



Warsaw, 29 April 2021

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

DRR.WRG.748.8.2020.ABu1

DECISION

Pursuant to Article 8 (9) 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 28 October 2020 ref. no.: PU.070.7.2019.22, entitled " Application for the Approval of an Incremental Capacity Project according to Article 28 (1) NC CAM on the border between Poland TGPS and Germany (Trading Hub Europe)", supplemented on 30 October 2020, 18 November 2020, and on 18 December 2020, as well as by letter of 22 February 2021, ref. no.: PU.0712.4.2021.36 and by letter of 22 March 2021, ref. no.: PU.0712.4.2021.39

I hereby resolve

to approve the project proposal for incremental capacity for the market border of Poland TGPS (Transit Gas Pipeline 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 28 October 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 on the border between Poland TGPS and Germany (Trading Hub Europe)" (hereinafter: "the project proposal") prepared in coordination with GASCADE Gastransport GmbH (hereinafter: " GASCADE ").

On 30 October 2020, 18 November 2020 and on 18 December 2020, the Applicant supplemented the application by sending the original documents, a power of attorney and a project proposal signed by the attorney.

On 5 November 2020, Bundesnetzagentur notified the President of ERO that GASCADE submitted an analogous application and then notified that a complete application had been submitted on 16 March 2021.

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 receipt of a complete application on 22 March 2021.

By letters dated 1 February 2021, 8 February 2021 and 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 and letter of 26 March 2021, ref. no.: PU.0712.4.2021.41, 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) 217/459, GAZ-SYSTEM together with GASCADE 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) Mallnow, which connects the entry-exit-system of Poland TGPS (Transit Gas Pipeline System – Polish section of the Yamal-Europe pipeline) and the entry-exit-system of the Trading Hub Europe (THE)¹.

As part of the above procedure, GAZ-SYSTEM has not received any non-binding indications of demand for transmission capacity - the technical capacity currently available on the Polish side of the border is 38,812,499 kWh / h. However, on the German side of the entry-exit system, non-binding notifications of demand for incremental capacity were received according to the table below:

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 years	Amount (kWh/h)/ y	Request is submitted to other TSOs	Additional Information
Poland TGPS	Trading Hub Europe	2022/2023- 2036/2037	9.629.000	No	Freely allocable firm capacity; Capacity request is in addition to the existing bookable freely allocable firm capacities.

Considering that on the German side of the border there is an interest in changing the type of product offered from interruptible capacity (DZK) to firm capacity (FZK), the involved German transmission system operators have started the planning phase of relevant projects.

Ultimately, the technical analysis for the Poland TGPS and THE market areas, in accordance with Art. 27 sec. 2 of Regulation (EU) 2017/459, the value of - 16 951 000 kWh / h was applied as incremental firm capacity (FZK) to be established at the entry point to Trading Hub Europe.

The indicated value is a consequence of the amendment to the German regulation on access to the gas network (GasNZV) of 2017, which imposed on gas transmission system operators the obligation to merge the two market areas currently existing in Germany - NetConnect Germany (NCG) and GASPOOL - into one market area German Trading Hub Europe (THE), by 1 April 2022 at the latest (section 21 GasNZV). The merger planned on 1 October 2021, has an impact on the existing capacity, as it reduces the capacity at entries to Germany. In addition, only approved technical capacities (basic capacity) within the meaning of Section 9 (2) 4 p. 1 of the German GasNZV regulation can be taken into account in the procedure of creating incremental capacity.

As a result of the above, at the border between Poland TGPS and THE, the application for the creation of incremental capacity had to be adjusted after the publication of the non-binding MDAR (Market Demand Assessment Report), which indicated that the total firm capacity (FZK) at the border should amount to a total of 27 828 000 kWh / h. As the basic firm capacity (FZK) approved by the Bundesnetzagentur on 22 April 2020 at the Mallnow interconnection point is 10,877,000 kWh / h, the difference in the firm capacity (FZK) to the requested capacity is 16,951,000 kWh / h. Accordingly, GASCADE, in consultation with the submitting entity and the Bundesnetzagentur, decided to consider 16,951,000 kWh / h as the incremental capacity to be generated by the project.

The summary of MDAR report states that GASCADE will start a project for the creation of incremental capacity. Since the non-binding demand for incremental capacity between GASCADE and GAZ-SYSTEM was requested only on the German side of the border and capacities to a sufficient extent are already available on the Polish side of the market area border there was no need to conduct technical analysis on Polish side of the IP Mallnow. However, in accordance with Regulation (EU) 217/459, the consultation of the project proposal was carried out jointly so that the offer level for incremental capacity to be created on the German side can be offered as a bundled capacity.

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

As part of the above consultations, the operators received comments from one market participant. In connection with the inquiry to reduce the existing firm capacity (FZK) from 17.512 MWh / h to 10.877 MWh / h, the German TSO explained that the adjustment of the level of the existing FZK firm capacity available for long-term bookings is related to the connection of two market areas, NCG and GASPOOL (information on Market zone connections in Germany can be found at www.marktgebietzusammenlegung.de). In addition, 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 GASCADE for new capacities to be created. It was also indicated that there is a need for greater transparency when applying the possible mandatory minimum premium (MMP) during the incremental capacity auction.

The comments received were related to the German aspects of the project proposal, therefore GAZ-SYSTEM did not respond to the comments submitted.

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 17 November 2010, No. DPE-4720-4 (8) / 2010/6154 / BT, the President of the ERO appointed the Applicant as the transmission system operator on the assets owned by SGT EuRoPol GAZ Spółka Akcyjna with its registered office in Warsaw (i.e. the Polish Section Of the Yamal-Europe Transit Gas Pipeline) for the period until December 31, 2025. The area of operation of the transmission system operator results from the licence for the gas transmission granted to the entrepreneur SGT EuRoPol GAZ Spółka Akcyjna with its registered office in Warsaw on July 18, 2008. No. PPG / 102 / 3863 / W / 2/2008 / BP, i.e. performs the functions of operator on the section of the Yamal-Europe gas transmission pipeline located on the territory of the Republic of Poland and running through the following voivodeships: Podlaskie, Mazowieckie, Kujawsko-Pomorskie, Wielkopolskie and Lubuskie.

By decision of May 19, 2015, ref. DRG-4720-2 (28) / 2014/2015/6154 / KF, the President of ERO granted the Applicant a certificate of independence under the independent system operator model in connection with the performance of the transmission system operator for Polish section of the Yamal Transit Gas Pipeline System - Western Europe (Poland TGPS).

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 the elements necessary for its approval, in accordance with Art. 28 (1) of Regulation (EU) 2017/459, however the formal requirements set out therein should be understood in the present case as referring to a specific project as a whole, and not separately to each of the involved TSOs. The provision of Art. 3 point 11 of the above-mentioned regulation stipulates that in the binding phase of the incremental capacity process, only one TSO may ask network users for binding capacity contracting obligations.

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.

In accordance with Article 11 (3) of Regulation (EU) 2017/459 when offering incremental capacity, the offer levels may be offered in yearly capacity auctions for a maximum of 15 years after the start of operational use. In this project, it covers the period from the gas year 2027/2028 to the gas year 2041/2042 inclusive.

