

Regulations regarding Podbeskidzie Region Capacity Facilitation Procedure

18 September 2009

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1. GENERAL INFORMATION

With the publication of these Regulations, Gaz-System shall open the Podbeskidzie Region Capacity Facilitation Procedure to:

- enable the development of the natural gas market in Poland;
- increase gas delivery security by mean of construction of new interconnections with the RWE Transgas Net gas transmission systems in the Czech Republic;
- do research and confirm demand for transmission capacity demand among potential transmission system users;
- conclude long-term gas transmission contracts.

The Podbeskidzie Region Capacity Facilitation Procedure shall constitute a tool to assess the market demand for transmission capacity. Its effective implementation will constitute the basis for plans of development of the interconnectors. It can also satisfy reasonable needs for economic background information necessary for making investment decisions regarding the construction of a new gas infrastructure. At the same time it secures gas supplies for customers in Poland and strengthening the level of integration with the systems of other countries in the European Union Member States by mean of diversification of supply provides.

1.1. INFORMATION ON THE GAZ-SYSTEM COMPANY

Gaz-System was established on 16th April 2004, as PGNiG – Przesył Sp. z o.o. - 100% of the Company shares was acquired by Polskie Górnictwo Naftowe i Gazownictwo S.A. (PGNiG) at the same time. Since then the Company has been controlling transport of natural gas via gas transmission pipelines throughout Poland.

On 28th April 2005, PGNiG contributed on all the PGNiG – Przesył Sp. z o.o. shares to the State Treasury. The separation of activity connected with the transmission of natural gas from the PGNiG structures resulted from the provisions of the Gas Directive 2003/55/EC adopted on 26th June 2003 by the European Parliament and of the Council concerning common rules for the internal market in natural *gas* (hereinafter referred to as the 'Gas Directive'), which required gas companies to separate the function of transmission of gas from turnover and constitutes equal rights for other entrepreneurs to benefit from the transmission network on an equal basis (TPA – Third Party Access Regime).

As a result of this process, PGNiG – Przesył Sp. z o.o. became one of the first European Companies compliant with European Union Directives as regards real independence of the transmission by mean of the separation from the ownership rights. By virtue of the Decision of the President of the Energy Regulatory Office of 30th June 2004 the Company was granted a concession for the transmission and distribution of gas.

On 8th June 2005, the Shareholders Assembly decided to change the name of the Company from PGNiG – Przesył Sp. z o.o. to The Gas Transmission Operator Gaz-System Sp. z o. o. On 1th July 2005, the President of the Energy Regulatory Office issued a Decision by virtue of which the Company granted the status of a gas transmission operator.

On 29th September 2006 the Company was transformed from a limited liability company to a joint stock company. Gaz-System is a joint stock company and the only shareholder of it is the State Treasury. It became the strategic entrepreneur for the Polish economy responsible for the security of natural gas supplies through transmission networks. The amount of share capital of the Company amounts to 3,019,393,716 PLN. Whereas the Company's revenue and net income in the 2008/2009 financial year ending 30th April 2009 amounted to 1,382 mln PLN and 288 mln PLN, respectively.

1.2. LEGAL GROUNDS

These Regulations determine the principles for conducting the Procedure as well as the rights and obligations of the parties participating in the procedure. The legal grounds for conducting the Procedure shall be laid down by the provisions of the Energy Law Act of 10th April 1997, (Unified text, Journal of Laws of 2006, No. 89, item 626 No. 104, item 708, No. 158, item 1123, No. 170, item 1217, 2005, No. 62, item 552, 2007, No. 21, item 124, No. 04, item 07, No. 52, item 343, No. 06, item 24, No. 115, item 790, No. 130, item 905, 2008, No. 01, item 01, No. 180, item 1112) and the provisions of the Regulation (EC) No. 1775/2005 of the European Parliament and of the Council of 28 September 2005 on conditions for access to the national gas transmission networks (OJ L EU L, 3.11.2005). These Regulations should ensure for Procedure transparency and non-discriminatory (equal) treatment of all its Participants.

The specimen gas transmission contract appended to the Regulations is only a draft version thereof. The final wording of the contract is subject to change, particularly in case of any amendments of acts of law before the Contract is signed or legitimate administrative decisions being issued in relation to Gaz-System S.A. The provisions of the TNC and the tariffs established pursuant to the binding provisions of the law shall be applied to the contracts concluded under the Procedure.

1.3. DEFINITIONS

- 1.3.1. Participant – every entity that has been registered by Gaz-System as a participant in the Podbeskidzie Region Capacity Facilitation Procedure.
- 1.3.2. Gaz-System – the company under the name of The Gas Transmission Operator Gaz-System S.A. with its registered office in Warsaw, Poland.
- 1.3.3. Technical capacity – maximum firm capacity of the interconnector within which Gaz-System can perform gas transmission services, defined for each of the investment projects in point 2 of the Regulations.
- 1.3.4. TNC – rules that govern the process of natural gas transmission established pursuant to the absolutely binding acts of law. On the day of announcement of the Podbeskidzie Region Capacity Facilitation Procedure, Gaz-System shall implement the Transmission Network Code of the Gas Transmission Operator Gaz-System S.A., which constitutes Appendix No. 4 to these Regulations.
- 1.3.5. Investment project/interconnector – interconnector gas pipeline with technical parameters stipulated in point 2 of these Regulations, located in Poland to the Olza river, the performance of which shall take place as a result of concluded gas transmission contracts within the said Podbeskidzie Region Capacity Facilitation Procedure.
- 1.3.6. Firm contracted capacity – Maximum hourly quantity of gas that can be delivered to or off taken from an interconnector entry/exit point under regular conditions, that shall be binding at the same rate throughout the entire period of the contract concluded under the Podbeskidzie Region Capacity Facilitation Procedure.
- 1.3.7. Interrupted contracted capacity – Maximum hourly quantity of gas that can be delivered to or off taken from an interconnector entry/exit point under regular conditions, that shall be binding at the same rate throughout the entire period of the contract concluded under the Podbeskidzie Region Capacity Facilitation Procedure and that can be limited by Gaz-System pursuant to the Regulations, Contract and the tariff.
- 1.3.8. Tariff - a list of prices and payment rates along with the rules on applying them by Gaz-System and binding for the appropriate recipients. On the day of the announcement of the Podbeskidzie Region Capacity Facilitation Procedure, Gaz-

System applies the Tariff No. 3 approved by the Chairman of ERO, which constitutes Appendix No. 5 to these Regulations.

