

COMMISSION DECISION**of 10 November 2010****amending Chapter 3 of Annex I to Regulation (EC) No 715/2009 of the European Parliament and of the Council on conditions for access to the natural gas transmission networks****(Text with EEA relevance)**

(2010/685/EU)

THE EUROPEAN COMMISSION,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty on the Functioning of the European Union,

Article 1

Chapter 3 of the Annex I to Regulation (EC) No 715/2009 is replaced by the text in the Annex to this Decision.

Having regard to Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks ⁽¹⁾, and in particular Article 23(2) thereof,

Article 2

This Decision shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

Whereas:

It shall apply from 3 March 2011.

(1) Regulation (EC) No 715/2009 sets up guidelines on the definition of the technical information necessary for network users to gain effective access to the system.

(2) The guidelines should introduce transparency requirements in order to ensure effective access to natural gas transmission systems and to provide a minimum guarantee of equal market access conditions in practice.

Done at Brussels, 10 November 2010.

(3) The measures provided for in this Decision are in accordance with the opinion of the Committee referred to Article 28 of Regulation (EC) No 715/2009,

For the Commission
The President
José Manuel BARROSO

⁽¹⁾ OJ L 211, 14.8.2009, p. 36.

ANNEX

3. Definition of the technical information necessary for network users to gain effective access to the system, the definition of all relevant points for transparency requirements and the information to be published at all relevant points and the time schedule according to which this information shall be published3.1. *Definition of the technical information necessary for network users to gain effective access to the system*3.1.1. *Form of publication*

(1) Transmission system operators (TSOs) shall provide all information referred to under paragraph 3.1.2 and paragraph 3.3(1) to 3.3(5) in the following manner:

- (a) on a website accessible to the public, free of charge and without any need to register or otherwise sign on with the transmission system operator;
- (b) on a regular/rolling basis; the frequency shall be according to the changes that take place and the duration of the service;
- (c) in a user-friendly manner;
- (d) in a clear, quantifiable, easily accessible way and on a non-discriminatory basis;
- (e) in downloadable format that allows for quantitative analyses;
- (f) in consistent units, in particular kWh (with a combustion reference temperature of 298,15 K) shall be the unit for energy content and m³ (at 273,15 K and 1,01325 bar) shall be the unit for volume. The constant conversion factor to energy content shall be provided. In addition to the format above, publication in other units is also possible;
- (g) in the official language(s) of the Member State and in English.

(2) Transmission system operators shall provide details on actual changes to all information referred to under paragraph 3.1.2 and paragraph 3.3(1) to 3.3(5) in a timely manner as soon as available to them.

3.1.2. *Content of publication*

Transmission system operators shall publish at least the following information about their systems and services:

- (a) a detailed and comprehensive description of the different services offered and their charges;
- (b) the different types of transportation contracts available for these services;
- (c) the network code and/or the standard conditions outlining the rights and responsibilities of all network users including:
 - 1. harmonised transportation contracts and other relevant documents;
 - 2. if relevant for access to the system, for all relevant points as defined in paragraph 3.2 of this Annex, a specification of relevant gas quality parameters, including at least the gross calorific value and the Wobbe index, and the liability or costs of conversion for network users in case gas is outside these specifications;
 - 3. if relevant for access to the system, for all relevant points information on pressure requirements;
 - 4. the procedure in the event of an interruption of interruptible capacity, including, where applicable, the timing, extent, and ranking of individual interruptions (for example pro-rata or first-come-last-interrupted);
- (d) the harmonised procedures applied when using the transmission system, including the definition of key terms;
- (e) provisions on capacity allocation, congestion management and anti-hoarding and reutilisation procedures;
- (f) the rules applicable for capacity trade on the secondary market vis-à-vis the transmission system operator;
- (g) rules on balancing and methodology for the calculation of imbalance charges;
- (h) if applicable, the flexibility and tolerance levels included in transportation and other services without separate charge, as well as any flexibility offered in addition to this and the corresponding charges;

