

Prequalification Rules for Participation in the Bilateral Balancing Market of NetConnect Germany GmbH & Co. KG

The prequalification rules set out herein apply to all Bidders wishing to participate in the bilateral balancing market of **NetConnect Germany GmbH & Co. KG** (hereinafter referred to as “MAM”)

Introduction

In compliance with its obligations under the German Gas Third-Party Access Regulations (*Gasnetzzugangsverordnung - GasNZV*) as amended from time to time as well as in accordance with the requirements set out in the administrative ruling on gas balancing (implementation of the Network Code on Gas Balancing of Transmission Networks) handed down by the German national regulatory authority Bundesnetzagentur (the “Federal Network Agency”) on 19 December 2014 (ref: BK7-14-020; the so-called “GaBi Gas 2.0” decision) and the official notifications issued by the regulator in relation thereto, the MAM takes market-based system balancing actions (“External System Balancing Actions”) to physically balance the gas supply networks in its market area and enters into system balancing transactions with third parties to procure the gas quantities it requires for this purpose.

Section 22(1) of the German Energy Industry Act (*Gesetz über die Elektrizitäts- und Gasversorgung - EnWG*) imposes an obligation on the operators of energy supply networks to procure the energy they require to balance imbalances in a transparent, non-discriminatory and market-based process.

The MAM applies these principles when taking External System Balancing Actions. Any Bidder who is in a position to offer the relevant Balancing Products and who wishes to participate in the MAM's bilateral balancing market is required to complete a prequalification procedure. Said prequalification procedure, including the required prequalification application documents, is set out herein (hereinafter: “Prequalification Rules”).

1. General Information Concerning the Prequalification Rules

The successful completion of the prequalification procedure set out herein is a prerequisite for participating in the MAM's bilateral balancing market, i.e. for being able to offer to offtake or supply the gas quantities of high calorific value or low calorific value quality ("high CV gas" and "low CV gas", respectively) required to cover any balancing requirements arising in the market area.

The Prequalification Rules set out herein are divided into the following sections:

- Prequalification procedure for inclusion in the Bidders List (Section 2)
- Acceptance of the Terms and Conditions for External System Balancing Actions (Section 3)
- Bidding and contract award procedure for specific services (Section 4)
- Application for inclusion in the Bidders List (Appendix 1)
- MAM's contact for operational handling of balancing actions (Appendix 2)

All information, documents and evidence required for the purpose of the prequalification procedure and submitted in connection therewith will be kept confidential by the MAM and used only for the purposes of the prequalification procedure. The MAM must not make such information, documents and evidence available to any third party without the prior written consent of the Bidder.

The MAM has the right to collect and store in accordance with data protection principles any data received in the course of the prequalification procedure and in the course of the bidding and contract award procedure relating to any Balancing Product, and to use such data for the purposes of the prequalification procedure and the bidding and contract award procedure relating to any Balancing Product.

The Prequalification Rules set out herein are available in the English and German languages. In the event of any discrepancy between the English-language and the German-language versions, the German-language version is to prevail.

The Prequalification Rules are to be governed by, and construed and interpreted in accordance with, the law of the Federal Republic of Germany to the exclusion of the UN Convention on the International Sale of Goods (CISG).

2. Prequalification Procedure for Inclusion in the Bidders List

In the course of the prequalification procedure, the Bidder shall demonstrate that it is in a position to meet the MAM's requirements for the supply (System Buy) and/or offtake (System Sell) of balancing gas by the Bidder (hereinafter: "Qualification"). The Bidder shall demonstrate in a suitable form that it has the specialist competence, performance capability and reliability needed for a safe, secure and reliable supply (System Buy) and/or offtake (System Sell) of balancing gas.

2.1 Steps of the Prequalification Procedure

2.1.1 Application, Application Documents and Cost of Procedure

Any balancing group manager who is registered as such in the market area NetConnect Germany and wishes to do so (hereinafter: "Bidder") may participate in the MAM's prequalification procedure and submit an application for inclusion in the MAM's list of prequalified Bidders (hereinafter: "Bidders List"). Prequalification applications may be submitted at any time.