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 Mallnow (exit):

Table 1) Existing capacity	Sum of offered existing capacity (firm) EXIT	Art. 11 (6) NC CAM A	Art. 11 (6) NC CAM B	Art. 11 (6) NC CAM C	Art. 11 (6) NC CAM D	Art. 11 (6) NC CAM E	Art. 11 (6) NC CAM F
		Technical capacity EXIT	Capacity set aside	Previously sold technical capacity	Additional capacity	Incremental capacity	Incremental capacity set aside
GWJ 21/22	34 931 249	38 812 499	3 881 250	-	-		
GWJ 22/23	34 931 249	38 812 499	3 881 250	-	-		
GWJ 23/24	34 931 249	38 812 499	3 881 250	-	-		
GWJ 24/25	34 931 249	38 812 499	3 881 250	-	-		
GWJ 25/26	34 931 249	38 812 499	3 881 250	-	-		
GWJ 26/27	31 049 999	38 812 499	7 762 500	-	-		
GWJ 27/28	31 049 999	38 812 499	7 762 500	-	-		
GWJ 28/29	31 049 999	38 812 499	7 762 500	-	-		
GWJ 29/30	31 049 999	38 812 499	7 762 500	-	-		
GWJ 30/31	31 049 999	38 812 499	7 762 500	-	-		
GWJ 31/32	31 049 999	38 812 499	7 762 500	-	-		
GWJ 32/33	31 049 999	38 812 499	7 762 500	-	-		
GWJ 33/34	31 049 999	38 812 499	7 762 500	-	-		
GWJ 34/35	31 049 999	38 812 499	7 762 500	-	-		
GWJ 35/36	31 049 999	38 812 499	7 762 500	-	-		
GWJ 36/37							
GWJ 37/38							
GWJ 38/39							
GWJ 39/40							
GWJ 40/41							
GWJ 41/42							

Table 2: Depiction of the **technically available capacity of GAZ-SYSTEM to be made available for the Offer-level** (kWh/h/y) on the IP Mallnow (exit):

Table 2) Offer-level 1	Sum of existing capacity to be made available for the offer-level 1 EXIT	Art. 11 (6) NC CAM A	Art. 11 (6) NC CAM B	Art. 11 (6) NC CAM C	Art. 11 (6) NC CAM D	Art. 11 (6) NC CAM E	Art. 11 (6) NC CAM F
		Technical capacity EXIT	Capacity set aside	Previously sold technical capacity	Additional capacity	Incremental capacity	Incremental capacity set aside
GWJ 21/22							
GWJ 22/23							
GWJ 23/24							
GWJ 24/25							
GWJ 25/26							
GWJ 26/27							
GWJ 27/28	31 049 999	38 812 499	7 762 500	-	-	-	-
GWJ 28/29	31 049 999	38 812 499	7 762 500	-	-	-	-
GWJ 29/30	31 049 999	38 812 499	7 762 500	-	-	-	-
GWJ 30/31	31 049 999	38 812 499	7 762 500	-	-	-	-
GWJ 31/32	31 049 999	38 812 499	7 762 500	-	-	-	-
GWJ 32/33	31 049 999	38 812 499	7 762 500	-	-	-	-
GWJ 33/34	31 049 999	38 812 499	7 762 500	-	-	-	-
GWJ 34/35	31 049 999	38 812 499	7 762 500	-	-	-	-
GWJ 35/36	31 049 999	38 812 499	7 762 500	-	-	-	-
GWJ 36/37	31 049 999	38 812 499	7 762 500	-	-	-	-
GWJ 37/38	31 049 999	38 812 499	7 762 500	-	-	-	-
GWJ 38/39	31 049 999	38 812 499	7 762 500	-	-	-	-
GWJ 39/40	31 049 999	38 812 499	7 762 500	-	-	-	-
GWJ 40/41	31 049 999	38 812 499	7 762 500	-	-	-	-
GWJ 41/42	31 049 999	38 812 499	7 762 500	-	-	-	-

Table 3: Depiction of the common offer of existing capacity and of **the common offer of Offer-level 1** (kWh/h/y) for the marketing of bundled capacity in 2021 for **GAZ-SYSTEM and GASCADE** on the IP Mallnow in direction Trading Hub Europe, taking into account Regulation (EU) 217/459 obligation to set aside capacity.

Table 3) Common capacity level to be offered	Existing capacity from PL to THE (FZK)	Offer-level 1 from PL to THE (FZK)
GWJ 21/22	20 390 400	-
GWJ 22/23	9 789 300	-
GWJ 23/24	9 789 300	-
GWJ 24/25	9 789 300	-
GWJ 25/26	9 789 300	-
GWJ 26/27	-	-
GWJ 27/28	-	22 262 400
GWJ 28/29	-	22 262 400
GWJ 29/30	-	22 262 400
GWJ 30/31	-	22 262 400
GWJ 31/32	-	22 262 400
GWJ 32/33	-	22 262 400
GWJ 33/34	-	22 262 400
GWJ 34/35	-	22 262 400
GWJ 35/36	-	22 262 400
GWJ 36/37	-	22 262 400
GWJ 37/38	-	22 262 400
GWJ 38/39	-	22 262 400
GWJ 39/40	-	22 262 400
GWJ 40/41	-	22 262 400
GWJ 41/42	-	22 262 400

Table 3 presents the related offer level 1, which will be made available to the market at the earliest from the gas year 2027/2078. Pursuant to Art. 8 (9) of Regulation (EU) 217/459, GAZ-SYSTEM and GASCADE agreed that the amount of the technical capacity to be set aside, from the gas year 2027/2028 would amount to 20% of the existing and incremental capacity.

Considering the above, it should be stated that the presented level of the offer in accordance with 28 sec. 1 lit. 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 GASCADE, has identified the standard related products to be offered in accordance with Art. 29 sec. 1 of Regulation (EU) 2017/459. The offer level was prepared in accordance with Art. 11 sec. 6 above of the 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.

GAZ-SYSTEM S.A. under this incremental capacity project, will not make any incremental capacity available in the binding phase of capacity allocation. However, due to the fact that the offer level taking into account the incremental capacity to be created on the German side will be offered as bundled capacity, GAZ-SYSTEM has prepared individual "General terms and conditions of participation and access to capacity in the binding phase of capacity allocation corresponding to incremental capacity on the German side of the border between Poland TGPS (Transit Gas Pipeline System) and Germany (Trading Hub Europe)". As the demand for incremental capacity was reported only on the German side, and the capacity is already sufficiently available on the Polish side and GAZ-SYSTEM has not initiated the incremental capacity project, the above terms and conditions largely refer to the General Terms and Conditions of GAZ-SYSTEM S.A. for the Polish section of the Yamal-Western Europe Transit Gas Pipeline System (Poland TGPS).

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.

Due to the fact that the change of interruptible capacity (DZK) to firm capacity (FZK) was requested only on the German side of the entry-exit system, and the current capacity on the Polish side is sufficient and will not change, there is no need to undertake any investment activities on the Polish side of the entry-exit system. Therefore, GAZ-SYSTEM has not submitted the project schedule.

