

Yearly and Monthly Auction Rules

Rules and Regulations
for the
Auctioning of Cross-Border Electricity Transfer Capacity
on the
Extra-High-Voltage Interconnectors
between the Control Areas of APG and Switzerland
by
VERBUND-Austrian Power Grid AG (APG)
and **swissgrid ag (swissgrid)**

Version 10.0
(11.12.2008)

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PREAMBLE

swissgrid and APG have decided to apply auction proceedings as allocation method, in order to allocate the available capacity in a fair, transparent and non-discriminatory market based way.

These Auction Rules govern the terms and conditions for the auctioning of both Yearly and Monthly ATC, which is offered by swissgrid and APG with regard to 220kV/380kV Interconnectors. They are subject to adaptation following changes in applicable laws and regulatory decisions. Furthermore, these Auction Rules may be amended by swissgrid and APG, at any time, without prior notice, in order to improve or clarify provisions and procedures, to fill legal loopholes, if any, or to adapt provisions for any other reasons seeming appropriate at the respective point in time. The relevant version as amended from time to time will be published on the website of Auction Office Austria and APG.

1. Definitions

In these Yearly and Monthly Auction Rules (including any Annexes and Forms) the terms defined in this article (where appropriate in plural) shall, for all purposes of these Yearly and Monthly Auction Rules have the meanings specified in this article (unless the context requires otherwise).

Allocated Capacity: By notification of the auction result Auction Participant gains promise of APG and swissgrid that by settlement of the payment in accordance with the Yearly and Monthly Auction Rules capacity shall be allocated in accordance with notified auction results with except of cases of Force Majeure and Curtailment of Reserved Capacity and Reservation Sub-period(s). By fulfilling the payment conditions in accordance with the Yearly and Monthly Auction Rules Reserved Capacity is guaranteed by APG and swissgrid (“Allocated Capacity”).

APG (“VERBUND-Austrian Power Grid AG”), with registered office at A-1220 Vienna, Wagramer Straße 19, IZD Tower and commercial register number FN 177696 v: the Austrian transmission system operator responsible for handling the monthly auction procedures in common with swissgrid.

ATC (“Available Transmission Capacity”): the part of the NTC that remains available, after each phase of the allocation procedure, for further allocation procedures and which shall be offered in the yearly, monthly and daily auction procedures.

Auction Office Austria: the entity executing the yearly and monthly auction procedures and commissioned by APG and swissgrid.

Auction Office Switzerland: the entity executing the daily auction procedures and commissioned by APG and swissgrid; the Auction Office Switzerland is operated by swissgrid.

Auction Participant: the entity which is registered at the Auction Office Austria according to article 6 of these Yearly and Monthly Auction Rules.

Auction Price: the price in euros to be paid by Auction Participants for Reserved Capacity should the total amount of the requested capacity exceeds the relevant ATC.

Beneficiary: an Auction Participant that receives Allocated Capacity as a result of a Transfer.

Bid: is an offer by an Auction Participant to purchase rights to use capacity submitted in an auction pursuant to and in compliance with these Yearly and Monthly Auction Rules; such an offer consists of two values: a capacity in MW and a price in euros per MW.

Capacity Auction System: web based electronic cross border capacity allocation application to conduct yearly and monthly auctions.

CET: the abbreviation for “Central European Time”; time is given in CET and displayed in four digits using the 24-hour system, hours and minutes separated by a colon. At the day when the daylight saving time starts and at the day when the daylight saving time ends the appropriate number of hours have be used (23 hours or 25 hours).

Curtailment: the reduction of **Allocated Capacity and/or schedules** in emergency situations where APG and swissgrid must act in an expeditious manner.

ETSO (“European Transmission System Operators”): an international association with the aim of harmonizing network access and conditions for usage, especially for cross-border electricity trade.

Execution Date: is the day on which Allocated Capacity awarded in a yearly and/or monthly auction is utilized by schedules through the Auction Participants.

Fill or Kill Orders: orders, for which the Auction Participant only wants to buy exactly the volume given – if this is not possible, the Auction Participant does not want to buy anything. If the order is **not** a denominated “Fill or Kill Order” the Auction Participant also accepts a smaller amount of capacity as requested.

Force Majeure: operational conditions and/or events and/or circumstances which are beyond the reasonable control of APG and/or swissgrid, and which cannot be prevented or overcome with reasonable foresight and diligence, such as, but not limited to, war, insurgence, strikes, extreme weather conditions, acts of authorities, international superimposed Loop Flows, if APG and/or swissgrid are only able to counteract them by endangering the security of supply, and/or which cannot be solved by measures which are from a technical, financial and/or economic point of view reasonably possible for APG and/or swissgrid.

FPBG Contract: contract between swissgrid and Auction Participant regarding the formation and management of schedule balance groups (Fahrplanbilanzgruppen).

Interconnectors: single and/or double circuit lines between the Austrian and Swiss transmission system which connects the control areas of APG and Switzerland synchronously. There is one 380-kV double circuit line between the substation Westtirol and the substation Pradella in operation.

Loop Flow: the difference between the exchange programs and the physical flows at the Interconnectors.

Monthly ATC: is a part of the ATC which is offered to the Auction Participants in monthly auctions.

NTC (“Net Transfer Capacity”): the maximum exchange program between two control areas compatible with security standards applicable in both areas and taking into account the technical uncertainties on future network conditions.

OENB: is the abbreviation for “Österreichische Nationalbank“.

Resale: mechanism by which a Auction Participant may resale its Allocated Capacity back to the Auction Office Austria.

Reserved Capacity: option to use transmission capacity between the control areas of APG and Switzerland that the Auction Participant gains by notification of the auction results. By fulfilling the payment condition Reserved Capacity turn into Allocated Capacity.

Reservation Period: – the period for which the Yearly ATC or the Monthly ATCs is offered.

Reservation Subperiod: – is a part of Reservation Period in which the Allocated Capacity cannot be guaranteed due to planned maintenance. In such

Reservation Subperiod the Allocated Capacities are proportionally curtailed to the amount of the announced reduced ATC. The duration of Reservation Subperiod(s) and the reduced ATC(s) for the relevant Reservation Subperiod(s) are announced at the date of publication of ATC for the relevant auction. Reservation Subperiods are used to maximise the Yearly and Monthly ATC(s).

swissgrid (“swissgrid ag”), with registered office at Dammstrasse 3, CH-5070 Frick and commercial register number CH-400.3.026.187-4: the Swiss Transmission System Operator responsible for handling the daily auction procedures in common with APG.