Only individual Bidders may participate in the prequalification procedure, joint applications by groups of Bidders will not be accepted.

In order to demonstrate its Qualification, the Bidder shall collect and submit to the MAM all the documents and evidence laid down in Section 2.2 hereinbelow. All documents submitted must be either original documents or certified copies. Non-certified copies of original documents will not be taken into account by the MAM. The Bidder must use any forms made available by the MAM and complete such forms using permanent ink or any other medium that is fit for archiving. No amendments and/or additions of any type may be made to the forms provided by the MAM, and any Bidder submitting such forms with amendments and/or additions will be excluded from the prequalification procedure.

No official documents submitted may have been issued more than three months prior to submission. Any evidence and/or documents not written in English or German must be translated into English or German by a translator officially authorised by national authorities to prepare certified translations, and submitted alongside such translation. Any verification documents issued in other countries must at least be equivalent to the corresponding German documents required. The Bidder shall bear the risks associated with any translation errors.

The Bidder is responsible for the completeness and correctness of any and all information, documents and evidence submitted. The MAM reserves the right to require the Bidder to submit

additional documents and evidence where necessary, in particular where necessary in order to ensure a safe, secure and reliable operation of the network.

An application for inclusion in the Bidders List is legally binding on the Bidder submitting such application. By submitting an application for prequalification the Bidder accepts the Prequalification Rules set out herein.

If the Bidder submitting the application is a natural person the application must be signed personally. If the Bidder submitting the application is a legal person the application must be signed either by a single person that is authorised to represent the entity individually, or by a group of persons authorised to act jointly on behalf of said entity; verification of the acting person's power of agency must be submitted.

The Bidder may submit its application documents by fax in advance, provided that the original documents are received by the MAM within seven (7) days of the receipt of the faxed documents. In such case the application is deemed to have been submitted on the day when the faxed documents have been received. However, if the original documents are not received by the MAM within seven (7) days of the receipt of the faxed documents, the application will be considered to be incomplete and, if the Bidder had already been rated as qualified based on any documents previously submitted by fax, and included in the Bidders List, the Bidder will be reclassified as not qualified and excluded from the Bidders List. Documents may not be transmitted electronically (e.g. by email etc.).

The MAM does not reimburse any costs incurred by the Bidder for the preparation and submission of the documents required for prequalification. This also applies with respect to any translation costs. Upon completion of the prequalification procedure the documents submitted by the Bidder will not be returned to the Bidder; any documents which are no longer required will be destroyed. Any documents, forms, etc. made available by the MAM remain the property of the MAM.

Any queries the Bidder may have in connection with the prequalification procedure must be addressed to the contact provided in Appendix 2.

The Bidder is responsible for providing a correct and valid email address at which it can receive emails at any point in time.

2.1.2 Review of Application Documents and Result of Prequalification

The MAM will start reviewing the application documents as soon as it has received from the Bidder all documents and evidence required, and if such documents are complete, in the required form and in compliance with the Prequalification Rules set out herein. The

prequalification application is deemed to be complete if all the documents and evidence listed in Section 2.2 below have been submitted in the form as required under the Prequalification Rules set out herein. Any prequalification application which is incomplete, not in the required form or not in compliance with the Prequalification Rules set out herein will not be processed. All documents and evidence submitted by the Bidder will be reviewed by the MAM within 15 business days¹ following receipt of a complete application, subject to any queries the MAM might have. The Bidder is not entitled to participate in the review of the documents.

The MAM will verify the Bidder's Qualification solely on the basis of the documents and evidence submitted by the Bidder, unless any circumstances or information known to the MAM (as, in particular, the credit rating of a credit rating agency) give rise to any doubt as to the Bidder's Qualification. In determining whether the Bidder has the specialist competence, performance capability and reliability required for ensuring a safe, secure and reliable supply (System Buy) and/or offtake (System Sell) of balancing gas, the MAM shall exercise its discretion in a way which is non-discriminatory and free from abuse.

