



Decision

Ref: BK7-24-01-015

In the administrative proceedings

relating to the determination on a basic model for hydrogen capacity and managing network access (“WaKandA”)

Parties summoned:

RWE Generation SE, RWE Platz 3, 45141 Essen, legally represented by its management board,
party summoned 1),

Uniper Global Commodities SE, Holzstraße 6, 40221 Düsseldorf, legally represented by its management board,
party summoned 2)

Uniper Kraftwerke GmbH, Holzstraße 6, 40221 Düsseldorf, legally represented by its management board,
party summoned 3)

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registration site on the data exchange platform to be established in accordance with the WasABi determination (BK7-24-01-014).

3. Hydrogen network operators must offer entry and exit contracts for firm and interruptible entry and exit capacity solely on the basis of the following capacity products:

a) Firm hydrogen network capacity (FWK):

aa) Firm hydrogen network capacity enables shippers to use booked entry and exit capacity on an unrestricted, firm basis without determining a transport path. Entry capacity entitles shippers to inject hydrogen at the booked entry point for withdrawal at any booked exit point in the hydrogen market area or for transfer at the VTP in the hydrogen market area. Exit capacity entitles shippers to withdraw at the booked exit point the hydrogen injected at any booked entry point in the hydrogen market area or transferred at the VTP in the hydrogen market area.

bb) By way of derogation from aa), in the course of the hydrogen ramp-up, hydrogen network operators may restrict the firmness of entry and exit capacity to one of the clusters that will initially make up the hydrogen market area.

cc) By way of derogation from aa) and bb), for as long as the firm hydrogen network capacity cannot be fully provided with regard to multi-cluster transport for technical reasons during the ramp-up phase, hydrogen transmission network operators must provide a suitable procedure to ensure multi-cluster transports on a firm basis to the extent technically possible at the respective stage of the ramp-up phase. To do this, they must introduce allocation procedures enabling shippers to make the multi-cluster transport firm, or to rule out an interruption, under appropriate, transparent and non-discriminatory conditions on the basis of already booked firm capacity. The following rules apply to the procedure:

(1) The multi-cluster transport must be managed via balancing groups. The capacity booked at each of the entry and exit points must be brought into a balancing group specific solely to that cluster.

(2) The VTP must be used for the transfer of quantities of hydrogen so that the respective quantities of hydrogen are transferred from the donor balancing group to the recipient balancing group in the appropriate amount.

(3) The allocation of the multi-cluster transport possibility must be carried out via auction if the quantity registered for transport with the balancing groups by shippers exceeds the technically available transport possibility.

(4) Hydrogen network operators offer the multi-cluster transport possibility in accordance with the product durations pursuant to operative part 4 b).

(5) Hydrogen network operators must take appropriate measures to avoid the hoarding of interconnection capacity.

Hydrogen transmission network operators must involve the market participants affected in the development of the allocation procedure to an appropriate extent. They must publish the allocation procedure with a reasonable lead time and apply it as of 1 January 2028. The use of such a procedure is restricted to the ramp-up period in which multi-cluster transport in the hydrogen market area is not yet possible on a fully firm basis for technical reasons.

b) Interruptible hydrogen network capacity (UWK):

aa) interruptible hydrogen network capacity enables shippers to use booked entry and exit capacity on an interruptible basis without determining a transport path. Entry capacity entitles shippers to inject hydrogen at the booked entry point for withdrawal at any booked exit point in the hydrogen market area or for transfer at the VTP in the hydrogen market area. Exit capacity entitles shippers to withdraw at the booked exit point the hydrogen injected at any booked entry point in the hydrogen market area or transferred at the VTP in the same hydrogen market area.

bb) Operative part 3 a) bb) and cc) applies accordingly.

4. The following rules apply to the offer of capacity:

a) The following is determined with regard to the requirement to identify and offer technical capacity:

aa) Hydrogen network operators are required to identify the maximum firm hydrogen network capacity that can be offered, taking into account system integrity and network operating requirements (technical capacity). They must calculate the entry capacity for every entry point and the exit capacity for every exit point.

bb) The entry and exit capacity in the hydrogen market area must be calculated on the basis of state-of-the-art flow simulations that also include cross-network flows. In the course of the hydrogen ramp-up, hydrogen network operators may restrict the simulation of flows to one or more of the clusters that will initially make up the hydrogen market area. Hydrogen network operators must also take account, in particular, of historical and forecasted capacity utilisation, historical and forecasted demand for capacity and reverse flows on the basis of probable and realistic flows. Hydrogen network operators must work together in calculating capacity and

simulating flows with the aim of maximising technical capacity. To this end, they must make all necessary information available to each other without delay.

cc) Hydrogen network operators must make available the technical capacity identified pursuant to aa) for network access. They must offer the greatest possible amount of firm capacity. Interruptible capacity may only be offered when the corresponding daily, monthly or yearly product has been fully marketed on a firm basis at the relevant booking point.

b) The following is determined with regard to durations:

In accordance with operative part 3, hydrogen network operators must offer firm and interruptible capacity on a yearly, monthly and daily basis. The following applies to this:

aa) Yearly capacity products are capacity that can be requested by a shipper in a certain quantity for every day of a year (starting on 1 January).

bb) Monthly capacity products are capacity that can be requested by a shipper in a certain quantity for every day of a month (starting on the first day of each month).

cc) Daily capacity products are capacity that can be requested by a shipper in a certain quantity for a single day (starting at 0.00 each day).

dd) Yearly capacity is offered for no longer than the next 15 years.

c) The following is determined with regard to the reserve quotas:

aa) At least 10% of the technical capacity available at each entry and exit point must be set aside and must not be marketed via yearly capacity products.

bb) The capacity to be set aside pursuant to aa) of the technical capacity available at each entry and exit point must be marketed via monthly and daily capacity products.

cc) Hydrogen network operators are required to offer the unmarketed yearly capacity products as monthly and daily capacity products.

dd) aa) and bb) do not apply to exit points to final customers or entry points to production facilities.

d) The following is determined with regard to the bundled offer at cross-border interconnection points:

Capacity at cross-border interconnection points must be offered as a bundle.

Capacity does not have to be bundled to the extent that and for as long as the foreign

hydrogen network operator does not enable bundling for the respective cross-border interconnection point.

- e) The following is determined with regard to the allocation mechanism:
- aa) For the allocation of entry and exit capacity and for the trading of secondary capacity pursuant to bb), hydrogen network operators must set up and operate or have operated by an agreed third party a joint capacity booking platform via which capacity is allocated and traded. The capacity booking platform must be accessible from the central data exchange platform set out in operative part 7 of the WasABi determination (BK7-24-01-014).
 - bb) Hydrogen network operators must allocate entry and exit capacity at any entry or exit point via the joint capacity booking platform as of 1 January 2028. The capacity booking platform must offer shippers the possibility to sell entry and exit capacity on to third parties or to transfer it to third parties for use (secondary capacity).
 - cc) The costs of setting up and operating the capacity booking platform must be borne by the hydrogen network operators involved on a pro rata basis.
 - dd) On the capacity booking platform, all the offers of the same kind of capacity and all requests for the same kind of capacity are to be made transparent for shippers. Anonymity of trading must be safeguarded in relation to offering parties, requesting parties and third parties. Shippers must be registered in accordance with operative part 2 d) in order to participate in trading on the capacity booking platform. The capacity booking platform must offer hydrogen network operators the technical ability to allocate capacity of the hydrogen transmission network both on a first-come, first-served basis and by means of an auction.
 - ee) Hydrogen network operators must ensure that shippers can manage the acquisition of primary and secondary capacity via the capacity booking platform in a manner suitable for the mass market. The operators of the capacity booking platform must provide a website to handle this.
 - ff) Hydrogen network operators must allocate entry and exit capacity at any entry or exit point on a first-come, first-served basis.
 - gg) Entry or exit contracts pursuant to operative part 2 with a duration of
 - (1) one year or more may be concluded at any time;
 - (2) less than one year may be concluded no earlier than three months before the start of the calendar year of the respective month;
 - (3) less than one month may be concluded no earlier than one month before the start of the contract period.

Entry and exit contracts pursuant to points (1) to (3) may only contain full days.

hh) The following additional rules apply to entry and exit points at border crossings and from and to hydrogen storage facilities and to entry points from hydrogen terminals:

(1) Hydrogen network operators must continually monitor the booking situation at the relevant booking points.

(2) If hydrogen network operators identify a particular booking threshold at entry and exit points at border crossings and from and to hydrogen storage facilities, they must allocate entry and exit capacity at the respective point by means of an auction. The hydrogen network operators can define the booking threshold by 1 January 2028 by developing a methodology to calculate the booking level. The methodology developed and the booking threshold identified must be published on the data exchange platform to be set up in accordance with WasABi (BK7-24-01-014). If they do not make use of this possibility, the booking threshold is met when the hydrogen network operators identify that at least 80% of the bookable firm capacity at a booking point has been booked up.

(3) Hydrogen network operators are required by 1 January 2028 to develop uniform procedures for the auctions pursuant to point (2) and to apply them from the time when the booking threshold is reached.

(4) The change to the means of allocation must take place within one month following the initial identification of the condition set out in operative part 4 e) hh) (2). The change to the means of allocation must be announced to market participants and notified to the ruling chamber by the hydrogen network operators.

f) The following is determined with respect to the surrender of capacity:

aa) Shippers may surrender their booked firm hydrogen network capacity at any time in full or in part, related to the booking period and volume, to the hydrogen network operator.

bb) Hydrogen network operators must accept the surrender of firm hydrogen network capacity.

cc) Shippers retain their rights and obligations under the entry and exit contract until the capacity is reallocated by the hydrogen network operator and to the extent the capacity is not reallocated by the hydrogen network operator.

dd) Surrendered capacity may be remarketed only after all the available primary capacity has been allocated in accordance with the provisions of points a) to e). Hydrogen network operators must notify shippers without delay of any reallocation of their surrendered capacity.

ee) Hydrogen network operators must develop a suitable procedure for handling the surrender and reallocation, in particular where several shippers surrender their capacity, and apply it as of 1 January 2028. The ruling chamber must be notified of the procedure.

5. The following rules apply to the nomination procedure:

- a) Shippers must report to the hydrogen network operator their intended use of entry and exit capacity in hourly quantities in kilowatt hours per hour (nomination). The notifications must be submitted by shippers in accordance with the usual rules of due diligence.
- b) Shippers are entitled to change the quantities originally nominated pursuant to point a) (re-nomination). If the shipper receives new information indicating significant deviations in the nominated quantities, the nomination must be adjusted without delay within the lead times.
- c) Hydrogen network operators are required to make and apply uniform provisions for the nomination and re-nomination procedure, including the nomination and re-nomination deadlines. Hydrogen network operators must hereby ensure that the lead times to be determined enable the requirements of the balancing system arising from the WasABi determination (BK7-24-01-014) to be met. To this end, hydrogen network operators must work together to the extent necessary. The market participants affected must be involved in the development of the provisions to an appropriate extent.
- d) Exit nominations are necessary in the following cases only:
 - aa) in the event of withdrawal for the purpose of injection into a hydrogen storage facility,
 - bb) in the event of transport to an adjacent country, or
 - cc) in the event that capacity is booked at the same exit point by more than one shipper, insofar as this exit point is assigned to different balancing groups.
- e) Operative part 5 d) applies accordingly in the event that the shipper has entered the same exit point in different balancing groups.
- f) Shippers may commission a third party with the nomination. The third party makes nominations with the hydrogen network operator on behalf of the commissioning

shipper. The contractual obligations between shipper and hydrogen network operator remain unaffected by this.

- g) The nomination and re-nomination processes must be handled via the data exchange platform to be established in accordance with the WasABi determination (BK7-24-01-014).
6. The following is determined with regard to quantity notifications:
- a) Hydrogen network operators must require quantity notifications from shippers for a certain period in advance that they determine at booking points for which no nomination needs to be submitted, in particular exit points to final customers. Hydrogen network operators must hereby ensure that the lead times to be determined enable the requirements of the balancing system arising from WasABi (BK7-24-01-014) to be met. To this end, hydrogen network operators must work together to the extent necessary. The market participants affected must be involved in the development of the provisions to an appropriate extent. The quantity notifications must be submitted by shippers in accordance with the usual rules of due diligence.
 - b) If the shipper receives new information indicating significant deviations in the quantity notification, the nominated quantities must be adjusted without delay within the lead times to be determined.
 - c) Shippers may commission a third party with the transmission of the quantity notification. The third party transmits the quantity notification to the hydrogen network operators on behalf of the commissioning shipper. The contractual obligations between shipper and hydrogen network operator remain unaffected by this.
 - d) The provision and transmission of quantity notifications must be handled via the data exchange platform to be established in accordance with the WasABi determination (BK7-24-01-014).
7. The following is determined with regard to the management of network access to hydrogen networks:
- a) Hydrogen network operators are required to conclude interconnection agreements with hydrogen network operators to whose networks they are connected by means of an interconnection point. The arrangements must uphold the confidentiality of commercially sensitive data or information.
 - b) Interconnection agreements must regulate at least the following:
 - aa) the information that hydrogen network operators need to provide each other with to manage transports;

- bb) the technical criteria of the interconnection point, in particular pressure, hydrogen quality and the technical capacity of the interconnection point;
 - cc) the exchange of data among hydrogen network operators;
 - dd) metering and provision of the metering results;
 - ee) nomination or alternative procedures; and
 - ff) conditions for discontinuing or reducing the provision or transfer of hydrogen.
- c) Hydrogen network operators must set up operational balancing accounts among themselves at their interconnection points to ensure that transport contracts are performed without interruption during station down times and in the event of a change of direction of the hydrogen flow, minimal hydrogen flow or metering inaccuracies. Operational balancing accounts can also be used to provide and receive internal balancing gas.
- d) Hydrogen network operators are required to accept quantities of hydrogen provided by shippers at the entry points named by the shipper and to hand them over with the same energy content at the exit points named by the shipper. The identity of the hydrogen need not be kept in the withdrawal.
- e) The following requirements apply to the hydrogen quality:
- aa) Shippers must ensure that hydrogen for injection into the network adheres to generally recognised technical rules within the meaning of section 49(2) and (3) EnWG and is compatible within the meaning of bb).
 - bb) Hydrogen for injection into the network is compatible if the shipper provides the hydrogen for transfer at the entry point with a specification corresponding to that of the characteristics of the hydrogen in the recipient network as published on the website of the hydrogen network operator at the time of injection.
8. Hydrogen network operators must ensure by 1 January 2028 that entry and exit contracts concluded before this determination came into force correspond to the provisions of operative parts 2 to 7.
9. Hydrogen network operators are subject to the following publication and reporting requirements:
- a) By 1 January 2027, hydrogen network operators must publish an overview on a website set up jointly. The overview must contain at least the following information:

- aa) An overview of the number of clusters existing in the German hydrogen market area and a depiction of the geographical location and expanse of the clusters;
- bb) The existing connections between the clusters and the maximum capacity available via each connection (interconnection capacity);
- cc) An overview of the development and status of cluster connections, in particular with regard to the time of the planned cluster connections and the maximum multi-cluster transport capacity, specifying the multi-cluster capacity newly added in the calendar year.

The overview must be updated quarterly, unless there are no changes. Once the data exchange platform to be established in accordance with the WasABi determination (BK7-24-01-014) has been completed, the updates must be published there.

- b) The hydrogen network operators are required to provide the ruling chamber with a joint summarising report for the previous calendar year by 1 April of each year beginning on 1 April 2029. The report must contain at least the following:
 - aa) An overview of the number of clusters existing in the hydrogen market area;
 - bb) An overview of the development and status of cluster connections, in particular with regard to:
 - (1) the time of the planned cluster connections and
 - (2) the maximum multi-cluster transport capacity, specifying the multi-cluster capacity newly added in the calendar year;
 - cc) An overview of the booking quotas with regard to the following aspects:
 - (1) the multi-cluster transports pursuant to operative part 3 a) cc),
 - (2) the yearly capacity products within the meaning of operative part 4 b) aa) and
 - (3) the monthly and daily capacity products within the meaning of operative part 4 b) bb) and cc).
 - dd) An overview of the booking situation at entry and exit points at border crossings, from and to hydrogen storage facilities and entry points from hydrogen terminals, showing in particular the extent to which the bookable firm capacity at a booking point is booked.

The reporting and evaluation requirements resulting from aa) to dd) should be presented to the ruling chamber in a joint report together with the reporting requirements from the WasABi determination (BK7-24-01-014).

The ruling chamber must publish the report provided on the Bundesnetzagentur website.

10. Hydrogen network operators are required to apply the rules determined, with the exception of operative part 9 a), beginning on 1 January 2028.
11. No fees are payable for the decision.

Rationale

I.

- 1 The purpose of the determination proceedings is to lay down the fundamental aspects of a hydrogen capacity model and the management of network access. The determination supplements and builds on the applicable European legal acts, national legislation and the Bundesnetzagentur's existing determinations and aims to ensure a transparent, reliable and legally secure regulatory framework for the ramp-up of hydrogen.
- 2 In the European Gas and Hydrogen Package, the European legislature created rules for access to hydrogen networks that need to be transposed into national law or that are directly applicable.
- 3 Pursuant to Article 35(1) and (4) of Directive (EU) 2024/1788 of the European Parliament and of the Council on common rules for the internal markets in renewable gas, natural gas and hydrogen, amending Directive (EU) 2023/1791 and repealing Directive 2009/73/EC (Directive (EU) 2024/1788) as from 1 January 2033 at the latest, Member States have to ensure the implementation of a system of regulated third-party access to hydrogen networks that is based on published tariffs and applied objectively and without discrimination between any hydrogen network users. Until 31 December 2032, Member States may provide for a system of negotiated third-party access to hydrogen networks in accordance with objective, transparent and non-discriminatory criteria.
- 4 Regulation (EU) 2024/1789 of the European Parliament and of the Council on the internal markets for renewable gas, natural gas and hydrogen, amending Regulations (EU) No 1227/2011, (EU) 2017/1938, (EU) 2019/942 and (EU) 2022/869 and Decision (EU) 2017/684 and repealing Regulation (EC) No 715/2009 (Regulation (EU) 2024/1789), contains further provisions on the design of the system of access to hydrogen networks. As from 1 January 2033, at the latest, hydrogen networks have to be organised as entry-exit systems (see Article 3(b) and Article 7(6) of Regulation (EU) 2024/1789).
- 5 The German legislature introduced mandatory regulation for hydrogen network operators meeting the criteria set out in section 28j(1) of the Energy Industry Act (EnWG) in anticipation of the implementation of the European rules. In line with these rules, section 28n(1) sentences 3 and 4 EnWG require the establishment of an entry-exit system for access to hydrogen networks in Germany. The system is to be based on the requirements in section 20(1b) EnWG for access to the gas supply networks, but is also to take into account the fact that, particularly in the ramp-up phase of the hydrogen market, not all the key characteristics of an entry-exit system (such as the hydrogen market area-wide firm, free allocability of capacity) can be fully met (see Bundestag printed paper 20/10014, page 57). Section 28n(5) sentence 1 para 1 EnWG gave the regulatory

authority far-reaching powers to make determinations in the field of access regulation of hydrogen networks.

