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MEMO

ADDENDUM TO TARIFF METHODOLOGY FOR NON-PROTECTED CUSTOMERS: SOCIALLY CRITICAL CONSUMPTION AND BIOMETHANE POCKETS

1. Introduction

In pursuance of section 36a(1) and section 40(1) para (1) of Danish Consolidation Act no. 1100 of 16 August 2023 on gas supply, as amended (the 'Danish Gas Supply Act' (Gasforsynings-loven)) and section 2(1) para (1) of Danish Executive Order no. 822 of 27 June 2014 on rules for applications for approval of prices and terms and conditions, etc. for natural gas supply, Energinet must submit methodology approval applications to the Danish Utility Regulator for its prices, terms and conditions, etc. for access to the transmission system.

On 3 January 2022, Energinet submitted an application for approval for the tariff method of the Danish gas transmission system, i.e. both emergency supply tariff (emergency tariff) and transmission tariff, which the Danish Utility Regulator only partially approved by decision of 12 May 2022. The reason was the update of the emergency supply plan (emergency plan) on 10 March 2022. The Danish Energy Agency had introduced socially critical consumption among non-protected customers, which was not reflected in the emergency supply tariff method for the non-protected customers. On 4 July 2022 Energinet therefore submitted an addendum to the emergency tariff method concerning an ex-post calculation method for final consultation. The Danish Utility Regulator approved the method on 30 September 2022[1]. The method is time-limited until 30 September 2024. Energinet must therefore submit an application for approval of a new addendum to the emergency tariff method for non-protected customers.

On 4 September 2023, the Danish Energy Agency updated the emergency plan[2]. It is Energinet's assessment that the element concerning socially critical consumption must be resubmitted as an addendum to the emergency supply tariff method for non-protected customers, cf. above. In addition, the supply of non-protected customers in biomethane pocket areas[3] shall be introduced to the emergency tariff method for non-protected customers.

[1] Link to the Danish Utility Regulator's method approval: Approval of ex post method for the emergency supply tariff for non-protected gas customers (forsyningstilsynet.dk)

[2] Link to the Danish Energy Agency's emergency plan: dk_noedforsyningsplan_gas_2023.pdf (ens.dk)

[3] Areas in the distribution system where the produced biomethane cannot flow into the transmission system due to no or insufficient capacity.

This addendum thus concerns Energinet's emergency tariff for non-protected customers and is an addendum to the current emergency supply tariff method.

This addendum to the emergency supply tariff method contains the same ex post calculation method approved by the Danish Utility Regulator on 30 September 2022 regarding socially critical consumption (i.e. the Danish Energy Agency's assessment and prioritization of the gas consumption in a crisis situation of non-protected customers). This calculation method is extended by this addendum to the supply of non-protected customers in biomethane pocket areas (i.e. areas of the gas system where there are a biomethane surplus and where the excess biomethane cannot be transported to the transmission grid).

The addendum to the emergency supply tariff method for non-protected customers shall enter into force on 1 October 2024.

A consultation procedure was conducted for the methodology/final consultation document in the period 29 February 2024 to 29 April 2024 in accordance with Articles 26 and 27 of Commission Regulation No 2017/460 of 16 March 2017 establishing a network code on harmonised transmission tariff structures for gas[4] ('NC TAR'). After the consultation deadline on 29 April 2024, Energinet has clarified the methodology and has therefore extended the final consultation from 6 May 2024 to 6 June 2024.

This is a non-binding English translation of the Danish methodology approval application.

It is Energinet's assessment that, among other things, since the Danish Utility Regulator's approvals of Energinet's emergency tariff methods are limited in time, there is a need to prepare a new document describing the combined emergency tariff method. Energinet currently expects a new emergency supply tariff method to be submitted for consultation in the summer 2025.

As with the current, approved addendum to the emergency supply tariff method, Energinet requests approval from the Danish Utility Regulator. It is Energinet's assessment that the method still complies with NC TAR, Article 4(4).

If, contrary to expectations, the Danish Utility Regulator should conclude that the notified addendum to the emergency supply tariff method is no longer in accordance with NC TAR, Article 4(4), Energinet requests a detailed justification for this and that the Danish Utility Regulator approves the continuation of the method with regard to the emergency tariff, which the Danish Utility Regulator approved by decision of 31 May 2019. In this case, Energinet will inform the Danish Energy Agency that Energinet cannot operationally support the emergency plan with regard to elements in relation to socially critical consumption and biomethane pocket areas.

