of the ERO and the BNetzA, on the Polish side the project was also subject to additional analysis in terms of technical and economic possibilities of providing the indicated capacity at the level of 2,029,300 kWh/h and the necessary investment scope as well as economic feasibility of the project. Based on the analysis performed, due to the observed significant increase in gas demand in the Lower Silesia region the incremental capacity project must have been revised and the level of offered incremental bundled capacity has been reduced to 613,250 kWh/h.

Although ONTRAS is still willing to offer the requested capacity of 2,029,300 kWh/h, the lesser-off rule has to be applied and a bundled incremental capacity of only 613,250 kWh/h can be offered.

To receive an approvable common project application for the regulators and to be as transparent as possible regarding the envisaged changes in the project, **a second market consultation** were conducted from 17 November 2020 until 17 December 2020. During this market consultation, one response has been submitted to the TSOs. It referred to the investment scope on Polish side of the project required to offer the considered reduced level of incremental bundled capacity. As presented in this application enabling transport of gas in direction from Poland to Germany with maximum capacity level of 616,874 kWh/h requires investments on both sides of the border. As indicated above the capacity offered on the Polish and German side of the GCP GAZ-SYSTEM/ONTRAS interconnection point do not correspond at the moment. Implementation of the project will allow for a permanent and long-term equalisation of the offered firm bundled capacities being subject of the incremental procedure and which are currently offered on the basis of TSOs' annual analyses and forecasts of the use of the system.

Following the structure of Article 28 (1) NC CAM this application is structured as followed:

- Offer-level 1 of the incremental capacity (Art. 28 (1) lit. a) NC CAM),
- Terms and conditions for the incremental capacity auction to be accepted by the network user for the acquisition of incremental capacity (Art. 28 (1) li. b) NC CAM),
- Timetable for the project of incremental capacity (Art. 28 (1) lit. c) NC CAM),

- Parameters of the economic test (Art. 28 (1) lit. d) NC CAM),
- Information on a possible extended time horizon for contracting incremental capacity (Art. 28 (1) lit. e) NC CAM),
- Information on an alternative allocation mechanism (Art. 28 (1) lit. f) NC CAM),
- Information on a possible fixed price approach (Art. 28 (1) lit. g) NC CAM).

2. Offer-level for incremental capacity (Art. 28 (1) lit. a) NC CAM)

According to Article 28 (1) lit. a) NC CAM, GAZ-SYSTEM and ONTRAS request to approve the Offer-level 1 shown in Table 5. For clarification, the calculation of the offered existing capacity and the offered Offer-level 1 is shown successively beginning with the tables for GAZ-SYSTEM.

The following supplementary information are used within the tables (letters A – F refer to Art. 11 (6) NC CAM):

- A is the transmission system operator's technical capacity for each of the standard capacity products;
- B for annual yearly auctions offering capacity for the next 5 years, is the amount of technical capacity (A) set aside in accordance with Article 8 (7) of NC CAM; for annual yearly auctions for capacity beyond the first 5 years, is the amount of technical capacity (A) set aside in accordance with Article 8 (7) of NC CAM;
- C is the previously sold technical capacity, adjusted by the capacity which is re-offered in accordance with applicable congestion management procedures;
- D is additional capacity, for such year, if any;
- E is the incremental capacity for such year included in a respective offer level, if any;
- F is the amount of incremental capacity (E), if any, set aside in accordance with Article 8 (8) and (9) NC CAM.

Table 1: Depiction of the offered existing capacity (kWh/h/y) for **GAZ-SYSTEM** on the IP GCP GAZ-SYSTEM/ONTRAS (exit):

Table 1) Existing capacity	Sum of offered existing capacity (firm)	Available technical capacity [Art. 11 (6) NC CAM A]	Capacity set aside [Art. 11 (6) NC CAM B]	Previously sold technical capacity [Art. 11 (6) NC CAM C]	Additional capacity [Art. 11 (6) NC CAM D]	Incremental capacity [Art. 11 (6) NC CAM E]	Incremental capacity set aside [Art. 11 (6) NC CAM F]
GY 21/22	3,262	3,624	362	0	0		
GY 22/23	3,262	3,624	362	0	0		
GY 23/24	3,262	3,624	362	0	0		
GY 24/25	3,262	3,624	362	0	0		
GY 25/26	3,262	3,624 ⁴	362	0	0		

Table 2: Depiction of the offered Offer-level 1 (kWh/h/y) for **GAZ-SYSTEM** on the IP GCP GAZ-SYSTEM/ONTRAS (exit):

Table 2) Offer-level 1 (firm)	Sum of offered offer-level 1	Available technical capacity [Art. 11 (6) NC CAM A]	Capacity set aside [Art. 11 (6) NC CAM B]	Previously sold technical capacity [Art. 11 (6) NC CAM C]	Additional capacity [Art. 11 (6) NC CAM D]	Incremental capacity [Art. 11 (6) NC CAM E]	Incremental capacity set aside [Art. 11 (6) NC CAM F]
GY 21/22							
GY 22/23							
GY 23/24							
GY 24/25							
GY 25/26							
GY 26/27	493,499	3,624	725	0	0	613,250	122, 650
GY 27/28	493,499	3,624	725	0	0	613,250	122, 650
GY 28/29	493,499	3,624	725	0	0	613,250	122, 650
GY 29/30	493,499	3,624	725	0	0	613,250	122, 650
GY 30/31	493,499	3,624	725	0	0	613,250	122, 650
GY 31/32	493,499	3,624	725	0	0	613,250	122, 650
GY 32/33	493,499	3,624	725	0	0	613,250	122, 650
GY 33/34	493,499	3,624	725	0	0	613,250	122, 650
GY 34/35	493,499	3,624	725	0	0	613,250	122, 650
GY 35/36	493,499	3,624	725	0	0	613,250	122, 650
GY 36/37	493,499	3,624	725	0	0	613,250	122, 650
GY 37/38	493,499	3,624	725	0	0	613,250	122, 650
GY 38/39	493,499	3,624	725	0	0	613,250	122, 650
GY 39/40	493,499	3,624	725	0	0	613,250	122, 650
GY 40/41	493,499	3,624	725	0	0	613,250	122, 650

⁴ For reasons for presentation, the depiction of available technical capacity has been reduced to the offer of firm capacity in the annual capacity auction 2021.

