



**RULES FOR PARTICIPATION IN A  
NON-BINDING PROCEDURE FOR ASSESSING  
MARKET DEMAND  
FOR INCREMENTAL CAPACITY**

Warsaw, April 2017

## GENERAL INFORMATION

This market demand assessment is carried out in the framework of the 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: CAM NC amendment) which applies as of 6 April 2017.

For harmonizing the process for the development of incremental capacity in the European Union, new provisions on the incremental capacity process have been introduced by the CAM NC amendment which is a standardised procedure for market participants to indicate in a non-binding way their demand for incremental capacity.

The first market demand assessment for incremental capacity, which constitutes the start of the incremental capacity process and to which these Rules apply, shall be conducted in 2017 following the entry into force of the CAM NC amendment on 6 April 2017.

Based on questionnaires received under this Procedure for assessing market demand for incremental capacity, GAZ-SYSTEM will evaluate the level of network users' demand for firm Incremental capacity between Polish entry-exit system and adjacent entry-exit systems.

The received non-binding indications will be used by GAZ-SYSTEM S.A. and transmission system operators of adjacent entry-exit systems to produce common market demand assessment reports, each covering all interconnection points of at least one entry-exit system border, evaluating the prospective demand for incremental capacity and stating whether an Incremental capacity project is initiated.

The market demand assessment reports will be published no later than 16 weeks after the start of the Procedure, by 27 July 2017 at the latest, at the websites of transmission system operators.

## 1. DEFINITIONS

- 1.1. GAZ-SYSTEM S.A. – the company under the name Operator Gazociągów Przesyłowych GAZ-SYSTEM S.A. with its headquarters in Warsaw;
- 1.2. Schedule – described in point 3 framework plan of the Procedure;
- 1.3. Questionnaire - completed questionnaire for non-binding demand indications for incremental capacity on firm basis between Polish entry-exit system and adjacent entry-exit systems submitted by the Participant in the PDF form, being an Appendix no. 1 to the Rules;
- 1.4. President of ERO – President of the Energy Regulatory Office, national regulatory authority in Poland.
- 1.5. Procedure – procedure for assessing market demand for incremental capacity, covering non-binding phase of the Incremental capacity process, in which Participants express and quantify their demand for incremental capacity on firm basis between Polish entry-exit system and adjacent entry-exit systems;
- 1.6. Incremental capacity process - means a process to assess the market demand for incremental capacity that includes a non-binding phase, in which network users express and quantify their demand for incremental capacity, and a

binding phase, in which binding commitments for contracting capacity are requested from network users by one or more transmission system operators;

- 1.7. Incremental capacity project - means a project to increase the amount of technical capacity at an existing interconnection point or to establish a new interconnection point based on capacity allocation in the preceding Incremental capacity process;
- 1.8. The Rules – this document describing the rules of conducting the Procedure within the first market demand assessment for Incremental capacity;
- 1.9. Participant – each entity that has submitted the Questionnaire indicating the future demand for the incremental capacity on firm basis between Polish entry-exit system and adjacent entry-exit systems;
- 1.10. Incremental capacity - means a possible future increase via market-based procedures in technical capacity or possible new capacity created where none currently exists that may be offered based on investment in physical infrastructure or long-term capacity optimisation and subsequently allocated subject to the positive outcome of an economic test, in the following cases: (a) at existing interconnection points; (b) by establishing a new interconnection point or points; (c) as physical reverse flow capacity at an interconnection point or points, which has not been offered before.

## 2. LEGAL BASIS

- 2.1. The Rules describe rules of conducting the Procedure and rights and obligations of entities participating in the Procedure. The Rules is binding document that includes requirements of GAZ-SYSTEM S.A. to Participants of the Procedure;
- 2.2. The market survey regarding the demand for incremental capacity is conducted according to the obligations and provisions of 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.

## 3. TIMESCHEDULE OF THE PROCEDURE

GAZ-SYSTEM S.A. intends to conduct the Procedure in accordance with Schedule stipulated by the CAM NC amendment, as presented below. Nevertheless, GAZ-SYSTEM S.A. shall reserve the right to modify Schedule in the case of occurrence the events during conducting the Procedure, in particular changes to the applicable law.

	<b>Timeframe</b>	<b>Phase of the Procedure</b>
1.	06.04.2017	The start of the period for submitting questionnaires
2.	01.06.2017	The end of the period for submitting questionnaires
3.	From 1.06.2017	Evaluation of the submitted questionnaires and preparation of Demand Assessment Reports
4.	27.07.2017	Publication of the Demand Assessment Reports