2. Background

2.1 Background for the current emergency supply tariff method

The Danish Energy Agency has the overall responsibility for assessing the gas supply situation in Denmark on an ongoing basis. Several documents, including an emergency plan are prepared as part of this obligation pursuant to Regulation No 1938 of the European Parliament and of

[4] REGULATION (EU) 2017/460 of 16 March 2017 establishing a network code on harmonised transmission tariff structures for gas.

the Council of 25 October 2017 concerning measures to safeguard the security of gas supply[5] ('the Security of Supply Regulation'). Pursuant to the Security of Supply Regulation, the Danish Energy Agency has also determined which gas customers are protected and which gas customers are not guaranteed gas supply in a situation in which there is not enough gas for the whole Danish market. In this connection, the Danish Energy Agency has delegated a number of emergency supply tasks – including procurement of storage of gas for emergency purposes and gas storage filling requirements – to Energinet. On this basis, Energinet charges a fee to perform these tasks through its tariffs.

On 3 January 2022, Energinet applied for approval of a tariff methodology for the Danish gas transmission system i.e. both emergency tariff and transmission tariff applicable from 1 October 2022. The emergency tariff was a continuation of the currently applicable emergency tariff.

In February 2022, and thus during the Danish Utility Regulator's review of the overall tariff methodology, the Danish Energy Agency assessed that there was a need to change the emergency plan due to the gas supply situation. This meant that a changed emergency plan was published on 10 March 2022. The change meant that, for non-protected customers, a distinction is now made between customers with socially critical consumption and customers with socially noncritical consumption.

In its decision of 12 May 2022, the Danish Utility Regulator partially approved Energinet's tariff methodology: The emergency tariff for non-protected customers contained in the application was not approved. The reason for this was the change in the emergency plan described above, which may potentially change the distribution of gas consumption to non-protected customers in the event of an emergency supply situation.

In its decision, the Danish Utility Regulator found that the submitted application for non-protected customers was not in accordance with Article 4(4) of NC TAR. In addition, the Danish Utility Regulator did not find any basis for concluding that the charge of uniform emergency supply tariffs for non-protected customers complied with the requirement that non-transmission tariffs must be cost-reflective, see NC TAR Article 4(4)(a). The Danish Utility Regulator also found that it could not be ruled out that the emergency tariff for non-protected customers would not always be reflective of the costs associated with providing emergency supply services to the individual customers due to the order of priority for these customers. Further to this, the Danish Utility Regulator also found that the submitted methodology approval application did not comply with the requirement that non-transmission tariffs must be charged to the beneficiaries of a given non-transmission service with the aim of minimising cross-subsidisation between network users, see Article 4(4)(b) of NC TAR. In the Danish Utility Regulator's decision on partial approval of Energinet's tariff model, the Danish Utility Regulator would overall not approve the emergency supply tariff for non-protected customers.

Based on the changed emergency plan of 10 March 2022, the non-protected customers were, as described, categorised as having either socially critical or socially non-critical consumption. Furthermore, customers with socially critical consumption were prioritised. It should be noted that the priority is determined by the Danish Energy Agency with the involvement of the authorities responsible for the sector.

[5] REGULATION (EU) 2017/1938 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 25 October 2017 concerning measures to safeguard the security of gas supply and repealing Regulation (EU) No 994/2010

As far as Energinet has understood, the Danish Utility Regulator finds that the emergency supply tariff methodology must reflect this distinction.

On that background, Energinet submitted an addendum to the emergency supply tariff method concerning an ex-post calculation method for final consultation on 4 July 2022. As part of the process described in NC TAR, ACER published their analysis. In that regard, ACER stated, inter alia:

> "The Agency concludes, after having completed the analysis of the consultation document pursuant to Article 27(2) of the NC TAR, that the proposed non-transmission tariffs are compliant with the principle of non-discrimination, objectivity and with the requirement to be charged to the beneficiaries. The agency concludes that the compliance with the requirement on cost-reflectivity is achieved to the extent possible, considering the higher priority to maintain the confidentiality on the priority rules applicable to non-protected consumers. The Agency finds this approach compliant with the NC TAR."

The Danish Utility Regulator approved the method on 30 September 2022. The decision states, inter alia:

> "However, the Danish Utility Regulator notes that during tariff periods where an emergency supply incident is not declared, there is no real difference in the provision of the service covered by the emergency supply tariff, as instruments such as emergency gas and filling restrictions have not been put into use during this period.
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> Energinet's addendum to the method will ensure that in the event of an actual emergency supply, there is an ex post redistribution of the emergency supply tariff, which takes reasonable account of the relatively allocated supply of gas in an emergency. This means that non-protected gas customers who are not prioritized are subsequently compensated by Energinet, as they are either allocated lower or no gas consumption during an emergency supply event.
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> The Danish Utility Regulator considers that the surcharge thereby will ensure that the costs associated with the provision of the service for the relevant tariff period are reflected in the tariff, which will be in accordance with Article 4(4)(a) of the NC TAR.
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> Furthermore, the Danish Utility Regulator considers that the ex post redistribution will ensure that the total costs are collected to a more direct extent to the individual customer benefiting from the relatively allocated volume of gas. The Danish Utility Regulator considers that this contributes to minimizing cross-subsidization between network users, which is also in line with Article 4(4)(b) of the NC TAR.
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> The Danish Utility Regulator finds that this more direct reflection of costs offsets any likelihood of being charged an emergency supply tariff, which in some periods does not directly reflect the risk profile offered."

