

**OPINION No 01/2022**  
**OF THE EUROPEAN UNION AGENCY**  
**FOR THE COOPERATION OF ENERGY REGULATORS**

**of 2 February 2022**

**on the elements of the coordinated decisions as result of the proceedings to review the exemption from the obligation to enable bi-directional capacity at the "Mosonmagyaróvár" cross-border interconnection point between Hungary and Austria**

THE EUROPEAN UNION AGENCY FOR THE COOPERATION OF ENERGY REGULATORS,

Having regard to Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators<sup>1</sup>, and, in particular, Article 9(4) thereof,

Having regard to Regulation (EU) 2017/1938 of the European Parliament and of the Council of 25 October 2017 concerning measures to safeguard the security of gas supply and repealing Regulation (EU) No 994/2010<sup>2</sup>, and, in particular, Article 5(4) and (5) and point 8 of Annex III thereof,

Having regard to Commission's decision C(2020) 6600 final of 1 October 2020<sup>3</sup> on the revision of certain exemptions from the obligation to enable bi-directional capacity pursuant to Regulation (EU) 2017/1938,

Having regard to the consultation with the national regulatory authorities concerned, the competent authorities concerned and the competent authorities,

Having regard to the information provided by the competent authorities concerned and the transmission system operators concerned,

Whereas:

## **1. INTRODUCTION**

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<sup>1</sup> OJ L158, 14.6.2019, p. 22.

<sup>2</sup> OJ L280, 28.10.2017, p.1.

<sup>3</sup> [https://ec.europa.eu/energy/sites/default/files/c\\_2020\\_6600\\_fl\\_commission\\_decision\\_en.pdf](https://ec.europa.eu/energy/sites/default/files/c_2020_6600_fl_commission_decision_en.pdf)

- (1) On 2 November 2021, the European Union Agency for the Cooperation of Energy Regulators ('ACER') received from Energie-Control Austria für die Regulierung der Elektrizitäts und Erdgaswirtschaft ('E-Control') Decision V REV G 02/20/3 ('the Austrian Decision') of 29 October 2021. On 3 November 2021, ACER received from Magyar Energetikai és Közmű-szabályozási Hivatal ('MEKH') Decision H2668/2021 of 3 November 2021 ('the Hungarian Decision'). The Austrian Decision and the Hungarian Decision ('the Decisions') have been coordinated and reach a similar conclusion.
- (2) The Decisions are the result of the proceedings to review the exemption from the obligation to enable bi-directional capacity at the Mosonmagyaróvár interconnection point in accordance with Article 5 and point 2 of Annex III to Regulation (EU) 2017/1938 of the European Parliament and of the Council of 25 October 2017 concerning measures to safeguard the security of gas supply and repealing Regulation (EU) No 994/2010 ('the SoS Regulation').
- (3) The request was jointly developed by FGSZ Zrt. ('FGSZ') and Gas Connect Austria GmbH ('GCA') and submitted to E-Control and MEKH on 15 April 2021. The Decisions accept the proposal submitted by the transmission system operators ('TSOs') by deeming that the obligation to enable bi-directional capacity at the Mosonmagyaróvár interconnection is already fulfilled.
- (4) On 18 November 2021, ACER published on its website a "Notice on ACER's pending Opinions on Decisions on proceedings related to the review of the exemption from the obligation to enable bi-directional gas transmission capacity at two Interconnection Points: "Mosonmagyaróvár" (Hungary to Austria) and "Murfeld/Ceršak" (Slovenia to Austria). ACER invited third parties to provide any comments and observations they may have on this subject matter to ACER by 7 December 2021. By that date, no comments or observations were received.

## **2. SCOPE OF THE OPINION**

- (5) ACER shall deliver an opinion on the elements of the Decisions taking into account the requirements of the SoS Regulation, in particular Article 5 and Annex III, including any possible objection received pursuant to point 7 of Annex III.

## **3. OBJECTIONS RECEIVED AND ACER CONSULTATION**

- (6) By 3 January 2022, i.e. within 2 months of receiving the last coordinated Decision, the Competent Authorities did not submit any objections.
- (7) From 20 December 2021 until 17 January 2022, period extended from 14 January 2022 by the request of E-Control, ACER consulted with the relevant Competent Authorities (E-Control and MEKH) and the European Commission on its draft Opinion on the elements of the coordinated decisions as result of the proceedings to review the exemption from the obligation to enable bi-directional capacity at the "Mosonmagyaróvár" cross-border interconnection point. By that date, ACER did not receive comments or confidentiality claims.