Table 3: Depiction of the offered existing capacity (kWh/h/y) for ONTRAS on the IP GCP GAZ-SYSTEM/ONTRAS (entry):

Table 3) Existing capacity	Sum of offered existing capacity (FZK)	Available technical capacity [Art. 11 (6) NC CAM A]	Capacity set aside [Art. 11 (6) NC CAM B]	Previously sold technical capacity [Art. 11 (6) NC CAM C]	Additional capacity [Art. 11 (6) NC CAM D]	Incremental capacity [Art. 11 (6) NC CAM E]	Incremental capacity set aside [Art. 11 (6) NC CAM F]
GY 21/22	3,262	3,624	362	0	0		
GY 22/23	3,262	3,624	362	0	0		
GY 23/24	3,262	3,624	362	0	0		
GY 24/25	3,262	3,624	362	0	0		
GY 25/26	3,262	3,624 ⁵	362	0	0		

Table 4: Depiction of the offered Offer level 1 (kWh/h/y) for ONTRAS on the IP GCP GAZ-SYSTEM/ONTRAS (entry):

Table 4) Offer-level 1 (FZK)	Sum of offered offer-level 1 (FZK)	Available technical capacity [Art. 11 (6) NC CAM A]	Capacity set aside [Art. 11 (6) NC CAM B]	Previously sold technical capacity [Art. 11 (6) NC CAM C]	Additional capacity [Art. 11 (6) NC CAM D]	Incremental capacity [Art. 11 (6) NC CAM E]	Incremental capacity set aside [Art. 11 (6) NC CAM F]
GY 21/22							
GY 22/23							
GY 23/24							
GY 24/25							
GY 25/26							
GY 26/27	493,499	3,624	725	0	0	613,250	122, 650
GY 27/28	493,499	3,624	725	0	0	613,250	122, 650
GY 28/29	493,499	3,624	725	0	0	613,250	122, 650
GY 29/30	493,499	3,624	725	0	0	613,250	122, 650
GY 30/31	493,499	3,624	725	0	0	613,250	122, 650
GY 31/32	493,499	3,624	725	0	0	613,250	122, 650
GY 32/33	493,499	3,624	725	0	0	613,250	122, 650
GY 33/34	493,499	3,624	725	0	0	613,250	122, 650
GY 34/35	493,499	3,624	725	0	0	613,250	122, 650
GY 35/36	493,499	3,624	725	0	0	613,250	122, 650
GY 36/37	493,499	3,624	725	0	0	613,250	122, 650
GY 37/38	493,499	3,624	725	0	0	613,250	122, 650
GY 38/39	493,499	3,624	725	0	0	613,250	122, 650
GY 39/40	493,499	3,624	725	0	0	613,250	122, 650
GY 40/41	493,499	3,624	725	0	0	613,250	122, 650

⁵ For reasons for presentation, the depiction of available technical capacity has been reduced to the offer of firm capacity in the annual capacity auction 2021.

Table 5: Depiction of the common offered existing capacity and of the common offered Offer-level 1 (kWh/h/y) for the marketing of bundled capacity for **GAZ-SYSTEM** and **ONTRAS** on the IP GCP GAZ-SYSTEM in direction Trading Hub Europe:

Table 5) Common offered capacity	Existing capacity (FZK/firm)	Offer level 1 (FZK/firm)
GY 21/22	3,262	
GY 22/23	3,262	
GY 23/24	3,262	
GY 24/25	3,262	
GY 25/26	3,262	
GY 26/27		493,499
GY 27/28		493,499
GY 28/29		493,499
GY 29/30		493,499
GY 30/31		493,499
GY 31/32		493,499
GY 32/33		493,499
GY 33/34		493,499
GY 34/35		493,499
GY 35/36		493,499
GY 36/37		493,499
GY 37/38		493,499
GY 38/39		493,499
GY 39/40		493,499
GY 40/41		493,499

Table 5 shows the common bundled Offer level for the capacity marketing in the yearly capacity auction in 2021 for GAZ-SYSTEM and ONTRAS taking into account the obligations of set aside capacity of NC CAM. The Offer level can be marketed earliest as of gas year 2026. For the application of set aside capacity, ONTRAS has to follow the valid decision of the BNetzA (BK7-15-001 (KARLA Gas)) and considers a 20% reservation quota for existing and incremental capacity as of gas year 2026. For the gas years before, a 10% reservation quota has to be applied for existing and incremental capacity but it will not be applied for the Offer level, as it can be offered earliest as of gas year 2026 because of the specific commissioning dates of the projects on two sides of the border.

To be able to offer incremental capacity, freely allocable entry capacity will be re-allocated within the ONTRAS grid.

For application of set aside capacity, GAZ-SYSTEM agrees to follow the same approach in order to offer jointly the amount of bundled capacity. The amount of the set aside capacity shall be a subject of approval of the Polish NRA.

Incremental capacity will be offered along with existing capacity in the yearly capacity auction in 2021. In parallel existing capacity on the IP GCP GAZ-SYSTEM/ONTRAS will be offered outside of the Offer level 1 from the gas year 2021/2022 to the gas year 2025/2026 on the terms set forth in Art. 11 (3) NC CAM.

The displayed figures in Table 5 represent the specific yearly offered capacity products to be marketed in 2021. GAZ-SYSTEM and ONTRAS will market the Offer level in the annual yearly capacity auction on the Regional Booking Platform (RBP).

Only in case of obtaining positive economic test results by GAZ-SYSTEM and ONTRAS the capacity allocation resulting from incremental capacity auction for the period covered under the Offer level 1 will be binding. If the economic test of Offer level 1 will be negative, only the result of existing capacity auction will be valid.

Based on a positive economic test for ONTRAS for the incremental capacities of Offer-level 1, these capacities will be included in the process of creating the German Network Development Plan for Gas 2022-2032.

Based on a positive economic test for GAZ-SYSTEM for the incremental capacities of Offer-level 1, these capacities will be included in the process of creating National Network Development Plan 2020-2029.

3. Terms and Conditions to be accepted by the network user for the acquisition of incremental capacity (Art. 28 (1) lit. b) NC CAM)

For the marketing of incremental capacity (Offer level 1) in the yearly capacity auction 2021, GAZ-SYSTEM and ONTRAS developed individual terms and conditions for the incremental capacity auction to be accepted by the network user in the incremental capacity auction.

According to Article 28 (1) lit. b) NC CAM,

- **GAZ-SYSTEM** requests from URE to approve its "General Terms and Conditions of participation in and access to capacity in the binding phase of incremental capacity auction on the border between Poland (E-Gas Transmission System) and Germany (Trading Hub Europe)" (hereinafter: INC GT&C) which have been sent along with this application. To be eligible to participate in the auction, network users will have to accept the INC GT&C as well as other GAZ-SYSTEM rules that are required to participate in the auction on a regular basis, such as e.g. General Terms and Conditions of the Transmission Contract, Transmission Network Code and Tariff.

