



1 Scope and applicability

- 1.1 As a transmission system operator / control area manager, Austrian Power Grid AG (hereinafter referred to as "APG") is obliged, within the scope of its possibilities, to identify grid congestion, to plan and take remedial measures and to eliminate any congestion that has occurred using the technical and organisational means at its disposal (congestion management – “Engpassmanagement” short “EPM”). For this purpose, it is necessary to ensure the provision of additional generation capacity or reduced consumption capacity for the elimination of congestion within the scope of congestion management by concluding grid reserve contracts on the basis of the regulations pursuant to §§ 23a ff EIWOG 2010 (electricity act, “Elektrizitätswirtschafts- und –organisationsgesetz 2010”),” Federal Law Gazette I 17/2021 (grid reserve pursuant to § 7 (1) 52a EIWOG 2010). APG has carried out a procurement procedure for grid reserve in accordance with the requirements of § 23b EIWOG 2010.
- 1.2 These general terms and conditions shall apply in addition to the statutory provisions in sections §§ 23a to 23d EIWOG 2010 - to all contractual relationships between APG and the operator of the grid reserve unit pursuant to section § 23b (7) EIWOG 2010 for such specific provision of grid reserve capacity for EPM activation. Amendments and/or supplements and/or other deviations from the General Terms and Conditions and/or from the contractual bases referred to in chapter 1.3 are irrelevant and not legally effective.
- 1.3 The contractual basis shall be in the following order:
 1. Grid reserve contract consisting of:
 - 1.1. General terms and conditions for grid reserve (AB Netzreserve)
 - 1.2. Order
 2. Tender documents
 3. Call for tenders
 4. Offer
 5. Call for expressions of interest (including the Forms)
 6. Expression of interest
 7. Contract for congestion management

If individual provisions of the aforementioned contractual bases should compete with each other or contradict each other, the provision from the contractual basis which has been agreed with priority in accordance with the above-mentioned order shall apply in each case.

2 Definitions

In addition to the definitions in section § 7 EIWOG, the following definitions shall apply:

(a) Activation

Request by APG to adjust the active power feed-in (or demand) of a grid reserve unit to the power required in each case.

(b) Provider

Operators who participate in the tender procedure for the grid reserve and intend to make their units available to the grid reserve under the conditions of the tender documents.

(c) Offer submissions deadline

Period during which requested providers or operators can submit their offers after successful expression of interest and after a successful check of the suitability.

(d) Offer quantity

Grid reserve capacity in megawatts.

(e) Offer value

Value offered for the provision of power during the entire term of the contract in euros.

(f) Operator of grid reserve unit or operator

Natural or legal person who operates or intends to operate a grid reserve unit in the future.

(g) Unavailability caused by connecting grid side

Unavailability resulting from work on the connecting grid is not considered maintenance. If their effect on the availability of the grid reserve unit is the same, planned unavailability caused by work on the connecting grid is generally handled like maintenance and the regulations for general maintenance of the unit will be applied, unless the circumstances of the individual case give reason to decide otherwise.

(h) Deadline for expressions of interest

The period during which operators or suppliers can express their interest in submitting an offer.

(i) Provision of the grid reserve capacity

Maintenance of a condition of a grid reserve unit by the operator that enables the active power feed-in or the reduction of the active power demand in accordance with the contractual agreements.

(j) Unit or grid reserve unit

Generation unit, consumption unit or pool (consisting of generation or consumption units) that are contracted and must be provided/maintained with a specific grid reserve capacity or which are offered in the tender for grid reserve.

(k) Grid Reserve Capacity

Active power feed-in of a generation unit or reduction of power demand of a consumption unit that can be activated by the transmission system operator at the grid connection point for use as a grid reserve and meets the technical requirements. The grid reserve capacity is understood as net capacity at an ambient temperature of 20°C.

(l) Grid reserve subunit or subunit

Subunit of a grid reserve unit, i.e. individual unit (consumption unit or generation unit) of a pool or subunit of a power plant (e.g. gas turbine).

(m) Activation Test

Activation by APG for the purpose of testing the grid reserve unit.

