

ICE Exdex Auction Rules for marketing of RWE Gasspeicher's storage capacities at the Storage Epe H-Gas

As of 20 January 2016

INTRODUCTION

These Rules govern the qualification for, participation in and execution of the auction of gas storage capacity at Epe H-Gas storage in the market area NetConnect Germany (NCG). The Auction is scheduled to be held on 20 January 2016, on which day bids can be submitted on the Auction Bidding Website operated by ICE Exdex.

Successful bids will result in binding capacity agreements between the bidder and **RWE Gasspeicher GmbH**, a company under the laws of Germany, with registered offices at Flamingoweg 1, 44139 Dortmund, Germany, company no. commercial register HR B 21652 at the local court of Dortmund ("**RWE Gasspeicher**").

ICE Exdex GAS B.V., a company under the laws of the Netherlands, with registered offices at Hoogoorddreef 7 (Australia Building), 1101 BA Amsterdam, the Netherlands, company no. 34221038 ("**ICE Exdex**"), will conduct and administer the Auction.

ARTICLE I **DEFINITIONS AND INTERPRETATION**

1.1. Definitions

For purposes of these Auction Rules:

"**Aggregate Demand**" shall mean for each given Round the sum of all Quantities demanded by all Bidders.

"**Applicant**" shall mean the Person wishing to qualify for participation in the Auction.

"**Auction**" shall mean the auction as further specified in these Auction Rules.

"**Auction Access Confirmation**" shall have the meaning specified in Subsection 3.2.2.

"**Auction Bidding Website**" shall mean the website on the worldwide web identified in the Instructions to Bidders and through which Bidders will submit their Bids.

"**Auction Date**" shall have the meaning specified in Section 5.2.

"**Auction Rules**" shall mean these auction rules.

"**Bid**" shall mean the submission by Bidder of demand for a stated Quantity of the BUs at the Storage Fee Fix stated in the Bid.

"**Bidder**" shall have the meaning specified in Subsection 2.5.

"**Business Day**" shall mean a day (other than a Saturday or a Sunday) on which banks are open for business in The Netherlands.

"**BU**" shall mean Bundled Unit of gas storage capacity according to the RWE Gasspeicher's Terms and Conditions relating to this specific Auction.

"**Contract Period 2016/2017**" shall mean the period of time commencing at Gas Day 1 April 2016 and expiring at Gas Day 31 March 2017.

"**Gas Day**" shall mean the period from 6:00 to 6:00 CET.

"**Instruction to Bidders**" shall have the meaning specified in Section 3.1.

"**Maximum Supply per Round**" shall have the meaning specified in Section 5.4.

"**Member**" shall have the meaning as defined in article 1 of the ICE Endex Gas Market B.V. rules as amended from time to time;

"**Minimum Storage Fee Fix**" shall mean the Storage Fee Fix below which RWE Gasspeicher will not sell any BUs;

"**Person**" shall mean any individual, corporation, limited liability company, general or limited partnership, association, trust or other entity.

"**Quantity**" shall mean the quantity demanded by a Bidder in a valid Bid, expressed in the number of BUs as a whole non-zero number.

"**Round**" shall have the meaning specified in Section 5.4.

"**Storage Fee Fix**" shall mean the price in EURO per BU (EUR/BU) stated by a Bidder in a Bid;

"**Storage Year**" shall mean the period from Gas Day April 1st until Gas Day April 1st one year later.

1.2. Interpretation

- 1.2.1. References to "Article", "Section", "Subsection", and "Annex" refer to the corresponding article, section, subsection or annex of these Auction Rules unless otherwise specified.
- 1.2.2. The headings of Articles, Sections, Subsections and the Annexes are provided for convenience only and will not affect their interpretation.
- 1.2.3. The words "include" or "including" are to be construed without limitation to the generality of the foregoing.
- 1.2.4. Any reference to time is to Dutch local time.
- 1.2.5. Unless the context requires otherwise, the singular shall include the plural and vice versa.

