

**Consultation Document**  
**for the Incremental Capacity Process 2019**  
**for the Market Border Area between**  
**Denmark and Trading Hub Europe**

**10th of August 2020**

This report is a joint assessment of the potential for incremental capacity projects conducted by

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## I. Introduction

Having concluded the phase 1 of the incremental capacity process in 2019, as laid down in Regulation (EU) 2017/459 (Network Code on Capacity Allocation Mechanisms; below referred to as “NC CAM”), the affected TSOs on the Danish market area and the joint German market area Trading Hub Europe (THE) initiated the project design phase (phase 2). The demand assessment report for incremental capacity 2019 (published 21<sup>st</sup> of October 2019) shows a sustained demand on the German side of the market area border.

For the entry-exit-systems the following conclusion for the (non)-initiation of an incremental capacity project/process is drawn:

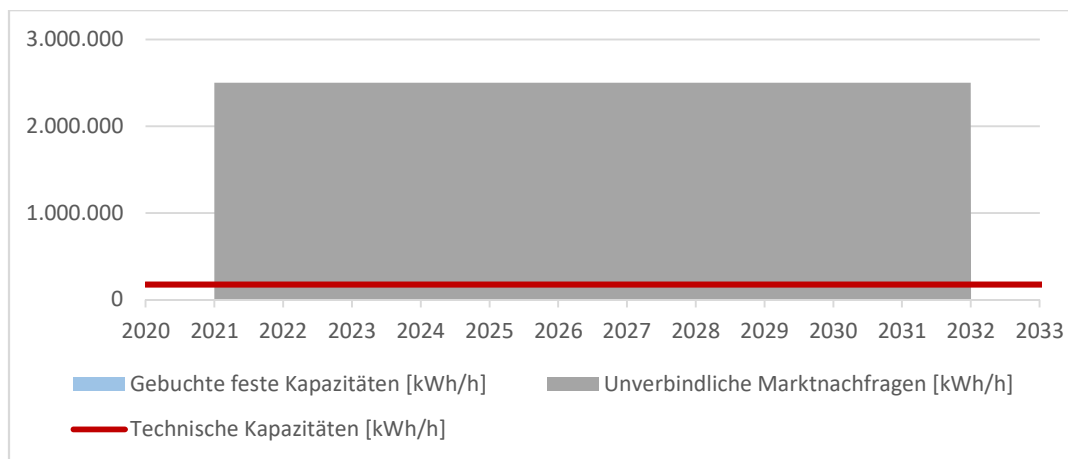


Figure 1: Entry Trading Hub Europe

The above shown chart clearly indicates that the demanded incremental capacity is higher than the technical capacity available at the market area border.

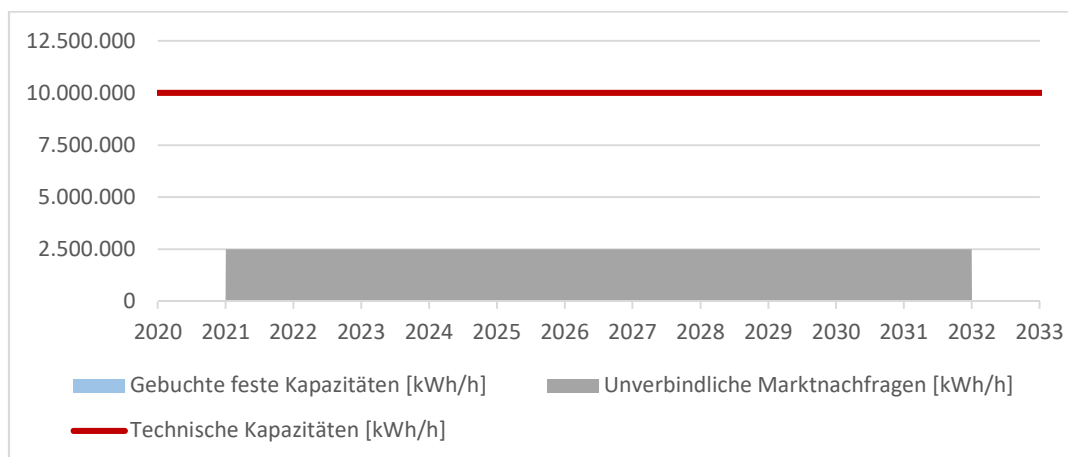


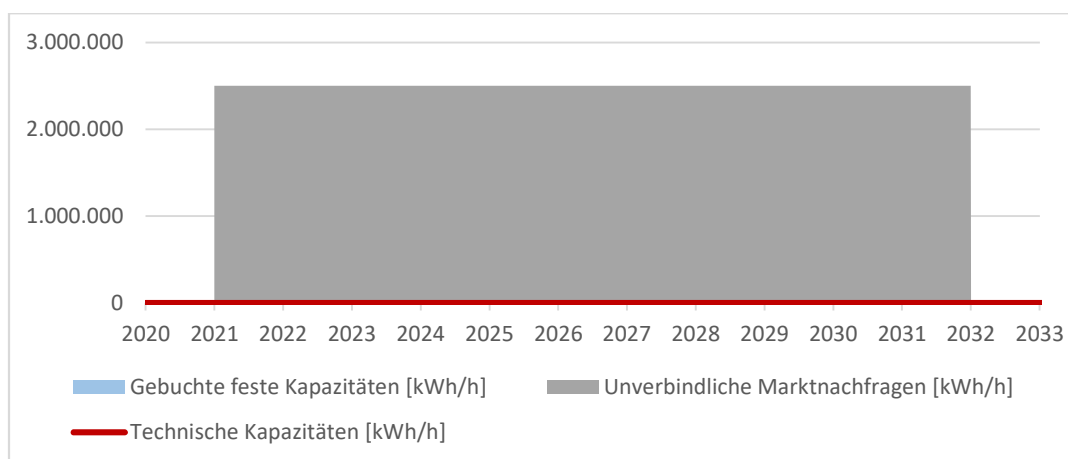
Figure 2: Exit Denmark

The above shown chart clearly indicates that there is a high amount of available capacity at the Danish side of the market area border which exceeds the demand for incremental capacity.