(n) Maintenance

A planned or unplanned unavailability of the unit for maintenance and to fix defects to assure availability for the purpose of participating in the grid reserve during the contract term.

(o) Electricity markets

The totality of markets and other distribution channels through which an operator can sell the output or energy of its units; this includes in particular day-ahead and intra-day on-exchange and off-exchange trading, on-exchange and off-exchange forward transactions, other off-exchange trading agreements and the markets for balancing energy.

(p) Test run

Activation by the grid reserve unit operator for the purpose of testing the unit resp. the grid reserve unit.

(q) Consumption unit:

Unit for the consumption of electrical energy from which a cut-off power can be brought about in such a way that the active power consumption can be reliably reduced by a certain power.

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(r) Contract duration/Contract period

(Provision) period for which the operator of the grid reserve unit is obliged with the provision of the grid reserve capacity. For seasonal grid reserve contracts, the contract duration (the contract period) also includes the tolerance range pursuant to § 7 (1) 61a EIWOG 2010.



3 Subject of the service provision

- 3.1 By making a selection in accordance with the tender procedure and concluding a grid reserve contract pursuant to section § 7(1) 52b in conjunction with section § 23b (7) EIWOG 2010, APG commissions the respective operator - subject to the provisions of these General Terms and Conditions and the contractual bases specified in chapter 1.3 - to provide/maintain the capacity of the grid reserve units on the basis of the selected offer in order to be able to activate these grid reserve units for congestion management if required during the contract duration. By concluding a grid reserve contract pursuant to section § 23b (7) EIWOG 2010, the operator irrevocably agrees to fulfil its obligations under the provisions of these general terms and conditions and the contractual bases specified in chapter 1.3.
- 3.2 In any case, operators shall fulfil and ensure at all times the technical requirements and basic prerequisites pursuant to chapter 3 of the tender documents with the grid reserve units.
- 3.3 Further specific requirements and parameters of the grid reserve units (such as maximum power, lead time, minimum duration of use, minimum standstill duration, gradient) are listed in the respective order, are thus forming parts of the grid reserve contract and must also be fulfilled by the operator.
- 3.4 The operator shall coordinate with the respective grid operator to the best of his ability so that during the term of the contract no planned shutdowns are carried out in the grid to which the grid reserve units are connected that would prevent or restrict an activation of the units. If such restrictions are unavoidable, the provisions in Chapter 13 (Maintenance) shall apply mutatis mutandis.
- 3.5 The operator of a grid reserve unit is obliged to provide APG and, if the unit is connected to a distribution grid, the distribution grid operator at their request without delay with the information necessary to ensure that the transmission grids can be operated safely and reliably.
- 3.6 In addition, in order to fulfil its obligation to maintain performance resp. provide grid reserve capacity, the operator shall in particular
 - (a) Deploy and continuously qualify the necessary staff,
 - (b) Establish and maintain contact points that can be reached by APG at any time and notify APG prior to the start of the performance period,
 - (c) Continuously observe and comply with all relevant legal requirements and official directives,
 - (d) Handle all relevant, in particular technical, operational and financial, fiscal, organisational and legal matters with the diligence of a prudent businessman, in particular ensure the necessary information technology equipment and connection of the grid reserve unit and the balance group management,
 - (e) Maintain its grid reserve unit and
 - (f) Procure all fuel and auxiliary materials as well as emission allowances required for the provision of the grid reserve unit or grid reserve capacity independently and in good time and use the necessary procurement, storage and contract management.
 - (g) Grid reserve units are obliged to transmit online metering data, schedule and availability data in accordance with Electricity market Code chapter 3 (<https://www.e-control.at/en/recht/marktregeln/sonstige-marktregeln-strom>). Rules for consumers and aggregators corresponding with the rules for schedules and availability data in Electricity Market Code chapter 3 will be defined in the congestion management contract to be concluded.