- (8) On 20 December 2021, ACER requested from E-Control and MEKH to provide by 14 January 2022 additional information on additional investments and/or operational arrangements having taken place in the Austrian and Hungarian gas systems since 2013 that would evidence a different situation now in comparison to 2013. The comparison with 2012 is relevant since in that year, E-Control granted an exemption from the obligation to enable bi-directional capacity at the "Mosonmagyaróvár" cross-border interconnection point based on Article 7 of the previous gas SoS Regulation<sup>4</sup>. By joint request of E-Control and MEKH, the deadline to reply was extended until 17 January 2022.
- (9) On 15 January 2022, E-Control and MEKH jointly replied to ACER stating their view that the obligation to enable bi-directional capacity at the Mosonmagyaróvár interconnection point pursuant to gas SoS Regulation is already fulfilled, on the basis of legal changes rather than on technical changes. They argue that the current procedure was undertaken in the framework of the revised SoS Regulation, as opposed to the previous exemption procedure carried out in line with the provisions of previous SoS Regulation. MEKH and E-Control note that the former 2013 exemption was initiated unilaterally by E-Control, and it reflected Austria's understanding that the development of the bi-directional capacity would not materially improve its security of gas supply. MEKH and E-Control sustain that the current proposal focuses on the ability of the Hungarian system to supply gas to solidarity protected customers in case a requesting Member State (in casu Austria) declares an emergency situation. MEKH and E-Control added that:

*"During our preparatory discussions, we as regulators were very keen to find a solution which would satisfy the solidarity requirement on the one hand and avoid financial burden for consumers on the other hand. Therefore, instead of applying for a total exemption, which we think would also have been justified based on the lack of significant additional gains to Austria's security of supply, the two regulators strived to develop a solution that would be able to fulfil the requirements for bi-directionality, even if it is subject to the conditions detailed in the proposal and the decision.*

*Although there have been several significant infrastructure projects on the Hungarian gas system that improved the pressure characteristics of the network (e.g. the commissioning of Balassagyarmat IP and Szada compressor station, modifications of pipeline connections and Városhőd node station and in Eastern Hungary, the addition of the Serbian entry point), the main difference between the previous and the current situations is not a difference of the available physical infrastructure, but of the regulatory approach to it. The proposed solution is about using the Hungarian natural gas transmission system in a manner that was not originally intended during the development of the infrastructure, in a way that is not the normal use case of the system, but which is nonetheless within the possibilities of its technical constraints. It is not a direct result of any new investment, but rather the result of an out-of-the-box-thinking approach to the infrastructure already available.*

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<sup>4</sup> Regulation (EC) 994/2010, Article 7.

*Having an in-depth look into the technical possibilities of the Hungarian gas system, the affected parties found that the existing system can provide physical bi-directional flows subject to the conditions detailed in the proposal and the decision. As the aim of the SoS Regulation is not the strengthening of the internal energy market, but the improvement of the security of supply, we consider a solution that – while does not create commercially bookable capacities – enables the already existing permanent physical capacity to be used for the reasons of solidarity, to be in line with the goals and provisions of the Regulation.*

*Taking into consideration the above-detailed reasoning, we consulted the European Commission on whether it would be acceptable to define the conditions under which the physical flow from Hungary to Austria can already take place now, without any additional investment, which the European Commission representatives confirmed”*

- (10) ACER welcomes the good cooperation between E-Control and MEKH, understands the focus of regulators to avoid additional burden on consumers, and notes the fact that several significant infrastructure projects on the Hungarian gas system have improved the pressure characteristics of the Hungarian network in general, allowing to physically transporting from gas from Hungary to Austria under some configurations. At the same time, ACER notes that this ability to physically transport gas from Hungary to Austria is subject to detailed conditions (see Section 5.1 of the Opinion), that this proposal is not a direct result of any new investment aimed at enabling permanent physical capacity, and that it would not offer commercially bookable capacities from Hungary to Austria at the "Mosonmagyaróvár" cross-border IP.