Therefore, the conclusion of the market demand assessment report was that Gasunie Deutschland Transport Services GmbH (GUD) and Open Grid Europe GmbH (OGE) had to start a project for incremental capacity. Whereas energinet Gas TSO A/S (Energinet) did not have to initiate a project.

In addition to the above shown unbinding request, numerous other unbinding requests for incremental capacity have been received by German TSOs. This results in a wide range of modelling scenarios, which have to be conducted as a basis for the technical study. That is why the initial timeline was adapted and the consultation of the present document was postponed.

The planned market area merger of the German entry-exit-systems to one German market area as of 1<sup>st</sup> October 2021 has an impact on the existing capacity to be considered. Only the approved capacity (following “base capacity”) can be considered for the incremental capacity process (acc. to § 9 Abs. 4 S. 1 Gasnetzzugangsverordnung; following “GasNZV”). Consequently, the technical capacity of 172 MWh/h shown in die market demand assessment report of 21<sup>st</sup> October 2019 must not be taken into account, as it is not base capacity. Accordingly, there is a demand for incremental capacity in the amount of 2,500,000 kWh/h. The following picture emerges:



**Figure 3: Entry Trading Hub Europe after market merger**

For this incremental capacity project, the technical studies are conducted for potentially all Interconnection Points (IPs) of the entry-exit system border for which the project was initiated. Thereby economical aspects and aspects of grid topology are considered. After finishing the technical studies, the involved TSO's started the process of designing coordinated

offer level in order to enable bundled products also including the identified incremental capacities.

The present consultation report is a joint report of OGE and GUD. All required elements for the market consultation regarding this incremental capacity project are taken into consideration and are described in this report.

## **II. German Side of the Market Area Border**

### **1. Project Proposal**

In total, the technical studies of the present cycle for incremental capacity considered 63 scenarios, each based on a different combination of projects based on non-binding demand indications. The expansion measures were developed under the premise that all indicated capacities would be booked and that all economic tests would be positive. In this document, only those measures of this maximum scenario are described in text form that are partly caused by the above-mentioned requested capacity. All expansion measures of the maximum scenario are shown in Figure 4. A detailed breakdown of costs is not provided here. The basis of the listed expansion measures is the infrastructure contained in the draft document for the German Gas Network Development Plan 2020-2030 (published on 1 July 2020; hereinafter "NEP"), including the network expansion measures resulting from the modelling variant with the name "basic variant". The investment costs are initial estimates. In addition to the cost of the investment also operating costs are relevant, which amongst others are caused by fuel gas necessary for the operation of compressors. The annual costs are given below for the maximum scenario. In addition to the price for the commodity, these costs also include natural gas tax and CO<sub>2</sub> costs.