- 6 As part of this process, the ruling chamber opened own-initiative proceedings on 3 July 2024. The initiation of proceedings was published on the Bundesnetzagentur's website. An English version of the introductory document was published on the Bundesnetzagentur's website on 1 August 2024.
- 7 The ruling chamber launched an initial public consultation upon opening the proceedings, giving all market participants the opportunity to comment. In its introductory document, the ruling chamber outlined the possible subjects of the determination, setting out its considerations on the key elements of a basic model for hydrogen capacity. These covered in particular the establishment of firm and interruptible daily, monthly and yearly capacity products, a reserve quota, the establishment of a capacity booking platform, the possibility of surrendering capacity and two options that were consulted on for handling transport in the event of a limited connection between individual clusters. The following associations, stakeholders and individual undertakings responded to the consultation: Bundesverband der Energie- und Wasserwirtschaft e.V. (BDEW), bp Europa SE (bp), Creos Deutschland GmbH, European Energy Exchange AG (EEX), EFET Deutschland – Verband Deutscher Energiehändler e.V. (EFET), EnBW Energie Baden-Württemberg AG (EnBW), Energienetze Bayern GmbH & Co. KG (Energienetze Bayern), E.ON SE (Eon), Evonik Operations GmbH (Evonik), EWE Netz GmbH (EWE Netz), FNB Gas e.V. (FNB Gas), GEODE Deutschland e.V. (GEODE), die Initiative Energien Speichern e.V. (INES), RWE Supply & Trading GmbH (RWE), party summoned 1), Salzgitter AG (Salzgitter), Securing Energy for Europe GmbH (SEFE), Statkraft Markets GmbH (Statkraft), TotalEnergies SE (TotalEnergies), Uniper SE (Uniper), Verband der Chemischen Industrie e.V. (VCI), VNG AG (VNG) (Wirtschaftsvereinigung Stahl (WVStahl)). The introductory document and the 22 responses received are available on the Bundesnetzagentur's website (www.bundesnetzagentur.de). On 23 July 2024 the ruling chamber answered questions for a better understanding of the introductory document in an online session.
- 8 The ruling chamber admitted party summoned 1) to the proceedings in a decision of 28 November 2024 (BK7-24-01-015#B01). Parties summoned 2) to 5) were admitted to the proceedings in a decision of 22 October 2025 (BK7-24-01-015#B02).
- 9 The ruling chamber drafted a specific proposal for the operative part together with the main considerations underlying the rules, taking into account the responses received, and put it out for a further consultation on 19 December 2024. An English version of the consultation document was published on the Bundesnetzagentur's website on 12 February 2025. The following associations, stakeholders and individual undertakings responded to the second consultation: Air Products GmbH (Air Products), BDEW, bp, Creos Deutschland Wasserstoff GmbH & Creos

Deutschland GmbH (Creos), Deutsche Industrie- und Handelskammer (DIHK), Deutscher Wasserstoff Verband e.V. (DWV), EEX, EFET, EnBW, Energienetze Bayern, Eon, EWE Gasspeicher GmbH (EWE Gasspeicher), FNB Gas, N.V. Nederlandse Gasunie (Gasunie NL), Geode, Hamburger Energienetze GmbH (HNE), INES, Referenzkraftwerk Lausitz GmbH (RefLau), RWE, party summoned 1), SEFE, Statkraft, Uniper, party summoned 2), party summoned 3), party summoned 4), party summoned 5), VCI, Verband der Industriellen Energie- und Kraftwirtschaft e.V (VIK) and WVStahl. The consultation document and the 26 statements received are available on the Bundesnetzagentur's website (www.bundesnetzagentur.de).

- 10 On 20 February 2025 the ruling chamber held a sector dialogue with the undertakings and associations participating in the consultation. The ruling chamber presented the intended changes to the introductory document and the basic elements of the planned operative part, including a timetable for implementation, and discussed them with the participants. The undertakings and associations were given the opportunity until 7 March 2025 to take account of the matters presented and discussed in their written responses.
- 11 In view of the large number of subjects covered by the determination, reference is made to the content of the responses to both consultations in the respective part of the rationale.
- 12 The regulatory authorities of the federal states, the Bundeskartellamt and the Committee of representatives of the federal state regulatory authorities were informed of the opening of proceedings on 3 July 2024. The participation of the Committee of representatives of the federal state regulatory authorities, as well as the participation of the Bundeskartellamt and the regulatory authorities of the federal states, took place through the transmission of the draft decision on 6 October 2025.
- 13 For further details, reference is made to the contents of the file.

II.

14 The determination is formally and substantively lawful. In particular, the ruling chamber has properly exercised its discretion.

15 Owing to the amount of information to be presented, the reasons for the decision are preceded by a structural overview:

1.	Legal basis	16
2.	Formal lawfulness.....	16
2.1.	Competence.....	17
2.2.	Hearing and consultation.....	17
2.3.	Participation of other authorities	17
3.	Substantive lawfulness	17
3.1.	Addressees of the determination	18
3.2.	Conditions for network access.....	18
3.3.	Discretion for deciding whether or not to take action	19
3.4.	Discretion for deciding which action to take.....	20
3.4.1.	Basic deliberations	21
3.4.2.	Deliberations on the individual subjects of the determination	21
3.4.2.0	Operative part 1	21
3.4.2.1	Operative part 2	26
3.4.2.2	Operative part 3	28
3.4.2.3	Operative part 4	35
3.4.2.4	Operative part 5	55
3.4.2.5	Operative part 6	59
3.4.2.6	Operative part 7	62
3.4.2.7	Operative part 8	64
3.4.2.8	Operative part 9	65
3.4.2.9	Operative part 10	67
3.4.2.10	Operative part 11	68

1. Legal basis

16 The ruling chamber based its determination on section 29(1) in conjunction with section 28n(5) sentence 1 para 1 EnWG.

2. Formal lawfulness

17 The formal requirements have been met.

2.1. Competence

- 18 The competence of the Bundesnetzagentur for the decision derives from section 54(1) EnWG. The competence of the ruling chamber derives from section 59(1) sentence 1 EnWG.

2.2. Hearing and consultation

- 19 The ruling chamber has given the parties involved and the representatives of the economic sectors affected by the proceedings the opportunity to state their views pursuant to section 67(1) and (2) EnWG.

- 20 The ruling chamber held a first consultation on 3 July 2024, presenting its basic deliberations. The ruling chamber published a specific proposal for the operative part together with the main considerations underlying the rules, taking into account the responses received, on 19 December 2024 and released it for consultation. As part of the second consultation, the ruling chamber presented the changes to the introductory document and the planned operative part, including a timetable for implementation, and discussed them with the parties involved and the representatives of the economic sectors affected by the proceedings in the sector dialogue on 20 February 2025. The undertakings and associations were given the opportunity until 7 March 2025 to take account of the matters presented and discussed in their written responses.

2.3. Participation of other authorities

- 21 The participation of other authorities has taken place to the extent required. The regulatory authorities of the federal states were informed of the opening of proceedings on 3 July 2024 in accordance with section 55(1) sentence 2 EnWG; the Bundeskartellamt and the Committee of representatives of the federal state regulatory authorities were also informed. The formal participation of the Bundeskartellamt and the regulatory authorities of the federal states pursuant to section 58(1) sentence 2 EnWG, with the opportunity to comment, took place in the form of the submission of the draft decision on 6 October 2025. The regulatory authority of Hesse commented on the content on 20 October 2025. The Committee of representatives of the federal state regulatory authorities was sent the draft decision on 6 October 2025 and given the opportunity to comment in accordance with section 60a(2) EnWG. The Committee of representatives of the federal state regulatory authorities did not provide any comment under section 60a(2) EnWG. The regulatory authority of Hesse commented on the content as part of the participation of the Committee of representatives of the federal state regulatory authorities.

3. Substantive lawfulness

- 22 The determination is also substantively lawful.
- 23 The determination is directed at operators of hydrogen networks within the meaning of section 3 para 10b EnWG, operators of hydrogen transmission networks within the meaning of section 3

para 10d EnWG and shippers (section 3.1 below). The determination sets out the conditions for access to hydrogen networks and is limited to arrangements which the Bundesnetzagentur is empowered to lay down under section 28n(5) EnWG (section 3.2). The ruling chamber has correctly exercised its discretion for deciding whether or not to take action and which action to take (sections 3.3 and 3.4).

3.1. Addressees of the determination

- 24 This determination is addressed to operators of hydrogen networks within the meaning of section 3 para 10b EnWG. Operators of hydrogen networks include both hydrogen transmission network operators within the meaning of section 3 para 10d EnWG and hydrogen distribution network operators. In some instances, operators of hydrogen transmission networks within the meaning of section 3 para 10d EnWG are addressed separately, for example in operative part 3 a) cc). Section 28n(5) sentence 1 para 1 EnWG does not directly provide for the determination to be addressed to hydrogen network operators. However, it provides for the determination in these proceedings to expand on the obligations for hydrogen network operators arising from section 28n(1) sentences 1 to 5 EnWG and therefore for the determination to be addressed to those operators.
- 25 The determination is also addressed to shippers. The term “shipper” is not yet defined in the EnWG for the hydrogen sector. For the purposes of this determination, however, the term “shipper” as defined in section 3 para 31f EnWG is being used accordingly and therefore means wholesale customers, gas suppliers including the trading department of a vertically integrated undertaking, and final customers. Section 28n(5) sentence 1 para 1 EnWG does not directly provide for the determination to be addressed to shippers either; however, the determination can be addressed to them because some of it directly relates to them. For example, in operative part 2 b) and d), shippers are required to conclude entry and exit contracts and to register with the hydrogen network operators, in operative part 4 f) shippers are granted the right to surrender capacity, in operative part 5 shippers are subject to a nomination requirement, in operative part 6 obligations relating to the quantity notifications are placed on shippers and in operative part 7 e) aa) responsibility is placed on shippers with regard to the upholding of hydrogen quality.

3.2. Conditions for network access

- 26 The determination regulates conditions for access to hydrogen networks. It is limited to arrangements which the Bundesnetzagentur is empowered to make by virtue of section 29(1) in conjunction with section 28n(5) sentence 1 para 1 EnWG.
- 27 Pursuant to section 28n(5) sentence 1 para 1 EnWG the regulatory authority can set requirements on the conditions for access to hydrogen networks, including the rules for balancing the hydrogen network. The ruling chamber understands conditions for access to hydrogen networks to mean all

measures, circumstances and obligations associated with the granting of network access or of significance to the management of network access. This determination regulates the basic framework conditions for access to hydrogen networks. These include in particular the determination of a Germany-wide hydrogen market area and the contractual framework conditions of network access, especially with regard to the contents of entry and exit contracts and the procedures and requirements of the registration of parties interested in concluding such contracts. The introduction of capacity products and the determination of the arrangements under which the capacity products are to be offered, such as the product durations, reserve quota and rules of the nomination procedure, are also covered by this determination. In addition, the determination lays down the conditions for managing network access in accordance with section 28n(1) EnWG, in particular the content and scope of the cooperation required among network operators, and publication and reporting requirements.

3.3. Discretion for deciding whether or not to take action

- 28 Issuing a determination pursuant to section 29(1) in conjunction with section 28n(5) sentence 1 para 1 EnWG is within the discretion of the regulatory authority. The ruling chamber has properly exercised its due discretion. Pursuant to section 40 of the Administrative Procedure Act (VwVfG), an authority empowered to act according to its discretion has to exercise this discretion in line with the purpose of empowerment and observe the legal limits of discretion.
- 29 The ruling chamber decided to initiate proceedings in an unobjectionable manner and with consideration of the arguments for and against doing so. A particular argument in favour of issuing the determination is that Article 35(1) of Directive (EU) 2024/1788 requires Member States to implement a system of regulated third-party access to hydrogen networks. Article 35(4) of Directive (EU) 2024/1788 and Article 3(b) and Article 7(6) of Regulation (EU) 2024/1789 grant Member States a transitional period until 31 December 2032 during which the implementation of regulated access is not compulsory. One particular reason for this is that the hydrogen market is still in the ramp-up phase and it is necessary to take into account the stage of development of the market when applying the principles laid down in Directive (EU) 2024/1788 (recital 11 of Directive (EU) 2024/1788). Nevertheless, the German legislature has deliberately pre-empted the European rules by introducing mandatory access regulation for the hydrogen network operators covered by section 28j EnWG before the end of the transitional period (Bundestag printed paper 20/10014, page 56).
- 30 Another argument in favour of issuing the determination is that the tariff system introduced by the WANDA determination (GBK-24-01-2#1) ties into the booking of entry and exit capacity. This alone makes it necessary to specify the design of the capacity products and the associated conditions for network access at an early stage. This does not conflict with the fact that the scope

of the WANDA determination (GBK-24-01-2#1), unlike the determination in these proceedings, is restricted to operators of hydrogen networks that are part of the hydrogen core network as provided for by section 28q EnWG. The scope of the determination in these proceedings is based on the scope of Part 3 Division 3b EnWG. This was not contrary to the interests of the parties concerned. The proceedings serve to lay down the fundamental access conditions so that market participants have planning and investment certainty at the very beginning of the hydrogen ramp-up. This should also help to achieve a common understanding of the access system among market participants and ensure that legal regulatory provisions are being applied uniformly.

3.4. Discretion for deciding which action to take

- 31 The ruling chamber has also correctly exercised its discretion for deciding which action to take. It has been guided by the purposes of its empowerment and has observed the limits of discretion, taking into account the principle of proportionality (see section 40 VwVfG). In this determination, the ruling chamber is following the purposes and objectives set out in section 1(1) and (2) sentence 2 EnWG of promoting a supply of hydrogen for the general public that is secure, low-priced, consumer-friendly and efficient and that is increasingly based on renewable energy. The ruling chamber is also taking into account the objectives set out in Article 1 first paragraph (a) and (b) of Regulation (EU) 2024/1789 of promoting the proper functioning of the hydrogen market with a high level of security of supply and contributing to the flexibility of the energy system. In addition, the ruling chamber is taking into account the objective of ensuring competition in the market for hydrogen (recital 84 of Directive (EU) 2024/1788) and the objectives set out in Article 1(1) and (5) of Directive (EU) 2024/1788 of establishing a framework for the decarbonisation of the market for hydrogen in order to contribute to the achievement of the Union's climate and energy targets, the long-term flexibility of the electricity system and the reduction of net greenhouse gas emissions of hard-to-decarbonise sectors. Although the Directive still needs to be transposed into national law, these objectives are being taken into account in line with the principle arising from Article 4(3) of the Treaty on European Union (TEU) in conjunction with Article 288 third paragraph of the Treaty on the Functioning of the European Union (TFEU) in that the attainment of the objectives is not seriously called into question. Consequently, account is also being taken of the purposes of the Climate Change Act (KSG) and the targets set to fulfil those purposes, in particular the achievement of net greenhouse gas neutrality by 2045, as set out in section 13(1) and section 3(2) KSG.
- 32 The determination in these proceedings takes account of these purposes and objectives. The ruling chamber believes that the swift establishment of a safe and effective hydrogen network is essential to achieve the national and European targets for decarbonisation, in particular of hard-to-decarbonise sectors. With respect to the individual rules laid down in this determination, the

ruling chamber is balancing the interests of the various players in the hydrogen sector in reasonable proportion in order to enable the proper functioning of the market for all stakeholders and not to hinder the further development of the market or the entry of other players in the market. Account has been taken in particular of the needs resulting from both new generation structures dependent on the electricity market and large investments by the network operators.

3.4.1. Basic deliberations

- 33 The decision to issue the determination is based on the following basic deliberations.
- 34 The ruling chamber's intention is to introduce rules that guarantee access to hydrogen networks under appropriate and non-discriminatory conditions (see section 28n(1) EnWG). In accordance with the provisions in section 28n(1) sentences 3 to 5 EnWG and Article 3(b) and Article 7(2), (3) and (6) of Regulation (EU) 2024/1789, a capacity-based entry-exit system for hydrogen is being introduced whose design is partly based on the current system for access to natural gas supply networks. However, the model can be designed to include other access rules that may result, for example, from the requirements for an integrated energy system (sector coupling), the early phase of the hydrogen ramp-up and the significant need for investment for all market participants at all stages of the value chain. It will in particular be taken into account that clusters will probably be formed at the beginning of the hydrogen ramp-up. The ruling chamber, using the scope provided by section 28n(1) sentences 3 and 4 EnWG, has included in its considerations the aim of interconnecting the clusters as soon as possible to form a national interconnected network. The ruling chamber has taken into account the stage of development of the hydrogen market by only setting out the fundamental rules required, which can then be built on and supplemented on the basis of the experience gained in the course of the hydrogen ramp-up. Hydrogen network operators will therefore initially have a certain degree of scope that can be used when developing the hydrogen cooperation agreement together with the other market players.

3.4.2. Deliberations on the individual subjects of the determination

- 35 The individual subjects of the determination are based on the following considerations:

3.4.2.0 Operative part 1

- 36 Operative part 1 determines a uniform hydrogen entry-exit system in a single German market area. The market area may, during the hydrogen ramp-up, comprise several clusters not initially connected to each other. At the suggestion of the regulatory authority of Hesse, the operative part has been amended from the draft consulted on to make clear that the formation of clusters is expected not just at the beginning of the hydrogen ramp-up but throughout the whole ramp-up. Sentence 4 now sets out that this provision applies accordingly to clusters in order to ensure that

the provisions relating to a national interconnected hydrogen network apply consistently in the ramp-up phase.