As the method is limited in time to 30 September 2024, Energinet must apply for approval for a new addendum to the emergency supply tariff method for non-protected customers.

2.2 Background for the now submitted emergency supply tariff method

On 4 September 2023, the Danish Energy Agency updated the emergency plan and has continued the element on socially critical consumption. Since Energinet's current addendum to the emergency supply tariff for critical consumption expires on 30 September 2024, it is Energinet's assessment that the element concerning critical consumption must be submitted as an addendum to the emergency supply tariff method for non-protected customers.

The emergency plan states:

> "Socially critical gas consumption by non-protected gas customers: Consumption of gas among non-protected gas customers that is assessed as critical from a societal perspective and where an interruption would affect Danish society in a far-reaching and unacceptable way. Socially critical gas consumption among non-protected gas customers is assessed on the basis of predetermined criteria relating to life and health, food supply, animal welfare, environment, etc. The Danish Energy Agency has published the criteria on the Agency's website (www.ens.dk). Socially critical gas consumption is calculated per point of consumption."
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> [...]
>
> "The division of non-protected gas customers with a socially critical consumption and socially noncritical consumption, respectively, is based on an assessment of the consequences of shutdown of production due to lack of gas supply. The criteria for assessing whether a non-protected gas customer's production or parts of production and thus gas consumption are critical to society are the following:
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> 1. Life and health
> 2. Food supply
> 3. Animal welfare
> 4. Environment
> 5. Other societal impacts, including socio economic consequences
> 6. Property
> 7. Financial consequences for the individual enterprise in the event of insufficient gas supplies.
>
> The criteria are prioritized in such a way that 1) the most value is given and 7) the least value. The prioritization is carried out administratively by the Danish Energy Agency with the involvement of other relevant sector authorities. Prioritization shall be carried out annually when the list of non-protected gas customers is available. The Danish Energy Agency informs each non-protected gas customer whether the gas customer's gas consumption has been categorized as either critical to society or whether the gas customer's gas consumption has not been categorized as socially critical.

> As a consequence of the criteria, it is not necessarily the entire gas consumption of a non-protected gas customer that can be characterized as socially critical.
>
> The gas customers who have a socially critical gas consumption are ranked among themselves on a priority list. This list is not published for security reasons. The socially critical non-protected gas consumption is covered according to the priority order of the list. If there is no surplus of gas to cover the socially critical consumption of all gas customers on the priority list, gas customers will be supplied according to priority.
>
> Thereafter, other volumes of gas will be allocated to all non-protected customers, cf. 2.8.10.
>
> A non-protected gas customer with a socially critical gas consumption cannot be sure of covering his gas consumption in Emergency, and is still a non-protected customer. A non-protected gas customer with a socially critical gas consumption cannot consume gas from the gas system if the supply of protected gas customers such as small businesses, households and hospitals is compromised."

Another element that also appears in the emergency plan is supply in biometane pocket areas. It is Energinet's assessment that the supply of non-protected customers in biometane pocket areas must be submitted as an addendum to the emergency tariff method for non-protected customers.

The emergency plan contains the following text regarding biomethane pockets:

> "An exception may be made to the prioritization model:
> 1. Where the production of biomethane in parts of the distribution system is higher than the volumes of gas distributed to protected and non-protected gas customers according to the priority model, and
>
> 2. Where the excess biomethane in that particular part of the distribution system cannot be fully transferred to the transmission system.
>
> If both of these conditions are met, it is possible to supply all or part of the non-protected gas customers located in these areas with more gas to avoid that produced biomethane is not used and, in the worst case, must be flared to maintain the balance of the gas system. However, the principles of the prioritization option are still applied in the allocation of gas volumes to non-protected gas customers, taking into account the need to balance biomethane production and gas consumption in that part of the distribution system."

