

**OPINION No 06/2024**  
**OF THE EUROPEAN UNION AGENCY**  
**FOR THE COOPERATION OF ENERGY REGULATORS**

**of 24 October 2024**

**on the elements of the coordinated decision on the application for  
determination of permanent physical bi-directional capacities at the cross-  
border interconnection point "Deutschneudorf EUGAL" between  
Germany and the Czech Republic**

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 ('ACER')<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> ('the SoS Regulation'), and, in particular, Article 5(4) and (5) and point 8 of Annex III thereof,

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

Whereas:

**1. INTRODUCTION AND PROCEDURE**

- (1) On 24 July 2024, ACER received from Bundesnetzagentur für Elektrizität, Gas, Telekommunikation, Post und Eisenbahnen ('Bundesnetzagentur') Decision Ref 4.12.01.03/3#1 titled "*Reverse flow Germany/Czech Republic, application for*

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

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

*determination of permanent physical bi-directional capacities at the cross-border interconnection point "Deutschneudorf EUGAL Brandov" ("the Decision").*

- (2) On 5 February 2020, Bundesnetzagentur granted<sup>3</sup> in accordance with the SoS Regulation an exemption from the obligation to permanently provide physical bi-directional capacity on the German side of the cross-border interconnection point "Deutschneudorf EUGAL Brandov". This exemption was valid for four years and expired on 5 February 2024.
- (3) On 2 February 2024, GASCADE Gastransport GmbH ('GASCADE'), representing and having been granted a power of attorney by the three remaining shareholders<sup>4</sup> of the EUGAL pipeline for the procedure pursuant to Article 5 (5) of the SoS Regulation, submitted to Bundesnetzagentur a proposal for the application for determination of permanent physical bi-directional capacities at the cross-border interconnection point "Deutschneudorf EUGAL Brandov". The proposal is based on GASCADE's assessment of the capacity situation at the border between the Czech Republic and Germany, focussing on the direction of flow from the Czech Republic to Germany.
- (4) Before submitting its proposal, GASCADE conducted a public consultation from 15 January 2024 until 29 January 2024 with all potentially affected transmission system operators. Specifically, GASCADE sent emails to all affected parties and announced on its website its intention to submit a corresponding proposal to Bundesnetzagentur to determine the existence of permanent physical bidirectional capacities for the "Deutschneudorf EUGAL Brandov" cross-border interconnection point. GASCADE did not receive any comments during this period.
- (5) On 14 February 2024, Bundesnetzagentur in accordance with Annex III of the SoS Regulation consulted GASCADE's proposal with the European Commission, ACER, the Czech Ministry of Industry and Trade ('MIT') and other competent authorities with a request for comments within four months. Bundesnetzagentur received no comments by the end of this period.
- (6) Subsequently, Bundesnetzagentur and the Czech MIT agreed on the statement for the coordinated decision required by the SoS Regulation. The Czech's position on the necessity of coordinated decision-making remains unchanged since several years ago. In MIT's opinion, the virtual interconnection point ('VIP') Brandov has and continues to have bi-directional capacity, which prevents them from issuing a decision on their own.

*Summary of GASCADE's proposal and Bundesnetzagentur's decision*

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<sup>3</sup> Decision Ref. 609-4/609-18-64.

<sup>4</sup> Fluxys Deutschland GmbH, Gasunie Deutschland Transport Services GmbH and Ontras Gastransport GmbH are minority fractional owners of the EUGAL pipeline.

