

# **GAS TRANSMISSION CAPACITY FROM HUNGARY TO AUSTRIA**

**RULEBOOK - BINDING INCREMENTAL CAPACITY PROCEDURE ACCORDING TO THE  
DECISION BY ACER No. 05/2019**



# GAS TRANSMISSION CAPACITY FROM HUNGARY TO AUSTRIA

## Table of content

|  |  |
|--|--|
| <b>TABLE OF CONTENT</b> .....                                    | <b>2</b>                               |
| <b>1. INTRODUCTION &amp; SCOPE</b> .....                         | <b>3</b>                               |
| <b>2. DEFINITIONS</b> .....                                      | <b>4</b>                               |
| <b>3. BINDING INCREMENTAL CAPACITY PROCEDURE</b> .....           | <b>5</b>                               |
| 3.1. PURPOSE OF THE BINDING INCREMENTAL CAPACITY PROCEDURE ..... | 5                                      |
| 3.2. REGULATORY INVOLVEMENT.....                                 | 5                                      |
| 3.3. INFORMATION PROVISIONS, SPECIAL CONDITIONS.....             | 6                                      |
| 3.4. BINDING INCREMENTAL CAPACITY PROCEDURE OVERVIEW .....       | 7                                      |
| 3.5. REGISTRATION .....  | 7                                      |
| 3.6. DATA PROTECTION AND PRIVACY.....                            | 8                                      |
| <b>4. ALLOCATION OF CAPACITIES</b> .....                         | <b>9</b>                               |
| 4.1. OFFERED CAPACITY PRODUCTS AND TARIFFS .....                 | 10                                     |
| 4.2. DETERMINATION OF ECONOMIC VIABILITY .....                   | 12                                     |
| <b>5. FINANCIAL GUARANTEES</b> .....                             | <b>12</b>                              |
| 5.1. APPLICABLE FINANCIAL GUARANTEES OF FGSZ LTD.....            | <b>HIBA! A KÖNYVJELZŐ NEM LÉTEZIK.</b> |
| <b>6. MISCELLANEOUS</b> .....                                    | <b>12</b>                              |
| <b>8. ANNEXES</b> .....  | <b>12</b>                              |

## GAS TRANSMISSION CAPACITY FROM HUNGARY TO AUSTRIA

### 1. Introduction & Scope

FGSZ Ltd. (hereinafter referred to as “**FGSZ**”), is the gas transmission system operator in the territory of Hungary (operator of the Hungarian-Austrian gas interconnection in the territory of Hungary). Gas Connect Austria GmbH. (hereinafter referred to as “**GCA**”) is the gas transmission system operator in the territory of Austria (operator of the Hungarian-Austrian gas interconnection in the territory of Austria). According to the decision by ACER No 05/2019 (hereinafter referred to as “**Decision**”) GCA and FGSZ are conducting an Incremental Capacity Procedure (hereinafter ICP) regarding firm bundled natural gas transmission services on the following interconnection point:

- IP: Mosonmagyaróvár (EIC 21Z00000000003C), direction from Hungary to Austria

Capacities of each individual Offer Level defined in this Rulebook, will be offered in separate but parallel incremental capacity auctions. Capacities will be allocated in the successful auction for only one of the Offer Levels based on the conditionality fulfilment defined in this Rulebook.

Capacity will be allocated as yearly bundled capacity products on a firm basis via incremental capacity auction at the IP in the offered direction (1<sup>st</sup> October – 30<sup>th</sup> September) at the interconnection point starting with 1 October 2024 until 1 October 2039.

All interested Network Users shall be aware and agree that all Bids received in the present binding ICP by the TSO's shall be considered as legally binding request for capacity booking and basis for the allocation of capacities pursuant to Article 4. Allocation of capacities

On the IP Mosonmagyaróvár, FGSZ will set aside 10% of the incremental capacity within the binding ICP, which would be reserved for short-term capacity booking and would allocate this capacity on a non-discriminatory basis according to Commission regulation (EU) No. 459/2017 and the Decision.