Transfer: is the trading of Allocated Capacity purchased in the course of yearly and monthly auctions or transfers between Auction Participants.

UCTE (“Union for the Co-ordination of Transmission of Electricity”): an association of transmission system operators in continental Europe, providing a reliable market base by efficient and secure electric "power highways".

Working Day: every day except for Saturdays, Sundays and any high days and holidays listed in ANNEX 4.

Yearly ATC: is a part of the ATC which is offered to the Auction Participants in yearly auctions.

Yearly and Monthly Auction Rules: the regulations set out in this document that are applicable to the allocation of Reserved Capacities at the Interconnectors between the control areas of APG and Switzerland. The Yearly and Monthly Auction Rules describing the procedure applied to the yearly and monthly auctions.

The headings in these Yearly and Monthly Auction Rules are intended solely as a matter of convenience and for reference and shall be given no effect in the construction or interpretation of these Yearly and Monthly Auction Rules.

2. Scope of the Yearly and Monthly Auction Rules

This document sets out the terms and conditions for the auctioning of Yearly and Monthly ATC at the Interconnectors between the control areas of APG and Switzerland that is jointly offered by APG and swissgrid.

The valid version of the Yearly and Monthly Auction Rules will be published on the website of the Auction Office Austria and APG. APG and swissgrid reserve the right to amend and/or change the Yearly and Monthly Auction Rules.

Auctions will be held in order to ensure that Reserved Capacity will be valid for each side of the Interconnectors.

Both monthly and yearly auctions will be held by Auction Office Austria.

APG and swissgrid will fully accept the results of the individual auction procedures held by the Auction Office Austria.

3. The Auction Office Austria

The Auction Office Austria is responsible for the awarding ATC to Auction Participants through auction proceedings pursuant to these Yearly and Monthly Auction Rules. The Auction Office Austria prepares and conducts both monthly and yearly auctions and shall serve as point of contact and source of information for all Auction Participants.

Auction proceedings may be discontinued or interrupted by the Auction Office Austria at any time without prior notice - be it temporarily in case of technical failures, or permanently based on instructions from APG and swissgrid (e.g. change of capacity allocation method). Such temporary or permanent discontinuance will not affect the rights and obligations which have arisen as a consequence of daily auctions having taken place under these Yearly and Monthly Auction Rules prior to such discontinuance or interruption.

The registration (see article 6) and the deregistration (see article 7) process for the yearly and monthly auctions is handled by the Auction Office Austria.

We must point out that we cannot accept responsibility for the security of transfers of electronic Bids. We will however try to keep them as secure as possible. Receipt of Bids at the Auction Office Austria is the decisive criterion in meeting the time limit.

4. The Auction Office Austria's website

Both Monthly and Yearly ATC – and reduced ATC(s) at the relevant Reservation Subperiod(s) if necessary – will be published on the website of the Auction Office Austria (<http://www.auction-office.at>) according to the dates set out in ANNEX 2 and 3. In particular, the following information will be published on the Auction Office Austria's website:

Public Section:

- a) These Yearly and Monthly Auction Rules (valid release)
- b) Additional information on the auction proceedings
- c) Names, facsimile and telephone number(s), e-mail address(es) of contact persons of the Auction Office Austria
- d) Forms to be used by Auction Participants
- e) Yearly and Monthly ATC
- f) Reservation Subperiod(s) and relevant reduced ATC(s)
- g) Summary of the results of the monthly and yearly auctions
- h) Frequently asked questions and answers
- i) Other relevant information

Secure Section:

- a) Electronic bidding portal

5. General Provisions

5.1. Violation against the Auction Rules

Prior to, during and after an Auction, Auction Participant shall refrain from any action or behavior which adversely affects or threatens competition in the Auction proceedings, which aims at gaming, or which in any other way disrupts or threatens to disrupt the Auction proceedings, transparency, cost-effectiveness or fairness thereof.

In case of violation of these Yearly and Monthly Auction Rules the Auction Participant may be excluded from further auctions as set forth in article 7.

5.2. Separation of Auction and Fees for Grid Use

A successful Bid which leads to Reserved Capacity creates a contract between swissgrid/APG and the Auction Participant under which swissgrid/APG is to provide the Auction Participant with an option to use capacity on the Interconnectors (Reserved Capacity) and the Auction Participant is obliged to pay the respective Auction Price, independent of the actual use and other transmission fees such as, but not limited to, transmission fees. By fulfilling the payment conditions in accordance with the Yearly and Monthly Auction Rules Reserved Capacity is guaranteed by swissgrid/APG (“Allocated Capacity”). The payment determined covers only the right for the Allocated Capacity at the bottleneck. This option does not include any use of the transmission system to and from the Interconnectors. Said use of the transmission system, including corresponding fees, if any, must be agreed separately with APG on the Austrian side of the border and with swissgrid and/or the competent owners of the Swiss transmission network on the Swiss side.

5.3. Domestic Demand

Pursuant to applicable Austrian law APG may be forced to refuse demands for services of electricity transport due to domestic requirements in order to fulfill domestic demands.

5.4. Curtailment

In case of Curtailment APG and swissgrid will reduce Allocated Capacity according to article 12 and will pay a compensation to the Auction Participant with exception of Force Majeure and during Reservation Subperiod(s).

5.5. Acceptation of Auction Rules

Furthermore, with the submission of the correct filled out and signed registration form (see ANNEX 6) the Auction Participant accepts the auction regulations set out in the Yearly and Monthly Auction Rules and submits to the Yearly and Monthly Auction Rules without any reservation. If the Auction Participant does not conform to the Yearly and Monthly Auction Rules, the Auction Participant shall be expressly barred from the participation in further auctions and the Bids shall not be accepted by the Auction Office Austria.