- (7) GASCADE’s proposal concludes that, based on market demand, there is no additional demand for permanent physical reverse flow capacities from the Czech Republic to Germany due to the lack of utilisation of capacities in the past and the lack of future demand of capacity. No significant gas flows from the Czech Republic to Germany have been recorded; only a physical flow to Germany was recorded for a short time in June 2021, which was caused by technical measures (an inter-TSO swap). The lack of future demand of capacity is deduced based on the lack of future capacity bookings at the Brandov VIP from the Czech Republic to Germany and the lack of demand for additional capacity during any of the three past cycles (in 2019, 2021 and 2023) of incremental capacity to be created in accordance with Chapter V of Regulation (EU) 2017/459 establishing a Network Code on Capacity Allocation Mechanisms (‘NC CAM’).
- (8) In addition, GASCADE notes that neither the German Gas Network Development Plan (‘NDP’) of 2022 nor the European Gas Ten-Year Network Development Plan (‘TYNDP’) of 2022 contain any indications of a steady gas supply from the Czech Republic to Germany. Moreover, the Russian gas import volumes have ceased since the exemption was granted in 2019 due to the efforts to phase out Russian gas imports after the start of Russian’s aggression against Ukraine. As a result, the predominant gas supply import pattern in the region has changed from a supply from the East to a supply from the North and West, where LNG imports have taken a large share of the reduced Russian gas imports. Against this background, the German NDP assumes that a transport capacity of around at least 30 GW of natural gas would be required from Germany to the Czech Republic until 2029. However, a potential increase of gas flows in the opposite direction is not envisaged.
- (9) Bundesnetzagentur has followed GASCADE’s proposal and has approved the existence of sufficient permanent physical bi-directional capacities at the "Deutschneudorf EUGAL Brandov" cross-border interconnection point. In view of GASCADE, Bundesnetzagentur and the Czech MIT, there is no need to pursue an exemption any longer, given that it is technically feasible to flow of gas in both directions in the event of a supply crisis scenario.

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

- (10) ACER shall deliver an opinion on the elements of the Decision taking into account the requirements of the SoS Regulation.
- (11) Annex III (2) provides that to enable or enhance bi-directional capacity on an interconnection or to obtain or prolong an exemption from that obligation the gas transmission system operators shall submit to their competent authorities:

*“(a) a proposal to enable permanent physical capacity to transport gas in both directions for permanent bi-directional capacity concerning the reverse direction (‘physical reverse flow capacity’); or*

*(b) a request for an exemption from the obligation to enable bi-directional capacity.”*

- (12) Further, Annex III (5) provides that the coordinated decision of competent authorities shall:

*“(a) accept the proposal for bi-directional capacity. Such decision shall contain a cost benefit analysis, a timeline for implementation and the arrangements for its subsequent use and be accompanied by the coordinated decision on the cross-border cost allocation referred to in point 4 and prepared by the regulatory authorities concerned;*

*(b) grant or prolong a temporary exemption for a maximum period of four years, if the cost-benefit analysis included in the decision shows that the reverse flow capacity would not enhance the security of gas supply of any relevant Member State or if the investment costs would significantly outweigh the prospective benefits for the security of gas supply; or*

*(c) require the transmission system operators to amend and resubmit their proposal or exemption request within a maximum period of four months.”*

- (13) Although it is uncertain whether the proposal and the decision directly pertain to any of the aforementioned cases, as they interpret the current existence of permanent physical bi-directional capacity, in this Opinion ACER has assessed the decision against the criteria specified in Article 5 and Annex III SoS Regulation, including any possible objection received pursuant to point 7 of Annex III of the SoS Regulation.

### **3. OBSERVATIONS RECEIVED BY THE AGENCY**

- (14) By 24 September 2024, i.e. within 2 months of the receipt of the coordinated Decision, the Competent Authorities did not submit objections to ACER related to the coordinated Decision.

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

- (15) ACER finds GASCADE’s proposal and Bundesnetzagentur’s decision have followed the consultation and process defined in Annex III to the SoS Regulation, as summarised above.

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

- (16) GASCADE’s request includes a succinct argumentation dealing with the elements set out in Article 5(5) of the SoS Regulation, which are also described in the Decision.

- (17) Bundesnetzagentur’s decision has followed GASCADE’s proposal. Bundesnetzagentur includes in the Decision background and main steps of the procedure, and the legal basis of the request leading to the Decision.

- (18) ACER’s considerations on:

- a. the elements of the Decision of the requirements of Article 5(5) of the SoS Regulation (5.1); and
- b. the understanding about the existence of permanent physical capacity from Germany to the Czech Republic (5.2)

are presented below.