These ICP Rules are results of the Decision

Based on these considerations, FGSZ hereby officially announces their invitation to bid for the Binding Incremental Capacity Procedure.

FGSZ has right to change the conditions in the present Rulebook of this binding Incremental Capacity Procedure which in accordance with the Commission Regulation (EU) No. 459/2017 establishes general rules and conditions that network users must accept to participate and access capacity in the binding capacity allocation phase of the incremental capacity process. The rulebook has been approved by the Hungarian NRA, MEKH, in its ordinance No.: H1343/2020.

## GAS TRANSMISSION CAPACITY FROM HUNGARY TO AUSTRIA

FGSZ shall terminate this Incremental Capacity Procedure in case the economic test is unsuccessful. FGSZ carries out and initiates this Incremental Capacity Procedure based on the Decision.

### 2. Definitions

Words and expressions used in this document shall have the meanings stated below:

**“Bid”** shall mean the Network User’s offer for a binding commitment to book capacities at each individual auction related to an individual Offer Level.

**“Network User”** shall mean a legal entity that is eligible to participate both in FGSZ’s and GCA’s capacity auctions according to the relevant national regulations and the TSOs’ general terms and conditions.

**“Binding Incremental Capacity Procedure”** shall mean the binding Incremental Capacity Procedure according to the ACER decision No. 05/2019, based on which FGSZ allocate the Offered Capacity of the IP to Network Users on a binding basis.

**“Gas Day”** shall mean a time period of 24 hours, starting at 6.00 hours CET, on the day of transition to Central European Summer Time, the gas day shall be a time period of 23 hours and on the day of transition to Central European (Winter) Time, the gas day shall be a time period of 25 hours.

**“Indicative Reserve Price  $P_o$  (EUR/kWh/h/y)”** shall mean the sum of the related entry and exit fees at the IP applicable at the capacity allocation procedure as stipulated in Article 4.1. The fees payable to the TSOs shall be settled in the national currencies under the relevant contracts between the Network User and the TSO as annexed hereto.

**“Interconnection Point”** (hereinafter referred to as **“IP”**) shall mean the physical connection of the Hungarian and the Austrian national gas transmission system near Mosonmagyaróvár at the Hungarian/Austrian state border, the EIC of IP is 21Z000000000003C.

**“Offered Capacity”** shall mean the offer level, expressed in energy unit allocable per hour on the IP in direction from Hungary to Austria (IP Mosonmagyaróvár, EIC 21Z000000000003C) within the scope of the Binding Incremental Capacity Procedure, starting from the Target Commercial Operation Date. For avoidance of any doubt the Offered Capacity does not include 10% of the incremental capacity, which is dedicated for short-term bookings at IP Mosonmagyaróvár, EIC 21Z000000000003C.

## GAS TRANSMISSION CAPACITY FROM HUNGARY TO AUSTRIA

“**Price Decision**” the valid applicable tariff with its calculation mechanism set by the National Regulatory Authority.

“**Project**” shall mean the necessary evaluation, design development, construction, installation, financing, insuring, ownership, operation, repair, replacement, refurbishment, maintenance, expansion, and extension (including laterals) on the transmission network of relevant TSO’s necessary to make the Offered Capacity available. FGSZ shall publish aligned and up-to-date information concerning the progress of the project on its website.

“**RBP**” Regional Booking Platform is a platform solution for natural gas capacity auctions and capacity trade. Network Users and Parties perform their business transactions and the Incremental Capacity Procedure in the RBP Application, which is an internet-based client solution, accessible for the registered Network Users.

“**Successful Network User**” shall mean Network Users to whom capacity is allocated pursuant to Article Hiba! A hivatkozási forrás nem található..

“**Target Commercial Operation Date**” for yearly standard capacity products shall be 1<sup>st</sup> of October 2024.