- (i) a detailed description of the gas system of the transmission system operator and its relevant points of interconnection as defined in paragraph 3.2 of this Annex as well as the names of the operators of the interconnected systems or facilities;
- (j) the rules applicable for connection to the system operated by the transmission system operator;
- (k) information on emergency mechanisms, as far as it is the responsibility of the transmission system operator, such as measures that can lead to the disconnection of customers groups and other general liability rules that apply to the transmission system operator;
- (l) procedures agreed upon by transmission system operators at interconnection points, of relevance for access of network users to the transmission systems concerned, relating to interoperability of the network, agreed procedures on nomination and matching procedures and other agreed procedures that set out provisions in relation to gas flow allocations and balancing, including the methods used;
- (m) transmission system operators shall publish a detailed and comprehensive description of the methodology and process, including information on the parameters employed and the key assumptions, used to calculate the technical capacity.

3.2. Definition of all relevant points for transparency requirements

- (1) Relevant points shall include at least:
 - (a) all entry and exit points to and from a transmission network operated by a transmission system operator, with the exception of exit points connected to a single final customer, and with the exception of entry points linked directly to a production facility of a single producer that is located within the EU;
 - (b) all entry and exit points connecting balancing zones of transmission system operators;
 - (c) all points connecting the network of a transmission system operator with an LNG terminal, physical gas hubs, storage and production facilities, unless these production facilities are exempted under (a);
 - (d) all points connecting the network of a given transmission system operator to infrastructure necessary for providing ancillary services as defined by Article 2(14) of Directive 2009/73/EC.
- (2) Information for single final customers and for production facilities, that is excluded from the definition of relevant points as described under 3.2(1)(a), shall be published in aggregate format, at least per balancing zone. The aggregation of single final customers and of production facilities, excluded from the definition of relevant points as described under 3.2(1)(a), shall for the application of this Annex be considered as one relevant point.
- (3) Where points between two or more transmission operators are managed solely by the transmission operators concerned, with no contractual or operational involvement of system users whatsoever, or where points connect a transmission system to a distribution system and there is no contractual congestion at these points, transmission system operators shall be exempted for these points from the obligation to publish the requirements under paragraph 3.3 of this Annex. The national regulatory authority may require the transmission system operators to publish the requirements under paragraph 3.3 of this Annex for groups or all of the exempted points. In such case, the information, if available to the TSO, shall be published in an aggregated form at a meaningful level, at least per balancing zone. This aggregation of these points shall for the application of this annex be considered as one relevant point.

3.3. Information to be published at all relevant points and the time schedule according to which this information should be published

- (1) At all relevant points, transmission system operators shall publish the information as listed in paragraphs (a) to (g), for all services and ancillary services provided (in particular information on blending, ballasting and conversion). This information shall be published on a numerical basis, in hourly or daily periods, equal to the smallest reference period for capacity booking and (re-)nomination and the smallest settlement period for which imbalance charges are calculated. If the smallest reference period is different from a daily period, information as listed in paragraphs (a) to (g) shall be made available also for the daily period. This information and updates shall be published as soon as available to the system operator ("near real time").
 - (a) the technical capacity for flows in both directions;
 - (b) the total contracted firm and interruptible capacity in both directions;
 - (c) the nominations and re-nominations in both directions;
 - (d) the available firm and interruptible capacity in both directions;
 - (e) actual physical flows;