- 1.3.9. Procedure - the Podbeskidzie Region Capacity Facilitation Procedure described herein.
- 1.3.10. Regulations - this document, containing the rules of facilitating capacity in the Podbeskidzie region with Appendices.
- 1.3.11. Contract - concluded pursuant to the Procedure contract regarding the performance of gas transmission services, within the framework of which the investment project shall be realized.
- 1.3.12. Nm³ (normal cubic meter) - one cubic meter of gas i normal reference conditions, i.e. at an absolute pressure of 101.325 kPa and a temperature of 273.15 K.

1.4. PROCEDURE SCHEDULE

The Procedure shall be conducted according to the following schedule:

PROCEDURE SCHEDULE	18 September 2009	- Commencement of the Procedure, publication of the Regulations of the Procedure – invitation to send bids.
	19 October 2009	- Submission of binding bids.
	19 - 25 October 2009	- Bid (offer) analysis, notices to complete missing information in submitted bids
	26 October 2009	- Capacity allocation. Announcement of results of the Procedure. Dispatch of an information regarding the allocated capacity.
	27 - 30 October 2009	- Confirmation of acceptance of the allocated capacity by the Participants.
	2 November 2009	- Dispatch of gas transmission contract drafts.
	3 - 9 November 2009	- Presentation of signed contracts by the Participants.
	10 November 2009	- Concluding a contract between Gaz-System and RWE Transgas Net regarding the Podbeskidzie region investment and acquisition of confirmation from RWE Transgas Net regarding the investment realization.
	16 November 2009	- Concluding contracts regarding gas transmission services with the Participants by Gaz-System.

The above Procedure schedule is coordinated with the Czech territory capacity allocation procedure schedule, conducted simultaneously by RWE Transgas Net.

2. INVESTMENT PROJECT DESCRIPTION

The subject of the Procedure is the performed by Gaz-System investment project regarding the construction of the gas transmission pipeline from the Polish-Czech border in the vicinity of Cieszyn, where a new domestic system entry point to the Skoczów region localization is being planned. This Polish-Czech border area pipeline shall interconnect with the RWE Transgas Net

pipeline, running from the border to the system entry point in the Czech Republic. In order for the services to be provided, this fragment of the pipeline has to be performed by RWE Transgas Net.

On the basis of the current assumptions, the predicted interconnection system in Poland to the Olza river realization date by Gaz-System is to the end of 2010. The construction and commissioning of the pipeline running through the Polish-Czech border under the bed of the river Olza requires RWE Transgas Net to acquire a construction permit due to this fact, the actual interconnection system commissioning date shall depend on RWE Transgas Net's project completion date.



Detailed information regarding the investment project and available contracted capacities can be found below.

Pipeline parameters

DN 500 mm
 P= 6.3 MPa
 L= approx. 22 km (on the Polish side)

Interconnection system commissioning date

The planned Pipeline construction completion date is January 1, 2011.

Available capacity

Currently, because of technical restrictions, only gas transmission from the Czech Republic to Poland is planned, however, due to the examined capacity limitations and the specifications of the pipeline gas transmission on Czech area, the capacity in the Polish direction shall be as shown below.

Summertime (01.05. – 30.09.)

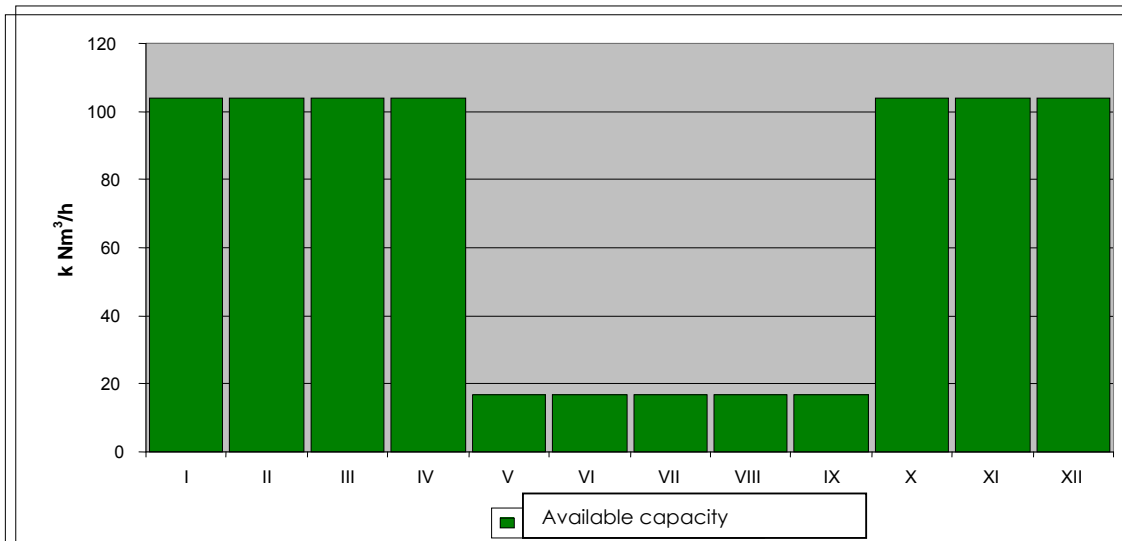
Available capacity 15.8 k Nm³/h or 0.38 mln Nm³/d (which corresponds to 0.407 mln Nm³/d in the RWE Transgas Net's transmission system), with a min. pressure at the new entry point of 2.65 MPa.