Considering the lack of planned investment activities on the part of the Applicant, there are also no grounds to indicate information on measures to prevent delays and minimize their effects.

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

Pursuant to Article 25(1) and Article 28(1)(d) of Regulation (EU) 2017/459, parameters of the economic test for present values, 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.

GAZ-SYSTEM does not incur any investment costs due to the availability of sufficient capacity on the Polish side of the border, and thus there was no need to establish the f-factor and conduct an economic test. For this reason, the results of the economic test on the German side will be binding for the project on both sides of the border.

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 GASCADE 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 GASCADE 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 GASCADE 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 30 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 on the border between Poland TGPS 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 on the border between
Poland TGPS
and
Germany (Trading Hub Europe)**

28 October 2020



The application for an incremental capacity project for the market border of Poland TGPS (Transit Gas Pipeline System) and Germany (Trading Hub Europe)¹ has to be approved by the respective national regulatory authority. This document presents a project proposal for the interconnection point Mallnow, as prepared by:

GASCADE Gastransport GmbH.

Kölnische Str. 108-112

34119 Kassel

Germany

Operator Gazociągów Przesyłowych

GAZ-SYSTEM S.A.

Ul. Mszczonowska 4

02-337 Warsaw

Poland

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, following the consultation and finalisation of the design phase for an incremental capacity project in accordance with Article 27, the involved transmission system operators shall submit the project proposal for an incremental capacity project to the relevant national regulatory authorities for coordinated approvals. GASCADE submits this proposal for an incremental capacity project for the market border of Poland TGPS and Germany (Trading Hub Europe) to the Bundesnetzagentur (BNetzA) and GAZ-SYSTEM submits this proposal to the President of the Energy Regulatory Office (URE). The interconnection point (IP) Mallnow 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.



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

After completion of Phase 1 of the incremental procedure initiated in 2019 pursuant to NC CAM for creating incremental capacities at the market area border between the market area Trading Hub Europe (THE) and Poland TGPS (Transit Gas Pipeline System) the involved German transmission network operators (TSO) started the planning phase for the corresponding projects (Phase 2).

The stated enquiries for incremental capacity to be created in line with Art. 26 (8) (d) NC CAM include the requirement for a combined analysis. In the planning phase the involved TSO accordingly came to the conclusion to jointly analyse the stated enquiries for incremental capacity to be created. The determined measures are dependent on one another, therefore the analysis of individual enquiries with directly allocable measures is not possible and a joint realisation of the expansion measures is useful.

As presented in the Market Demand Assessment Report (MDAR) 2019 (published on 21 October 2019) there is a need for additional firm capacities for the market area border Poland TGPS and THE on the German side². The MDARs based on the received market demands are accessible to the public on the website of FNB Gas e. V³ and GAZ-SYSTEM⁴ respectively. The conclusion of the MDAR was that GASCADE will start a project for the creation of incremental capacity. Since the non-binding demand for incremental capacity between GASCADE and GAZ-SYSTEM was requested only on the German side of the border and capacities to a sufficient extent are already available on the Polish side of the market area border there was no need to conduct technical analysis on Polish side of the IP Mallnow and no project for development of incremental capacities was initiated by GAZ-SYSTEM. However, in line with NC CAM the consultation of the project proposal was carried out jointly so that

² A non-binding demand indication for 9 629 000 kWh/h/y of freely allocable firm capacity (FZK) in addition to the existing bookable freely allocable firm capacities was indicated to GASCADE. In addition, an explanatory comment was provided by the requesting market participant: "Please note that the aim of this request is that starting from 01 Oct 2022 the requested IC shall be offered as FZK instead of DZK (DZK is currently 20.613 GWh/h in NEP 2020 Databank for years 2023+) to the extent that the total technical entry capacity of 38.812 GWh/h in Mallnow shall comprise of FZK in amount of 27.828 GWh/h and DZK in amount of 10.985 GWh/h). This request is not submitted as capacity upgrade, because the respective DZK is not booked. For avoidance of doubts, the requested IC shall be added to the technical capacity FZK of 18.199 GWh/h as published in NEP 2020 Databank for years 2023+."

³ To be found under: <https://www.fnb-gas-capacity.de/en/cycles/2019-2021-incremental-capacity-cycle/market-demand-assessment-reports/>

⁴ To be found under: <https://en.gaz-system.pl/centrum-prasowe/aktualnosci/informacja/arttykul/203048/>



the offer level for incremental capacity to be created on the German side can be offered as a bundled capacity.

Besides the non-binding enquiry for incremental capacity to be created at Mallnow IP presented above, a high number of further enquiries for incremental capacity to be created were received by the German TSO. The various possible combinations of the enquiries led to a multitude of modelling variants, which must have been carried out as a basis of the technical studies.

In addition, the planned merger of the German Entry-Exit-Systems into the joint German market area THE as of 1 October 2021 also has an influence on the existing capacity that is to be taken into consideration for the German incremental projects and consequently for hereby incremental project at Mallnow IP. Only approved technical capacity within the meaning of Section 9 Para. 4 S. 1 German Regulation on Access to Gas Supply Networks [*Verordnung über den Zugang zu Gasversorgungsnetzen - GasNZV*] (hereinafter "Basic Capacity") can be taken into consideration in the procedure for creating incremental capacities.

This circumstance leads to the fact that at the border between Poland TGPS and THE the request for incremental capacity to be created had to be adjusted once again after publication of the non-binding MDAR. In the non-binding MDAR for incremental capacity to be created it was noted in the comments that in total 27,828,000 kWh/h FZK should be achieved at the border. As comparing to technical FZK from NEP 2020 capacity amounting to 17,512,000 kWh/h the Basic Capacity approved by BNetzA on 22 April 2020 at the IP Mallnow is 10,877,000 kWh/h FZK, this results in a difference of 16,951,000 kWh/h FZK to the requested capacity. For this reason, GASCADE has decided by coordination with the enquiring transport customer and the BNetzA to take 16,951,000 kWh/h into consideration as incremental capacity to be created over the further course of the project.

Within the scope of this project for incremental capacity to be created technical studies were conducted for all potential network interconnection points at the German market area border, for which the incremental project was initiated. Both financial aspects as well as the network topology are taken into consideration hereby. After completion of the technical studies the TSO concerned started the process for the design of the coordinated offer levels for the marketing of the capacity products including identified incremental capacity to be created.



Information on non-binding market demand

A technical study was conducted on the German side of the market area border Poland TGPS - THE on the basis of the adjustment to the demand for incremental capacity to be created described above. 16,951,000 kWh/h were analysed as incremental freely allocable capacity (FZK) to be created at the Entry to THE. A more detailed breakdown of the requested capacities as well as the at least equivalent existing capacities at interconnection points, TSO, products and Gas Years can be seen from Annex 2.

Public consultation of the draft project proposal and market responses

Comments from one market participant were received by GASCADE and GAZ-SYSTEM in the public consultation of the technical studies held from 10 August until 10 September 2020. Comments received referred to German aspects of the project proposal.