“**Yearly Standard Capacity Product**” shall mean a capacity product, which may be applied for, in a given amount, by a network user for all Gas Days in a particular gas year starting on the 1<sup>st</sup> of October of a calendar year and ending on the 1<sup>st</sup> of October the following calendar year.

### **3. Binding Incremental Capacity Procedure**

A Binding Incremental Capacity Procedure is conducted by FGSZ in order to determine the binding market interest for natural gas transmission capacities established by the projects at the concerned IP.

#### **3.1. Purpose of the binding Incremental Capacity Procedure**

The main objective of the binding Incremental Capacity Procedure is to assess the binding market interest in natural gas transmission capacity on the basis of the received binding bids of the Network Users, based on the Decision and the special conditions set in the current Rulebook.

#### **3.2. Regulatory involvement, special conditions**

ACER obliged FGSZ to continue the HUAT incremental capacity project and carry out the economic test in accordance with the parameters and terms and conditions set out in its Decision. FGSZ disagrees with

## **GAS TRANSMISSION CAPACITY FROM HUNGARY TO AUSTRIA**

the Decision and submitted an action against it to the European Court of Justice claiming the annulment of this Decision, however - despite the pending lawsuit – the auction is to be implemented.

Nevertheless due to the current pandemic and the emergency phase announced by the Government Decree No. 40/2020 (III. 11.) caused by it and the resulting increased economic risks as well as the pending lawsuit against ACER before the European Court of Justice, FGSZ applies special conditions to cover the risks arisen.

Therefore, the following special contractual conditions are applied:

- i. special exit right (unilateral right of withdrawal / right of termination with the exclusion of liability for damages) stipulated in favor of FGSZ in case the European Court of Justice upholds the action of FGSZ or annuls the Decision for any reason;
- ii. FGSZ is entitled to unilaterally amend the capacity fee by modifying its “supplement” part stipulated in the present Rulebook to the justified (i.e. corresponding to the market values, proven and providing the return set in the Decision even if higher CAPEX occurs) extent approved by the Hungarian Energy and Public Utility Regulatory Authority (MEKH) for the following reasons:
  - a) in case of unfavorable changes in circumstances independent of FGSZ Zrt (unfavorable exchange rate volatility and significant price increases) based on the received suppliers’ and/or the construction offers the project can only be implemented more expensive than the CAPEX budget set out in the Decision, even with the contingency margin set by the Decision thus, the tariff stipulated in the Decision does not provide sufficient coverage for the return set out in the Decision, or;
  - b) compared to the return conditions included in the Decision the project can only be financed at a higher cost.
- iii. FGSZ is exempted from the liability for damages in case contractors cannot complete the project by the due deadline for a reason attributable to the pandemic caused by COVID-19 coronavirus, the emergency phase declared by the Hungarian Government Decree No. 40/2020 (III.11) and the resulting economic difficulties which results delay in the incremental capacities’ availability compared with the starting operational date (date of commissioning) set in the Decision (01.10.2024).

The applied special conditions of FGSZ concerning the procedure and respective contracts to be concluded are based on the approval H1343/2020. of MEKH.

### **3.3. Information Provision**

## GAS TRANSMISSION CAPACITY FROM HUNGARY TO AUSTRIA

The TSOs have taken all reasonable steps to ensure that the information regarding the Binding Incremental Capacity Procedure was correct at the time of publication. The TSOs cannot be held responsible for any misinterpretation or usage of the data contained in this document and they accept no liability of any kind for acts, consequences, losses, et cetera, arising from the information or from inaccuracy, incompleteness, or omissions in the contents of this publication.

### 3.4. Binding Incremental Capacity Procedure Overview

FGSZ shall offer the incremental capacity in accordance with the Decision in the annual yearly capacity auction as standard bundled products in ascending clock auctions according to Article 17 as a default and in accordance with Article 8(8) and (9) and Article 19 of Commission Regulation (EU) No. 459/2017.