4 Relationship to Energy Markets

- 4.1 Grid reserve units use their grid reserve capacity exclusively at the request of APG. Market participation is inadmissible in any case pursuant to § 23b (7) EIWOG 2010. Only operators of consumption units in order to cover their consumption and storage units in order to store energy are allowed to participate in the market. However, the contracted grid reserve capacity for adjusting consumption for consumption units' resp. for increasing infeed for storage units must be made available exclusively for congestion management for the duration of the grid reserve contract. The legally required test runs, necessary ramps as well as drive-through requests according to chapter 5.2f remain unaffected. The operator must immediately notify APG in writing or electronically of planned test run procedures and, if the unit is connected to a distribution grid, the distribution grid operator. APG may request that the test run takes place at another time, insofar as this is technically and legally possible.
- 4.2 APG shall be entitled to demand documents and evidence from the operator regarding compliance with the obligations pursuant to chapter 4.

5 EPM Activation resp. Redispatch Activation

- 5.1 An activation request of the grid reserve units for EPM during the contract duration shall be made in accordance with the respective valid congestion management agreement stated in the order. It should be noted that an actual use or EPM activation of the grid reserve units during the contract duration is not guaranteed. The operator has no entitlement to an actual use or EPM activation of the grid reserve unit.
- 5.2 By concluding a grid reserve contract pursuant to section § 23b (7) EIWOG 2010, the existing agreements on congestion management are amended or specified as follows:
- (a) The implementation of the EPM activation shall be based on ability and capability, whereby the availability of the grid reserve unit shall be ensured during the term of the contract in accordance with these provisions and therefore this circumstance does not fall under "ability and capability".
 - (b) An EPM activation of the grid reserve units can be made at any time during the contract duration, taking into account the lead times specified in chapter 3 of the tender documents resp. in the order.
 - (c) For EPM activation, the contact data according to the existing congestion management agreements shall be used. Deviations from this must be announced by the operator in good time before the start of the contract period.
 - (d) The activation or the activation test of the grid reserve unit is usually carried out with an ex-ante schedule. The schedule takes into account the specifications for adjusting the active power feed-in or active power demand of the grid reserve unit. The requested energy is transferred to the EPM balance group of APG. The relevant rules of the schedule notification of the balance group contract apply. In the event of schedule discrepancies between APG's call schedule and the operator's confirmed schedule that could not be mutually clarified in good time, APG's call schedule shall apply (schedule priority rule).
 - (e) The offer of an EPM activation may only include the concrete variable costs for the activation. It must not include any costs that are already covered by the grid reserve contract (like maintenance cost, staff cost).
 - (f) Ramps are marketed as usual via the operator. Drive-through requests will optionally be marketed via EPM balance group of APG or via the operator.
 - (g) Instead or upstream of an EPM request, an offer for a shortening of the lead time can also be requested. The operator will submit offers for shortened lead times according to ability and capability.
 - (h) The activation of the grid reserve capacity as well as changes to the planned use shall be carried out electronically or by telephone, depending on the specifications of APG. If APG provides for an electronic communication procedure for the activation and request of grid reserve, the operator shall implement, test, keep operational and use this electronic communication procedure in accordance with APG's specifications. Upon APG's request, the operator shall provide evidence of correct implementation and operation. The electronic communication system must be implemented for all grid reserve units within a reasonable period of time after announced by APG.



- 5.3 The operator undertakes to coordinate these changes/adjustments/instructions regarding an EPM request of the grid reserve unit with the EPM processing office before the start of the contract duration so that these changes can be applied in the event of a concrete EPM activation.
- 5.4 It is noted that a congestion management agreement must be concluded before the start of the contract duration if such an agreement does not yet exist. The existence of a valid congestion management agreement is a prerequisite for an EPM activation of the grid reserve unit.