1. Within the statement the question about the adjustment of the existing firm freely allocable capacity (FZK) from 17.512MWh/h to 10.877 MWh/h was asked. The adjustment of the existing FZK available for long-term booking is related to the merger of the two market areas NCG and GASPOOL. Within the current incremental capacity cycle this adjustment needs to be considered in order to assess reliable results from the technical studies needed. All information concerning the marker area merger in Germany can be seen under: www.marktgebietszusammenlegung.de
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 GASCADE for new capacities to be created. Further information regarding this article will be part of the publication two months prior to the auction.
3. It was also indicated that providing the information on mandatory minimum premium (MMP) after the auction puts a shipper in front of uncertainty regarding its costs. Thus, the shipper should know the costs – including a MMP – prior to taking decision on participating in the auction. NC TAR states that the range of the mandatory minimum premium needs to be submitted to the national regulatory authorities. In addition to the submission to the national regulatory authorities the range of the mandatory premium is included in the Annex 4 of the project proposal.

As comments did not refer to aspects of the project proposal on Polish side, GAZ-SYSTEM did not react to the provided comments.



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) (a) NC CAM)

2.1. Offer level (GASCADE)

In the economic test pursuant to Art. 22 NC CAM it will be examined for an offer level whether the net present value of the total proceeds by bookings of incremental capacity to be created in the marketing in July 2021 ("Proceeds") at least correspond with the product of the f-factor with the net present value of the estimated increase in the admissible proceeds of the TSO, corresponding with the offer levels ("Costs"). In this process, there is only one offer level depending on the project proposal and therefore no competing offer levels.

Product design

Pursuant to Art. 3 (5) NC CAM an offer level refers to the amount of the existing and the incremental capacity to be created. In conjunction with Art. 29 (1) NC CAM an offer level must, if applicable, include several bundled standard capacity products (for example with several relevant network interconnection points (hereinafter "Interconnection Point" or "IP") between the market areas). The relevant capacities will be published in May 2021 as far as possible bundled standard products for each Gas Year, IP, TSO and product. The offer level is published on the website www.fnb-gas-capacity.de. The offer level comprises all incremental capacity products to be created as well as the existing capacity products, which must be booked as a prerequisite for the initiation of the economic test.

Potentially equivalent existing capacity products can be seen from Table 1. Their consideration is described in detail in the Section "Concrete offer level".

Case	Requested incremental capacity product to be created	Potentially equivalent or higher quality products (at the requested IP/market area border)
1	FZK	➤ FZK
2	DZK with allocation to certain IP/market area borders	➤ FZK ➤ DZK with allocation to at least the requested IP/market area borders

Table 1: General case matrix of the products that are equivalent or of a higher quality compared to a requested capacity product

Marketing horizon

Pursuant to Art. 11 (3) S. 2 NC CAM offer levels, which include incremental capacity to be created, can be offered and booked for a period of up to 15 years after the forecast start of the operational use of the incremental capacity products. Here this corresponds with the period of time from the Gas Year 2027/2028 up to and including Gas Year 2041/2042.

Allocation methodology with existing products

In the marketing of the annual capacities in 2021 GASCADE is planning to market the existing capacity outside of the offer levels for the following five years. The existing capacities, which are relevant for the allocation of the offer level, will however be offered in the offer level including incremental capacity to be created. An overlapping of existing capacity auctions and bookings of the offer level can therefore be avoided.

Amount of the capacity to be offered

The calculation of the amount of the capacities to be offered per product will be carried out pursuant to Art. 11 (6) NC CAM. The reservation quota of 20% for existing as well as incremental capacities pursuant to Art. 8 (8) NC CAM in conjunction with the stipulation of BK7-15-001 of the BNetzA (hereinafter "KARLA Gas") will be taken into consideration.

Concrete offer level

The offer level 1 can be seen from Annex 2. The economic test is passed if 100% of the offered capacities are booked binding. The offer level comprises the following products:

1. Existing capacity products
 - a. IP Mallnow
 - i. GASCADE: FZK
2. Incremental capacity products to be created
 - a. IP Mallnow
 - i. GASCADE: FZK



2.2. Offer level (GAZ-SYSTEM)

Since the amount of technical capacity on the Polish side of the border at the level of 38 812 499 kWh/h is already sufficient to enable the incremental capacity on German side GAZ-SYSTEM will only refer to the part of the offer level which is planned to be marketed as bundled.

According to Article 28 (1) lit. a) NC CAM, GAZ-SYSTEM requests to approve the Offer-level shown in **Table 3**. For clarification, the calculation of the offered existing capacity and the offered Offer-level is shown successively.

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 a) 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 b) 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 Mallnow (exit):



Table 1) Existing capacity	Sum of offered existing capacity (firm) EXIT	Art. 11 (6) NC CAM A	Art. 11 (6) NC CAM B	Art. 11 (6) NC CAM C	Art. 11 (6) NC CAM D	Art. 11 (6) NC CAM E	Art. 11 (6) NC CAM F
		Technical capacity EXIT	Capacity set aside	Previously sold technical capacity	Additional capacity	Incremental capacity	Incremental capacity set aside
GWJ 21/22	34 931 249	38 812 499	3 881 250	-	-		
GWJ 22/23	34 931 249	38 812 499	3 881 250	-	-		
GWJ 23/24	34 931 249	38 812 499	3 881 250	-	-		
GWJ 24/25	34 931 249	38 812 499	3 881 250	-	-		
GWJ 25/26	34 931 249	38 812 499	3 881 250	-	-		
GWJ 26/27	31 049 999	38 812 499	7 762 500	-	-		
GWJ 27/28	31 049 999	38 812 499	7 762 500	-	-		
GWJ 28/29	31 049 999	38 812 499	7 762 500	-	-		
GWJ 29/30	31 049 999	38 812 499	7 762 500	-	-		
GWJ 30/31	31 049 999	38 812 499	7 762 500	-	-		
GWJ 31/32	31 049 999	38 812 499	7 762 500	-	-		
GWJ 32/33	31 049 999	38 812 499	7 762 500	-	-		
GWJ 33/34	31 049 999	38 812 499	7 762 500	-	-		
GWJ 34/35	31 049 999	38 812 499	7 762 500	-	-		
GWJ 35/36	31 049 999	38 812 499	7 762 500	-	-		
GWJ 36/37							
GWJ 37/38							
GWJ 38/39							
GWJ 39/40							
GWJ 40/41							
GWJ 41/42							

Table 2: Depiction of the **technically available capacity of GAZ-SYSTEM to be made available for the Offer-level (kWh/h/y) on the IP Mallnow (exit):**