#### **4. ASSESSMENT OF THE PROCEDURE**

- (11) The European Commission in its decision C(2020) 6600 of 1 October 2020, addressed among other Member States to Hungary and the Republic of Austria, requested the review of the exemption from the obligation to enable bi-directional capacity at the Mosonmagyaróvár cross-border interconnection point between Austria and Hungary, in line with the procedure foreseen in Annex III to the SoS Regulation. The coordinated decision referred to in point 5 of Annex III shall be adopted by the competent authorities of the Member States on both sides of each interconnection point referred by 31 January 2022.
- (12) On 3 December 2021 and 8 December 2020, E-Control and MEKH respectively, as competent authorities in Austria and Hungary, initiated the procedure by requesting that GCA and FGSZ prepare and submit a joint proposal for enabling bi-directional capacity or a request for prolongation of the exemption at the Mosonmagyaróvár cross-border interconnection point by 15 April 2021. Several technical meetings followed, involving E-Control, MEKH, GCA and FGSZ.
- (13) On 15 April 2021, GCA and FGSZ submitted a joint coordinated proposal to E-Control and MEKH ('the Joint Proposal'), indicating that the obligation to enable bi-directional capacity at the Mosonmagyaróvár interconnection point pursuant to SoS Regulation is already fulfilled. The Joint Proposal was submitted pursuant to point 2 of Annex III to SoS Regulation, following a consultation with the transmission system operators of the directly connected Member States which lasted from 29 March 2021 until 12 April 2021. There were no responses submitted on the contents of the proposal.

- (14) Upon receipt of the Joint Proposal, in line with point 3 of Annex III to SoS Regulation, E-Control and MEKH jointly consulted the authorities of all neighbouring Member States, ACER, and the European Commission on the Joint Proposal. This consultation was open from 6 May 2021 until 5 September 2021. One response, submitted on 2 September 2021 by the Slovak regulatory authority ('ÚRSO') was received to this consultation. ÚRSO agreed with the Joint Proposal, by considering the proposal reasonable as it provides a solution to the requirement of bi-directionality without additional investments in line with the decarbonisation plans. In addition, ÚRSO reminded that in case of the activation of solidarity measures in line with the SoS Regulation, additional volumes could be provided from Hungary to Austria through the transport route HU-SK-AT.
- (15) ACER welcomes that the Joint Proposal was prepared and consulted by the TSOs, GCA and FGSZ, and the regulatory authorities, E-Control and MEKH in compliance with the procedure under Annex III to the SoS Regulation.

## **5. ASSESSMENT OF THE ELEMENTS OF THE DECISION**

- (16) The Joint Proposal contains the elements set out in Article 5(5) of the SoS Regulation, also described in the Decisions.
- (17) The Decisions approve the joint proposal of GCA and FGSZ and include the relevant facts, background and the legal basis and elements of analysis leading to the Decisions.
- (18) The Decisions further assess the substantive conditions contained in the request in line with Article 5(5) of the SoS Regulation.
- (19) ACER's considerations on the elements of the Decision, which are made in particular in view of the requirements of Article 5(5) SoS Regulation, are presented below.

### **5.1. On the overall proposal and the existence of permanent bi-directional capacity at the Mosonmagyaróvár IP**

- (20) The Joint Proposal and the Decisions argue that the obligation to enable bi-directional capacity at the Mosonmagyaróvár interconnection point pursuant to the SoS Regulation is already fulfilled. Currently, there is an exemption from the obligation to enable bi-directional capacity for this IP granted in 2013<sup>5</sup> by the corresponding exemption request based on Article 7 of the previous SoS Regulation<sup>6</sup>.
- (21) E-Control, MEKH, GCA and FGSZ sustain that, contrary to the situation during the 2012/2013 proceedings, it can be considered that there is already permanent bi-directional capacity at the Mosonmagyaróvár IP, within the meaning of the SoS

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<sup>5</sup> Granted by E-Control's official decision V REV G 02/12 of 11 January 2013.

<sup>6</sup> Regulation (EC) No 994/2010 of the European Parliament and of the Council of 20 October 2010 concerning measures to safeguard security of gas supply and repealing Council Directive 2004/67/EC, OJ L295, 12.11.2010, p.1.