*All deadlines are to be understood as 23:59 CET of the respective day. Deviating deadlines are marked accordingly.*

| Milestone  | Date (DD.MM.) in 2020                            |
|--|--|
| Announcement of the Binding Incremental Capacity Procedure   | 05.05.2020                                       |
| Network User registration for FGSZ at RBP platform   | 03.07.2020 (12:00 CET)                           |
| Bid submission starting date: Submission of Bids in RBP system according to Auction calendar   | 06.07. 2020. (09:00 CET)                         |
| Preliminary Results of Economic Test and information on binding commitments, if any (date subject to the closure of the capacity auctions)                                       | 07.07. 2020                                      |
| Final Results of the Economic Test subject to submission of Contractual Guarantees   | 10 working days from the closure of the auctions |
| <i>In case of positive Economic Test</i>   |  |
| FGSZ to accept the successful Bids in the RBP system and send the allocation result confirmation to Successful Network Users and inform Network Users about aggregate allocation | 10 working days from the closure of the auctions |
| <i>In case of negative Economic Test</i>   |  |
| FGSZ to inform Network Users about terminated Incremental Capacity Procedure   | 10 working days from the closure of the auctions |

### 3.5. Registration

#### Network User Registration process

There is no separate registration process associated with this incremental capacity booking procedure, only the standard registration process on RBP (see Operational Rules of RBP on FGSZ's website). Due to capacities being offered in a bundled incremental capacity allocation process, Network Users shall be eligible to book annual capacity products according to the prevailing rules and regulations and FGSZ's General Terms and Conditions (GTC 4.d) The precondition of the participation on the auction is to have a valid Network Usage Framework Contract in force.

## **GAS TRANSMISSION CAPACITY FROM HUNGARY TO AUSTRIA**

### **Bid submission in Incremental Capacity Auction**

Network Users shall submit their Bid or Bids in the **Incremental Capacity Auction** in RBP, according to the Decision by ACER No. 2019/05 and the current ICP Rulebook. Network Users shall submit the Bid or Bids by authorized person(s) within its organization on the Regional Booking Platform.

By submitting the Bid or Bids, the Network User agrees, accepts and acknowledges the HU-AT Rulebook as well as the contractual terms and conditions of FGSZ as well as the Operational Rules of the Regional Booking Platform.

All Bids submitted by the Network User are legally binding request for capacity booking, which in case of a positive economic test and acceptance by FGSZ are generating a contract according to Annex 3. of the present Rulebook between the Network User and FGSZ, regardless to the fact that the written signature of paper contract will be done retrospectively, after the receipt of the contractual guarantee. (The allocation result sent by RBP as Auction Result Confirmation is part of the FGSZ's contractual framework.) The allocation of capacities shall be subject and limited to the predefined conditionality as stipulated in the Decision.

The performance of the contracts for allocated capacities shall be subject to the predefined conditionality as stipulated in Article 3.2 of this Rulebook.

### **3.6. Data protection and Privacy**

FGSZ acknowledge that any data, information or notification to be prepared by Network Users to the binding Incremental Capacity Procedure that will be handed over shall be considered as confidential. FGSZ declares that such confidential information shall only be used in connection with the evaluation of the binding Incremental Capacity Procedure and shall not be disclosed to any third Party without written consent of the relevant Network User.

The obligation of non-disclosure shall not apply to information which:

- a) is in the public domain, or – due to a reason other than the act or omission of the receiving party – subsequently becomes publicly known, or
- b) was provably in the possession of the receiving party prior to disclosure by the relevant Network User, or
- c) the receiving party acquired from a third party who is not under a confidentiality obligation vis-à-vis the party concerned by such information, or



## **GAS TRANSMISSION CAPACITY FROM HUNGARY TO AUSTRIA**

- d) is to be made public or disclosed pursuant to the law, stock exchange regulation or authority order, to the extent such disclosure is legally required or
- e) is communicated to the relevant regulatory authorities for the purpose of evaluating the Incremental Capacity Procedure.