ARTICLE II
QUALIFICATION PROCESS OF ICE ENDEX

2.1. **Qualification Requirements**

- 2.1.1. An Applicant wishing to qualify for participation in the Auction shall provide ICE Endex with the documents referred to in Sections 2.2 to 2.4, dated and duly signed (the "**Qualification Documents**").
- 2.1.2. The Qualification Documents and any changes and amendments thereto shall be sent to ICE Endex at the following address:

ICE Endex Gas B.V.
Australia Building, 3rd floor
Hoogoorddreef 7
1101 BA Amsterdam
The Netherlands
Attn: RWE GASSPEICHER Storage Auction
[E-mail: Sales-Utilities@TheIce.com]

2.2. **Qualification Documents**

- 2.2.1 Extract of the relevant chamber of commerce of the Applicant (e.g. the Netherlands: Kamer van Koophandel, United Kingdom: Companies House or Germany: Handelskammer). This extract should not be older than 6 months;
- 2.2.2. Additional documents and/or information evidencing that the signatories are duly authorized to sign the documents as listed in this Section and Section 2.3;
- 2.2.3. Articles of association;
- 2.2.4. List of beneficial owners whose shareholding exceeds 25% of total issued share capital. If Applicant is a consolidated subsidiary, please provide beneficial owners of ultimate parent company (not required if Applicant or parent company is publicly quoted);

Where the Applicant is a Member of ICE Endex Gas Spot Market in the Netherlands, the documents stated in 2.2.2 - 2.2.4 do not have to be provided.

2.3. **Power of Attorney**

- 2.3.1. Applicant shall provide ICE Endex with a Power of Attorney, granted to at least one and no more than three individuals, in the form and content attached hereto as Annex II (the "**Power of Attorney**"), accompanied by a copy of the passport of the signatory (or signatories).
- 2.3.2. The Power of Attorney shall be signed by duly authorized representatives of Applicant having the power to bind Applicant vis-à-vis third parties.
- 2.3.3. The Power of Attorney must satisfy all formal and substantive requirements applicable under the laws of the jurisdiction of Applicant's organization or incorporation.

2.3.4. Applicant shall, upon the written request of ICE Endex, promptly furnish a certificate issued by a competent public authority, or an opinion of a reputable law firm, at the sole discretion of ICE Endex, confirming the validity of the Power of Attorney and the authority of its signatory or signatories.

2.4. Acceptance of Auction Rules

An Applicant wishing to qualify for participation in the Auction shall have to accept and agree to these Auction Rules and sign Annex I to these Auction Rules.

2.5. Request to be admitted as Bidder

By submitting the data requested by ICE Endex the Applicant requests to be admitted as Bidder to the Auction.

2.6. Qualification and Confirmation

2.6.1. Following a request to be admitted as Bidder, ICE Endex may:

- (i) admit an Applicant in the Auction, at which point it becomes a "**Bidder**";
- (ii) request revised and/or additional documents within a set time period, and, upon review of such documents, decide whether to admit or refuse an Applicant in the Auction;
- (iii) refuse an Applicant in the Auction.

2.6.2. Any decision to refuse an Applicant in the Auction shall be based on objective criteria, and the reason for such refusal shall be provided.

2.6.3. The admission shall be evidenced by a written confirmation issued by ICE Endex. The confirmation shall confirm the Persons identified in Annex I;

2.6.4. If available and required ICE Endex will disclose to RWE Gasspeicher such information which is required for RWE Gasspeicher for the creditworthiness check, see RWE Gasspeicher's Terms and Conditions relating to this specific Auction.

2.7. Timeline for Admission as Bidder

The requirements set out in Sections 2.1 to 2.4 must have been met 7 Business Days prior to the Auction Date. ICE Endex may at its sole discretion waive this timeline in exceptional circumstances.

2.8. Continued Compliance and revocation of admission as Bidder

2.8.1. Bidder shall notify ICE Endex in writing of any change in any information submitted for qualification, promptly upon becoming aware of such change. Bidder shall promptly furnish to ICE Endex any additional information which ICE Endex may reasonably request.

2.8.2. ICE Endex may at any time revoke the admission of Bidder as a participant in the Auction if:

- (i) Bidder does not satisfy, or no longer satisfies, the qualification criteria;

(ii) Bidder breaches any of its obligations under these Auction Rules.

2.10 Withdrawal

Bidders may at any time before the Auction Date withdraw from participating in the Auction by notifying ICE Endex in writing.