## Incremental Capacity Cycle 2019-2021 – Expansion

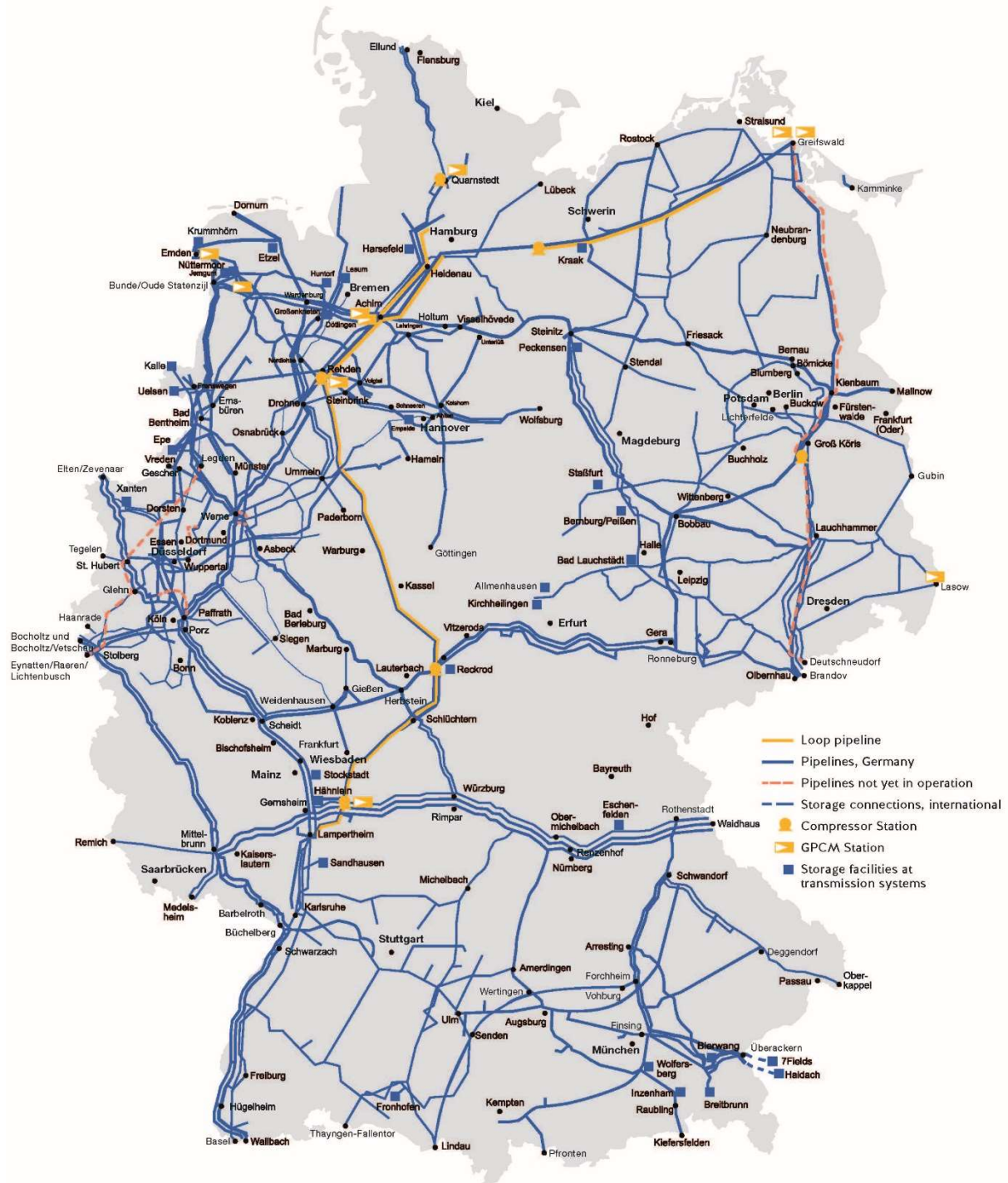


Figure 4: Technical Measures for maximum scenario

For the technical study on the Denmark-THE market area border the demand indication detailed in the demand assessment report has been considered. There is a constant capacity demand of 2.500.000 kWh/h. This value was used for the technical study.

From the perspective of the German FNB, it is entry capacity. The networks of the German TSO OGE (currently market area NetConnect Germany, NCG) and GUD (currently market area GASPOOL) are connected with the network of energinet via the interconnection point Ellund.

The planned transport route would provide the requested capacity via the network of GUD, which is partly under joint ownership, following via NEL pipeline (Nordeuropäische Erdgasleitung) to Rehden and via MIDAL pipeline (Mitte-Deutschland-Anbindungsleitung) towards Herchenrode/Gernsheim. In addition, it will be ensured that a transport from the current market area GASPOOL to the current market area NCG in the area of Herchenrode/Gernsheim will be possible. The current two market areas will be merged as of 01.10.2021 to the market area THE.



Figure 1: Expansion route

The requested capacity will be provided via the pipeline Deutsch/ Dänischen Erdgastransport-Gesellschaft (DEUDAN, joint venture of OGE and GUD) which is shown in the picture above (route marked in orange). From Quarnstedt to Achim the requested capacity will be provided in the jointly owned pipelines of GUD and OGE.

Currently there are two requests for capacity acc. to § 39 GasNZV for the same area in the network of GUD, which had to be taken into account in the technical study. The technical measures to provide the capacity for LNG facilities are part of the NEP draft document 2020. The costs described in this consultation document assume that the LNG facilities are realized.



In the northern part of the network of GUD following measures are necessary: The compressor station Quarnstedt has to be reversed. The investment amounts to approx. 3.5 million. From Elbe Süd to Heidenau a loop pipeline with a length of approx. 67 km in DN 800 has to be build. This is already included in the NEP (part of the pipeline Elbe Süd-Achim, ID-Nr. 636-01). From Heidenau to Achim a loop pipeline with a length of approx. 57 km in DN 1000 must be constructed. The loop pipeline is already included in the NEP in DN 800 (part of the pipeline Elbe Süd-Achim, ID-Nr. 636-01). The additional investment is approx. EUR 25 million. In total, the additional investment amount to approx. EUR 28.5 million.

To enable the transport on a firm basis it is necessary to realize the following technical measures on the NEL gas pipeline west of the Achim shut-off station: A loop pipeline with a length of approx. 67 km in DN 1400 has to be constructed. Of this, 52 km in DN 1400 are already included in the NEP (pipeline NEL West, ID no. 634-01). The additional investments amount to approx. EUR 64 million. In total, the additional investments on this pipeline section amount to approx. EUR 64 million.

In addition, the following expansion measures are necessary on the MIDAL gas pipeline: The Rehden compressor station must be extended by a compressor capacity of approx. 48 MW. The investments amount to approx. EUR 261 million. In Rehden, a GDRM station with a capacity of 2.2 million Nm<sup>3</sup>/h must also be constructed. The investments amount to approx. EUR 17 million. A loop pipeline with a length of approx. 260 km in DN 1400 is to be constructed from Rehden to Reckrod. Of this, 61 km are already included in the NEP (pipeline MIDAL Mitte Nord, ID no. 627-01; pipeline MIDAL Mitte Süd, ID no. 628-01). The additional investments amount to approx. EUR 905 million. A compressor station with a compressor capacity of 84 MW is to be built near Reckrod. This is already included in the NEP with a compressor capacity of 36 MW (VDS Reckrod, ID-No. 629-01). The additional investments amount to approx. EUR 150 million. From Reckrod to Lampertheim a loop pipeline with a length of approx. 200 km in DN 1400 is to be constructed. Of this, 115 km in DN 1000 are already included in the NEP (Wirtheim-Lampertheim line, ID no. 609-01). The additional investments amount to approx. EUR 535 million. A compressor station with a compressor capacity of approx. 46 MW is to be built near Herchenrode. The investments amount to approx. EUR 170 million. In addition, a GDRM station with a capacity of approx. 4 million Nm<sup>3</sup>/h is to be built in Herchenrode. The investments amount to approx. EUR 31 million. In total, the additional investments on this pipeline section amount to approx. EUR 2,069 million. The annual costs for fuel gas for this section are approximately 33 Mio. Euros.