Other elements of the Danish Energy Agency's emergency plan are either already contained in the emergency tariff method or is not considered possible to obtain a method approval for, and thus also not possible for Energinet to handle operationally. Specifically, Energinet assesses that the element on the transfer of gas consumption between non-protected customers in the same group is included in the current emergency supply tariff method. This is because it does not concern the redistribution of gas consumption between customers, but only concerns

an opt-in to shift consumption between non-protected customers within the same group. Regarding the elements of the emergency plan on business-critical consumption, deviation from the step-by-step model, and supply of Sweden in an emergency supply situation, it is Energinet's assessment that this will not be possible to obtain an approved method for. Thus, Energinet cannot operationally handle these elements of the emergency plan of 4 September 2023.

The following section describes the addendum to the emergency supply tariff method, which concerns socially critical consumption and biomethane pockets.

3. Description of methodology addendum

In Denmark, there has never been an emergency supply situation where interruption of non-protected customers has been necessary. This is despite the supply crisis of recent years. The starting point for the method is therefore that all non-protected customers pay the same tariff, i.e. the non-protected tariff.

In order to handle a crisis situation where some non-protected customers are allocated gas as a result of socially critical consumption or as a result of their location in a biomethane pocket area, Energinet hereby resubmit the addendum to the emergency supply tariff method approved by the Danish Utility Regulator on 30 September 2022 (ex post calculation method)[6] and with this submission simultaneously extends the methodology to include the supply of non-protected customers in biomethane pocket areas. In an emergency situation, it is also difficult to predict where biomethane, that has not been transported into the transmission system, may be present, and which can potentially therefore benefit some of the non-protected customers located in these areas.

The addendum to the emergency supply tariff method shall seek to address potential discrimination among non-protected customers because of allocating consumption to non-protected customers in biomethane pocket areas and non-protected customers with socially critical consumption in an emergency supply situation.

The purpose of the method is to address a situation where criteria other than pro rata allocation follow from the current emergency plan for the distribution of any excess consumption in an emergency situation, i.e. the method handles:

1) A situation where a share of the non-protected customers is given the opportunity to consume gas as a result of their location in a biomethane pocket area; and/or
2) A situation where non-protected customers categorized as having socially critical consumption are assigned a consumption option.

The following elements are therefore submitted in addition to the already notified and approved emergency tariff method, including addendum.

- After each tariff period, in the event of an emergency situation (declaration of emergency) during the period in question, Energinet will assess the need for any ex-post charge for non-protected customers which may have been allocated and have an actual consumption[7] in a gas supply crisis based on the following elements:

[6] Clarifications have been made in a few places. For example, the addendum to the emergency supply tariff methodology notified in 2022 (ex-post methodology) stated that the collection is for gas consumption that is allocated. It is specified in the present method notification that the collection is based on allocated and actual consumption of the allocated quantities.

[7] The actual gas consumption can not be higher than the allocated gas consumption.

- Relative consumption: This means the consumption that the non-protected customer in question has been allocated and consumed relative to the other non-protected customers.

- Timing aspect: This means the duration of the period in which the non-protected customer in question has been allocated and consumed relatively more gas.

Based on the text above, Energinet assesses what the scope of allocated and actual consumption has been in relation to the rest of the group of non-protected customers to ensure proportionality between the gas consumption that certain non-protected customers may have received relative to the other non-protected customers.

If this concerns a gas volume of a certain size, the payment charged ex post will be redistributed to the group of non-protected customers. This means that the non-protected customers are compensated depending on their relative gas consumption in a supply crisis.

Non-protected customers which have been allocated and consumed gas will be charged a tariff corresponding to the average between the tariff paid by protected customers (the high tariff) and the tariff paid by non-protected customers (the low tariff). The tariff is charged for gas volumes allocated and consumed in excess of pro rata. The assessment is that an average between the high and the low emergency supply tariff will be a reasonable tariff level to charge, and that it reasonably reflects the increased protection enjoyed by a non-protected customer in the period in question.

For the sake of good order, it should be noted that the proposed methodology still has no bearing on the elements of the already approved part of the tariff methodology in the Danish Utility Regulator's decision of 12 May 2022.

Below, an example is provided to illustrate how an ex-post tariff is charged in practice for non-protected customers that are allocated and consumed gas. The example is based on the current emergency plan of the 4 September 2023 and the distribution of consumption in biomethane pocket areas and socially critical consumption.

3.1 Example of ex-post charge

There will be different scenarios for the supply of gas to non-protected customers in an emergency situation. It is assumed that the allocated consumption is consumed. Three different scenarios are described below:

1) One non-protected customer with socially critical consumption is allocated gas consumption, while no other non-protected customers are allocated gas consumption.
2) A group of non-protected customers in a biomethane pocket area is allocated gas consumption, while nobody else non-protected customers is allocated gas consumption.
3) All non-protected customers are allocated a proportionately equal gas volume through an initial allocation of consumption in biomethane pocket areas, hereafter an allocation of the socially critical consumption followed by the allocation of gas volumes on a pro rata basis.