5.6. Avoiding of Dominant Market Positions

The Auction Participant accepts that neither he nor a related company of him can – according to § 228 Austrian Commercial Law (“HGB”) – bid for more than 40% of the published Yearly or Monthly ATC by auction in case of congestion and the number of Auction Participants is higher than two. The Auction Participant accepts that neither he nor a related company of him can – according to § 228 Austrian Commercial Law (“HGB”) – bid for more than 60% of the published Yearly or Monthly ATC by auction in case of congestion and the number of Auction Participants equals two.

For practical reasons in yearly and monthly auctions this procedure is only used if the relevant Yearly or Monthly ATC is higher than 30 MW.

5.7. Payment

If the Auction Participant does not fulfill or only partially fulfils any obligation resulting from the contract in due time, especially if the Auction Participant does not pay the full Auction Price within the time limits set out in the Yearly

and Monthly Auction Rules, APG and swissgrid are entitled either to enforce the completion of the contract and hold the Auction Participant liable for the Auction Price, interests, charges and expenses including attorney's fees, arising from the enforcing of the completion of the contract. The Auction Participant shall not be entitled to offset and/or withhold any debts arising in connection with obligations resulting from an auction to any claim of APG and/ or swissgrid, whether or not arising out of an auction. The detailed payment conditions are set out in article 10.

6. Participation in Yearly and/or Monthly Auctions

6.1. Registration Requirements

In order to qualify for participation in yearly and/or monthly auctions, the Auction Participant must comply with all requirements set forth in these Yearly and Monthly Auction Rules.

In any case the Auction Participant has to fulfill the following requirements:

- Recognition by the Austrian regulatory authority as representative of a balance group

or

- has a valid EIC Code

or

- FPBG-Contract with swissgrid.

6.2. Admission

In order to qualify for participation in yearly and monthly auctions, the Auction Participant shall comply with all requirements set forth in these Yearly and Monthly Auction Rules including the **“Capacity Auction System – Manual”** set out in ANNEX 7.

The Auction Participant **shall** complete the registration form, which is published on the Auction Office Austria website (www.auction-office.at) and attached to these Yearly and Monthly Auction Rules as ANNEX 6. The registration form shall be signed by authorized representatives of the Auction Participant and sent to the Auction Office Austria by mail.

By signing and submitting the registration form to the Auction Office Austria, the Auction Participant authorizes the Auction Office Austria to verify the Auction Participant's respective statements. The Auction Participant shall be informed about the admission or rejection by mail. In case of rejection of its registration request, the Auction Office Austria shall inform the Auction Participant of the reasons for the rejection.

An Auction Participant who has been declared bankrupt or insolvent or granted suspension of payment, or against whom a petition for bankruptcy, insolvency or suspension of payment has been filed, does not qualify for participation in yearly and monthly auctions.

Subject to all existing requirements being fulfilled, the original countersigned copy of the registration form and the procedure (password, user ID) for entering the secure yearly and monthly auction website shall be sent to the Auction Participant by registered mail and/or by e-mail and telephone.

The password shall be kept with particular care and may under no circumstances be passed to others or made accessible in any other way (including non-authorized representatives of the Auction Participant). Responsibility for all transactions authorized using the password shall be borne by the Auction Participant.

6.3. Notification of Changes

The requirements for participation set forth in these Yearly and Monthly Auction Rules must be fulfilled at all times when participating in yearly and/or monthly auction proceedings. As a consequence, the Auction Participant

shall promptly inform the Auction Office Austria in writing of any changes affecting fulfillment of the requirements concerned.

Changes concerning the Auction Participant's contact data and statements set forth in the registration form submitted by the Auction Participant shall be notified to the Auction Office Austria in writing.

7. Deregistration, exclusion and deactivation of Auction Participants

7.1. Deregistration

Should the Auction Participant not wish to participate in any further yearly and monthly auctions, it **may submit** a written request for deregistration to the Auction Office Austria. The request will be granted on condition that

1. the Auction Participant no longer possesses rights to use any Allocated Capacity awarded in yearly and/or monthly auctions and
2. the Auction Participant has fulfilled all its obligations towards APG and/or swissgrid.

Auction Participants who have been deregistered may apply for readmission by completing the registration process pursuant to article 6 above.

7.2. Exclusion

Should the Auction Participant in any manner (a) infringe these Yearly and Monthly Auction Rules, (b) declare bankruptcy, become insolvent or be granted suspension of payment, (c) become object of a petition for bankruptcy, insolvency or suspension of payment or (d) be in default of payment (e) loss of entitlement to register net schedules in Switzerland (termination FPBG-Contract) or Austria (termination of registration of a balance group) then the Auction Participant can be excluded from further yearly and monthly and also daily auctions by Auction Office Austria without delay. The barring shall promptly be notified to the Auction Participant by both facsimile trans-

mission and mail. The Auction Participant shall be obligated to pay the Auction Price for already awarded Reserved Capacity.

The Auction Participant shall be obligated to pay any remaining invoices or claims of Auction Office Austria within a period of five Working Days after notification of its exclusion by Auction Office Austria.

Auction Participants who have been excluded by the Auction Office Austria may apply for reconsideration. Readmission to the daily auction proceedings is at the sole discretion of the Auction Office Switzerland and may be conditional on additional requirements at the discretion of the Auction Office Switzerland.

8. Yearly Auction Procedure

Separate yearly auctions shall be held for the reservation of capacity in each of both directions:

Auction Y1: deals with the direction from Switzerland to Austria;

Auction Y2: deals with the direction from Austria to Switzerland.

Yearly auctions take place on the dates mentioned in Annex 2.

8.1. Deadlines for Yearly Auctions

For the yearly auctions the following deadlines are valid and the respective dates are set out in ANNEX 2:

Deadline Y1: deadline for publishing of Yearly ATC and Reservation Sub-period(s) if applicable;

Deadline Y2: deadline for bid submission for awarding Yearly ATC at 12:00 (CET) on the date set out in ANNEX 2;

Deadline Y3: deadline for publication of yearly auction results at 18:00 (CET) on the date set out in ANNEX 2.

8.2. Determination and Publication of Yearly ATC

The yearly NTC is determined by APG and swissgrid in accordance with the applicable technical rules, particularly in accordance with the applicable rules published by the ETSO and the UCTE, applicable laws and regulations.