Regulation. Point 2(a) of Annex III to the SoS Regulation refers to ‘physical reverse flow capacity’ as a ‘proposal to enable permanent physical capacity to transport gas in both directions for permanent bi-directional capacity concerning the reverse direction’. The Decisions refer to exchanges between the Competent Authorities and staff of the European Commission<sup>7</sup>, where the European Commission clarified that the term ‘physical capacity’ does not refer to Regulation (EU) 2017/459 establishing a network code on capacity allocation mechanisms in gas transmission systems<sup>8</sup> (‘CAM NC’), but rather to the technical possibility to flow physically gas in both directions. Therefore, the term “permanent” may not equal to a “firm capacity product” (firm entry/exit) under the CAM NC, but rather refer to all the scenarios under which a Member State can rely on a physical reverse flow in case of a supply crisis.

- (22) The Decisions state that *“Based on these statements by the European Commission, GCA and FGSZ prepared a proposal that determines under which circumstances physical reverse flow is already possible, i.e. could be realised in the event of a supply crisis.”*
- (23) The capacity that would be offered from Hungary into Austria is 214,360 kWh/h, conditional on the following cumulative conditions:
- a. *“On the given gas day, the Hungarian domestic fossil gas consumption does not exceed 643,080,000 kWh/d.*
  - b. *On the given gas day, the mean temperature in the territory of Hungary is higher than -4 degrees Celsius.*
  - c. *The Republic of Austria has requested the application of the solidarity measure according to Article 13 of gas SoS Regulation.”*
- (24) ACER notes that the concepts of “permanent bi-directional capacity” or “physical reverse flow capacity” -both terms are used throughout the proposal- are not unambiguously defined under the SoS Regulation. Therefore, there may be room for interpretation. In the context of the SoS Regulation, ACER does not object to an interpretation of this term which is related to a gas supply crisis, i.e. crisis scenarios under which a Member State can rely on a physical reverse flow capability. However, ACER notes that an association of the term “permanent” to a “firm capacity product” could also be possible, and refers to the definition of ‘technical capacity’ in Article 2(1)(18) of Regulation (EC) 715/2009<sup>9</sup> as *“the maximum firm capacity that the transmission system operator can offer to the network users, taking account of system integrity and the operational requirements of the transmission network”*. ACER is not convinced that the cumulative conditions indicated in the Joint Proposal for physically flowing gas from Hungary to Austria could qualify as permanent physical bi-directional capacity. Since the conditions in the proposal could occur in the event of a very cold day and extreme gas demand in Hungary, it cannot be

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<sup>7</sup> See E-Control’s Decision V REV G 02/20/3 of 29 October 2021, p. 3.

<sup>8</sup> OJ L72, 17.3.2017, p.1.

<sup>9</sup> Regulation (EC) No 715/2009 of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005, OJ L211, 14.8.2009, p.36.

assured that there will be a permanent physical flows capacity from Hungary to Austria in a crisis situation. ACER is of the view that the agreed crisis scenarios, including any conditionalities to the physical flow capability, must be relevant and meaningful to offer gas flows from Hungary to Austria in a supply crisis or, in the alternative case, a request for exemption should be submitted or a physical reverse flow project offering marketable capacity should be developed.

- (25) In addition, both the TSOs (GCA and FGSZ) and the Competent Authorities (E-Control and MEKH) are of the view that *“creating permanent marketable capacity would require large investments, in particular in Hungary, and that these would greatly outweigh the benefits to security of supply in Austria.”*<sup>10</sup>

### **5.2. CBA prepared on the basis of the methodology pursuant to Article 11 of Regulation (EU) No 347/2013<sup>11</sup>**

- (26) ACER considers that there is insufficient evidence that the Cost-benefit Analysis (CBA) included in the Joint Proposal sufficiently follows the CBA methodology pursuant to Article 11 of Regulation (EU) No 347/2013<sup>12</sup>. The proposal submitted by GCA and FGSZ consists of a summary of eleven pages covering the elements set out in Article 5(5) of the SoS Regulation.

### **5.3. Assessment of market demand**

- (27) E-Control’s Decision concurs with the Joint Proposal, which evidences that so far shippers have not made binding capacity bookings at the Mosonmagyaróvár cross-border interconnection point. Likewise, MEKH, in its Decision, concludes that there is no market demand for capacity that would justify a transmission capacity development in excess to the project proposal for the direction from Hungary to Austria.
- (28) ACER notes that GCA and FGSZ elaborate on how capacity demand at the Mosonmagyaróvár cross-border interconnection point has been regularly assessed since 2017 in line with the obligation imposed by the incremental capacity process from chapter V of CAM NC (Article 26, Articles 12(2), 16(2)(a) and 16(5) of Regulation (EC) 715/2009 and Article 13(2) of Directive 2009/73/EC). Until now, no incremental capacity infrastructure project enabling bookings from Hungary into Austria has been initiated because the incremental capacity project has not attracted sufficient market interest at the auction under the conditions offered. In July 2017, the TSOs jointly published a demand assessment report, which concluded that there was sufficient non-

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<sup>10</sup> See E-Control’s Decision V REV G 02/20/3 of 29 October 2021, p. 3.