In scenario 1 and 2, there will be a difference among non-protected customers in how they are treated. In scenario 3, all non-protected customers are treated equally on a pro rata basis. Between these three opposite scenarios, there are a number of scenarios in which there will be a difference in how the non-protected customers are treated.

Added to this is that the above scenarios are combinable. In an emergency supply situation, there may be periods in which there is only enough gas to supply some of the non-protected customers, while, in other periods, there will be enough gas to supply all non-protected customers.

To illustrate how an ex-post allocation can take place in practice, an example is used in which the socially critical consumption of all non-protected customers with socially critical consumption is covered, either through the location in a biomethane pocket or through allocation from the transmission network. Non-protected customers without socially critical consumption are allocated a gas volume on a pro rata basis.

In the example used, it is assumed that all protected consumption is supplied with gas and that all non-protected customers, regardless of whether they have socially critical consumption, are supplied with gas for 72 hours after an emergency has been declared. The examples are thus based on what happens after 72 hours of supply to non-protected customers.

It is assumed that the emergency supply tariff is paid per unit of allocated and consumed gas. A distinction is made between a high and a low emergency supply tariff. The low emergency supply tariff is the tariff paid by non-protected customers. The high emergency supply tariff is the tariff paid by protected customers. A tariff is charged that is equal to the average between the high and low emergency supply tariff for gas volumes allocated in excess of the pro rata allocation. It is assumed that the non-protected customers consumption corresponds to the allocated volume.

There are six non-protected customers, categorised as follows, see Table 1, and with the following consumption.

There are allocated 50 units of gas to non-protected customers. 30 units are distributed to customers with socially critical consumption. 5 units are allocated in biomethane pockets without covering socially critical consumption. 15 units are left for pro rata allocation.

Table 1. Example

Customer	Total consumption per month (incl. socially critical consumption)	Socially critical consumption per month	Allocated consumption because of the location in a biomethane pocket area per month	Allocated socially critical consumption besides location in a biomethane pocket	Pro rata allocation per month	Explanation

				area per month		
Customer 1	20	10	5	5	0	As 50% of the consumption is already covered by socially critical consumption (both through the location in a biomethane pocket area and through the allocation of further consumption), no additional volumes are allocated on a pro rata basis.
Customer 2	10	5	10	0	0	As 100% of the consumption is already covered by location in biomethane pocket area, no additional volumes are allocated on a pro rata basis.
Customer 3	20	10	0	10	0	As 50% of the consumption is already covered by socially critical consumption no additional consumption is allocated pro rata.

Customer 4	25	5	0	5	5	20% of the consumption is already covered by socially critical consumption. Therefore 5 units are allocated pro rate, thus 40% of the consumption I covered in total.
Customer 5	20	0	0	0	8	Is allocated 8 unit on a pro rata basis, equal to 40% of the consumption.
Customer 6	5	0	0	0	2	Is allocated 2 unit on a pro rata basis, equal to 40% of the consumption.
Total	**100**	**30**	**15**	**20**	**15**	

As the socially critical consumption of customers 1, 2, and 3 is covered, and as this cover is higher than the gas allocation on a pro rata basis (in the example 40%), customers 1, 2, and 3 will not be allocated additional volumes. The socially critical consumption of customer 4 is covered, but since 15 units is left for pro rata allocation, and the customers must be covered proportionally equal, customer 4 is also allocated a consumption pro rata. Customers 5 and 6 do not have a socially critical consumption and are therefore only allocated consumption pro rata.

It is assumed that customers 1, 2, 3, 4, 5 and 6 will be allocated and have an actual consumption in biomethane pockets, socially critical consumption and on a pro rata basis, respectively, in 1 out of 12 months.

Payment, customer 1:
Customer 1 will pay a low emergency tariff for 11 months and an average of the high and low emergency tariff for 1 month for the consumption allocated and consumed to this customer in excess of customers 4, 5, and 6.

Payment, customer 2:
Customer 2 will pay a low emergency tariff for 11 months and an average of the high and low emergency tariff for 1 month for the consumption allocated and consumed to this customer in excess of customers 4, 5, and 6.

Payment, customer 3:
Customer 3 will pay a low emergency tariff for 11 months and an average of the high and low emergency tariff for 1 month for the consumption allocated and consumed to this customer in excess of customers 4, 5, and 6.

Redistribution to customers 1, 3, 4, 5, and 6
The payment charged ex post from customers 1, 2 and 3 is redistributed to customers 1, 3, 4, 5 and 6. However, customer 1 and 3 must be compensated proportionately less than customers 4, 5 and 6, as these two customers has been allocated and consumed proportionately more than customers 4, 5, and 6.