#### 4. THE PROCEDURE FOR PARTICIPATION IN THE MARKET SURVEY

- 4.1. Under the Procedure, GAZ-SYSTEM S.A., together with adjacent transmission system operators will assess the demand for the incremental capacity in accordance with Article 26 of the CAM NC amendment.
- 4.2. In order to participate in the Procedure, Participants shall complete and submit to GAZ-SYSTEM S.A. the questionnaire as a PDF file, being an Appendix no. 1 to the Rules to indicate the demand for incremental capacity.
- 4.3. Submission of the Questionnaire means acceptance of the Rules by the Participant.
- 4.4. The Questionnaire and documents indicated in point 4.5. shall be submitted via electronic means of communication to the e-mail at [incremental@gaz-system.pl](mailto:incremental@gaz-system.pl). In parallel, duly signed hard copy of the Questionnaire and documents indicated in point 4.5. shall be delivered in sealed envelope with a notice „The Incremental Capacity Procedure 2017” on the address:

Gas Transmission Operator GAZ-SYSTEM S.A.  
Secretariat of the Development Division  
Ul. Mszczonowska 4  
02-337 Warsaw

- 4.5. The questionnaire shall be signed by representatives authorized to represent the Participant in the Procedure. It is necessary to prove the authorization of persons, who place their signatures under the Questionnaire, to represent the given entity by attaching the updated extract from the register and the proxy.
- 4.6. **All the above-mentioned documents need to be delivered not later than on 1 June 2017, 16.00 (CEST)**, to be considered valid. The term is deemed to be preserved if Participant sends the Questionnaire along with documents referred to in point 4.5. to the e-mail address indicated in point 4.4.
- 4.7. According to Art. 26(7) of CAM NC amendment non-binding demand indications submitted after the deadline mentioned in point 4.6. may be considered in the ongoing market demand assessment, or will be introduced in the next market demand assessment.
- 4.8. Based on the non-binding demand indications expressed by the network users, within 16 weeks from the start of the Procedure GAZ-SYSTEM S.A. in cooperation with adjacent transmission system operators will publish demand assessment reports, which will evaluate the prospective need for incremental capacity, each covering all interconnection points of at least one entry-exit system border, and in which it will be stated whether it is necessary to initiate an Incremental capacity project. Specific elements that should be included in the report are indicated in Article 26(13) of CAM NC amendment.
- 4.9. In parallel, within 16 weeks after the start of the Procedure, GAZ-SYSTEM S.A. will respond to non-binding demand indications submitted by the Participants pursuant to these Rules, in accordance with Article 26(10) of CAM NC amendment.

## **5. CONFIDENTIALITY**

- 5.1. Any information obtained by GAZ-SYSTEM S.A. in the course of the Procedure shall be treated as confidential and shall not be made available to any third parties. However, GAZ-SYSTEM reserves the right to make the confidential information obtained during the Procedure available to the following:
  - 5.1.1. adjacent transmission system operators for assessing demand for incremental capacity in the respective entry-exit system and preparation of demand assessment report;
  - 5.1.2. corporate bodies of GAZ-SYSTEM S.A.;
  - 5.1.3. the President of ERO and the European Commission;
  - 5.1.4. other entities that are entitled to obtain information on the basis of applicable provisions of law.

## **6. FINAL PROVISIONS**

- 6.1. Any expenses incurred by the Participant in connection with participation in the Procedure shall be borne by the Participant and shall not be asserted against GAZ-SYSTEM S.A.
- 6.2. These Rules do not constitute an offer to the Participants in the meaning of the article 66 § 1 of the Civil Code (Journal of Laws from 2017 item. 459).
- 6.3. Neither the Participant nor GAZ-SYSTEM S.A., shall be liable towards each other for the loss suffered due to the Procedure, unless the party suffered loss due to wilful misconduct of the other party.
- 6.4. GAZ-SYSTEM S.A. reserves the right to amend or supplement the Rules hereto, in particular in the case of changes in legal regulations, a need to obtain, unforeseen in the Rules, administrative approvals or decisions from competent authorities, including regulators. Such amendments and supplements will be published on the website of GAZ-SYSTEM S.A.
- 6.5. In the event, any of the provisions hereof is found impermissible or unenforceable, such a provision will be deemed to be excluded therefrom. Other provisions of the Rules will remain in force and the provision that is considered impermissible or unenforceable will be replaced with a similar provision that reflects the original intention of the Parties to the extent it complies with the applicable law.
- 6.6. The Parties shall endeavour to amicably resolve any potential disputes arising from the Procedure or the interpretation of the Rules. If an amicable settlement fails, any dispute arising from the Rules or related to it shall be settled by the Court of Arbitration at the Polish Chamber of Commerce according to its rules applicable at the date of filing the petition, by three arbitrators established in accordance with the mentioned Rules.
- 6.7. In matters not covered by the provisions of the Rules, the provisions of Polish and European law shall apply.

- 6.8. Rules and its Appendix were developed in Polish and English. In case of any discrepancies between documents in Polish and documents in English, Polish version prevails.

## **7. NOTICES AND CONTACT DATA**

- 7.1. Any questions and electronic correspondence related to the Procedure shall be addressed to the following e-mail address: [incremental@gaz-system.pl](mailto:incremental@gaz-system.pl);
- 7.2. Correspondence concerning the Procedure may be addressed in Polish and in English.