

Respond of UAB LIETUVOS DUJU TIEKIMAS to public consultation on “Auction rules on ensuring availability of natural gas at the transmission system interconnection with the storage in 2017 – 2018”.

Clause No.	Current wording	Suggested wording	Comments
Auction rules on ensuring availability of natural gas at the transmission system interconnection with the storage in 2017 – 2018			
2	<p>The subject matter of the auction is a contractual agreement with market participants on ensuring availability of natural gas at the interconnection of the transmission system with the Storage (hereinafter – the Guarantee obligation), by injecting natural gas into and storing in the Storage according to the following terms and amounts:</p> <p>2.1. until November 1, 2017 – 8 050 000 MWh;</p> <p>2.2. until January 1, 2018 – 5 750 000 MWh;</p> <p>2.3. until March 1, 2018 – 3 450 000 MWh.</p>	<p>The subject matter of the auction is a contractual agreement with market participants on ensuring availability of natural gas at the interconnection of the transmission system with the Storage (hereinafter – the Guarantee obligation), by injecting natural gas into and storing in the Storage according to the following terms and amounts:</p> <p>2.1 Tranche 1: on the 31st of October, 2017 – 8 050 000 MWh;</p> <p>2.2 Tranche 2: from the 1st of November, 2017 until 31st of December, 2017 – 5 750 000 MWh;</p> <p>2.3 2.3. Tranche 3: from the 1st of January, 2018 until 28th of February, 2018 – 3 450 000 MWh.</p> <p>When a Supplier wishes to provide services for a period longer than one tranche, Supplier shall take into account that volumes of tranches shall be summed up.</p>	<p>The Auction rules shall be clear and transparent, however the Auction rules' provision which sets forth the term (dates) and volume of natural gas that shall be injected in the Storage is not crystal clear.</p> <p>Therefore UAB “Lietuvos dujų tiekimas” (LDT) suggests to amend the Article 2.</p> <p>In this way we eliminate any misunderstanding both for participants of auction and for evaluators of the auction:</p> <p>If participants offer 8TWh for Tranche 1, rules do not specify the way winners would be announced for Tranche 2 and 3, since sum of all of them on the 1st of November would exceed required amount of 8TWh. If the rules say that participants shall bid separately for each Tranche as defined periods, it eliminates the uncertainty.</p>
12	<p>Auction participants bear responsibility for the accuracy of the binding offer and submission thereof to JSC “Conexus Baltic Grid” within the specified deadline. If the</p>	<p>Auction participants bear responsibility for the accuracy of the binding offer and submission thereof to JSC “Conexus Baltic Grid” within the specified deadline. In the</p>	<p>Seeking to ensure unambiguousness of the Auction rules, LDT suggests supplement the Clause by adding the</p>

	<p>binding offer is submitted after the deadline, all required information is not indicated in the offer or the information is unclear, it shall be deemed as not been submitted at all.</p>	<p>following cases the binding offer shall be deemed as not been submitted at all:</p> <p>12.1 Binding offer is submitted after the deadline,</p> <p>12.2 Not all required information is indicated in the offer or</p> <p>12.3 The information is unclear.</p>	<p>cases when the binding offer shall be deemed as not submitted.</p>
<p>15</p>	<p>Submission of the binding offer confirms that an auction participant accepts the auction rules and undertakes to conclude a contractual agreement on the Guarantee obligation, which is executed by injecting the respective amount of natural gas into and storing in the Storage within the specified term. The binding offer shall be valid within the period for which it was submitted and which corresponds to the tranches for which it was submitted.</p>	<p>Submission of the binding offer confirms that an auction participant accepts the auction rules and undertakes to conclude a contractual agreement on the Guarantee obligation, which is executed by injecting the respective amount of natural gas into and storing in the Storage within the specified term. The binding offer shall be valid until the date indicated in Paragraph 20.</p>	<p>The Clause 15 of the Auction rules establishes the unreasonable burden on the Auction participants, because the Auction participants are obliged and forced to provide a binding offer that shall be valid within the period for which it was submitted and which corresponds to the tranches for which it was submitted. This means, that not only the winner of the Auction, but also all Auction participants are obliged to be ready to provide the Guarantee obligation within all the term the tranche for which the offer was made (e.g. from the July till February). However, such an obligation is excessive and shall be applicable only to the winners of Auction.</p> <p>Such a requirement is not only superfluous and illogical, but is not in line with the common natural gas trading practice, because natural gas shall be acquired and transmission system services shall be booked in advance. Such requirement may lead to a losses of the Auction participants due to Take or</p>

