

## STORAGE CAPACITY AUCTION REGULATION II. IN CASE OF OPTIONAL CAPACITY AUCTIONS

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## 1. INTRODUCTION AND OBJECTIVE OF REGULATION

Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC sets forth that access to natural gas storage facilities shall be provided on the basis of objective, transparent and non-discriminatory criteria.

The objective of this auction regulation (hereinafter referred to as Regulation) is to specify the procedure, the framework conditions of participation and the framework rules of optional capacity auctions announced and planned to be carried out by the Hungarian Gas Storage Ltd (hereinafter referred to as MFGT).

## 2. SUBJECT AND SCOPE OF THE REGULATION

This regulation provides information on the scope of participants, the product constituting the subject of the auction, as well as the process of carrying out the auction. Following a valid and successful auction, MFGT as the auctioneer (Auctioneer) and the Bidder of the awarded bid shall conclude the Natural Gas Storage Contract specifying the general contractual terms and conditions of trading, settlement and payment, along with the rights and obligations of the contracting parties. The Natural Gas Storage Contract shall be annexed to the applicable auction notice.

The scope of the regulation shall cover

- the Bidders intending to participate in the auction, specified in the Regulation and, as well as their representatives acting on their behalf;
- the Auctioneer announcing and carrying out the optional capacity auction and offering the product at the auction, the representative acting on its behalf, along with those involved in carrying out the capacity auction.

### 3. REFERENCES

Act No. CXII of 2011 on the Freedom of Information

Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009

### 4. DEFINITIONS

The objective of this section is to clarify for every stakeholder the interpretation of the concepts referred to herein. As for financial definitions, this chapter shall only specify the explanation of concepts closely related to the auction.

**Bid:** Bid Price and related capacity booking request submitted by Bidders at the capacity auction.

**Bid Price:** Price offered by the Bidder for capacity bundles offered during the auction.

**Bid Bond:** Financial security which can be defined by the Auctioneer – exercising its discretionary powers – in the form of a bond, the amount of which can be determined by the Auctioneer in the announcement notice. If the Auctioneer prescribes a bond, the Bidder shall pay the amount of the bond to MFGT's account prior to 12:00 hours on the business day preceding the auction. Failure to pay the bid bond in due time shall exclude participation in the auction. The bid bond shall serve as a security for paying the earnest money as defined hereunder. The Bidder shall pay earnest money in the amount of the bid bond in the event the Bidder fails to sign the natural gas storage contract within 5 business days from the auction. Following the conclusion of the procedure, the amount of the bid bond shall be reimbursed within 5 business days from signing the contract to Bidders entitled to conclude the natural gas storage contract.

**Bid Period:** Period of using storage capacities offered at the auction, commencing at 06:00 hours in the morning on the day when the capacities become available and terminating at 06:00 hours in the morning on 1 April at the

end of the storage year. The Auctioneer specifies the availability date of the capacities in the auction notice.

- Bid Quantity:** Capacity quantity (number of capacity bundles) for the booking of which the Bidder makes a bid at the Bid Price.
- Bidder:** Any company with a Hungarian natural gas trading license, submitting a bid in conformity with the auction notice.
- Undersubscription:** Quantity – total capacity booking request submitted by all the Bidders – failing to reach the capacity offered by the Auctioneer.
- Auction Round:** The following processes shall belong to one Auction Round at the auction: submitting the Bids until the deadline defined for the capacity bundles, then processing and evaluating the received Bids and announcing the auction result to the Bidders.
- Auction Statement:** Statement to be filled in during the registration procedure of the capacity auction (see Appendix No. 2), in which the participant makes a statement to the effect of accepting the terms and conditions in relation to the auction.
- Unsuccessful Bid:** A bid that is not accepted by the Auctioneer during the evaluation.
- Natural Gas Storage Contract:** Contract entered into by and between the awarded Bidder(s) and the Auctioneer on booking the capacity bundles sold at the auction, which shall in any case be annexed as appendix to the public capacity auction notice.
- Starting Price:** The price of a capacity bundle unit set by the Auctioneer.
- Lack of Subscription:** No valid bid is received for the capacity bundles offered at the auction.
- Auctioneer:** Magyar Földgáztároló Zrt. (seat: 1051 Budapest, Széchenyi István tér. 7-8., Trade Registry No.: 01-10-015043) as natural gas storage licensee.
- Minimum Price:** The lowest unit price set forth by the Auctioneer below which the bid price renders the relevant bid unsuccessful. The Auctioneer determines the Minimum Price until the bidding deadline expires, without making it