Wintertime (01.10. – 30.04.)

Available capacity 104 k Nm³/h or 2.5 mln Nm³/d (which corresponds to 2.680 mln Nm³/d in the RWE Transgas Net's transmission system), with a min. pressure at the new entry point of 4.50 MPa.

The total annual amount of gas transmitted, for the available capacity is approx. 500 mln Nm³/year, which corresponds to approx. 530 mln m³/year in the RWE Transgas Net's transmission system.

Because of different methods of determining the nominal gas cubic meter used by Gaz-System's (reference temperature - 273.15 K) and RWE Transgas Net's (reference temperature - 293.15 K) transmission systems, the values used in RWE Transgas Net's transmission system are shown in brackets. These values correspond to the similar values used in Gaz-System's transmission system and are only expressed in different reference conditions.



In emergency situations (e.g. gas deficiencies in the Czech Republic), the Czech gas system may be supported by transmitting the gas from the Polish direction. In such situations, the estimated gas pressure at the interconnection points is approx. 1.7 MPa: in the summertime - up to 67 k Nm³/h (approx. 1.6 mln Nm³/d) and in the wintertime - 40 k Nm³/h (approx. 1.0 mln Nm³/d). However, due to the faulty and periodic character of capacity facilitating in the Czech direction, it is not the subject of the current Procedure.

Within the framework of the Procedure, the capacity has been facilitated at the entry point in Poland in the vicinity of Cieszyn. Gaz-System would strongly like to point out, however, that the gas transmission services Contract concluded pursuant to this Procedure shall apply to the E group high-methane gas transmission system located in Poland.

RWE Transgas Net - the Czech transmission system operator is currently performing the capacity facilitating procedure regarding the developed exit point in the vicinity of Cieszyn (interconnection with the Polish part of the Pipeline in the Podbeskidzie region). According to the agreed schedule, the procedure shall be completed (contracts shall be concluded) by the date specified in point 1.4 of these Regulations. The schedule and development plan information are available at www.rwe-transgasnet.cz.

Gaz-System shall not be liable in any circumstances for the lack or the scope of the transmission infrastructure development within the RWE Transgas Net system or the inability to perform gas transmission services "from" or "to" the RWE Transgaz Net transmission system.

3. PROCEDURE STRUCTURE

3.1. DECLARATION OF PARTICIPATION IN THE PROCEDURE

The declaration of participation in the Procedure shall be viable only if submitted on the sheet available on the Gaz-System website.

The binding order form shall encompass:

1. details of the undertaking intending to participate, including contact information: fax and e-mail address;
2. security deposit proof;
3. transmission system exit point (exit points),
4. requested firm contracted capacity in Nm³/h for each entry and exit point (exit points):
 - a. firm contracted capacity;
 - b. interrupted contracted capacity;
5. contract period pursuant to the terms found in the Regulations.

The undertaking interested in participating in the Procedure is required to indicate the mandatory rules of law pertaining to that undertaking which Gaz-System shall have to apply in order to effectively conclude a gas transmission contract, for instance, the provisions of Public Procurement Law. In particular the appropriate procedure for signing the contract as well as the documents that Gaz-System should provide to conclude the contract with the said undertaking should in particular be specified. This does not bind Gaz-System to fulfil the requirements indicated by the undertaking intending to participate in the Procedure. Gaz-System shall undertake action for the Procedure Participant to fulfil the law applicable. However, this shall by no means cause any changes to the manner of conducting this Procedure, including the rules for allocation of transmission capacity or in the terms and conditions of the gas transmission contract.

Should Gaz-System cannot fulfil the conditions stipulated by the undertaking intending to participate in the Procedure, Gaz-System shall notify the said undertaking of this fact in writing and the undertaking intending to participate in the Procedure retains the right to withdraw from participation in the Procedure within a term of 2 days from the date of receipt of the notification from Gaz-System. Gaz-System retains the right to **exclude** a Participant from the Procedure should, due to the specific legal provisions applicable it is impossible to conclude an effective gas transmission contract under the conditions specified in these Regulations.

Only the bid (sheet) signed by persons authorised to represent the given undertaking shall constitute the grounds for submitting the intent of participation in the Procedure. The right of the persons signing the form to represent the given undertaking should be demonstrated in the form of an appendix entailing a duplicate from the proper register or powers of attorney or true copies. Furthermore, the following should be attached to the application form:

1. a certified true copy of the original license or license promise for the trade, distribution or transmission of gas or a declaration that the license will be provided within 30 days before the commencement of the provision of transmission services or a declaration signed by the Management Board (persons empowered for representation) of the undertaking intending to participate in the Procedure, that the activities thereof do not require any licences;
2. current excerpt from the register of business activity or a relevant register confirming legal personality or legal capacity of the Participant;
3. document confirming issue of tax identification number (NIP);
4. certificate of issue of a REGON statistical number - applicable to undertakings conducting economic activity within the territory of the Republic of Poland;

5. a certified true copy of the last financial statement of the undertaking audited by a chartered auditor.

The application form and any documents, letters and declarations attached thereto shall be drawn up in the Polish or English language.

By signing the form, the undertaking intending to participate in the Procedure accepts the conditions of participation in the Procedure and the rules of conducting it specified in these Regulations, in particular the following:

1. confidentiality;
2. capacity allocation;
3. conclusion of the gas transmission contract.

and submits an arbitration clause according to the rules set forth in point 6 of the Regulations.

The bid shall constitute a binding offer for concluding a gas transmission contract. The offer shall be binding until the day of the announcement of the Procedure completion by Gaz-System and concluding a gas transmission contract, but no later than 28 February 2010.

3.2. VERIFICATION OF PARTICIPANT'S CREDITWORTHINESS

The Participant shall at all times during in the course of the Procedure fulfil the creditworthiness requirement. Within the Procedure, a verification of the creditworthiness of the undertaking applying to take part in the Procedure shall be conducted on the grounds of the latest audited financial statement of the undertaking performed by a chartered auditor.

