

PROPOSAL OF THE AMENDMENTS OF THE RULES OF OPERATION OF THE LIQUEFIED NATURAL GAS TERMINAL

- CONSULTATION DOCUMENT -

accompanying public consultations from 13th September until 27th September 2020

1. INTRODUCTION

Pursuant to Article 93 of the Gas Market Act (Official Gazette 18/18, hereinafter: GMA) and the Decision on the approval of the Croatian Energy Regulatory Agency (CLASS: 003-07/18-03/07, FILE NO.: 371-01-18-6) of 21 June 2018, the operator of the liquefied natural gas terminal, LNG Hrvatska d.o.o., adopted the Rules of operation of the liquefied natural gas terminal on 2 July 2018 and Amendments of the Rules of operation of the liquefied natural gas terminal on 30th March 2020 (hereinafter: the Rules). The Rules regulate the description of the LNG terminal, the development, construction and maintenance of the LNG terminal, LNG terminal management, the contractual relationships and general conditions of LNG terminal use, the booking and use of LNG terminal capacities, measurement and allocation rules, data publication and data exchange, damage compensation and the rules on the sale of LNG or natural gas of the LNG terminal user.

2. REASONS FOR THE ADOPTION OF THE AMENDMENTS TO THE RULES OF OPERATION OF THE LIQUEFIED NATURAL GAS TERMINAL

In accordance with inquiries from interested suppliers and gas traders for LNG acceptance and dispatch services, ie the possibility of annual contracting of terminal capacity in case of free capacity, and in accordance with inquiries and comments of Terminal users after concluding Terminal Use Agreements, with which the operator coordinated further necessary amendments to these Rules, individual amendments were made to articles related to LNG and LNG regasification capacity trading, as well as the development of annual and monthly service schedules.

The proposed amendments were made in accordance with transparent, non-discriminatory and market-focused EU practices and rules so as to enable access to interested users under equal conditions.

Following all the above, the following is a brief explanation and description of the main changes in the articles and annexes of the Proposal for Amendments to Rules of operation of the liquefied natural gas terminal.

RULES OF OPERATION OF THE LIQUEFIED NATURAL GAS TERMINAL

Article 1 - In Article 2 Rules changes were made in terms of definitions of *Loanable Amount of LNG*, *Port charges* and *Available Capacity* for the purpose of explaining these terms, and the definition was added of the *Non-standard Services Pricing Methodology* and *General terms and conditions of gas supply* because a number of users and potential users made inquiries about which regulations the said terms referred to and proposed to define these terms. Furthermore, the definitions *Internal Use Limit* and *Minimum Acceptable LNG Regasification Capacity* were deleted because the said terms are no longer used in the Rules, and the term “Stanica za ukrcaj pilota” (*Pilot boarding station*) was replaced with “Peljarska postaja (*Pilot boarding station*) because of the legal terminology used in the Maritime Code. The terms *Terminal User’s Indemnified Party* and *Operator’s Indemnified Party* were changed to use the now defined term of a *Affiliate* (“Povezana osoba”).

Article 2 – Article 4 of the Rules was amended so that it now lays down the expected time of Terminal commissioning.

Article 3 - In Article 5 of the Rules, amendments were made in accordance with the Operator’s duties prescribed by the Gas Market Act.

Article 4 - The heading of Article 7 and paragraph 1 of Article 7 of the Rules were amended so as to be adjusted with the terminology used in the Gas Market Act.

Article 5 - In Article 8 of the Rules, amendments were made so as to adjust the terms used in the said provisions with the terms defined in the Rules.

Article 6 - In Article 12 of the Rules, amendments were made so as to explain the mandatory content of the request for allocation of LNG Regasification Capacity and the documents to be delivered to the Operator by an applicant who does not have a valid Terminal Use Agreement since the Operator has been accessed by potential users who are not located in the region and about whom the Operator does not have the necessary data, the Operator should perform additional checks. In addition, the error in the designation of the unit of measurement was corrected, so now the unit of measurement "kWh" is used instead of "kWh / day".

Article 7 - In Article 16 of the Rules, minor changes were made so that the kWh/d measurement unit was changed to kWh thus correcting an error in the designation of the unit of measurement.