- **ONTRAS** requests from BNetzA to approve its supplementary terms and conditions for new capacities to be created which have been sent along with this application.

Regardless the fact that both GAZ-SYSTEM and ONTRAS publish terms and conditions for the incremental capacity auction in English and in respective national language, only Polish and German versions respectively, shall be considered as binding.

4. Timetable for the incremental capacity project (Art. 28 (1) lit. c) NC CAM)

According to Article 28 (1) lit. c) NC CAM, **GAZ-SYSTEM** requests to approve the following timetable for its incremental capacity project:

Time period	Milestone
Q3/2021	Yearly capacity auction in the month of July and economic test
Q3/2021	Start of project implementation
Till Q3/2023	Defining technical terms & conditions and tendering documentation, selecting the contractor for the project documentation
Q4/2024	Project documentation finalization and obtaining of building permit
Q1/2025	Defining tendering documentation for the selection of contractor for the construction works
Q2/2025	Tenders for the construction works and signing of contracts with the selected contractors; start of the construction works
Q3/2026	Commissioning date of the investment tasks to be completed

	Commissioning of the project with the foreseen provision of full availability with the start of GY 2026/2027
--	--

Listed above time periods for milestones on Polish side are expected as a **latest completion dates for following activities** taking into account general time schedule for incremental capacity project and requirement of provision the capacity with the start of GY 2026/2027.

According to Article 28 (1) lit. c) NC CAM, **ONTRAS** requests to approve the following timetable for its incremental capacity project. The following timetable shows a rough date planning on the basis of past projects with current planning status.

Time period	Milestone
Q3 / 2021	Yearly capacity auction in July
Q4 / 2021	Tender process for the planning of the construction of the pressure security system (DÜG) in Zodel
Q2 / 2022	Assignment of the planning for the construction of DÜG as well as submission of the application according to § 23 ARegV
Till Q4 / 2022	Preparation of the technical task (feasibility study)
Q3 / 2023	Tender process and the assignment for the construction phase of the DÜG
Till Q2 / 2024	Detailed planning of DÜG Zodel
Till Q1 / 2025	Acquisition of needed material and approval of the construction phase of the DÜG
Q3 / 2025	Start of construction of DÜG
Q3 / 2026	Commissioning date with the foreseen provision of full availability with the start of GY 2026/2027

The experience of past projects of ONTRAS shows that the established rough scheduling contains little time reserve to avoid delays in the provision of capacity. Further detailing is only possible after completion of the feasibility study, which can only be completed after a successful economic test to avoid unnecessary costs.

For the projects on the respective side of the market border, the following applies: the construction phase will only start if there is a commitment of the market to acquire the

respective incremental capacities in the yearly capacity auction 2021 and if there is a positive result in the economic test afterwards for each of the concerned TSOs.

Description of the project on Polish side (GAZ-SYSTEM) - expansion required within the GAZ-SYSTEM grid

In order to ensure the possibility of transporting gas in direction from Poland to Germany with maximum capacity level of 616,874 kWh/h, the following investments are required on the Polish side:

- Extension of Lasów metering station by installation of additional electric actuators and modernization of metering system;
- Construction of a reverse flow system at Jeleniów compressor station.

Schedule:

The investment tasks under the project will be commissioned in 2026 if there is a FID in 2021.

Cost estimation:

Approximately EUR 2.2 million (rough cost estimate +/- 30 per cent) is required for extension of Lasów metering station and Jeleniów compressor station.

Description of the project on the German side (ONTRAS) - expansion required within the ONTRAS grid

Corresponding to arrangements with the Polish grid operator GAZ-SYSTEM pressure greater than 55 bar and as circumstances require even up to 84 bar shall be provided in the event of gas flow from Poland to Germany with a quantity of up to 616,874 kWh/h/y from the Polish gas system. On German side the pipeline FGL 218.01 with a design pressure of 84 bar was constructed in the year 1992; however, since commissioning, this and the further pipeline network has only been operated with a maximum operating pressure (MOP) of 55 bar. The operating pressure in recent years was 40 bar on the average. Due to the higher foreseen pressure, construction of a pressure security system [DÜG] in Zodel is required in order to provide pressure safety for FGL 218.01 of ONTRAS with MOP 55 bar.

Schedule:

The pressure security system will be commissioned in 2026 if there is a FID in 2021.

Cost estimation:

For the construction of the pressure security system in Zodel, investments of approx. EUR 2.5 million (rough cost estimate +/- 20 per cent) are estimated.

5. Parameters of the economic test (Art. 28 (1) lit. d) in conjunction with Art. 22 (1) NC CAM)

According to Article 28 (1) lit. d) NC CAM, GAZ-SYSTEM and ONTRAS request to approve the parameters of the economic test.

The economic test is based on the following parameters according to Article 22 (1) NC CAM:

- a) The present value of binding commitments of network users for contracting capacity
- b) The present value of the estimated increase in the allowed or target revenue of the TSO associated with the incremental capacity included in the respective Offer-level
- c) The f-factor

Reference price for determining the present value of the binding commitments of network users – GAZ-SYSTEM

According to art. 22 (1) lit. a) in conjunction from art. 25 (1) lit. a) of the NC CAM, the President of URE approves reference prices estimated for the time horizon of the incremental capacity offered by GAZ-SYSTEM as part of the project for the market border of Poland and THE. The reference prices amounting to PLN 1,854 /(MWh/h)/h (EUR 0,43 /(MWh/h)/h) will be used in the economic test carried out by GAZ-SYSTEM to calculate the current value of liabilities of network users in the scope of contracting incremental capacity made available under offers placed in the auction procedure at the interconnection point GCP GAZ-SYSTEM/ONTRAS.

The reference prices should be set for the time horizon of the incremental capacity offered under project for the market border of Poland and THE, i.e. for the time horizon of 15 gas years, i.e. from 1 October 2026 until 1 October 2041.

It should be emphasized that GAZ-SYSTEM is currently undergoing the implementation of capital-intensive investment projects aimed at ensuring the diversification of gas supplies to Poland. The dynamics of the implementation of these projects is difficult to predict due to the fact that the projects implemented with the cooperation of other European operators and their implementation is only partly dependent on the schedule of operation undertaken by GAZ-SYSTEM.