The relevant Yearly ATC (part of yearly NTC) and – if applicable – the Reservation Subperiod(s) will be published on the website of the Auction Office Austria (<http://www.auction-office.at>) according to the dates set out in Annex 2.

8.3. Bidding for Yearly ATC

The Bids for awarding Yearly ATC in the respective direction shall be submitted in electronic form via the Capacity Auction System – in accordance with the “Capacity Auction System - Manual” set out in ANNEX 7.

Each legitimated (registered) Auction Participant shall deliver his Bids for awarding Yearly ATC from deadline Y1 till deadline Y2. The Bids delivered to the Auction Office Austria shall be binding and cannot be withdrawn or modified after deadline Y2.

The Auction Participant must be prepared to pay the Auction Price for his Reserved Capacity in addition to other transmission fees such as, but not limited to, transmission fees.

For further consideration each Bid must contain the following unambiguous and legible specifications:

1. The specification of the relevant yearly auction and auction product.
2. The value of the Bid in EUR/MWh (max. two decimals).

3. The amount, in blocks of 1 MW, of the transmission capacity to be reserved in MW.
4. The use of Fill or Kill Orders option (the bids can also be partly fulfilled) if applicable

and

Bids must state the highest Auction Price the Auction Participant is willing to pay.

Bids specifying all the above-mentioned data must be submitted, without any reservation. For each auction number, several bids may be submitted. Such bids submitted are valid independent of each other.

Bids which do not fulfil the above requirements will not be considered in the allocation procedure. The Auction Participant shall be responsible for the evidence of the timeliness of the delivery of the bids to the Auction Office Austria.

8.4. Awarding of Yearly ATC

The Capacity Auction System reviews and collects all submitted Bids between the deadline for Publishing of Yearly ATC (deadline Y1) and the deadline for bidding (deadline Y2). After expiry of deadline Y2 all valid Bids are listed by the Capacity Auction System in order of decreasing price offers.

For a detailed description regarding the valid deadlines for yearly auctions see article 8.1.

The details of the awarding process of Yearly ATC to Auction Participants are described in Annex 1.

8.5. Notification on the Results of Yearly Auctions

The Auction Office Austria will provide each Auction Participant, whether successful or not, with the following data approximately 12:00 (CET) at the deadline for publication of yearly auction results (deadline Y3):

1. Specification of the relevant yearly auction,
2. Reservation Period and Reservation Subperiod(s),
3. Amount of Reserved Capacity in MW
4. Value of payment for the purchased Reserved Capacity in EUR.

The overall, anonymous results of a yearly auction will be published on the website of Auction Office Austria at approximately 18:00 (CET) at deadline Y3.

For a detailed description regarding the valid deadlines for yearly auctions see article 8.1.

9. Monthly Auction Procedure

Separate monthly auctions shall be held for the reservation of capacity in each of both directions:

Auction M1: deals with the direction from Switzerland to Austria;

Auction M2: deals with the direction from Austria to Switzerland.

Monthly auctions take place on the dates mentioned in ANNEX 3.

9.1. Deadlines for Monthly Auctions

For the monthly auctions the following deadlines are valid and the respective dates are set out in ANNEX 3:

Deadline M1: deadline for Publishing of Monthly ATC and Reservation Subperiod(s) if applicable;

Deadline M2: deadline for bid submission for awarding Monthly ATC at 12:00 (CET) on the date set out in ANNEX 3;

Deadline M3: deadline for publication of monthly auction results at 18:00 (CET) on the date set out in ANNEX 3.

9.2. Determination and Publication of Monthly ATC

The monthly NTC is determined by APG and swissgrid in accordance with the applicable technical rules, particularly in accordance with the applicable rules published by the ETSO and the UCTE, applicable laws and regulations.

The relevant Monthly ATC (part of monthly NTC) and – if applicable – the Reservation Subperiod(s) will be published on the website of the Auction Office Austria (<http://www.auction-office.at>) according to the dates set out in ANNEX 3.

9.3. Bidding for Monthly ATC

The Bids for awarding Monthly ATC in the respective direction shall be submitted in electronic form via the Capacity Auction System – in accordance with the “Capacity Auction System - Manual” set out in ANNEX 7.

Each legitimated (registered) Auction Participant shall deliver his Bids for awarding Monthly ATC from deadline M1 12:00 (CET) (see ANNEX 3) to the deadline for bid submission (deadline M2). The Bids delivered to the Auction Office Austria shall be binding until the end of the relevant monthly auction and cannot be withdrawn or modified after deadline M2.

He must be prepared to pay these bids in addition to other transmission fees such as, but not limited to, transmission fees resulting from the cross-border-tariffication.

For further consideration each Bid must contain the following unambiguous and legible specifications:

1. The specification of the relevant monthly auction and auction product.
2. The value of the Bid in EUR/MWh (max. two decimals).
3. The amount, in blocks of 1 MW, of the transmission capacity to be reserved in MW.
4. The use of Fill or Kill Orders option (the bids can also be partly fulfilled) if applicable

and

Bids must state the highest Auction Price the Auction Participant is willing to pay.

Bids specifying all the above-mentioned data must be submitted, without any reservation. For each auction number, several bids may be submitted. Such bids submitted are valid independent of each other.

Bids which do not fulfil the above requirements will not be considered in the allocation procedure. The Auction Participant shall be responsible for the evidence of the timeliness of the delivery of the bids to the Auction Office Austria.

9.4. Awarding of Monthly ATC

The Capacity Auction System reviews and collects all submitted Bids between the deadline for Publishing of Monthly ATC (deadline M1) and the deadline for bid submission for awarding Monthly (deadline M2). After expiry of deadline M2 all valid Bids are listed by the Capacity Auction System in order of decreasing price offers.

For a detailed description regarding the valid deadlines for monthly auctions see article 9.1.

The details of the awarding process of Monthly ATC to Auction Participants are described in ANNEX 1.

9.5. Notification on the Results of Monthly Auctions

The Auction Office Austria will provide each Auction Participant, whether successful or not, with the following data approximately 12:00 (CET) at the deadline for publication of monthly auction results (deadline M3):

1. Specification of the relevant monthly auction,
2. Period of reservation and Reservation Subperiod(s),
3. Amount of Reserved Capacity in MW
4. Value of payment for the purchased Reserved Capacity in EUR.