Article 8 - In Article 18 of the Rules, minor changes were made so as to specify the deadline for publishing information on available capacity and the terminology is harmonized so that the provision now refers to “Request for booking of the short-term LNG regasification capacity”.

Article 9 - In Article 22 of the Rules, a new paragraph 5 defines the delivery of a payment insurance instrument by the acquirer in case of transfer of the contracted LNG gasification capacity.

Article 10 - Article 24 of the Rules explains that the prescribed rules refer to trading with contracted LNG Regasification Capacity, the right to use the contracted LNG Regasification Capacity or LNG, and lays down the legal consequences of failing to inform the Operator on the said trading in due time.

Article 11 - In Article 25 of the Rules, minor changes were made so that the kWh/d measurement unit was changed to kWh, , which corrected the error in marking the unit of measurement and specified that the Operator has the right to refuse to provide regasification service after receiving the approved annual service schedule to Terminal user who has not provided adequate capacity of the transmission system / (either by contracting the capacity of the transmission system or in another way in accordance with the regulations of the transmission system operator).

Article 12 - In Article 29, paragraph 3, text was corrected related to the procedure of increasing the LNG Regasification Capacity, and in paragraph, 4 the formula for decreasing the LNG Regasification Capacity was corrected.

Article 13 - Paragraph 6 of Article 31 explains in which situation the said provision applies, whereas paragraphs 8, 10 and 11 explain how the allocation of the schedule of LNG Carriers arrival is determined.

Article 14 - In Article 34, references to the “concerned” month were introduced because references to the “following” month were previously stated and since the Rules define delivery 35 days before (Article 34), it logically follows that the reference cannot be to the "following" but to the "concerned" month.

Article 15 - Article 38 was amended to explain who bears the costs related to the maintenance of the minimum operative level of the LNG in case of a delay in the LNG Carriers arrival.

Article 16 - Article 42 was amended the provisions on the delivery of payment insurance instrument to specify the type of bank guarantee to be provided; deadline for submitting a bank guarantee in the first year of using the LNG terminal; the term of the bank guarantee; the omission in paragraph 10, which refers to paragraph 9, has been corrected (paragraph 8 should be inserted); it is specified that the Operator is not liable for currency risks due to the collection of the bank guarantee for payment to the Terminal user who suffered damage due to breach of obligations from the joint use of the LNG terminal, and to which issues the rules prescribed by the General Terms and Conditions apply.

Article 17 – In Article 43, at the request of the users, minor changes was made related to shortening the deadline for submitting the application for approval of the LNG Carriers and specifies the beginning of the period in which the Operator issues a Certificate of approval of the LNG Carrier for arrival.

Article 18 - In Article 44, minor changes were introduced regarding the deadline for the submission of the request for registration of an LNG Carrier, and the list of documents to be submitted with the request was adjusted to match the standard titles of documents in maritime traffic.

Article 19 - In Article 45, minor changes were introduced to adjust the terminology, i.e. to use the term of a pilot station (*peljarska postaja*) defined by the Rules.

Article 20 - In Article 46, minor changes were introduced to adjust the terminology, i.e. to use the term of a pilot station (*peljarska postaja*) defined by the Rules.

Article 21 - In paragraph 1 of Article 47, minor changes were introduced to adjust the terminology, i.e. to use the term of a pilot station (*peljarska postaja*) defined by the Rules. In addition to the above, in paragraph 2, a condition was added about the delivery of the Notice of readiness to the Operator, and terminology was adjusted to match the terminology of the Maritime Code. Paragraph 8 explains that the Operator will determine a different time of berthing within a reasonable period of time.

Article 22 - In Article 49, paragraph 3 is amended to prescribe the procedure of the Operator in the case referred to in paragraph 1 of this Article, ie when the amount of LNG discharged is not a standard cargo, and in the case when the volume of the UPP transshipment volume flow from LNG Carrier to the LNG Terminal is less than that specified in the LNG Carrier specifications and the quantity specified in the LNG Terminal technical conditions, the Operator shall reimburse the Terminal user for the costs incurred due to the extension of the allowed downtime applying the provisions of Annex I to the Rules accordingly.

Article 23 - Article 56 was amended in cooperation with the transmission system operator, the entire text of Article 56 was amended and the nomination procedure was defined. Paragraph 19 has also been added, according to which the delivered amount of gas energy for an individual Terminal user for a particular gas day is determined according to the last accepted nomination or renomination of that user.