## **5.1. ACER's considerations on the elements of the Decision of the requirements of Article 5(5) of the SoS Regulation**

### **5.1.1. CBA prepared on the basis of the methodology pursuant to Article 11 of Regulation (EU) No 347/2013**<sup>5</sup>

(19) ACER considers that there is no sufficient evidence that the CBA included in the request follows sufficiently the CBA methodology pursuant to Article 11 of Regulation (EU) No 347/2013<sup>6</sup>. The CBA submitted by GASCADE is a summary of five pages covering the elements set out in Article 5(5) of the SoS Regulation.

### **5.1.2. Assessment of market demand**

(20) Based on GASCADE's proposal, Bundesnetzagentur notes that no significant gas flows from the Czech Republic to Germany have been registered since the exemption authorisation was granted in 2020<sup>7</sup>. In the future, no capacity has been booked at the Brandov VIP from the Czech Republic to Germany and no demand for additional capacity has been submitted in the last three cycles in 2019, 2021 and 2023 of incremental capacity.

(21) ACER notes that the demand assessment for the incremental capacity process started in 2023 for the border between the Czech Republic and the German market area Trading Hub Europe<sup>8</sup> showed that no non-binding demand indications were received. However, as stated in the demand assessment report, although the 2023 assessment did not identify the need to start an incremental capacity project, this "*does not preclude making*

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<sup>5</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>6</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 are in ENTSOG's CBA methodology 2.0, cf. [https://www.entsog.eu/sites/default/files/2019-03/1.%20ADAPTED\\_2nd%20CBA%20Methodology\\_Main%20document\\_EC%20APPROVED.pdf](https://www.entsog.eu/sites/default/files/2019-03/1.%20ADAPTED_2nd%20CBA%20Methodology_Main%20document_EC%20APPROVED.pdf)

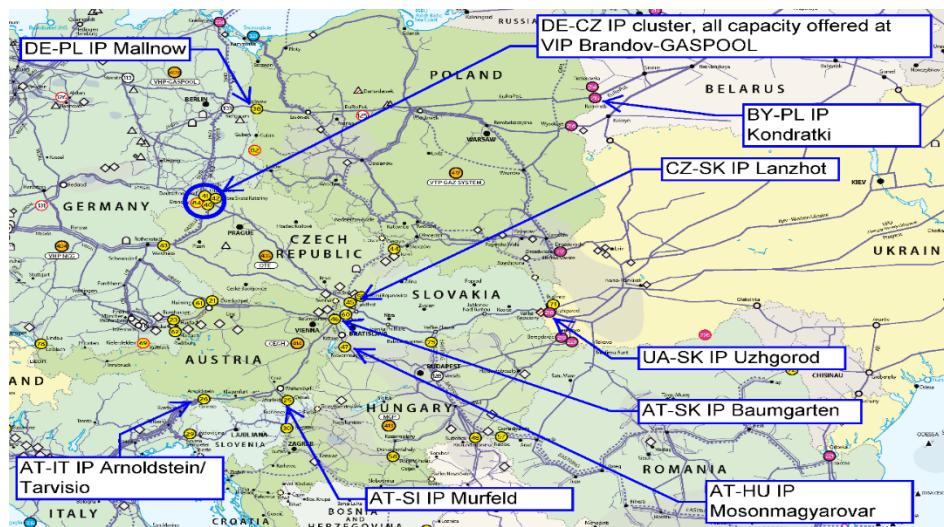
<sup>7</sup> Only a physical flow to Germany was recorded for a short time in June 2021, which was caused by technical measures (an inter-TSO swap).

<sup>8</sup> [https://www.entsog.eu/sites/default/files/2023-11/2023\\_DAR\\_CZ-DE.pdf](https://www.entsog.eu/sites/default/files/2023-11/2023_DAR_CZ-DE.pdf)

conclusions from a follow-up demand assessment exercise” (which market demand analysis will start in 2025).

- (22) ACER also notes that the virtual interconnection point (‘VIP’) Brandov-GASPOOL-EUGAL is versatile<sup>9</sup>, as it allows redirecting flows in multiple ways to destinations in many Central and Eastern European countries (cf. Figure 1).