6 Activation tests and test runs

- 6.1 In the case of an activation test, the grid reserve units must comply with the technical requirements and basic requirements pursuant to chapter 3 of the tender document and the specific requirement specified in the order, whereby APG may waive individual requirements in whole or in part in the case of test activation.
- 6.2 APG may carry out up to 5 activation tests of the grid reserve unit per contract year with the full grid reserve capacity without prior notice to the operator.
- 6.3 The number of activation tests is reduced by one for each activation within the scope of the grid reserve or congestion management; unless the unit has not provided the requested power at all, not completely or not on time.
- 6.4 Operators may carry out test runs of the grid reserve unit if and to the extent that this is necessary for technical or legal reasons. The energy is marketed via the operator. The costs for the test runs, including the costs for balancing energy, shall be borne by the operator. The time of the test run shall be coordinated with APG prior to the planned implementation and, in the case of grid reserve units connected to the distribution grid, the distribution grid operator shall be notified in writing or electronically. APG may request that the test run be carried out at a different time if and to the extent that this is necessary and technically possible for the functioning of the grid reserve. The duration of a test run shall not exceed 12 hours. Test runs do not reduce the number of activation tests pursuant to paragraph 1 of this Chapter.

7 Renumeration

- 7.1 The operator shall receive a fee in the amount of the offer value of the selected offer for the provision of grid reserve capacity.
- 7.2 In return, the operator undertakes to make his unit available exclusively for EPM activations from APG in accordance with chapter 4.
- 7.3 In the event of an activation on the reserved capacity, settlement shall take place within the framework of congestion management. According to Section 23 (2) 5 EIWOG 2010, only the economic disadvantages and costs may be charged for EPM activations. In accordance with Chapter 3, Article 35 of Regulation (EU) 2015/1222 (CACM Guideline), the disclosure must be made in a transparent manner and detailed cost components must be shown.
- 7.4 If the Austrian Regulatory Authority determines by official decision towards APG or other parties or the European Commission determines that excess revenues have been paid to the operators, thus resulting in overcompensation, the respective operators are obliged to refund this overcompensation (including interest) to APG within a reasonable period of time. The respective operators are also obliged to refund this overcompensation, including interest, to APG within a reasonable period of time in the event of initially inadmissible contracts which subsequently turn out that the legal requirements for a contract were not met.



8 Contractual penalties and reduction of remuneration

- 8.1 If the grid reserve unit, in the case of an EPM activation or an activation test, fails to provide the contractually agreed grid reserve capacity entirely, on time or in full, the operator shall incur a contractual penalty for each individual case in the amount of the monthly payment received in relation to the unit's grid reserve capacity, irrespective of any fault on the part of the operator and irrespective of any proof of damage. This section does not apply to events pursuant to chapter 10.
- 8.2 If a grid reserve unit cannot deliver the contractually agreed grid reserve capacity and APG is informed prior to an EPM activation or an activation test, or if the actual maintenance duration exceeds the planned and reported maintenance period according to chapter 13.2 and following during the contract term, twice the daily fee received for the provision of the grid reserve capacity shall be paid back to APG for each day of the excess during the contract term – irrespective of any fault on the part of the operator and irrespective of any proof of damage – or the amount shall be retained by APG. There is a prohibition of abuse in this respect. This section does not apply to events pursuant to chapter 10.
- 8.3 Insofar as the conditions set out in Sections 8.1 and 8.2 have only been realized with regard to a partial quantity of the grid reserve capacity, the contractual penalty shall only be calculated with regard to this partial quantity of the grid reserve capacity.
- 8.4 The assertion of a claim by APG for damages exceeding the amount of the contractual penalty shall not be limited or excluded hereby.

9 Invoicing and payment

- 9.1 The billing period is the calendar month.
- 9.2 APG issues a monthly credit for each provider. The credit amount is calculated plus or minus any contractual penalties in accordance with chapter 8 for the period of one calendar month.
- 9.3 Payments based on the credits are made on the last calendar day of the month following the billing period. In the event that the last day of the month is not a bank working day, payment will be made on the next working day. The payments are always made subject to a correction, in the event that there are subsequent complaints. The credits are only sent by email from APG.
- 9.4 The following data must be specified in the contact form (appendix IX):
 - Company address
 - UID number
 - IBAN
 - Email address for credit notes
 - Contact person for accounting
- 9.5 In the event of default in payment, statutory default interest will be charged from the day following the due date.
- 9.6 The billing basis for each provider for the provision of the grid reserve capacity is the regulation of the remuneration in accordance with Chapter 7.
- 9.7 In the event of unavailability that was not announced during the offer phase (including the extension of maintenance periods), the maximum amount of a possible contractual penalty in accordance with chapter 8 shall be withheld by way of a reduction in the amount of the next credit note due in accordance with chapter 9.2 until the situation has been fully clarified. If the provider provides evidence that proves that the case of the unplanned unavailability is categorized as force majeure in accordance with chapter 10, the retained amount shall be paid out with the next credit note in accordance with chapter 9.2. The provider may not claim interest for the period during which the amount is withheld in accordance with this provision.