4. Assessment

Above, Energinet has described an addendum to the methodology for which an application for approval was submitted on 3 January 2022 with a view to this adjustment entering into force on 1 October 2024.

It is Energinet's assessment that it will be most reasonable for non-protected customers to pay the same tariff, i.e. the non-protected tariff. The reason is that there has never been an emergency supply situation where disruption of non-protected customers has been necessary, this also despite the supply crisis of recent years.

Energinet has previously made it clear that Energinet finds that the emergency tariff for non-protected customers is inherently based on circumstances that are so uncertain (regardless of whether a pro rata model or an order of priority model is used) that they are not suitable as a basis for a subdivision of the non-protected customers ex-ante.

In the case of socially critical consumption Energinet thus still finds that such a degree of differentiation and specification presupposes a static situation in which it is publicly known which non-protected customers are on the list, which volume of the non-protected customer consumption is prioritised, the internal order of priority between the non-protected customers and that the list will apply for an extended period of time. This is not the case. The list is not publicly known, it is subject to ongoing change and will, in any case, only come into play in an emergency supply situation where it will be based on the order of priority that is overall in the best interests of society at the time in question. Energinet also fully acknowledges the security considerations in relation to citizens and businesses that prevents the list of socially critical consumption to be public known. It will not be possible to operationalize the list in a tariff and settlement model without compromising this consideration.

Similarly, it is Energinet's assessment that it will also not be possible with an ex-ante subdivision of the non-protected customers with regard to the allocation of consumption in biomethane pocket areas. Similarly, areas of biomethane pockets are not a static. Changes in biomethane production and the establishment of reverse flow plants are both factors that affect the consumption options in biomethane pocket areas. The assessment of the possibilities for handling biomethane pocket areas thus rests to a large extent on similarly unpredictable circumstances.

The emergency plan has taken into account that if, in an emergency supply situation, following the supply of non-protected customers in biomethane pocket areas and the supply of critical

consumption, gas remains for pro-rata distribution among all non-protected customers, already allocated priority quantities will be deducted from the pro-rata allocation of the non-protected customers concerned.

It is thus not possible to predict in advance how an emergency supply situation will unfold in practice, including its duration and how much gas will be available. There may be situations in which there is sufficient gas for all non-protected customers. In other situations, there will only be enough gas for some non-protected customers, and, finally, there may be situations in which supply is cut off for all non-protected customers on expiry of the notice period. In addition, the practical handling of the distribution of consumption among non-protected customers may be affected by the setting of political priorities for the allocation of gas. The recently adopted change to the emergency plan is an expression of this. Energinet has no influence on this part, but is solely responsible for the practical performance of tasks connected with this.

It is consequently not possible to obtain documentation ex-ante which is sufficiently adequate to form the basis of any differentiation between the non-protected customers.

Furthermore, Energinet still finds that it should not be of decisive importance to the Danish Utility Regulator’s assessment whether the payment is directly attributable to the customers that may receive gas in an emergency situation. It shall be noted that, according to Energinet's assessment, as described, it is very difficult to predict the likelihood of being allocated gas in an emergency situation and, on this basis, to possibly differentiate the tariff at customer level or as an additional subgroup. It will be a very uncertain and costly method that is not commensurate with the potential benefits. It is therefore Energinet's assessment that an attempt at further differentiation would not be proportionate.

Instead, importance should be placed on the fact that the submitted methodology is currently the most appropriate methodology, which, overall, involves the highest possible degree of cost-reflectiveness and the lowest possible level of cross-subsidization for a future scenario that cannot be predicted. It must also be an objective approach to attach importance to a proportionality consideration in the assessment of the lawfulness of a tariff model to avoid a methodology which is difficult to manage in practice with correspondingly increased use of resources. The assessment of the emergency tariff for the non-protected customers must also be based on a fundamental assumption that any surplus gas in the specific emergency situation will be allocated on an objective basis based on an assessment of what is overall in the best interests of society.

Based on the Danish Utility Regulator’s decision of 12 May 2022 and as a consequence of the current time limited method and the update of the emergency plan on 4 September 2023, Energinet has prepared the above addendum to the methodology for the tariff for non-protected customers. Energinet finds that the ex-post adjustment for which an application for approval has been submitted takes into account that non-protected customers can be allocated different gas volumes in an emergency supply situation – depending on whether they are categorised as having socially critical consumption and/or are located in a biomethane pocket. Energinet also finds that this methodology will mean that non-protected customers pay a tariff which best reflects the costs associated with the provision of the emergency supply service to the individual customer, and that the costs are charged to the greatest possible extent to the customers that benefit from the allocated gas. The methodology is consequently in accordance with Article 4(4) of NC TAR.

