

Act XXVI of 2006

on the Strategic Storage of Natural Gas

The Hungarian Parliament adopts the following Act in order to improve the security of natural gas supply through the introduction of a transparent and competition-neutral regulation for the strategic storage of natural gas:

The scope of the Act

Article 1

The present Act shall apply to:

- a) the Hungarian Hydrocarbon Stockpiling Association (hereinafter referred to as “the Association”),
- b) the Hungarian Energy and Public Utility Regulatory Authority (hereinafter referred to as “the Authority”),
- c) authorised operators engaged in natural gas system operation, natural gas storage, universal natural gas service and natural gas trade, as well as natural gas producers,
- d) the users of natural gas in connection with the cross-border introduction of natural gas and natural gas purchase on organised markets, and
- e) the procedures of organisations participating in strategic natural gas storage and related activities.

Definition of terms

Article 2

For the purposes of this Act:

- a) “*Strategic gas storage facility*”: shall mean natural underground geological structures or artificially created underground cavities suitable for the storage of natural gas, or a part thereof separated for holding gas stocks, serving for the storage of strategic gas reserves pursuant to this Act;
- b) “*Household consumer*”: shall mean consumers purchasing and using gas exclusively for their own household consumption, excluding remunerated economic activities, where household means any single service location, residential building used for housing purposes, residential suite, resort or weekend house, as well as garage space reserved for private use;
- c) “*Customer*”: shall mean those purchasing gas for their own use;
- d) “*Strategic stockpiling of natural gas*”: shall mean the storage of natural gas for non commercial purpose in underground gas storage facilities;
- e) “*Network Code*”: shall mean a regulation approved by the Authority which lays down the main rules governing the technical operation of the interoperable natural gas system and the trade process;
- f) “*Contracted capacity*”: shall mean the part of the marketable capacity of a natural gas transmission, storage or distribution system which has been booked by eligible users for a given period under capacity contracts, from their purchased capacities;

g) “*Available capacity*”: shall mean the part of the technical capacities of gas transmission, gas storage and gas distribution facilities operated by authorised operators which is not covered by capacity contracts and is therefore available for system users;

h) “*System manager*”: shall mean the authorised operator holding a licence granted by the Authority for managing and coordinating the interoperable natural gas system;

i) “*Natural gas producer*”: shall mean economic entities [Article 685 c) of the Civil Code] engaged in natural gas extraction on the territory of Hungary;

j) “*Universal natural gas service provider*”: shall mean the authorised operator holding a licence granted by the Authority for the sale of the universal service package to small customers;

k) “*Natural gas trader*”: shall mean the authorised operator holding a licence granted by the Authority for the regular purchase and sale of natural gas against payment, not for own use.

l) “*Authorised strategic gas storage company*”: shall mean the economic entity operating the storage facility specified in Article 4 (1) and having received a licence from the Authority for strategic natural gas storage covered by this Act;

m) “*Strategic natural gas reserves*”: shall mean the volume of natural gas stocks specified by the minister responsible for energy policy (hereafter referred to as “the Minister”) particularly in order to guarantee the security of gas supply to household consumers.

Strategic storage of natural gas

Article 3

(1) The Association shall develop and maintain strategic natural gas reserves in the ways and quantities described in this Act.

(2) The strategic natural gas reserves shall be stored in such underground gas storage facilities located on the territory of Hungary, which are authorised for strategic gas storage operations, technically inspected, complying with the requirements of safety and environmental legislations, suitable for preserving the quantity of the stored gas reserves and, after above-ground gas purification, to ensure the proper gas quality required for feeding gas into the transmission line.

(3) Operations falling under the scope of this Act shall be performed in compliance with the requirements of the relevant regulations on the protection of life, health, environment and nature, consumer protection, technical safety, chemical safety, labour safety and occupational health protection, as well as quality assurance.

(4) The primary purpose of maintaining strategic natural gas reserves as required by this Act shall be to ensure the security of gas supply to household consumers and to those consumers who (which) are unable to ensure their energy needs from other energy sources.

Article 4

(1) Strategic gas reserves shall be stored in strategic gas storage facilities specified in a decree by the Minister in accordance with Article 4 (7), of a minimum daily withdrawal capacity of 20 Mn m³, suitable to ensuring such daily withdrawal volume in case of the storage of 600 Mn m³ strategic natural gas stocks at least for the period specified in Article 8 (1) c) of Regulation (EU) No 994/2010 of the European Parliament and of the Council of 20 October 2010 concerning measures to safeguard security of gas supply and repealing Council Directive 2004/67/EC (hereinafter referred to as “Regulation (EU) No 994/2010”).

(2) The Minister lays down in a regulation the quantities of strategic gas reserves to be held and, in view of this, the extent and conditions of stock disposal or stock purchase, the compulsory minimum injection and withdrawal capacities related to the size of the strategic gas reserves, the way of disposal, the party responsible for replenishment, the cross-border capacities for replenishment, as well as the conditions and rules of replenishment.