10 Disruption in the execution of the contract / Force majeure

- 10.1 If a contracting party is prevented from fulfilling its obligations under this agreement in whole or in part due to force majeure or other circumstances, such as disruptions, the prevention of which is beyond its control or cannot be expected of it economically, the relevant mutual contractual obligations shall be suspended until the obstacles or disruptions and their consequences have been removed. In such a case, the affected contractual partner shall be obliged to inform the

other immediately by telephone or in writing of the extent and expected duration. In any case, the suspension of the contractual obligations may only last until the causes justifying it have ceased to exist or have been eliminated.

10.2 Force majeure shall be deemed to exist if the prerequisites necessary for the performance of the contract, such as the supply of gas, are prevented by the circumstances referred to in the following sentence or other unforeseeable circumstances which were unavoidable and the elimination of which cannot be economically expected. In addition to official decrees, force majeure shall in particular include events such as lightning, fire, explosions, floods, earthquakes, war, blockades, riots, strikes, natural gas supply shortages and disruptions in third party natural gas networks, as well as machine breakdowns or technical faults in essential plant components at the location of the grid reserve units, provided that their causes do not lie within the area of responsibility of the operator and the operator has carried out regular maintenance in accordance with the state of the art.

11 Duration of contract

11.1 The contract shall be concluded for the duration of the product period in accordance with chapter 4 of the tender documents.

11.2 The right of each contracting party to terminate the agreement prematurely with immediate effect for good cause remains unaffected. The following circumstances shall also constitute good cause for APG, entitling it to terminate the agreement prematurely:

- (a) The Regulatory Authority shall, before or during the effectiveness of this agreement, oppose this agreement in writing; or
- (b) There is no binding congestion management agreement at the start of the contract duration according to Chapter 5.4.
- (c) Before or during the contract duration, the grid reserve unit permanently loses its suitability to hold the grid reserve capacity.

11.3 At the request of the contracted operator of a production unit, APG may shorten the contract duration once in accordance with section § 23d (1) EIWOG 2010, provided that the operator ensures that the grid reserve unit is available for congestion management under the same availability conditions until the expiry of the original contract duration. The shortening shall be notified to the Regulatory Authority. In this case, all fees received for the grid reserve shall be refunded to APG within 4 weeks, with the exception of the reasonable costs determined by the Regulatory Authority.

11.4 Operators of consumption units which, due to unforeseeable changes in the economic situation, are temporarily unable to maintain the required uninterrupted operation of the consumption unit and thus lose their eligibility for the provision of grid reserve power, may mutually suspend the contractual obligations for the affected period after informing APG and providing suitable evidence. The consumption unit must be available for EPM calls in accordance with the congestion management agreement during periods of suspension of the grid reserve contract in which it is in use (not without interruption). In these cases, the requirements contained in section 5.2 (b) must be complied with accordingly.

12 Liability

12.1 Each contracting party shall be liable to the other contracting party in accordance with the general provisions of tort law. Insofar as liability is based on fault, liability shall be limited to intent and gross negligence, with the exception of personal injury.

13 Maintenance

13.1 According to chapter 3, the grid reserve units are with their grid reserve capacity available for EPM activations from APG during the entire contract duration.

13.2 This does not apply to the maintenance period of the grid reserve unit to be coordinated with APG, whereby a shortening of the planned maintenance period is possible at any time. The operator is obliged to carry out only absolutely necessary maintenance during the contract duration and to keep the maintenance periods as short as possible. A deduction of an aliquot share of the remuneration for the provision of the grid reserve capacity during the term of the contract due to



agreed maintenance is not provided for if the maintenance were reported to APG in the second stage of the tender (bidding phase).