<sup>11</sup> Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009, OJ L 115, 25.4.2013, p. 39.

<sup>12</sup> It does not meet the requirements of the gas CBA methodology pursuant to Article 11 of Regulation (EU) 347/2013 currently in force, which is ENTSOG’s CBA methodology 2.0, cf. [https://www.entsog.eu/sites/default/files/2019-03/1\\_ADAPTED\\_2nd\\_CBA\\_Methodology\\_Main\\_document\\_EC\\_APPROVED.pdf](https://www.entsog.eu/sites/default/files/2019-03/1_ADAPTED_2nd_CBA_Methodology_Main_document_EC_APPROVED.pdf).

binding interest from network users in incremental capacity in the HUAT project to initiate an incremental capacity project in the meaning of Article 3(9) of the CAM NC. In April and October 2018, respectively, E-Control and MEKH took opposite decisions on the HUAT incremental capacity proposal, with E-Control approving and MEKH rejecting the project proposal.<sup>13</sup> The auction held in July 2020 as a follow-up to the 2017 incremental procedure did not yield sufficient binding capacity bookings<sup>14</sup>. Following the non-binding capacity demand assessment carried out in 2019, GCA and FGSZ could not agree on the joint project proposal to be submitted based on Articles 27 and 28 of CAM NC before May 2021, therefore no binding incremental capacity auction was held in July 2021. More recently, the non-binding demand assessment report was conducted again in October 2021 and no non-binding market demand was identified<sup>15</sup>.

- (29) ACER notes the existence of periodic assessments of market demand for the Mosonmagyaróvár cross-border IP conducted based on the provisions of CAM NC, Regulation (EC) 715/2009 and Directive 2009/73/EC and that the most recent non-binding demand assessment report of October 2021 did not identify market interest. However, ACER also points out that the conditions under which such capacity was offered for the binding phase in July 2020 differed from those specified by ACER in its decision, and were less attractive to network users. It is therefore an open question if demand for such capacity would have materialised if it would have been offered under the specified conditions set by ACER Decision 5/2019.

#### **5.4. Projections for demand and supply**

- (30) E-Control concurs with the assessment of the projections of demand and supply presented in the Joint Proposal, while MEKH concludes that there are no gas demand and supply expectations that would justify capacity development in excess to the Joint Proposal at the Mosonmagyaróvár cross-border IP for the direction from Hungary to Austria.
- (31) The Joint Proposal presents projections for supply and demand for Austria and Hungary. As regards Austria, the Joint Proposal notes that Austria participates in the European gas market as a transit country, with significant storage infrastructure (larger than the annual domestic gas demand) and as an important gas trading hub, while domestic production is relatively low. Gas demand in Austria is expected to decrease in the future in view of decarbonisation objectives. Additionally, a replacement is expected of fossil natural gas with increasing quantities of renewable gases. As regards Hungary, the Joint Proposal predicts a constant decrease of domestic natural gas production, a steady level of gas

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<sup>13</sup> Given that no coordinated decisions had been reached within 6 months of receipt of the HUAT project proposal by the last receiving NRA as well as a referral letter of July 2018 by E-Control and MEKH, ACER became competent to decide on the HUAT project proposal pursuant to Article 8(1) of Regulation (EC) No 713/2009. It did so by Decision 5/2019 of 9 April 2019.

[https://documents.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Individual%20decisions/ACER%20Decision%2005-2019%20on%20HUAT.pdf](https://documents.acer.europa.eu/Official_documents/Acts_of_the_Agency/Individual%20decisions/ACER%20Decision%2005-2019%20on%20HUAT.pdf)

<sup>14</sup> However, the conditions under which capacity was offered under the applicable rulebooks at the auction differed from those specified in ACER's Decision 5/2019.