Upon completion of its review of the documents and evidence submitted, the MAM will notify the Bidder of its decision as to the Bidder's prequalification application.

If the Bidder's prequalification application is rejected the MAM will notify the Bidder thereof in writing or by email. If the Bidder's prequalification application is accepted the MAM will include the Bidder in the Bidders List and notify the Bidder thereof in writing or by email. Any Bidder whose prequalification application is successful (hereinafter: "**Qualified Bidder**") will receive from the MAM the login details required for access to the MAM's Bidding Platform and is entitled to participate, in compliance with the result of its prequalification procedure and the provisions set out in the relevant invitation to bid, in any bidding and contract award procedure in which the MAM invites bids for any External System Balancing Actions.

2.2 Prequalification Requirements

In order to be included in the Bidders List, the Bidder shall submit the information, documents and evidence described below, and shall demonstrate its Qualification for supplying and/or offtaking balancing gas by meeting the requirements listed below. To this end, the Bidder shall prove, in particular, its specialist competence, performance capability and reliability.

¹ For the purpose of the Prequalification Rules set out herein, "business day" means any day between and including Monday to Friday, with the exception of public holidays and the 24th and 31st of December; in this context any public holiday observed in any German federal state is regarded as a public holiday.

2.2.1 General Data of the Bidder

The Bidder shall submit the following information concerning its business and/or itself:

- Name/full company name including legal form,
- Address including telephone and fax numbers, web and email addresses,
- Object of the Bidder's business if the Bidder submitting the application is no natural person.

2.2.2 General Verification Documents

The Bidder shall submit the following verification concerning its business and/or itself:

- Up-to-date copy of an entry in the relevant professional register (in the Federal Republic of Germany: *Handelsregister* or *Handwerksrolle*; in the case of Bidders from other European Union member states: documents in accordance with Article 46 of Directive 2004/18/EC, or in the case of Bidders from third countries: other equivalent documents issued by the state where the Bidder is based),
- Complete application for inclusion in the Bidders List as set out in Appendix 1.

2.2.3 Evidence of Performance Capability and Specialist Competence

In order to prove its performance capability and specialist competence, the Bidder shall meet the following requirements and submit the relevant supporting documents:

2.2.3.1 Technical and Operational Requirements

In order to prove its technical and operational Qualification, the Bidder shall demonstrate that it is in a position to ensure a safe, secure and reliable offtake (System Sell) and/or supply (System Buy) of balancing gas. In particular, the Bidder shall provide proof that it has in place the required computer systems and that they are operated at an appropriate availability level. Any costs incurred in connection with the installation and proper operation of the required computer systems must be borne by the Bidder.

2.2.3.2 Organisational Requirements

In order to prove its performance capability and specialist competence, the Bidder shall further submit evidence of its meeting the following organisational requirements:

- The Bidder shall appoint a general German or English speaking contact (contact person) who can be contacted 24 hours per day on every day, and who is responsible for coordinating the Bidder's balancing gas activities and the dispatching of the balancing gas to be supplied and/or offtaken by the Bidder.
- The Bidder must further prove that it has entered into a Balancing Group Contract with the MAM for the MAM's market area and the gas quality (high CV and/or low CV gas) for which the Bidder wishes to submit bids for Balancing Products.