- 37 Operative part 1 sentences 1 and 2 determines a uniform hydrogen entry-exit system in a single German market area in which all entry and exit points of the hydrogen network operators must be included. The experience gained from the merger of the natural gas market areas has shown that when combining market areas, capacity bottlenecks may occur that may also require investments in the network infrastructure. In this case, this is to be prevented from the start by designing the regulations with the aim of a uniform, nationwide market area. For this reason, all entry and exit points of the hydrogen network operators are to be included in the market area regardless of whether they are already connected to each other.
- 38 Having evaluated the responses to the first and second consultations, the ruling chamber, supported by many responses (DIHK, DWV, EEX, EFET, EnBW, INES, SEFE, Statkraft), is adhering to its aim of designing a uniform framework for access to hydrogen networks in Germany in more detail at the beginning of the market ramp-up with a view to the legislative objective of a uniform entry-exit system. This corresponds to the European provisions of Article 35(1) and (4) of Directive (EU) 2024/1788 and Article 7(6) of Regulation (EU) 2024/1789, pursuant to which regulated access in the form of an entry-exit system must be introduced no later than 1 January 2033. The German legislature has already taken account of this provision in section 28n(1) sentences 3 and 4 EnWG.
- 39 For the reasons given above, the ruling chamber does not consider it expedient to limit the entry-exit system to the respective clusters and then gradually form a single German market area, as called for in some responses (especially FNB Gas and BDEW in the second consultation). The fact that, as the consultation responses point out, the legal definition of the entry-exit system in section 28n(1) sentence 4 EnWG includes subnetworks in the event of persistent congestion does not contradict this approach. In this case the entry-exit system would have to be restricted to subnetworks, ie to clusters. However, the legal definition in section 28n(1) sentence 4 EnWG differs from the parallel provision for the natural gas sector in section 20(1b) sentence 10 EnWG in that it includes the word “essentially”. Therefore, it is only essentially required to design the rights to booked capacity in such a way that they entitle shippers to inject hydrogen at any entry point for withdrawal at any exit point of their network. Exemptions to take account of the hydrogen ramp-up are permissible, in the view of the ruling chamber. Section 28n(1) sentence 3 EnWG expressly allows for the development of the hydrogen market to be taken into account. The legislators have recognised that the infrastructure first needs to be built, so firm capacity will not be freely allocable without restrictions, and they have therefore granted some leeway (see Bundestag printed paper 20/10014 page 58). This understanding is not contradicted by the fact that the wording of section 28n(1) sentence 4 EnWG only refers to “their networks”, because

otherwise the law would only be aiming towards a network-related entry-exit system, which would be in opposition to the fastest possible connection of clusters and thus the hydrogen ramp-up. There would then also be no need for an exemption in section 28n(1) sentence 4 EnWG to take account of the fact that in the ramp-up phase of the hydrogen network, free allocability of firm capacity is not likely to be possible without restrictions (see Bundestag printed paper 20/10014 page 58).

- 40 Operative part 1 sentence 3 makes clear that the market area can consist of multiple clusters at the beginning of the hydrogen ramp-up and defines the term cluster. For reasons of clarity, this was added to operative part 1 at the request of various comments (BDEW, bp, Creos, DWV, EnBW, INES). As the hydrogen market continues to ramp up, and in particular with the start of the hydrogen core network, the clusters will be connected to each other in line with the legislative purpose in such a way that, ultimately, hydrogen will be able to be transported in the single German market area without congestion. The consultation responses (BDEW, Creos, EnBW) expressed the need for a definition of the hydrogen ramp-up since the applicability of certain provisions of this determination, in particular the restriction of the capacity products to the clusters and the multi-cluster transport (operative part 3 a) bb) and cc) and b) bb)), depends on it.
- 41 However, the ruling chamber has decided not to issue a legal definition of the hydrogen ramp-up here since “hydrogen ramp-up” describes a dynamic process that may be understood differently depending on the context. For the purposes of this determination, the relevant point is merely that ultimately a connected network develops. It does not therefore need to be considered that the term “hydrogen ramp-up” essentially also concerns other areas outside the network sector. For this reason, too, various partial objectives in other stages of the value chain are not included despite the suggestions in some comments (BDEW, EFET, Energienetze Bayern). For the purposes of this determination and the WasABi determination (BK7-24-01-014), it may be assumed that the hydrogen ramp-up will be largely concluded with the planned commissioning of the core network. Nevertheless, the ruling chamber is aware that the establishment of the hydrogen network is an ongoing process that will not be finished with the establishment of the core network, since from 2025 the hydrogen network operators must prepare a Gas and Hydrogen Network Development Plan in accordance with section 15a EnWG to further expand the hydrogen network. As, however, a nationwide meshed hydrogen network in Germany is to be established by 31 December 2032 in the form of the core network, it may be assumed that there will be no need for exemptions or special arrangements by that date at the latest. This deadline may be pushed back to 31 December 2037 in accordance with the provision of section 28q(8) sentence 6 EnWG under the conditions stated there. If, by this date, individual pipelines are still not fully connected to the Germany-wide hydrogen network, the hydrogen ramp-up will not be regarded as complete for these pipelines until they are fully connected to the national hydrogen network. This takes account of the concern raised by the regulatory authority of Hesse in its response that

clusters could remain even after the completion of the hydrogen core network. On the basis of this understanding, the hydrogen network operators must identify the clusters and publish an overview of them (operative part 9 a)).

- 42 Contrary to the request in one response (Eon), the ruling chamber has decided not to define further terms, as significant amendments to the definitions in the EnWG are to be expected with the implementation of Directive (EU) 2024/1788. These amendments should not be pre-empted, especially in order to avoid possible contradictions.
- 43 Operative part 1 sentence 4 states that the rules in these determinations that depend on the existence of a sufficiently meshed national network are to apply accordingly to clusters, as far as this is necessary for a consistent application of the rules during the hydrogen ramp-up. This ensures that the rules, which basically relate to a national entry-exit system, are still effective even if clusters are not interconnected. The ruling chamber included special exemption rules specifically for clusters in operative part 3 a) bb) and cc) of the consultation draft. Respondents (BDEW and FNB Gas) drew attention to potential inconsistencies beyond these in the application of the rules in the draft operative part. The ruling chamber therefore decided to include a catch-all provision in operative part 1 sentence 4 in order to avoid unforeseen inconsistencies in the application of the rules in this determination. This aims to ensure the effective application of the rules without diverging from the principle of the national entry-exit system for hydrogen.
- 44 No general exemption provisions for local and cross-border clusters or projects have been granted as called for in individual responses (WVStahl, Creos). Directive (EU) 2024/1788 sets out that it is appropriate to take account of the stage of development of the market (recital 11). Moreover, recital 90 of Directive (EU) 2024/1788 recognises that localised hydrogen clusters could benefit from simplified regulatory requirements. However, the latter refers to derogation procedures on the basis of Article 52 of Directive (EU) 2024/1788 and thus concerns an application procedure that still needs to be transposed into national law. In addition, the national legislators have decided to introduce the access regulation for hydrogen network operators before the time set out in Article 35(4) of Directive (EU) 2024/1788. Exemptions from the regulation may thus only be granted to the extent provided for by law. The ruling chamber has taken account of the fact that individual clusters might only consist of single projects at the beginning of the hydrogen ramp-up and included the exemption provisions in operative part 3 and the catch-all provision in operative part 1 sentence 4 to take sufficient account of the stage of development of the market. Overall, however, the provisions are intended to promote the rapid connection of clusters and individual projects so they are aimed primarily at introducing a functioning overall system. Cross-border entry-exit systems, as called for by Creos, are not introduced by this determination since this would exceed the competence of the ruling chamber and the national scope of application of the EnWG.

- 45 This determination does not make a distinction between hydrogen transmission network operators and hydrogen distribution network operators. The ruling chamber does not currently consider it necessary to determine different access regulations for hydrogen transmission network operators and hydrogen distribution network operators in the early phase of the hydrogen ramp-up as it wants to wait for customer groups, and the network structures dependent on them, to develop. The ruling chamber does not expect a dense structure of hydrogen distribution networks to arise in the early years of the hydrogen ramp-up in order to supply, for example, household customers. Consultation responses from parties including BDEW, Energienetze Bayern, GEODE, EnBW and Eon, however, did call for a distinction between network levels and in some cases simplified access regulations for hydrogen distribution network operators in line with section 20(1b) sentences 4 and 11 EnWG on the supplier framework agreement for natural gas. One response (Eon) also argued that the distinction between network levels was necessary because there were no support options for hydrogen distribution network operators without simplified network access rules, barriers to market entry could arise.
- 46 The ruling chamber does not consider it necessary or appropriate to distinguish between network levels for the purposes of this determination. While the special arrangement for network access at the level of the natural gas distribution networks seems necessary and appropriate due to the large number of final customers, the ruling chamber considers that it remains to be seen whether a comparable network and customer structure will develop in the hydrogen sector, justifying a simplified network access arrangement. Contrary to the view put forward in the consultation responses of BDEW, Energienetze Bayern and Eon, the ruling chamber does not see a risk that customer groups would be shut out at the beginning of the market ramp-up, as the ruling chamber considers the use of hydrogen by household customers still uncertain. The use of hydrogen in this sector also largely depends on municipal heat planning. Although there may be no foreseeable need for the household customer group to be supplied with hydrogen, this group still cannot be excluded. Simplified network access rules do not currently seem necessary with regard to industrial and commercial customers either, given the expected customer structure (see above). It may be expected at the beginning of the hydrogen ramp-up that there are isolated connections at which non-discriminatory access on the basis of FWK and UWK will be possible, so these customer groups will not be prevented from access and there is thus no barrier to market entry. The purpose of this determination is not to create or enable a framework of support for hydrogen distribution network operators, but rather to determine appropriate and non-discriminatory network access conditions. The determination serves to create an initial regulatory framework at the beginning of the hydrogen ramp-up. The various interests are sufficiently taken into account in line with the initially expected network and customer structure without a need for simplified network access arrangements to be determined for hydrogen distribution network operators. However,

future developments, some of which are not foreseeable at this time, may be taken into consideration at an early stage in future amendments to these arrangements.

- 47 An amendment to the EnWG, and therefore the underlying regulatory framework for hydrogen network operators, is planned anyway with the forthcoming transposition of Directive (EU) 2024/1788. The European legislation does clearly distinguish between hydrogen distribution and transmission network operators, whereas section 28n(1) and (5) EnWG does not. It cannot yet be foreseen whether a clear distinction corresponding to the provisions of section 20(1b) EnWG will be introduced into German law when the Directive is transposed. In any case, however, section 28n(1) and (5) EnWG gives the ruling chamber the possibility of introducing provisions tailored for hydrogen distribution network operators as the hydrogen market develops and makes it necessary.

3.4.2.1 Operative part 2

- 48 Operative part 2 determines the general rules for the contractual arrangements of the entry and exit contracts necessary for access to hydrogen networks to fulfil the obligations arising from section 28n(1) EnWG.
- 49 Operative part 2 a) and b) set out in more concrete terms the requirement contained in section 28n(1) sentence 4 EnWG to design the rights to booked capacity in such a way that they entitle shippers to inject hydrogen at any entry point for withdrawal at any exit point of their network or, if there is persistent congestion, a subnetwork. Two contracts, one entry and one exit contract, must essentially be concluded for network access. Operative part 2 b) entitles shippers to conclude the necessary contracts to carry out the transport of hydrogen. At the same time, it clarifies that shippers are also required to conclude an entry and exit contract for access to hydrogen networks. The counterparties are the entry or exit network operators. Any individual market participants only wishing to act as traders at the VTP do not need to conclude entry and exit contracts. In such circumstances, there is no transport of hydrogen directly caused by the traders and therefore also no need for a capacity booking. Only a business transaction is carried out. Nevertheless, to ensure that the network is economically balanced, it is sufficient – but also required – for these market participants to conclude a balancing group contract in accordance with the provisions of the WasABi determination (BK7-24-01-014). Operative part 2 c) gives shippers the right to book entry and exit capacity separately in accordance with their needs. This ensures that the flexibility inherent in the entry-exit system can be fully used. The provisions of operative part 2 a) to c) are based on the provisions established in the natural gas sector, which have proven to be effective and fit for purpose. They were welcomed in the comments as well.

- 50 Operative part 2 d) sentence 1 determines that shippers must register with the hydrogen network operators with which they wish to conclude entry and exit contracts. Sentence 2 sets out the information that hydrogen network operators can require from shippers. In contrast to the original draft operative part, the list of information in d) that can be required by the hydrogen network operators during the registration is not exhaustive. As well as the address of the shipper or a representative, the hydrogen network operator can also require other information in the registration process. The ruling chamber has here accepted the suggestion made in two statements (EnBW, FNB Gas) and recognises that other information is necessary for the registration and that this is already normal practice in the natural gas sector. The operative part was amended accordingly for reasons of clarity. Hydrogen network operators may demand that shippers fulfil other admission requirements in addition to the registration. The aim of this provision is to ensure that only undertakings regarded as reliable gain access to the hydrogen market area. The ruling chamber does not consider it necessary to set out more detailed provisions on this aspect in this determination. Details ensuring appropriate, transparent and non-discriminatory network access, including with regard to the registration, can be included in a hydrogen cooperation agreement. The possibility of regulating and detailing specific points in the cooperation agreement was almost universally welcomed in the consultation responses (bp, DWV, EnBW, Energienetze Bayern, etc).
- 51 In contrast to the original draft operative part, hydrogen network operators are now required in operative part 2 d) sentence 3 to introduce a joint shipper registration “one-stop shop” for the conclusion of entry and exit contracts in the market area. The central registration platform must be set up on the data exchange platform that has to be set up in accordance with the WasABi determination (BK7-24-01-014). The original wording (“are expected to”) already intended for hydrogen network operators to introduce a one-stop shop registration to the greatest possible extent but it did leave them some leeway. There was a mixed response to this point. It was proposed to word the provision as an option, using “can”, as in the KARLA Gas 2.0. determination (BK7-24-01-007) (FNB Gas). However, the majority of responses were positive about the introduction of the central registration platform (DIHK, DWV, EFET, EnBW, HNE, INES, SEFE, Statkraft) and some (party summoned 1), RWE) called for its introduction to be mandatory. The ruling chamber takes the view that the mandatory introduction of the one-stop shop registration will facilitate access for shippers, reduce administrative hurdles and increase transparency. The ruling chamber has therefore decided to side with the view that the introduction should be mandatory, considering the efficiency gains associated with the advantages mentioned for shippers as greater than the previously granted leeway in implementation. It has therefore amended the wording accordingly.
- 52 The fact that the central registration platform in the natural gas sector was not made mandatory does not contradict this. While in the natural gas sector there have been established structures for

many years, the hydrogen sector has the opportunity to establish the registration process in an efficient manner. The individual aspects were thus able to be weighted differently in the consideration of this subject.

53 In its comment, Eon also criticised the introduction of the central registration platform on the grounds that the operation of a central registration platform by third parties raised legal concerns. The mandatory introduction of the central registration platform was a significant intervention in freedom of contract if the hydrogen network operators could not influence the information needed as the basis for conclusion of entry and exit contracts, the company argued. Information relevant to the contract must be held directly by the network operator. Moreover, setting up the platform would require additional resources and push up costs, it stated. The ruling chamber does not share these concerns. The data hub that is to be set up anyway constitutes a data exchange platform on which to carry out the registration process. There is thus no need to set up a separate portal. The data hub merely serves as a connection for the necessary registration information and is intended to make it easy for shippers to carry out a standard registration process. These advantages ultimately outweigh the effort required to set up the platform. The hydrogen network operators themselves still decide what information is necessary for the registration (see margin no 50). The information needed for the conclusion of a contract is merely recorded and received at a central location on the registration platform. It thus serves as a communication platform, with the decision about the conclusion of a contract remaining with the hydrogen network operator in question and only this operator being able to see and access the relevant contractual information. All standard contracts, for example, will be accessible via the platform, the contractual information required from those requesting a contract can be submitted and requests can be received. It will therefore not be necessary to exchange communications and data with the individual hydrogen network operators to negotiate a contract. The central submission or receipt of contract-related data does not necessarily mean that a contract will be concluded. There is therefore no intervention in the freedom of contract here. Moreover, the details are to be decided on by the hydrogen network operators, so they still have leeway in the design of the registration process, taking into consideration the individual concerns.

3.4.2.2 Operative part 3

54 Operative part 3 determines an exhaustive list of the permissible capacity products. The ruling chamber restricts the capacity products to those that meet the actual requirements of a developing nationwide entry-exit system. Article 7 of Regulation (EU) 2024/1789 does not contain provisions on the offer of firm and interruptible capacity for hydrogen network operators, unlike in Article 6(1) point (b) for the natural gas sector. However, the Regulation does assume that the entry-exit system will be based on the principle of the offer of firm and interruptible capacity in the hydrogen

sector, too (see recital 14 in conjunction with Article 2(1)(30) of Regulation (EU) 2024/1789 and Article 2(1)(57) of Directive (EU) 2024/1788 as well as Article 2(1)(14) and (17) of Regulation (EU) 2024/1789). This has led the ruling chamber to conclude, based on its previous experience from the natural gas sector and adapted for the needs of the hydrogen ramp-up in a Germany-wide entry-exit system, that the products listed in operative part 3 will mostly effectively overcome the obstacles posed by the initially separate clusters. This approach will, first and foremost, avoid a system that later requires market areas to be merged.

- 55 Operative part 3 a) and b) sets out that hydrogen network operators must offer firm hydrogen network capacity (FWK) and interruptible hydrogen network capacity (UWK). One response (WVStahl) proposed alternative capacity products, specifically a capacity product for continuous offtake with smoothed profile (Baseload), a volatile capacity product based on renewable energy (High RES) and a capacity product for hydrogen power plants and storage facilities with a use anti-cyclical to the High RES product (Low RES). These products would meet the needs of different supply profiles, some of which are dependent on the electricity market, and would improve network operators' ability to plan as well as the efficiency of capacity use, it was argued. Moreover, they would enable a more targeted use of capacity since different needs could be matched to each other. The ruling chamber agrees that differing needs and supply profiles that are sometimes volatile and dependent on the electricity market must be taken into account. However, it considers that the introduction of firm and interruptible capacity products in combination with the provisions on durations and the reserve quota in operative part 4 b) and c) are suitable for these purposes. Shippers can initially sufficiently adapt to volatile supply profiles by booking monthly or daily products, for example. At the same time, the interests of the network operators in long-term contracts to secure their investments can be taken into account. Moreover, the introduction of FWK and UWK was almost universally welcomed in the other comments. Introducing other capacity products in the future has not been ruled out should it become necessary, for example due to network development planning requirements.
- 56 Operative part 3 a) defines FWK. Pursuant to operative part 3 a) aa), it enables shippers to use booked entry and exit capacity on an unrestricted, firm basis without determining a transport path. Entry capacity entitles shippers to inject hydrogen at the booked entry point for withdrawal at any booked exit point in the hydrogen market area or for transfer at the VTP in the hydrogen market area. Exit capacity entitles shippers to withdraw at the booked exit point the hydrogen injected at any booked entry point in the hydrogen market area or transferred at the VTP in the hydrogen market area. FWK allows use of the network on a firm basis without specifying a transport path; this applies both to point-to-point transport and to the use of the VTP in the market area. An FWK capacity product is necessary within the German and European legislative framework as it unites the product characteristics of unconditional firmness and unconditional, free allocability (see recital 14 of Regulation (EU) 2024/1789 and section 28n(1) sentences 3 and 4 EnWG). FWK

enables the most flexible use of the network and, by providing firm access to the market area VTP, makes a major contribution to the development of liquidity in hydrogen trading and to national security of supply. The FWK product pursuant to operative part 3 a) aa) is designed for the situation in which every exit point is reachable from every entry point in the single German hydrogen market area. Where the clusters are not interconnected at the beginning of the hydrogen ramp-up, the provision of operative part 3 a) bb) applies and, in the course of the hydrogen ramp-up with increasing but technically not yet sufficient cluster connections, operative part 3a) cc) applies.