An undertaking that has suspended the performance of payments, in relation to which winding-up or bankruptcy proceedings have been instituted, or in relation to which liquidation proceedings have been opened cannot participate in the Procedure.

If Participant has a low creditworthiness rating (low or inadequate own capital, low liquidity, reservations held by chartered auditor, etc.) Gaz-System has the right to:

- Require additional collateral eq. banking guarantees, letter of indemnity third party or shareholder guarantee, or
- Refuse to consider such an undertaking or Participant fit for the Procedure.

3.3. SECURITY

The undertaking entities need to deposit a security for the gas transmission services contract on terms specified in the Regulations. The security is made in cash in PLN or in the form of a bank or insurance guarantee in the amount of ¼ of the average annual financial obligations of the Participant, resulting from the entry point contracted capacity specified in the bid and fixed payment rates specified in Gaz-System's Tariff No. 3.

The security amount shall be calculated in the following way:

$$W = \frac{1}{4} * S * 24 * 365 * (M_{pc} + M_{pp} * 0,65)$$

W – security amount

S – fixed payment rate for every billing period hour [zł/(m³/h)/h] resulting from point 4.3.1 of the Operator Gazociągów Przesyłowych GAZ-SYSTEM S.A.'s Tariff no. 3, (for the given tariff group specified in point 3.1.2. of the Tariff) assuming, that the place of deliver is, according to Gaz-System's Tariff no. 3 the entry point in the vicinity of Cieszyn, taking into consideration the contracted capacity at the entry point specified in the bid.

Mpc – firm contracted capacity at the entry point resulting from the bid [Nm³/h],

Mpp – interrupted contracted capacity at the entry point resulting from the bid [Nm³/h],

0.65 – correction coefficient for interrupted contracts, resulting from point 9.4.6 of Operator Gazociągów Przesyłowych GAZ-SYSTEM S.A.'s Tariff no. 3.

The security has to be deposited in PLN prior to making the bid to the following Gaz-System bank account no. 94 1140 1977 0000 5803 0100 1031, BRE Bank S.A. entitled "Procedura udostępnienia przepustowości w rejonie Podbeskidzia".

The security can also be made in the form of a bank or insurance guarantee, found in Appendix 2 to these Regulations. The bank guarantee has to be issued by a financial institution with a rating starting from "A", of any of the following Agencies: Moody's, Standard&Poor or Fitch. The guarantee shall be valid throughout the whole period of conducting the Procedure until the day of concluding the gas transmission contract. The guarantee shall be valid until February 28, 2010. The bank (insurance) guarantee shall be issued in Polish and shall be subject to the Polish law.

Bids without a proper security issued shall no be subject to analysis within the framework of the Procedure.

Gaz-System shall be entitled to request from the Participant and execute the bank guarantee in the full amount if the Participant fails to fulfil its obligations resulting from the submitted binding offer, particularly in the following situations:

1. failure to confirm the allocated capacity by the Participant pursuant to the terms set forth in point 3.6, or
2. failure to conclude by the Participant a gas transmission contract for a definite term in the Offer when Gaz-System allocated contracted capacity to the Participant in the amount equal to or smaller than no more than 10% in relation to the capacity requested thereby in the binding bid (offer) (in case of a correction made by Gaz-System pursuant to the provisions set forth in point 3.5, the contracted capacity is understood as the capacity specified by Gaz-System),
3. instituting rehabilitation proceedings of the Participant, submitting a bankruptcy petition of the Participant or commencement of the winding up of the Participant.

The security is returned in the following situations:

- the Participant withdraws his bid before the bid submission deadline.
- excluding the Participant pursuant to terms set forth in point 3.1 of the Regulations,
- termination of the Procedure by Gaz-System without concluding gas transmission contracts, having the Company good interest in mind, should the Company fail to acquire corporate permits to conclude the gas transmission contracts or fail to sign a contract with RWE Transgas Net regarding the Podbeskidzie region investment realization.

3.4. REGISTRATION OF PARTICIPANTS

The fulfilled form and appendices (bids) shall be submitted to Gaz-System to the address of the Company headquarters, stipulated in point 7 of these Regulations of the Procedure by 19 October 2009, at 5:00 p.m. Applications submitted after this date shall not be considered in the Procedure.

The Participant may change the registration details by submitting a new form (binding bid) by 5:00 p.m. on 19 October 2009. The new binding bid shall replace the entire previous bid of

the Participant and all the information attached to the previous bid shall be disregarded. Hence, the new binding bid form should be completed in full.

Should the form lack any information or contain errors, especially if not all necessary information or documents have been included, Gaz-System shall call on the participant to supplement the information, no later than within 2 days from receiving the notice. The notice shall be sent via fax or e-mail to the fax no. and e-mail address specified in the form. The information shall be deemed supplemented if the reply to Gaz-System's notice shall be delivered to Gaz-System's offices' address within the specified deadline and shall contain all the requested informations and documents. Failing to do so shall result in Gaz-System assuming the Participant did not made a bid to participate in the procedure.

Gaz-System shall send confirmation of receipt of the bid to the e-mail address and fax no. provided by the Participant on the form. Gaz-System shall register the Participant or refuse registration within 2 working days from the date of receipt of a correctly completed form, to which the required documents have been attached (bid).Gaz-System shall immediately inform the Participant of its decision.

Should the Participant during the course of the Procedure fail to fulfil the conditions specified in this Regulations, particularly in case of the lack of creditworthiness, the Participant shall be excluded from the Procedure. Should the Participant fail to inform of any circumstances effecting its legal situation, including its creditworthiness analysed according to the registration procedure, Gaz-System has the right to exclude the Participant from the Procedure. Prior to excluding a Participant, Gaz-System shall send to the Participant in writing request for clarification. Should the clarifications of the Participant prove to be unreliable or the Participant shall fail to submit clarifications within the deadline specified by Gaz-System, Gaz-System may exclude the Participant. The excluded Participant shall not be eligible to take part in the procedure and its bids shall not be taken into consideration and no capacity shall be allocated.