2.2.3.3 Communication Requirements

The Bidder shall comply with the following communication requirements:

- The Bidder shall ensure that it is capable of establishing a communications connection with the MAM's production system which enables the Bidder to communicate with the MAM via edig@s messages and to respond to any balancing call orders issued by the MAM in edig@s REQUEST format by sending a corresponding confirmation message in the applicable edig@s REQRES format to the MAM without undue delay (Live Connection).
- To prove the availability of a proper communications connection, the Bidder shall participate in a communications test to be carried out between the Bidder and the MAM:
 - For the purpose of carrying out such a communications test a communications connection between the Bidder's system and the MAM's test system (Test Connection) is required. Upon receiving the Bidder's application documents, provided they are complete and in the required form as provided in paragraph 2.1.2 above, the MAM shall therefore send a Connection Template to the Bidder without undue delay, which the Bidder shall complete and return to the MAM together with the digital certificate² required for setting up the communications connection. Within 10 business days after receiving the duly completed Connection Template and the certificate the MAM shall establish a Test Connection. The MAM shall then test the Bidder's communications capability by issuing a series of simulated balancing call orders via the Test Connection. As a general rule, the communications test comprises 10 test call orders in the course of which the Bidder shall prove that it is capable of

² The details relating to the certificate to be submitted will be communicated to the Bidder together with the Connection Template to be completed by the Bidder.

responding to a simulated balancing call order issued by the MAM in edig@s REQUEST format by sending a corresponding confirmation message in the applicable edig@s REQRES format to the MAM without undue delay. The MAM may allow the Bidder to complete less than 10 test call orders if and where the availability of a proper communications connection has already been proven to the satisfaction of the MAM by a smaller number of test call orders. If and where the MAM has reasonable grounds for doubting that the Bidder's Test Connection is capable of ensuring proper communications, the MAM shall have the right to require the Bidder to complete more than 10 test call orders.

- Upon successful completion of the communications test via the Test Connection the MAM shall establish a Live Connection with the Bidder's system within a period of 10 business days. The Bidder's communications capability shall then also be tested via the Live Connection. For this purpose the MAM will send simulated balancing call orders for a quantity of 0 (zero) megawatt to the Bidder in edig@s REQUEST format. The communications test via the Live Connection shall be deemed to have been successfully completed where in a series of 10 test call orders the Bidder has been able to prove that it is capable of sending a confirmation message in edig@s REQRES format to the MAM without undue delay after receiving a corresponding edig@s REQUEST message from the MAM. The MAM may allow the Bidder to complete less than 10 test call orders if and where the availability of a proper communications connection has already been proven to the satisfaction of the MAM by a smaller number of test call orders. If and where the MAM has reasonable grounds for doubting that the Bidder's Live Connection is capable of ensuring proper communications, the MAM shall have the right to require the Bidder to complete more than 10 test call orders.
- Due to the existence of an implementation period the communications test via the Live Connection must be completed at least 10 business days prior to the start of any tender for balancing gas to be provided under Locational Market Transactions or Long-Term Options in respect of which the Bidder wishes to submit bids.

2.2.3.4 Financial standing

The Bidder shall have a sufficient creditworthiness. A sufficient creditworthiness of the Bidder will be refutably assumed if the Bidder has a long-term rating from the credit rating agency

- Standard & Poors, and the minimum rating shall be A-,
- Fitch, and the minimum rating shall be A-,
- Moody's, and the minimum rating shall be A3, or
- Dun & Bradstreet, and the minimum rating shall be 1A2,

unless the Bidder also has a credit rating from another of the aforementioned credit rating agencies which is lower than the abovementioned credit ratings, or the Bidder has been rated by any other recognised credit rating agency and such rating is not at least equivalent to any of the aforementioned ratings.

Should the creditworthiness of the Bidder not be assumed on the basis of an existing credit rating in line with the above rules, the MAM may allow that the Bidder may prove a sufficient creditworthiness of the Bidder by way of other reasonable evidence of his creditworthiness.

The Bidder shall provide information on which credit rating agencies have rated the Bidder and on the level of the relevant credit ratings.

2.3 Changes with Respect to Prequalification Requirements

2.3.1 Notification of Changes

By submitting its application for prequalification the Bidder undertakes to notify the MAM in writing, without it being necessary for the MAM to request such notification, in the event of any significant change affecting the information and/or documents submitted for the purpose of the Bidder's application, and to do so without undue delay.