<sup>15</sup> [https://entsog.eu/sites/default/files/2021-11/2021\\_DAR\\_AT-HU.pdf](https://entsog.eu/sites/default/files/2021-11/2021_DAR_AT-HU.pdf)

consumption in the mid-term and a decrease in the long-term, based on – among others – the vision of the National Energy Strategy for Hungary.

- (32) ACER has no contra-indications to E-Control’s and MEKH’s Decisions where they state that, at the time of the submission of the Joint Proposal, i.e. in April 2021, neither the current market situation nor mid and long-term forecasts show a need to increase the capacity from Hungary to Austria at the Mosonmagyaróvár IP.

### **5.5. Possible economic impact on existing infrastructure**

- (33) E-Control and MEKH conclude that as the Joint Proposal allows for gas flows from Hungary into Austria via existing infrastructure under certain conditions (see Section 5.1) and does not require additional infrastructure investments, the proposal has no economic impact on the existing infrastructure. ACER supports such conclusion.

### **5.6. A feasibility study**

- (34) E-Control in its Decision notes that FGSZ has analysed the conditions under which gas could flow from Hungary into Austria through the Mosonmagyaróvár cross-border interconnection point as a solidarity measure: *“FGSZ declares readiness to provide a small amount of capacity at a low border pressure, provided that the temperature in Hungary is above a certain threshold and demand in Hungary is below a certain level. While FGSZ does not exclude the possibility that more capacity and a higher pressure might be available if necessary, this is subject to case-by-case evaluation and there can be no general commitment.”* ECA also notes that *“in the event of a crisis, the technical, legal and financial arrangements concerning the application of solidarity measures under Article 13 Regulation (EU) 2017/1938 are to be agreed between the Republic of Hungary and the Republic of Austria. The authority deems the conditions described by FGSZ plausible. A solidarity agreement between Austria and Hungary, upon which basis solidarity measures would be remunerated, has not yet been concluded, but negotiations are ongoing.”*<sup>16</sup>
- (35) MEKH’s decision notes that the proposal states: *“...the provision of 214 360 kWh/h on 33 bar in the reverse direction is feasible in case of the application of a solidarity measure. The transmission system operators submitting the Project Proposal reminded that at the time of the proposal’s submission the solidarity agreement between the Member States was not yet concluded. The Project Proposal evaluated the time necessary for the provision of reverse gas flows. The manual reversal of flow direction requires 8-24 hours.”*<sup>17</sup>
- (36) ACER notes that the proposal only includes an analysis of the conditions under which the provision of 214 360 kWh/h on 33 bar in the direction from Hungary to Austria would be feasible in case of the application of a solidarity measure. ACER deems that, in

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<sup>16</sup> See E-Control’s Decision V REV G 02/20/3, p. 8.

<sup>17</sup> See MEKH’s Decision H2668/2021, p.7.

addition, the proposal should have included a complementary comprehensive feasibility study<sup>18</sup> of a variant full-fledge permanent bidirectional capacity project at the Mosonmagyaróvár cross-border interconnection point which would have allowed also for firm marketable reverse flow capacities. ACER maintains that such feasibility study<sup>19</sup> should cover, as a rule, techno-economic elements which provide essential information about the basic design parameters of the main facilities, the associated cost estimates, and the possible implementation schedule of a potential full-fledge reverse flow project proposal allowing for marketable capacity, even when the study concludes that the project is not feasible. The feasibility study could have therefore provided additional information relevant for the purpose of deciding upon the request, or alternatively on a full-fledged reverse flow project.

### **5.7. Costs of implementing bi-directional capacity**

- (37) The Decisions note that, given that the Joint Proposal does not require any investments, there are no costs involved. E-Control adds that GCA stated that creating 1,277,397 kWh/h/y marketable capacity (based on the non-binding capacity demand assessment from 2019) entails investment costs of 3.3 m EUR in Austria and 233.6m EUR in Hungary<sup>20</sup>. That project could be realised provided an economic test under the CAM NC would yield to positive results.
- (38) ACER notes that the Joint Proposal does not entail additional investment costs. ACER notes that the Austrian Decision refers to cost estimates based on 2019 figures. A more updated and detailed assessment of the costs to enable bi-directional capacity requires knowledge about (i) the estimated compressor power and technology solutions needed to enable physical reverse flows at the interconnection point and (ii) other major infrastructure elements which would be required to enable bi-directional capacity.