3.5. BID

The subject of the Procedure is to conclude contracts for the performance of gas transmission services from the entry point located in Poland in the vicinity of Cieszyn to the flow system exit points administered by Gaz-System, specified in the exit points catalogue found on the www.gaz-system.pl website under "Transmission" tab.

Each Participant is entitled to make one bid.

Gaz-System allows making bids for a minimum period of 4 years, but no longer than 15 full years. The bid validity period shall begin on the day specified as the day of the completion of the interconnection, specified in point 2 of the Regulations.

The available Gaz-System transmission system exit points capacity can be calculated on the basis of information provided on the www.gaz-system.pl website, under "Transmission" tab. Moreover, pursuant to an application, submitted by the entity wanting to take part in the Procedure no later than 12.10.2009, Gaz-System shall within 4 working days confirm the amount of capacity at the specified Gaz-System transmission system exit points.

The exit points capacity allocation shall be made according to terms set forth in part I of TNC, especially points 6.1.4.1, 6.4.1, 6.4.2 and 6.4.6.

Participants may indicate as their desired exit points, the gas delivery points, where they get their gas delivered pursuant to contracts regarding gas transmission services or those, which Gaz-System accepted pursuant to submitted applications for the performance of

transmission services or concluded contracts regarding interconnection to the existing transmission network. In such case, Gaz-System shall give priority to the bid (offer) made by the Participant ahead of the contracts or applications, mentioned in point 6.4.1 of part I of TNC.

If the contracted exit point capacity specified in the bid cannot be allocated due to a lack of free capacity, the entry point capacity specified in the offer shall be corrected to match the capacity at the exit point. In such case, the allocation procedure shall include the contracted capacity determined by Gaz-System pursuant to the above-mentioned rules. Gaz-System shall immediately inform the Participant of the correction.

The bid must include a matching (identical) entry point/exit point (exit points) contracted capacity for the whole duration of the gas transmission contract. Within the framework of the Procedure, the Participant may make a bid for 100% of capacity (contracted capacity) at the entry point in the vicinity of Cieszyn by making a bid for:

- firm contracted capacity only - max. 15.8 k Nm³/h, or
- interrupted contracted capacity only - max. 88.2 k Nm³/h, or
- firm and interrupted contracted capacity pack - max. 15.8 k Nm³/h for firm contracted capacity and 88.2 k Nm³/h for interrupted contracted capacity.

Pursuant to point 9.3.3 of the Tariff *"for a given gas delivery point, the Shipper may conclude both a firm and interrupted contracted capacity contract. In case of firm contracted capacity, the capacity is not subject to limitations specified in point 9.3.15"*.

The bid cannot, however, include a interrupted gas transmission service to the exit points, where gas for the sole purpose of the customers, mentioned in Art. 4 Par. 2 Point 2 of the Prime Minister's Decree from 19 September 2007 regarding the regulations for introducing natural gas transmission limitations (Dz.U. Nr 178, poz. 1252), i.e. household recipients, is being delivered.

Within the framework of this Procedure, for the entry point located in Poland in the vicinity of Cieszyn, an interrupted contracted capacity is facilitated on the 4th (lowest) level of certainty of supplies. The gas transmission limitations can be introduced from 1 May to 30 September. In case of capacity limitations at the exit points not included in the bid, the level of certainty of supplies and the rules for introducing transmission limitations for interrupted services contracts shall be established individually.

The revenue rate, discounted by Gaz-System's Weighted Average Cost of Capital rate, generated by a given Contract (bid), constituting the base for commercial capacity allocation, shall be established on the basis of the total revenue generated within the bid for firm and interrupted contracted capacity. Gaz-System's income generated by a given transmission services contract (bid) shall be determined on the basis of fixed fees resulting from Gas Transmission Operator GAZ-SYSTEM S.A. Tariff No. 3, considering the delivery point being the exit point within the vicinity of Cieszyn and the contracted capacity is a value specified in the order for this specific exit point. In case of a correction made by Gaz-System to the contracted capacity specified in the bid, pursuant to provisions found in this point, the basis for establishing discount revenue amount shall be the capacity established by Gaz-System.

3.6. CAPACITY ALLOCATION

Within the framework of the Procedure, Gaz-System shall allocate the available contracted capacity (capacity allocation) to the Participants. If the amount of requested contracted capacity shall exceed in any year of operation of the interconnector 100% of the maximum technical capacity at the entry point, Gaz-System shall allocate the available contracted

capacity (capacity allocation). Gaz-System declares that in allocating the contracted capacity it shall strive to ensure the following:

- performance of the investment project;
- long-term investment security;
- economic effectiveness of the investment;
- access to the interconnector for largest possible number of undertakings.

The ultimate goals of the capacity allocation procedure at the entry point are the following practical rules, according to which the allocation procedure has been specified:

- duration of the contract – long-term contracts are preferred;
- the amount of the requested contracted capacity – bids for bigger contracted capacity are preferred,
- the full continuous use of the contracted capacity - the firm contracted capacity shall be allocated first and only after it has been used - the interrupted contracted capacity.

Gaz-System shall reduce the requested contracted capacity in the capacity allocation process so that their total shall not exceed 100% of the technical capacity facilitated within the framework of the Procedure at the entry point. That is why the capacity allocated to the given Participant may differ in subsequent years of the validity of the gas transmission services contract.

In the case of capacity allocation between the Participants that submitted long-term bids with varying duration and varying contracted capacity, the decisive factor in capacity allocation shall be the discounted value of revenue generated by the contract in consideration of the size, duration and term of the contract and the type of contracted capacity. The revenue generated by the contract shall be calculated, assuming the delivery point, as understood by Gaz-System's Tariff No. 3, is the entry point in the vicinity of Cieszyn and its allocated contracted capacities.