2.3.2 Retention and Revocation of Qualified Status

Within 15 business days³ following the receipt of any change notification, the MAM shall verify whether any Qualified Bidder continues to meet the prequalification requirements set out in Section 2.2 above. The MAM is entitled to remove the Qualified Bidder temporarily from the Bidders List for the duration of such review.

If the MAM reaches the conclusion that following a change in any of the circumstances which are relevant for prequalification the Qualified Bidder no longer meets the prequalification

³ For the purpose of the Prequalification Rules set out herein, "business day" means any day between and including Monday to Friday, with the exception of public holidays and the 24th and 31st of December; in this context any public holiday observed in any German federal state is regarded as a public holiday.

requirements, the Bidder's Qualified status will be revoked and the Bidder will be removed from the Bidders List. The Bidder will be notified thereof in writing or by email. If the Qualified Bidder continues to meet the prequalification requirements the Qualified Bidder retains its status as a Qualified Bidder. The Qualified Bidder will be notified thereof in writing or by email.

2.4 Revocation of Qualified Status for Due Cause

The MAM is entitled to immediately revoke any Qualified Bidder's Qualified status and to immediately remove such Qualified Bidder from the Bidders List at any time for due cause. Without limitation, any of the following circumstances, whether separately or concurrently, are deemed to constitute due cause for such action:

- The Bidder no longer meets the prequalification requirements according to the Prequalification Rules set out herein
- The MAM has obtained reliable information that the Bidder will no longer comply with the prequalification requirements set out herein in the imminent future.
- The Bidder is in default under an agreement concerning a Balancing Product ("**System Balancing Transaction Agreement**") with a due performance towards the MAM that can still be performed (in particular the payment of a due amount) and the Bidder has not provided performance within 5 business days upon the receipt of a respective request (whereas, with regard to payment obligations, a receipt of such payments on the MAM's bank account within this period is required).
- The Bidder's non-performance or defective performance under a System Balancing Transaction Agreement of an obligation that can no longer be performed (fixed date performance obligation, e.g the obligation to supply or take-off gas quantities at a specific point in time).
- Enforcement measures have been initiated against the Bidder for monetary claims (Sections 803 - 882a of the German Code of Civil Procedure (ZPO))
- An application is made for the initiation of insolvency proceedings or similar proceedings against the Bidder's assets
- The Bidder or any person acting on behalf of the Bidder engages in a proven misconduct which raises doubt as to the Bidder's reliability
- An enforceable judgment is rendered against the Bidder or any person acting on behalf of the Bidder that raises doubt as to the person's professional reliability
- Submission of forged or otherwise incorrect documents and/or information in the course of the prequalification procedure.

2.5 Modification of Prequalification Rules

The MAM reserves the right to modify the Prequalification Rules for Participation in the MAM's Bilateral Balancing Market at any time provided that it does so based on appropriate, non-discriminatory and transparent considerations. In such case, the MAM is entitled to require any Bidder who has already been qualified as a Qualified Bidder to complete a new prequalification procedure according to the modified provisions.

In case that the MAM does not require the Bidder to complete a new prequalification procedure according to the modified provisions, the MAM will inform the Bidder in writing or per e-mail about the amendment of the Prequalification Rules and will request the Bidder at the same time to express its consent with the amended Prequalification Rules.

In case that the MAM requests the Bidder to complete a new prequalification procedure in accordance with the first subparagraph of this Section 2.5 or in case that the Bidder does not express its consent as requested in accordance with the second subparagraph of this section 2.5 the MAM is entitled to immediately revoke an existing prequalification of the Bidder and to immediately exclude such Bidder from the Bidders List. In such case, any System Balancing Transaction Agreements which are already concluded at this point in time shall be subject to the Prequalification Rules in its version valid at the point in time of the conclusion of the relevant System Balancing Transaction Agreement, as far as such System Balancing Transaction Agreement refers to Prequalification Rules.

2.6 Validity of Prequalification

Without prejudice to the provisions set out in Sections 2.3, 2.4 and 2.5 above, a Prequalification once obtained remains valid for an indefinite period of time.