Table 2) Offer-level 1	Sum of existing capacity to be made available for the offer-level 1 EXIT	Art. 11 (6) NC CAM A	Art. 11 (6) NC CAM B	Art. 11 (6) NC CAM C	Art. 11 (6) NC CAM D	Art. 11 (6) NC CAM E	Art. 11 (6) NC CAM F
		Technical capacity EXIT	Capacity set aside	Previously sold technical capacity	Additional capacity	Incremental capacity	Incremental capacity set aside
GWJ 21/22							
GWJ 22/23							
GWJ 23/24							
GWJ 24/25							
GWJ 25/26							
GWJ 26/27							
GWJ 27/28	31 049 999	38 812 499	7 762 500	-	-	-	-
GWJ 28/29	31 049 999	38 812 499	7 762 500	-	-	-	-
GWJ 29/30	31 049 999	38 812 499	7 762 500	-	-	-	-
GWJ 30/31	31 049 999	38 812 499	7 762 500	-	-	-	-
GWJ 31/32	31 049 999	38 812 499	7 762 500	-	-	-	-
GWJ 32/33	31 049 999	38 812 499	7 762 500	-	-	-	-
GWJ 33/34	31 049 999	38 812 499	7 762 500	-	-	-	-
GWJ 34/35	31 049 999	38 812 499	7 762 500	-	-	-	-
GWJ 35/36	31 049 999	38 812 499	7 762 500	-	-	-	-
GWJ 36/37	31 049 999	38 812 499	7 762 500	-	-	-	-
GWJ 37/38	31 049 999	38 812 499	7 762 500	-	-	-	-
GWJ 38/39	31 049 999	38 812 499	7 762 500	-	-	-	-
GWJ 39/40	31 049 999	38 812 499	7 762 500	-	-	-	-
GWJ 40/41	31 049 999	38 812 499	7 762 500	-	-	-	-
GWJ 41/42	31 049 999	38 812 499	7 762 500	-	-	-	-



Table 3: Depiction of the common offer of existing capacity and of **the common offer of Offer-level 1** (kWh/h/y) for the marketing of bundled capacity in 2021 for **GAZ-SYSTEM** and **GASCADE** on the IP Mallnow in direction Trading Hub Europe, taking into account CAM NC obligation to set aside capacity.

Table 3) Common capacity level to be offered	Existing capacity from PL to THE (FZK)	Offer-level 1 from PL to THE (FZK)
GWJ 21/22	20 390 400	-
GWJ 22/23	9 789 300	-
GWJ 23/24	9 789 300	-
GWJ 24/25	9 789 300	-
GWJ 25/26	9 789 300	-
GWJ 26/27	-	-
GWJ 27/28	-	22 262 400
GWJ 28/29	-	22 262 400
GWJ 29/30	-	22 262 400
GWJ 30/31	-	22 262 400
GWJ 31/32	-	22 262 400
GWJ 32/33	-	22 262 400
GWJ 33/34	-	22 262 400
GWJ 34/35	-	22 262 400
GWJ 35/36	-	22 262 400
GWJ 36/37	-	22 262 400
GWJ 37/38	-	22 262 400
GWJ 38/39	-	22 262 400
GWJ 39/40	-	22 262 400
GWJ 40/41	-	22 262 400
GWJ 41/42	-	22 262 400

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

According to Article 28 (1) (b) NC CAM for the participation in the incremental capacity auctions in 2021, general rules and conditions for each TSO have to be accepted.



3.1. Terms and Conditions for the Incremental Capacity Auction on the German side of the border

The draft of the supplementary terms and conditions (EGB) is enclosed with this document as Annex 3.

3.2. Terms and Conditions for the Incremental Capacity Auction on the Polish side of the border

The draft of “General terms and conditions of participation and access to capacity in the binding phase of capacity allocation corresponding to incremental capacity on the German side of the border between Poland TGPS (Transit Gas Pipeline System) and Germany (Trading Hub Europe)” (INC GT&C) is enclosed with this document as Annex 5.

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

According to Article 28 (1) (c) NC CAM, GASCADE and GAZ-SYSTEM request to approve the following timetable for its incremental capacity project.

The further procedure within the scope of the ongoing process cycle can be seen as follows and present the latest possible deadlines according to NC CAM with regard to submitting the project proposal to NRAs as well as 6-months period of issuing coordinated decisions by NRAs:

Start	End	Description
10.08.2020		Publication of the consultation documents
10.08.2020	10.09.2020	Public consultation
11.09.2020	29.10.2020	Planning of the offer levels by the TSO in close cooperation with the national regulatory authorities
	30.10.2020	Submission of the project proposal to the national regulatory authorities
30.10.2020	30.04.2021	Processing of the project proposal by the national regulatory authorities
	30.04.2021	Approval and publication of the necessary parameters by the national regulatory authorities pursuant to Art. 28 (1) NC CAM
30.04.2021	04.05.2021	Adjustment of the offer levels by the TSO to the stipulations of the national regulatory authorities
05.05.2021		Publication of the approved parameters, the capacity products and of the sample contract or the sample contracts for the capacities offered within the scope of the network expansion project
05.07.2021		Annual auction; the economic test will be carried out after completion of the annual auction



Table 3: Provisional time planning

The stated dates are provisional and can therefore be subjected to changes, especially should submissions to NRAs take place earlier and/or NRAs administrative procedure is completed earlier than in 6-month period.

The projects described below will be initiated after completion of the annual auctions in July 2021. Operational readiness of all technical measures is envisaged for the 1 October 2027 – under the presumption that the economic test conducted after the auctions is successful.

With a positive result of the economic test, allocated capacity will subsequently flow into the process for the creation of the German network development Gas 2022-2032 and will be taken into consideration in the scenario framework as well as with the (national) modelling.

The milestones are available in Table 4.

Milestones	Years of completion of project phases of the measures
Project concept	2021
Basic evaluation/feasibility review	2021-2022
Design planning	2022-2023
Preparation of general planning procedure	2022
Implementation of general planning procedure	2023-2024
Preparation of Federal Emission Control Act (BlmSchG)	2023
Property acquisition	2025
Preparation of plan approval procedure	2023
Implementation of plan approval procedure	2024-2025
Acquisition of right of way	2025-2026
Implementation of Federal Emission Control Act (BlmSchG)	2024-2025
Construction approval process	2025
Material and service procurement	2023-2026
Preparation and start of construction	2025-2026
Assembly/construction	2025-2027
Commissioning	2027
Project conclusion/completion	2028

Table 4: Milestones in the implementation schedule of technical measures

Description of the project on German side (GASCADE)

The enquiry was made from the Gas Year 2022/2023 up to and including the Gas Year 2036/2037. However, due to extensive expansion measures for the realization of the capacity upgrade the provision of the capacity is only possible from the Gas Year 2027/2028.

In total, the technical studies of the present cycle for incremental capacity considered 47 scenarios, each based on a different combination of projects based on non-binding demand indications. The expansion measures were developed under the presumption that all non-binding requested capacities are booked and the economic tests are carried out successfully. In this document only the measures of the maximum scenario are described in the text, which are also caused by the requested capacity listed above. All expansion measures of the maximum scenario are shown in Figure 1. A detailed breakdown of costs is not provided here.



The basis of the listed expansion measures is the infrastructure contained in the draft document for the network development plan Gas 2020–2030 (published on 1 July 2020; hereinafter “NEP”) including the network expansion measures resulting from the so called "basic variant". The investment costs concern initial estimates. In addition to the cost of the investment, there are operating costs for propellant, which are necessary in order to operate the compressors. The annual costs are stated below for the maximum scenario. Besides the commodity, these costs also include the natural gas tax as well as the CO₂ costs.