ARTICLE III
INSTRUCTIONS TO BIDDERS
AND
ACCESS TO THE AUCTION

3.1. Instructions to Bidders

At least 5 Business Days before the Auction Date (or, if later, promptly following admission as Bidder), ICE Endex shall provide the persons identified in Annex II with instructions on the conduct of the Auction, in particular regarding the method and contents of communications between Bidder and ICE Endex during the Auction and for the secure transmission of Bids (the "**Instruction to Bidders**").

3.2. Access to the Auction Bidding Website

3.2.1. At least 3 Business Days before the Auction Date (or, if later, promptly following admission as Bidder), ICE Endex shall provide the persons identified in Annex II with a username and password for access to the Auction Bidding Website.

3.2.2. Access to the Auction Bidding Website is conditional upon the persons identified in Annex II providing ICE Endex with a confirmation in the form specified by ICE Endex (the "**Auction Access Confirmation**").

3.3. No representation or warranty for quality or continuous availability

RWE Gasspeicher and ICE Endex make no representation or warranty on the quality or continuous availability of the Auction Bidding Website or the reception or saving of Bids in case of technical or other problems beyond their reasonable control.

ARTICLE IV
OFFERED PRODUCT

The product offered is described in the RWE Gaspeicher's Terms and Conditions relating to this specific Auction (RWE Gaspeicher Auction T&C's via ICE Endex).

ARTICLE V
THE AUCTION PROCESS

5.1. The Auction shall be conducted by ICE Endex and RWE Gasspeicher shall monitor compliance with the Auction Rules.

5.2. The date of the Auction is 20 January 2016.

- 5.3. All communications between Bidder and ICE Endex shall be made in accordance with the rules set forth in the Instructions to Bidders (including rules pertaining to message content, message format and means of communication).
- 5.4. The Auction shall be conducted over 2 Rounds:
 - 5.4.1. In the first Round the total available capacity is offered in one BU for the Contract Period 2016/2017. RWE Gasspeicher has set a Minimum Storage Fee Fix. Below this Minimum Storage Fee Fix no BU is sold in the first Round. The Minimum Storage Fee Fix will be published on the Auction Bidding Website one day before the auction. The first Round will start at 11:00 CET and will close at 11:30 CET. Bids received outside this time period will be rejected,
 - 5.4.2. If the capacities are not sold in the first Round, the second Round will offer the capacity with a total of 100 BUs for the Contract Period 2016/2017. RWE Gasspeicher will set a Minimum Storage Fee Fix for the second Round. However this Minimum Storage Fee Fix will not be published. The second Round will start at 12:30 CET and will close at 13:00 CET. Bids received outside this time period will be rejected,
- 5.5. Each Bidder can submit one Bid in the first Round and up to 10 separate Bids in the second Round, whereby:
 - 5.5.1 Each Bid shall include a Quantity "Q", a non-negative whole number representing the number of BUs the Bidder wishes to acquire and which does not exceed the maximum number of offered BUs per round and a Storage Fee Fix, expressed in EUR per BU and representing the price per BU the Bidder is willing to pay.
 - 5.5.2 During a Round the Bidder may change each of its Bids by submitting a new Bid that will substitute the pertinent previous Bid. Each Bid and each change of an already existing Bid creates a separate time stamp.
- 5.6 Bids (or changes to Bids) received outside the time period for receipt of Bids, and Bids (or changes to Bids) that do not meet the conditions of Section 5.5 or any other part of the Auction Rules are not valid and will be rejected. ICE Endex shall notify any Bidder that has submitted an invalid Bid that its Bid has been rejected, stating the reason or reasons for such rejection.
- 5.7. It is Bidder's entire and sole responsibility to ensure that it timely submits a valid Bid. In particular, Bidder's attention is drawn to the fact that there may be some time lag between the submission of its Bid and the receipt by ICE Endex of such Bid. Bidder shall ensure that all equipment used by it in connection with the Auction operates properly.
- 5.8. Each of the valid Bids being received and logged by the Auction Bidding Website shall be a firm and irrevocable commitment to acquire the stated Quantity of BUs at the stated Storage Fee Fix.
- 5.9. At the end of each Round, BUs will be allocated to the Bidders for such Round, as follows and with all of the following conditions satisfied:
 - (i) Not more BUs will be allocated than the Maximum Supply for the Round;
 - (ii) BUs shall be allocated to valid Bids, which hit or exceed the Minimum Storage Fee Fix, in order of the value of the Storage Fee Fix/BU of the