(3) The Minister shall determine the volume of strategic gas reserves within the framework established in paragraph (1), considering the risks affecting the security of supply, based on the available sources of supply, in accordance with the Preventive Action and Emergency Plans referred to in Regulation (EU) No 994/2010, taking account of the proposal made by the president of the Authority. The Authority shall send its proposal within the deadline set by the Minister.

(4) In case of an obligation to purchase or dispose of stocks, the Association shall perform gas injections or withdrawals according to the schedule and within the deadline laid down in the decree of the Minister.

(5) In case of a disposal of stocks, the Minister shall determine in a decree the volume of gas to be sold, the method of sale, the value of the stocks under which the sales price shall not fall, and the scope of beneficiaries. In case of sale, the value of stocks determined by the Minister has to be at least equal to the average acquisition value. After the sale of stocks, the Association uses the proceeds for loan repayment.

(6) In case of available capacities remaining in the underground gas storage facility at the disposal of the Association after the sale of stocks, the Association may sell these available capacities on the secondary capacity market. The Minister defines in a decree the rules concerning the sale of available capacities.

(7) Only gas stored in strategic gas storage facilities owned directly or indirectly by the Hungarian State, stored on the basis of a contract with an authorised strategic gas storage company shall be taken into account as fulfilment of stockpiling obligations.

(8) Strategic gas reserves shall form the property of the Association. The Association is entitled to procure (purchase) natural gas for the purpose of strategic natural gas storage, and to sell natural gas in case of utilisation as described in Sub-section (3) and in Article 5 (1) herein. The natural gas sales and purchase obligations of the Association shall not constitute natural gas trade under Act No XL of 2008 on Natural Gas Supply.

(9) The provisions of Act No XL of 2008 on Natural Gas Supply (hereinafter referred to as: "GET") concerning natural gas storage and related authorisations shall be applied to strategic natural gas reserves with the derogations allowed under the present Act, with regard to strategic natural gas storage and the authorisation delivered to strategic gas storage operators. The provisions of the GET concerning natural gas storage and related authorisations shall be applied to gas reserves existing in the strategic gas storage facilities in excess of the strategic natural gas reserves.

(10) Only the entities authorised according to the law and only subject to the conditions

specified therein still existing, may have free access to the strategic natural gas reserves.

Utilisation of strategic gas reserves

Article 5

(1) In the event of the declaration of a gas supply emergency, upon the initiative of the committee set up in the case of a gas supply crisis in accordance with the GET, the Minister approves by decree the utilisation of strategic natural gas reserves.

(2) The Minister shall determine the following in the decree issued for the utilisation of strategic reserves:

- a) the reason and purpose of the utilisation,
- b) the quantity of natural gas approved for utilisation,
- c) the rules of replenishment of utilised gas reserves.

(3) The Minister shall define by decree the price of natural gas approved for utilisation and the conditions of application. The price and the price application conditions shall be defined ensuring that the price corresponds to:

- a) the average value of strategic natural gas reserves, or
- b) the price calculated in a given calendar quarter according to the formula defining the price of gas at a given time, included in the ministerial decree in force setting prices related to universal service provision on the natural gas market,

whichever of the two is higher at the time of the sale.

(4) The Minister shall immediately inform the Government and the European Committee about the approval of any utilisation from the strategic gas reserves, specifying:

- a) the reasons of the utilisation,
- b) the actions taken in order to replenish the utilised gas reserves,
- c) the foreseeable changes in the reserves until the replenishment is completed.

Hungarian Hydrocarbon Stockpiling Association

Article 6

The Association has the following responsibilities related to the strategic storage of natural gas:

- a) it shall ensure proper conditions for the establishment of strategic natural gas reserves, and take part in the required investments with its capital participation;
- b) it shall ensure the maintenance of compulsory reserves, the sale of stocks existing in excess of the level of stocks specified by the Minister, and the performance of necessary developments;
- c) it shall monitor the fulfilment of obligations arising from membership as provided herein;
- d) it shall take actions for the replenishment of utilised strategic gas stocks as provided herein;
- e) it shall keep membership records;
- f) it shall define the level of contribution fees according to the rules stipulated in the Statutes by the General Assembly, and submit this to the Minister for approval;
- g) it shall ensure the collection of contribution fees;
- h) it shall supply data in accordance with the provisions of Article 10 herein.

Article 6/A

(1) In order to carry out the duties under Article 6, the Association may acquire shares in authorised strategic gas storage companies.

(2) In case of the expiry of the strategic gas storage licence of the authorised strategic gas storage company, the Association shall sell the shares referred to in (1) within two years of the date of the final decision concerning the expiry of the licence.