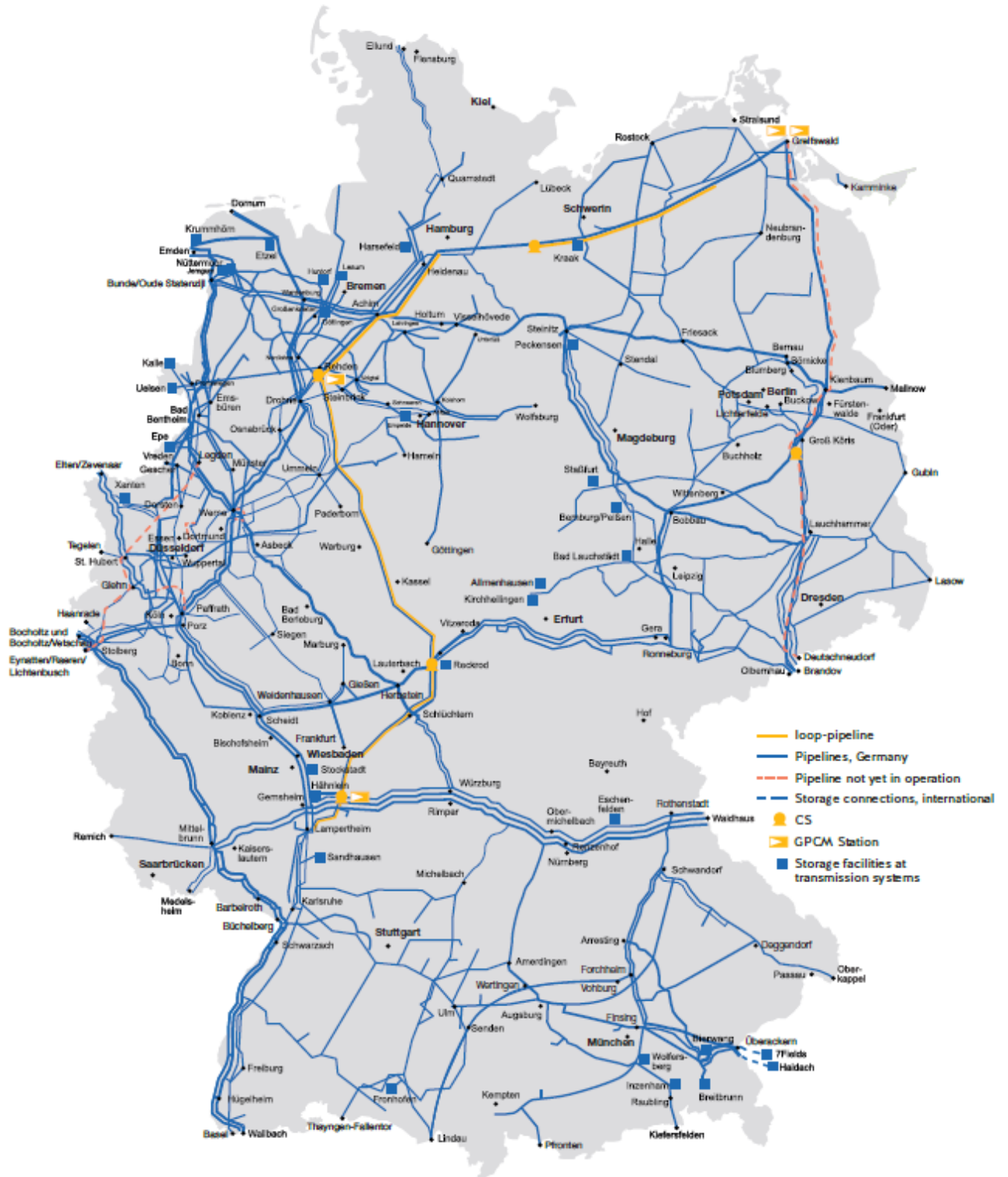


Figure 1: Expansion Measures for the Maximum Scenario



The following expansion measures are necessary on the EUGAL gas pipeline: The compressor station Radeland II must be modified. The investments amount to approx. €m 16. In total, the additional investments on this section of the pipeline amount to approx. €m 16.

The following measures are necessary on the NEL pipeline east of the Achim shut-off station: A compressor station with a compressor capacity of approx. 75 MW. This is already included in the NEP with a compressor capacity of 50 MW (VDS NEL (middle), ID No. 633-01). The additional investments amount to approx. €m 63. A loop pipeline with a length of approx. 85 km in DN 1400 is to be erected east of the compressor station. The investments amount to approx. €m 360. A loop pipeline with a length of approx. 57 km in DN 1400 is to be erected west of the compressor station, which ends on the Achim shut-off station. The investments amount to approx. €m 242. In total, the additional investments on this section of the pipeline amount to approx. €m 665. The annual costs for propellant for this section are approx. €m 19.6.

An alternative using two compressor stations was considered: One station with approx. 99 MW, of which a compressor capacity of 50 MW is already included in the NEP (VDS NEL (centre), ID-No. 633-01), and a further station with 99 MW near Buchholz. The additional investments for this variant were approx. €m 360 compared to the NEP. The annual operating costs here were as a max. approx. €m 210. This variant is not being further pursued at present. The TSO reserve the right to come back to this variant with the concrete design of the measures within the scope of the creation of the NEP Gas 2022-2032.

The following measure is necessary on the NEL pipeline west of the Achim shut-off station: A loop pipeline with a length of approx. 67 km in DN 1400 is to be erected. Of this 52 km in DN 1400 are already included in the NEP (NEL pipeline West, ID No. 634-01). The additional investments amount to approx. €m 118. In total the additional investments on this section of the pipeline amount to approx. €m 118.

The following expansion measures are necessary on the MIDAL pipeline: The Rehden compressor station must be extended by a compressor capacity of approx. 48 MW. The investments amount to approx. €m 250. A GPRM plant with a plant capacity of 2.2 million Nm³/h is to be additionally erected in Rehden. The investments amount to approx. €m 17. A loop pipeline with a length of approx. 260 km in DN 1400 is to be erected from Rehden to Reckrod. Of this 61 km are already included in the NEP (MIDAL pipeline middle north, ID No. 627-01; MIDAL pipeline middle south, ID No. 628-01). The additional investments amount to approx. €m 905. A compressor station with a compressor capacity of 84MW is to be erected near Reckrod. This is already included in the NEP with a compressor capacity of 36 MW (VDS Reckrod, ID No. 629-01). The additional investments amount to approx. €m 145. A loop



pipeline with a length of approx. 200 km in DN 1400 is to be erected from Reckrod to Lampertheim. Of this 115 km in DN 1000 are already included in the NEP (Wirtheim-Lampertheim pipeline, ID No. 609-01). The additional investments amount to approx. €m 535. A compressor station with a compressor capacity of approx. 46 MW is to be erected near Herchenrode. The investments amount to approx. €m 180. In addition, a GPRM plant with a plant capacity of approx. 4 million Nm³/h is to be erected in Herchenrode. The investments amount to approx. €m 31. In total the additional investments on this section of the pipeline amount to approx. €m 2,063. The annual costs for propellant for this section are approx. €m 33.

