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DECISION

regarding the approval of the Regulation concerning the management of contractual congestions within Natural Gas National Transmission System

Taking into consideration the provisions of art. 8, letter p) paragraph 6 from Gas Law no. 351/2004, with its further changes and completions,
based on the provisions of art. 10 paragraphs (4) and (5) from Law no. 351/2004, with its further changes and completions,

President of National Regulatory Authority in Natural Gas Sector issues the present decision.

Art. 1. — It is being approved the Regulation concerning the management of contractual congestions within Natural Gas National Transmission System, provided in annex which represents an integrant part of the present decision.

Art. 2. — Resort Compartments within National Regulatory Authority in Natural Gas Sector, Natural Gas National Transmission System's operator, natural gas distribution operators, storage operators, suppliers, eligible customers, as well as foreign legal persons, beneficiaries of transit within the Romanian territory will fulfill the provisions of the present decision.

Art. 3. — (1) The present decision is published in Monitorul Oficial of Romania, Part I, and comes into force on the date of February, 15th 2006.

(2) There are excepted from the provisions of paragraph (1) the decisions of chap. III Management of contractual congestions within NTS in the Regulation approved by the present order, which will come into force on the date of 1st of July 2006.

Art. 4. — (1) National Regulatory Authority in Natural Gas Sector will correspondingly change and complete the transmission framework agreement, approved by the Decision of President of National Regulatory Authority in Natural Gas Sector no. 888/2004, published in Monitorul Oficial of Romania, Part I, no. 588 from 1st of July 2004, with its further changes.

(2) The changes and completions provided in paragraph (1) come into force on the date of February, 15th 2006.

President of National Regulatory Authority in Natural Gas Sector,

Stefan Cosmeanu

Bucharest, 26th of September
2005. No. 757.

Regulation concerning the management of contractual congestions within Natural Gas National Transmission System

CHAPTER I

General Dispositions

1. Terminology and abbreviations

Art. 1. — The terms below have the following meanings:

<i>Gas year</i>	— period between the interval of 1 st of July of the current year and 30 th of June Of the following year
<i>Reserved transmission capacity</i>	— The capacity the TSO has to put at the NTS customer's disposal at any moment during the transmission agreement's validity and which is established based on maximum hourly gas quantities approved for transmission and is expressed in thousands of cubic meters per hour, under referential conditions according to the regulations in force
<i>Capacity follows the customer</i>	— The principle applied for eligible customers who changes the supplier, according to which the capacity reserved for the customer is assigned to the initial supplier and taken by the new supplier
<i>Contractual Congestion</i>	—insufficient capacity caused by excessive reservations in points or sections of the system
<i>Management of contractual congestions</i>	— management carried out by the TSO for its own capacities portfolio regarding optimum and maximum utilization of technical capacity and timely detection of future contractual congestions in points or sections of the system

First come— <i>first served</i>	— <i>the principle of assignment of capacity by the TSO in order of receipt of requests within each level of priority</i>
<i>Applicant</i>	— <i>legal person entitled, according to the regulations in force, to request Reservation of capacity in NTS for the purpose of conclusion of a transmission agreement through NTS</i>
<i>User</i>	- <i>legal person, holder of a transmission agreement through NTS</i>
<i>Gas day</i>	— 24 hours time interval, starting from 6,00 am Romania's official hour

Art. 2. — Abbreviations used in the present regulation have the following meanings:

ANRGN — National Regulatory Authority in Natural Gas Sector

CTF - capacity transfer facility

TSO –Transmission System Operator

NTS - Natural Gas National Transmission System.

2. Purpose

Art. 3. — The purpose of the present regulation is to establish the mechanisms for the management of contractual congestions within NTS. The Regulation does not apply in case of natural gas transit through dedicated magisterial pipelines.

CHAPTER II Access of third parties to the NTS

1. General requirements for access to the NTS

Art. 4. — (1) The following categories of applicants/users have the right to reserve the transmission capacity in NTS:

1. distributors;
2. operators of underground storage facilities;
3. suppliers;
4. eligible customers;
5. foreign legal persons, beneficiaries of de natural gas transit within Romania's territory.

(2) TSO provides non-discriminatory and transparent access to the entire capacity of the NTS, less the one necessary for its operation and maintenance under safety conditions.

2. Procedures by which transmission capacity is requested

2.1 The period of time for reservation of transmission capacity

Art. 5. — (1) Transmission capacity may be required for the following periods:

- a) until the date of 15th of May of each year, for a gas year;
- b) after the date of 1st of July of each year, for less than a gas year and only until its end, case in which the provisions of chap. III regarding congestions management mechanisms are applied.