Bids, whereby a Bid with a higher Storage Fee Fix/BU will be allocated first and with priority over a Bid with a lower Storage Fee Fix/BU;

- (iii) Depending on the availability of BU's, a Bidder may only receive the whole requested Quantity of BU's. If the requested Quantity of the bid to be looked at with respect to lit. (ii) exceeds the number of available BU's, the respective request will be skipped and the allocation examination passes on to the next Bid;
 - (iv) If Bids have an equal Storage Fee Fix/BU, BUs shall be allocated to the Bid with the highest Quantity;
 - (v) In case of equal Bids (equal Storage Fee Fix/BU and Quantity of BU) the time stamp of the Bids respectively the change of the Bid will be relevant for the allocation ("First committed-first served").
 - (vi) RWE Gasspeicher is not obliged to allocated BUs if the allocation rules in numer (i) to (v) are not satisfied.
- 5.10. Allocation of BUs in accordance with Subsection 5.9 constitutes a Storage Contract with RWE Gasspeicher according to the Auction T&C's RWE Gasspeicher via ICE Endex, for such BUs, at the Storage Fee Fix applicable to the pertinent Round. RWE Gasspeicher will issue a confirmation, signed by RWE Gasspeicher only. Sections 5.8 and 5.9 create binding obligations between RWE Gasspeicher and the Bidder.
- 5.11 At the end of a Round ICE Endex shall inform Bidders of the allocated BUs in such Round.

ARTICLE VI **MISCELLANEOUS**

6.1. Conduct Rules

The Bidder shall at all times observe high standards of integrity and fair dealing and high standards of market conduct and act with due skill, care and diligence when participating in the Auction.

It is the duty of the Bidder to behave in a fair and orderly manner in the Auction, with due observation of the interest of all other Bidders.

The Bidder is required to comply and act in accordance with all applicable laws and regulations, including, but not limited to, articles 3 and 5 of the Regulation No. 1227/2011 on energy Market Integrity and Transparency ("**REMIT**").

ICE Endex has the right to supply the competent authority with all data and information of the activities carried out by Bidders under the Auction Rules and all other data and information the provision of which is necessary either under a formal request made to ICE Endex or to comply with its obligations towards those authorities or where disclosure is required under applicable laws.

ICE Endex is entitled to carry out (routine) enquiries or investigations into the behaviour of a Bidder. The Bidder is obliged to provide full cooperation with an enquiry or investigation.

6.2. Postponement or Termination of Auction

- 6.2.1. ICE Endex has the option to postpone or suspend the Auction for good reasons, including technical issues such as loss of connectivity or unavailability of the Auction Bidding Website and/other unforeseen circumstances.
- 6.2.2. ICE Endex may, if reasonably necessary for technical or operational reasons or in the event of manifest collusion, terminate the Auction, and ICE Endex shall immediately notify Bidders in writing of such decision.
- 6.2.3 ICE Endex shall promptly inform the market of any postponement, suspension or termination. No Bidder shall have any claim for damage or losses or any right for performance of the Auction in the event of postponement, suspension or termination.

6.3. Amendment of these Auction Rules

- 6.3.1. At any time before the 7th Business Day preceding the Auction Date, ICE Endex may, if reasonably necessary to improve or facilitate the Auction, amend these Auction Rules and ICE Endex shall immediately inform the market and notify Bidders of such decision.
- 6.3.2. Bidders shall be deemed to consent to an amendment of these Auction Rules if they do not give notice of withdrawal within 5 Business Days following the receipt of the notice referred to in Subsection 6.3.1.

6.4. Release of data

Following the Auction the following data may be released to the market:

- (i) the Aggregate Demand per Round;
- (ii) the total BUs allocated per Round
- (iii) the number of successful Bidders.

6.5. Confidentiality

ICE Endex shall protect the confidentiality of the content of Bids submitted by Bidder during the Auction.

6.6. Assignment

Rights resulting from the Auction Rules and the Auction are not and cannot be transferred or assigned (other than rights of RWE Gasspeicher and ICE Endex). BUs are transferable as per the terms of the General terms and Conditions for access to RWE Gasspeicher storage facilities, Status 01/02/2015.

6.7. Language

All communications in respect of the Auction shall be in the English language only.