Reference rates estimation for a 15-year time horizon, with such a high dynamic implementation of strategic investment projects may bring unrealistic and unreliable results in the form of an increase in transmission charges, which will reduce the level of capacity required to achieve a positive result of the economic test.

Given above arguments, GAZ-SYSTEM proposes to adopt, for the purposes of the economic test for all years covered by the analysis, a reference price at the level of the fixed fee for the provision of gas transmission services in the exit point binding from January 1, 2021 to December 31, 2021, as per "The Tariff for Gas Transmission Services No. 14" approved by the decision of the President of URE no DRG-2.4212.7.2020.JDo1 on June 5, 2020.

Present value of the estimated increase in the allowed revenues due to capacity increase – GAZ-SYSTEM

The target value of the estimated increase in allowed revenues corresponds to the value of the investment funds cost concerning the project implemented by the transmission system operator, settled in the period covering the contracted incremental capacity made available as part of offers submitted in the auction procedure for the GCP GAZ-SYSTEM/ONTRAS.

GAZ-SYSTEM adopted a discount rate of 6% for the calculation of the discounted value of the allowed revenue related to the realization of the project for the market border of Poland and THE in 2026-2041.

This value is equal to the risk-free rate adopted for the purposes of calculation of the reference rates binding in 2021 and approved by the President of URE.

This value was determined using the calculation tool provided by GAZ-SYSTEM. The calculation tool reflects the current practice, including the calculation parameters for determining the allowed revenues approved by the President of URE for the tariff for 2021.

f-factor for GAZ-SYSTEM

The f-factor must take the following into account:

- a) the amount of technical capacity set aside according to Article 8 (8) and (9) NC CAM;
- b) positive externalities of the incremental capacity project on the market or the transmission network, or both;
- c) the duration of binding commitments of network users for contracting capacity compared to the economic life of the asset;
- d) the extent to which the demand for the capacity established in the incremental capacity project can be expected to continue after the end of the time horizon used in the economic test.

The project assumptions are based on the non-binding demand indication received in the demand assessment phase. This f-factor was estimated based on the assumption that the given incremental capacity project is purely a market driven project and that the full cost of the project shall be covered by the capacity bookings in the relevant binding capacity auction. Thus, on GAZ-SYSTEM side, there are no conditions allowing GAZ-SYSTEM to request an approval of f-factor lower than 1.

Therefore, GAZ-SYSTEM requests approval of f-factor which amounts to 1 for the application of the economic test.

Reference price for determining the present value of the binding commitments of network users – ONTRAS

In order to determine the present value of the binding commitments made by network users, ONTRAS proposes to set the reference price of the entry-exit system THE for the year 2023 published in Annex 5 of the BNetzA decision REGENT 2021 in the amount of 3.73 EUR/(kWh/h)/year.

The binding commitments of network users required to calculate the present value will result from the annual auction in 2021. Therefore, ONTRAS cannot make any further comments at this point.

Present value of the estimated increase in the allowed revenues due to capacity increase – ONTRAS

ONTRAS proposes to set the present value of the estimated increase in the allowed revenues on the side of entry-exit system THE due to capacity increase of Offer-level 1 to EUR 2,587,049.52, which are only caused by the necessary investment and some operational costs connected to this.

There are no costs to be expected for compression. If the incremental capacity to be created on the GCP GAZ-SYSTEM/ONTRAS of 613,250 kWh/h is used, no additional compressor use would be caused on the German side. The pressure supply for the gas to be transported over the interconnection point is provided on the Polish side, so that the gas flow towards the exit points in the ONTRAS grid is secured. The gas quantity to be transported is consumed by the exit points in the ONTRAS grid nearby Lasów, so that a post-compression for the further transport of the gas entering in Lasów is not necessary.

These values were determined using the calculation tool provided by the BNetzA. The calculation tool reflects the current approval practice, including the calculation parameters of the BNetzA for determining the allowed revenues.

f-factor for ONTRAS

The f-factor must take the following into account:

- a) the amount of technical capacity set aside according to Article 8 (8) and (9) NC CAM;
- b) positive externalities of the incremental capacity project on the market or the transmission network, or both;
- c) the duration of binding commitments of network users for contracting capacity compared to the economic life of the asset;
- d) the extent to which the demand for the capacity established in the incremental capacity project can be expected to continue after the end of the time horizon used in the economic test.

ONTRAS requests to approve f-factor of 0.64 for the application of the economic test.

To lit. a):

ONTRAS received a request for incremental capacity of 2,025,676 (kWh/h)/a until gas year 2035/2036. Especially as this formerly indicated demand cannot be offered fully, ONTRAS expects that the indicated demand for capacity during the requested time period will be confirmed as much as possible during the capacity auction. At the same time, according to Article 8 (8) NC CAM in conjunction with the BNetzA-decision BK7-15-001 (KARLA 1.1), 20% of the technical capacity from gas year 2026/2027 shall be set aside. Thus, it is not possible to acquire all non-binding requested capacity in the 2021 annual capacity auction, which is the basis of the economic test.

Because the capacity demand of the shipper cannot be fulfilled fully, ONTRAS expects that the capacity set aside will be booked in subsequent auctions. Therefore, the f-factor must be reduced accordingly in order to provide the investment burden to later beneficiaries of the incremental capacity.

To lit. b):

The security of supply of Germany is already on a high level due to the existing entry capacity and cannot be increased by the incremental capacity at the entry point GCP GAZ-SYSTEM/ONTRAS.

Likewise, it is not expected that any additional flows at the entry point GCP GAZ-SYSTEM/ONTRAS will affect the market price of THE entry-exit zone. The volumes traded are many times higher than the possible additional quantities that could flow over this interconnection point. In summary, ONTRAS sees no positive external effects of the project, neither in Poland nor in Germany.

To lit. c) and d):

For the projects necessary to provide indicated incremental capacity, an economic lifetime of 55 years is assumed. Therefore, the offered capacity can be used much longer than the time horizon for contracting capacity in the annual auction 2021. ONTRAS expects that the entry point will continue to be demanded even after requested time period respectively after the offered 15 years after the start of the operational use, albeit to a great extent lower level. In particular, the entry capacity could be used to offset the

possible price differences in the adjacent market areas on short-term basis. It would also be possible for traders to transport quantities over the entry point from the Polish to the THE entry-exit zone on long-term basis (e.g. hydrogen transport in the future). However, previous experience also shows that no major transit volumes are to be expected at this point. Therefore, future bookings carefully estimated at an average of 100,000 (kWh/h)/y.

