

**INTERMEDIATE REGULATED TARIFFS AND SUPPLEMENTARY PAYMENT TERMS**

**ADDENDUM 1**

to

**STANDARD TERMS AND CONDITIONS**

for

**TRANSPORTATION**

of

**GAS**

in the

**OFFSHORE PIPELINES**

to

**the Danish West Coast**

**Date: 15 September 2014**

## § 1

### BACKGROUND AND INTRODUCTION

On 30 October 2012 DERA decided that the tariff charged under certain monthly transportation agreements with Maersk Energy Marketing A/S booked in the period from July 2011 until October 2012 shall be set between 0.05 and 0.07 DKK per Nm<sup>3</sup>. The tariff shall cover both the capacity and volume tariffs.

On 07 October 2013 DEBA upheld DERA's decision with the proviso that DERA decide on a specific tariff in the range between 0.05 and 0.07 DKK per Nm<sup>3</sup>.

On 28 January 2013 DERA decided that the tariff in said transportation agreements shall be set at 0.0575 DKK per Nm<sup>3</sup>. The tariff shall cover both the capacity and volume tariffs.

On 19 June 2014 DEBA upheld this decision.

DERA's and DEBA's decisions are available in Danish from their respective homepages at:

<http://www.energitilsynet.dk>

and

<http://www.ekn.dk>

The Owner has instituted court proceedings against DEBA's decisions dated 07 October 2013 and 19 June 2014.

Further to the rationale and principles stated in Section 8 of the Framework Agreement and against the above background Article 1 (Definitions etc.), Article 10 (Tariffs) and Article 16 (Invoicing and Payments) of the Standard Terms and Conditions have been amended as per the below.

## § 2

### A) AMENDMENT OF ARTICLE 1 OF THE STANDARD TERMS AND CONDITIONS

During the term of this Addendum 1, Article 1.3 of the of the Standard Terms and Conditions is amended to include the following additional definitions:

**DEBA** means the Danish Energy Board of Appeal (Danish: *Energiklagenævnet*).

**Decision** shall mean anyone of the following decisions by;

- DEBA dated 19 June 2014 regarding a complaint by DONG Naturgas A/S over the Danish Energy Regulatory Authorities' decision dated 28 January 2014 re-

garding fixing of a specific tariff in the upstream system Tyra-Nybro (In Danish: Klage fra DONG Naturgas A/S over Energitilsynets afgørelse af 28. januar 2014 om fastsættelse af en specifik transporttarif i opstrømssystemet Tyra-Nybro).

- DERA dated 28 January 2014 regarding Maersk Energy Marketing A/S' complaint related to the transport tariff in the upstream system Tyra-Nybro – fixing of a specific tariff (In Danish: Maersk Energy Marketing A/S klager over transporttarif i opstrømssystemet Tyra – Nybro – fastsættelse af specifik tarif).
- DEBA dated 07 October 2013 regarding complaint by DONG Naturgas A/S and Maersk Energy Marketing A/S over Danish Energy Regulatory Authorities' decision of 30 October 2012 regarding DONG Naturgas A/S' transport tariffs in the upstream system Tyra-Nybro (In Danish: Klage fra DONG Naturgas A/S og Maersk Energy Marketing A/S over Energitilsynets afgørelse af 30. Oktober 2012 om DONG Naturgas A/S' transporttariffer i opstrømssystemet Tyra-Nybro).
- DERA dated 30 October 2012 regarding Maersk Energy Marketing A/S' complaint related to the transport tariff in the upstream system Tyra-Nybro (In Danish: Maersk Energy Marketing A/S klager over transporttarif i opstrømssystemet Tyra – Nybro).

**Decisions** shall mean two or more of any Decision

**DERA** means the Danish Energy Regulatory Authority (Danish: *Energitilsynet*).

**Final Capacity Tariff:** shall have the meaning specified in Article 10.6, third indent.

**Final Decision** shall have the meaning specified in Article 10.6, first indent.

**Regulated Capacity Tariff** shall mean the Capacity Tariff minus the Regulated Capacity Tariff Reduction.

**Regulated Capacity Tariff Reduction** shall be equal to 27.853 % (twenty seven decimal eight five three per cent) of the Capacity Tariff.

**Regulated Hour-ahead Tariff** shall mean the Hour-ahead Tariff minus the Regulated Hour-ahead Tariff Reduction.

**Regulated Hour-ahead Tariff Reduction** shall be equal to 27.853 % (twenty seven decimal eight five three per cent) of the Hour-ahead Tariff.

**Regulated Volume Tariff** shall mean the Volume Tariff plus any subsequent Volume Tariff Adjustment (cf. Article 10.2 of the Standard Terms and Conditions) minus the Regulated Volume Tariff Reduction.

**Regulated Volume Tariff Reduction** shall be equal to 100 % (one hundred per cent) of a) the Volume Tariff and b) any subsequent Volume Tariff Adjustment.