6.8. Liability

ICE Endex will under no circumstance be liable to a Bidder for any loss, damage, cost, expense or any other liability or claim suffered or incurred by or made

against a Bidder as a result of the participation by the Bidder in the Auction, unless such damage is a direct result of wilful default or fraud on the part of ICE Endex. This exclusion of liability applies mutatis mutandis in favour of RWE Gasspeicher.

6.9 Indemnification

Applicant or Bidder shall, on demand, indemnify and hold harmless RWE GASSPEICHER and ICE Endex for and against any loss, liability, claim, damage or expense (including costs of investigation and defence, costs of collection and reasonable attorney's fees) which RWE GASSPEICHER, ICE Endex suffers or incurs and which arises, directly or indirectly, from or in connection with any breach of these Auction Rules by Applicant or Bidder.

ARTICLE VII
GOVERNING LAW AND DISPUTE RESOLUTION

- 7.1. These Auction Rules are governed by and construed in accordance with the laws of The Netherlands.
- 7.2. Any dispute, controversy or claim arising out of or in connection with these Auction Rules shall be finally settled by arbitration in accordance with the Arbitration Rules of the Netherlands Arbitrage Instituut. Jurisdiction by any other court is excluded. The arbitral tribunal shall be composed of three arbitrators. The place of arbitration will be The Hague. The arbitral tribunal will award in accordance with the rules of law. The arbitral procedure will be conducted in the English language. The possibility of binding opinion (*bindend advies*) as foreseen in aforementioned Rules will be excluded.
- 7.3 7.1 and 7.2 do not apply to disputes arising out of the Product Conditions (Product Contract and relating Terms and Conditions of RWE Gasspeicher).

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ANNEX I
ACKNOWLEDGEMENT AND ACCEPTANCE OF THE
RWE GASSPEICHER GAS STORAGE CAPACITY 2016-2017
AUCTION RULES (the "Auctions Rules")

The undersigned has taken knowledge of the Auction Rules and undertakes, covenants to and agrees with ICE Endex and RWE Gasspeicher:

1. to comply with the Auction Rules and the Instructions to Bidders;
2. to keep username(s) and password(s) to the Auction Bidding Website confidential;
3. to refrain from entering into (and represents that it has not entered into) any agreement or arrangement of any kind with any other (potential) Bidder (other than affiliates) concerning the Auction or participation in the Auction;
4. to keep (and represents that it has kept) all information received from ICE Endex in connection with the Auction (including all information obtained on the password-protected section of the Auction Bidding Website) confidential on the terms set forth in these Auction Rules;
5. to continue to act (and represents that it has acted) in the Auction, as principal (and not as agent or in any other capacity, fiduciary or otherwise);
6. that ICE Endex shall make future notifications to it regarding the Auction solely to the following contact person (*please insert details*):

Contact person:

Title:

Contact address:

Contact tel.:

Email address:

Agreed by:

Signature:

Company Name: _____

By: _____¹

Title: _____

Date: _____

¹ Must be a person(s) listed in the extract of the Trade Register or named in the Power of Attorney supplied by a Member of an ICE Endex Gas Spot continental market to ICE Endex Gas B.V.

Capitalized terms have the meaning assigned to them in the Auction Rules

ANNEX II
POWER OF ATTORNEY

[To be printed on Applicant's letterhead, completed consistent with in accordance with Section 2.4 of the Auction Rules]

Company name: _____

Jurisdiction of incorporation: _____

Company address (registered office): _____

Company registration number: _____

(“Company”) hereby grants power to each of the individuals named hereunder to do any of the following in relation to the Auction, acting alone:

- a. Sign all statements and make all declarations required for qualification as a participant in the Auction;
- b. Participate in the Auction;
- c. [Execute all agreements, deeds and other documents related to the Auction];
- d. Take any actions and do all things necessary or useful to fulfil obligations of the Company arising from the Auction, or otherwise required or appropriate under the Auction Rules for the Auction.

1. Name: _____
Title: _____
Signature: _____
Date: _____

[If applicable:]

2. Name: _____
Title: _____
Signature: _____
Date: _____

[If applicable:]

3. Name: _____
Title: _____
Signature: _____
Date: _____

The undersigned represents that this power of attorney complies with all formal and substantive requirements applicable under the law of the jurisdiction of incorporation of the Company.

Place, date: _____

Name: _____

Signature: _____

In the presence of:² _____

Signature: _____

² In some jurisdictions, signature of a notary or witness may be required.