*Membership related to strategic natural gas storage,
rights and obligations of members*

Article 7

(1) The following operators must become members of the Association under this Act:

a) authorised operators holding an operating licence granted by the Authority, including:

aa) universal natural gas service providers,

ab) natural gas traders selling gas to customers;

b) natural gas producers selling natural gas to customers;

c) customers purchasing natural gas from cross-border imports or on organised markets.

(2) Membership in the Association shall become effective

a) in the case of authorised operators and natural gas producers, on the date of entry into force of this Act.

b) in the case of operators obtaining a licence at a later date, on the date of becoming authorised operators.

c) in the case of natural gas producers selling gas to customers, upon starting their sales activity.

d) in the case of customers, upon the first cross-border entry of natural gas or upon the first purchase of natural gas on the organised market.

(3) Membership in the Association shall be terminated in the following cases:

a) the Authority revokes the licence of the member,

b) the natural gas producer ceases its sales activity toward customers.

(4) Membership in the Association shall be terminated if, for a period of at least one year, the natural gas producer suspends its sales activity toward customers, or any other member suspends its natural gas activity, or a customer suspends its activity involving the cross-border supply of gas, or a customer suspends its activity on organised natural gas markets.

Article 8

(1) Members pursuing natural gas activities, customers pursuing activities involving the cross-border supply of gas or pursuing purchasing activities on organised gas markets, shall pay contribution fees to the Association in connection with these activities.

(2) Contribution fees shall be paid if

a) the universal natural gas service provider sells natural gas to customers,

b) the natural gas trader sells natural gas to customers,

c) the natural gas producer sells natural gas to customers,

d) the customer imports natural gas from a third country,

e) the customer imports natural gas from a member state of the European Union,

f) the customers buys natural gas on the organised market.

(3) The contribution fee shall be paid by the universal natural gas service provider in the case referred to in (2) *a*), the natural gas trader in the case referred to in (2) *b*), the natural gas producer in the case referred to in (2) *c*), and the customer in the cases referred to in (2) *d*)-*f*).

(4) The contribution fee is calculated on the basis of the calorific value of natural gas sold in the cases referred to in (2) *a*)-*c*) and on the basis of the calorific value of the purchased or imported natural gas in the cases referred to in (2)*d*)-*f*), measured in gigajoule.

(4a) In case of the sale of gas stocks referred to in Article 4 (5), the proceeds of the sale shall be considered as a reducing factor in calculating the contribution fee in accordance with (4).

(5) The contribution fee payment obligation shall apply to:

a) the quantity serving as a basis for the payment of a price or of partial payments, on the date of performance specified in the Act on value-added tax, in the cases referred to in (2) *a*)-*c*) and in (2) *e*)-*f*).

b) the quantity cleared by the customs authorities for internal traffic upon customs clearance in the case referred to in (2) *d*).

(6) No contribution fees are due in the case of natural gas purchased for strategic storage.

(7) Members shall account for their contribution fee payments among “other expenditures”.

(8) Of contribution fees paid to the Association in accordance with Article 8 (2) *a*), the part paid by the universal service provider on the natural gas sold to household consumers can be recovered.

(8a) The natural gas trader not qualifying as a universal service provider, supplying gas to household consumers and providing them

a) natural gas trading services in accordance with the tariffs set by the ministerial decree on the pricing of universal natural gas market services, using the fee elements applicable to the given place of consumption, but at a lower price with respect to at least one fee element,

b) the services specified in the government decree implementing the Act on Natural Gas Supply, which are suitable to be used by the household consumer supplied in the framework of universal services,

may recover the part of the contribution fees referred to in Article 8 (2) *b*) paid to the Association, which was paid on the gas sold to household consumers supplied by it in accordance with points *a*)-*b*).

(8b) The lower price referred to in (8a) *a*) can be provided also in the form of a fee reduction.

(9) The universal service provider and the natural gas trader shall be entitled to recover contribution fees in accordance with (8) and (8a), within 90 days of their payment. The Association effects the repayment within 15 days of the receipt of the claim and of the accounting records attesting the sale.

(10) Members shall furnish satisfactory proof in support of their claim by submitting all related attesting documents and records to the Association and to the Authority. The detailed rules concerning verification and recovery shall be laid down in the Statutes.

Article 9

(1) Members shall submit a declaration to the Association by the 15th day of each month concerning the calorific value of natural gas in the previous month, falling under the scope of this Act and constituting a basis of contribution fee payment. Members shall, at the request of the Association, immediately supply all data and documentation required for confirming the payment of the related contribution fee.

(2) Members shall calculate the amount of their contribution fee obligations in accordance with the data supplied in the monthly declaration, and shall transfer that amount to the bank account of the Association by the last working day of the following month.

