



# Approval of the proposal for an incremental capacity project at the Danish-German Border, cf. NC CAM art. 28

*This is an unofficial translation of the Danish version. In the event of any discrepancy between the two versions, the Danish version shall prevail.*

## SUMMARY

This decision concerns the assessment of the project proposal of 16<sup>th</sup> of March 2021 from the Danish transmission operator (TSO) Energinet Gas TSO A/S (Energinet) and the two German TSOs, Gasunie Deutschland (GUD) and Open Grid Europe (OGE) (hereinafter, the TSOs), regarding the incremental capacity process for the establishment of firm capacity on the German side of the Interconnection Point (IP) Ellund between Denmark and Germany. Firm capacity is capacity for transmission of gas, which cannot be interrupted by the TSO.

With this decision, the Danish Utility Regulator approves the TSOs' project proposal regarding the incremental capacity process for firm capacity in accordance with the network code on capacity allocation mechanisms in gas transmission systems (NC CAM). NC CAM ensures a non-discriminatory, transparent and efficient framework for capacity allocation in the gas transmission system.

The project proposal will allow the offer of firm capacity from 2027 at the IP Ellund. The purpose of the project proposal is to ensure the functionality of the Danish gas market and system integration between Denmark and North-West Europe. The incremental capacity process for firm capacity is a consequence of the fact that GUD reduced the southbound firm capacity on the German side of IP Ellund from 3.6 GWh/h to zero GWh/h from 1<sup>st</sup> of January 2020.

According to the project proposal, Energinet will be able to provide the technical capacity necessary for firm exit capacity to be offered without further investments. The Danish Utility Regulator thus assessed that the decision only concerns the formal requirements for the incremental capacity process according to NC CAM as no economic test will be conducted on the Danish side and the Danish Utility Regulator consequently will not determine an f-factor.

The Danish Utility Regulator has assessed that the TSOs' project proposal comply with the formal requirements stated in NC CAM regarding the project proposal's compliance

with requirements for a market demand assessment phase, a design phase, as well as the formal requirements for the content of the project proposal

The assessment of the project proposal must take place in a coordinated cooperation with the German regulator Bundesnetzagentur (BNetzA). The Danish Utility Regulator has therefore throughout the process been in an ongoing dialogue with BNetzA and has made a coordinated decision.

In addition, the Danish Utility Regulator has assessed the TSOs' project proposal regarding potential detrimental effects on competition or the effective functioning of the internal gas market. The Danish Utility Regulator has assessed that the project proposal impose no detrimental effects on competition or the effective functioning of the internal gas market. The Danish Utility Regulator assesses that the incremental capacity will have a positive impact on both the competition on the Danish gas market and the effective functioning of the internal gas market. The incremental capacity meets the market participants' non-binding demand indications by re-establishing capacity that has been available at the IP Ellund since 1984, and which has secured the possibility of export of gas to Germany.

Energinet considers the reduction of firm capacity to be unjustified. Energinet has therefore in a joint agreement with GUD (Letter of Intent) explicitly specified that the precondition for Energinet's participation in the project proposal is that southbound firm capacity is available on short contracts at IP Ellund in the intervening period from 2023 to 2027.

The offer of firm capacity in the intervening period will prevent the detrimental effects that a lack of export opportunities will otherwise impose on competitiveness and effective functioning of the Danish gas market after the establishment of Baltic Pipe in October 2022 and the expected reopening of the Tyra platform in Q2 2023.

The Danish Utility Regulator thus considers Letter of Intent to be a prerequisite for the project proposal, and the incremental capacity process. The Danish Utility Regulator has therefore assessed that compliance with the Letter of Intent is decisive for the project proposal. The Danish Utility Regulator will monitor the implementation on an ongoing basis in cooperation with BNetzA.

The Danish Utility Regulator notes that the European regulation must be complied with at all times, and that the Danish Utility Regulator may, if necessary, be forced to follow up on the course of events to the extent that capacity is not re-established.

Based on an overall assessment, the Danish Utility Regulator finds that the project proposal for the incremental capacity process, as announced in the project proposal of 16<sup>th</sup> of March 2021 with the Letter of Intent complies with the formal requirements as stipulated in NC CAM. Thus, the Danish Utility Regulator approves the project proposal for the incremental capacity process of firm capacity at the Danish-German border.

The Danish Utility Regulator's decision means that the TSOs can offer the firm capacity at the yearly auction in June 2021. The final offer of firm capacity thus depends on the auction result and the final economic test.