Due to the large number of non-binding demand indications for incremental capacity, depending on the booking behaviour in the annual auctions 2021 and respectively within the scope of the alternative allocation mechanism for the RU-THE incremental project, there are interdependencies with regard to the project costs to be allocated. Depending on the incremental capacity to be provided on a network section, synergies or dyssynergies may arise. Synergies essentially arise in this case through economies of scale. The larger respectively the standard diameter of a loop pipeline is chosen, the lower the specific transport costs will be, as a rule, with the same relative capacity utilisation. Dyssynergies primarily arise from leapfrogging investments, e.g. if only the combined additional capacity requirements for several enquiries trigger, for example, a dimensioning leap in a pipeline measure. The cost allocation per expansion measure is carried out broken down according to the provided capacity. The dependencies of the projects are shown in Annex 1 to this consultation document.

The costs that are to be compared with the bookings that are submitted binding will therefore only be known finally after execution of the annual auctions and the alternative allocation mechanism.

Description of the project on Polish side (GAZ-SYSTEM)

Since the upgrade from DZK to FZK was requested only on German side of the entry-exit system and the existing capacity on the Polish side is already sufficient and will stay the same, there are no investment measures to be taken on Polish side of the entry-exit system and thus GAZ-SYSTEM does not submit any timeline of the incremental project.



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

5.1. Parameters of the economic test on the German side of the border

Economic test - GASCADE

For the economic test pursuant to Art. 22 NC CAM the BNetzA has created and published a calculation tool in order to improve the transparency. This was used by the TSO for the calculations presented below.

Pursuant to Subclause 1 of the operative part of the resolution of the BK 9 (ref. no. BK9-17/609) with the title INKA the economic test is carried out for each offer level of a project for incremental capacity pursuant to Art. 22 NC CAM by the BNetzA. In Part II of the stipulation resolution the BNetzA states that the economic test is an object of the project proposal and all principle questions of the economic test are to be clarified there. The following principle questions of the economic test must be defined still:

1. Derecognition requirement of existing capacity products
2. Economic test of the offer levels

GASCADE is therefore planning to apply for the following procedure for the conducting of the economic test at the BNetzA:

1. Derecognition Requirement of Existing Capacity Products

Pursuant to Art. 22 (1) (a) Subclause i NC CAM the binding requested incremental capacities to be created and pursuant to Art. 22 (1) (a) Subclause ii NC CAM the binding requested existing capacities should flow into the economic test.

In order to ensure an efficient network expansion it is to be examined by coordination with the BNetzA as a prerequisite for the start of the economic test whether the available capacity products (existing capacity) have been derecognised in the respective Gas Year pursuant to the project application. If the existing capacity has been derecognised in the respective Gas Year the quantity of the binding requested incremental capacity to be created shall be entered in (kWh/h)/annum per Gas Year in the BNetzA-Tool for testing of the economic. If the existing capacity has not been derecognised in a Gas Year the prerequisite for conducting the economic test does not exist for this Gas Year. No quantities will be entered in the economic test for the respective Gas Year.



The information regarding the booking situation of the existing capacities will be made available to the BNetzA by the FNB concerned. The examination whether the condition of the derecognition of the existing capacity has been fulfilled in the respective Gas Year shall be carried out by the BNetzA.

2. Economic Test of the Offer Level

As in this cycle for incremental capacity six projects will be analysed for new freely allocable incremental capacity, as described under II.1. there are comprehensive overlappings of the measures, which are necessary in order to be able to offer the capacity at the various market area borders. Therefore, an individual analysis of the enquiries with the associated measures is not target-oriented. The procedure, which the TSO have agreed upon in order to depict all possible booking scenarios, is described below.

In total, in the current cycle an enquiry is made for incremental capacity at four market area borders. At the market area border to Russia, in addition to incremental capacity, at the IPs Greifswald and Lubmin II an enquiry was respectively made for a capacity upgrade from existing DZK to FZK. Consequently, in the current incremental cycle offer levels can be booked for the following projects:

1. Poland TGPS
2. Russian Federation (combined in an alternative allocation mechanism)
3. The Netherlands
4. Russian Federation/Greifswald (capacity upgrade)
5. Russian Federation/Lubmin II (capacity upgrade)
6. Denmark

One offer level exists for each of these six projects. An enquiry can be made independently for each of the offer levels and pass the economic test. As a result, all combinations of positive and negative economic tests are conceivable. Which of the aforementioned enquiries are actually made binding can only be determined after the auctions or the evaluation of the alternative allocation mechanism.

In order to guarantee an efficient network expansion, the TSOs have depicted all possible combinations of enquiries and determined the need for expansion respectively necessary for this. The overview of all 47 combinations is listed in Annex 1. The costs of a necessary expansion measure including operating costs will be allocated to the enquiries causing this measure respectively in the ratio of the requested capacity. The present value of the sum of



these pro rata costs for specific measures results in the total allowed increase in the revenue cap (hereinafter “EOG”) assumed for a project in the economic test.

24 scenarios of combinations are derived for each enquiry with enquiries at the other market area borders. Each of these scenarios has following specific parts, which are listed in Annex 4:

1. f-factor
2. Present value of the estimated increase in the EOG
3. Mandatory minimum premium

When conducting the economic test with the BNetzA-Tool it must first of all be determined which of the 47 booking scenarios has occurred in order to subsequently enter the three parts listed above in the tool for the economic calculation.

f-factor - GASCADE

According to Article 27 (3) NC CAM the consultation shall cover the level of user commitments, expressed as an estimate of the f-factor in accordance with Article 23, which, after having consulted with the transmission system operators, is proposed and subsequently approved by the concerned national regulatory authorities.

The f-factor for each offer level is stipulated by the national regulatory authorities by taking the following aspects into consideration (Art. 23 (1) NC CAM):

- a) the quantity of technical capacity, which will be withheld pursuant to Art. 8 (8) and (9);
- b) the positive external effects of the project for new capacity to be created on the market or the transmission network or both;
- c) the term of the binding commitments of the network users for the requested capacity compared to the commercial useful life of the plant;
- d) the expected continued existence of the demand for the capacity, which is created by the project for new capacity to be created, after the end of the time horizon used as a basis in the economic test.

For the economic test pursuant to Art. 22 NC CAM the BNetzA has created and published a calculation tool in order to improve the transparency (hereinafter referred to as "BNetzA-Tool"). The result of the completed BNetzA-Tool with the data relating to the offer levels analysed here is enclosed with this consultation document as Annex.

The BNetzA-Tool contains mathematical evaluations for the determination of the f-factor. The f-factor is produced hereby from the ratio of the present value of the binding commitment of



network users to the contracting of capacities over the time horizon of the first annual auction, in which the respective new capacities to be created were offered, pursuant to Art. 22 (1) (a) NC CAM at the present value of all expected commitments of network users to the contracting of the respective capacities.

The most recent currently known reference price is estimated in the BNetzA-Tool as estimated reference price pursuant to Art. 22 (1) (a) Subclause i NC CAM and is updated until the respective year. Since inflation is not taken into account when determining the increase in the revenue cap of the pertinent TSO resulting from the incremental capacities in each offer level, the inflation index for the reference prices was also set at 0 percent.