			<p>Pay conditions for the gas booked, but not taken. Auction participants cannot be obliged to provide and offer for such a long time.</p> <p>Therefore, the binding offer shall be valid until the date indicated in the Clause 20, i.e. until the date when Auction winner(s) are announced.</p>												
22	JSC "Conexus Baltic Grid" shall be entitled to terminate the auction without a result if the price offered in binding offers is economically unjustified.	<p>JSC "Conexus Baltic Grid" shall be entitled to terminate the auction without a result if the price offered in binding offers is economically unjustified. Economically unjustified offers shall be the ones which are above following budget:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td>Tranche 1</td> <td>Tranche 2</td> <td>Tranche 3</td> </tr> <tr> <td>EUR XXX</td> <td>EUR XXX</td> <td>EUR XXX</td> </tr> </table> <p style="text-align: center;">or</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td>Tranche 1</td> <td>Tranche 2</td> <td>Tranche 3</td> </tr> <tr> <td colspan="3" style="text-align: center;">EUR XXX</td> </tr> </table>	Tranche 1	Tranche 2	Tranche 3	EUR XXX	EUR XXX	EUR XXX	Tranche 1	Tranche 2	Tranche 3	EUR XXX			<p>The cases when the Auction can be terminated shall be limited and such reasons shall be clearly and objectively indicated. The term "economically unjustified" term is too subjective, therefore LDT suggests to insert the objective criteria when the Auction results might be deemed economically unjustified i.e. above the budget.</p>
Tranche 1	Tranche 2	Tranche 3													
EUR XXX	EUR XXX	EUR XXX													
Tranche 1	Tranche 2	Tranche 3													
EUR XXX															
28	The auction winner shall assume responsibility if fulfilment of the Guarantee obligation is not possible due to a fault of another transmission system operator.	The auction winner shall assume responsibility if fulfilment of the Guarantee obligation is not possible due to a fault of another transmission system operator, however only in case, when such fault of another transmission system operator occurs due to the performance or non-performance of the auction winner (e.g. when auction winner fails to pay for the services and they are suspended).	The Auction winner cannot be responsible for the fault of transmission system operators.												

30	During the contract period, after receiving information from JSC "Conexus Baltic Grid", the auction winner is obliged to submit a nomination/renomination for input of natural gas at the transmission system interconnection with the Storage according to the Rules for Use of the Natural Gas Transmission System.	During the contract period the auction winner is obliged to submit a nomination/renomination for input of natural gas at the transmission system interconnection with the Storage according to the Rules for Use of the Natural Gas Transmission System.	Please specify what "information" is meant in the Clause 30.
31	JSC "Conexus Baltic Grid" shall send the information mentioned in paragraph 30 of the Rules to the auction winners based on the sequence of tranches, starting from the tranche with the shortest term. JSC "Conexus Baltic Grid" shall indicate in the information the amount of natural gas required for ensuring safe operation of the transmission system at the interconnection with the storage. The specified amount shall be divided proportionally among the auction winners within the relevant tranche up to the approved amount for the relevant auction winners.	JSC "Conexus Baltic Grid" shall send the information to the auction winners, based on the sequence of tranches, starting from the tranche with the shortest term. JSC "Conexus Baltic Grid" shall indicate in the information the amount of natural gas required for ensuring safe operation of the transmission system at the interconnection with the storage only when maximum transmission system capacity at the interconnection to the Storage is reached. In such cases, the specified amount shall be divided proportionally among the auction winners within the relevant tranche up to the approved amount for the relevant auction winners. For ensuring minimum transmission volume, JSC "Conexus Baltic Grid" commits to align natural gas injection into Storage schedules, presented by auction winners in non-discriminatory way according to the "Rules of Use of the Inčukalns Underground Gas Storage Facility" from 13.04.2017. The auction winner is free to choose natural gas input schedule and present it to JSC "Conexus Baltic Grid" for confirmation. For the purpose of this Tender, auction winner may use natural gas already stored at the Storage facility.	Please specify what "the information" shall be sent under this Clause 31. Moreover, the Auction rules shall establish a flexible mechanism ensuring the right of the Auction winner by itself to choose and set up gas input schedule and the usage for the proposal the natural gas, already stored at the Storage facility. This flexibility is crucial for the participants of the auction, as their flows of gas shall be also nominated and ordered from their suppliers with respect to the contractual clauses and the procedures of the other system operators.

