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22 February 2017

EFET Response to the Consultation on Austrian Gas Act

Dear Sir or Madam

We thank you for giving us the opportunity to comment on the Austrian Gas Act. In the past, the European Federation of Energy Traders (EFET[1]) has expressed a number of concerns with respect to the functioning of the Austrian gas market. Therefore, we would like to use this consultation to go beyond the mere scope you have indicated and point at more structural and fundamental areas we believe require reform: a) the transmission tariffs; and b) the balancing regime.

With respect to transmission tariffs, in the past we have lamented the presence of elements of cross-subsidization among network users and between pipeline systems, unjustified increases in the tariff level, very poor degree of transparency and therefore predictability of the tariff level, all this having an impact on cross-border trading. Part of these concerns has been addressed ahead of the beginning of the current regulatory period.

However, more to be done remains, for instance with respect to transparency. Network users in Austria have scarce opportunities to contribute to the tariff setting process and more in general the Gas Act in its current form fails to comply with the provisions of the recently approved NC TAR, in particular with reference to Chapter VII on Consultation Requirements and Chapter VIII on Publication Requirements. Also, the Ministry may take this opportunity to explore the possibility of introducing a reset mechanism open to holders of long-term transportation agreements to move closer to the Gas Target Model and support hub liquidity.

With respect to the balancing regime, in the past EFET has lamented the existence of balancing fees that are not foreseen in the EU BAL code and have the potential to hamper cross-border trade and de facto to fragment the balancing market with an inevitable impact on liquidity. Also, in this regard we have noted that these issues have been discussed with the National Regulatory Authorities as well as with the System Operators for a long time but such

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[1] The European Federation of Energy Traders (EFET) promotes and facilitates European energy trading in open, transparent, sustainable and liquid wholesale markets, unhindered by national borders or other undue obstacles. We currently represent more than 100 energy trading companies, active in over 28 European countries. For more information, visit our website at www.efet.org

conversations have so far delivered hardly any change. Additionally, we note that the design of the balancing market with multiple operators, and in particular the ex ante nature of actions taken on shippers behalf is unnecessarily complex and inefficient compared to other advanced markets. The EFET observations have been well-acknowledged by ACER in their recent report on the implementation of the EU BAL code. The Agency came to a conclusion that "the balancing rules in Austria limit the commercial freedom of network users and do not incentivise users to balance".

The reform of the Gas Act may remove the legal aspects that have so far hampered the full implementation of the BAL code.

We also note that these issues tend to be written into the Gas Law itself and therefore difficult to change. We would support such aspects of market design to be set in secondary legislation that can be amended under a consultation process overseen by the regulatory authority E-Control, and without the need for governmental approval of relatively minor changes.

While bringing this situation to your attention we would like to make ourselves available to provide any detailed relevant information and views should you so require. We would also be happy to meet to discuss a way forward when and if you were interested.

We thank you for your kind attention and remain available for further comments.

Yours sincerely,

Davide Rubini
Vice-Chairman

EFET Task Force Central and South Eastern Europe Gas (EFET TF CSEE-G)

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