

OPINION No 08/2024
OF THE EUROPEAN UNION AGENCY
FOR THE COOPERATION OF ENERGY REGULATORS

of 9 December 2024

on the elements of the coordinated decision granting a temporary exemption from the obligation to enable physical bi-directional capacity at the cross-border interconnection point Cieszyn/Český Těšín on the gas pipeline STORK I between the Czech Republic and Poland

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')¹, 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 994/2010² ('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 26 June 2024, ACER received from the Ministry of Climate and Environment of Poland ('the Polish Ministry') Decision DELG-WG.522.25.2023.RS dated on the same day titled "*temporary exemption from the obligation to enable physical bi-directional capacity at the IP Cieszyn/Český Těšín cross-border interconnection point on the STORK*"

¹ OJ L158, 14.6.2019, p. 22.

² OJ L280, 28.10.2017, p.1.

I natural gas pipeline” (‘the Polish Decision’). On 9 September 2024, ACER received from the Ministry of Industry and Trade of the Czech Republic (‘the Czech Decision’) Decision dated on 27 May 2024 on the same subject matter. The Polish Decision and the Czech Decision are coordinated and grant a temporary exemption from the requirement to enable physical bi-directional capacity at the Cieszyn/Český Těšín interconnection point.

- (2) On 29 December 2022, the Polish and Czech Ministries granted their transmission system operators, respectively Operator Gazociągów Przesyłowych GAZ-SYSTEM S.A (‘GAZ-SYSTEM’) and NET4GAS, s.r.o (‘NET4GAS’), a temporary exemption until 31 December 2023 from the obligation to enable permanent physical bi-directional capacity at the interconnection point (‘IP’) Cieszyn /Český Těšín between Poland and the Czech Republic.
- (3) On 7 November 2023, GAZ-SYSTEM and NET4GAS jointly submitted to their respective Ministries a request to prolong a temporary exemption from the obligation to enable physical bi-directional capacity at the IP Cieszyn /Český Těšín on the STORK I natural gas pipeline. This request concerns a time limited exemption until 31 December 2025 and follows the procedure pursuant to Article 5 (5) of the SoS Regulation. The proposal is based on the promoters’ assessment of the capacity situation at the border, focussing on the direction of flow from Poland to the Czech Republic where currently there is no permanent physical flow capacity.
- (4) Before submitting their proposal, GAZ-SYSTEM³ and NET4GAS⁴ conducted a public consultation from 24 October 2023 until 6 November 2023 with all potentially affected transmission system operators (‘TSOs’). Specifically, all neighbouring TSOs (EUSTREAM, GAS CONNECT AUSTRIA, GASCADE, Open Grid Europe, ONTRAS, GRTgaz Deutschland, Energinet and Amber Grid) were informed via email that the consultation on the exemption from bi-directional capacity at the IP Cieszyn /Český Těšín was initiated. Neither NET4GAS nor GAZ-SYSTEM received any comments to the consulted document, so the consultation procedure was closed, and the document was finalised without additional changes.
- (5) During November 2023, the Polish and Czech Ministries in accordance with Annex III of the SoS Regulation consulted GAZ-SYSTEM’s and NET4GAS’s proposal with the European Commission, ACER, and other competent authorities with a request for comments within four months. No comments were received by the end of this period.

³ <https://www.gaz-system.pl/en/for-customers/consultation-with-market-participants/consultations-archive.html>

⁴ <https://www.net4gas.cz/en/customers/products-services/new-transmission-capacity/consultation-on-draft-exemption-from-enabling-bi-directional-capacity-cieszyn-interconnection-point/>

Subsequently, the Polish and Czech Ministries agreed on the content of their coordinated decisions.

Summary of the promoters' proposal and the coordinated Decisions

- (6) The relevant Ministries of Poland and the Czech Republic jointly decided to grant a temporary exemption until 31 December 2025 from the requirement to enable physical bi-directional capacity at the Cieszyn /Český Těšín interconnection point on the STORK I natural gas pipeline. The Decisions argue that this exemption allows sufficient time for GAZ-SYSTEM to complete the ongoing investments in Poland, and for the Czech side to decide on the most appropriate technical solution to enable bi-directional flow at this point in the future.
- (7) The promoters and the Decisions argue that offering firm capacity would have a marginal positive effect on the security of gas supply for customers in the Czech Republic, where gas security of supply (SoS) metrics are already at adequate levels. Furthermore, the promoters carried out a non-binding assessment of market demand which indicates no significant interest in developing additional capacities from Poland to the Czech Republic. The Decisions considered the criteria outlined in Article 5(4) and Annex III of the SoS Regulation, including risk assessments, cost-benefit analyses, and stakeholder consultations, as well as the impact on gas supply security and contribution to the internal gas market.
- (8) The Polish Decision provides a detailed assessment covering the topics listed under Article 5(5) of the SoS Regulation. The Czech Decision supports the promoters' proposal but is limited to a formal letter.