The overall, anonymous results of a monthly auction will be published on the website of Auction Office Austria at approximately 18:00 (CET) at deadline M3. For a detailed description regarding the valid deadlines for monthly auctions see article 9.1.

10. Accounting, Losing of Reserved Capacity

The payment and accounting of the Auction Price for yearly and monthly auctions will be handled by APG. To secure the payment of the Auction Price the Auction Participant who has obtained Reserved Capacity

- has to communicate to APG an Austrian business account within five Working Days after the publication of the auction results (relevant deadlines Y3, see article 8.1 and/or relevant deadlines M3; see article 9.1);
- enables APG to effectuate automatic collection with a direct debit authorization from an Austrian business account in APG's favour (the form for the direct debit authorization is shown in ANNEX 5) and

- has to provide sufficient funds.

Yearly Auctions will be invoiced in twelve monthly amounts proportional to the amount of hours and the capacity of the product within the month in question.. Each amount is to be paid **two months in advance**. The amount of January and February will be invoiced at the same time – directly after the publication of yearly auction results (relevant deadlines Y3, see article 8.1) – and the other months will be invoiced month by month (e.g. amount for March in January). Invoices for yearly auctions are collected automatically from the Austrian business account on the 1st Working Day of the month for the second month following, free of charge and without deduction and/or off-setting.

If the User is not able to communicate an Austrian Business Account to APG, APG will accept in advance payment (instead of a direct-debt authorization) for the total amount for yearly and/or monthly auctions within five Working Days after the publication of the auction results:

Monthly Auctions will be invoiced directly after the publication of monthly auction results (relevant deadlines M3, see article 9.1) and will be collected automatically from the Austrian business account within five Working Days.

APG is entitled to make adjustments of the payment due to increases or introduction of taxes, duties, etc.. Value added tax will be charged according to the European and Austrian tax law.

In the case of insufficient funds of the business account for the automatic collection or if the payment is not settled on the 20th day of the same month APG will withdraw from the obligations resulting from these Yearly and Monthly Auction Rules and the Auction Participant will lose Reserved Capacity awarded through an auction and shall be liable pursuant to the General Provisions set out in article 5 of the these Yearly and Monthly Auction

Rules. Such released Reserved Capacity will be auctioned in the daily auction – or if applicable in the following monthly auction. Moreover, the Auction Participant shall be excluded from all following auctions – yearly, monthly and daily auctions – until that date when the Auction Participant remits sufficient funds to the business account for APG and all payments of the Auction Participant are settled.

If the Auction Participant is not able to communicate an Austrian Business Account to APG, APG will accept in advance payment (instead of a direct-debt authorization) **for the total amount** for all kind of auctions (e.g. yearly and/or monthly auction) within five Working Days after the publication of the auction results (relevant deadline Y3, see article 8.1 and/or relevant deadlines M3; see article 9.1) to the following account:

Bank Austria – UniCredit Group

Am Hof 2a

1010 Vienna

IBAN: AT06 1200 0506 1660 3600

BIC: BKAUATWWXXX

Pursuant to the General Provisions set out in article 5 of these Yearly and Monthly Auction Rules the Auction Participant is not entitled to offset any debts that arise in the connection with an yearly and/or monthly auction to any claim on APG, whether or not arising out of the auction. Transmission fees such as, but not limited to, resulting from the cross-border-tariffication, including all relevant and allowable charges, will be charged independently of the payment for congestion management.

If time limits expire on public holidays, payment should be received on the preceding Working Day. Should the time limits expire on Sundays or public holidays following a Sunday, payment should be received on the following Working Day. In case of delayed payment APG is entitled to charge interest rates on a due amount for each commenced day of the delay. The interest rate is set regularly on the first business day of each calendar month of the year as a fixed amount equaling (base rate of the OENB +8 % p.a.) percent. This interest rate is valid for the given month. Base rate of the OENB is de-

defined for the purposes of these Yearly and Monthly Auction Rules as the interest rate. Its value is specified daily by the Austrian National Bank. APG is entitled to make adjustments of the payment due to increases or introduction of taxes, duties, etc.

VAT and other taxes or levies – if any – shall be invoiced in accordance with the applicable laws.

11. Use of Allocated Capacity

General grid access for the use of Allocated Capacity is not covered by the scope of the Yearly and Monthly Auction Rules unless otherwise stipulated in the following provisions.

APG and swissgrid carry out the transmission services in compliance with the legal requirements of grid access in each control area, possible electricity import bans and applicable rules of APG and swissgrid.

The Auction Participant can use his Allocated Capacity by fulfilling both requirements:

- via the delivery of schedules to APG in compliance with the legal requirements of grid access of APG; i.e. the Auction Participant must be recognized by the Austrian regulatory authority as representative of a balance group.

In case the Auction Participant is not a recognized Austrian balance group he shall sign a membership to an Austrian recognized Balance group (ANNEX 8), This balance group is responsible for the nomination process.

ANNEX 8 shall be received from the Auction Office Austria latest 5 Working Days till 12:00 before the Allocated Capacity takes effect. The membership to a balance group can be changed on a monthly basis. The adapted ANNEX 8 shall be received from the Auction Office Austria latest 5 Working Days till 12:00 before the first day of the next month

and

- via the delivery of schedules to swissgrid in compliance with the FPBG-Contract.

All schedules, including the schedules for Saturday, Sunday, Monday, high days and holidays and the Working Day after high days and holidays (listed in ANNEX 4) must be received by:

- APG before 08:00 (CET) and
- swissgrid before 14:30 (CET).

Modifications of schedules sent to APG after 08:00 (CET) are not possible. Use is based on the principle "use it or lose it". This means that Allocated Capacity which is not used by schedules at 08:00 (CET) will be made available to all Auction Participants in the daily auction procedures.

The Auction Participant is only allowed to submit schedules which do not exceed the Allocated Capacity awarded through yearly and monthly auctions.

In the case when a Auction Participant deliver schedules to APG which are higher than the Allocated Capacity awarded through a yearly and/or monthly auction then APG will inform the Auction Participant about that and schedule will be rejected by APG. The Auction Participant has to deliver a new schedule to APG before 8:00 (CET).