**Figure 1:** Illustrative map of the considered region and main IPs<sup>10</sup>



- (23) Based on the foregoing, ACER concurs with GASCADE and Bundesnetzagentur on the lack of market demand for additional transportation capacity from the Czech Republic to Germany. The Decision correctly concluded that sufficient unused<sup>11</sup> entry capacity exists from the Czech Republic to Germany, both physically (flows) and commercially (capacity).

5.1.3. Projections for demand and supply

- (24) ACER concurs with the Decision that neither the current market situation nor the German Gas Network Development Plan (‘NDP’) of 2022 nor the European Gas Ten-Year Network Development Plan (‘TYNDP’) of 2022 contain any indications of a steady gas

<sup>9</sup> According to information provided by the Ministry of Industry and Trade of the Czech Republic, the EUGAL pipeline is already connected to the Hora Svaté Kateřiny IP between the Czech Republic and Germany, which provides bi-directional capacity. Physically, the distance between the Brandov IP and the Hora Svaté Kateřiny IP is only 9 km, and the two IPs are interconnected with two large diameter, high pressure pipelines (DN 900 and DN 1000). All available capacity at the Deutschneudorf-EUGAL IP, the Brandov IP, and the Hora Svaté Kateřiny IP are offered as the sum of their capacity at the VIP Brandov-GASPOOL- EUGAL.

<sup>10</sup> Based on ENTSOG Capacity Map, edition of October 2019: <https://www.entsog.eu/maps#>

<sup>11</sup> See further section 5.1.7.

supply from the Czech Republic to Germany in the future. At the same time, gas supply patterns in the region have shifted since the start of Russian's aggression to Ukraine, the stop of supplies via Nord Stream and the European goal to replace Russian gas supplies. This has meant that the previous gas supply flows from the East have been replaced by additional LNG volumes from the North and West. As a result, the German NDP has not identified a need to increase transmission capacities from Czech Republic to Germany. ACER supports Bundesnetzagentur's view that this consideration also applies specifically to the Deutschneudorf-EUGAL (DE-CZ) IP.

5.1.4. Possible economic impact on existing infrastructure

(25) The Decision argues that as there are no indications of market demand for additional capacities and therefore no cost-recovery of investments by bookings, the financial burden of increasing capacity would fall only on German gas network users<sup>12</sup>. ACER agrees with Bundesnetzagentur's assessment.

5.1.5. Results of the feasibility study

(26) Bundesnetzagentur's assessment notes GASCADE's view that a feasibility study is not necessary as the already existing capacity from Czech Republic to Germany is already available and sufficient.

(27) ACER is of the opinion that the lack of capacity demand should not relieve transmission system operators from the obligation to prepare and present the results of a feasibility study for additional capacities as a part of a submission, as this obligation constitutes a requirement pursuant to Article 5(5) SoS Regulation.

(28) ACER furthermore notes that a feasibility study should include techno-economic elements that provide essential information about the basic design parameters of the main facilities, associated cost estimates, and the possible implementation schedule of additional reverse flow capacities. This applies even when the study concludes it is not economically viable, i.e. that the costs of the project outweigh the benefits.

5.1.6. Costs of implementing bi-directional capacity

(29) GASCADE and Bundesnetzagentur conclude that currently there is sufficient permanent physical bi-directional capacity, and that creating more bi-directional capacities would not bring any additional benefits and would instead place an additional burden on network users.

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<sup>12</sup> As the extra capacity does not bring security of supply benefits in other Member States.

5.1.7. Benefits for the security of gas supply

(30) GASCADE does not see any benefits to the security of gas supply from creating additional physical bi-directional capacities at the cross-border interconnection point "Deutschneudorf EUGAL Brandov." This is particularly true considering that the affected interconnection point is part of the VIP Brandov on the German-Czech border, which already offers both technical and bookable capacity from the Czech Republic to Germany. Moreover, this capacity can be increased in critical situations, provided that the pressure in the grid on the German side does not exceed 44 bar. Additionally, the Waidhaus VIP offers further technical entry capacities from the Czech Republic to Germany, with a stated capacity level of 21 GWh/d/h at this VIP<sup>13</sup>.