The eventual termination of the binding Incremental Capacity Procedure or the Project, for whatever reason, shall not affect the confidentiality obligation, which shall expire 3 years from the date of termination.

### **4. Allocation of Capacities**

Incremental capacities will be offered in a bundled way in the annual yearly auction to be held on 06<sup>th</sup> of July 2020 for 15 consecutive gas years starting from 01<sup>st</sup> October 2024 via RBP. The TSOs offer to allocate the following transmission capacities:

## GAS TRANSMISSION CAPACITY FROM HUNGARY TO AUSTRIA

### 4.1. Offered Capacity Products and Tariffs<sup>1</sup>

#### Flow Direction Hungary → Austria

| TSO   | FGSZ   | GCA <sup>2</sup>  |
|---|--|---|
| <b>Yearly Standard Capacity Product on a firm basis</b> | Yes  | Yes   |
| <b>Number of Offered Gas Years</b>                      | 15   | 15  |
| <b>Capacity Quality</b>                                 | Firm   | FZK (firm)  |
| <b>First Availability</b>                               | 1.10.2024  | 1.10.2024   |
| <b>Network Point Name</b>                               | Mosonmagyaróvár  | Mosonmagyaróvár   |
| <b>Entry/Exit</b>                                       | Exit   | Entry   |
| <b>EIC</b>  | 21Z0000000000003C  | 21Z0000000000003C   |
| <b>Minimum Bookable Capacity Unit (kWh/h/year)</b>      | 1  | 1   |
| <b>Reserve Price, for Offer Level I.</b>                | 631.25 HUF/kWh/h/y <sup>3</sup> + 3441.41 HUF/kWh/h/y (Reserve price based on the floating, regulated tariff + fixed supplement) | 0.77 EUR/kWh/h/y <sup>2</sup> + 1.40 EUR/kWh/h/y (Reserve price based on the floating, regulated tariff + fixed supplement) |
| <b>Reserve Price, for Offer Level II.</b>               | 631.25 HUF/kWh/h/y <sup>4</sup> + 2421.74 HUF/kWh/h/y (Reserve price based on the floating, regulated tariff + fixed supplement) | 0.77 EUR/kWh/h/y <sup>2</sup> + 1.27 EUR/kWh/h/y (Reserve price based on the floating, regulated tariff + fixed supplement) |
| <b>Volume based Price</b>                               | Payable upon the eventual usage of the capacity based on the regulated tariff  | N/A   |
| <b>Volume based Supplement Price</b>                    | N/A  | N/A   |

The clearing price is determined by using the above stipulated regulated capacity tariff + supplement, but the actual payable price will be calculated with the use of the prevailing regulated capacity tariff in the period of capacity usage – given that floating tariff-method is applicable, furthermore the supplement may be adjusted to the extent specified in MEKH's subsequent decision (see Article 3.2 above).

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<sup>1</sup> The parameters are set by ACER decision No. 2019/05. The parameters set for GCA are only for informative purposes. For further information on the capacity allocation process on the Austrian side please contact GCA.

<sup>2</sup> For information purposes only.

<sup>3</sup> The floating tariff is set by the Decision for the time of the auction. The payable floating tariff will be the actual floating tariff in Hungary, set by MEKH. Current value is 739.84 HUF/kWh/h/y

<sup>4</sup> The floating tariff is set by the Decision for the time of the auction. The payable floating tariff will be the actual floating tariff in Hungary, set by MEKH. Current value is 739.84 HUF/kWh/h/y