public. The Auctioneer shall record the Minimum Price in a protocol in the presence of a public notary following the expiry of the bidding deadline, but before the received bids are known – that is prior to opening the closed envelopes.

- MFGT:** The abbreviated name of Hungarian Gas Storage Ltd; the Auctioneer.
- Exact Subscription:** Bidders' aggregate capacity request, which equals to the capacity quantity offered by the Auctioneer.
- Registration Datasheet:** The form required for registration as per Appendix No. 1.
- Oversubscription:** Bidders' aggregate capacity request, which exceeds the amount of capacity offered by the Auctioneer.

## 5. AUCTION PROCEDURE

### 5. 1. Auction Announcement

The capacity auction shall be publicly announced on the MFGT website and by e-mail to all the companies with natural gas trading license in Hungary.

The Auctioneer publishes the auction regulation governing the relevant auction, together with the auction notice and the natural gas storage template contract on its website ([www.magyarfoldgaztarolo.hu](http://www.magyarfoldgaztarolo.hu)).

The Auctioneer provides the following information in the auction notice:

- Name, availability details and submission deadline of the documentation required for registration;
- Size and quantity of capacity bundles announced;
- Starting Price of capacity bundle/bundles;
- In case optional auctions, the exact specification of the Bid period;
- Exact place and date of the capacity auction;
- Deadline for receiving the bids;

- Validity requirements for bids
- Detailed rules of carrying out the auction;
- Name and contact details of the contact person;
- Type and amount of the security to be specified by the Auctioneer;
- The auction notice also contains the Natural Gas Storage Contract which stipulates the general, trading, settlement and payment terms and conditions as well as the rights and obligations of the contracting parties.

Following the announcement of the auction, the contact person designated by the Auctioneer shall be entitled to answer any further questions in relation to the auction and to supply information.

The Auctioneer shall handle data obtained during the procedure in compliance with the provisions of Act No. CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information.

## 5. 2. Registration Process

The first steps of participating in the capacity auction are indicating the intent to participate, adopting the auction regulation by filling in the auction statement and sending the required documents to the Auctioneer.

At the capacity auction, bids can be made by only those capacity bidders that are eligible for storage access.

The documents required for the registration are as follows:

- Duly signed Registration Datasheet (attached).
- Duly signed Auction Statement (attached), by the signature of which the Bidder verifies its intent to participate and the acceptance of the Auction Regulation and the Natural Gas Storage Contract template.
- Original certificate of incorporation not older than 30 days in case of business organisations registered in Hungary and abroad, and its translated copy in Hungarian or in English (certified translation is not required, in case of companies registered in Hungary the Hungarian Ministry of Justice-online version is accepted) in case of business organisations registered abroad.

- In case of business organisations registered in Hungary: copy of the notarised specimen signature(s) (or sample signature(s) countersigned by an attorney-at-law) of the authorised signatory (signatories) signing the bid.
- In case of business organisations registered abroad: copy and translated English or Hungarian copy of the notarised specimen signature(s) (or sample signature(s) countersigned by an attorney-at-law) of the authorised signatory (signatories) signing the bid; or the original copy and translated English or Hungarian copy of their sample signature signed in manuscript in the presence of two witnesses, and in the latter case: a Hungarian or English copy of the signed side of a personal document belonging to the signatory (by mail or e-mail).
- Furthermore, in the event that said documents are signed by an attorney-in-fact, a copy of the signed side of a personal document belonging to the attorney-in-fact is also required in addition to compliance with the above rules applicable to the authorised signatory acting as principal. The power of attorney shall clearly indicate that the attorney-in-fact is entitled to represent the capacity bidder during registration and/or bidding.