Article 24 - In Article 61, paragraph 1 and paragraph 7, the errors in writing have been corrected by inserting the words “LNG Terminal” instead of the word “LNG Carrier” and the word “lower” instead of the word “upper”.

Article 25 - In Article 66, paragraph 3 was amended to refer to the provisions prescribing the notification of Terminal Users. Paragraph 5 was amended so that it now prescribes the content of the notification on extraordinary works. Paragraph 6 was amended to prescribe that the cooperation of the user with the Operator must be reasonable. The new paragraph 8 was added regulate the manner of gas purchase for the purpose of performing the main activity, optimum LNG terminal management, technology facilities consumption, compensation of gas losses in the LNG terminal during the performance of works on the system and compensation of plant losses.

Article 26 - In paragraph 2 of Article 69, the obligation was added of the Operator to notify in writing the Terminal User on the reasons for the limitation or suspension of the service of LNG acceptance and dispatch within a reasonable deadline. The change was made in accordance with the requirements of the users, where the reasonable time depends on the circumstances of the case, according to which it can sometimes be longer or sometimes shorter depending on the specific circumstances. The text of paragraph 4 was additionally explained so that the Operator can limit or suspend the provision of the service of LNG acceptance and dispatch for safety reasons, and also in the case of no fault of the Terminal User and/or Operator.

Annex I GENERAL TERMS AND CONDITIONS OF LIQUEFIED NATURAL GAS TERMINAL USE

Article 27 - In Article 6 of the General Terms and Conditions, the word “unused” was erased because it can be implied that the matter at hand are unused capacities.

Article 28 - After Article 12 of the General Terms and Conditions, a new Article 12.a has been added, regulating the currency and exchange rate of fees and other payments between Operator and Terminal users, based on the Terminal Use Agreement and the Joint Terminal Use Agreement, depending on whether the seat of the Terminal user is located in the Republic of Croatia or abroad. Paragraph 2 of the same Article regulates the issue in which currency the amount of the collateral issued by the Terminal user is handed over to the Operator under the Terminal Use Agreement and / or Joint Terminal Use Agreement, which it also depends on whether the seat of the Terminal user is located in the Republic of Croatia or abroad.

Article 29 - In Article 14 of the General Terms and Conditions, minor changes were introduced to adjust the terminology, i.e. to use the term of a pilot (peljar) defined by the Rules and port charges (lučke pristojbe).

Article 30 - In Article 15 of the General Terms and Conditions, the duration of the payment security instrument in paragraph (2) is more clearly regulated, and paragraphs 3 and 4 were erased to align the deadlines for delivery of payment insurance instruments for Terminal Users who concluded Terminal Use Agreements through the Open Season Process and for Terminal Users who concluded the agreement during the Annual Capacity Booking process.

Article 31 – In Article 16 of the General Terms and Conditions, minor changes were introduced and improvements in the wording, without changing the meaning of the provision.

Article 32 - In Article 17 of the General Terms and Conditions, minor changes were introduced and improvements in the wording, without changing the meaning of the provision.

Article 33 - Article 19, paragraph 1 of the General Terms and Conditions introduces an amendment that describes in more detail the method of renewal of the means of payment in case the Terminal user has contracted the LNG regasification service for several consecutive gas years, in order to use regasification service for several consecutive years need to provide a bank guarantee with a validity period of one gas year, with the obligation to renew each year, while the last bank guarantee must be issued with a validity period of at least 60 days after expiration of the last gas year for which the LNG regasification service has been contracted.

Article 34 - Article 21 of the General Terms and Conditions, which regulates the liability of the Terminal User for compensation of damages, was amended in its entirety for the purpose of improved nomotechnical wording, and the exclusion of liability for ordinary negligence was deleted.

Article 35 - Article 22 of the General Terms and Conditions, which regulates the liability of the Operator for compensation of damages, was amended in its entirety for the purpose of improved nomenclature, and the exclusion of liability for ordinary negligence was deleted.

Article 36 - A new Article 22.a of the General Terms and Conditions was added which regulates the right of the Operator and Terminal User to a compensation of damages if, based on or in relation to the Terminal Use Agreement, one of the parties has caused damages to third persons.