2. SCOPE OF THE OPINION

- (9) ACER shall deliver an opinion on the elements of the coordinated Decisions against the criteria specified in Article 5 and Annex III of the SoS Regulation, including any possible objection received pursuant to point 7 of Annex III.

3. OBSERVATIONS RECEIVED BY THE AGENCY

- (10) By 9 November 2024, i.e. within 2 months of the receipt of the last coordinated Decision, the Competent Authorities did not submit objections to ACER related to the coordinated Decision.

4. ASSESSMENT OF THE PROCEDURE

- (11) ACER finds the joint proposal of GAZ-SYSTEM and NET4GAS and the coordinated Decisions of the Czech and Polish Ministries have followed the process and consultation steps defined in Annex III to the SoS Regulation, as summarised above.

5. ASSESSMENT OF THE ELEMENTS OF THE DECISION

5.1. CBA prepared on the basis of the methodology pursuant to Article 11 of Regulation (EU) No 347/2013⁵

- (12) The joint proposal covers the elements set out in Article 5(5) of the SoS Regulation and includes an evaluation comparing the costs of implementing bi-directional capacity for STORK I on both the Czech and Polish sides, with the anticipated benefits for gas supply security. This assessment considers the project's potential to help meet the Infrastructure Standard (e.g. N-1 indicator) and the need for physical reverse-flow capability, as assessed withing the risk groups that include the Czech Republic as a beneficiary of reverse-flow capacity.

5.2. Assessment of market demand

- (13) Based on the promoters' proposal, the Czech's Decision notes that based on the incremental capacity procedures conducted following Chapter V of Network Code on Capacity Allocation Mechanism ('NC CAM') and national processes by GAZ-SYSTEM and NET4GAS, the most recent market screening took place from 3 July to 28 August 2023, covering the period from 2023 to 2025. No declarations of market interest in incremental capacity between the market areas of Poland and the Czech Republic were received from market participants during this screening. Based on the foregoing, ACER concurs with the Decisions on the lack of market demand for enabling additional transportation capacity from Poland to the Czech Republic.

5.3. Projections for demand and supply

- (14) As regards gas demand, operators project an approximate 20% increase in annual natural gas demand in the Czech Republic from 2024 until 2033, driven by a shift from lignite to natural gas in heating, industry, and households. This projection also accounts for potential future use of natural gas in the transport sector as compressed natural gas ('CNG') and liquefied natural gas ('LNG'). The forecasted peak daily demand for natural gas in the Czech Republic is expected to rise by 26%, from 727 GWh/day in 2024 to 919 GWh/day in 2033.
- (15) ACER finds NET4GAS demand estimates which are reflected in the Decision as potentially overly optimistic, given the expected mid- and long-term decline in European gas demand⁶.

⁵ 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.

⁶ See [ENTSOs TYNDP 2024 Draft Scenario Report](#), pp.24-25, scenarios of EU methane demand. During the consultation, the Czech Ministry has stated that the promoters' gas demand projections are in line with the draft updated State Energy Policy in Czech Republic.

- (16) ACER notes that the Proposal and the Decisions lack some details as regards anticipated changes in gas supply patterns. The promoters argue that, as they do not have access to gas supply contracts, they are unable to provide an analysis of current or future gas supplies to the Czech Republic and Poland. However, ACER takes notes that, in the future, with the newly build floating storage regasification ('FSRU') LNG terminal in Poland there could be increased market interest to supply LNG from Poland to the Czech Republic.

5.4. Possible economic impact on existing infrastructure

- (17) Enabling permanent physical capacity in the direction from Poland to the Czech Republic (i.e. securing reverse flows) would require investments at both sides of the border. Investments in Poland are already approved within the Polish national network development plan ('NDP'). The Czech Ministry has informed during the consultation that in the Czech Stage 1 of possible investments (see Section 5.1) are under implementation and expected to be finalised in December 2025. Further investments on the Czech side have not been decided yet. The investments in the Polish transmission system will be borne by Polish network users; it can also be assumed that investments on the Czech side would be most probably allocated to the Czech national regulatory asset base (RAB) in its entirety.