Due to the capacity expansion measures on the MIDAL gas pipeline it is possible to transport the capacity via Herchenrode/Gernsheim to THE network area NCG. There are no further technical measures necessary to provide the requested capacity in the NCG network area.

Due to the large number of non-binding demand indications for incremental capacity, depending on booking behaviour in the 2021 annual auctions respectively the outcome of alternative allocation mechanism in place, there are interdependencies regarding the project costs to be allocated. Depending on the incremental capacity to be provided on a grid section, synergies or dyssynergies may arise. Synergies are mainly generated by economies of scale. For example, the larger the diameter of a loop line is selected, the lower the specific transport costs will generally be for the same relative capacity utilization. Dyssynergies arise mainly through additional investments, e.g. when the combined incremental capacity requirements of several projects trigger a dimensional leap in a line measure. The cost per measure are allocated to the projects according to the provided incremental capacity. The dependencies of the projects as well as the present value of increase of allowed revenues are shown in the Annex to this consultation document.

The costs to be compared to the bindingly submitted bookings will therefore only be known finally after the annual auctions and the alternative allocation mechanism have been carried out.

## 2. Offer Level

The table below sums up the offer level, taking into account Art. 8 (8) NC CAM and the currently valid decision of BK7-15-001 (KARLA Gas) and therefore considering reservation quotes of 20 % for existing and incremental capacity.

The incremental capacity was requested with the start of gas year (following "GY") 2022/2023. Given that it will not be known until after the annual auction in July 2021 whether the above measures will be implemented and given the extensive grid expansion measures necessary to provide the incremental capacity, the requested capacities will not be available before the Gas year 2027/28. This results in the following offer level:

Period from	Period to	Free available capacity considering 20 % reservation quote; kWh/h	Incremental capacity considering 20 % reservation quote; kWh/h
01.10.2027	01.10.2042	0	2,000,000

Table 1: Offer Level

The incremental capacity will be offered bundled in full amount with the existing capacity of energinet.

## 3. Alternative Allocation Mechanism

Not applicable.

#### 4. Provisional Timeline

All above mentioned projects will be initialized after the auction in July 2021. All technical measures will be ready for operation at 1<sup>st</sup> of October 2027 if the economical test is passed after the auction.

The following steps of the incremental process can be described as follows:

Start Date	End Date	Description
10.08.2020		Publication of the consultation documents
10.08.2020	10.09.2020	Public consultation
10.09.2020	06.10.2020	Planning of the offer levels by the TSOs in close cooperation with the NRA
07.10.2020		Submission of the project proposal to the NRA
07.10.2020	06.04.2021	Processing of the project proposal by the NRA
07.04.2021		Approval and publication of the required parameters by the national regulatory authorities pursuant to Art. 28 (1) NC CAM
08.04.2021	04.05.2021	Adaptation of the offer levels by the TSOs in consideration of the requirements of the NRA
05.05.2021		Publication of the approved parameters, the capacity products and the template of the contract(s) for the capacities offered within the framework of the network expansion project
05.07.2021		Annual auction/Economic test

Table 2: Provisional Timeline

The stated dates have provisional character and are therefore subject to change.

If the economic test was positive, the project will feed into the national development process for the national development plan NEP Gas 2022-2032 and will be considered in its scenario framework and the (national) modelling.

#### 5. Additional General Terms and Conditions

The draft of the additional GT&C is as Appendix 2 attached to this consultation document.

#### 6. IND and RP according NC TAR

Since there is a floating price regime in Germany, the fixed price is not applicable.

#### 7. F-Factor

According to Article 27 (3) NC CAM the consultation shall cover the level of user commitments, expressed as an estimate of the f-factor in accordance with Article 23, which, after having

consulted with the transmission system operators, is proposed and subsequently approved by the concerned national regulatory authorities.

The f-factor for each offer level shall be set by the national regulatory authority, taking into account the following (Article 23 (1) NC CAM):

- a) the amount of technical capacity set aside in accordance with Article 8(8) and (9);
- b) positive externalities of the incremental capacity project on the market or the transmission network, or both;
- c) the duration of binding commitments of network users for contracting capacity compared to the economic life of the asset;
- d) the extent to which the demand for the capacity established in the incremental capacity project can be expected to continue after the end of the time horizon used in the economic test.

For the sake of transparency and for the purposes of economic test according to Article 22 NC CAM, the BNetzA created and published a calculation tool (following “BNetzA Tool”<sup>1</sup>). The relevant parameters of the BNetzA Tool pre-filled with the data reflecting this incremental capacity project are detailed in an Appendix to this consultation document.

The BNetzA Tool includes mathematical assessment of a possible f-factor according to points a), c) and d). The f-factor is calculated as rate of the present value of binding commitments of network users for contracting capacity within the time horizon of the first yearly capacity auction, in which the incremental capacity has been offered, according to Article 22 (1) (a), compared to the present value of all expected commitments of network users for contracting respective capacity. The BNetzA Tool uses the last known reference price which is also used regarding the respective year as a respective estimated reference price according to the Article 22 (1) (a) (i) NC CAM. Since the calculation of the increase in the allowed revenue of the transmission system operator associated with the incremental capacity included in the respective offer level does not take inflation into account, the inflation index of the reference prices was also set at 0%.