- 57 Operative part 3 a) bb) takes account of the hydrogen ramp-up (see margin number 41) and the clusters, which will initially not be connected to each other. The use of entry and exit capacity on an unrestricted, firm basis is not possible between unconnected clusters. The ruling chamber therefore considers it permissible to initially restrict transport on a firm basis to those entry and exit points that are actually reachable, ie to the respective clusters. The arrangement in operative part 1 sentence 1 remains unaffected by this. As the meshing of the clusters progresses, this exemption will become less and less necessary, making it possible to increasingly use the provision under operative part 3 a) cc) until, ultimately, full use of FWK in accordance with point aa) is possible. The ruling chamber considers that the associated restrictions of FWK are acceptable and will not impede the functioning of the overall system. Moreover, the challenges familiar from the natural gas sector that would arise if there were a multitude of market areas (for each cluster) and a resulting merger will be avoided. For clarity's sake, the ruling chamber has amended the wording of bb) from the draft operative part so that now, the firmness is restricted to one – and not one or more – of the clusters. One comment (FNB Gas) drew attention to this, in particular in order to prevent product variety. The ruling chamber took the opportunity to amend the wording accordingly and rule out the possibility of restricting firmness to multiple clusters. The provision in the draft operative part was precisely not intended to lead to a situation in which, in the application of operative part 3 a) bb), the product contained multi-cluster components. This would have been in competition to the provision in cc). The ruling chamber has thus upheld the original purpose of the provision with the restriction to the respective cluster, not multiple clusters.
- 58 Operative part 3 a) cc) regulates the situation in which cluster connections exist but there is not yet enough capacity for full multi-cluster transport. This deals with the fact that the interconnection capacity between the individual clusters may only increase gradually and, while multi-cluster transport may become possible on a firm basis, it may not be possible to the same extent as after completion of the ramp-up phase in the scope of application of aa). Full multi-cluster transport, and thus ultimately a merger of the clusters, may only be assumed when the entry and exit capacity of the respective clusters remains.

- 59 Unlike in the original draft operative part, sentences 1 and 2 requires hydrogen transmission network operators to develop an allocation procedure with respect to interconnection capacity that is appropriate, transparent and non-discriminatory. The restriction of the requirement to develop the allocation procedure to hydrogen transmission network operators was proposed in the consultation (FNB Gas) because it is primarily the hydrogen transmission network operators that are active across the whole market area. The ruling chamber shares this view. Taking account of the approved core network referred to in operative part 1 to substantiate the hydrogen ramp-up and the definitions of the hydrogen transmission network and hydrogen distribution network from Article 2(23) and (24) of Directive (EU) 2024/1788 that still have to be transposed into German law, it is highly likely that the cluster connections will also serve primarily to transport hydrogen to other hydrogen networks and will be classed as hydrogen transmission networks. It therefore seems appropriate to leave the design of the procedure to the hydrogen transmission network operators. However, in accordance with operative part 3 a) cc) sentence 4, hydrogen distribution network operators and other market participants are to be appropriately involved so that the design can be included in the process of drawing up the cooperation agreement. It was objected during the consultation (EEX) that the value chain was not equally represented in the process of drawing up the cooperation agreement. The ruling chamber disagrees with this view since market participants must be appropriately involved in the process in the market dialogue forum and the gas/hydrogen negotiating delegation. This ensures that not only hydrogen distribution network operators but also other market participants are included in the process, as some responses called for (SEFE, Uniper).
- 60 Pursuant to operative part 3 a) cc) sentence 2, the allocation procedure must enable shippers to make the multi-cluster transport firm, or to rule out an interruption, under appropriate, transparent and non-discriminatory conditions on the basis of already booked firm capacity. This expresses that no other capacity products will be issued since FWK already covers the multi-cluster transport by definition as set out in a) aa). The multi-cluster transport extends the effective range of transport on a firm basis, as distinct from the situation in a) bb), which will be the normal situation at the beginning of the ramp-up. Only the right to use the interconnection capacity between the clusters that is not yet fully available during the ramp-up phase is thus granted. The provisions correspond to the legal requirements of section 28n(1) sentence 3 EnWG, pursuant to which the development of the hydrogen market must be taken into account in the offer of entry and exit capacity. Furthermore, the requirement on hydrogen network operators to provide the maximum amount of firm hydrogen network capacity, set out in operative part 4 a) cc), is taken into account.
- 61 Operative part 3 a) cc) sentence 3 determines the minimum requirements for the management on the basis of balancing groups. In accordance with sentence 3 (1), the multi-cluster transport must be managed via balancing groups. The capacity booked at each of the entry and exit points must be brought into a balancing group solely for that cluster. Pursuant to point (2), the VTP must be

used for the transfer of quantities of hydrogen so that the respective quantities of hydrogen are transferred from the donor balancing group to the recipient balancing group in the appropriate amount. Accordingly, virtual cluster transfers without physical transport between the clusters are possible provided that the entry/exit in the relevant cluster is covered by a countertrade. The ruling chamber has here picked up on the suggestions made in many responses to the first consultation (BDEW, bp, EFET, EnBW, Eon, SEFE, FNB Gas). The proposed models are largely compatible with the provisions. The ruling chamber has also refrained from pursuing its previous proposals, Option 1 (“two-product world”) and Option 2 (“multiple-product world”) from the introductory document of 3 July 2024. The option regulated in operative part 3 a) cc) introduces the possibility of a management of multi-cluster transports based on balancing groups. This will avoid the disadvantages inherent in Options 1 and 2. A targeted use of firm multi-cluster transport possibilities will be possible, while the effort involved will be limited in comparison to Option 2. The ruling chamber was convinced by the responses to the consultation from parties with different market roles (BDEW, EFET, EnBW, Eon, SEFE, FNB Gas) arguing that multi-cluster transports should be managed via balancing groups. This will do away with the need to introduce different capacity products that are firm but restricted in their range and enable shippers with a need for targeted multi-cluster transports to receive these. Management via balancing groups that have been previously firmly allocated to their respective clusters ensures that shippers notify hydrogen network operators via their nominations whether, and in what amount, they require multi-cluster transport.

- 62 Sentence 3 point (3) determines that the allocation of the multi-cluster transport possibility is carried out via auction where the nominated quantity to be transported exceeds the technical possibility for transport. Where the nominated quantity to be transported is less than the technical possibility for transport, the allocation can be carried out without an auction on a first-come, first-served (FCFS) basis in conjunction with the capacity booking. The ruling chamber has not followed the suggestion of EEX on this point. The suggestion covered the marketing of interconnection capacity together with the hydrogen product via a trading platform. The intention was to increase the attractiveness of the hydrogen market and reduce risks and transaction costs. The ruling chamber considers that marketing the interconnection capacity together with the respective capacity product will ensure that the allocation of the firm transport possibilities takes place efficiently. This, too, will reduce risks and transaction costs, especially in conjunction with the possibility now introduced to market interconnection capacity according to the product durations, which has the advantage of making multi-cluster transports more plannable for shippers. Where the registered quantity is less than the firm transport possibility, there is no need for an additional, explicit allocation procedure, in the view of the ruling chamber. The shippers’ transport requests can be met via the balancing groups. In the view of the ruling chamber, the responses dealing with the question of whether the amount of multi-cluster transport possible on a firm basis would have

to be defined ex ante or would develop dynamically based on the respective network situation were mixed. The ruling chamber considers that, particularly during the ramp-up, it could make sense for hydrogen network operators to clearly define in advance the amount of multi-cluster transport that is possible on a firm basis. A level of certainty and reliability could thus be created for shippers. However, certain network situations could make it possible for more transport to be carried out on a firm basis at short notice than was permanently the case, ie than had been defined ex ante. In such cases, it might be more beneficial from the shippers' perspective if there was no prior figure for possible firm multi-cluster transport, because there would then be no need for an auction and possible congestion premiums. The ruling chamber therefore also sees advantages in the dynamic determination of the firm multi-cluster transport possibility. However, for the ruling chamber, these are outweighed by the advantages of an ex ante definition of the firm multi-cluster transport possibilities, in particular during the ramp-up phase, which would have to be checked regularly by the hydrogen network operators and adjusted where necessary. The information also has to be published. Operative part 9 a) bb) regulates the details of this.

- 63 It was also suggested in the comments (party summoned 1), BDEW, EEX, EFET, EnBW, RWE, SEFE) to enable the long-term use of multi-cluster transport. This could guarantee investment certainty for shippers as well, it was argued. The ruling chamber considers this a sensible proposal, so the same durations now apply for the multi-cluster transport possibility in operative part 3 a) cc) (4) as for the capacity products in operative part 4 b). This makes sure that shippers that, for example, have booked FWK on a yearly basis can also use a long-term multi-cluster transport possibility depending on the availability of interconnection capacity and thus ensure consumers' supply. At the same time there is a corresponding application of the non-yearly durations so as to balance out balancing group imbalances to a certain extent across clusters. This also enables an allocation over the next 15 years, even though it is possible that the clusters will be merged during this period. However, to prevent shippers from booking the multi-cluster transport possibility for the long term but not using it, point (5) sets out that hydrogen network operators must take measures to avoid the hoarding of interconnection capacity. These measures could include withdrawing the affected interconnection capacity. The measures must also contain provisions about how the withdrawn multi-cluster transport rights would be re-allocated. This prevents the interconnection capacity from being blocked and ensures the efficient use of transport possibilities in the course of the hydrogen ramp-up. It further promotes the early interconnection of the clusters and provides the market participants involved with planning certainty.
- 64 Operative part 3 a) cc) sentence 5 sets out that operators of hydrogen transmission networks must publish the allocation procedure and apply it as of 1 January 2028. The draft operative part of the second consultation had set out that the hydrogen network operators would publish the allocation procedure within three months of the determination being issued and apply it as of 1 October 2026. There were many responses (inc BDEW, Creos, DWV, EnBW, FNB Gas) arguing that the

publication deadline was too tight. Overall, the comments were in favour of a link to the process of drawing up the cooperation agreement or the introduction of the future network codes. The latter approach was not taken since the timing of the issue of the network codes is not yet clear. However, since the implementation deadline of the determination in operative part 10 has been amended to the calendar year and pushed back for operational reasons (see margin no 219), the ruling chamber considers it expedient and appropriate to change the date for the application of the allocation mechanism in line with the implementation deadline in operative part 10. The ruling chamber does not consider a publication deadline of three months necessary any more. Nevertheless, the hydrogen transmission network operators have to publish the allocation procedure with an appropriate lead time.

- 65 Operative part 3 a) cc) sentence 6 is a clarification. It makes clear that the applicability of the allocation procedure is limited to the time of the hydrogen ramp-up (see margin no 41). As soon as the clusters are fully connected from a technical perspective, there is no need for the applicability of operative part 3 a) bb) and cc) anymore.
- 66 Gasunie NL proposed in its comment transferring the procedure set out in operative part 3 a) cc) to cross-border interconnection points as well on the grounds that a foreign network was largely the same as the clusters. The ruling chamber decided not to follow this approach. The purpose of the provisions of operative part 3 a) cc) is to regulate the management of capacity congestion between clusters in order to enable transport without congestion until such time as all clusters in the single German market area are fully connected. Applying operative part 3 a) cc) to cross-border interconnection points would ultimately also place obligations on network operators from adjacent Member States. As already explained with reference to operative part 1 (margin no 44), this would exceed the competence of the ruling chamber and the national area of application of the EnWG. Although capacity congestion can occur at border crossings as well, other aspects that will be covered in future in particular by the network codes pursuant to Article 72 of Regulation (EU) 2024/1789 also need to be taken into account.
- 67 Operative part 3 b) determines UWK as a capacity product. Pursuant to operative part 3 b) aa), UWK enables shippers to make use of booked entry and exit capacity on an interruptible basis without having to determine a transport path. Entry capacity entitles shippers to inject hydrogen at the booked entry point for withdrawal at any booked exit point in the hydrogen market area or for transfer at the VTP in the hydrogen market area. Exit capacity entitles shippers to withdraw at the booked exit point the hydrogen injected at any booked entry point in the hydrogen market area or transferred at the VTP in the same hydrogen market area. Unlike for FWK, transport of UWK can be interrupted by the hydrogen network operator in previously uniform, contractually defined cases. UWK permits use of the network on an interruptible basis without determining a transport path, providing additional flexibility of network use.

68 UWK in principle relates to the single German market area, as does FWK in operative part 3 a) aa). The introduction of UWK was welcomed in the great majority of comments. However, some responses (BDEW, FNB Gas, HNE) proposed introducing cluster-related exemptions for UWK as well, as otherwise a Germany-wide balancing group would have to be enabled despite the lack of physical connection between the clusters. Without a cluster connection, the likelihood of interruption of multi-cluster transports would be 100%, which would make it difficult to determine the value of UWK. The ruling chamber was able to follow these arguments and therefore inserted operative part 3 b) bb), pursuant to which operative part 3 a) bb) and cc) applies accordingly to UWK. This means that UWK can be restricted to one cluster if there is no physical connection to other clusters. In addition, the allocation procedure to be developed by hydrogen transmission network operators in accordance with operative part 3 a) cc) can now also include the multi-cluster transport of UWK. However, for the sake of clarity it should be noted here that the UWK is not “made firm” but rather just the range of UWK is extended.

3.4.2.3 Operative part 4

69 Operative part 4 a) determines the rules for the identification and offer of technical capacity.

70 Operative part 4 a) aa) sentence 1 requires hydrogen network operators to identify the maximum firm hydrogen network capacity that can be offered, taking into account system integrity and network operating requirements (technical capacity). Operative part 4 a) aa) sentence 2 further sets out that hydrogen network operators must do this by identifying the entry capacity for each entry point and the exit capacity for each exit point.

71 Hydrogen network operators have to identify the technical entry and exit capacity before shippers can make a booking. The definition of technical capacity here is not the same as in the natural gas sector as no conditional capacity products are being introduced for hydrogen. However, it does correspond to the definition laid down in European law. In accordance with Article 2(1)(19) of Regulation (EU) 2024/1789, technical capacity is “the maximum firm capacity that can be offered to the network users, taking account of system integrity and the operational requirements of [...] the hydrogen network operator”. Firm capacity in this context is to be understood as the pipeline capacity contractually agreed by the network operator as uninterrupted (see Article 2(17) of Regulation (EU) 2024/1789). The requirement to identify the maximum firm hydrogen network capacity ensures that the hydrogen network is utilised to the best possible extent.

72 Operative part 4 a) bb) sentence 1 sets out that the entry and exit capacity in the hydrogen market area must be calculated on the basis of state-of-the-art flow simulations. The second half-sentence determines that cross-network flows must also be included. Pursuant to operative part 4 a) bb) sentence 2, in the course of the hydrogen ramp-up, hydrogen network operators may restrict the simulation of flows to one or more of the clusters that will initially make up the hydrogen market area. The intention of sentence 1 is that new findings are taken into consideration in the capacity

calculation and, at the same time, a reduction of the total offer of available capacity due to outdated assumptions or methods is avoided. Pursuant to operative part 4 a) bb) sentence 3, transmission system operators must take account, in particular, of historical and forecasted capacity utilisation, historical and forecasted demand for capacity and reverse flows on the basis of probable and realistic flows. The determination thus expressly provides for a dynamic capacity calculation based on current specificities and developments in the relevant system. Taking utilisation and demand into account is intended to make it possible to adjust the parameters or methods for the capacity calculation so that capacity in the network can be increased, for example at points with consistently strong demand or full utilisation, even if this is just for a shorter period of time. The requirement that the flow assumptions be probable and realistic ensures that the parameters used in the capacity calculation are reliable.

- 73 One response to the consultation (EnBW) called for a clarification on the scope of operative part 4 a) bb) sentence 1. The ruling chamber thus wishes to make clear that this requirement essentially refers to the “market area” but may also be restricted to one or more “clusters” in the course of the hydrogen ramp-up (see operative part 4 a) bb) sentence 2).
- 74 Operative part 4 a) bb) sentence 4 sets out that hydrogen network operators must work together in calculating capacity and simulating flows with the aim of maximising technical capacity. Pursuant to operative part 4 a) bb) sentence 5, to this end, hydrogen network operators must make all necessary information available to each other without delay.
- 75 Sentence 4 thus substantiates the cooperation requirement set out in section 28n(1) sentence 5 EnWG. This cooperation requirement is intended to ensure that the network infrastructure, and its capacity, is used to the greatest possible extent. In particular, synergy effects can be made proper use of that might otherwise be overlooked if operators only concentrated on their own networks. To enable this, sentence 5 requires network operators to provide the necessary information. The primary purpose of this provision is to increase the transparency of the calculation, but the choice of parameters applied or the relevant capacity calculation model is left up to the respective hydrogen network operator.
- 76 Operative part 4 a) cc) sentence 1 determines that hydrogen network operators must make available the technical capacity identified pursuant to operative part 4 a) aa) for network access. Operative part 4 a) cc) sentence 2 specifies that hydrogen network operators must offer the greatest possible amount of firm capacity.
- 77 Operative part 4 a) cc) sentence 1 provides more detail on the provision of Article 7(2) of Regulation (EU) 2024/1789, pursuant to which the maximum capacity of a hydrogen network must be made available to market participants, taking into account system integrity and efficient and safe network operation.

- 78 The requirement in operative part 4 a) cc) sentence 2 to offer the greatest possible amount of firm capacity ensures that the principle of efficient third-party access to the network is upheld and is a basic prerequisite for the development of a Germany-wide hydrogen network and a liquid hydrogen market. This requirement thus applies in principle for each individual cluster. Even when multiple clusters are merged, the requirement to offer the greatest possible amount of capacity remains without restrictions.
- 79 Consultation respondents generally supported the inclusion of the requirement to offer the greatest possible amount of firm capacity (EFET, Statkraft, DWV). As individual responses (SEFE, EFET) called for the requirement to apply even when multiple clusters were merged and the ruling chamber shares this understanding, the ruling chamber decided to include an addition to this effect in the rationale.
- 80 In accordance with operative part 4 a) cc) sentence 3, interruptible capacity may only be offered when the corresponding daily, monthly or yearly product has been fully marketed on a firm basis at the relevant booking point.
- 81 Because firm capacity has to be offered to the greatest possible extent, pursuant to operative part 4 a) cc) sentence 3, interruptible capacity is to be marketed as a lower priority when the firm capacity relating to the corresponding yearly, monthly or daily product has been fully marketed, as far as technically possible, at the relevant booking point. This system gives rise to the theoretical possibility of an unlimited offer of interruptible capacity.
- 82 One respondent (BDEW) supported the lower-priority marketing of interruptible capacity that arises from the prioritisation of firm hydrogen capacity on the grounds that it ensures that FWK first has to be fully marketed before UWK is allowed to be offered. This avoids an inappropriate reduction in transport revenues that would otherwise lead to higher tariffs even for the first determination of the ramp-up tariff or in the subsequent tariff periods, it was commented. One response (EFET) argued that it was important that the aim should be for booking points to be fully marketed “as far as technically possible”, because if the technical capacity was displayed in a different unit (such as kW) than the unit in which the capacity was marketed (such as MW), it could never be fully marketed. The ruling chamber acknowledges that such a situation could occur, at least theoretically. The ruling chamber therefore makes clear that marketing is complete even if the marketing of remaining capacity is no longer technically possible. This is, in the view of the ruling chamber, comprehensible and has been included in the rationale.
- 83 One respondent (GEODE) called for an internal order process to be added to the process for identifying and then marketing technical capacity. It also wanted an assurance of a determined minimum amount of network capacity, especially at the distribution network level, to promote the market ramp-up (“perpetuity guarantee”). The ruling chamber does not see a current regulatory need to mandate an internal order process. The legal framework for hydrogen networks is currently

being developed. The aim of this determination is to lay the basis for this. It is not currently necessary to determine different access rules for hydrogen transmission network operators and hydrogen distribution network operators, such as an internal order process as in the natural gas market, in the early stage of the hydrogen ramp-up as it is necessary to wait for the customer groups, and the network structures dependent on these, to develop. There are currently no plans to distinguish between the network levels so there is no need to introduce internal orders. The suggestion of including a “perpetuity guarantee” has not been taken up either at this time. Setting this kind of guarantee would have significant implications for the planning of the system and could inappropriately pre-empt future developments and needs in a market environment that cannot yet be fully foreseen. The ruling chamber has therefore decided not to adopt these proposals in the determination. The situation may be reassessed later taking account of the prevailing market conditions.