(2) In case the capacity is requested for a period shorter than a gas year, the petitioner/user who requests reservation of capacity will justify the fact that he could not foresee, until the term stipulated in paragraph (1) leter a), the capacity requested.

Art. 6. — (1) By derogation from art. 5, TSO will maintain available during the current gas year a capacity corresponding to the arrangement of access to NTS issued for:

- petitioners/users of whose connection installations will be commenced, according to the agreements of connection to the NTS for the respective gas year;
- users hor whom an increased capacity reservation is approved, without changing of the connection installation being necessary, in the respective gas year.

(2) The capacity maintained available by the TSO under the conditions of paragraph (1) will be notified to ANRGN until latest the date of 15th of May of each year for the following gas year, accompanied by the afferent justifications.

(3) The capacity maintained available by the TSO under the conditions of paragraph (1) may not be assigned to other categories of petitioners/users.

Art. 7. — The transmission capacity annually reserved starts from the first day of the gas year and ends in the last day of the gas year.

2.2 Request for transmission capacity

Art. 8. — (1) petitioners/users notify to the TSO the intention of reserving transmission capacity by submission of a petition according to the model provided in annex no. 1.

(2) TSO notifies by fax to the petitioners/users the reservation of capacity in NTS or the reasons for total or partial refusal of reservation of capacity latest until the date of 1st of June of each year. Model of notification is provided in annex no. 2.

(3) petitioners/users may contest total or partial refusal of reservation of capacity, within a term of maximum two working days from the date of the notification's transmission by fax. TSO has the obligation to reply to the contestations within a term of maximum five working days from the date of the notification's transmission.

(4) in case the care transmission capacity is granted, TSO sends to the petitioners/users two copies of the transmission agreement, drawn up based on the natural gas transmission framework agreement.

(5) in case the petitioners/users may contest the „capacity partially assigned within the term provided in

paragraph (3), SOT has the obligation to send two copies of the transmission agreement, drawn up based on the natural gas transmission framework agreement, in maximum 5 five working days from the date of notification.

(6) TSO will keep record of grants and refusals of transmission capacity for NTS petitioners/users, to notify to ANRGN once a year or upon its express request.

Art. 9. — Request for annual transmission capacity is submitted to TSO starting from the date of 15th of February of each year, until latest the date of 15th of May of each year.

Art. 10. — TSO has the right to refuse without any other explanations the requests for reservation of annual transmission capacity which are submitted outside the interval stipulated in art. 9.

Art. 11. — in case the NTS petitioners/users accept the agreement proposed, will return to TSO a copy of the transmission agreement signed until the date of 15th of May of each year.

Art. 12. — Non-receiving of an answer within the term stipulated in art. 11 is considered as a refusal of signing the transmission agreement, the user not receiving, this way, the reservation for transmission capacity.

Art. 13. — (1) In case the capacity requested is not approved, TSO will mention into the notification the reason for refusal.

(2) Reasons for refusal may be:

a) situations provided in art. 64 from Gas Law no. 351/2004, with its further changes and completions;

b) documents attached to the request for capacity do not justify the capacity request after 15th of May. In order to justify the capacity request after 15th of May, petitioners/users must prove the fact that the respective additional capacity could not be foreseen at the time of annual capacity request.

Art. 14. — Petitioners/users have the right to request the transmission capacity that corresponds to the necessary capacity:

a) for fulfillment of storage agreements;

b) for fulfillment of obligation in contracts concluded by the supplier with its customers;

c) for providing own consumption, in case of eligible customers;

d) for providing technological consumption, in case of licensed operators.

Art. 15. — Reservation of transmission capacity is approved by TSO, and the transmission agreement will be signed only for the capacity proven by the petitioners/users.

Art. 16. — TSO grants the capacity in NTS to the petitioners/users based on the principle of first came — first served, within each level of priority, as follows:

1. operators of underground storage facilities, for technological purposes;

2. operators of distribution systems, for public service obligations fulfillment purposes;

3. suppliers, eligible customers and foreign legal persons, beneficiaries of natural gas transit within the Romanian territory.

CHAPTER III Management of contractual congestions in NTS

Art. 17. — (1) For contractual congestions handling, capacity approved and unused may represent the object of:

a) voluntary return to TSO;

b) capacity transfer facilitation (CTF);

c) mandatory transfer by TSO from a user to another petitioner/user.