Based on the above considerations, the calculation tool provided by BNetzA (as "Calculationtool_Economic_Test_Inc_Cap_BNetzA" attachment of this application) has been filled accordingly. The calculation tool already takes into account many of the aforementioned considerations such as capacity set aside and bookings in later years.

Since ONTRAS does not see any positive external effects from the project, ONTRAS accepts the pre-calculated f-factor within the calculation tool and requests to approve it.

It should be noted that the payable floating price under Article 24 (a) NC TAR for the contracts concluded in the 2021 annual auction is calculated on the basis of the reference price applicable at the time of the use of capacity and can differ from the reference price that was used to calculate the f-factor.

6. Possible extended time horizon for contracting incremental capacity (Art. 28 (1) lit. e) NC CAM)

Based on a common decision GAZ-SYSTEM and ONTRAS agree, that for this incremental capacity project no extended time horizon for contracting incremental capacity is needed.

7. Alternative allocation mechanism (Art. 28 (1) lit. f) NC CAM)

GAZ-SYSTEM and ONTRAS abstain from an application of an alternative allocation mechanism for the acquisition of incremental capacity according to Article 28 (1) lit. f) NC CAM. Based on a common decision, both network operators will apply the standard auction procedure for the acquisition of incremental capacity in 2021.

8. Application of a fixed price approach (Art. 28 (1) lit. g) NC CAM)

GAZ-SYSTEM and ONTRAS abstain from the application of a fixed price approach for the acquisition of incremental capacity in 2021 according to Article 28 (1) lit. g) NC CAM.

9. Contact information

Operator Gazociągów Przesyłowych

GAZ - SYSTEM S.A.

Paulina Buczek

Gas Market Development Division

Phone:

+48 (22) 220 18 22

Fax:

--

Email:

incremental@gaz-system.pl

ONTRAS

Gastransport GmbH

René Döring / Uwe Thiveßen

Capacity Management

Phone:

+49 341 271111 - 2771 / 2163

Fax:

+49 341 271111 - 2870

Email:

rene.doering@ontras.com

uwe.thivessen@ontras.com

**GENERAL TERMS AND CONDITIONS OF PARTICIPATION IN AND ACCESS TO
CAPACITY IN THE BINDING PHASE OF ALLOCATION OF INCREMENTAL CAPACITY
ON THE BORDER BETWEEN POLAND (E-Gas Transmission System) and GERMANY
(Trading Hub Europe)**

(hereinafter the 'INC GT&C')

1. General provisions

- 1.1. This INC GT&C regulates the general terms and conditions that the System User must accept in order to participate in the Incremental capacity auction and to gain access to the incremental capacity made available in the Incremental capacity auction.
- 1.2. Transmission services for the capacity allocated under the Incremental capacity auction will be provided in accordance with the transmission contract, this INC GT&C, as well as in accordance with the General Terms and Conditions of the Transmission Contract applicable at any given time (hereinafter: "GTC"), TNC and the Tariff. This INC GT&C, after allocating capacity resulting from the Incremental capacity auction, will regulate the specific rules for the provision of transmission services by GAZ-SYSTEM to the System User in terms of incremental capacity allocated to that System User as part of the Incremental capacity auction. This INC GT&C does not exclude the GTC provisions, in particular regarding financial securities confirming the financial ability of the System User to meet its financial obligations towards GAZ-SYSTEM for the performance of the transmission contract, including the ways and terms of using them by GAZ-SYSTEM.
- 1.3. By submitting an offer in the Incremental capacity auction, the System User accepts without reservation the conditions set out in GTC, TNC, the Tariff and in this INC GT&C.
- 1.4. This INC GT&C was prepared in Polish and English language versions. In the event of a discrepancy between the Polish and English language versions of this INC GT&C, the Polish version shall prevail.

2. Definitions

- 2.1 Incremental capacity auction - annual yearly capacity auction conducted on the terms set forth in the CAM Network Code, under which the incremental capacity of the GCP GAZ-SYSTEM/ONTRAS interconnection point shall be made available;
- 2.2 Available capacity auction - annual yearly auction conducted on the terms set forth in the CAM Network Code, under which the existing capacity of the GCP GAZ-SYSTEM/ONTRAS interconnection point shall be made available;
- 2.3 GAZ-SYSTEM - company under the name of Operator Gazociągów Przesyłowych GAZ-SYSTEM S.A. with its seat in Warsaw, acting as the transmission-system operator within Poland;
- 2.4 TNC - currently binding Transmission Network Code compiled pursuant to binding provisions of the law and published on GAZ-SYSTEM's website (<https://en.gaz-system.pl/strefa-klienta/iriesp/instrukcja-ruchu-i-eksploatacji-sieci-przesylowej/>). This INC GT&C refers to the Transmission Network Code approved by the decision of the President of the Energy Regulatory Office of March 26, 2019 (ref.: DRR.WRG.4322.1.2019.AK1) or any subsequent TNC version replacing or amending the aforesaid.
- 2.5 ONTRAS - company under the name of ONTRAS Gastransport GmbH with its seat in Leipzig, acting as the transmission system operator within Germany;
- 2.6 RBP Platform - platform to offer capacity in the relevant transmission systems at the GCP GAZ-SYSTEM/ONTRAS interconnection point by GAZ-SYSTEM and ONTRAS;
- 2.7 Project - project to increase technical capacity at the existing Lasów interconnection point based on capacity allocation in a preceding incremental capacity procedure;
- 2.8 Tariff - currently applicable list of prices, fee rates and their application rules, compiled by GAZ-SYSTEM and introduced as binding in settlements with the System User, published on the GAZ-SYSTEM website (<https://www.gaz-system.pl/strefa-klienta/taryfa/taryfa-i-stawki-oplat/>). This INC GT&C refers to the Tariff No. 14 approved by the decision of the President of the Energy Regulatory Office of January 5, 2021 (ref.: DRR.WRG.4322.4.2020.IWa), or to any subsequent Tariff version replacing or amending the aforesaid;

2.9 System User - entity using the transmission system under a transmission contract, being either a Shipper (ZUP) and/or Network User according to TNC.

3. Binding phase of incremental capacity allocation

3.1 In the binding phase of incremental capacity allocation under the Project, GAZ-SYSTEM shall make available incremental capacity for the interconnection point GCP GAZ-SYSTEM/ONTRAS, in the flow direction from Poland to Germany and in the form of fifteen (15) yearly incremental capacity products, covering fifteen (15) gas years, from 1 October 2026 06:00 a.m. to 1 October 2041, 06:00 a.m.