5.5. Results of the feasibility study and costs of implementing bi-directional capacity

- (18) According to the promoters, to establish permanent physical bi-directional capacity at the Cieszyn /Český Těšín IP from Poland to the Czech Republic, the following costs would be incurred.
- (19) On the Polish side, the overall project cost is estimated at EUR 122.12 million⁷. On the Czech side, NET4GAS presents three possible technical measures of additional stages for enabling reverse flow at the IP Cieszyn /Český Těšín. Stage 1 (EUR 5.4 million) would consist of minor network adaptations– no compressor station– to allow physical flows under an exceptional state of emergency. Stage 2A (EUR 14.7 million) would entail a small compressor station and distribution system operators ('DSO') and storage system operators ('SSO') commitment allowing for a firm capacity up to 40 tcm/h. Stage 2B (EUR 22.2 million) would consist of a multi-stage compressor station, allowing for firm capacity of 30 - 40 tcm/h, without a need of DSOs and SSOs commitment.

⁷ Projects on the Polish side include the Sławków (Tworzeń) – Oświęcim gas pipeline, currently under construction, with project completion anticipated in December 2024 and total cost of EUR 93.3 million; and the expanded Kędzierzyn gas compressor station with a new compressor unit, which investment was finally completed in April 2024 with a total cost of EUR 28.8 million.

- (20) ACER notes that the reverse flow capacity offered according to the Stage 1 would only be available during emergencies (e.g., exceptional emergency scenarios), posing the question on whether can be considered as permanent capacity — implying it would endure indefinitely or for an extended period. Consequently, ACER recommends NET4GAS to follow developments regarding the understanding of the concept of permanent physical bi-directional capacity⁸.

5.6. Benefits for the security of gas supply

- (21) Natural gas can currently be supplied to the Czech transmission system from multiple independent sources. The Czech Republic significantly exceeds the minimum N-1 infrastructure standard of 100%, as outlined in the SoS Regulation, achieving currently over 450%. Implementing reverse flow towards the Czech Republic at the IP Cieszyn /Český Těšín would increase the current N-1 indicator by only 2.5%, with the entry capacity rising from 4,307 GWh/d to 4,327 GWh/d.
- (22) Further detailed calculations indicate that enabling reverse gas flow from Poland to the Czech Republic at IP Cieszyn /Český Těšín would have minimal impact on improving the security of gas supplies in the Czech Republic or neighbouring Member States within identified risk groups.
- (23) The coordinated Decisions also recognise that firm capacity might be valuable to the Czech market during emergency situations.
- (24) In light of this, ACER notes the N-1 indicator in the Czech Republic is well beyond the minimum regulatory requirements, and that implementing reverse flow towards the Czech Republic would only marginally increase reverse flows. However, this capacity may provide benefits to the Czech Republic as it may allow to supply LNG from Poland, therefore contributing to reduce the remaining dependence of the Czech Republic on Russian gas supply⁹,

HAS ADOPTED THIS OPINION:

1. The coordinated Decisions adhere to the procedural and substantive requirements outlined in the Security of Supply (SoS) Regulation, specifically under Article 5 and

⁸ See [ACER Opinion No 6/2024](#) 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", in particular Section 5.2.

⁹ Currently, the Czech Republic imports natural gas via long-term contracts from LNG terminals in Germany and the Netherlands, which now provide a significant portion of its gas needs. These efforts have been supported by agreements with partners to secure a stable supply of LNG, representing over 25% of the Czech Republic's annual consumption

Annex III. These provisions govern the assessment of proposals for permanent bi-directional capacity and exemptions from such obligations.

2. In terms of substantive elements, ACER is of the view that:
 - a. The Decision correctly concludes that the infrastructure standard indicators (e.g. N-1 indicator) are at adequate levels in the benefiting country (Czech Republic). The implementation of a permanent physical bi-directional capacity project would result in only a marginal increase of 2.5% to the Czech's N-1 indicator, reflecting minor additional positive impact on this security of supply metric, which is already four 4 times above the minimum required level in the Czech Republic.
 - b. While the project would not significantly enhance infrastructure standards, it is noted that enabling reverse flow could have a value for the Czech Republic, particularly by improving access to LNG supplies from Poland.
 - c. Granting a temporary exemption until December 2025 provides time for NET4GAS to identify the most suitable technical option for implementing a physical reverse flow project.
3. Before the exemption expires, ACER recommends a techno-economic reassessment of the solutions envisaged on the Czech side to implement reverse flow capabilities by GAZ-SYSTEM and NET4GAS focusing on:
 - a. Technical solutions to be implemented for enabling firm capacities to ensure permanent physical reverse flow capabilities;
 - b. Market interest and expected gas flows; and
 - c. The contribution of the project to reduce the remaining dependency of the Czech Republic from Russian gas.

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 9 December 2024.

- SIGNED -

*For the Agency
The Director*

C. ZINGLERSEN