(2) There make no object of congestions handling mechanisms the provisions of paragraph (1) petitions for handling the new/additional capacity submitted to TSO after the date of 15th of May and for which the petitioner/user may not justify the reason for which this capacity was not requested before the date mentioned. Any such petitions will be refused by TSO.

Voluntary returning of capacity

Art. 18. - NTS user may request TSO to integrally or partially return the capacity.

Art. 19. — Period for integrally or partially return of capacity may only be from the moment of its returning until the end of the gas year.

Art. 20. — (1) TSO has the obligation to take the capacity offered by the user only if there is a petition for the respective capacity, submitted by another petitioner/user.

2) in such case the user will put at TSO disposal the following information:

a) contact person, address, telephone, fax and e-mail;

b) capacity to be returned.

(3) Petition for requesting/returning of transmission capacity is submitted to TSO, using the model provided in annex no. 1.

(4) within maximum 10 working days from receipt of petition, TSO will notify the petitioner/user regarding the approval/refusal of the request, according to the model provided in annex no.1

Art. 21. — in case there are several petitioners/users requesting the capacity, the petitions will be managed within each level of priority based on first come— first served principle.

Art. 22. — in case there are several users requesting voluntary capacity returning, the petitions will be managed based on first come— first served principle ".

Art. 23. — (1) After approval of petition, TSO together with the user will change the transmission agreement accordingly.

(2) User will no longer pay for the capacity he voluntarily returned to TSO.

Art. 24. — TSO has the obligation to keep evidence of voluntary capacity returning.

Capacity transfer facilitation

Art. 25. — CTF represents a mechanism by which petitioners/users may execute direct capacity transfer.

Art. 26. — (1) User who intends to transfer capacity, hereinafter called *user who transfers*, and petitioner/user who intends to take the respective capacity, hereinafter called *petitioner/user beneficiary of transfer*, will submit to TSO a capacity transfer petition according to the model presented in annex no. 3.

(2) Capacity transfer petition will be submitted by fax to TSO at least 10 working days before the transfer takes place.

Art. 27. — Capacity may be transferred integrally or partially.

Art. 28. — Period for capacity transfer may only be from the moment of its transferring until the end of the gas year.

Art. 29. — On submission of a petition for execution of a capacity transfer, user who transfers must fulfill the following conditions:

(i) to hold a transmission agreement concluded with TSO, within the validity period; (ii) to hold a contracted capacity equal or higher than the one he intends to transfer.

Art. 30. — (1) in case the requested capacity transfer is not approved, TSO will stipulate the reason for refusal, within 3 working days from the date of the transfer petition transmission by fax.

(2) Reasons for refusal may be:

a) information presented in the capacity transfer petition are incorrect or incomplete;

b) user who transfers do not dispose of the capacity he requests to transfer;

c) petitioner/user beneficiary of transfer may not justify the reason for which the request for new/additional capacity reservation was not submitted until the date of 15th of May.

(3) in case TSO does not transmit a refusal regarding the capacity reservation requested, within the term provided in paragraph (1), transfer is considered approved.

Art. 31. — (1) TSO together with the user who transfers, respectively with the beneficiary of transfer, will correspondingly change the transmission agreements in force or will conclude a new un transmission agreement, depending on the case.

(2) Procedure of changing, respectively of concluding the transmission agreement, provided in paragraph (1) will be carried out such manner the agreements' signing would be made before the transfer's approved date.

(3) User who transfers will no longer pay for the capacity he transferred by CTF mechanism.

Mandatory capacity transfer

Art. 32. — (1) in case petitioner/user was refused due to the lack of capacity for over a month, TSO will inform all users about the capacity requested and will advice them to offer the respective capacity to the petitioner/user by using CTF or by voluntarily returning the capacity to TSO. At the same time, TSO will send all users the request for reporting within 5 working days their real need for capacity for the specified period, justified by documents.

(2) After 10 working days term from the date of informing the users regarding the existence of a petition for capacity, TSO will apply the procedure presented in art. 33 if it doesn't receive any offer for voluntary return of capacity and is informed that the petitioner/user did not receive any offer for transfer according to the CTF mechanism for the requested capacity.

Art. 33. — (1) TSO evaluates the information and justifications transmitted by the users.

(2) in case user who didn't report the necessarily capacity or this necessary is overestimated, TSO has the right to initiate a mandatory capacity transfer.

(3) in case TSO observes there are several users in the situation mentioned in paragraph (2), initiation of mandatory capacity transfer applies to all those in this situation, proportionally to the unjustified capacity.