- 84 Operative part 4 b) aa) to cc) exhaustively determines the permissible durations of capacity products.
- 85 Pursuant to operative part 4 b) sentence 1, hydrogen network operators must offer firm and interruptible capacity in accordance with operative part 3 on a yearly, monthly and daily basis.
- 86 Operative part 4 b) sentence 2 defines yearly, monthly and daily capacity products. Pursuant to operative part 4 b) sentence 2 aa), yearly capacity products are capacity that can be requested by a shipper in a certain quantity for every day of a year (starting on 1 January). Pursuant to operative part 4 b) sentence 2 bb), monthly capacity products are capacity that can be requested by a shipper in a certain quantity for every day of a month (starting on the first day of each month) and, pursuant to operative part 4 b) sentence 2 cc), daily capacity products are capacity that can be requested by a shipper in a certain quantity for a single day (starting at 0.00 each day). Therefore, for yearly capacity products the calendar year is relevant, for monthly products the calendar month and for daily products the calendar day.
- 87 The ruling chamber does not consider it necessary to use the “gas year” and “gas day” from the natural gas sector, as the hydrogen sector is likely to be less affected by seasonal effects, such as heating periods. This approach will also be in harmony with the corresponding rules for the tariff sector which, in accordance with the WANDA determination (GBK-24-01-2#1), is also to be determined for the calendar year.
- 88 The decision to use the calendar year, calendar month and calendar day had already been welcomed in the first consultation (BDEW, bp, EEX, EFET, EnBW, RWE, Statkraft, Uniper).
- 89 The introduction of non-yearly capacity products, in particular, had been supported by many respondents to the first consultation (Statkraft, RWE, EnBW, EFET, EEX, bp, BDEW, SEFE, VNG). It was pointed out that in offering non-yearly, in addition to yearly, capacity products there

must be a balanced consideration between securing the refinancing of the amortisation account by 2055 at the latest and the market's need for short-term products. The introduction of capacity products with shorter durations was also generally welcomed in the second consultation (EnBW, EEX, HNE, DWV, VIK, BDEW, RWE), with reasons given including the consideration of the different needs of market participants (EEX, BDEW) and ensuring market flexibility (DWV). One respondent (EnBW), however, pointed out that given the ramp-up tariff was calculated on a yearly booking basis, multipliers should be used to ensure that infrastructure costs were covered. One respondent (VIK) stated that the structure of the capacity products and their tariffs must be designed in a fair and cost-reflective way.

- 90 Concerns about the introduction of monthly and daily products were expressed by one respondent (FNB Gas), which found it critical in light of the amortisation account concept. At the beginning of the hydrogen ramp-up, yearly products should mainly be marketed and a sensible approach should be taken to the gradual introduction of shorter durations, it was stated.
- 91 There had already been calls to consider other capacity products during the first consultation (EEX, EFET, EnBW, RWE, Statkraft). One respondent to the second consultation (EEX) repeated the request for within-day capacity products (individual hours). The reasons given were the relation to the balancing model for hydrogen, especially the hourly netting, and the full responsibility of the balance responsible parties for keeping their balancing groups balanced. Moreover, as many market participants as possible should be able to participate in short-term balancing energy trading, even without having booked long-term transport capacity (EEX). There were repeated calls for the introduction of within-day capacity in the second consultation (EFET), as this also served to maximise flexibility and corresponded to the booking behaviour of hydrogen power plants, in particular. One respondent (EWE Gasspeicher) called for the introduction of quarterly capacity, while another (INES) proposed the introduction of quarterly and intraday capacity. EnBW also commented on additional capacity products, stating that other product durations should be examined so that the hydrogen market could be more closely enmeshed with the electricity one. It gave hourly products as an example. Other comments (Uniper, Statkraft) also requested the introduction of other capacity products in the future.
- 92 The ruling chamber has considered the various requests for the introduction of other capacity products (within-day and hourly products, quarterly capacity) and has decided against introducing them at this time. The ruling chamber currently sees no absolute need for capacity products beyond those it determined. It considers that the current capacity products meet the flexibility requirements of market players. An amendment to this determination or an extension can be made if need for it is identified in the evaluation. The ruling chamber continues to be of the opinion that it is sensible and necessary to introduce non-yearly products right at the beginning of the market ramp-up. Short-term products significantly facilitate access to the hydrogen market, especially for

customers with flexible needs, and thus help the market ramp-up to succeed. The ruling chamber considers itself backed by numerous comments in this estimation (Statkraft, RWE, EnBW, EFET, EEX, bp, BDEW, SEFE, VNG). The ruling chamber does not deny that the introduction of non-yearly capacity products could have implications for the amortisation account. However, these should not be combated by only enabling the booking of yearly capacity but rather by suitable measures in the course of determining the tariff model, which is not part of this determination and outside the competence of the ruling chamber.

- 93 The introduction of yearly, monthly and daily capacity therefore ensures that there is a balance between securing the refinancing of the amortisation account by 2055 at the latest and the market's need for short-term products or flexibility. The ruling chamber does not exclude the possibility that the need for other capacity products might arise as the market ramps up. To this extent, it agrees with the market opinion that other product durations should be continually considered. Any findings should be included in the evaluation report pursuant to operative part 9 b), the ruling chamber believes.
- 94 One respondent (Eon) wanted the requirement to offer different capacity products to be restricted to hydrogen transmission network operators. The ruling chamber has not acceded to this request. No initial distinction is made between hydrogen transmission network operators and hydrogen distribution network operators (see margin nos 45 to 47), as section 28n(1) and (5) EnWG expressly makes no distinction between the network levels. Even if, considering the fact that Directive (EU) 2024/1788 makes a distinction between network levels, such an amendment to the EnWG seems likely, the legislative decision must still be awaited. In any case, however, section 28n(1) and (5) EnWG provides the ruling chamber the possibility of introducing provisions tailored for hydrogen distribution network operators at an early stage as the hydrogen market develops and makes it necessary.
- 95 Pursuant to section 4 b) dd), yearly capacity is offered for no longer than the next 15 years.
- 96 The provision is in line with the European provisions set out in Article 7(3) of Regulation (EU) 2024/1789, pursuant to which the maximum permissible duration for capacity contracts is 20 years for infrastructure completed before 1 January 2028 and 15 years for infrastructure completed on or after that date.
- 97 Some comments on the 15-year provision were positive (EFET, bp, RWE, Uniper, FNB Gas). According to one respondent (FNB Gas), long-term bookings would have positive effects on the amortisation account and offer planning certainty for both the market and transmission system operators. Statkraft called for a shorter maximum duration on the grounds that the booking period was too long without measures to prevent capacity hoarding. It must be ensured that sufficient capacity was available for all network users and hoarding of capacity was prevented, which could be achieved by specifying a minimum payment of booked capacity or a "use it or lose it" (UIOLI)

procedure. Airproducts called for a longer duration. According to it, a duration of 20 years should be allowed for the yearly FWK booking for infrastructure completed before 1 January 2028 in line with Article 7(3) of Regulation (EU) 2024/1789.

- 98 The ruling chamber has carefully considered the various positions put forward in the consultations on the maximum contract period for the booking of firm hydrogen capacity. Against this background, the ruling chamber has exercised its regulatory discretion on the basis of Article 7(3) sentence 2 of Regulation (EU) 2024/1789 to decide to determine a uniform maximum duration of 15 years. It has made this decision having weighed up the criteria mentioned in the Regulation: ensuring hydrogen market functioning, safeguarding competition and ensuring cross-border integration. It was also taken into account that long-term bookings contribute to the refinancing of the network and offer network users planning certainty as required by the Regulation. A duration of up to 15 years ensures that network operators are able to refinance their investments and at the same time to offer network users planning certainty. However, attention was paid that this duration did not lead to a market distortion or the disadvantaging of new market participants. A duration of up to 15 years appropriately takes these interests into consideration without jeopardising the above-mentioned regulatory objectives (ensuring hydrogen market functioning, safeguarding competition and ensuring cross-border integration). The ruling chamber continues to assume that there will be more capacity on offer overall than there is demand for at the beginning of the hydrogen ramp-up. For this reason, the ruling chamber has chosen not to determine a congestion mechanism for the time being. However, the need for congestion management measures must be continually monitored. If, in particular, findings from the report pursuant to operative part 9 b) indicate the need to introduce congestion management measures such as a UIOLI procedure, the ruling chamber can introduce these in good time in later proceedings.
- 99 There were also individual calls for a duration discount for long-term capacity bookings of more than five years in addition to the individual yearly bookings (VIK) and for the promotion of durations of up to 10 years with a discount option (WVStahl). These were justified on the grounds that network operators had to be offered a stable financing base. The ruling chamber has noted this addition but deciding on it does not lie within its area of competence as it relates to tariffs.
- 100 Operative part 4 c) deals with the reserve quota.
- 101 Pursuant to operative part 4 c) aa), at least 10% of the technical capacity available at each entry and exit point must be set aside and must not be marketed via yearly capacity products. Operative part 4 c) bb) sets out that the capacity to be set aside pursuant to aa) at each entry and exit point must be marketed via monthly and daily capacity products.

- 102 Making it mandatory to set aside capacity for the marketing of non-yearly products ensures that the provision on the introduction of non-yearly products is not ineffective as it will actually be possible to request capacity on a non-yearly basis.
- 103 The introduction of reserve quotas for non-yearly capacity products had been generally welcomed by some respondents to the first consultation (SEFE, EnBW, Eon and VNG). There was a mixed response to the size of the reserve quota in the second consultation.
- 104 While there was some general agreement with the ruling chamber's proposed rule (EnBW), the opinion was also expressed (WVStahl) that there should be no capacity reservation for short-term bookings in order to ensure investment certainty and long-term planning. Some respondents suggested changes in the size of the reserve quota (EWE Gasspeicher, Statkraft, INES, DWV). Statkraft, for example, wanted a reserve quota of at least 20% on the grounds that network users should be permitted to operate flexibly at the beginning of the hydrogen market ramp-up. DWV, meanwhile, pointed out that too large a proportion of short-term capacity at the start could lead to lower network utilisation, which would result in a higher core network postage stamp. Although it was correct to guarantee short-term capacity at the start, a balanced relationship between investment certainty and market flexibility must be guaranteed, it stated. DWV considered that an appropriate ratio would be 80% yearly capacity and 20% short-term capacity. INES proposed raising the reserve quota to 80%. It did not believe that a share of more than 20% yearly capacity was absolutely necessary for a secure and smooth operation of the market area. Other responses were also in support of a raise (EWE Gasspeicher).
- 105 EFET brought up changing the concept of the reserve quota but also suggested introducing staggered reserve quotas for yearly capacity as well, similar to those in the natural gas system. This would involve allocating 10% of the available yearly capacity with a lead time of no more than five years. In the current, as yet unclear ramp-up situation with generating units that had not yet been established, a minimum level of flexibility in the access to the hydrogen networks was necessary, it wrote.
- 106 Airproducts pointed out that the use of quotas, especially in the early stage, must not be used as a means of getting around the slow rollout of network capacity by network operators. Generators and users must be able to rely on the ability to book sufficient capacity to fulfil their supply contracts without having to depend on the booking of reserve capacity in short-term auctions, it stated.
- 107 The ruling chamber has carefully considered the responses to the consultation dealing with the design of the reserve quota. The ruling chamber is adhering to a uniform reserve quota of at least 10% for non-yearly bookings. After the different interests have been weighed up, the determination is a suitable instrument to guarantee flexibility for network users without jeopardising the necessary investment certainty for transmission system operators and planning certainty for network users. The staggered mechanism with lead times for yearly products proposed by one

respondent (EFET) would complicate the system and does not seem necessary, especially in the ramp-up phase. A simple and transparent regulation with a uniform quota, by contrast, will create clarity and legal certainty for all market participants. The quota of at least 10% is enough to ensure flexibility for the market without overloading the system and to take sufficient account of the aspects of investment certainty. The ruling chamber does not consider that these criteria would be fulfilled simply with the binding reserve quota for short-term products of 80% demanded by some respondents. In particular, this proposal does not give adequate weight to the aspect of planning certainty for some market participants dependent on long-term firm capacity. It is especially important in the ramp-up phase that long-term supply contracts, for example, can be concluded for hydrogen on the basis of long-term transport capacity as well. If only 20% of the technical capacity was available for bookings on a yearly basis, it must be expected that this could not be fully guaranteed, even in the ramp-up phase. At the same time, the determined provision does not inappropriately restrict the flexibility of those market participants mostly requesting non-yearly capacity. If the demand for long-term capacity is not so high as to book up all the yearly capacity, the unmarketed capacity must be offered for non-yearly products (see operative part 4 c) cc) below). In the event that all the long-term capacity on offer is booked, the reserve quota of at least 10% means that sufficient firm capacity is available to satisfy demand for short-term capacity.

- 108 The ruling chamber wishes to highlight that in the event of a significant change in the actual circumstances, such as a significant change in market developments or the rollout of infrastructure, the reserve quota can be examined and, if necessary, amended in an amended determination. However, specifying the minimum proportion to be set aside for non-yearly allocation generally already enables a reserve quota that goes beyond the existing one.
- 109 Operative part 4 c) cc) sets out that hydrogen network operators are required to offer the unmarketed yearly capacity as monthly and daily capacity products.
- 110 In the event that yearly capacity cannot be fully marketed, hydrogen network operators are required to offer the unmarketed capacity as short-term capacity in the form of monthly and daily capacity. Otherwise, if the unmarketed yearly capacity were to remain unmarketed, it would hinder the development of a liquid hydrogen market. This approach will be able to guarantee a use of capacity that is as complete as possible and thus efficient.
- 111 One respondent (RWE) had already given a positive assessment of offering the unmarketed yearly capacity as short-term capacity in the course of the first consultation. Two responses (BDEW, FNB Gas) pointed out that the full flexibility for shippers arising from operative part 4 c) cc) enabling them to book, in an extreme case, only short-term products, could have a negative effect on the balancing of the amortisation account if countermeasures were not taken elsewhere. Regulatory areas to be adjusted were the scope of short-term marketing, the level of multipliers for short-term

products, the level of potential discounts and the level of the ramp-up tariff, according to the comments. FNB Gas referred to the “fixed duration pots” concept proposed in the first consultation, which was a model with 90% yearly capacity and 10% short-term capacity. These proportions should be fixed, ie without the provision that unmarketed yearly capacity had to be offered as monthly or daily capacity, it argued. It believed that this model would be the most suitable system for the ramp-up phase from the perspective of the amortisation account. Hydrogen installations on the entry or exit side taken into operation in the course of the year could be taken into consideration by introducing a “rest of the year”. As the market developed, the booking options could be made more flexible, it was added.

- 112 The ruling chamber has noted the arguments put forward in the consultations and carefully considered them. In the view of the ruling chamber, the provision on transforming unmarketed yearly capacity into monthly and daily capacity must be maintained. This measure serves to ensure the flexible and efficient use of network capacity. A rule such as the proposed “fixed duration pots”, on the other hand, would represent an inappropriate barrier to access to the hydrogen networks. In particular, the ruling chamber does not share the assumption apparently behind the proposal, that potential hydrogen market participants would book up all 90% of the yearly capacity for lack of sufficient alternatives, which would have a positive effect on the balancing of the amortisation account. Rather, it would be expected that potential market participants faced with no or insufficient non-yearly capacity products would not enter the hydrogen market at all, because a yearly capacity booking was not compatible with their market model. The ruling chamber considers that this could slow the ramp-up and thus have a negative impact on the balancing of the amortisation account.
- 113 However, the ruling chamber does share the opinion that its access model determined in operative part 4 c) cc) must be sensibly integrated into an overall regulatory regime that does not neglect the effects on tariffs, in particular. In this context, the ruling chamber wishes to point out that tariff-side measures (in particular the use of multipliers) are to be envisaged by the Grand Ruling Chamber in the supplementary determination to the determination GBK-24-01-2#1 (GBK-24-01-2#2, KOSMO) to ensure that network costs are borne in a cost-reflective manner by the different customer groups and to avoid negative effects on the balancing of the amortisation account from the introduction of non-yearly capacity products. The combination of marketing unmarketed yearly capacity as daily and monthly capacity, on the one hand, and the likely introduction of multipliers on the other makes a balanced approach that ensures both flexibility for network users and planning and refinancing security for network operators.
- 114 Pursuant to operative part 4 c) dd), the provisions of operative part 4 c) aa) and bb) do not apply to exit points to final customers or entry points to production facilities.
- 115 Operative part 4 c) dd) determines that a reserve quota does not apply at exit points to final customers or entry points to production facilities. The background to this is that at points where

only one customer can make the capacity booking, restricting the yearly capacity is neither sensible nor necessary. As well as final customers, on the production side this affects operators of electrolysis facilities, in particular. The provision that no reserve quota is necessary at points where there is no competition was welcomed in various comments (EFET, BDEW).