The most recent reference price currently known is the reference price of the entry-exit system Trading Hub Europe for the year 2023 published in the draft of the BNetzA decision REGENT 2021 in the amount of 3.78 EUR/(kWh/h)/year. This reference price is only used for the economic test and does not become part of the contract.

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<sup>1</sup> To be found at:

[https://www.bundesnetzagentur.de/EN/Areas/Energy/Companies/GridExpansion/Gas/IncrementalCapacities/IncrementalCap\\_node.html](https://www.bundesnetzagentur.de/EN/Areas/Energy/Companies/GridExpansion/Gas/IncrementalCapacities/IncrementalCap_node.html)

The assumptions regarding the booking of incremental capacity are explained below.

The f-factor proposed as follows:

The TSOs involved in the project assume that the incremental capacity offered in the capacity auction for yearly products in July 2021 for the period GY 2027/2028 to 2041/2042 will be booked in full amount of 2.000.000 kWh/h to pass the economic test.

- a) Incremental capacity set aside in accordance with Article 8 (8) CAM NC and assessed in-line with the currently valid decision from BNetzA BK7-15-001 (KARLA Gas) amounts 20% of the technical incremental capacity. The capacity set aside is 500,000 kWh/h.

The involved TSOs GUD and OGE do not anticipate significant bookings of the reserved capacity at a later point of time.

In an analysis of the future supply situation in Denmark from 2019 to 2040<sup>2</sup>, the Danish grid operator energinet concludes that from 2023 on approx. 1,0 bcm will be available for export to Germany from a balance point of view. In the forecast, this amount will decrease to 0 bcm by 2038. As it is assumed that the offered incremental capacity in the amount of 2,000,000 kWh/h will be booked completely in the 2021 annual auction, the booked incremental capacity would be sufficient to cover the estimated export potential until 2038, even if a balance prognosis cannot be compared directly to capacity bookings. In the opinion of the TSOs involved, the completion of the Baltic Pipe in 2022, which connects Europipe II via Denmark to Poland, will also significantly reduce the incentive to book the reserved capacity. The involved TSOs estimate that bookings of the reserved capacity would only be made to a limited extent if there were short-term arbitrage opportunities between the DK and THE market areas and the use of already booked capacity on the Baltic Pipe for onward transport to Germany was cheaper than booking of the entry capacity at the Dornum terminal (Europipe II landing point in Germany).

For the reasons mentioned, the TSOs involved in the project assume that no significant bookings of the reserved capacity can be expected. In respect to the calculation of the f-factor booked reserved capacities are considered in the amount of 0 kWh / h.

The TSOs involved invite the market to share their opinion if they have verifiable information on the matter leading to a different assessment of the expected capacity bookings.

- b) Additional relevant positive or negative external effects of the project are not known to the involved TSOs.

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<sup>2</sup> Compare REPORT SECURITY OF GAS SUPPLY 2019, page.35 following, published by energinet.

- c) According to Article 11 (3) when offering incremental capacity, the offer levels may be offered in yearly capacity auctions for a maximum of 15 years after the start of operational use.

For the period of GY 2027/2028 to GY 2041/2042 it is assumed – as discussed before – that the incremental capacity offered in the auction for yearly products will be fully booked.

Economic life of the asset was assumed in-line with the regulatory as well as ordinary depreciation period. Since the investment mainly concerns the construction of new pipelines, the regulatory depreciation period was set according to Attachment 1 to § 6 (5) of “Gasnetzentgeltverordnung” (GasNEV) for pipelines at 55 years. The start of operational use is foreseen for the year 2027, the last year of depreciation is 2082. For the period from 2042/43 to 2081/82 and beyond it is assumed that no significant booking of the incremental capacity will be made. In addition to the reasons mentioned under a), the significant decline in the production of the Tyra field<sup>3</sup> must also be mentioned here, so that, in the opinion of the TSOs involved, only short-term bookings will be made to realize arbitrage opportunities during this period.

The TSOs involved invite the market to share their opinion if they have verifiable information on the matter leading to a different assessment of the expected capacity bookings.

- d) The time horizon of the economic life of the asset and the economic test is 2082. No bookings were considered after GY 2042/43.

The f-factor calculated for the offer level based on the described assumptions is 1,0. The involved TSO hereby suggest this factor for the economic test.

## 8. Economic test

As six projects for incremental freely allocable capacity are considered in this incremental capacity cycle, there are as already described significant overlaps of the measures necessary to be able to offer the incremental capacity at the different market area borders. Therefore, an individual examination of the requests for incremental capacity and the individual necessary measures is not expedient. The procedure that the TSOs have agreed on to map all possible booking scenarios is described in the following.

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<sup>3</sup> Compare REPORT SECURITY OF GAS SUPPLY 2019, page.35 following, published by energinet.

In total, incremental capacity is requested at five market area borders in the current cycle. As a result, offer levels can be booked in the current cycle for the following projects:

1. Poland GCP
2. Poland TGPS
3. Russian Federation/ Netherlands (combined in an alternative allocation mechanism)
4. Russian Federation/ Greifswald (Capacity Upgrade)
5. Russian Federation/ Lubmin II (Capacity Upgrade)
6. Denmark

There is an offer level for each of these six projects. Each of the offer levels can be booked independently from the others and can pass the economic test. As a result, all possible combinations of positive and negative economic tests are possible. For which of the above stated projects capacity will be bindingly requested will only be clear after the annual auction in 2021, respectively after the evaluation of the results of the alternative allocation mechanism.