The netted schedule submitted to swissgrid must in any case correspond to the schedules submitted to and accepted by APG. Auction Participants have to deliver to APG separate schedules for the use of Allocated Capacity from yearly and monthly auctions till 8:00 (CET) and for the use of Reserved Capacity from daily auction till 14:30 (CET).

12. Curtailment

12.1. General Principles

Curtailments due to circumstances which **do not** constitute Force Majeure or which do not happen during Maintenance period(s) entitles the Auction Participant to be compensated at 100% of the total payments effectuated for the hours of curtailed Reserved Capacity (i.e. the Auction Participant is compensated with the relevant Auction Price which he paid for its Reserved Capacity).

APG and/or swissgrid shall inform immediately the Auction Participant whose Reserved Capacity/confirmed schedule is curtailed and by the 5th calendar day of the following month APG shall notify to the Auction Participant the evaluation of compensation amount in the yearly and/or monthly invoice.

APG shall pay the compensation in an evaluated and notified amount to Auction Participant based on invoice. The refund shall be netted with the next yearly or monthly invoice if applicable.

12.2. Curtailment of confirmed schedules

Should it become necessary to reduce the **confirmed schedules** of the Auction Participants for operational reasons – except for Reservation Subperiod(s) –, the Auction Participants will be informed as soon as possible, but at least one hour before start of the Curtailment. The information can be transmitted by swissgrid or APG pursuant to the proceedings set forth in the FPBG Contract and the requirements of grid access of APG by using the confirmation report of the ETSO Scheduling System according to Austrian “Sonstige Marktregeln” Kapitel 3 “Fahrpläne”.

In cases where APG informs the Auction Participant of a Curtailment, APG will submit the values of the reduced schedules. The Auction Participant have to submit afterwards a new revised schedule to swissgrid.

In cases of capacity Curtailment following priority order is used:

1. Capacity allocation in Intraday allocation process
2. Capacity allocated in daily auction.
3. Capacity allocated in monthly auction.
4. Capacity allocated in yearly auction

Within each of the above listed groups of capacities, there will be used proportional Curtailment.

Auction Participants who have Allocated Capacity from yearly and/or monthly auctions shall be compensated as follows:

$$Compensation(EUR) = \sum_{h=1}^n \frac{AP(EUR/MW)_{Y,M}}{T(hours)_{Y,M}} \cdot C(MW)_h$$

AP: Auction Price of relevant year Y or month M and direction

T: Number of hours of the relevant year or month

C: Curtailment in hour h

n: Number of curtailed hours

Auction Participants who have Allocated Capacity from daily auctions shall be compensated with the respective daily auction price.

12.3. Curtailment of non-confirmed (submitted) schedules

In the case of Curtailment of a schedule (delivered to APG **before** Nomination Deadline D-1 8:00 (CET) for the use of Allocated Capacity from a yearly and/or monthly auction), each Auction Participant whose schedule has been curtailed by APG shall be also be compensated for each MW and each hour of the capacity which have not been available according to the above mentioned formula at Chapter 12.2

12.4. Curtailment of Allocated Capacities

In case of Curtailment of Allocated Capacity from a yearly and/or monthly auction – before a schedule can be transmitted to APG or/and swissgrid (before D-2 12:00) –, the Auction Participant whose Allocated Capacity has been curtailed shall be compensated for each MW and each hour of the capacity which have not been available according to the above mentioned formula at Chapter 12.2

13. Secondary Market

13.1. Transfer of Allocated Capacities

Transfer of Allocated Capacities is performed electronically by Auction Office Austria for both directions. Allocated Capacities awarded in yearly and/or monthly auctions or resulting from transfers can be transferred by the holder of Allocated Capacity under the following conditions:

- Only transfers to Auction Participants are allowed
- Minimum transfer unit is 1 MW
- Transfer is allowed only for Allocated Capacity that has been previously paid by Auction Participant
- Transfer of Allocated Capacity has to be confirmed by both Auction Participants (Transferor and Beneficiary)
- Transfer acceptance has to be done latest two (2) Working Days, 12:00 CET before day of respective daily auction (otherwise it will be rejected automatically).
- The Beneficiary has to fulfil requirements given in article 11

Any disputes arising between the Transferor and the Beneficiary do not affect the validity of the Transfer after confirmation by Auction Office Austria. A cancellation of a transfer is not possible.

In case of Curtailment, eventual indemnification according to article 12 shall be in favor of the Beneficiary who obtained Allocated Capacity via Transfer.

The Beneficiary will be liable for all obligations resulting from the Transfer.

13.2. Resale of Allocated Capacities

Resale of Allocated Capacities is performed electronically by Auction Office Austria. Allocated Capacities from yearly and monthly auctions and/or Transfers can be returned to the Auction Office Austria (Resale into monthly auctions) and/or to the Auction Office Switzerland (Resale into daily auctions) by the Auction Participant.

Resale into monthly auctions:

- Allocated Capacities from the yearly auction can be resold to Auction Office Austria. The product has to be the same profile as allocated in the relevant yearly auction.
- Deadline: four Working Days, 12:00 CET before publication of Monthly ATC (see ANNEX 3).

Resale into daily auctions:

- Allocated Capacities from the yearly and/or monthly auction can be resold to Auction Office Switzerland on a hourly basis.
- Deadline: two (2) Working Days , 12:00 CET before day of respective daily auction.

Auction Participants that Resell Allocated Capacities to Auction Office Austria and/or Auction Office Switzerland are entitled to receive financial compensa-

tion in the amount of the Auction Price determined at the relevant new Auction.

14. Waiver of Right to Compensate

The Auction Participant is not entitled to offset and/or withhold any debts that arise in connection with a yearly and/or monthly auction to any claim on swissgrid and/or APG, whether or not arising out of an yearly and/or monthly Auction.