3.2 During the binding phase of incremental capacity allocation, each yearly product shall be made available through one, separate Incremental capacity auction including incremental capacity at the level of 613 250 kWh/h.

3.3 The yearly incremental capacity products covering the period from 1 October 2026, 06:00 a.m. to 1 October 2041, 06:00 a.m. shall be made available through an Incremental capacity auction together with the available capacity of the GCP GAZ-SYSTEM/ONTRAS interconnection point, in the flow direction from Poland to Germany.

3.4 In parallel to Incremental capacity auction GAZ-SYSTEM will conduct Available capacity auction of the GCP GAZ-SYSTEM/ONTRAS interconnection point.

3.5 Only in case of obtaining positive economic test results by GAZ-SYSTEM and ONTRAS the capacity allocation resulting from Incremental capacity auction for the period covered by the Incremental capacity auction will be binding.

3.6 Capacity allocation to System Users that acquired the capacity in the Incremental capacity auction shall be, subject to point 6.8, conditional on the GAZ-SYSTEM 's investment decision to implement the Project. GAZ-SYSTEM shall take the investment decision to implement the Project provided that GAZ-SYSTEM and ONTRAS shall have obtained positive economic test results and entered into an agreement for the implementation of the Project.

4. Terms of participation in an Incremental capacity auction

4.1. GAZ-SYSTEM shall conduct the binding phase of incremental capacity allocation on the RBP Platform, in accordance with the

terms and conditions for using the platform binding on the day of conducting the Incremental capacity auction, and with the TNC.

4.2. The following is required in order to participate in Incremental capacity auction:

a) entering into a transmission contract with GAZ-SYSTEM in accordance with the provisions of the TNC;

b) submitting a power of attorney for the persons authorized to participate in the Incremental capacity auction to GAZ-SYSTEM, unless the System User has already presented such power of attorney;

c) successful from GAZ-SYSTEM's perspective registration on the RBP Platform;

d) submission of financial securities in the value and form set out in this INC GT&C;

no later than one week before the Incremental capacity auction starts.

4.3. The incremental capacity will be allocated through the Incremental capacity auction as bundled capacity. In order to participate in the Incremental capacity auction, the System User must also meet the participation conditions defined by ONTRAS.

4.4. Transmission services in respect of the capacity allocated in the Incremental capacity auction shall be provided in accordance with the concluded transmission contract (including GTC and their appendices) along with its appendices, referred to in point 4.2. a), as well as in compliance with the TNC and the Tariff, both as binding at each such time. Following to the capacity allocation as a result of the Incremental capacity auction, this INC GT&C shall constitute an appendix to the transmission contract concluded between GAZ-SYSTEM and the System User, regulating the detailed rules for the provision of transmission services by GAZ-SYSTEM to the relevant System User in respect of the incremental capacity allocated to that System User in the Incremental capacity auction.

5. Financial Security for participation in the Auction and incremental capacity allocation

5.1. In order to participate in the Incremental capacity auction, the System User shall submit a financial security confirming the System User's financial capability to perform the obligations owed to

GAZ-SYSTEM under the bid in Incremental capacity auction, in the form, date and amount specified in this INC GT&C.

- 5.2. The System User has to establish the security in one of the following forms:
 - 5.2.1. bank guarantee;
 - 5.2.2. cash deposit.
- 5.3. The System User shall establish the security no later than 1 (one) week before the Incremental capacity auction, delivering a document in writing to GAZ-SYSTEM evidencing the establishment of a financial security (i.e. original bank or confirmation of bank transfer to GAZ-SYSTEM 's bank account).
- 5.4. The System User shall establish a financial security in the amount determined in accordance with point 5.5 below, but not lower than the equivalent of PLN 10,000.00 (ten thousand Polish zlotys).
- 5.5. The value of the financial security to be submitted by the System User in case of applying for incremental capacity allocation in the Incremental capacity auction for:
 - (i) one (1) yearly product — shall be twice the monthly average of the System User's financial obligations to GAZ-SYSTEM;
 - (ii) two (2) yearly products — shall be three times the monthly average of the System User's financial obligations to GAZ-SYSTEM;
 - (iii) three (3) yearly products — shall be four times the monthly average of the System User's financial obligations to GAZ-SYSTEM;
 - (iv) four (4) yearly products — shall be five times the monthly average of the System User's financial obligations to GAZ-SYSTEM;
 - (v) five (5) yearly products — shall be six times the monthly average of the System User's financial obligations to GAZ-SYSTEM;
 - (vi) from six (6) to seven (7) yearly products — shall be seven times the monthly average of the System User's financial obligations to GAZ-SYSTEM;
 - (vii) from eight (8) to nine (9) yearly products — shall be eight times the monthly average of the System User's financial obligations to GAZ-SYSTEM;
 - (viii) from ten (10) to eleven (11) yearly products — shall be nine times the monthly average of the System User's financial obligations to GAZ-SYSTEM;

- (ix) from twelve (12) to thirteen (13) yearly products — shall be ten times the monthly average of the System User's financial obligations to GAZ-SYSTEM;
 - (x) fourteen (14) yearly products — shall be eleven times the monthly average of the System User's financial obligations to GAZ-SYSTEM;
 - (xi) fifteen (15) yearly products — shall be twelve times the monthly average of the System User's financial obligations to GAZ-SYSTEM;
— calculated on the basis of the amount of incremental capacity covered by the offer of a given System User as part of the annual product for which it submits the offer covering the highest level of incremental capacity from all those requested by a given System User under the Incremental capacity auction, and published by GAZ-SYSTEM indicative transmission fee rate adopted by GAZ-SYSTEM to carry out an economic test.
- 5.6. The financial security shall be established in Polish currency (PLN).
- 5.7. If establishing the security in the form of bank guarantee, GAZ-SYSTEM requires the guarantee document to provide that the guarantee is irrevocable, non-transferable, unconditional and payable on GAZ-SYSTEM's first demand and issued by a bank with current rating from a rating agency (minimum acceptable level is Baa2 for Moody's, BBB for Standard & Poor's, or BBB for Fitch), the content of which has been accepted by GAZ-SYSTEM. In case bank issuing a bank guarantee, as appropriate, during the period referred to in point 5.13, loses the minimum rating referred to in the sentence above, the System User is obliged to immediately, no later than within 30 (thirty) days from the loss of the rating, to provide financial security that meets the requirements of this INC GT&C. The bank guarantee will be subject to the provisions of Polish law. If the guarantee was not issued in Polish, it should be submitted to GAZ-SYSTEM along with sworn translation into Polish.
- 5.8. Subject to the remaining provisions of point 5, the System User may submit financial security in the form of bank guarantee valid for a period shorter than the System User's obligation to maintain the security referred to in point 5.13., though no shorter than 1 (one) year, provided that the security shall be renewed for the period of at least one following year fifteen (15) Business Days before expiry. The bank guarantee should entitle GAZ-SYSTEM to demand the payment of the value of the guarantee if the System User has not renewed the bank guarantee and has not submitted to

GAZ-SYSTEM the proof of having established a new bank or insurance guarantee in accordance with the provisions of point 5, fifteen (15) Business Days before expiry..