35	<p>If a national energy crisis is announced pursuant to the procedures stated in the Energy Law, the contract shall be suspended for the period of energy crisis.</p>	<p>If a national energy crisis in Latvia or/and in the country where auction winner is established, is announced pursuant to the procedures stated in the relevant laws, the contract shall be suspended for the period of energy crisis. Suspension means that auction winner has no obligation to provide Guarantee obligation services under this Auction rules and Contract during the national energy crisis. The volume of gas necessary to and consumed by the auction winner during the national energy crisis shall be eliminated from the Guarantee obligation. JSC "Conexus Baltic Grid" remains liable to pay for the services received before and after the national crisis occurred, the amount of the fee shall be calculated on a pro rata basis.</p>	<p>Auction winner(s) might be natural gas suppliers in other countries (e.g. LDT in Lithuania), where national law establishes obligations to the natural gas suppliers to ensure the necessary volume of natural gas during national energy crisis. Gas suppliers might also be obliged to store the volume of gas necessary to supply for the vulnerable consumers during the national energy crisis, therefore the right of the Auction winner(s) to use and to get the gas volume necessary for such national energy crisis shall be not limited in any way and by any means. The national energy crisis can be announced not only in Latvia, where Latvia's laws are applicable but also in country, where the auction winner is established and where national energy crisis is announced under local laws. Taking into account the above, LDT suggests to amend the Clause 35.</p>
40	<p>If the auction winner fails to ensure availability of the full amount of natural gas specified in the contract or according to the schedule given in the contract, the auction winner shall pay a contractual penalty to JSC "Conexus Baltic Grid" equal to double the amount of the non-fulfilled Guarantee obligation payment which the auction winner would have received if it had fulfilled its Guarantee obligation.</p>	<p>If the auction winner fails to ensure availability of the full amount of natural gas specified in the contract or according to the schedule given in the contract, the auction winner shall pay a contractual penalty to JSC "Conexus Baltic Grid" equal to double the amount of the non-fulfilled Guarantee obligation payment which the auction winner would have received if it had fulfilled its Guarantee obligation. This is the only remedy available under this auction.</p>	<p>Contractual penalty to JSC "Conexus Baltic Grid" equal to double the amount of the non-fulfilled Guarantee obligation payment which the auction winner would have received if it had fulfilled its Guarantee obligation shall be the only available remedy. Therefore LDT suggest to amend the Clause 40.</p>

Application form for participation in the auction and Binding offer of the auction participant

N/A	Total estimated amount of natural gas (MWh) (indicate according to paragraph 2 of the auction Rules) Period (indicate according to paragraph 2 of the auction Rules) Offered price of Guarantee obligation EUR/MWh (excl. VAT)	Period (indicate according to paragraph 2 of the auction Rules)	Tranche 1: on the 31st of October, 2017	Tranche 2: from the 1st of November, 2017 until 31st of December, 2017	Tranche 3: from the 1st of January, 2018 until 28th of February, 2018
		Total estimated amount of natural gas (MWh) (indicate according to paragraph 2 of the auction Rules)			
		Offered price of Guarantee obligation EUR/MWh (excl. VAT)			
		Suggested table would clarify the periods and bid assessment. Please see comment on clause 2 of the Rules.			