### **5.8. Benefits to the security of gas supply taking into account the possible contribution to meet the infrastructure standard**

- (39) The Decisions note that GCA has calculated the N-1 infrastructure standard<sup>21</sup> referred to in Article 5 and defined in Annex II to the SoS Regulation, as calculated with the value of the parameters used in the Austrian Gas Grid Management AG (AGGM) long-term

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<sup>18</sup> There is no definition of feasibility study under the SoS Regulation. However, the European Commission Guide to Cost-Benefit Analysis from 2014 of Investment Projects provides guidelines on the elements to be included in a feasibility study (cf. Section 2.6, p. 36-37 in [https://ec.europa.eu/regional\\_policy/sources/docgener/studies/pdf/cba\\_guide.pdf](https://ec.europa.eu/regional_policy/sources/docgener/studies/pdf/cba_guide.pdf)).

<sup>19</sup> See p. 10, para 32 of ACER Opinion No 4/2020 on a request of exemption for a cross-border interconnection point from Germany to the Czech Republic [https://documents.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Opinions/Opinions/ACER%20Opinion%2004-2020%20on%20Reverse%20flow%20DE-CZ.pdf](https://documents.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2004-2020%20on%20Reverse%20flow%20DE-CZ.pdf).

<sup>20</sup> See E-Control's Decision V REV G 02/20/3, p. 5.

<sup>21</sup> Annex II to the SoS Regulation defines the N-1 indicator: "*The N – 1 formula describes the ability of the technical capacity of the gas infrastructure to satisfy total gas demand in the calculated area in the event of disruption of the single largest gas infrastructure during a day of exceptionally high gas demand occurring with a statistical probability of once in 20 years*"

plan for 2020. The current value of the N-1 for Austria is 140%, well above the 100% minimum value for Austria provided by the SoS Regulation. E-Control’s decision notes that given that only freely allocable capacity counts towards the infrastructure standard, the capacity from the project proposal makes no difference as regards the N-1 indicator in Austria. In Hungary, the project would have no effect on its N-1 indicator. The Decisions take note and support the analysis of the Joint Proposal, which shows that only in a very limited number of the security of supply flow scenarios published in ENTSOG’s 2020 ten-year network development plan (‘TYNDP’)<sup>22</sup> would injections from Hungary be able to aid Austrian gas markets. The reason for this is that both Austria and Hungary are mainly supplied by Russia, and thus they would both have very similar risk exposure to interruption of Russian gas supplies.

- (40) ACER concurs with these statements. ACER finds that the 140% value of the N-1 indicator in Austria indicated in the proposal stands at adequate levels, 10% above the N-1 values published in the most recently available Preventive Action Plan (‘PAP’) (c.f., Table 1), and above the minimum required by the SoS Regulation. Based on the proposal and the TYNDP simulations, ACER finds that there would be only a very limited number of scenarios where Hungary would be in a position to support Austria with gas deliveries. This N-1 indicator demonstrates the already existing adequacy of the technical capacity of the Austrian gas infrastructure to satisfy total gas demand in Austria in the event of disruption of the single largest gas infrastructure (Baumgarten) during a day of exceptionally high gas demand occurring with a statistical probability of once in 20 years.

**Table 1:** Infrastructure standard indicator levels (N-1 indicator) as published in recent PAPs

	AT	HU
Date of PAP	02/08/2019	01/09/2020
Largest infrastructure	Baumgarten (GCA, WAG, TAG)	Lanzhot
Unit	MNm <sup>3</sup> /d	MSm <sup>3</sup> /d
$EP_m$	163.16	82.9
$P_m$	3.22	5.5
$S_m_{100\%}$		78.6
$S_m_{30\%}$	42.04	68
$LNG_m$	0	0
$I_m$	140.34	56.3
$D_{max}$	52.4	77.4
N-1_100%		143%
N-1_30%	130%	129%

<sup>22</sup> Available at <https://tyndp2020.entsog.eu/>

*Note: Table compiled by ACER based on recent PAPs for Slovenia and Hungary, as available at DG-ENER website ([https://ec.europa.eu/energy/topics/energy-security/secure-gas-supplies/commissions-opinions-preventive-action-plans-and-emergency-plans-submitted-member-states-2019\\_es](https://ec.europa.eu/energy/topics/energy-security/secure-gas-supplies/commissions-opinions-preventive-action-plans-and-emergency-plans-submitted-member-states-2019_es)).*

- (41) In light of the above, ACER considers that the Decisions rightly conclude that further firm entry capacity from Hungary to Austria would be unnecessary for the purpose of ensuring a sufficient level of security of gas supply in Austria.