- 116 With regard to the bundled offer at cross-border interconnection points, operative part 4 d) sentence 1 sets out that capacity at cross-border interconnection points must be offered as a bundle. Pursuant to operative part 4 d) sentence 2, capacity does not have to be bundled to the extent that and for as long as the foreign hydrogen network operator does not enable bundling for the respective cross-border interconnection point.
- 117 The bundling requirement is intended to facilitate the cross-border transport of hydrogen. A corresponding provision in the gas sector has proven itself in recent years. The introduction of the bundling requirement at cross-border interconnection points was welcomed in the consultation responses (EFET, Gasunie NL). The ruling chamber assumes that more detailed rules on this will be issued at the European level in the form of network codes in accordance with Article 72 of Regulation (EU) 2024/1789. The exemption from the bundling offer in sentence 2 means that surplus capacity on the German side can be offered without bundling. This exemption is necessary since, in the absence of EU legislation, a German hydrogen network operator cannot ensure a bundled capacity offer at cross-border interconnection points if the adjacent hydrogen network operator does not make it possible.
- 118 Operative part 4 e) determines specific rules for the allocation mechanism.
- 119 Pursuant to operative part 4 e) aa sentence 1, for the allocation of entry and exit capacity and for the trading of secondary capacity pursuant to bb), hydrogen network operators must set up and operate or have operated by an agreed third party a joint capacity booking platform via which capacity is allocated and traded.
- 120 The requirement to create a joint capacity booking platform is based on positive experiences from the natural gas sector, where the use of standardised platforms such as PRISMA ensure the efficient and transparent allocation of capacity. For the sake of clarity, it should be noted that bookings outside the platform are possible before the capacity booking platform has been launched, as individual comments called for (BDEW, FNB Gas). Bookings before the platform is put into service can be made bilaterally or otherwise between the contracting parties.
- 121 The introduction of a joint capacity booking platform received a positive response in the consultations (BDEW, bp, DWV, EEX, EFET, EnBW, Eon, EWE Netze, INES, RWE, SEFE, Uniper). There were calls to look at simplifications and standardisations for hydrogen distribution network operators in the specific implementation and design (BDEW) and to plan a simplified alternative to the capacity booking platform at network connection points to the downstream

hydrogen distribution network from the start (Eon) or to create exemptions for hydrogen distribution network operators (EWE Netze). Operative part 4 e) aa) sentence 2 further sets out that the capacity booking platform should be accessible from the data hub envisaged in operative part 7 of the WasABi determination (BK7-24-01-014).

- 122 The provision to link the capacity booking platform with the data hub represents a consistent implementation of the establishment of the data hub as the central data exchange platform in the hydrogen market. The ruling chamber wishes to make clear that these rules do not mean that the joint capacity booking platform and data hub necessarily need to be one platform or operated by the same entity. A portal solution, as proposed by one respondent (FNB Gas) in its additional comments, in which the capacity booking platform is connected to the data hub via an application programming interface (API) would also be in compliance with the provisions of operative part 4 e) aa). Nevertheless, having the booking platform reachable from the data hub ensures that all relevant information for the capacity allocation processes can be made accessible via one single application, contributing to the efficient allocation of capacity and facilitating access to the hydrogen networks.
- 123 Operative part 4 e) bb) sentence 1 sets out that hydrogen network operators must allocate entry and exit capacity at any entry or exit point via the joint capacity booking platform as of 1 January 2028.
- 124 This requires hydrogen network operators to allocate entry and exit capacity via the joint capacity booking platform from 1 January 2028.
- 125 It was originally intended for the allocation via the joint capacity booking platform to take place from 1 October 2026, but the choice of this date met with resistance from respondents to the second consultation. There was support on balance for a later date for the use of the joint capacity booking platform (SEFE, EnBW). It was first pointed out that the introduction as of 1 October 2026 was not advisable since the calendar year is to be the basis for hydrogen (EnBW). Another argument in favour of an introduction after 2026 was that once the determination has been published, several processes need to run in parallel, so an earlier introduction is not possible (SEFE, EnBW). It makes sense to link the implementation of the determination to the existence of standardised contract terms and conditions from the hydrogen cooperation agreement, according to EnBW. An introduction from 1 February 2027 was requested (EFET).
- 126 The ruling chamber found the arguments put forward by respondents regarding a later introduction of the capacity booking platform to be logical and understandable. In particular, it acknowledged the need for a later introduction to give market participants sufficient lead time and enable integration with other, parallel processes. The implementation on 1 February 2027 would not meet the needs of careful planning and the necessary integration into existing processes and could not offer the affected market participants sufficient lead time. The deadline for the introduction of the

capacity booking platform has thus been set at 1 January 2028, which continues to correspond to the general implementation deadline under operative part 10, which is now on the same date.

- 127 Operative part 4 e) bb) sentence 2 sets out that the capacity booking platform must offer shippers the possibility to sell entry and exit capacity on to third parties or to transfer it to third parties for use (secondary capacity). This provision is intended to ensure that available capacity is used as efficiently as possible. The ability to sell capacity on to third parties or transfer it for use creates a secondary market that will help to pass on unused capacity in a way that meets demand. Eon criticised the inclusion by the ruling chamber of the mandatory possibility of secondary marketing, stating that secondary marketing should not be relevant at least for points in the hydrogen distribution network.
- 128 The ruling chamber did not accede to these demands. No initial distinction is made between hydrogen transmission network operators and hydrogen distribution network operators. The ruling chamber is currently basing this decision on the fact that section 28n(1) and (5) EnWG expressly makes no distinction between the network levels. Even if, considering the fact that Directive (EU) 2024/1788 makes a distinction between network levels, such an amendment to the EnWG seems likely, the legislative decision must still be awaited. In any case, however, section 28n(1) and (5) EnWG provides the ruling chamber the possibility of introducing provisions tailored for hydrogen distribution network operators at an early stage as the hydrogen market develops and makes it necessary.
- 129 Operative part 4 e) cc) sets out that the costs of setting up and operating the capacity booking platform must be borne by the hydrogen network operators involved on a pro rata basis. The hydrogen network operators can pass on these costs in their network tariffs as in the system established and proven in the natural gas market.
- 130 Pursuant to operative part 4 e) dd) sentence 1, on the capacity booking platform, all the offers of the same kind of capacity and all requests for the same kind of capacity are to be made transparent for shippers. Operative part 4 e) dd) sentence 2 requires that anonymity of trading be safeguarded in relation to offering parties, requesting parties and third parties. Pursuant to operative part 4 e) dd) sentence 3, shippers must be registered in accordance with operative part 2 d) in order to participate in trading on the capacity booking platform. Pursuant to operative part 4 e) dd) sentence 4, the capacity booking platform must offer hydrogen network operators the technical ability to allocate capacity of the transmission network both on a first-come, first-served basis and by means of an auction.
- 131 Sentence 1 requires platform operators to simplify the acquisition of capacity by increasing the transparency of offers and requests for the same kind of capacity. Sentence 2 ensures that the transaction is completely anonymous. Experience from the natural gas sector has shown that this rule removes one of the key barriers to a functioning secondary market. In particular, when trading

is completely anonymous, there is no chance for market participants to gain insights into the business practices of offering or requesting parties that could then be used to manipulate the market. The requirement to register with network operators in sentence 3 facilitates access to the hydrogen market from the start and prevents the creation of barriers to market entry (see explanations on operative part 2 d)). The registration is carried out using the hydrogen network operators' one-stop shop registration site. The aim of sentence 4 is to ensure that allocation is technically possible by means of a first-come, first-served (FCFS) procedure or by means of an auction from the start, in order to prevent lengthy conversion processes later, such as those that could become necessary under operative part 4 e) hh) (4).

- 132 Pursuant to operative part 4 e) ee) sentence 1, hydrogen network operators must ensure that shippers can manage the acquisition of primary and secondary capacity via the capacity booking platform in a manner suitable for the mass market. Operative part 4 e) ee) sentence 2 sets out that the operators of the capacity booking platform must provide a website to handle this. The requirement for the platform to be suitable for the mass market aims to enable booking processes to be handled quickly and simply. This will ensure that acquiring both primary and secondary capacity is efficient. The requirement to be suitable for the mass market will make a significant contribution to the efficient allocation of capacity.
- 133 In contrast to the draft operative part that was put out for consultation, hydrogen network operators are expressly required to handle the acquisition of capacity on the capacity booking platform in a manner suitable for the mass market. This makes clear that the requirement primarily affects the hydrogen network operators and not the platform operators, since it is the hydrogen network operators that have the relevant information. One comment requested this clarification (EnBW). Sentence 2 contains the requirement for the operator of the capacity booking platform to set up a website that must, as set out in operative part 4 e) aa) sentence 2, be accessible from the data exchange platform. The website ensures that all relevant information and functions are shown in a transparent, uniform and easily accessible manner. The link to the data hub ensures that the platform is easily accessible for all market participants at all times.
- 134 Operative part 4 e) ff) sets out that hydrogen network operators must allocate entry and exit capacity at any entry or exit point on a first-come, first-served basis.
- 135 The FCFS process is introduced for the allocation of entry and exit capacity at any entry or exit point. This will increase flexibility and simplify operational implementation of capacity allocation for network operators and shippers, particularly during the ramp-up phase, when no scarcity situation is to be expected. Provided there is no scarcity, the ruling chamber does not see any potential for discrimination in an FCFS allocation.
- 136 The allocation mechanism both via FCFS and via auction was largely supported by respondents to the first consultation (BDEW, EFET, FNB Gas). Many responses (BDEW, SEFE, Uniper, VNG,

bp) pointed out that FCFS was a pragmatic allocation mechanism for the start of the ramp-up that could be turned into an auction process at the relevant points in the event of scarcity. Another respondent (RWE) called for the FCFS process to apply at least in the ramp-up phase. Another (EnBW) stated that the FCFS procedure would apply as long as there was sufficient firm capacity. Only when the booking level reached about 80% should auctions be introduced exclusively for that point, EnBW argued.

- 137 Further support for the allocation of capacity initially taking place via FCFS was expressed in the second consultation (BDEW, FNB Gas). This would reduce complexity as well as enabling maximum flexibility for market participants, it was stated. As no congestion was to be expected during the ramp-up, there was no need to resolve congestion by means of auctions. The ruling chamber considers its position that the offer of firm capacity is likely to exceed demand, especially at the beginning of the hydrogen ramp-up, reinforced by the comments made. The allocation of capacity by FCFS is therefore initially preferable, especially because it is less complex in its operational implementation for all concerned.
- 138 Operative part 4 e) gg) sentence 1 sets out that entry or exit contracts pursuant to operative part 2 with a duration of one year or more may be concluded at any time; those with less than one year may be concluded no earlier than three months before the start of the calendar year of the respective month; less than one month may be concluded no earlier than one month before the start of the contract period. Sentence 2 specifies that entry and exit contracts may only contain full days. Restricting the entry and exit contracts to full days makes it easier to manage and agree on the use of capacity.
- 139 For the purpose of simplification, operative part 4 e) gg) aims to determine the time up to which entry and exit contracts may be concluded depending on their duration.
- 140 The booking time rules for yearly and daily capacity products were not criticised in the consultation responses. The ruling chamber continues to consider it appropriate that contracts with a duration of one year or more can be concluded at any time. The ability to book yearly capacity at any time ensures that capacity is allocated efficiently and contributes to planning certainty for both network users and hydrogen network operators. Restricting the ability to book daily capacity to no earlier than one month before the start of the contract period is appropriate as well. This restriction is necessary to ensure that the booking of individual days in the future does not prevent the booking of longer-term capacity.
- 141 EnBW commented that a “booking gap” in time could occur in the offer of monthly products. As soon as it is no longer possible to book a calendar year, all months of that year should be bookable, not just the next three months, it argued. In another response, EFET pointed out that the current wording was confusing. EFET proposed that the products should always be bookable for the rest of the year. The lead time of the booking could be restricted, for example so that the monthly

capacity was always only bookable three months before the start of the relevant calendar year, it added. In another response, Statkraft also suggested making monthly products always bookable for the rest of the year, whereby the lead time could be restricted.

- 142 The ruling chamber acknowledged the point about the temporal booking gap and added a clarification to the operative part in its wording of point (2) “no earlier than three months before the start of the calendar year of the respective month”. The ruling chamber agrees with the respondents that a potential booking gap should be avoided. It considers that such a gap can also be avoided with the wording in the consulted draft operative part, but it has used the clarification to provide additional assurance that all months of a calendar year can be booked three months before the start of the calendar year. This avoids a booking gap for individual months at an earlier stage by enabling monthly capacity to be acquired for a further period in advance – up to the end of the year in question. This will increase planning certainty for network users and hydrogen network operators.
- 143 Operative part 4 e) hh) creates additional rules for entry and exit contracts at cross-border interconnection points, from and to hydrogen storage facilities and at entry points from hydrogen terminals.
- 144 Operative part 4 e) hh) (1) sets out that hydrogen network operators must continually monitor the booking situation at entry and exit points at border crossings, from and to hydrogen storage facilities and at entry points from hydrogen terminals.
- 145 Point (1) imposes an enhanced monitoring requirement on hydrogen network operators at these points. The background to this is the increased risk that scarcity situations might arise at these booking points in the course of market development. The requirement for continual monitoring enables such situations to be combated at an early stage. The monitoring requirement is specified in the provision about the regular reporting requirement of hydrogen network operators pursuant to operative part 9 b) dd). The introduction of a monitoring requirement was welcomed in the second consultation (FNB Gas).
- 146 Operative part 4 e) hh) (2) sentence 1 sets out that if hydrogen network operators identify a particular booking threshold at entry and exit points at border crossings and from and to hydrogen storage facilities, they must allocate entry and exit capacity at the respective booking point by means of an auction. Pursuant to operative part 4 e) hh) (2) sentence 2, hydrogen network operators can calculate the booking threshold by 1 January 2028 by developing a methodology to calculate the booking level. Pursuant to operative part 4 e) hh) (2) sentence 3, the methodology developed and the booking threshold identified must be published on the data exchange platform to be set up in accordance with WasABi (BK7-24-01-014). Pursuant to operative part 4 e) hh) (2) sentence 4, if the hydrogen network operators do not make use of the possibility under sentence 2,

the booking threshold is met when the hydrogen network operators identify that at least 80% of the bookable firm capacity at a booking point has been booked up.

- 147 The draft version of operative part 4 e) hh) that was consulted on has been amended. Originally, point (2) envisaged that if at least 80% of the bookable firm capacity had been booked up at a booking point, the hydrogen network operators had to change the means of allocation from FCFS to auctions. There were some objections in the consultation to the planned provision about changing the allocation mechanism.
- 148 BDEW, for example, pointed out that changing to allocation via auction would only be advisable if there were reliable thresholds available, which was not yet the case. It thus wanted a provision about changing the allocation procedure to be introduced by the ruling chamber at a later date. For now, it was enough to monitor the booking situation at the above-mentioned booking points as part of the reporting requirement, it stated. Another respondent (FNB Gas) also called for the monitoring requirement under point (1) to be kept and points (2) to (4) to be removed. Only if the annual reporting indicated that there would be sustained congestion should the allocation methods at the relevant points be changed to auctions by amending the determination, FNB Gas argued. In its comments, EnBW proposed a clarification that in the event of a booking level of at least 80% of the total available capacity at a point (regardless of duration), the allocation procedure should be changed from FCFS to auctions for all durations. EnBW was not in favour of different allocation procedures depending on duration. EFET wanted the provision to be formulated so that the change took place when at least 80% of the technical capacity was booked at a point for at least ten delivery days for all durations. One response (EFET) rejected different allocation procedures depending on duration. Another respondent (Uniper) took a different position, requesting a clarification to the effect that the change of allocation from FCFS to auction only applied to the relevant capacity product in this booking period and did not mean a permanent change of the allocation procedure at the relevant point. bp called for a further amendment of point (2), as the FCFS procedure should apply for storage facilities, cross-border interconnection points and hydrogen terminals in the first year, followed by auctions from the second year onwards if the demand for capacity was more than 80%. In the event that the capacity demand was less than 80%, long-term capacity bookings should be made available via FCFS as well. In the view of bp, the time limit on FCFS was necessary to avoid the risk of network users blocking capacity without using it and thus pushing up the price for other network users.
- 149 The ruling chamber acknowledges the proposals made to amend operative part 4 e) (hh) (2). For the purpose of clarification, the ruling chamber has included in sentence 1 that the booking threshold relates to a booking point and that the change of allocation procedure relates to the respective booking point, hence the total technical capacity. The ruling chamber further makes clear that the allocation procedure is to be changed, when required, for all durations. The ruling

chamber does not consider it practical to have a different allocation mechanism for different durations at the same booking point. Sentence 2 grants hydrogen network operators the ability to determine the booking threshold themselves by 1 January 2028 by developing a method on the basis of which the booking level can be calculated. Allowing this possibility takes account of the fact that the ex ante calculation and determination of an appropriate threshold is currently highly uncertain due to the uncertainties of the market ramp-up, as some of the consultation responses had also pointed out. Giving the hydrogen network operators time until 1 January 2028 to develop a methodology to decide the threshold themselves means that findings gained during the early phase of the market ramp-up as well as any capacity requests made up to that point can also be taken into account to calculate an appropriate threshold. Sentence 3 requires that the methodology developed and the booking threshold identified be published on the data exchange platform to be set up in accordance with WasABi (BK7-24-01-014). This provision is to provide transparency and clarity for all market participants. It ensures that the methodology and the booking threshold determined are communicated in a uniform manner and accessible to all concerned.

- 150 Under sentence 4, the booking threshold of at least 80% specified by the ruling chamber prevails if the hydrogen network operators have not decided on a booking value by 1 January 2028. The ruling chamber does not consider it suitable to merely have a yearly monitoring of the booking figures and specify any change via a separate determination if the monitoring indicated the possibility of congestion. The ruling chamber considers that this approach would risk significantly delaying the change to auctions in the event of emerging congestion. In particular, the ruling chamber considers it impractical for a separate determination to be issued for the change for each individual point at which the yearly monitoring indicated congestion. In the addition determined in sentence 4, the ruling chamber has created a balance between clear and understandable rules and flexibility from the opportunity for hydrogen network operators to develop the methodology and determine the relevant threshold.
- 151 One response (FNB Gas) proposed reconsidering the proposed allocation of capacity at entry points from hydrogen terminals using auctions, even when a potential threshold had been exceeded. Similarly to the discussion currently underway in the natural gas sector on entry points from LNG facilities, allocation via auction could restrict the users of hydrogen terminals as regards flexible booking periods and flexible allocation times, it stated. The ruling chamber can generally follow the argument presented and the reference to LNG facilities and has amended operative part 4 e) hh) (2) to the effect that the automatic change of the allocation mechanism to auctions no longer applies to entry points from hydrogen terminals. Nevertheless, developments at these points still need to be monitored in the course of reporting. If the monitoring undertaken as part of the reporting requirements should reveal that the introduction of an auction mechanism is

necessary at entry points from hydrogen terminals, the ruling chamber reserves the right to make an amendment to this effect in an amending determination.