In continuation of this, Energinet notes that if, contrary to expectations, the Danish Utility Regulator should conclude that the notified addendum to the emergency supply tariff method is no longer in accordance with NC TAR, Article 4(4), Energinet requests a detailed justification for this and that the Danish Utility Regulator approves the continuation of the method with regard to the emergency tariff, which the Danish Utility Regulator approved by decision of 31 May 2019. In this case, Energinet will inform the Danish Energy Agency that Energinet cannot operationally support the emergency plan regarding elements in relation to socially critical consumption and biomethane pocket areas.

5. Legal basis

The Danish Gas Supply Act (Consolidated Act no. 1100 of 16 August 2023 on gas supply, as amended)

"[…]

36 a. Prices and conditions for use of transmission and distribution grids and LNG facilities are laid down by transmission, distribution and LNG companies based on published methodologies approved by the Danish Utility Regulator.

(2) The Minister for Energy, Utilities and Climate may lay down further rules on the contents of the methodologies used to calculate or set conditions and terms, including tariffs.

[…]"

COMMISSION REGULATION (EU) 2017/460 of 16 March 2017 establishing a network code on harmonised transmission tariff structures for gas (TAR NC)

"[…]

Article 4

Transmission and non-transmission services and tariffs

1. A given service shall be considered a transmission services where both of the following criteria are met:

(a) the costs of such service are caused by the cost drivers of both technical or forecasted contracted capacity and distance;

(b) the costs of such service are related to the investment in and operation of the infrastructure which is part of the regulated asset base for the provision of transmission services.

Where any of the criteria set out in points (a) and (b) are not complied with, a given service may be attributed to either transmission or non-transmission services subject to the findings of the periodic consultation by the transmission system operator(s) or the national regulatory authority and decision by the national regulatory authority, as set out in Articles 26 and 27.

2. Transmission tariffs may be set in a manner as to take into account the conditions for firm capacity products.

3. The transmission services revenue shall be recovered by capacity-based transmission tariffs.

As an exception, subject to the approval of the national regulatory authority, a part of the transmission services revenue may be recovered only by the following commodity-based transmission tariffs which are set separately from each other:

(a) a flow-based charge, which shall comply with all of the following criteria:

(i) levied for the purpose of covering the costs mainly driven by the quantity of the gas flow;

(ii) calculated on the basis of forecasted or historical flows, or both, and set in such a way that it is the same at all entry points and the same at all exit points;

(iii) expressed in monetary terms or in kind.

(b) a complementary revenue recovery charge, which shall comply with all of the following criteria:

(i) levied for the purpose of managing revenue under- and over-recovery;

(ii) calculated on the basis of forecasted or historical capacity allocations and flows, or both;

(iii) applied at points other than interconnection points;

(iv) applied after the national regulatory authority has made an assessment of its cost-reflectivity and its impact on cross-subsidisation between interconnection points and points other than interconnection points.

4. The non-transmission services revenue shall be recovered by non-transmission tariffs applicable for a given nontransmission service. Such tariffs shall be as follows:

(a) cost-reflective, non-discriminatory, objective and transparent;

(b) charged to the beneficiaries of a given non-transmission service with the aim of minimising cross-subsidisation between network users within or outside a Member State, or both.

Where according to the national regulatory authority a given non-transmission service benefits all network users, the costs for such service shall be recovered from all network users.

[…]"

6. Annex 1

The Annex contains information pursuant to NC TAR Article 26(1)(c)(ii).

According to the Danish Utility Regulator's decision of 12 May 2022, the emergency supply tariff is categorized as a so-called non-transmission tariff.
The emergency supply tariff is determined in accordance with Article 4(4) of the NC TAR and shall be levied directly by domestic end-users. Non-protected customers pay less than protected customers, as in the event of an emergency supply situation, they can be interrupted with a notice of 72 hours. The protected customers are guaranteed supply for 30 days in an emergency supply situation. The collection for emergency supply is made through the distribution or city gas companies.

The emergency tariff shall be calculated to cover the costs of purchasing emergency supply tools. The setting of emergency tariffs shall support the principles set out in Article 4(4)(a) of the NC TAR to reflect costs, be non-discriminatory, objective, and transparent. The cost allocation is relevant only for domestic customers and the allocation between protected/non-protected customers shall support the provisions of Article 4(4)(b).

The Danish Energy Agency is the competent authority for security of supply. The Danish Energy Agency therefore determines types and shares of protected and non-protected customers pursuant to Regulation (EU) 2017/1938 of the European Parliament and of the Council of 25 October 2017 concerning measures to safeguard the security of gas supply and repealing Regulation (EU) No 994/2010[8] (hereafter the Security of Supply Regulation) and Executive Order No 1349 of 27 November 2023 on safeguarding security of gas supply[9].