If realization of all bids in any year the interconnection is being used is not possible, the allocation of the contracted capacity at the entry point shall take place in the following manner:

1. the reduction of all the requested contracted capacity **proportionally, however no more than 10%** in relation to the amount specified in the bid; the interrupted contracted capacity shall be reduced as first;
2. if, despite the implementation of the reduction specified in point 1, the fulfilment of all the requests shall not be possible, the contracted capacity shall not be allocated to the Participant whose bid generates the smallest discounted value of revenue;
3. if, despite undertaking the actions specified in point 2 it shall not be possible to fulfil all the remaining binding bids, Gaz-System shall implement a reduction in all the remaining requests for contracted capacity proportionally, however, no greater than 10% in relation to the amount specified in the bid; the interrupted contracted capacity shall be reduced as first;
4. if, despite undertaking the actions specified in point 3 it shall not be possible to fulfil the remaining requests, the actions outlined in points 1 to 3 shall respectively be implemented until it's possible to allocate contracted capacity in relation to the said bids, so as to guarantee performing the investment project;

If, as a result of the actions described above, Gaz-System will be incapable of allocating contracted capacity so as to guarantee 100% of the allocated within the framework of the Procedure entry point capacity, or two or more of the bids shall generate the same amount of discounted value of revenue, Gaz-System shall implement the following instruments:

- reduce the contracted capacities **proportionally** to the amount specified in the bid,
- undertake bi- and multilateral negotiations.

While performing the capacity allocation for exit points specified in the bid, Gaz-System shall apply the regulations of points 6.1.4.1, 6.4.1, 6.4.2 and 6.4.6 of part I of TNC.

If, as a result of capacity allocation performed pursuant to the described-above terms, some unallocated firm contracted capacity remains, Gas-System shall divide it proportionally between the Participants, who had their interrupted contracted capacity allocated in relation to the amount of contracted capacity ordered by them. Gaz-System shall try to secure the full usage of firm contracted capacity.

Gaz-System shall inform the Participants of the Procedure of the allocations, on the assumption that all bids made for the Procedure shall be retained.

The Participants, who made their bids are obliged to confirm their allocations and to sign the gas transmission contract, should the allocated capacity be equal or less than 10% of the contracted capacity. In case Gaz-System corrects the contracted capacity specified in the bid, pursuant to the provisions set forth in point 3.5 of the Regulations, the contracted capacity is understood as the capacity specified by Gaz-System in those provisions. In case of a lack of confirmation, Gaz-System shall be entitled to keep the security deposited by the Participant or cash his bank (insurance) guarantee in its full amount.

Should any of the Participants fail to confirm the allocated capacity (contracted capacity), on the basis of the amount of confirmations received, Gaz-System may offer additional contracted capacity and make another bid within the deadline specified by Gaz-System to those Participants, whose allocated capacity got reduced.

In case additional bids are made, Gaz-System shall repeat the allocation procedure according to the provisions of this point of the Regulations.

In case a Participant is excluded, does not get any capacity allocated or the procedure is annulled, Gaz-System informs the participants and the Chairman of ERO pursuant to Art. 4 of the Energy Law Act, giving reasons for such decision.

3.7. TARIFFS AND TRANSMISSION RELATED COSTS

The fees for the performance of gas transmission services rendered under contracts concluded within the Procedure shall be calculated according to the binding tariff and TNC at the time given.

The tariff rates shall be calculated pursuant to the binding provisions of the law at the time given.

The Participants in the Procedure accept that the price of transmission services may be unilaterally established by Gaz-System or a special purpose vehicle established to perform and operate the interconnector according to the principles specified in the Regulations and become a part of the gas transmission contract in the moment of announcement and delivery of the tariff to the Shipper.

If a gas transmission contract is concluded and the Participant fails to use the gas transmission service for reasons of the Participant, particularly due to insufficient capacity of the storage facility and/or no capacity in interconnecting systems, the Participant shall be required to pay fee pursuant to the tariff.

Fees not included in the tariff shall be calculated according to the principles stipulated in the TNC. On the day of announcement the Procedure, Gaz-System shall apply the Transmission

Network Code of the Gaz-System, which shall constitute Appendix No. 4 to these Regulations. Pursuant to the provisions of the TNC approved by the President of the ERO, Gaz-System is entitled to collect fees on account of the balancing of the transmission system and system congestion management.

3.8.METHODOLOGY OF CALCULATING TARIFF RATES

3.8.1 Tariff system currently applied in Poland

Pursuant to the provisions of the Energy Law Act of 10 April 1997 and the Ordinance of the Minister of Economy of 6 February 2008 concerning detailed principles of setting and calculating tariffs and the principles of settlement in trade in gas, tariffs shall be calculated in a manner that ensures:

- covering justified costs within the scope set out in Article 45 of the Act - Energy Law;
- protecting the customer's interest against unreasonable price levels;
- eliminating cross-subsidising.

The rates of transmission fees are calculated based on:

- justified costs, broken down into fixed and variable costs (wherein a portion of the fixed costs shall be recovered within variable charges);
- contracted capacity for the tariff duration and planned gas transmission volumes.

Justified costs include the costs of transmission activity, including in particular:

- costs by category (within the meaning of the Accounting Act), i.e.:
 - materials and energy (including gas purchased to meet Gaz-System's own consumption and imbalance deviations);
 - external services (including repairs and maintenance, lease of storage capacities for the requirements of Gaz-System);
 - taxes and charges;
 - payroll;
 - employee benefits;
 - depreciation;
 - other;
- justified return on capital employed in the transmission activity.

Justified costs for calculation of prices and rates are planned by the energy company, and then validated by the President of the Energy Regulatory Office (URE) at the tariff application approval stage.

The binding tariff system is a group tariff system within which fees are collected solely on exit points depending on the amount of contracted capacity ordered.

Fixed, variable and subscription fee costs are determined by Gaz-System for individual tariff groups according to the cost allocation rules adopted by the Company and approved by the President of the Energy Regulatory Office, remaining unchanged for a given tariff period.

Pursuant to the currently binding law, the tariffs are approved for yearly periods and ensure coverage of justified costs of conducting business activity (including asset amortisation) as well as justified return on capital employed in transmission activity.