3. Acceptance of the Terms and Conditions for External System Balancing Actions

Any Qualified Bidder who has been included in the Bidders List is entitled to participate in the MAM's bilateral balancing market. When submitting a bid for a Balancing Product the Bidder is required to accept the provisions set out in the relevant invitation to bid, the Terms and Conditions for External System Balancing Actions as modified from time to time, the applicable Product Description and all other terms and conditions set out in the relevant invitation to bid, if any. The Bidder declares its acceptance by marking the relevant field of the bid input screen provided on the Bidding Platform prior to submitting its bid.

The Terms and Conditions for External System Balancing Actions as modified from time to time can be viewed by the Bidder by clicking on the link provided in the bid input screen provided on the Bidding Platform and are available for download from the website “www.net-connect-germany.com”.

The Bidder cannot enter the bidding and contract award phase pursuant to Section 4 unless it accepts the Terms and Conditions for External System Balancing Actions without any reservations.

4. Bidding and Contract Award Procedure for Specific Services

In the course of the bidding and contract award procedure the MAM invites bids for specific balancing actions that are required to accommodate a balancing requirement and that take the form of specific Balancing Products to be contracted in high CV and/or low CV gas quality within the market area; the respective products are described in greater detail in the provisions set out in each invitation to bid and in the applicable Product Description. All bidding takes place on the Bidding Platform for balancing gas⁴. As a general rule, all authorised Bidders must submit their bids through said Bidding Platform. The MAM is entitled to depart from this principle in the event of a failure of the Bidding Platform.

⁴ <https://regelenergie.net-connect-germany.de/emwebncg/startApp.do>

Appendix 1

**Application for Inclusion in the Bidders List of
NetConnect Germany GmbH & Co. KG**

NetConnect Germany GmbH & Co. KG

Kaiserswerther Straße 115

40880 Ratingen

Fax: +49 (0)2102 - 59796 - 59

Bidder:

Name/full company name including legal form:

Street/street No:

Postcode and city/town:

Country:

Telephone/fax:

Web/email:

Object of business:

Dispatching Contact:

Contact person for operational handling of balancing actions (24/7):

Telephone (24/7):

Fax:

Email:

Edig@s code:

Edig@s version:

Balancing groups for system balancing purposes (only required if the Bidder applies for prequalification in respect of Locational Market Transactions and Long-Term Options):

Balancing group number for high CV gas (if Bidder wishes to bid for high CV gas products):

Balancing group number for low CV gas (if Bidder wishes to bid for low CV gas products):

Legally binding declaration:

The Bidder hereby affirms:

- that all information provided in this application and all documents submitted in connection therewith are true and correct, and that they reflect the current situation of the business and the current business practices as applied in said business;
- that it accepts the Prequalification Rules for Participation in the Bilateral Balancing Market of NetConnect Germany GmbH & Co. KG as last modified on 14 February 2017.
- that no application has been made for the initiation of insolvency proceedings against the Bidder's assets;
- that it is in a position to ensure a safe, secure and reliable supply/offtake of balancing gas.

Place, date

Bidder's signature / company seal

Appendix 2

**NCG Contact for Operational Handling
of Balancing Actions**

NCG's operations contact (24/7):

Dispatching Virtual Trading Point NCG:

Telephone: +49 2102 74006 – 11
Fax: +49 2102 74006 – 12
Email: gasops@net-connect-germany.com

General contact for information on balancing procedure:

NetConnect Germany GmbH & Co. KG's "Market" team

Telephone: +49 2102 59796 – 780
Fax: +49 2102 59796 – 59
Email: balancing-gas@net-connect-germany.com

(available during normal office hours only)

NCG's balancing groups for balancing gas procurement:

NCG high CV gas: NCHB400119060000
NCG low CV gas: NCLB400119050000

NCG's market area / VTP codes:

DVGW market area code: 37Y701125MH0000I
VTP code high CV gas: 37Z701125MH00004
VTP code low CV gas: 37Z701125ML0000H