The Danish Energy Agency also determines the overall need for emergency supply, including the overall risk assessment, and thus the criteria for Energinet's dimensioning of emergency supply tools.

The emergency supply tools consist of emergency storage[10] and filling requirements[11]. In addition, Energinet also purchases supporting volume, emergency extraction and physical support for filling requirements, which will ensure that the gas storage facilities can deliver the necessary extraction at a critical time.

6.1 The tariff method for non-transmission services

The present submission concerns Energinet's emergency supply tariff for the non-protected customers and is an addendum to the current emergency supply tariff method, which the Danish Utility Regulator approved by decision of 12 May 2022.

The submission is in the main document, to which this is an annex.

[8] Regulation - 2017/1938 - EN - EUR-Lex (europa.eu)

[9] Gas Supply Act (retsinformation.dk)

[10] Energinet owns 1,700 GWh of emergency storage, but annually buys gas storage capacity from Gas Storage Denmark A/S for the emergency gas.

[11] Gas as commercial market players against payment from Energinet commits to have in storage during the cold part of the season and commits to sell to Energinet Systemansvar if the gas is needed in a situation with Emergency.

6.2 The proportion of the revenue allowed or intended to be expected to come from such tariffs

Table 2 below shows the realized costs of emergency supply tools for 2024, while the projected costs for 2025-2028 similarly are shown in Tabel 2.

The expected costs for emergency supply have been determined based on the emergency supply for the gas year 2023/2024, adjusted for decreasing consumption, cf. analysis assumptions 2022 and increased biomethane production, cf. analysis assumptions 2022. The unit price for emergency supply has been determined on the basis of the unit price for 2023.
The projected costs for 2025-2028 do not include accumulated over/under-coverage, as the expectation for this has not yet been determined.

Tariffs are set on the assumption that revenues must correspond to expected costs, including over/under-coverage.

Table 2: Total emergency supply costs and emergency tariff

Year	**2024**	**2025**	**2026**	**2027**	**2028**
Emergency supply costs (mDKK)	76,8	84,5	79,4	75,4	71,4
Alas. over-/undercovering (mDKK)	-25,0	-	-	-	-
Total recognized cost (mDKK)	51,8	84,5	79,4	75,4	71,4
Expected volume/Danish consumption (GWh)	21.000	16.883	15.982	14.711	13.181
Average tariff (DKK/kWh)[12]	**0,00247**	**0,00501**	**0,00497**	**0,00513**	**0,00542**
Distribution protected/non-protected	Approxi-mation	Volume distribution			
Protected	85%	71%			
Non-protected	15%	29%			
Tariffs (DKK/kWh)	**2023/24**	**2024/25**	**2025/26**	**2026/27**	**2027/28**
Protected	0,00295	0,00599	0,00595	0,00614	0,00649
Non-protected	0,00128	0,00259	0,00257	0,00265	0,00280
Average tariff for ex-post allocation[13]	**0,00211**	**0,00429**	**0,00426**	**0,00439**	**0,00464**

6.3 The way the related revenue from non-transmission services is reconciled in accordance with Article 17(3)

It follows from section 13 of Executive Order no. 271 of 9 March 2023 on Energinet that, according to the accounts for the company's electricity supply and gas related activities referred to in section 12(1) and (3), Energinet's profits may be returned to the respective customer groups as dividends or used for consolidation.

The emergency supply tariff shall constitute an independent accounting segment separate from the accounts of transport tariffs.

Observed differences between the actual obtained revenue and the costs of emergency supply (over/undercover) are generally eliminated by inclusion in the following year's tariffs.

[12] Average emergency tariff, i.e. the total recognized costs divided by expected Danish consumption.

[13] Average of the protected and non-protected tariff.

6.4 Indicative non-transmission tariffs for non-transmission services provided to network users

Table 2 shows the tariffs applicable for the gas year 2023/2024 for protected and non-protected customers, respectively.

Based on expected costs for emergency supply, expectations for future Danish consumption and assumptions about the distribution between protected and non-protected customers, Energinet has estimated the emergency tariffs for protected and non-protected customers, respectively, for the gas years 2024/2025, 2025/2026, 2026/2027 and 2027/2028, cf. Table 2.

The estimated tariffs have been calculated based on the same volume allocations between protected and non-protected customers as for 2023/2024. This means that a quantity distribution of 71%/29% has been used for protected/non-protected customers.

Table 2 also shows an average tariff which is applied in the event of an emergency supply situation where non-protected customers with socially critical consumption and/or located in a biomethane pocket area are allocated consumption, cf. the submission of this method.