## GAS TRANSMISSION CAPACITY FROM HUNGARY TO AUSTRIA

### Offer Level I. (kWh/h/year)

| Gas year    | Offered Capacity at Interconnection Point (kWh/h/year) |
|-------------|--|
|             | Mosonmagyaróvár direction Hungary to Austria           |
| 2024 / 2025 | 5,740,470  |
| 2025 / 2026 | 5,740,470  |
| 2026 / 2027 | 5,740,470  |
| 2027 / 2028 | 5,740,470  |
| 2028 / 2029 | 5,740,470  |
| 2029 / 2030 | 5,740,470  |
| 2030 / 2031 | 5,740,470  |
| 2031 / 2032 | 5,740,470  |
| 2032 / 2033 | 5,740,470  |
| 2033 / 2034 | 5,740,470  |
| 2034 / 2035 | 5,740,470  |
| 2035 / 2036 | 5,740,470  |
| 2036 / 2037 | 5,740,470  |
| 2037 / 2038 | 5,740,470  |
| 2038 / 2039 | 5,740,470  |

### Offer Level II. (kWh/h/year)

| Gas year    | Offered Capacity Level at Interconnection Point (kWh/h/year) |
|-------------|--|
|             | IP Mosonmagyaróvár direction Hungary to Austria              |
| 2024 / 2025 | 10,007,100   |
| 2025 / 2026 | 10,007,100   |
| 2026 / 2027 | 10,007,100   |
| 2027 / 2028 | 10,007,100   |
| 2028 / 2029 | 10,007,100   |
| 2029 / 2030 | 10,007,100   |
| 2030 / 2031 | 10,007,100   |
| 2031 / 2032 | 10,007,100   |
| 2032 / 2033 | 10,007,100   |
| 2033 / 2034 | 10,007,100   |
| 2034 / 2035 | 10,007,100   |
| 2035 / 2036 | 10,007,100   |
| 2036 / 2037 | 10,007,100   |
| 2037 / 2038 | 10,007,100   |
| 2038 / 2039 | 10,007,100   |

### **4.2. Determination of Economic Viability**

The process of Economic Test and Bid submission and the conditions for a positive Economic Test to determine the economic viability for each individual TSO are described by the Decision.

## **5. Financial Guarantees**

### **5.1. Applicable Financial Guarantees of FGSZ Ltd.**

#### **Incremental Capacity Auction guarantee**

The Network User shall submit a financial security of HUF 70 million as auction guarantee to be able to participate in the incremental capacity auctions. This financial security provides the possibility to participate in all (i.e. all incremental and all non-incremental) yearly capacity auctions of FGSZ to be run on 6 July 2020.

#### **Contractual guarantee**

Within 8 (eight) days from the allocation of capacities, Successful Network Users must submit a financial guarantee relating to the contractual penalty for termination of contract due to a reason attributable to the Network User (for details see GTC 4.d). The submission of this financial guarantee is a precondition of entry into force of the Capacity Booking Contract. The amount of the financial security shall be 100% of the contractual value relating to the gas year involved with the highest capacity booking. The contractual value shall be determined by using the prevailing tariff and the appropriate price supplement.

#### **Guarantee for the capacity usage**

Financial guarantees for the usage of the capacity shall be provided in accordance with the provisions of the Business Code, General Terms and Conditions (GTC 4.d) under the provisions on contractual security related to network usage and Network Usage Framework Contract and Capacity Booking Contract concluded under Incremental Capacity Procedure of FGSZ (see in Annex 2. and 3).

## **6. Miscellaneous**

FGSZ reserves the right to ask for supplementary documents from any Network User, if required.

## **7. Annexes**

## **GAS TRANSMISSION CAPACITY FROM HUNGARY TO AUSTRIA**

The following Annexes form an integral part of the present Rulebook on Incremental Capacity Procedure and are published on the FGSZ's Website: [www.fgsz.hu](http://www.fgsz.hu) ;

- Annex 1. Decision (ACER Decision 05-2019 on HUAT\_1)
- Annex 2. (Business Code, General Terms and Conditions 4.d and Network Usage Framework Contract of FGSZ)
- Annex 3. HUAT sample Capacity Booking Contract concluded under Incremental Capacity Procedure of FGSZ