15. Notices

Except where these Yearly and Monthly Auction Rules provide otherwise, any notice given under these Yearly and Monthly Auction Rules must be in writing and addressed to the Auction Office Austria as follows:

Notification by mail: Auction Office Austria,
Alserbachstraße 14 - 16,
A-1090 Wien

Notification by e-mail: capacities@auction-office.at

Notification by phone: +43 1 2537 272 90

Notification by facsimile transmission: +43 1 2537 272 96

16. Limitation of Liability

APG and/or swissgrid shall not be liable for any damage caused by slight negligence. Claims for damages arising out or related to the Yearly and Monthly Auction Rules and/or the Contract are limited to the damages typical and foreseeable, unless APG and/or swissgrid have acted wilfully or by gross negligence. In no event shall APG and/or swissgrid be liable for any loss of

profit, loss of business, or any other indirect incidental, special or consequential damages of any kind. In any case the liability of APG and/or swissgrid for damages arising out or related to the Yearly and Monthly Auction Rules shall be limited to € 100.000,-- in total.

APG and swissgrid undertake to carry out the provisions set out in the Yearly and Monthly Auction Rules with the diligence of a careful businessman and control area manager in compliance with the applicable regulations set out by European law, respectively by the EU-Regulation, Austrian and Swiss law and regulations set out by the Austrian Authority.

Deviating from § 1298 ABGB the burden of establishing guilt is fully on the Auction Participant.

17. Force Majeure

swissgrid and/or APG shall not be held liable for non-performance, defective performance or delayed performance of obligations arising from these Yearly and Monthly Auction Rules if and to the extent that said non-performance, defective performance or delayed performance is due to circumstances over which the obliged party has no influence, including but not limited to Force Majeure or other circumstances the relevant party is not responsible for and which cannot be solved by measures which, from a technical, financial and/or economic point of view, can reasonably be taken by swissgrid and/or APG.

18. Miscellaneous

Notwithstanding special provisions set out in these Yearly and Monthly Auction Rules no modification of the contract between swissgrid and APG on the one hand and the Auction Participant on the other hand shall take effect unless it is in writing, by fax or e-mail confirmed, executed and delivered by APG and/or swissgrid.

If any part or provision of the Yearly and Monthly Auction Rules and/or its Annexes are or become invalid, illegal, void and/or unenforceable, the remaining part(s) shall continue to be valid and enforceable and shall not be affected thereby. Any invalid, illegal, void and/or unenforceable part(s) or provision(s) shall be replaced by valid, legal and/or enforceable part(s) or provision(s) in order to achieve the intended economic and legal effect as far as possible.

19. Confidentiality

By operation and performance under these Yearly and Monthly Auction Rules swissgrid and APG and its affiliates, if any, may receive or have access to Auction Participant 's confidential information. Confidential information shall include all information delivered in writing and designated as "Confidential", or disclosed other than in writing, information as to which the person to whom such information is disclosed, prior to or essentially concurrent with such disclosure, is made aware that confidential information may be or is being disclosed. swissgrid and APG agrees to hold the confidential information in confidence and not to disclose or make such confidential information available, in any form, to any third person or to use such confidential information for any purpose other than the contemplation of the provisions of these Yearly and Monthly Auction Rules except to public authorities.

The provisions of this article 19 shall not apply to any information disclosed to swissgrid and APG as contemplated by said article if:

- a. before such disclosure it was public knowledge or, after such disclosure, becomes public knowledge through no fault of swissgrid and APG;
- b. it was known to swissgrid and APG before that disclosure;
- c. after that disclosure the same information is received by swissgrid and APG from a third party owing no obligation of secrecy to the respective Auction Participant in respect to such information.

20. Amendments and Changes

Any amendments and changes to these Yearly and Monthly Auction Rules shall be notified to the Auction Participants by means of publication of the respective new version of these Yearly and Monthly Auction Rules on the website of Auction Office Austria. Such notification shall include reference to the articles amended or changed and the date on which the new version of these Yearly and Monthly Auction Rules enters into force. Each version of these Yearly and Monthly Auction Rules shall bear its specific number.

21. Applicable law and disputes

The place of jurisdiction for all disputes arising from the auction processes shall be the competent Court at the registered seat of the Auction Office Austria in Vienna.

In case that court decisions rendered by the competent Austrian Court cannot be executed and/or enforced in the jurisdiction of the opponent/adversary of APG and/or swissgrid these rules and all disputes arising out of these rules and its Annexes or related to its violation, termination or nullity shall be finally settled under the Rules of Arbitration and Conciliation of the International Arbitral Centre of the Austrian Federal Economic Chamber in Vienna (Vienna Rules) by one or more arbitrators appointed in accordance with these rules. The number of arbitrators shall be three. The substantive law of Austria shall be applicable. The language to be used in the arbitral proceedings shall be English.

These Yearly and Monthly Auction Rules and its Annexes including the issue of its valid conclusion and its pre- and post contractual effect shall be governed by the laws of Austria with the exclusion of the provisions of Austrian International Private Law, such as the IPRG and the EVÜ.

ANNEX 1: Auction Procedure

The Auction Office Austria (via Capacity Auction System) collects all bids. After expiry of the relevant deadline(s) for bid submission (whether yearly and/or monthly auctions) – see article 8.1 for yearly auction deadlines and article 9.1 for monthly auction deadlines – all valid Bids are listed by the Capacity Auction System in order of decreasing price offers. In case two or more delivered bids offer the same price per MW of the NTC for the auctioned capacities, the earliest will take priority (the decisive criterion is the electronic time stamp).

If the sum of all Bids submitted for a given Auction falls short of or equals the total Interconnection Capacity, no clearing price is charged.

If the sum of all Bids submitted for a given Auction exceeds the Interconnection Capacity, a clearing price is charged. Up to the Bid (marginal Bid), which represents the level above which the sum of the Interconnection Capacity requested by the Auction Participants exceeds the Interconnection Capacity, each Auction Participant receives the Interconnection Capacity requested at the price of this marginal Bid. In cases where several Bids have the same price, the priority shall be given to Bids with earlier time stamp.

The clearing price determined according to the above principle is used as a basis for calculating the Auction Price and apply to all holders of Allocated Capacities.