To ensure efficient network expansion, the TSOs have determined the necessary expansion measures individually for every possible request scenario. An overview of all 63 possible combinations is given in Appendix 1. The costs of a necessary expansion measures, including operating costs, are allocated to the single requests which are causing this measure in relation to the particularly requested capacity. The present value of the sum of these pro rata costs for individual measures finally equals the allowed increase of the revenue cap (hereinafter "EOG"), which will then be used in the economic test of the specific scenario.

For each single request, there are 32 scenarios of possible combinations with the additional requests at the other market area borders. Each of these scenarios includes the following specific components, which are listed in Appendix 3:

1. f-factor
2. present value of the estimated increase of the revenue cap
3. mandatory minimum premium

When carrying out the economic test with the tool provided by BNetzA, first it is necessary to determine which of the 63 booking scenarios is the relevant one in order to then subsequently use the three scenario specific components stated above.

## **9. Received additional Demand Indication**

After the deadline, one additional non-binding demand indication was received. In accordance with the conditions for participation in the process for incremental capacity by the transmission system operators concerned and in accordance with the requirements specified

in Article 26 (7) of Regulation (EU) 2017/459 (NC CAM), this non-binding demand indication is not taken into account in the current process, but in the next planned market analysis that will start after the annual auction in 2021.

## **10. Impact on Usage of Gas Infrastructure**

No negative impact is expected on the usage of the existing gas infrastructure in Germany.



### **III. Contact Information**

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## Appendix 1 Scenario-matrix

1: economic test is positive

Empty cell: economic test was not positive

Scenario	Denmark	Russian Federation/ Netherlands	Greifswald Upgrade	Lubmin II Upgrade	Poland Mallnow	Poland GCP
1	1					
2		1				
3			1			
4				1		
5					1	
6						1
7	1	1				
8	1		1			
9	1			1		
10	1				1	
11	1					1
12		1	1			
13		1		1		
14		1			1	
15		1				1
16			1	1		
17			1		1	
18			1			1
19				1	1	
20				1		1
21					1	1
22	1	1	1			
23	1		1	1		
24	1			1	1	
25	1				1	1
26	1	1		1		
27	1	1			1	
28	1	1				1
29	1		1		1	
30	1		1			1
31	1			1		1
32		1	1	1		
33		1		1	1	
34		1			1	1

Scenario	Denmark	Russian Federation/ Netherlands	Greifswald Upgrade	Lubmin II Upgrade	Poland Mallnow	Poland GCP
35		1	1		1	
36		1	1			1
37		1		1		1
38			1	1	1	
39			1		1	1
40				1	1	1
41			1	1		1
42	1	1	1	1		
43	1		1	1	1	
44	1			1	1	1
45	1	1			1	1
46	1	1	1			1
47	1		1		1	1
48	1		1	1		1
49	1	1		1	1	
50	1	1	1		1	
51	1	1		1		1
52		1	1	1	1	
53		1		1	1	1
54		1	1		1	1
55		1	1	1		1
56			1	1	1	1
57		1	1	1	1	1
58	1		1	1	1	1
59	1	1		1	1	1
60	1	1	1		1	1
61	1	1	1	1		1
62	1	1	1	1	1	
63	1	1	1	1	1	1

## **Appendix 2: Supplementary terms and conditions**

These supplementary business terms and conditions regulate supplementary as well as deviating provisions for the marketing of incremental capacities to and from the General Business Terms and Conditions of XXX ("transmission network operator") in the version of XX.XX.XXXX (hereinafter "General Business Terms and Conditions") within the meaning of Art. 3 Subclause 1 of the Commission Regulation (EU) 2017/459 of 16 March 2017 establishing a Network Code on Capacity Allocation Mechanisms in Transmission Systems and repealing Regulation (EU) No 984/2013 (hereinafter referred to as "NC CAM").

### **§ 1 General information, field of application**

1. The transmission network operator planned and consulted the projects for incremental capacity pursuant to the stipulations of Art. 27 et seqq. NC CAM on the basis of a market demand analysis. The Federal Network Agency approved these projects pursuant to Art. 28 NC CAM and published the corresponding resolutions. The incremental capacities are partly offered pursuant to Art. 29 NC CAM in the annual auction and partly pursuant to Art. 30 NC CAM within the scope of the alternative capacity allocation mechanism together with the respectively available capacity ("existing capacity") as standard products within the scope of coordinated offer levels. The list of the respective infeed and outlet points, at which the marketing of the incremental capacities is carried out in the auction procedure or within the scope of the alternative allocation mechanism, is enclosed with the supplementary business terms and conditions as Appendix 1.
2. The supplementary business terms and conditions shall apply to all infeed or outlet contracts, which include incremental capacities. Insofar as an infeed or outlet contract includes both incremental capacity as well as existing capacity, these supplementary business terms and conditions shall also apply to this existing capacity.
3. Insofar as no supplementary regulations and / or regulations that deviate from the General Business Terms and Conditions are set forth in these supplementary business terms and conditions, incidentally the General Business Terms and Conditions of the transmission network operator shall apply to incremental capacities.

### **§ 2 Marketing horizon**

1. The offer levels, which include incremental capacities, will be offered for the period of up to 15 gas business years from the expected start of the operational use of the incremental capacity.

### **§ 3 Conclusion of contract in the annual auctions**

1. The infeed or outlet contract with regard to incremental capacities between the transport customer and the transmission network operator shall be concluded with the allocation pursuant to § 1 Subclause 2 General Business Terms and Conditions with the condition that

the allocation pursuant to Art. 17 Paragraph 21 Sentence 3 NC CAM is carried out for the offer level, with which the largest capacity quantity is offered, with which the feasibility test pursuant to Art. 22 Paragraph 3 NC CAM led to a positive result.