The proposed f-factor was determined as follows:

- a) Pursuant to Art. 8 (8) NC CAM and KARLA Gas, technically available capacity is set aside in the amount of 20% of the incremental technical capacity contained in the pertinent offer level. It is assumed here that the set aside capacities will be fully utilised in subsequent years as part of the marketing of the capacities and will therefore also be booked. Since from Gas Year 2035/36 existing, booked capacity can be upgraded up to 100 %, the reservation quota of 20% is only taken into account for capacity which is offered starting from Gas Year 2036/2037. The f-factor should take into consideration that 100 % of reserved capacity is booked at a later time.
- b) Further positive external effects were not examined.
- c) Pursuant to Article 11 (3) NC CAM offer levels can be offered for new capacities to be created within the scope of the annual auctions for a maximum period of 15 years from the start of the operational use.

For the period of time from the Gas Year 2027/2028 up to and including Gas Year 2041/2042 it was assumed that the new capacities to be created that were offered in the annual auction 2021 will be fully booked.

The start of the operational use is envisaged for the year 2027. The commercial useful life of the plants was estimated in line with the regulatory and normal depreciation durations. The described investments refer to compressor stations as well as to the pipeline construction. Consequently, an average useful life of 45 years for pipelines in accordance with the Gas Network Charges Regulation (Gasnetzentgeltverordnung; GasNEV) is assumed. The start of the operational use is envisaged for 2027, the end of the operational use is for the time being assumed for Gas Year 2071/2072.

The gas infrastructure concerned in this procedure will be of great importance in the future energy market. Thus, the TSOs assume that the infrastructure will be reused for



hydrogen. The transport of hydrogen is expected to result in a lower transport potential. As a result, the use of the infrastructure is assumed to be 65% for the period from Gas Year 2053/2054 to Gas Year 2071/72.

- d) The decisive year for the determination of the time horizon of the commercial useful life and the economic test is 2072. No bookings were taken into consideration for the period of time from 2072.

The proposed f-factor is oriented to the occurred booking scenario and is included in Annex 4.

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

The current forecast of the reference price is the reference price published in the BNetzA decision REGENT 2021 for freely allocable capacity (FZK) of the market area THE for 2023 in the amount of € 3.73/(kWh/h)/annum. This reference price is solely used in the economic test and is not a part of the contract.

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

The present value of the estimated increase in allowable revenue (EOG) depends on the amount and timing of the costs allocated to the project. The costs depend on the other projects for incremental capacity. The present value of the estimated increase in EOG is shown in Annex 4.

Mandatory minimum premium – GASCADE

Analogue to the f-factor and to the cash value of the estimated increase in the EOG the mandatory minimum premium also depends on which measures become necessary due to the marketing of incremental capacity to be created on 5 July 2021. Which mandatory minimum premium is to be applied for the corresponding booking scenario can be derived from Annex 4. Its amount is assessed in each scenario to the extent that the economic test can only be passed with a full booking of the capacity included in the offer level. This should also guarantee that the transport customer must not over-compensate the estimated increase in the EOG.

5.2. Parameters of the economic test on the Polish side of the border

As GAZ-SYSTEM does not bear any investment costs due to the fact that enough capacity is available on Polish side of the border, there is no need to set the f-factor and conduct the economic test. Thus, the results of the economic test on the German side of the border will be binding for the project on both sides of the border.



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

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

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

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

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

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

9. Contact data

GASCADE Gastransport GmbH

Michael Walkus

Tel.: +49 561 934 2968

Michael.Walkus@gascade.de

Operator Gazociągów Przesyłowych GAZ-SYSTEM S.A.

Paulina Buczek

Tel.: +48 22 220 18 22

incremental@gaz-system.pl

General term and conditions of participation and access to capacity in the binding phase of capacity allocation corresponding to incremental capacity on the German side of the border between Poland TGPS (Transit Gas Pipeline System) and Germany (Trading Hub Europe)

(hereinafter the 'INC GT&C')

I. GENERAL PROVISIONS


1. This INC GT&C regulates the general terms and conditions that the Shipper (Shipper) must accept in order to gain access to capacity corresponding to incremental capacity planned to be made available by GASCADE GmbH (hereinafter: "GASCADE") acting as the operator of the German transmission at the Mallnow interconnection point under the incremental capacity project implemented in accordance with Chapter V 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 (hereinafter the "Project").
2. Transmission services for the capacity allocated and bundled with the incremental capacity under the Project will be provided in accordance with the transmission contract of the transmission system operator relevant for the Mallnow interconnection point, this INC GT&C, as well as in accordance with the applicable at any given time General Terms and Conditions of the transmission contract (GT&C), Transmission Network Code (TNC), and the Tariff of this operator.
3. By submitting an offer in the auction for capacity corresponding to incremental capacity planned to be offered by GASCADE (hereinafter the "Auction"), the Shipper accepts without reservation the conditions set out in this INC GT&C.
4. GAZ-SYSTEM shall not be liable for the Shipper'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 to bundle with capacity offered by GAZ-SYSTEM under the Project being a result of circumstances: (i) for which GASCADE or acting in its behalf entities is/are liable, (ii) caused by force majeure.
5. 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.

II. BINDING PHASE OF BUNDLED CAPACITY ALLOCATION CORRESPONDING TO PLANNED TO BE MADE AVAILABLE INCREMENTAL CAPACITY

1. In the binding phase of capacity allocation under the Project, GAZ-SYSTEM and GASCADE shall make available bundled capacity for the interconnection point Mallnow, 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 2027 06:00 a.m. to 1 October 2042, 06:00 a.m.
2. During the binding phase of bundled capacity allocation under the Project, each yearly product shall be made available through one, separate capacity Auction for capacity at the level of 22 262 400 kWh/h.
3. Capacity allocation to Shipper that acquired the capacity in the Auction shall be done subject to point I. 4 above.

III. TERMS OF PARTICIPATION IN AN AUCTION

1. GAZ-SYSTEM and GASCADE shall conduct the binding phase of capacity allocation corresponding to incremental capacity planned to be made available under the Project, on the RBP Platform, in accordance



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

2. The following is required in order to participate in the 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 Auction to GAZ-SYSTEM, unless the Shipper has already presented such power of attorney,
 - c) successful from GAZ-SYSTEM's perspective registration on the RBP Platform,

no later than one week before the Auction starts.

3. The capacity corresponding to incremental capacity planned to be made available under the Project will be allocated as bundled capacity. In order to participate in the Auction, the Shipper must also meet the participation conditions defined by GASCADE.
4. Transmission services in respect of the capacity allocated in the Auction shall be provided in accordance with the concluded transmission contract (including GT&C) and its appendices, referred to in point III. 2. a) above, as well as in compliance with the TNC and the Tariff, as binding at each such time, bearing in mind provision of point I.2 above. Following to the capacity allocation as a result of the Auction, this INC GT&C shall constitute an appendix to the transmission contract concluded between GAZ-SYSTEM and the Shipper, regulating the detailed rules for the provision of transmission services by GAZ-SYSTEM to the relevant Shipper in respect of the capacity corresponding to incremental capacity planned to be made available allocated to that Shipper in the Auction.