Article 37 - Article 23 of the General Terms and Conditions was amended to regulate more clearly the parties' acting in the case of occurrence of a claim for damages against one of the parties, in relation to which claim for damages such party has the right to protection from the other party pursuant to Article 21(2), Article 22(2) and Article 22.a. of the General Terms and Conditions.

Article 38 - In Article 24 of the General Terms and Conditions, the reference to the applicable article was corrected since the provisions of Article 21 and 22 were amended in their entirety.

Article 39 - Article 25 of the General Terms and Conditions introduces amendments to the provision in order to make the method of determining (calculating) the maximum amount of liability of the Operator towards an individual Terminal user clearer and more understandable. Paragraph 2 of Article 25 of the General Terms and Conditions prescribes the maximum amount of liability of Operators towards all users in total, while paragraph 3 of the same Article clarifies that the maximum amount of liability of Operator individually for each of the Terminal user is accepted in proportion to the contracted service and the shipment of the LNG of such user to the LNG terminal in relation to the total contracted LNG regasification service of all users of the LNG terminal in that calendar year.

Article 40 - In Article 30 of the General Terms and Conditions, the text of the provision was supplemented so as to avoid any doubt that the term "indirect damage" also includes "loss of revenue".

Article 41 - In Article 34 of the General Terms and Conditions, paragraph 6 was erased as redundant, because, according law, the Civil Obligations Act and regulations on energy shall be used to fill any voids on force majeure issues that have not been regulated by the General Terms and Conditions.

Article 42 - In paragraph 1 of Article 35 of the General Terms and Conditions, conditions were changed in which the Operator has the right to suspend the provision of services to the Terminal User, in such a way that the Operator will now be authorized to do so as soon as the Terminal user does not settle any two invoices issued in the name of the fee for the use of the LNG terminal in accordance with Article 9 of the General Terms and Conditions, and paragraph 2 explains that "an extended default of payment obligations" does not refer to the debt on account of the fee for use of the Terminal, but to any other financial obligations of an Terminal User.

Article 43 - In Article 37 of the General Terms and Conditions, the provisions were supplemented to prescribe clearly that the limitation of liability of EUR 10,000,000.00 refers to one event, or one case, and the manner of calculating the maximum amount of Operator's liability toward an individual Terminal User was formulated more clearly.

Article 44 - In Article 39 of the General Terms and Conditions, the duration of the subsequent deadline for fulfilment is changed and is now 15 days.

Article 45 - In Article 40 of the General Terms and Conditions, the provision was supplemented to formulate more clearly the manner of calculating the maximum amount of Operator's liability toward an individual Terminal User.

Article 46 - In Article 41 of the General Terms and Conditions, the limitation of liability of the Terminal User toward the Operator was taken out of paragraph 1 and transferred into the new paragraph 2. Due to the addition of the new paragraph 2, the numbering of the other paragraphs of Article 41 was raised by 1. In paragraph 4, the manner of determining the liability of the Operator toward each individual Terminal User was formulated more clearly. Paragraph 7 was supplemented to correctly refer to articles describing the situations in which the contracting parties will not be liable to each other for damages due to agreement termination.

Annex II - NATURAL GAS ALLOCATION POLICY

Article 47 - Article 9, paragraph 2 of the Natural Gas Allocation Policy defines the term and formula for the total gas loss at the LNG terminal per gas year.

Article 48 - In Article 10, paragraph 1 of the Natural Gas Allocation Policy, text related to the allocation of the total LNG terminal gas loss was erased.

Article 49 - Paragraph 1 of Article 11 of the Natural Gas Allocation Policy was amended so that now, instead of the virtually stored quantity, the allocation is determined according to the total quantities of regasified LNG. For the purpose of better intelligibility, paragraph 2 defines the allocation of total gas loss per gas year, and the calculation of the allowed Terminal User's gas loss per gas year now includes transactions on the secondary market.

Article 50 - Paragraph 1 of Article 15 of the Natural Gas Allocation Policy was amended so as to prescribe that the total LNG terminal gas loss, in the situation when the LNG terminal service provision is suspended due to Terminal maintenance, will be included in the calculation of the total terminal gas loss per gas year. Paragraph 3 determines the time of compensation of the non-allowed gas loss accumulated during the gas year.

Article 51 - regulates the date of coming into force of the Rules.