- 152 Pursuant to operative part 4 e) hh) (3), hydrogen network operators are required by 1 January 2028 to develop uniform procedures for the auctions pursuant to point (2) and to apply them from the time when the booking threshold is reached.
- 153 This provision serves to detail the cooperation requirement set out in section 28n(1) sentence 5 EnWG. The procedure must be designed in compliance with European rules. Where these do not yet exist for the hydrogen sector, the ruling chamber considers it appropriate to use the provisions from the natural gas sector as a basis (Regulation (EU) 2017/459, CAM NC). This will simplify access for all market participants. In response to a comment by EnBW about the implementation time, the ruling chamber wishes to make clear that the implementation must take place by 1 January 2028. The development of a uniform procedure for the auction must occur by 1 January 2028 and thus before the actual application of the rules. The early determination of uniform auction procedures serves to guarantee a prompt transition from FCFS to auctions.
- 154 Pursuant to operative part 4 e) hh) (4) sentence 1, the change to the means of allocation must take place within one month following the initial identification of the condition set out in operative part 4 e) hh) (2). Pursuant to operative part 4 e) hh) (4) sentence 2, the change to the means of allocation must be announced to market participants and notified to the ruling chamber by the hydrogen network operators.
- 155 The change set out in sentence 1 was originally supposed to take place “without delay”. It was commented in the second consultation that this was considered too short notice. Although the auction mechanisms would already have been technically implemented on the capacity booking platform in accordance with operative part 4 e) dd), hydrogen network operators would need an appropriate lead time. The ruling chamber was able to understand the need for this amendment and amended the deadline for the changing of the allocation mechanism accordingly. At the same time, sentence 2 contains a requirement to announce this to market participants and notify the Bundesnetzagentur. This provision serves to create the greatest possible transparency so that market participants, in particular, can prepare for the change in the allocation mechanism.
- 156 Operative part 4 f) deals with the surrender of capacity. In accordance with operative part 4 f) aa), shippers may surrender their booked firm hydrogen network capacity at any time in full or in part, related to the booking period and volume, to the hydrogen network operator.
- 157 Operative part 4 f) regulates the possible surrender of capacity as a measure to avoid contractual congestion, in particular. This provision serves to ensure efficient network access in which the primary market is strengthened and capacity can thus be used to the greatest possible extent by giving back unneeded capacity, permitting it to be booked and passed on to where it is needed. The aim of the surrender is to increase the availability of firm capacity rights, which are restricted

by the designated technical capacity and the amount of capacity already booked. A framework for capacity booking in line with demand, and thus making optimal use of the available infrastructure, is also set out.

- 158 For this reason, operative part 4 f) aa) grants shippers the right to surrender only firm hydrogen network capacity at any time in full or in part to the hydrogen network operator. Surrender is possible for any days in the future and for any proportion of the originally booked capacity. Any proportion of capacity rights may be surrendered as daily, monthly or yearly capacity. There was a generally positive reaction to the surrender option in the comments (BDEW, DWV, EnBW, RefLau, SEFE). The ruling chamber essentially agrees with one response (RefLau), which stated that the hourly surrender of transport capacity would make the hydrogen market more flexible for the fluctuating injection of green hydrogen. However, as no within-day capacity products are currently planned and therefore it is not possible, for example, to re-market the surrendered capacity, the ruling chamber is not following the suggestion to enable hourly surrender at this time. If within-day capacity products are introduced at a later point in time, the surrender option will have to be expanded to include them.
- 159 Pursuant to operative part 4 f) bb), hydrogen network operators must accept the surrender of firm hydrogen network capacity.
- 160 Just as operative part 4 f) aa) contains the right to surrender capacity, operative part 4 f) bb) requires hydrogen network operators to accept the surrendered capacity. The original wording was that hydrogen network operators must accept any surrender of firm hydrogen network capacity that was booked by a shipper at an interconnection point. The restriction of the requirement to accept surrendered capacity to interconnection points was removed during the second consultation following a suggestion by two respondents (SEFE, EFET). The amendment is in harmony with the surrender option set out in operative part 4 f) aa).
- 161 Pursuant to operative part 4 f) dd) sentence 1, surrendered capacity may be remarketed only after all the available primary capacity has been allocated in accordance with the provisions of points a) to e). Pursuant to operative part 4 f) dd) sentence 2, hydrogen network operators must notify shippers without delay of any reallocation of their surrendered capacity.
- 162 As well as offering capacity on the secondary market, therefore, shippers have the option of surrendering it to the network operator, which will integrate it in the rest of the capacity offered as per operative part 4 e) dd). Hydrogen network operators are to market the surrendered capacity in principle as a lower priority to other primary capacity available for the same time period, but still as primary capacity and under the applicable rules for it. Until the capacity is reallocated by the hydrogen network operator and to the extent the capacity is not reallocated by the hydrogen network operator, shippers retain their rights and obligations under the entry and exit contract (operative part 4 e) cc)). In particular, shippers are required to pay the tariff incurred for the

transport capacity. This provision takes account of the justified interest of hydrogen network operators in securing their revenue by marketing still available capacity as a priority and counteracts incentives to hoard capacity. Primary use or trading on the secondary market by shippers is not allowed, unless the surrendered capacity was not able to be marketed and was thus returned to the shipper. The prompt notification of reallocation ensures that shippers always know what their current capacity allocation is, creating transparency.

163 Pursuant to operative part 4 f) ee), hydrogen network operators must develop a suitable procedure for handling the surrender and reallocation, in particular where several shippers surrender their capacity, and apply it as of 1 January 2028. The ruling chamber must be notified of the procedure.

164 The surrender of capacity rights is only reasonably possible if this process is standardised. Hydrogen network operators are therefore required under operative part 4 e) ee) in conjunction with the provisions of section 28n(1) sentence 5 EnWG (cooperation requirement) to develop a suitable procedure for managing the surrender and reallocation, in particular where several network users surrender their capacity, and to apply it as of 1 January 2028. The ruling chamber must be notified of the procedure for reasons of transparency. At the suggestions of respondents to the second consultation (EnBW, BDEW), the implementation deadline was amended, in particular to enable the development of a suitable procedure in the hydrogen cooperation agreement.

3.4.2.4 Operative part 5

165 Operative part 5 establishes general rules for the nomination procedure. The general rules are based on the tried and tested rules from the natural gas sector. This will create a uniform, transparent regime with the aim of ensuring transparency, flexibility and efficiency in the market.

166 In accordance with operative part 5 a) sentence 1, shippers must report to the hydrogen network operator their intended use of entry and exit capacity in hourly quantities in kilowatt hours per hour. Pursuant to operative part 5 a) sentence 2, the notification must be submitted by shippers in accordance with the usual rules of due diligence.

167 Sentence 1 imposes a nomination requirement on shippers. The requirement on shippers to nominate the quantity to be injected and withdrawn at the time of nomination provides the hydrogen network operator with information about likely flows, allowing the hydrogen network operator to manage its network in a forward-looking manner. The introduction of a nomination system was positively received in the first consultation (BDEW, bp, EEX, EFET, INES, RWE, SEFE, Uniper). It was also generally welcomed in the second consultation (BDEW, DWV).

168 In addition to the first consultation draft, sentence 2 sets out that the notification must be in accordance with the usual rules of due diligence. The measure of due diligence was added to the draft operative part from the consultation as requested in one response (FNB Gas). This addition

will contribute to quality assurance in the submitted nominations and consistency in the nomination rules and quantity notifications pursuant to operative part 6. “Due diligence” can be defined in the hydrogen cooperation agreement, as suggested in the comments (BDEW). It must in particular be ensured that the nominated values are suitable and reliable as a forecast instrument. That means that the shipper must make a forecast of the relevant injections and withdrawals on the basis of available data or figures derived with reasonable effort and submit its nomination on the basis of the forecast. This should give hydrogen network operators a reliable foundation for the planning of network operation and to avoid potential abuse in the form of the submission of deliberately incorrect nominations.

- 169 Operative part 5 b) sentence 1 entitles shippers to change the quantities originally nominated pursuant to point a) (re-nomination). Operative part 5 b) sentence 2 sets out that if the shipper receives new information indicating significant deviations in the nominated quantities, the nomination must be adjusted without delay within the lead times.
- 170 Sentence 1 contains a re-nomination entitlement for shippers. It thus allows shippers to adjust the amount injected in and withdrawn even after the actual nomination deadline. This will enable shippers to respond to changes in their original plans and will, in particular, avoid the risk of an unintended imbalance in the balancing group that would be present if there were no possibility of re-nomination. Sentence 2, meanwhile, requires shippers to adjust their nomination without delay if they have new information indicating significant deviations in the nominated quantities. The re-nomination requirement in this case is appropriate and reasonable as it is the only way to make sure that the (re-)nominated values are a reliable forecast and can be taken into account as a parameter in the operational network control of the hydrogen network operators and as a main input parameter for determining the overall network balance status in accordance with the WasABi determination (BK7-24-01-014).
- 171 Operative part 5 c) sentence 1 requires hydrogen network operators to make and apply uniform provisions for the nomination and re-nomination procedure, including the nomination and re-nomination deadlines. Operative part 5 c) sentence 2 requires hydrogen network operators to ensure that the lead times to be determined enable the requirements of the balancing system arising from the WasABi determination (BK7-24-01-014) to be met. Operative part 5 c) sentence 3 sets out that hydrogen network operators must work together to the extent necessary. Pursuant to operative part 5 c) sentence 4, the market participants affected must be involved in the development of the provisions to an appropriate extent.
- 172 Many respondents referred specifically to the design of the nomination and re-nomination deadlines (EFET, EEX, EWE Gasspeicher, Statkraft, WVStahl, INES, RWE, bp, Uniper) or the re-nomination lead times (EnBW). The ruling chamber wishes to draw attention here to hydrogen network operators’ requirement under operative part 5 c) sentence 1 to make uniform provisions

for the nomination and re-nomination procedure. This includes clarifying appropriate re-nomination deadlines. A restriction on the design of the lead times is derived from operative part 5 c) sentence 2, pursuant to which hydrogen network operators must ensure that the lead times to be determined enable the requirements of the balancing system arising from the WasABi determination (BK7-24-01-014) to be met. A few responses to the second consultation (EFET, EEX) pointed out that these lead times must be in line with the provisions of the WasABi determination (BK7-24-01-014). One respondent (RWE) called for the re-nomination deadline to be laid down as a requirement in the determination, while others (WVStahl, EFET, Uniper) wanted the nomination and re-nomination deadlines to be defined in the determination proceedings. Another (FNB Gas), by contrast, proposed that the rules on the nomination and re-nomination deadlines be decided in the hydrogen cooperation agreement. Other responses to the first consultation (BDEW, SEFE) supported this proposal.

- 173 The ruling chamber has noted and carefully considered the content of these responses. The ruling chamber continues to envisage the nomination and re-nomination deadlines being decided by the hydrogen network operators. This could be done in the hydrogen cooperation agreement but only with the involvement of the other market participants. The design of the nomination and re-nomination deadlines by the hydrogen network operators ensures flexibility and proximity to the market. By regulating it in, for example, the cooperation agreement, it is ensured that the lead times are developed in a way that is practice-oriented and in close cooperation with all hydrogen network operators. At the same time, the participation of other market participants in accordance with operative part 5 c) sentence 4 ensures that all relevant actors are appropriately involved. It is therefore not necessary to determine specific lead times. The ruling chamber specifies as the key criterion for the determination in operative part 5 c) sentence 2 that the lead times must enable the requirements of the balancing system arising from the WasABi determination (BK7-24-01-014) to be met. This ensures that the lead times for nomination and re-nomination have to be chosen by the hydrogen network operators in such a way that an unplanned imbalance in the balancing group at the end of the netting period can still be avoided, taking account of the data transmission intervals. A detailed determination of the times is thus not necessary and can be decided by the hydrogen network operators with the involvement of network users, for example in the hydrogen cooperation agreement. The requirement set out in operative part 5 c) sentence 3 for hydrogen network operators to work together to the extent necessary in the development and application of uniform rules for nomination ensures that available synergies between hydrogen network operators are made use of and the process is designed efficiently. The cooperation may also take place in the course of drawing up the hydrogen cooperation agreement.
- 174 A few respondents to the second consultation requested the rules on the nomination and re-nomination requirement to be drawn up jointly with market participants (EFET, EEX, Statkraft, INES). The ruling chamber was able to understand this need and, in sentence 4, has required the

hydrogen network operators to involve the other market participants in this process to an appropriate extent. The involvement of other market participants ensures the development of a system that is stable and sustainable for the long term. At the same time, giving the primary responsibility for the task to hydrogen network operators ensures that the process moves forward efficiently and is not delayed.

- 175 Operative part 5 d) regulates in which special cases exit nominations are necessary. It sets out that an exit nomination is only necessary (aa) in the event of withdrawal for the purpose of injection into a hydrogen storage facility, (bb) in the event of transport to an adjacent country, (cc) in the event that capacity is booked at the same exit point by more than one shipper, insofar as this exit point is assigned to different balancing groups.
- 176 This provision makes clear that exit nominations are essentially not necessary. It also specifies exceptions from this rule. These are based on the rules and established practice in the natural gas sector. These rules are tried and tested in the natural gas sector and should therefore also be applied to the hydrogen market as there is no need at this point for significant systematic differences between the natural gas and hydrogen networks in the management of network access.
- 177 Operative part 5 e) determines that the requirement set out in operative part 5 d) applies accordingly in the event that the shipper has entered the same exit point in different balancing groups. The provision of operative part 5 e) ensures that the quantities can be clearly allocated to one of the balancing groups in which the relevant exit point was included, guaranteeing a clear and comprehensible allocation of the transported quantity. This provision is also in line with an identical, tried and tested rule from the natural gas sector.
- 178 The call in one response (SEFE) to limit the booking of capacity at exit points to final customers and at entry points from production facilities to shippers with a legitimate interest was not accepted. The ruling chamber assumes that only shippers with a legitimate interest are requesting capacity at these points anyway. The ruling chamber is not aware of any instances, especially from the natural gas sector, in which this was not the case. The call for such a restriction was not further explained, so it was not possible to deal objectively with the proposal, in particular the questions of in which cases there would likely be a legitimate interest in a booking and why the restriction should only apply at the points mentioned.
- 179 Operative part 5 f) determines that shippers may commission a third party with the nomination (sentence 1). The third party makes nominations with the hydrogen network operator on behalf of the commissioning shipper (sentence 2). It is also regulated that the contractual obligations between shipper and hydrogen network operator remain unaffected by this (sentence 3).

- 180 These provisions correspond with the option for shippers to commission a third party with fulfilment of the balance responsible party's tasks for their balancing group. If this is possible, for reasons of consistency a third party must also remain capable of carrying out nominations vis-à-vis the hydrogen system operator on behalf of the delegating shipper. These provisions are based on the rules and established practice in the natural gas sector. These rules are tried and tested in the natural gas sector and should therefore also be applied to the hydrogen market as there is no need at this point for significant systematic differences between the natural gas and hydrogen networks in the management of network access.
- 181 Operative part 5 g) sets out that the nomination and re-nomination processes must be handled via the data exchange platform to be established in accordance with the WasABi determination (BK7-24-01-014).
- 182 Handling nominations and re-nominations via the data exchange platform ensures a uniform, secure and efficient process that creates transparency and minimises potential errors. This provision was not included in the draft determination that was put out for consultation. The requirement to handle the nomination and re-nomination processes via the data exchange platform arose indirectly from the provisions in operative part 7 of the WasABi determination (BK7-24-01-014). Consultation responses (EFET, SEFE) suggested setting out the process handling via the data exchange platform in this determination, too. The ruling chamber has followed this suggestion and expressly included the requirement in operative part 5 g). This clarifying explanation will avoid any misinterpretations related to the handling of information flows in nomination and re-nomination and make clear the position of the data exchange platform as the central communication platform in the hydrogen market.

3.4.2.5 Operative part 6

- 183 Operative part 6 regulates the requirement of shippers to notify quantities at booking points for which no nomination is necessary and structures this requirement.
- 184 Pursuant to operative part 6 a) sentence 1, hydrogen network operators must require quantity notifications for a certain period in advance from shippers at booking points for which no nomination needs to be submitted, in particular exit points to final customers. Operative part 6 a) sentence 2 requires hydrogen network operators to ensure that the lead times to be determined enable the requirements of the balancing system arising from the WasABi determination (BK7-24-01-014) to be met. To this end, pursuant to operative part 6 a) sentence 3, hydrogen network operators must work together to the extent necessary. Pursuant to operative part 6 a) sentence 4, the market participants affected must be involved in the development of the provisions to an appropriate extent. Pursuant to operative part 6 a) sentence 5, quantity notifications must be submitted by shippers in accordance with the usual rules of due diligence.

- 185 This provision adds to the provisions of operative part 5 on nominations and ensures that hydrogen network operators have a reliable data basis for network planning even at points for which no nominations have to be submitted.
- 186 Individual respondents (BDEW, EFET, FNB Gas, bp) had called for the introduction of quantity notifications in the first consultation. This would increase the accuracy of forecasts, they argued. The requirement to submit a quantity notification replaces the originally planned option to do so. This amendment was made following numerous comments in the second consultation (inc Uniper, EFET, HNE, BDEW, SEFE, INES) pointing to the necessity of receiving reliable forecast data at points not subject to the nomination requirement as well. Only a mandatory notification could achieve consistent forecasting quality across the system, it was argued. Moreover, this would ensure that the provisions of the WasABi determination (BK7-24-01-014), which already contained a corresponding notification requirement, were coherently implemented (EFET). There were a few proposals to restrict the requirement to significant network users (RWE, SEFE). The ruling chamber has not followed these proposals since differentiating quantity notification requirements according to user size or relevance is not compatible with the aim of a full and reliable data base. Only a generally applicable, mandatory quantity notification can achieve a reliable and sufficiently high forecasting quality for the overall network balance status in accordance with the WasABi determination (BK7-24-01-014).
- 187 In the second consultation it was requested (FNB Gas) that the quantity notifications take place ahead of time. The ruling chamber considers this demand appropriate and consistent as corresponding lead times are already planned for nominations and re-nominations (operative part 5 c) sentence 2). The requirement to notify quantity in good time in advance is thus a consistent addition to the existing rules on nomination and re-nomination. The advance notification is thus to be applied for quantity notifications as well. As far the timing is concerned, the ruling chamber wishes to point out that the wording “for a certain period in advance” must enable the requirements of the balancing system arising from the WasABi determination (BK7-24-01-014) to be met. The hydrogen network operators must work together to the extent necessary to this end. The market participants affected must be involved in the development of the provisions to an appropriate extent.
- 188 Sentence 5 makes clear that the quantity notifications must be submitted by shippers in accordance with the rules of due diligence. The original wording was that the quantity notifications must be submitted by shippers in accordance with the rules of due diligence for the gas sector. The wording about the due diligence for the gas sector has been removed since the area of activity here is the hydrogen sector and the term used was no longer up-to-date. A respondent to the first consultation (FNB Gas) had already brought up the inclusion of a due diligence measure and this suggestion was welcomed by several respondents to the second consultation (BDEW, HNE, FNB

Gas). The aim was to secure the quality of the notifications submitted. “Due diligence” can be defined in the hydrogen cooperation agreement, as suggested in the comments (BDEW). It must in particular be ensured that the notified figures are suitable and reliable as forecast instruments. That means that the shipper must make a forecast of the relevant injections and withdrawals on the basis of available data or figures derived with reasonable effort and submit its quantity notification on the basis of the forecast. This should give hydrogen network operators a reliable foundation for the planning of network operation. Potential abuse in the form of the submission of deliberately incorrect quantity notifications should be avoided.