The **Bidder may be represented** by its officer authorised to represent the Bidder and entitled act as its signatory, or by a person authorized in writing by such an officer (in the event of joint signatories: officers) of the Bidder.

**These documents** shall be submitted to the Auctioneer prior to the registration date stated in the capacity auction announcement notice, but not later than 16:00 hours on the business day preceding the capacity auction date. The Auctioneer shall confirm the registration to the applicant.

During **registration**, in the event of late or incomplete delivery of documents, the Auctioneer may require deficiency correction from the Bidder along with setting a deadline, defaulting on which may have the legal implication of invalidating the registration.

Acceptance of the registration by MFGT is also conditional on the full and complete submission of the “documents required for registration” by mail or by email, however, in the latter case, the original documents shall also be submitted together with the bid, in the absence of which the registration is rendered invalid, and thus the bid cannot be evaluated.

In case of a valid registration, the Auctioneer confirms the fact of registration to the Bidder by e-mail.

During registration, the Auctioneer shall be obliged to treat data submitted to the auction in a confidential manner and will not disclose them to any third party.

### 5. 3. General Rules of Auction

Registered Bidders shall pursue open market behaviour during the auction, therefore they shall not initiate any background agreement infringing the capacity auction participation and interests of the Auctioneer and other Bidders or providing unjustified advantages. The Bidder shall agree and declare neither to conclude, nor to have concluded any contract or agreement with any other party which would confer any undue advantage in relation to the given auction (e.g.: with regard to the coordination of bidding intention/behaviour, strategy or Bid Prices).

Bidders shall agree to the content of the auction regulation, and understand that breaching the content thereof results in the Bidder's immediate exclusion.

The Auctioneer shall provide the room and the resources required for carrying out the auction.

The Auctioneer offers storage capacities at the auction in bundles of

- withdrawal peak capacity [MJ/day],
- injection peak capacity [MJ/day]
- working gas capacities [MJ]
- and any other service elements.

Any capacity element can be 0 when bundles are created. The Auctioneer is to decide this in view of the available free capacities.

The Auctioneer publishes the Starting Price of capacity bundles in the auction notice.

### 5. 4. Conducting the Capacity Auction

The capacity auction shall be carried out at the place specified by MFGT.

The capacity auction shall have one auction stage:

Bidders can make a Bid for the bundles offered by the Auctioneer in the auction round set forth by the Auction Notice.

The quantity of capacity bundles offered – as the Bid Quantity – and the Starting Price shall be announced prior to the auction round.

#### 5. 4. 1. Auction

##### 1) Making a Bid



The Auctioneer announces the capacity bundles offered and a bundle Starting Price. The Starting Price is fixed. Bids can be made for one bundle or for the integral multiple of a bundle at a Bid Price below the Starting Price.

The bid shall contain the capacity booking request of the Bidder (in bundles) and the Bid Price.

## 2) Evaluation

The bid shall be valid if it meets the conditions set out in the Auction Notice regarding the bid.

During bidding, Bidders cannot modify or withdraw a recorded bid after submission.

Bidders shall be committed to their submitted Bids for 15 business days.

Submitted bids shall be opened by the Auctioneer in the presence of a public notary and / or the representative of the Hungarian Energy and Public Utility Regulatory Authority. Further to this, the opening of bids shall not be public.

Bids received late or incomplete bids are deemed invalid.

If the bid price of valid bids received fail to reach the Minimum Price, the auction shall be valid, but unsuccessful and no Natural Gas Storage Contract is concluded. In this case the given bid is considered as a valid, but unsuccessful bid.

If at least one submitted valid bid (offer price) reaches the Minimum Price, the auction shall be successful and the Auctioneer concludes a Natural Gas Storage Contract with the relevant (successful) Bidder.

If several submitted valid bids contain a bid price reaching the Minimum Price and the bid prices are different, the Auctioneer concludes the Natural Gas Storage Contract with the awarded Bidder submitting the highest bid price first, then with the awarded Bidder submitting the second highest price up to the extent of the offered capacity bundles. In this case it may occur that MFGT satisfies a Bidder's capacity claim only partially.