(4) in case of initiation of a mandatory capacity transfer, TSO informs the user in writing about its decision, presenting the reasons for which it will proceed to this transfer.

(5) in case of mandatory capacity transfer, TSO will unilaterally proceed to the corresponding changing of transmission agreement, which is mandatory for the user.

(6) in situation user considers that mandatory capacity transfer is unjustified and discriminatory, this one may address to ANRGN.

(7) User who was subject of a mandatory transmission capacity transfer continues to pay for the remaining capacity, being, at the same time, obligated to pay 5% of the transmission capacity transferred, during the period from the date of the mandatory transfer capacity until the last day of the gas year.

Art. 34. — TSO has the obligation to keep evidence of mandatory capacity transfers.

Transfer of capacity for eligible customers

Art. 35. — (1) For eligible customer who changes the supplier the principle capacity follows the customer" is applied.

(2) in situation the two suppliers do not agree upon the transfer of capacity by CTF mechanism , TSO has the right to transfer the capacity afferent to the respective customer by any of the mechanisms of contractual congestions management.

(3) The new supplier has the obligation of taking the capacity afferent to the respective eligible customer, otherwise TSO having the right to refuse performing the afferent transmission services.

CHAPTER IV Transitory and Final Dispositions

Art. 36. — TSO will comply with the requirements for transparency afferent to the present regulation, as well as those established by ANRGN.

Art. 37. — TSO will maintain a registry of evidence of petitions for reservation of transmission capacity in which will register all the petitions submitted by the petitioner/user, in their transmission order. Registry is public and may be consulted by any person interested.

Art. 38. — in case a significant congestion appears repeatedly in the same point or in the same section of the system, TSO will carry out necessary investigations in order to extend the capacity in the respective point or section in the system, as urgently possible.

Art. 39. — Annually, until latest the date of 15th of September, TSO will submit to ANRGN a report regarding the congestions in NTS. Model of reporting is drawn up by TSO within maximum 90 days from publication of the present regulation in Monitorul Oficial of Romania, Part I, and will be submitted to ANRGN for approval.

Art. 40. — Noncompliance with the provisions of the present regulation is sanctioned according to the legislation in force.

Art. 41. — Annexes no. 1—3 are integrant part of the present regulation.

ANNEX No. 1 to the regulation

PETITION

for requesting/returning of transmission capacity

1. Information concerning the NTS petitioner/user requesting the reservation/returning of transmission capacity:

Contact Person:
Address:
Telephone:
Fax:.....
E-mail:

2. Information concerning the returned capacity:

3. Information concerning the capacity requested:

Capacity is requested for the following purpose:

Capacity is requested for the following points of receipt/delivery:

it is being requested the following maximum hourly quantity (m³/or,,under referential conditions):

4. Additional Information:

In case the request refers to an import point partner/partners will be mentioned:

5. Additional Documentation:

The following documentation is submitted in order to justify the request for capacity after the date of 15th of May

NOTE:

- 1. Points 3, 4 and 5 are only filled in in case of request for capacity reservation.
- 2. Point 2 is only filled in in case of capacity return.
- 3. Point 2 is only filled in in case capacity reservation is requested after the date of 15th of May.

NOTIFICATION

Transmission capacity reservation petition no.
Was received on the date of
(yyyy/mm/dd, hour, minute)

1. Information concerning the capacity requested:

Capacity is requested for the following purpose:

Capacity is requested for the following points of receipt/delivery: it is
being requested the following maximum hourly quantity (m³/or,,):

2. Information concerning the capacity approved:

Capacity was approved for the following points of receipt/delivery:

The following maximum hourly quantity (m³/or,,) was approved:

Date of approval:.....
(yyyy/mm/dd)

3. Reasons for refusal of transmission capacity:

Capacity was not approved from the following reasons:

Signature of TSO duly representative

ANNEX No. 3 to the regulation

PETITION
for transfer of transmission capacity

1. Information concerning the user transferring:

Contact Person:
Address:
Telephone:
Fax:.....
E-mail:

2. Information concerning the petitioner/user benefiting from the transfer:

Contact Person:
Address:
Telephone:
Fax:
E-mail:

3. Information concerning the capacity to be transferred:

Capacity is requested for the following purpose:

Capacity is requested for the following points of receipt/delivery: it is being requested the following maximum hourly quantity (m³/or,,):

Signature of the a user transferring

Signature of the petitioner/user benefiting from the transfer