- 189 Operative part 6 b) sets out that if the shipper receives new information indicating significant deviations in the notified quantities, the quantity notifications must be adjusted without delay within the lead times to be determined. This can take place as part of the hydrogen cooperation agreement.
- 190 The provision envisages an adjustment requirement for shippers. If shippers receive new, relevant information, the quantity notifications must be adjusted without delay. The introduction of the adjustment requirement is consistent with the requirement to adjust nominations in accordance with operative part 5 b) sentence 2 and, given that the mandatory quantity notifications form a basis for the planning of the network operations, it is appropriate and reasonable. It can make sure that the notified values are a reliable forecast and can be taken into account as a parameter in the operational network control of the hydrogen network operators and as a main input parameter for determining the overall network balance status in accordance with the WasABi determination (BK7-24-01-014).
- 191 Pursuant to operative part 6 c), shippers may commission a third party with the transmission of the quantity notification. The third party transmits the quantity notification to the hydrogen network operators on behalf of the commissioning shipper. The contractual obligations between shipper and hydrogen network operator remain unaffected by this.
- 192 As in the nomination procedure in operative part 5 f), the ruling chamber has included in the provision of operative part 6 c) the possibility for shippers to commission a third party to transit their quantity notifications to the hydrogen network operator. This provision is based on the structure of the nomination processes (see operative part 5) and takes account of shippers’ need for a flexible organisation of their business processes.
- 193 Pursuant to operative part 6 d), the provision and transmission of quantity notifications must take place via the data exchange platform to be established in accordance with the WasABi determination (BK7-24-01-014).
- 194 This provision was inserted, partly at the suggestion of respondents (EFET, SEFE), to ensure an efficient, uniform and digital data transmission. The use of the data exchange platform guarantees

a central platform for the exchange of relevant information. Handling the quantity notifications via the data exchange platform – like the nomination and re-nomination under operative part 5 – ensures a uniform, secure and efficient process. It enables efficient data processing and at the same time ensures a consistency of data among hydrogen network operators and the hydrogen market area manager. This will create transparency and minimise sources of error. The ruling chamber considers the use of the data hub a suitable means to minimise the administrative effort involved for market participants and to increase the quality of data provision.

3.4.2.6 Operative part 7

- 195 Operative part 7 regulates the management of access to hydrogen networks.
- 196 Operative part 7 a) sentence 1 requires hydrogen network operators to conclude interconnection agreements with adjacent network operators. The arrangements must uphold the confidentiality of commercially sensitive data or information (sentence 2). The provisions are based on the tried and tested rules from the natural gas sector. Interconnection agreements ensure that the transport of hydrogen runs smoothly and hydrogen network operators work together in the best possible way by clearly dividing rights and obligations among them. The objective of the provisions is to prevent disruption to cross-network hydrogen transport that could ultimately jeopardise the security of customers' supply of hydrogen. Commercially sensitive data must be protected. The agreements must thus be designed in such a way that they uphold the confidentiality of commercially sensitive data or information.
- 197 Operative part 7 b) sets out minimum requirements for the content of interconnection agreements.
- 198 Interconnection agreements must regulate at least the following: the information that hydrogen network operators need to provide each other with to manage transports (aa)); the technical criteria of the interconnection point, in particular pressure, gas quality and the technical capacity of the interconnection point (bb)); the exchange of data among hydrogen network operators; (cc)); metering and provision of the metering results (dd)); nomination or alternative procedures (ee)); conditions for discontinuing or reducing the provision or transfer of hydrogen. (ff)).
- 199 Specifying the minimum information required ensures that the interconnection agreements have a standardised content, making it easier to conclude them and make them compatible. Individual respondents (FNB Gas) supported this aim but called for the ability to adjust the minimum content. The ruling chamber did not follow this request since a general escape clause would water down the binding nature of the minimum standards and jeopardise the comparability of the interconnection agreements. However, amendments to interconnection agreements going beyond the minimum standards are possible.
- 200 Operative part 7 c) sets out that hydrogen network operators must set up operational balancing accounts among themselves at their interconnection points to ensure that transport contracts are

performed without interruption during station down times and in the event of a change of direction of the hydrogen flow, minimal hydrogen flow or metering inaccuracies (sentence 1). Operational balancing accounts can also be used to provide and receive internal balancing gas (sentence 2).

- 201 This provision requires hydrogen network operators to set up operational balancing accounts at interconnection points to ensure that hydrogen is transported without interruption even at times when deviations from the normal physical state of the interconnection point occur. The aim is to ensure a transfer of hydrogen without interruption even in situations that diverge from the usual conditions at the interconnection point. The operational balancing accounts may also be used to provide and receive internal balancing gas. Individual respondents (inc BDEW, FNB Gas) called for the setting up of the accounts to be purely optional, or at least not mandatory, in order to uphold technical and operational flexibility. However, the ruling chamber has decided to keep to the mandatory introduction in order to guarantee operational security. Nevertheless, the requirement only applies insofar as setting up an operational balancing account is necessary for the management at the interconnection point. FNB Gas' argument that in the natural gas sector, network operators already cooperate at the national level without using operational balancing accounts, although these also generally have to be introduced, actually shows that the basic requirement to set up operational balancing accounts does not have to restrict the hydrogen network operators' flexibility, which is essential for the ability to respond in the operation of the hydrogen network. Moreover, the provisions of operative part 7 c) do not set out any specifications regarding the minimum scope of the operational balancing account that has to be secured, as is the case in the natural gas sector.
- 202 Operative part 7 d) sentence 1 requires hydrogen network operators to accept quantities of hydrogen provided by shippers at the entry points named by the shipper and to hand them over with the same energy content at the exit points named by the shipper. Under sentence 2, the identity of the hydrogen need not be kept in the withdrawal.
- 203 This provision, which originated in section 8 of the Gas Network Access Ordinance (GasNZV), that is to say in the natural gas market, entitles shippers to have the quantities of hydrogen they provide at entry points transported and made available for withdrawal. The rule that the identity of the hydrogen need not be kept in the withdrawal takes account of the fact that, under the existing physical conditions, it is actually not possible for precisely the same hydrogen that was injected in to be provided at the same time at the exit point. The quantity of hydrogen in the network is regarded as a whole, so the physical identity of the hydrogen injected in and withdrawn cannot, and does not need to be, maintained. This provision was carried over from the natural gas market since it had been proven to be expedient and effective there.
- 204 Operative part 7 e) determines rules for the quality of the hydrogen that is to be injected into the network. These are based on the generally recognised technical rules with which compliance may

be assumed if the technical rules of the DVGW (Deutscher Verein des Gas- und Wasserfachs e. V.) are complied with as per section 49(2) para 2 EnWG. The provision splits the responsibility between shippers and hydrogen network operators as far as ensuring the necessary compatibility between the hydrogen that is to be injected into the network and the hydrogen that is already in the network is concerned. Operative part 7 e) aa) requires shippers to ensure that the hydrogen for injection into the network corresponds to the specifications published by the entry network operator. This is a reasonable demand of shippers, since they are bringing hydrogen for injection into a network that already contains hydrogen with a certain quality. Operative part 7 e) bb) contains a rule that the compatibility of hydrogen quality will be assumed if shippers meet the specification published by the hydrogen network operator at the time of injection. This is appropriate, particularly given that shippers – unlike the hydrogen network operator itself – cannot know the exact quality (eg the precise calorific value) of the hydrogen at the time of injection from their own information and therefore have to rely on the data of the network operator on its website.

- 205 Requests from various respondents, for example to determine a specific parameter corridor (SEFE), to issue a binding definition of hydrogen quality (Creos Deutschland Wasserstoff GmbH, EWE Gasspeicher, INES, Reflau) or to require the ruling chamber to determine the quality (Reflau) or the purity (Uniper) were not accepted, in particular because they do not come within the ruling chamber's area of regulatory competence. Furthermore, the ruling chamber considers that compliance with the generally recognised technical rules is sufficient guarantee of the obligation.

3.4.2.7 Operative part 8

- 206 Operative part 8 regulates the requirement to amend entry and exit contracts concluded before 1 January 2028. Operative part 8 requires hydrogen network operators to ensure by 1 January 2028 that entry and exit contracts concluded before this determination came into force correspond to the provisions of operative parts 2 to 7. The requirement serves to harmonise the contractual framework conditions in the German hydrogen market area. The requirement to amend pre-existing contracts ensures that all contracts conform to the same regulatory requirements, creating legal certainty. Uniform, standardised contractual relationships also create transparency and are a basis for non-discriminatory access to the hydrogen network. There was an overwhelmingly positive response to the introduction of a requirement to amend contracts in the first consultation (BDEW, EEX, EFET, EnBW, Eon, Creos Deutschland GmbH, GEODE, RWE, SEFE VNG, bp, FNB Gas; and INES in the second consultation).
- 207 The 12-month period for amendments originally proposed by the ruling chamber in its introductory document, which was reflected in the draft operative part as a requirement to amend previously concluded entry and exit contracts by 1 October 2026, was commented on critically (BDEW, bp, DWV, EFET, EnBW, Eon, FNB Gas, SEFE, Uniper) and it was requested that the requirement be

linked to the conclusion of the reference offer procedure in the course of drawing up the hydrogen cooperation agreement.

208 Due to the suggestions made in the course of the second consultation, the originally planned requirement to amend previously concluded entry and exit contracts by 1 October 2026 has now been pushed back to 1 January 2028, as requested by various respondents (BDEW, Uniper, EFET, EnBW, FNB Gas, E.ON, DWV). The reasons given for the proposal in the responses included the fact that extending the deadline would allow hydrogen network operators to amend their existing contracts to the future standard framework without having to amend them again ahead of time. The ruling chamber is able to follow this perspective. The date it has now chosen creates clarity for market players and avoids overregulation in a phase in which the hydrogen network access system is still under development. The ruling chamber did not accept the suggestion of one respondent (bp), instead of the amendment requirement, to replace old contracts with “core network transport terms and conditions” as of 1 October 2026. In light of the initially modest scope at the beginning of the hydrogen ramp-up, the ruling chamber considers that requiring existing contracts to be individually amended is sufficiently practical. For the avoidance of any misunderstanding, the ruling chamber also wishes to point out that the provisions of this determination and the requirement to amend entry and exit contracts relate to all regulated hydrogen networks, not just the core network.

3.4.2.8 Operative part 9

209 Operative part 9 regulates the publication and reporting requirements of hydrogen network operators.

210 In operative part 9 a) sentence 1, hydrogen network operators are required by 1 January 2027 to publish an overview on a website set up jointly of the number of clusters existing in the German hydrogen market area and a depiction of the geographical location and expanse of the clusters (aa); of existing connections between the clusters and the maximum interconnection capacity (bb)) and of the development, status and time of cluster connections and the maximum interconnection capacity, specifying the interconnection capacity newly added in the calendar year (cc)). The provision introduces an initial report. The initial report is intended to give market participants an early and transparent overview of the capacity offer at booking points and of the interconnection capacity in the multi-cluster transports. The initial report was introduced at the request of respondents to the second consultation (Uniper, EFET, Statkraft). The ruling chamber has determined a publication date of 1 January 2027 in order to guarantee the above-mentioned information in good time. Therefore, the publication of the initial report must first be made on a joint website, until the data exchange platform has been set up in accordance with the WasABi determination (BK7-24-01-014). Other suggested dates, such as 31 December 2025 (put forward by EFET, Uniper) were not accepted. Considering the effort needed for implementation, the

necessary data quality and the postponed implementation time pursuant to operative part 10, the ruling chamber does not consider an earlier publication realistic or, indeed, necessary. The ruling chamber considers that the lead time is adequate to give market participants sufficient transparency for the organisation and planning of hydrogen transport before the implementation date.

- 211 Pursuant to operative part 9 a) sentence 2, the initial report must be updated quarterly if there have been changes. Once the data exchange platform to be established in accordance with the WasABi determination (BK7-24-01-014) has been completed, the updates must be published there (sentence 3). This is to ensure that transparency about the capacity offer at booking points and about the interconnection capacity in the multi-cluster transports is maintained and that ongoing developments are taken into account.
- 212 Operative part 9 b) contains a regular reporting requirement and determines its content. Operative part 9 b) sentence 1 requires the hydrogen network operators to provide the ruling chamber with a joint summarising report for the previous calendar year by 1 April of each year beginning on 1 April 2029. The report must contain in particular an overview of the number of clusters existing in the hydrogen market area, the development and status of cluster connections, an overview of the booking quotas with regard to the multi-cluster transports pursuant to operative part 3 a) cc) and the capacity products within the meaning of operative part 4 b) aa) and bb) and finally an overview of the booking situation at the points relevant to operative part 4 e) hh): entry and exit points at border crossings, from and to hydrogen storage facilities and entry points from hydrogen terminals.
- 213 The aim of this reporting requirement is the continuous evaluation of the hydrogen capacity system and the status and development of the market ramp-up. The yearly evaluation report is intended to create transparency, especially on capacity offers, usage patterns and network development. It is intended to help to identify any structural deficits, congestion or need for regulatory adjustment at an early stage. The findings it reveals can offer a firm basis for any regulatory adjustments or further developments of the network access regime. The ruling chamber considers that the annual reporting requirement is a key instrument in the monitoring and control of the developing hydrogen network access. There was a positive reaction to the reporting requirement in the comments (DWV, EFET, EnBW, INES, Statkraft).
- 214 The report was originally to be produced by 1 February. Many respondents to the second consultation (inc EnBW, FNB Gas, BDEW, E.ON) considered this deadline too tight as the report would not be able to contain all the data from the previous calendar year by then. The ruling chamber acknowledged this feedback and moved the date back to 1 April to allow data to be provided for the period up to and including 31 December of the previous year.

- 215 One respondent (FNB Gas) wanted the reporting requirement to be limited to hydrogen transmission network operators, as they have a function spanning the market area. The ruling chamber did not accede to this request because there is no differentiation between network levels in the current application of the access rules and at the start of the hydrogen ramp-up there should be a broad base of information with which to undertake an effective evaluation of the hydrogen capacity system. Ultimately, all hydrogen network operators make decisive contributions to the overall system in the ramp-up phase and are essential for an overall evaluation.
- 216 Moreover, the ruling chamber now envisages in operative part 9 b) that the reporting requirements of this determination and from the WasABi determination (BK7-24-01-014) should be integrated into one report and that one combined report should therefore be submitted to the ruling chamber, which will publish it on the Bundesnetzagentur website. The ruling chamber considers it appropriate to have a combined report because of the close interplay between the content of the two determinations. This will make it possible to present the content in a more targeted and easily comprehensible way, for the benefit of authors and readers alike. In addition, it can be assumed that a combined report providing a full overview will also facilitate any subsequent discussions about the further development of the hydrogen network access model or individual elements of the model. If there are objective reasons against a combined report, the submission of separate reports to meet the reporting requirements in this determination and the WasABi determination (BK7-24-01-014) would be compatible with the provisions in operative part 9. The publication will ensure a transparent and uniform access for all market participants.

3.4.2.9 Operative part 10

- 217 Operative part 10 regulates the requirement to implement the content of the determination. Hydrogen network operators are required to apply the rules determined, with the exception of operative part 9 a), beginning on 1 January 2028. This provision sets out the period of application of the determination. The aim is to give network operators an appropriate deadline by which to implement the rules in line with their practice and to give market participants planning certainty. The ruling chamber had originally set 1 October 2026 as the implementation date, but a large number of respondents objected (BDEW, Creos Deutschland GmbH, DWV, EEX, EnBW, EFET, Eon, FNB Gas, GEODE, SEFE, Uniper). Just one (HNE) welcomed the ambitious implementation time plan and called for the market rules to be implemented and finalised in 2026 or the first quarter of 2027 at the latest.
- 218 Some of the criticism (BDEW, EEX, FNB Gas) pointed out that in a system based on the calendar year, it would be more appropriate for the new rules to come into force on 1 January. Concern was also expressed about the implementation in 2026 (BDEW, EEX, EFET). One respondent (EEX), for example, maintained that an implementation in 2026 was too ambitious and suggested 1 January 2027 instead. Another (EFET) stated that an implementation in 2026 was unrealistic in

light of the complex processes. EFET considered an implementation date of 1 February 2027 preferable. Other respondents (BDEW, FNB Gas) also expressed concern about the year 2026. They noted that implementing the determination did not only mean dealing with its actual content but also required additional coordination and the development of detailed concepts, processes and rules. An implementation period of just “likely over a year” was in no way sufficient for the necessary overall concept, they argued. Even within the established process of the cooperation agreement in the gas sector, which mostly only deals with further developments of individual aspects, coordinating with market players and the Bundesnetzagentur and internal approval processes took about six months. The hydrogen sector would likely involve much more work as a new network access model with far more complex requirements had to be developed. What is more, the determinations require technically demanding processes, such as for the provisions on the financial incentive system (helper/causer), on the data exchange platform for the balancing regime and on the central capacity booking platform. For hydrogen network access to function, it is therefore necessary to work out all the processes in a broad sector dialogue with all stakeholders, including the Bundesnetzagentur, and this takes time. The BDEW considered that 1 January 2028 was the earliest realistic goal for the entry into force of the hydrogen cooperation agreement. It did not rule out, however, that individual elements could be published ahead of time if the lead times set out in the determinations allowed for this. Other responses (GEODE, Eon, Uniper) also proposed that this determination enter into force on 1 January 2028.

219 Having weighed up the responses to the consultation process, the ruling chamber has decided to delay its original time of application from 1 October 2026 to 1 January 2028. The ruling chamber shares the view that an application date of 1 January is more consistent in this system. This amendment should give hydrogen network operators enough time to implement the provisions in line with their practice. The ruling chamber was able to understand the many objections raised by responses to the consultation to an implementation within the original time plan and was convinced by them, especially in light of the detailed concepts, IT systems and processes that have to be developed and coordinated. The suggestions by individual respondents in favour of implementation by 1 January 2027 or 1 February 2027 were less convincing overall. The need is understandable but the wide-ranging content and process-related requirements indicate that a longer preparation period and an adjustment to the calendar year are needed. With this in mind, an application date of 1 January 2028 is to be regarded as appropriate.

3.4.2.10 Operative part 11

220 In accordance with section 91(1) sentence 3 EnWG, no fees are payable for decisions served by public notification in accordance with section 73(1a) EnWG.

Information on legal remedies

Appeals against this decision may be brought within one month of its service. The appeal must be submitted to the Higher Regional Court of Düsseldorf (address: Cecilienallee 3, 40474 Düsseldorf).

The appeal must be accompanied by a written statement setting out the grounds for appeal. The written statement must be provided within one month. The one-month period begins with the filing of the appeal; this deadline may be extended by the court of appeal's presiding judge upon request. The appeal and the grounds for appeal must be signed by a lawyer.

The appeal does not have suspensory effect (section 76(1) EnWG).

Anne Zeidler

Chair

Dimitri Wenz

Vice Chair

Stephan Faßbender

Vice Chair