## **B) AMENDMENT OF ARTICLE 10 OF THE STANDARD TERMS AND CONDITIONS**

During the term of this Addendum 1, Article 10 (Tariffs) of the of the Standard Terms and Conditions is amended to include the following new Articles 10.5-10.6:

### **10.5 Shipper's Intermediate Reduced Payment Obligation**

The Shipper's obligation to pay the current Capacity Tariff, Hour-ahead Tariff, on account Volume Tariff and Volume Tariff Adjustment shall be reduced with an amount corresponding to the Regulated Capacity Tariff Reduction, Regulated Hour-ahead Tariff Reduction and Regulated Volume Tariff Reduction, i.e. the Shipper is obliged to pay the Regulated Capacity Tariff, Regulated Hour-ahead Tariff and Regulated Volume Tariff. Consequently, Shipper's intermediate reduced payment obligation shall constitute 72.147 % (seventy two decimal one four seven per cent) of the Capacity Tariff and Hour-ahead Tariff as the Volume Tariff and Volume Tariff Adjustment are reduced to zero.

### **10.6 Shipper's Liability to Pay the Final Tariffs**

Both Shipper and Operator expressly recognise that the basis for the Regulated Capacity Tariff, Regulated Hour-ahead Tariff and Regulated Volume Tariff are the Decisions, which are currently under court appeal. Consequently, it is not possible to ascertain the correct legal basis for calculating the tariffs for Transportation Services until a final decision resulting from the court proceedings or in- or out-of-court settlement of the Decision(s) or the Owner's voluntary decision no longer to pursue a result overturning the result under the Decision(s) (the "Final Decision") is available. The Operator will notify the Shippers of the Final Decision as soon as reasonably possible.

In consideration of the Operator's voluntary application of the Regulated Capacity Tariff, Regulated Hour-ahead Tariff and Regulated Volume Tariff also to a period and to parties not covered by the Decisions, which is to the unilateral advantage of the Shipper as this leads to lower tariffs than the tariffs that would otherwise have applied, the Shipper understands and accepts that the Regulated Capacity Tariff, Regulated Hour-ahead Tariff and Regulated Volume Tariff charged for Transportation Services may not constitute the actual amounts due for such Transportation Services.

Consequently, should the Final Decision lead to a Capacity Tariff, Hour-ahead Tariff and/or Volume Tariff that are higher than the Regulated Capacity Tariff, Regulated Hour-ahead Tariff and/or Regulated Volume Tariff, the Shipper will be liable for the differences between such higher tariffs as established by the Final Decision (the "Final Capacity Tariff", "Final Hour-ahead Tariff" and "Final Volume Tariff") and the Regulated Capacity Tariff, Regulated Hour-ahead Tariff and Regulated Volume Tariff. Such differences shall bear Other Default Interest.

Further, the Parties agree the recalculation of any amount due based on the Final Decision shall not constitute an "inaccuracy" or "error" pursuant to Article 17.2 (Errors). Consequently, in this respect only, the two-year period in Article 17.2 does not apply to invoices issued during the Term of this Addendum 1.

Finally, the Operator recommends that the Shipper reviews whether in respect of payment of the Final Capacity Tariff, Final Hour-ahead Tariff and Final Volume Tariff, due to inter alia public-law obligations, the Shipper would be required to make respective financial provisions or otherwise reserve capital for payment hereof.

## **C) AMENDMENT OF ARTICLE 16 OF THE STANDARD TERMS AND CONDITIONS**

During the term of this Addendum 1, Article 16 (Invoicing and Payments) of the Standard Terms and Conditions is amended to include the following new Article 16.8:

### **16.8 Invoicing in pursuance of Article 10.6**

**16.8.1** In addition to the invoice items listed in Article 16.1, the Operator will include an item specifying the

- Regulated Capacity Tariff Reduction and Regulated Capacity Tariff and ;
- Regulated Hour-ahead Tariff Reduction and Regulated Hour-ahead Tariff and;
- Regulated Volume Tariff Reduction and Regulated Volume Tariff

For the avoidance of doubt the maximum additional amount (excluding Other Default Interest) due by the Shipper pursuant to Article 10.6 can be calculated as the summation over all Gas Days during the term of this Addendum 1 of items i) to iii):

- i) Regulated Capacity Tariff Reduction \* (multiplied by) Booked Daily Capacity.
- ii) Regulated Hour-ahead Tariff Reduction \* (multiplied by) Hour-ahead Capacity summed up for all Hours of a Gas Day.
- iii) Regulated Volume Tariff Reduction \* (multiplied by) Approved Nominations summed up for all Hours of a Gas Day.

**16.8.2** To the extent that the Final Decision partially or fully results in overturning a Decision, Operator will as soon as possible forward a copy of the Final Decision along with (a) separate invoice(s) to the Shipper detailing the amount(s) due in pursuance to Article 10.6. The Shipper must effect payment of such separate invoice(s) no later than fifteen (15) Banking Days after said invoice(s) was/were received.

## **§ 3**

### **TERM OF ADDENDUM 1**

This Addendum 1 shall enter into force on 15 September 2014 for all Transportation Services rendered from 1 October 2014 at 06:00 hours LET and shall remain in force until such time as Addendum 1 is either

- a) wholly or partly revoked and/or replaced by another Addendum 1, or

- b) until and at the same time as an individual Transportation Agreement, where this Addendum 1 forms an integral part, expires, subject always to the provision that all rights and obligations already created or existing under such Transportation Agreement, including but not limited to Shipper's payment of the Regulated Capacity Tariff Reduction, Regulated Hour-ahead Tariff Reduction and Regulated Volume Tariff Reduction are fully performed by both Parties.