In case of oversubscription if several submitted valid bids contain a bid price reaching the Minimum Price and the bid prices are the same, MFGT distributes the still available capacity bundles pro rata in accordance with capacity bundles requested by the awarded Bidders.

## 5. 5. Announcement of the Results

Following the auction, the public notary shall record the results of the auction in a protocol per each Bidder (bid price, requested and sold capacity bundles, along with the bid period) or the fact of an unsuccessful auction. The protocol shall not be public. The Auctioneer notifies the awarded Bidder with regard to the result of the auction (valid / invalid, successful / unsuccessful) relevant to the given Bidder, together with information on whom to contact in relation to concluding the contract.

All the awarded Bidders and the other, non-awarded Bidders shall receive from the Auctioneer information relevant only to them.

In as far as the Bidder's bid is successful, the Bidder shall be bound by the obligation to conclude a contract on the bundles according to the bid under the exclusive contractual terms set forth in the appendix of this Regulation – and adopted by the Bidder in the auction statement –, defaulting on which so shall entitle the Auctioneer to use the Bid bond.

Following the auction – provided the Bidder submitted a valid and successful bid –, the Auctioneer and the awarded Bidder shall conclude the “Natural Gas Storage Contract” contained in the appendix to the Auction notice on the awarded quantity within 5 business days from the auction.

The Natural Gas Storage Contract specifies the payment conditions for the capacity quantities awarded to the awarded Bidder.

## 5. 6. Invalid Auction

The Auctioneer shall be entitled to declare the capacity auction invalid if:

- during the auction, unforeseeable technical problems arise which the Auctioneer is unable to control. In this case, the auction will be held at a later announced date. The Auctioneer publishes information on its website regarding the rules of such auction.
- any of the Bidders acts improperly at the auction, or gains or makes an attempt to gain undue advantage by applying demonstrably unfair methods damaging the interests of other participants. In this case, the auction is to be held at a later announced date, excluding the Bidder rendering the auction invalid. The Auctioneer publishes information on its website regarding the rules of such auction.

The Auctioneer reserves the right to suspend the auction or revoke the capacity auction notice without any justification at any time during the auction. In the event of revocation, the

Auctioneer shall return by transfer the bid bond within 8 days, but shall not pay any damages or cost reimbursement whatsoever.

The Auctioneer reserves the right to announce auctions from time to time under conditions other than those set out in this auction regulation.

## 6. APPENDICES

Appendix No. 1: Registration Datasheet

Appendix No. 2: Auction Statement

**REGISTRATION DATASHEET**

**Registration Datasheet for Optional Capacity Auction by Magyar Földgáztároló Zrt**

For valid registration, all the fields must be filled in.

**Company data:**

Company name

Country

Town

Street/square

Zip code

**Data of the representative signing the auction bid:**

Representative's name:

Personal ID / passport no.:

Date of birth year/month/day:

E-mail:

Telephone/mobile

Fax

Dated: .....

.....  
Corporate signature

APPENDIX NO. 2

**AUCTION STATEMENT**

On accepting the participation conditions of the auction to be held at **Magyar Földgáztároló Zrt** (1051 Budapest, Széchenyi István tér 7-8).

The undersigned: \_\_\_\_\_ Registered seat: \_\_\_\_\_

\_\_\_\_\_

Tax No. / Tax identification No.: \_\_\_\_\_

Bank account number: \_\_\_\_\_

as a Bidder makes a statement on accepting the following conditions:

1. The Bidder states that it agrees with the regulation governing the **capacity auction to be held at MFGT** (MFGT Headquarters, 1051 Budapest, Széchenyi István tér 7-8). The Bidder agrees to be bound by the content thereof during the auction and the preceding registration procedure.
2. The Bidder accepts that the “Natural Gas Storage Contract(s)” attached to the regulation – together with the contractual provisions thereof unchanged – and the Code of Business Conduct of MFGT shall be applicable to concluding the contract after the successful bidding procedure and the acceptance of its bid.

Dated:.....

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Bidder's corporate signature