- (f) planned and actual interruption of interruptible capacity;
 - (g) planned and unplanned interruptions to firm services as well as the information on restoration of the firm services (in particular, maintenance of the system and the likely duration of any interruption due to maintenance). Planned interruptions shall be published at least 42 days in advance.
- (2) At all relevant points, the information under paragraph 3.3(1)(a), (b) and (d) shall be published for a period of at least 18 months ahead.
 - (3) At all relevant points, transmission system operators shall publish historical information on the requirements of paragraph 3.3(1)(a) to (g) for the past 5 years on a rolling basis.
 - (4) Transmission system operators shall publish measured values of the gross calorific value or the Wobbe index at all relevant points, on a daily basis. Preliminary figures shall be published at the latest 3 days following the respective gas day. Final figures shall be published within 3 months after the end of the respective month.
 - (5) For all relevant points, transmission system operators shall publish available capacities, booked and technical capacities, on an annual basis over all years where capacity is contracted plus 1 year, and at least for the next 10 years. This information shall be updated at least every month or more frequently, if new information becomes available. The publication shall reflect the period for which capacity is offered to the market.
- 3.4. *Information to be published regarding the transmission system and the time schedule according to which this information should be published*
- (1) Transmission system operators shall ensure the publication on a daily basis and updated every day the aggregated amounts of capacities offered, and contracted on the secondary market (i.e. sold from one network user to another network user), where the information is available to the TSO. This information shall include the following specifications:
 - (a) interconnection point where the capacity is sold;
 - (b) type of capacity, i.e. entry, exit, firm, interruptible;
 - (c) quantity and duration of the capacity usage rights;
 - (d) type of sale, e.g. transfer or assignment;
 - (e) the total number of trades/transfers;
 - (f) any other conditions known to the transmission system operator as mentioned in 3.3.
- In so far such information is provided by a third party, transmission system operators shall be exempted from this provision.
- (2) Transmission system operators shall publish harmonised conditions under which capacity transactions (e.g. transfers and assignments) will be accepted by them. These conditions must at least include:
 - (a) a description of standardised products which can be sold on the secondary market;
 - (b) lead time for the implementation/acceptation/registration of secondary trades. In case of delays the reasons have to be published;
 - (c) the notification to the transmission system operator by the seller or the third party as referred to under 3.4(1) about name of seller and buyer and capacity specifications as outlined in 3.4(1).
- In so far such information is provided by a third party, transmission system operators shall be exempted from this provision.
- (3) Regarding the balancing service of its system, each transmission system operator shall provide to each network user, for each balancing period, its specific preliminary imbalance volumes and cost data per individual network user, at the latest 1 month after the end of the balancing period. Final data of customers supplied according to standardised load profiles may be provided up to 14 months later. In so far such information is provided by a third party, transmission system operators shall be exempted from this provision. The provision of this information shall respect confidentiality of commercially sensitive information.

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- (4) Where flexibility services, other than tolerances, are offered for third party access, transmission system operators shall publish daily forecasts on a day-ahead basis of the maximum amount of flexibility, the booked level of flexibility and the availability of flexibility for the market for the next gas day. The transmission system operator shall also publish *ex-post* information on the aggregate utilisation of every flexibility service at the end of each gas day. If the national regulatory authority is satisfied that such information could give room to potential abuse by network users, it may decide to exempt the transmission system operator from this obligation.
 - (5) Transmission system operators shall publish, per balancing zone, the amount of gas in the transmission system at the start of each gas day and the forecast of the amount of gas in the transmission system at the end of each gas day. The forecast amount of gas for the end of the gas day shall be updated on an hourly basis throughout the gas day. If imbalance charges are calculated on an hourly basis, the transmission system operator shall publish the amount of gas in the transmission system on an hourly basis. Alternatively, transmission system operators shall publish, per balancing zone, the aggregate imbalance position of all users at the start of each balancing period and the forecast of the aggregated imbalance position of all users at the end of each gas day. If the national regulatory authority is satisfied that such information could give room to potential abuse by network users, it may decide to exempt the transmission system operator from this obligation.
 - (6) Transmission system operators shall provide user-friendly instruments for calculating tariffs.
 - (7) Transmission system operators shall keep at the disposal of the relevant national authorities, for at least 5 years, effective records of all capacity contracts and all other relevant information in relation to calculating and providing access to available capacities, in particular individual nominations and interruptions. Transmission system operators must keep documentation of all relevant information under point 3.3(4) and (5) for at least 5 years and make them available to the regulatory authority upon request. Both parties shall respect commercial confidentiality.
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