### **5.9. Common risk assessment**

- (42) The Decisions and Joint Proposal do not refer to the results of the common risk assessment performed in accordance with Article 7(2) of the SoS Regulation of the Eastern gas supply risk group, Ukraine (cf. Annex 1.1.a) of the SoS Regulation. ACER notes that all scenarios compiled to assess the security of supply in the region in that common risk assessment found that it would not be necessary to use significant capacity from Hungary to Austria to ensure an adequate level of security of gas supply in Austria,

HAS ADOPTED THIS OPINION:

1. ACER welcomes that the Joint Proposal was prepared and consulted by the TSOs (GCA and FGSZ) and Competent Authorities (E-Control and MEKH) in compliance with the procedure under Annex III to the SoS Regulation and that the Competent Authorities timely decided on the proposal in a coordinated way.
2. The Decisions and the Joint Proposal argue that the obligation to enable bi-directional capacity at the Mosonmagyaróvár interconnection point pursuant to the SoS Regulation is already fulfilled. The TSOs and Competent Authorities named above sustain that it can be considered that there is already permanent bi-directional capacity at the Mosonmagyaróvár IP, within the meaning of the SoS Regulation. Nowadays, it is possible to offer physical reverse flows from Hungary into Austria conditional to the following cumulative conditions: a certain maximum gas demand in Hungary, a temperature in Hungary above -4°C and a request of application of solidarity by the Republic of Austria according to Article 13 of the SoS Regulation. ACER notes that the concepts of “permanent bi-directional capacity” or “physical reverse flow capacity” are not unambiguously defined under the SoS Regulation. However, ACER is not convinced that the cumulative conditions indicated in the proposal for physically flowing gas from Hungary to Austria could qualify as permanent physical bi-directional capacity. Since the conditions in the proposal could occur in the event of a very cold day and extreme gas demand in Hungary, it cannot be assured that there will be a permanent physical flows capability from Hungary to Austria in a crisis situation. ACER is of the view that the agreed crisis scenarios, including any conditionalities to the physical flow capability, must be relevant and meaningful to offer gas flows from Hungary to Austria in a supply crisis or, in the alternative case, a request for exemption should be submitted or a physical reverse flow project offering marketable capacity should be developed.
3. The Decisions have assessed the substantive conditions contained in the Joint Proposal, in line with Article 5(5) SoS Regulation. However, it is based on a proposal that does not include:

- a. a feasibility study for a reverse flow project enabling permanent marketable capacities; and
  - b. a CBA based on the methodology foreseen in Article 11 of the Regulation (EU) No 347/2013, as required by Article 5(5) of the SoS Regulation
4. A feasibility study is a regulatory requirement which should provide essential information about the design, cost estimates and implementation schedule of a project. In addition to the current proposal of no investments, the proposal may have benefited from the inclusion of a complementary comprehensive feasibility study of a variant full-fledge permanent bidirectional capacity project at the Mosonmagyaróvár cross-border interconnection point. That variant would have allowed also for firm marketable reverse flow capacities, and not only physical reverse flows under a solidarity security of supply scenario.
5. The reasoning contained in the Decisions about the N-1 infrastructure standard indicator of the SoS Regulation is compelling. The N-1 indicator is at a more than adequate level in Austria already.
6. ACER concurs with the Decisions that, at the time of the submission of the Joint Proposal, i.e. in April 2021, neither the current market situation nor mid- and long-term forecasts show a need to increase the capacity from Hungary to Austria at the Mosonmagyaróvár IP. The increase of the capacity from Hungary to Austria in the short-to medium-term, when not supported by the market, may result in inefficient investments, as the assessment show that the investment costs of having significant marketable firm reverse flow capacity at this IP would significantly outweigh the very limited prospective benefits for the security of gas supply it would provide.

This Opinion is submitted to the Commission for consequential actions deemed necessary, all competent authorities concerned, and the national regulatory authorities referred to in points 3 and 6 of Annex III SoS Regulation.

Done at Ljubljana, on 2 February 2022.

**- SIGNED -**

*For the Agency  
The Director*

C. ZINGLERSEN