2. The transmission network operator will announce the allocation pursuant to Art. 11 Para. 10 NC CAM.

#### **§ 4 Conclusion of contract within the scope of the alternative allocation mechanism**

1. Notwithstanding § 1 Subclause 1 General Business Terms and Conditions the allocation of the incremental capacities shall be carried out within the scope of the alternative allocation mechanism pursuant to Art. 30 NC CAM with prioritisation of the binding demands of the largest capacity quantity for standard capacity products as described in the following paragraphs.
2. The conclusion of the infeed and outlet contract shall not be carried out via a capacity booking platform, but via direct enquiries at the transmission network operator in a text form (pursuant to Subclause 4 of this § 4). The prerequisite for the conclusion of the contract is the admissibility of the transport customer by the transmission network operator. § 2a General Business Terms and Conditions shall apply accordingly. Notwithstanding § 2a Subclause 3 Sentences 2 to 4 General Business Terms and Conditions the transport customer will report at least one person of the transport customer, who is authorised to representation, as well as the corresponding changes directly to the transmission network operator.
3. The transmission network operator will make a form available on the website [www.fnb-gas-capacity.de](http://www.fnb-gas-capacity.de), in which all offer levels are listed for existing capacity and incremental capacity as well as information is contained pertaining to the necessary scope of the booking for the positive economical test (hereinafter referred to as "Booking Form"). The sample of the booking form is enclosed with these supplementary business terms and conditions as Appendix 2. The publication of the form shall be carried out two months before the day of the annual auction for standard annual products (5 May 2021).
4. The participation in the alternative allocation mechanism is carried out by the sending of the completed Booking Form signed by the person of the transport customer authorised to representation pursuant to Subclause 2 Sentence 3 to the email address stated in the publication of the project proposal as well as to the email address of the Federal Network Agency: [incremental-capacities@bnetza.de](mailto:incremental-capacities@bnetza.de), by 5 July 2021, 5 p.m. (hereinafter referred to as "Booking Day"). As an option the transport customer can, in addition to the sending of the aforementioned email, send the completed Booking Form by post to the FNB Gas e.V. Decisive for the participation in the alternative allocation mechanism is merely the sending of the Booking Form by email pursuant to Sentence 1.
5. The infeed or outlet contract with regard to incremental capacities will be concluded between the transmission network operator and the transport customer at the end of the Booking Day, which made a binding enquiry for the largest capacity quantity, with the condition that the feasibility test pursuant to Art. 22 Paragraph 3 NC CAM for the respective offer level led to a positive result. In case of equal submitted enquiries, the time of receipt of the Booking Form by email pursuant to Subclause 4 shall decide on the priority. The earlier received Booking Form will be assumed in this case.

6. The transmission network operator will inform the individual transport customers, which participated in the alternative allocation mechanism, about the respective results of the allocation without delay.

## **§ 5 Remunerations**

1. The remunerations within the meaning of § 25 General Business Terms and Conditions are remunerations formed in future according to the regulatory stipulations or approved by the regulatory authorities in future, as well as the other remunerations stated in § 25 Subclause 1 of the General Business Terms and Conditions respectively remuneration components, including a possible auction surcharge, a possible obligatory minimum surplus pursuant to Art. 33 Commission Regulation (EU)2017/460 of 16 March 2017 for the stipulation of a network code regarding harmonised transmission fee structures as well as possible future allocations, which will apply in the service period of the infeed or outlet contract according to the price sheet published on the website of the transmission network operator. The service period is in this case the period of time, for which the contractual rights and obligations of the transmission network operator and of the transport customer apply pursuant to § 3 and § 4 of the General Business Terms and Conditions of the transmission network operator.
2. Within the scope of the auction or the alternative allocation mechanism the specific capacity remuneration that is current at the time of this auction or, in the event of the alternative allocation mechanism, the sending of the Booking Form, formed according to the regulatory stipulations, will be used. The use of the specific capacity remuneration according to Sentence 1 is however, within the scope of the auction or the alternative allocation mechanism, no agreement on the capacity remuneration in the service period of the infeed or outlet contract and does not include any reference to the amount of the remunerations actually agreed and to be settled for the service period of the infeed or outlet contract according to Subclause 1. The specific capacity remunerations will respectively be agreed for the service period of the infeed and outlet contract from 1.10. to 31.12. of a respective year and from 1.1. to 30.9. of a respective year based on the remunerations formed in future according to respectively applicable regulatory stipulations or remunerations approved by the regulatory authority. The publication of new remunerations therefore do not include any price adjustment within the meaning of § 25 Subclause 3 Sentence 1 and Subclause 4 General Business Terms and Conditions. In deviation from Sentence 1 a possible auction surcharge will be agreed with the allocation within the scope of the auction.
3. In deviation from § 25 Par. 4 General Business Terms and Conditions the transport customer is entitled to terminate the infeed or outlet contract after the publication of the specific capacity remuneration formed and agreed pursuant to Subclause 1, that is effective for the respective service period of the infeed or outlet contract, for the following service period with a period of notice of 10 workdays to the respective start of the following service period, insofar as the specific capacity remuneration formed and agreed pursuant to Subclause 1 exceeds the maximum remuneration limit shown for the service period pursuant to Annex 1 of these supplementary business terms and conditions ("Special right of termination"). The special right of termination pursuant to Sentence 1 shall exclusively exist with regard to the respective service period of the

infeed or outlet contract pursuant to Subclause 1, for which the published remunerations apply.

4. The transport customer can terminate the respective infeed or outlet contract with regard to the respective terminable service period pursuant to Subclause 3 in full or partly with respect to the amount of the capacity booking. A partial termination according to Sentence 1 is only permitted as a standard reduction in the originally booked capacity for the respective service period.