- 13.3 If after the tender it becomes apparent that the duration of maintenance and other unavailability is longer than reported at bidding phase, the provisions stated in chapter 8.2 are applied.
- 13.4 Maintenance that have not yet been announced during the bidding phase as well as other short-term unavailability of the grid reserve unit must be reported by the operator to APG immediately after it has become aware of them. APG may request that the maintenance be carried out at another time if and to the extent that this is necessary for the functioning of the grid reserve and is technically and legally possible. During the actual maintenance period, there shall be no EPM activation pursuant to chapter 5 of these general terms and conditions.

14 Data protection and confidentiality

- 14.1 The contracting parties shall treat any company, operational and/or personal data and results received in the course of the performance of the contract with special care and confidentiality in accordance with the Data Protection Regulation. Unless otherwise agreed, the contracting parties undertake to use data, documentation and other essential information received exclusively for the performance of the contract, neither to pass it on to third parties nor to make it accessible to third parties in any other form and to take all reasonable precautions to prevent third parties from accessing this information. These obligations also exist beyond the contractual relationship. This does not include disclosure to authorities and courts, in particular to the Austrian Regulatory Authority due to legal obligations and cost calculation vis-à-vis the Austrian Regulatory Authority.

15 Other provisions

- 15.1 The contractual languages are German and English, nevertheless the submission of documents in one of the two languages is sufficient. In the event of contradictions between the German and English contractual bases, the German version shall prevail. Austrian law shall apply to the exclusion of the reference norms of International Private Law and the UN Convention on Contracts for the International Sale of Goods.
- 15.2 All amendments to the contract must be made in writing and duly signed by the contracting parties. Exceptions to this are updates to the contact details.
- 15.3 The contract may not be subsequently amended by the contracting parties in such a way that the grid reserve capacity can be provided by a unit other than the one designated in the offer.
- 15.4 Verbal ancillary agreements are not made.
- 15.5 Should individual provisions of these general terms and conditions including their components and/or the contracts concluded on the basis of these general terms and conditions, including any addenda thereto, be and/or become legally invalid and/or void, this shall not affect the validity of the legal relationship between APG and the operators or the remaining provisions of these general terms and conditions. In such a case, APG and the operators shall be obliged to replace the invalid and/or void provision(s) by a legally valid provision(s) of equivalent economic, legal, technical and organisational content, taking into account the applicable statutory provisions and the applicable ordinances as amended from time to time. The same shall apply to any regulatory gaps in these general terms and conditions that may occur at a later date.
- 15.6 The contracting parties shall be entitled, with the written consent of the other contracting party, to transfer this contract with all rights and obligations in whole or in part to any legal successors with binding effect. This consent may only be refused for important reasons. The rights and obligations under the grid reserve contract may only be transferred together with the right to use the unit, including the land, and all permits and facility components required for the operation of the unit. In this context, it must be ensured that the unit designated in the bid continues to provide reserve capacity for the grid reserve to the contractually agreed extent. The transferring contracting party shall not be released from its obligations

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until it has fully transferred the obligations agreed in this contract to its legal successor and the other contracting party has consented to this transfer. This provision shall also apply to cases of repeated legal succession.

- 15.7 The place of performance for all obligations of the operators arising from the legal relations entered into on the basis of these general terms and conditions, of whatever nature, shall be the registered office of APG in Vienna, Austria.
- 15.8 The place of jurisdiction for any disputes between APG and the operator arising from the legal relationships of any kind entered into on the basis of these general terms and conditions, their conclusion and/or termination, shall be the competent courts at the registered office of APG in Vienna, Austria.
- 15.9 The contractual partners are committed to fair business practices and reject any form of corruption and bribery. Based on this common understanding, the contractual partners undertake to strictly observe their respective internal compliance regulations and the statutory anti-corruption provisions. Accordingly, in connection with the conclusion of the contract, the contractual relationship and the performance of the contract, the contractual partners undertake not to offer, promise or grant any inadmissible advantages of any kind or to demand such advantages or to have them promised or to accept them. The contracting parties expect that third parties whose services they use in the performance of this contract will also behave accordingly and undertake to also work towards their legally compliant behaviour.