ANNEX 2: Scheduled dates of the yearly auction for 2009

Yearly Auction	
13.11.2008	Publication of the Yearly ATC 2009
18.11.2008	Deadline for bidding yearly auction 2009
19.11.2008	Information of results of yearly auction

ANNEX 3: Scheduled dates of the monthly auctions in 2009

Monthly Auction January	
03.12.2008	Publication of the Monthly ATC for January
10.12.2008	Deadline for bidding monthly auction January
11.12.2008	Information of results of monthly auction January
Monthly Auction February	
08.01.2009	Publication of the Monthly ATC for February
15.01.2009	Deadline for bidding monthly auction February
16.01.2009	Information of results of monthly auction February
Monthly Auction March	
04.02.2009	Publication of the Monthly ATC for March
11.02.2009	Deadline for bidding monthly auction March
12.02.2009	Information of results of monthly auction March
Monthly Auction April	
05.03.2009	Publication of the Monthly ATC for April
12.03.2009	Deadline for bidding monthly auction April
13.03.2009	Information of results of monthly auction April
Monthly Auction May	
07.04.2009	Publication of the Monthly ATC for May
14.04.2009	Deadline for bidding monthly auction May
15.04.2009	Information of results of monthly auction May
Monthly Auction June	
06.05.2009	Publication of the Monthly ATC for June
13.05.2009	Deadline for bidding monthly auction June
14.05.2009	Information of results of monthly auction June
Monthly Auction July	
08.06.2009	Publication of the Monthly ATC for July
15.06.2009	Deadline for bidding monthly auction July
16.06.2009	Information of results of monthly auction July

Monthly Auction August	
07.07.2009	Publication of the Monthly ATC for August
14.07.2009	Deadline for bidding monthly auction August
15.07.2009	Information of results of monthly auction August
Monthly Auction September	
06.08.2009	Publication of the Monthly ATC for September
13.08.2009	Deadline for bidding monthly auction September
14.08.2009	Information of results of monthly auction September
Monthly Auction October	
07.09.2009	Publication of the Monthly ATC for October
14.09.2009	Deadline for bidding monthly auction October
15.09.2009	Information of results of monthly auction October
Monthly Auction November	
06.10.2009	Publication of the Monthly ATC for November
13.10.2009	Deadline for bidding monthly auction November
14.10.2009	Information of results of monthly auction November
Monthly Auction December	
05.11.2009	Publication of the Monthly ATC for December
12.11.2009	Deadline for bidding monthly auction December
13.11.2009	Information of results of monthly auction December

ANNEX 4: High Days and Holidays 2009

Date:	Description:
01.01.2009 (Thursday)	New Year's Day / Neujahr
06.01.2009 (Tuesday)	Epiphany / Heilige Drei Könige
13.04.2009 (Monday)	Easter Monday / Ostermontag
01.05.2009 (Friday)	Labour Day / Tag der Arbeit
21.05.2009 (Thursday)	Ascension Day / Christi Himmelfahrt
01.06.2009 (Monday)	Whit Monday / Pfingstmontag
11.06.2009 (Thursday)	Corpus Christi / Fronleichnam
15.08.2009 (Saturday)	Assumption Day / Maria Himmelfahrt
26.10.2009 (Monday)	Austria National Day / Nationalfeiertag Österreich
01.11.2009 (Sunday)	All Saints' Day / Allerheiligen
08.12.2009 (Tuesday)	Immaculate Conception / Maria Empfängnis
24.12.2009 (Thursday)	Christmas Eve / Heiliger Abend
25.12.2009 (Friday)	Christmas / Christtag / Weihnachtstag
26.12.2009 (Saturday)	St. Stephen's Day / Stefanitag / Stephanstag
31.12.2009 (Thursday)	New Year's Eve / Silvester

ANNEX 5: Form for the direct debit authorization

name:
street:
zipcode/city:
phone:
fax:



VERBUND-Austrian Power Grid AG
A-1220 Wien, Wagramer Straße 19, IZD-Tower
Phone: +43-(0)-50313-56159
Fax: +43-(0)-50313-52089
Mail: netz.apg@verbund.at

Authorization for direct debit collection

Hereby we revocably authorize you to collect debts at maturity from our bank account by debit advice. Herewith our bank shall be authorized to cash the debit advice, whereas there is no obligation for redemption, particularly if our bank account offers insufficient coverage. We reserve the right to revoke the debts collection within 42 days after the date of debts collection without stating the reason.

Account number:	Name of bank:	Bank code:
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To (payee):

location, date:	signature:
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ANNEX 6: Registration Form for yearly and monthly auctions

Auction-Office
A-1090 Wien, Alserbachstrasse 14-16
Phone: +43 1 253 7272 90 Fax: +43 1 253 7272 96
www.auction-office.at

Company	
Name according to commercial register	
Department	
No. of Commercial Register	
Address	
Post Code	
Country	

Balance Group Information	
Name Of Balance Group	
EIC Code	
E-Mail	

Member data	
Commercial Representative	
Nomination will be performed with this BG?*	YES <input type="checkbox"/> NO <input type="checkbox"/>
Telephone	
Fax	
E-mail	

Auction Participant	
Name (User)	
Telephone	
E-mail	
Name (User)	
Telephone	
E-mail	
Name (User)	
Telephone	
E-mail	

* If "NO" the Auction Participant needs to submit a valid "Membership of recognized Austrian Balance Group" (ANNEX 8) form in due time for the final usage of Allocated Capacities!

date, signature

ANNEX 7: Capacity Auction System - Manual

The manual of the “**Capacity Auction System**” is an integrative part of these Auction Rules and is hosted on the homepage of the Auction Office Austria (www.auction-office.at).

ANNEX 8: Form of Acknowledgement of “Membership of recognized Austrian Balance Group”

This form shall be delivered to the following fax number:

Auction-Office
A-1090 Wien, Alserbachstrasse 14-16
Phone: +43 1 253 7272 90 Fax: +43 1 253 7272 96
www.auction-office.at

	Auction Participant	Austrian Balance Group
Name of the company/ Austrian Balance Group:		
Address:		
EIC-Code		
Contact Person/ Representative:		
Telephone No.:		
Fax No.:		
E-mail address:		

	From	To
Period:		

By signing this acknowledgement the representative of the Austrian Balance Group confirms that the Auction Participant is a member of its balance group during the above given period and commits itself to handle the corresponding cross border schedule for the Auction Participant.

Confirmation		
	Auction Participant registered/identified by APG:	Name of the Austrian Balance Group:
Date:		
Signature:		