Numbe	Point	Technical physical	From Operator	From CC	From BZ	To Operator	To CC	To BZ
40 V	VIP Brandov	1,628.0	GASCADE Gastransport	DE	DE THE BZ	NET4GAS	CZ	Czech
		335.1	NET4GAS	CZ	Czech	GASCADE Gastransport	DE	DE THE BZ
41 V	VIP Waidhaus No firm capacity is offered to exit from DE side, on CZ side an entry capacity of 120 GWh/d is available. Since 03/2019 VIP Waidhaus is in	625.8	NET4GAS	CZ	Czech	Open Grid Europe	DE	DE THE BZ
			NET4GAS	CZ	Czech	GRTgaz Deutschland	DE	DE THE BZ

Figure 2: Technical physical capacities (GWh/d) between Germany and Czech Republic. Source: ENTSOG’s datasets for System Capacity Map for 2024.

(31) ACER assessed the N-1 indicator level as available in the most recent published national Preventive Action Plans (‘PAPs’) of Czech Republic (as of 2023) and Germany (as of 2019). ACER notes that in both Member States, the N-1 indicator exceeds the minimum required by the SoS Regulation (100%). As the assessment in Germany is from 2019, competent authorities could consider the results of more updated calculations for N-1 indicators once they will become available.

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

	CZ	DE
Date of most recent PAP	2023/07	2019/06/21
Largest infrastructure	Lanžhot	Mallnow
N-1_100%		227%
N-1_30%	444%	199%

Note: Table based on most recent PAPs.

(32) GASCADE notes in its Proposal that with the change of gas flows patterns and the cessation of gas flows through Mallnow<sup>14</sup>, the currently largest import infrastructure is Dornum. In the event of a failure at this infrastructure, the cross-border interconnection

<sup>13</sup> And ~ 26 GWh/d/h according to ENTSOG’s System Capacity Map of 2024.

<sup>14</sup> As of 1<sup>st</sup> October 2023, the firm technical capacity listed on ENTSOG Transparency Platform for the Mallnow IP, direction from Poland (GAZ-SYSTEM) to Germany (Gascade) is in fact equal to 0.



in the VIP Brandov area have the technical capacity to compensate for a large part of the lost gas supply.

- (33) In light of this, ACER considers that the Decision is well-supported by sufficient evidence, concluding that further entry capacity from the Czech Republic to Germany is unnecessary to ensure a sufficient level of security of gas supply. Both the proposal and the Decision conclude there is no identifiable benefit to security of supply from additional permanent capacity from the Czech Republic to the German market area. ACER understands and shares this conclusion noting the results are based on an assessment of 2019 in Germany. In Germany, the capacity-based security of supply indicators provided by SoS Regulation, namely the N-1 indicator and the existence of sufficient technical physical reverse flow capacities, exceed the minimum requirements of the SoS Regulation.

## **5.2. ACER considerations concerning the understanding that the need for an exemption has ceased due to the existence of permanent physical bi-directional capacity at VIP Brandov**

- (34) On 5 February 2020, Bundesnetzagentur granted GASCADE an exemption from the obligation to have permanent physical bi-directional capacities in the flow direction from the Czech Republic to Germany.
- (35) GASCADE's proposal of 2024, endorsed by Bundesnetzagentur's Decision, argues the existence of sufficient permanent physical bi-directional capacity within the meaning of the SoS Regulation at the interconnection point Deutschneudorf EUGAL Brandov from the Czech Republic to Germany. According to GASCADE, consequently there is no need to continue the exemption as gas can already be transported from the Czech Republic to Germany as part of solidarity measures at the interconnection point Deutschneudorf EUGAL Brandov.
- (36) ACER finds it is open to interpretation whether the term "permanent physical capacity" within the meaning of the SoS Regulation must refer to commercially available capacity or if it is sufficient for security of supply if there are technical possibilities to organise the gas flow bi-directionally. Bundesnetzagentur and GASCADE refer to Recital 28 and Article 9(1)(j) of the SoS Regulation which suggest that the benefits of permanent physical bi-directional capacity for security of supply should be considered from a broader perspective. This perspective emphasises solidarity and enhanced cooperation, noting that bi-directional capacities must be available above all in an (imminent) crisis and be included in the preventive action plans.
- (37) During this procedure, ACER has requested Bundesnetzagentur to clarify whether any investments and operational changes occurred between July 2020 and July 2024 to conclude that currently there are permanent physical bi-directional capacities at the cross-border interconnection point "Deutschneudorf EUGAL Brandov. ACER also asked for information on the evolution of physical reverse flow capacities and marketable