## **§ 6 Rights and obligations of the transmission network operator and of the transport customer**

1. The transmission operator will take the financially feasible measures in order to
  - a. ensure that the incremental capacities allocated to the transport customer or allocated within the scope of the alternative allocation mechanism are made available in time for the service period of the infeed or outlet contract, and
  - b. to coordinate the commissioning of the infrastructure for the incremental capacities with adjacent network operators as far as necessary.
2. With the assessment of the financial feasibility within the meaning of Subclause 1 in particular the necessary permits, conditions, secondary provisions under public law, and instructions of the responsible authorities, the basic regulatory conditions, as well as the customary principles developed on the basis of case law relating to indemnifications for owners and parties entitled to use are to be taken into consideration.
3. Insofar as it is determined over the course of that network expansion, which lies in the area of responsibility of the transmission network operator, that the incremental capacities at the Interconnection Point cannot be made available at the start of the service period of the infeed or outlet contract, but only at a later time, the booked infeed and outlet contracts will be reduced pursuant to German Regulation on Access to Gas Supply Networks [*Verordnung über den Zugang zu Gasversorgungsnetzen - GasNZV*] Section 18 pro rata to the part of the existing capacity, insofar as the infeed or outlet contract concerned includes both new capacity to be created as well as existing capacity. Without delay after the transmission network operator has gained certain knowledge of a delay it will inform the transport customer in a text form and communicate when the incremental capacities can be made available and to what extent the booked existing capacities are available at the start of the service period of the infeed or outlet contract. During the delay both the obligations of the transmission network operator to make incremental capacities available, as well as the obligations of the transport customer to pay remunerations for the share of the infeed or outlet contract affected by the delay, shall be suspended. Insofar as the delay is not the responsibility of the transmission network operator, the transport customer is obligated to take part in the auctions as early as possible (or in the new alternative capacity allocation mechanism that is to be carried out, should this be applied) in order directly following the initial marketing period pursuant to NC CAM Article 11 Para. 3 Sentence 2 or Article 30 Para. 1 Sentence 2 of the incremental capacities, to book the standard capacity products at the Interconnection Point concerned, as corresponding with the

scope and the period of time of the infeed and outfeed contracts affected by the delay. The obligation of the transport customer shall also be deemed as fulfilled if the incremental capacities are allocated to a third party. Claims of the parties beyond this among one another are excluded.

4. In the event that capacities at Interconnection Points, which are upstream respectively downstream to the respective Interconnection Point of the transmission network operator, are not available at the start of the agreed service period, the transport customer will remain obligated to fulfil the contract. This shall in particular comprise the payment of the remunerations agreed in the infeed or outlet contract. In this case the transport customer is not entitled to rescind the infeed or outlet contract or end this in any other manner. The upstream respective downstream capacities at Interconnection Points within the meaning of this Subclause 4 Sentence 1 also comprises the capacities on the other side of the respective Interconnection Point, at which these are marketed bundled. In this case the obligation of the transport customer to fulfil the contract shall apply in deviation from § 8 Subclause 6 of the General Business Terms and Conditions.
5. With regard to Subclause 3 and Subclause 4 it in particular applies that the transport customer is not entitled to refer to Section 313 German Civil Code [*Bürgerliches Gesetzbuch - BGB*] (interference to the business basis) or Section 314 BGB (termination of permanent obligations for good cause) or § 31 Par. 5 General Business Terms and Conditions (suspension of or adjustment to contractual obligations).



### Appendix 3: Parameters of the economic test for the scenarios

Result of the economic test for project ...

Scenario	Denmark	Russian Federation/ Netherlands	Greifswald Upgrade	Lubmin II Upgrade	Poland Mallnow	Poland GCP	Allowed increase of the revenue cap in EUR	Mandatory minimum premium EUR/kWh/h/a	f-Factor
1	1						734,887,335	39.47	1
7	1	1					311,945,009	14.58	1
8	1		1				282,798,943	12.87	1
9	1			1			327,784,240	15.52	1
10	1				1		314,639,942	14.74	1
11	1					1	496,299,718	25.43	1
22	1	1	1				242,134,740	10.47	1
23	1		1	1			248,603,005	10.86	1
24	1			1	1		231,228,942	9.83	1
25	1				1	1	283,527,892	12.91	1
26	1	1		1			265,797,580	11.87	1
27	1	1			1		242,952,517	10.52	1
28	1	1				1	275,423,089	12.43	1
29	1		1		1		222,086,012	9.29	1
30	1		1			1	288,756,018	13.22	1
31	1			1		1	277,093,527	12.53	1
42	1	1	1	1			197,019,173	7.82	1
43	1		1	1	1		185,689,156	7.15	1
44	1			1	1	1	216,877,893	8.99	1
45	1	1			1	1	224,999,008	9.47	1
46	1	1	1			1	237,036,993	10.17	1
47	1		1		1	1	211,875,893	8.69	1
48	1		1	1		1	231,685,784	9.85	1
49	1	1		1	1		205,806,081	8.34	1
50	1	1	1		1		204,790,859	8.28	1
51	1	1		1		1	245,171,201	10.65	1
58	1		1	1	1	1	183,824,688	7.04	1
59	1	1		1	1	1	203,177,632	8.18	1
60	1	1	1		1	1	201,557,967	8.09	1
61	1	1	1	1		1	191,995,201	7.52	1
62	1	1	1	1	1		189,649,163	7.39	1
63	1	1	1	1	1	1	184,844,527	7.10	1