Article 10

The Association shall issue to members a certificate acknowledging the receipt of the required declaration and the contribution fee payment. The Association shall inform the Authority and the national tax and customs authorities of the fulfilment.

Closing and transitional provisions

Article 11

(1) The present Act shall enter into force on the first day of the second month following its publication, except for the provisions of paragraphs (2) and (3) hereunder.

(2) Article 4 (1) of this Act shall enter into force on 1 January 2010.

(3) Article 31 of this Act shall enter into force on the third day following the publication of the Act.

(4) The starting date of contribution fee payments shall be 1 January 2007.

(5) After the entry into force of the present Act, the Association shall take the necessary steps without delay for declaring the change in the name of the Association at the Court of Registration and for setting up the work organisation responsible for strategic natural gas storage.

(6) The provisions of the Oil Stockpiling Act, with the additional provisions contained in the present Act, shall be applied to the legal status, organisation, management of assets, collection and accounting of receivables, supervision and audit of the Association, as well as to the rights and obligations of members.

Article 12

(1) From the date of entry into force of this Act until December 31st 2009, the available capacities of the existing natural gas storage facilities shall determine the level of strategic stocks and, in case of the availability of a sufficient free capacities, this cannot be lower than:

a) 150 million m³ between 1 October 2006 and 30 September 2007,

b) 300 million m³ between 1 October 2007 and 31 December 2009.

The President of the Authority shall be entitled to approve or order, at his own discretion, the utilisation of the available capacities of natural gas storage facilities for the purpose of strategic storage. Following the expiry of the deadline set by the Network Code for the conclusion of storage contracts, the President of the Authority shall not refuse the approval of the filling of capacities for the purpose of strategic storage with respect to the capacities not contracted by eligible users.

(2) In case that, in a given year, the free capacities available for strategic natural gas storage are lower than the minimum level specified in paragraph (1) above, the strategic gas stocks may be complemented with petroleum products used for combustion purposes. In case of the utilisation of such petroleum products belonging to strategic gas stocks, the Minister may set the price of the products at a lower level than the expected costs of stock replenishment; however, the price shall

not be lower than the price of the natural gas replaced by petroleum products suitable for combustion purposes, expressed in calorific value adjusted for heat capacity. The difference between the price, set by decree, of the petroleum products referred to in this paragraph and the costs of replenishment of the stocks shall be taken into account when calculating the difference of revenues and costs in the budget of the Hungarian Hydrocarbon Stockpiling Association.

(3) Eligible users shall have access to the capacities committed for the purpose of strategic storage in the previous year, until the deadline set by the Network Code. In case of a declared capacity booking request, the matching quantity of stocks may be sold if the strategic stocks cannot be placed in any other storage facility. The Association is entitled to freely dispose of that part of strategic stocks.

(4) The authorised strategic gas storage company shall conclude a contract with the Association with respect to the free capacity being available for strategic gas storage.

(5) The rules described in Article 5 concerning the utilisation of stocks shall also be applied to petroleum products suitable for combustion purposes referred to in paragraph (2) above.

Article 12/A

Article 4 (7) herein, set by Act CCXVIII of 2012 on the amendment of certain acts concerning strategic natural gas storage (referred to as: “the Modifying Act”) shall become effective on 1 July 2013.

Article 13

(1) Government hereby shall be authorised to regulate in a decree the detailed rules concerning the utilisation of strategic stocks, the preparation of the decision on utilisation and the rights and obligations of organisations and entities participating in the preparatory work.

(2) The Minister hereby shall be authorised to issue, in case of a natural gas supply emergency, on the basis of Article 5 (1), a decree authorising the use of strategic gas stocks, specifying the reasons and objectives of the utilisation, the quantity of natural gas allowed to be released, the procedures of replenishment of the concerned stocks, the price of the stocks to be released and the conditions for applying that price.

(3) The Minister hereby shall be authorised to define in a decree the level of strategic natural gas stocks, the strategic gas storage facility serving to store the strategic gas stocks, the compulsory minimum injection and withdrawal capacities related to the level of strategic gas stocks, and the cross-border capacities relating to replenishment.

(4) The Minister hereby shall be authorised to define in a decree the rules concerning the conditions and the volumes of stock purchase, the quantity of gas stocks to be sold in case of a disposal of stocks, the method of sales, the value of gas stocks, the scope of beneficiaries, the parties having an obligation of replenishment of gas stocks, the conditions and procedures of replenishment and the sale of available capacities.

Article 14

The purpose of the present Act is to ensure compliance with Council Directive 2004/67/EC concerning measures to safeguard security of natural gas supply.

Article 14/A

The present Act stipulates the provisions required for implementing Regulation (EU) No 994/2010 of the European Parliament and of the Council of 20 October 2010 concerning measures to safeguard security of gas supply and repealing Council Directive 2004/67/EC.

Laws amended

Articles 15-34