capacities at the IP Brandov during this period, to determine whether the situation has changed compared to 2020. Bundesnetzagentur confirmed that there have been no changes to the grid since 2020 and what has changed is their view on how to apply legislation, based on an alleged position of certain Commission's staff<sup>15</sup>.

- (38) Therefore, it is evident that the current conclusion of existence of sufficient amount of physical permanent reverse flow capabilities at the IP Brandov in the direction from Czech to Germany, which was granted an exemption in 2020, responds primarily to a different reading of the term “permanent physical reverse flow capacities”, rather than to additional investments or changes in the offered reverse flow capacities.
- (39) In view of the above, the Commission may consider if the mere possibility to allow physical reverse flows at the IP Brandov from the Czech Republic to Germany in the event of the gas supply crises is aligned with the gas SoS Regulation. In this sense, ACER finds questionable whether a reverse flow capacity which is only achievable during emergencies (such as a gas supply crisis), could be considered permanent, meaning it would last indefinitely or for a very long time. An adequate reading of the provisions for this case is important, as it may create a precedent when assessing other proposals for enabling or enhancing bi-directional capacities and proposals for granting or prolonging limited exemptions from this obligation for other interconnection points under the gas SoS Regulation. In this respect, ACER underlines the importance of having a consistent understanding of the gas SoS Regulation which preserves adequate levels of security of gas supply,

**HAS ADOPTED THIS OPINION:**

1. In terms of procedure, the Decision generally follows the process, and the requirements of assessment established under Article 5 and Annex III of the SoS Regulation related to proposals to enable permanent bi-directional capacity and request for exemptions from the obligation to enable permanent physical bi-directional capacity, but for the lack of the following two elements:
  - a. a feasibility study, which should provide essential information about the design, the cost estimates, and the implementation schedule of the project. The study is important for providing information needed to carry out the CBA required by Article 5(5) SoS Regulation.
  - b. a CBA based on the methodology foreseen in Article 11 of the Regulation (EU) No 347/2013, as required by Article 5(5) SoS Regulation;

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<sup>15</sup> The views of a Commission official are purely his or her own and may not in any circumstances be regarded as stating an official position of the European Commission.

2. In terms of substantive elements, particularly concerning security of supply matters, the Decision correctly concludes that the infrastructure standard indicators of the SoS Regulation are at adequate levels in both Germany and the Czech Republic. While aggregating on this conclusion, ACER notes that in Germany the N-1 indicator is from 2019. Competent authorities should consider the results of more updated calculations for N-1 indicators once they will become available.
3. Concerning the proposal and decision understanding that the need for an exemption from the obligation to enable bi-directional capacity has ceased due to the existence of permanent physical bi-directional capacity at VIP Brandov,
  - a. ACER notes that while in 2020, GASCADE received an exemption from maintaining permanent bi-directional gas flow capacities between the Czech Republic and Germany, the 2024 decision by Bundesnetzagentur concluded that sufficient capacity already exists to transport gas from the Czech Republic to Germany at the Deutschneudorf EUGAL Brandov interconnection point. However, during this period there have been no additional investments or changes in the offered reverse flow capacities.
  - b. The European Commission may consider whether GASCADE and Bundesnetzagentur revised understanding of the concept permanent physical bi-directional capacity is aligned with the gas SoS Regulation, in view that it could set a precedent affecting future decisions on security of gas supply.

Without prejudice of the understanding of the concept of "permanent physical reverse flow capacities", ACER recommends that GASCADE and Bundesnetzagentur assess every two years the outcome of future incremental capacity process and the security of supply situation to determine whether there is any potential market demand or security of supply need that would justify further increases of the reverse flow capacities at this IP.

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 24 October 2024.

**- SIGNED -**

*For the Agency  
The Director*

C. ZINGLERSEN