- 5.9. Financial security established in the form of cash deposit should be paid to the following bank account indicated by GAZ-SYSTEM: 94 1140 1977 0000 5803 0100 1031. The transfer should be entitled: "Financial security INC GCP GAZ-SYSTEM/ONTRAS". The time of submission of the security shall be deemed to be when GAZ-SYSTEM's account is credited.
- 5.10. If the System User applies for capacity allocation in the Incremental capacity auction at a level resulting in a greater value of the System User's financial obligations owed to GAZ-SYSTEM than arising from the financial security established by the System User, or if the System User has submitted a bid in the Incremental capacity auction without having established the required financial security, the System User shall pay to GAZ-SYSTEM a contractual penalty corresponding to the value of the required financial security, as determined in accordance with the provisions of this INC GT&C. GAZ-SYSTEM shall be entitled to draw on the financial security established by the relevant System User against the contractual penalty due. If the System User submits an offer as part of the Incremental capacity auction without establishing any required financial security, the System User will be obliged to pay to GAZ-SYSTEM a contractual penalty in the amount corresponding to the value of the required financial security, determined in accordance with the provisions of this INC GT&C.
- 5.11. Within ten (10) Business Days after completion of the incremental capacity allocation in the Incremental capacity auction, the System User shall adjust the value of the submitted financial security to the capacity level allocated to the System User, i.e. the calculation of the amount of financial security based on the amount of capacity allocated as part of the annual product for which the System User obtained the highest amount of capacity from all annual products allocated to him as a result of the Incremental capacity auction.
- 5.12. From the moment of providing the System Users with the capacity created as a result of the Project implementation by GAZ-SYSTEM and ONTRAS, the amount of financial security that the System User is required to maintain will be calculated on the basis of the fees for the provision of transmission services for the annual product for

which the System User obtained the highest amount of capacity from all annual products allocated to the System User as a result of the Incremental capacity auction, in accordance with the current Tariff.

- 5.13. The System User who obtained the capacity under the Incremental capacity auction is obliged to maintain the financial security submitted to GAZ-SYSTEM in full and in the form provided for in this INC GT&C, from the moment specified in point 5.3 until the last day of the second (2) month after the end of the last gas year of transmission services provided to the System User as part of the capacity allocated in the binding phase of the incremental capacity.
- 5.14. Financial security established in the form of financial deposit shall be paid back with interest arising from the bank account contract relating to the account in which the financial security was kept, minus maintenance costs and bank commission for transferring the money to the System User's bank account.
- 5.15. GAZ-SYSTEM will be entitled to use financial security in the event that the System User delays payment of claims arising from compensation claims, contractual penalties and/or for reimbursement of expenses specified in the INC GT&C, after the prior written indication by GAZ-SYSTEM of an additional fourteen-day period for payment of these claims and not earlier than one (1) month after the original payment deadline.
- 5.16. In the event that GAZ-SYSTEM uses financial security in the cases specified in this INC GT&C, the System User will be required to supplement the financial security to the full required amount determined in accordance with the provisions of this INC GT&C each time within one (1) month from the use of financial security by GAZ-SYSTEM.
- 5.17. In the event that the System User does not maintain the correct and in line with the INC GT&C financial security in the full amount calculated in accordance with the provisions of this INC GT&C, in particular if the System User does not supplement or deliver the financial security in accordance with the provisions of point 5.7, 5.11 and/or 5.16., the System User will be required to pay to GAZ-SYSTEM a contractual penalty: (i) in the amount corresponding to the value of the required financial security determined in accordance with the provisions of this INC GT&C, when such

System User does not maintain such security, or (ii) the difference between the value of the required financial security and the value of the maintained financial security determined in accordance with the provisions of this INC GT&C, when the financial security maintained by the System User is too low in relation to its required amount determined in accordance with the provisions of this INC GT&C. GAZ-SYSTEM will be entitled to use the financial security established by the given System User against the contractual penalty due.

6. Delays in the provision of the capacity, and/or disruption in the implementation of the Project

- 6.1. GAZ-SYSTEM shall notify System Users sufficiently in advance of any delays in making available the incremental capacity allocated in the Incremental capacity auction and/or any disruption in the implementation of the Project.
- 6.2. The starting date for the provision of gas transmission services in respect of the incremental capacity provided under the Incremental capacity auction may be postponed (delayed) by GAZ-SYSTEM for a period no longer than 24 (say: twenty-four months), subject to a notification provided to the System User in writing. The notification, setting out the reason for postponing the starting date and the new starting date for the provision of gas transmission services in respect of the incremental capacity made available in the Incremental capacity auction, shall be sent to the System User at least 6 (say: six) months before the planned date and time of starting the provision of gas transmission services in respect of the incremental capacity made available in the Incremental capacity auction. In such a case, the date of commencement of the provision of gas transmission services in the scope of incremental capacity made available under the Incremental capacity auction will change in accordance with the notification of GAZ-SYSTEM (new date). The System User shall not be entitled to any claims against GAZ-SYSTEM on this account with the exception of cases where the postponement of the date was caused by GAZ-SYSTEM's willful misconduct. For the avoidance of doubt, the notification on postponing the starting date for the provision of gas transmission services in respect of the incremental capacity made available in the Incremental capacity auction may be given more than 1 (say: one) time, provided that the total deferment of the starting date for the provision of gas transmission

services in respect of the incremental capacity made available in the Incremental capacity auction does not exceed 24 (say: twenty-four) months. The System User shall have no claims against GAZ-SYSTEM on account of any such deferment of the date and time of starting the provision of gas transmission services in respect of the incremental capacity made available in the Incremental capacity auction with the exception of cases where the postponement of the date was caused by GAZ-SYSTEM's willful misconduct.