Contract on guarantee obligation for natural gas availability

2.1	<p>During the Contract period, the Storage user undertakes to guarantee the availability of natural gas at the transmission system interconnection with the storage, by injecting the following amount of natural gas into the storage and storing gas within the following terms (hereinafter – the Guarantee obligation):</p> <hr/>	<p>During the Contract period, the Storage user undertakes to guarantee the availability of natural gas at the transmission system interconnection with the storage, by injecting the following amount of natural gas into the storage and storing gas within the following terms (hereinafter – the Guarantee obligation):</p> <table border="1" data-bbox="862 478 2083 1109"> <tr> <td data-bbox="862 478 1220 694">Total estimated amount of natural gas (MWh) (indicate according to paragraph 2 of the auction Rules)</td> <td data-bbox="1220 478 1478 694"></td> <td data-bbox="1478 478 1780 694"></td> <td data-bbox="1780 478 2083 694"></td> </tr> <tr> <td data-bbox="862 694 1220 965">Period (indicate according to paragraph 2 of the auction Rules)</td> <td data-bbox="1220 694 1478 965">Tranche 1: on the 1st of November, 2017</td> <td data-bbox="1478 694 1780 965">Tranche 2: from the 1st of November, 2017 until 31st of December, 2017 – 5 750 000 MWh;</td> <td data-bbox="1780 694 2083 965">Tranche 3: from the 1st of November, 2017 until 28th of February, 2018 – 3 450 000 MWh.</td> </tr> <tr> <td data-bbox="862 965 1220 1109">Price of Guarantee obligation (excl. VAT) EUR/MWh</td> <td data-bbox="1220 965 1478 1109"></td> <td data-bbox="1478 965 1780 1109"></td> <td data-bbox="1780 965 2083 1109"></td> </tr> </table> <p>The Contract period is deemed from the moment the Contract is signed until the last day of the latest tranche.</p>			Total estimated amount of natural gas (MWh) (indicate according to paragraph 2 of the auction Rules)				Period (indicate according to paragraph 2 of the auction Rules)	Tranche 1: on the 1 st of November, 2017	Tranche 2: from the 1 st of November, 2017 until 31 st of December, 2017 – 5 750 000 MWh;	Tranche 3: from the 1 st of November, 2017 until 28 th of February, 2018 – 3 450 000 MWh.	Price of Guarantee obligation (excl. VAT) EUR/MWh			
Total estimated amount of natural gas (MWh) (indicate according to paragraph 2 of the auction Rules)																
Period (indicate according to paragraph 2 of the auction Rules)	Tranche 1: on the 1 st of November, 2017	Tranche 2: from the 1 st of November, 2017 until 31 st of December, 2017 – 5 750 000 MWh;	Tranche 3: from the 1 st of November, 2017 until 28 th of February, 2018 – 3 450 000 MWh.													
Price of Guarantee obligation (excl. VAT) EUR/MWh																
3.2	<p>The Storage user shall reserve capacity at the respective entry/exit points according to the procedures and terms specified in the Rules for Use of the Transmission System and the Rules for Use of Inčukalns Underground Gas</p>	<p>The Storage user shall reserve capacity at the respective entry/exit points according to the procedures and terms specified in the Rules for Use of the Transmission System and the Rules for Use of Inčukalns Underground Gas Storage</p>	<p>It is redundant to punish auction winners two times for the non-fulfillment of the obligations and balancing responsibility shall nor arise.</p>													

	Storage Facility. If the Storage user fails to fulfil the Guarantee obligation in the amount and within the term specified in clause 2.1. of the Contract, by reserving transmission system capacity products and injecting the appropriate amount of natural gas in the storage according to the Guarantee obligation, the Storage user shall assume balance responsibility in the respective period according to the Rules for Use of the Natural Gas Transmission System.	Facility. If the Storage user fails to fulfil the Guarantee obligation in the amount and within the term specified in clause 2.1. of the Contract, by reserving transmission system capacity products and injecting the appropriate amount of natural gas in the storage according to the Guarantee obligation, the Storage user shall pay the penalty in the amount described in the paragraph 4.6.	
3.8 4.6 8.1	References in paragraphs 3.8 4.6 8.1		References in these clauses to paragraph 2.2 shall be amended to paragraph 2.1
4.3	The Storage user shall send to the Combined system operator an invoice on fulfilment of obligations within 5 (five) working days after the date of fulfilment of the Guarantee obligation, indicated in clause 2.1. of the Contract. The invoice shall be sent to the e-mail address of the Combined system operator, indicated in the Contract. The invoice shall be valid without a signature, which shall be substituted by authorization or secure electronic signature. The day of invoice receipt shall be considered the day of sending thereof.	The Storage user shall send to the Combined system operator an invoice on fulfilment of obligations within 5 (five) working days after the date of fulfilment of the Guarantee obligation for each tranche , indicated in clause 2.1. of the Contract. The invoice shall be sent to the e-mail address of the Combined system operator, indicated in the Contract. The invoice shall be valid without a signature, which shall be substituted by authorization or secure electronic signature. The day of invoice receipt shall be considered the day of sending thereof.	For clarification purposes we suggest to add working: "for each tranche".
4.4	The Combined system operator shall verify conformity of the amount of natural gas in the storage to the amount stated in the Contract within a period of 10 (ten) days, and transfer the amount specified in the invoice to	The Combined system operator shall verify conformity of the amount of natural gas in the storage to the amount stated in the Contract on the last day of the tranche, and transfer the amount specified in the invoice to the current account of the Storage user within 30 (thirty) days.	If 10 days are given to verify the volumes, auction winner is assumed to store the volumes for these 10 additional days. LDT believes that the last day of a tranche is more transparent and effective for verification.