3.8.2 Justified return on capital employed in transmission activity

The return on capital employed taken into consideration in the tariff is established on the basis of the weighted average cost of capital (WACC). The WACC is approved by the President of the Energy Regulatory Office.

The basic specifications harnessed in calculating the WACC that were adopted under the decision of the President of the Energy Regulatory Office constitute, on the day of announcing these Tariff Regulations:

- risk free rate of return R_f – 5.606%;
- premium for shareholders equity ($R_m - R_f$) – 4.64%;
- beta coefficient β_e – 0.286 corresponding to asset beta on a level of 0.2;
- loan on capital premium - 1%.

The Regulatory Asset Base in the meaning of the net value of fixed assets involved in transmission activity and the net working capital of Gaz-System was subject to compensation.

3.8.3 Tariff structure

In the moment of publishing these Regulations, the following charges are imposed at transmission system exit points:

- fixed charge (depending on the contracted capacity);
- variable charge (depending on the volume of gas transmitted);
- subscription fee.

The subscription fee has been determined on the basis of the justified cost of sale to the Customer, including in particular: the reading of metering systems, issuing invoices, calculating and charging payments due for the gas delivered, as well as activities related to inspection of metering systems, adhering to contractual terms and observing the correctness of settlements.

3.8.4 Planned Tariff structure changes

Pursuant to the new European Parliament and Council Decree No. 715/2009 regarding natural gas transmission networks access, repealing the Decree No. 1775/2005, introducing the obligation to use entry-exit tariffs, Gaz-System plans to develop a tariff, in which the gas transmission charges shall be calculated and collected separately for the transmission system's entry and exit points. According to Art. 13 of the said Decree, entry-exit tariffs shall be introduced from March 3, 2011.

3.9. SIGNING OF CONTRACTS

The Participants of the Procedure that shall be allocated contracted capacity equal to or smaller by no more than 10% in relation to the contracted capacity specified in the binding bid (offer) shall be required to sign the gas transmission contracts provided to them by Gaz-System. Should Gaz-System correct the contracted capacity specified in the bid, pursuant to regulations set forth in point 3.5 of the Regulations, the contracted capacity is understood as the capacity set forth by Gaz-System in these regulations. As part of the Procedure, the Participants shall be provided with contracts specifying the conditions for the provision of transmission services established within the Procedure based on the bids submitted by the said undertakings and resulting from the capacity allocated by Gaz-System. The contracts shall specify the following:

1. details of the undertaking making the bid;
2. entry point, exit point (exit points);
3. firm contracted capacity or interrupted contracted capacity in Nm^3/h and approximate annual gas volume (Nm^3);
4. term of the contract;
5. the pressure level established by Gaz-System in each entry and exit point;

The services rendered by virtue of the contract concluded within the Procedure shall be performed from the entry point in the vicinity of Cieszyn to the exit points located in the Gaz-System transmission system. Gas transmission in the transmission system operated by RWE Transgas Net or other systems interoperating with Gaz-System (i.e. in distribution systems) require separate gas transmission services contracts or distribution contracts to be concluded.

Contracts concluded within the course of the Procedure shall be concluded for a definite term and shall be amenable to the laws of the Republic of Poland. The contract shall be concluded in the Polish language. The procedure for concluding contracts shall be compliant with point 6.1.1 (excl. 6.1.1.2), 6.1.6 and 6.4.6 of part I of the TNC. The regulations contained in point 6.1.4 of part I of the TNC shall apply to the exit point (exit points) part of the contract. **The Shipper shall present the documents and information stipulated in point 6.1.4.2, part I of the TNC 30 days before the commencement of the gas transmission services.** In case of delay in submitting the documents stipulated in point 6.1.4.2, part I of the TNC, the actual transmission of gas to Poland shall be realized within 7 days from delivering the required documents to Gaz-System. The exit points' capacity allocation shall be made according to points 6.4.1 and 6.4.2 of part I of the TNC.

The gas transmission services shall be rendered under the principles specified in the contract and the binding TNC at the given time. Should the Participant conclude the contract, but fail to benefit from the services through the fault of the Shipper, especially due to the lack of necessary storage space, the lack of capacity in the interoperating systems, the Shipper shall be obliged to make payments according to the tariff.

The contracts shall be prepared according to the specimen, constituting Appendix No. 3, however, Gaz-System reminds, that their content may be subject to changes, especially in the event of a change in law regulations regarding issuing administrative decisions binding for Gaz-System. The contracts concluded pursuant to this procedure, the TNC and tariff provisions shall apply, as allowed by law.

The Participant shall sign the contract provided by Gaz-System and deliver it to the Gaz-System offices within 5 days. The contract shall include a security deposit proof according to the regulations set forth in point 6.1.6 of part I of the TNC.

Should the above mentioned contract, along with the specified appendices, not be delivered within the above-mentioned deadline, Gaz-System shall deem such Participant as resigning from concluding the contract. In such case, Gaz-System shall consider the given Participant to have resigned from concluding the contract, in which case Gaz-System, pursuant to point 3.3, shall retain the security deposit or execute the bank (insurance) guarantee.

Gaz-System shall sign the contract that is delivered to the Participant (on the copy signed by the Participant) and forward it to the Participant after concluding a contract by Gaz-System with RWE Transgas Net regarding the Podbeskidzie region investment realization and receiving a written statement from RWE Transgas Net regarding the decision to expand the transmission system in the Podbeskidzie region and after receiving Gaz-System's corporate permits.

The Contracting Party shall be entitled to transfer or make available all the rights and obligations resulting from the contract concluded under this Procedure under the principles stipulated in the Transmission Network Code. For this purpose, the Shipper may use the Bulletin Board on the internet platform made available by Gaz-System in order to facilitate trading in the capacity on the secondary market.

Gaz-System shall also be entitled to the right of transferring all the rights and obligations resulting from the gas transmission contract concluded during the course of the Procedure to a third party, particularly performing gas transmission services via a gas pipeline that the contract concerns. Gaz-System shall furthermore be entitled to the right to transfer the liabilities resulting from the contracts to the parties guaranteeing investment financing.