- 6.3. In the event of delays in implementing the Project and/or on enabling the incremental capacity, the capacity allocated in the binding phase of incremental capacity allocation available for the relevant gas year shall be prorated and reduced among the System Users having acquired capacity within the relevant yearly product in the Incremental capacity auction. GAZ-SYSTEM shall reduce the capacity allocated in the Incremental capacity auction to the bid level implemented in the Project, so that the sum total of capacity levels offered to the individual System Users within the relevant yearly product does not exceed 100% of the technical capacity for relevant gas year.
- 6.4. Within 14 (say: fourteen) days after receiving initial information from GAZ-SYSTEM about the proposed capacity reduction provided to the System User in the form of a written notification, the System User shall be entitled to surrender all or part of the proposed reduced capacity allocation, as well as to transform the whole or part of the capacity allocated to that System User in the Incremental capacity auction for the relevant yearly product into interruptible capacity. In the absence of a response from the System User to GAZ-SYSTEM's initial information about the proposed capacity reduction within the above-mentioned period, the System User shall be deemed to have accepted the proposed reduction.
- 6.5. The System User that has surrendered all or part of the proposed reduced capacity allocation shall not be required to pay transmission fees.
- 6.6. Depending on the number of confirmations received, GAZ-SYSTEM shall, electronically, through the Information Exchange System (IES), provide System Users that accepted the proposed capacity reduction with initial information about such additional available capacity which may be allocated to them, pro rata based on the capacity already allocated to them. System Users shall have 14

(fourteen) days to confirm or reject the allocation of additional capacity proposed to them.

- 6.7. In the event of any delays in implementing the Project and/or in making the incremental capacity available, the System User shall not have any right to use the capacity that was not made available at a later date.
- 6.8. GAZ-SYSTEM shall not be liable for the System User's lost profits or any special, indirect and/or consequential damage arising from delays in implementing the Project and/or making the incremental capacity available with the exception of cases where the above-mentioned damages result from the willful misconduct of GAZ-SYSTEM. Moreover, GAZ-SYSTEM shall not be liable for any of the System User's damage, including loss of profits, special, indirect and/or consequential damage, arising from impossibility in implementation of the Project and/or making the incremental capacity available on time being a result of circumstances: (i) for which ONTRAS or acting in its behalf entities are liable, (ii) caused by force majeure.
- 6.9. In the event of delay in GAZ-SYSTEM's commencement of provision of gas transmission services in respect of the capacity allocated in the Incremental capacity auction, the System User shall have the obligation to exercise necessary care to minimize the loss so caused, in particular by taking any and all possible action to postpone the time of gas offtake, resell the gas, and/or change the transmission route with the exception of cases where the delay was caused by GAZ-SYSTEM's willful misconduct.
- 6.10. In case of a delay in the commencement of provision of gas transmission services by GAZ-SYSTEM, GAZ-SYSTEM's liability shall be limited to the value of the lowest loss the System User could have objectively incurred and duly proven by the System User, subject to the provision of point 6.9 above with the exception of cases where the delay was caused by GAZ-SYSTEM's willful misconduct.
- 6.11. By submitting a bid in the Incremental capacity auction, the System User undertakes to ensure that the transmission contract concluded with GAZ-SYSTEM along with the appendix setting out the capacity period and level allocated to the System User in consequence of the Incremental capacity auction is maintained in force, throughout the duration of the capacity allocation made in accordance with the principles set out in this INC GT&C. If the

transmission contract and/or the aforesaid appendix is terminated before the expiry of their term of duration of the capacity allocation made in accordance with the principles set out in these GTC INC, the System User shall pay to GAZ-SYSTEM a contractual penalty calculated in accordance with clause 6.12.

- 6.12. The contractual penalty shall be equal to a part of project implementation costs incurred by GAZ-SYSTEM., calculated as follows:

$$\mathbf{K = C \times M}$$

Where:

K — expenditures incurred by GAZ-SYSTEM in Project implementation that the System User is obliged pay (in PLN);

C — sum of expenditures incurred by GAZ-SYSTEM and estimated expenditures GAZ-SYSTEM has to pay toward Project implementation (in PLN) in particular any compensation to the Project's contractors for design and construction works and/or other TSOs due to resignation from the implementation of the Project, with the exception of cases where the termination by the System User of the transmission contract or the attachment specifying the level and period of the capacity allocated to a given System User as a result of the Auction is a consequence of force majeure;

M — ratio of the sum total of capacity (contracted capacity) allocated to the System User throughout its duration to the sum of the total capacity of the Entry/Exit Point allocated by GAZ-SYSTEM in the Incremental capacity auction throughout its duration;

- 6.13. The value of project-implementation costs incurred by GAZ-SYSTEM S.A. that the System User has to pay shall be adjusted, after the commissioning of the Project, pro rata to the positive or negative difference between the planned and actual project implementation costs incurred by GAZ-SYSTEM.
- 6.14. If the transmission contract entered into between the System User and GAZ-SYSTEM and/or the appendix setting out the capacity period and level allocated to the User in the Incremental capacity auction is terminated after the commissioning of the Project, the value of the costs determined in accordance with clause 6.12 shall be reduced pro rata as at the moment of termination, in accordance with the following formula:

$$SK = K \times (1 - R/Z)$$

where:

SK — adjusted value of expenditures incurred by GAZ-SYSTEM in Project implementation and costs of Project implementation that the System User is obliged to pay (in PLN);

K — 100% of the expenditures toward the implementation and costs of implementation of the Project by GAZ-SYSTEM that the System User is obliged to pay (in PLN);

R — sum of capacity allocated to the System User and consumed during the period from Project commissioning to the submission of termination notice by the System User;

Z — sum of capacity (contracted capacity) allocated to the System User in the binding phase of incremental capacity allocation.

- 6.15. GAZ-SYSTEM shall have the right to draw from the amount of financial security submitted by the System User towards the reimbursement of costs.
- 6.16. If GAZ-SYSTEM's damage arising from the early termination by the System User of the transmission contract and/or the appendix setting out the capacity level and period allocated to the System User as a result of the Incremental capacity auction exceeds the value of the cost reimbursement due as calculated in accordance with the provisions of clauses 6.11. to 6.14., GAZ-SYSTEM shall have the right to claim compensation in excess of the value of the cost reimbursement due.
- 6.17. After the commissioning of the Project, the System User shall have the right to resell the capacity acquired in the Incremental capacity auction, on terms set forth in the TNC, on condition that the buyer shall accede to the System User's rights and obligations set forth in this INC GT&C.