	the current account of the Storage user within 30 (thirty) days. If the amount of natural gas in the storage does not conform to the amount of the Guarantee obligation specified in the Contract, the Combined system operator shall not settle the invoice until complete fulfilment of the Guarantee obligation.	If the amount of natural gas in the storage does not conform to the amount of the Guarantee obligation specified in the Contract, the Combined system operator shall not settle the invoice until complete fulfilment of the Guarantee obligation.	
4.6	If the Storage user fails to ensure fulfilment of obligations in full or according to the schedule given in clause 2.2. of the Contract, the Storage user shall pay to the Combined system operator a contractual penalty equal to double the amount of the non-fulfilled Guarantee obligation payment which the auction winner would have received if it had fulfilled its Guarantee obligation.	If the Storage user fails to ensure fulfilment of obligations in full or according to the schedule given in clause 2.21. of the Contract, the Storage user shall pay to the Combined system operator a contractual penalty equal to double the amount of the non-fulfilled Guarantee obligation payment which the auction winner would have received if it had fulfilled its Guarantee obligation. This is the only remedy available under this Contract.	Contractual penalty to JSC "Conexus Baltic Grid" equal to double the amount of the non-fulfilled Guarantee obligation payment which the auction winner would have received if it had fulfilled its Guarantee obligation, shall be the only available remedy. Therefore LDT suggest to amend the Clause 4.6. and Clause 5.1. As well as it is common in contractual remedy with gas system operators: the liability shall be limited only to the direct losses.
4.8	Contractual penalty shall be paid per each breach of contractual obligation.		The excessive penalizing practice shall be eliminate and this Clause deleted.
5.1	The Parties shall assume responsibility for fulfilment of the Contract provisions. The Parties shall compensate any loss, incurred by the other Party, if the guilty Party fails to fulfil the Contract provisions or fulfils them improperly.	The Parties shall assume responsibility for fulfilment of the Contract provisions. The Parties shall compensate direct loss, incurred by the other Party, if the guilty Party fails to fulfil the Contract provisions or fulfils them improperly, however. Such compensation cannot be higher than the amount indicated in paragraph 4.6 of the Contract.	See comment to Clause 4.6.
8.4	If a national energy crisis is announced pursuant to the procedure stated in the Energy Law, the contract shall be suspended for the period of energy crisis. In this case the Parties shall agree on further fulfilment of the Contract.	If a national energy crisis in Latvia or/and in the country where auction winner is established, is announced pursuant to the procedures stated in the relevant laws, the Contract shall be suspended for the period of energy crisis. Suspension means that auction winner has no obligation to provide	Auction winner(s) might be natural gas suppliers in other countries (e.g. LDT in Lithuania), where national laws established obligations to the natural gas suppliers to ensure the necessary volume of natural gas during energy crisis. They also might be

		<p>Guarantee obligation services under this Auction rules during the national energy crisis and the volume of gas necessary and consumed during such national energy crisis shall be eliminated from the Guarantee obligation services. JSC "Conexus Baltic Grid" remains liable to pay for the Guarantee obligation services received before and after the national crisis occurred, the amount of the fee shall be calculated on a pro rata basis.</p>	<p>obliged to store the volume of gas necessary vulnerable consumers during the national energy crisis and the right of the Auction winner(s) to use and to get the gas volume necessary for such national energy crisis shall be not limited in any way and by any means. The national energy crisis can be announced not only in Latvia, where Latvia's laws are applicable but also in country, where the auction winner is established, where national energy crisis is announced under local laws. Taking into account the above, LDT suggests to amend the Clause 35.</p>
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