4 CONFIDENTIALITY

Any information obtained by Gaz-System during the course of the Procedure shall be treated as confidential and shall not be made available to third parties. However, Gaz-System has the right to make available any confidential information obtained during the course of the Procedure or the content of the gas transmission contract to the following:

1. the corporate organs of the Company including the Minister of State Treasury;
2. the President of the ERO, competent regulatory authorities in respect of the location of the interconnector, as well as the European Commission;
3. undertakings financing the investment projects;
4. other authorities entitled to obtain information by virtue of the absolutely binding acts of law.

Furthermore, Gaz-System shall publish information concerning the proper entry and exit points within the scope resulting from the absolutely binding acts of law.

5 COORDINATION WITH OTHER OPERATORS

Within the Procedure, Gaz-System is also considering plans to develop the transmission system in the Podbeskidzie region without interfering in the development plans of other operators. RWE Transgas Net is responsible for the performance of the investments connected with the construction of system connections in the Czech Republic. The construction and commissioning of the pipeline running through the Polish-Czech border under the bed of the river Olza requires RWE Transgas Net to acquire a construction permit due to this fact, the actual interconnection system commissioning date shall depend on RWE Transgas Net's project completion date.

Gaz-System shall do its best to ensure the most extensive dialogue among Operators of adjacent systems and involvement in this process of the competent Regulators proper to the given countries.

Gaz-System shall, together with RWE Transgas Net, coordinate any actions leading to the completion of the interconnection. Parties agreed on the interconnection's technical parameters to ensure a similar capacity in both transmission systems Gaz-System, together with RWE Transgas Net, shall use efforts to conclude interoperator contracts in order to unequivocally specify and ensure the following:

1. the infrastructure in the interoperating system shall be expanded;
2. the infrastructure of interoperating systems shall be fully compatible with the system operated by Gaz-System;
3. the same conditions and technical parameters shall occur in the interoperating systems.

Should Gaz-System and RWE Transgas Net fail to conclude a Podbeskidzie region project investment contract, Gaz-System may terminate the Procedure without concluding gas transmission contracts due to the uncertainty for the project realization on the Czech side.

Gaz-System shall in no case bear responsibility for any deficiency or for the range of the expanded transmission infrastructure in the interoperating system operated by Gaz-System.

6 FINAL PROVISIONS

Any costs of the Participant stemming from or incurred in connection with participating in the Procedure shall be borne by the Participant only and shall not be claimed from Gaz-System. The announcement of the Procedure does not constitute the obligation of Gaz-System to construct any interconnectors and perform transmission services via the said interconnector.

These Regulations are not a commercially-binding offer as understood by the Civil Code, but are just an invitation to make bids.

Gaz-System may terminate the Procedure without concluding gas transmission contracts, having the Company good interest in mind, should the Company, for example, fail to conclude a contract by Gaz-System with RWE Transgas Net regarding the Podbeskidzie region investment realization or acquire corporate permits to conclude the gas transmission contracts or fail to receive a statement from RWE Transgas Net regarding the Podbeskidzie region Czech transmission system development.

Gaz-System may amend or supplement these Regulations or appendixes, including extending the deadlines specified therein in the case of any changes in the absolutely binding law, the necessity to obtain approval or administrative decisions from the competent authorities, including regulatory organs. Such changes and supplements shall be announced on the Gaz-System website and the Participants shall be informed of this fact in writing.

If one of the provisions of these Regulations is acknowledged as unacceptable or impossible to be pursued, the provision shall be acknowledged as being excluded from the Regulations while all the remaining provisions remaining shall be assumed as fully valid and binding; a provision similar in content, reflecting the original intention of the parties in line with the absolutely binding acts of law, shall replace the provision assumed as unacceptable or impossible to be pursued.

In connection with the Procedure, neither Gaz-System nor the Participant shall be mutually responsible, unless the party incurred damages through the intentional fault of the other party. However, the provisions of the Polish Civil Code shall be applicable to the binding Offers (bids) submitted by the Participant within the Procedure.

The Parties shall strive for solving any disputes regarding Procedure or the interpretation thereof in a spirit of mutual understanding. If such an attempts shall prove inefficient, any disputes resulting from this Contract or connected thereto shall be lodged to the Arbitration Court at the Polish Chamber of Commerce in Warsaw according to the binding regulations on the day of the announcement of the Procedure, i.e. 18.09.2009. Submitting a bid is regarded as an arbitration clause by the Civil Code regulations.

Submitting the bid is understood as submitting an arbitration clause, as understood by the Civil Code.

The provisions of the absolutely binding acts of law of the Republic of Poland, particularly the the Polish Civil Code and the Energy Law Act shall apply to all matters not governed by the provisions of these Regulations.

The Regulations of the Procedure including appendixes thereto have been drawn up in the Polish and English language versions. The English language version of the document is available for information purposes only. In the event of any discrepancies between the documents in the Polish and English language version, the provisions of the Polish language version shall prevail.

Appendices to the Regulations:

- Appendix No. 1 – Specimen Bid Form
- Appendix No. 2 – Specimen Bank (Insurance) Guarantee
- Appendix No. 3 – Specimen gas transmission contract
- Appendix No. 4 – Transmission Network Code of the Gas Transmission Operator Gaz-System S.A.
- Appendix No. 5 – Tariff for Gas Transmission Services No. 3

7 ORGANISATIONAL INFORMATION – CONTACT

The Gas Transmission Operator GAZ-SYSTEM S.A.

Secretariat of the Development and Investment Division

ul. Mszczonowska 4

02-337 Warsaw

With the annotation: "Procedura udostępniania przepustowości w rejonie Podbeskidzia"

Please address any questions concerning the Procedure to the following e-mail address:

openseason@gaz-system.pl

The Polish language shall be the prevailing and binding language for any correspondence. Gaz-System also admits correspondence in the English language.