

Terms of Service

my.appygas.com
as of 1 January 2025

1 Scope and Subject Matter

1.1 Eleks GmbH ('appygas') provides an information service for European gas transmission market data on my.appygas.com ('Platform') to legal entities that have entered into a subscription contract with appygas and pay an access fee ('Customer'), to which appygas and Customer are individually a 'Party', and collectively the 'Parties'.

1.2 These Terms of Service ('Terms') govern the use of the Platform by authorised individuals accessing the Platform using an active Customer subscription ('User') as well as related business relations between appygas and Customer not subject to a more specific agreement. Customer shall ensure and is liable for User's compliance with the Terms, in particular where they are phrased to address User. Standard business conditions of Customer do not apply.

1.3 appygas aggregates, processes and makes available on the Platform information compiled from other sources ('Data') for information and business intelligence purposes without creating or researching information and without advising on investments, offering energy products or advertising the sale or purchase thereof. The Platform is available 99% of the time.

2 Tiered Access

2.1 User has unlimited access free of additional charge to the 'tier one features' defined in the Price Sheet.

2.2 User can, using appies from Customer's appygas Wallet, temporarily unlock access to the 'tier two features' defined in the Price Sheet.

3 Wallet

3.1 Customer may request allowances from appygas that can be used by User to temporarily unlock access to tier two features ('appies'). Upon such request, but subject to appygas' discretion in particular with a view to Customer's solvency, appygas shall deposit appies in a dedicated register linked to Customer's appygas account ('Wallet').

3.2 Usage of appies by User constitutes a purchase of the service referred to in sec. 2.2 on behalf of Customer at the price of 20 EUR for each of the appies used. Usage of appies will lead to their removal from Customer's Wallet.

3.3 appies are not transferrable from one Customer's Wallet to another. Access to tier two features cannot be ceded from one Customer to another in any way.

3.4 appygas shall invoice Customer appies used by Users each quarter ('invoicing period'), taking into account any pre-payment pursuant to sec. 3.5 as well as any discounts or promotional offers Customer or User may have received from appygas and accepted during said invoicing period.

3.5 In deviation from the invoicing period under sec. 3.4, Customer may pay for the entire amount of appies deposited in Customer's Wallet immediately after their deposition by appygas. appygas shall take into account as a pre-payment the value of appies left in Customer's Wallet at the end of a subscription period when invoicing future access fees or usage of appies in future subscription periods.

4 Terms of Payment

4.1 Customer shall pay appygas the agreed access fee and fees for appies used within fifteen calendar days after receipt of the respective invoice. Customer's payment shall be considered late within the meaning of sec. 286 (3) of the German Civil Code as from the day following the day specified in the previous sentence.

4.2 All fees are calculated and to be paid in EUR. They are exclusive of any applicable value added tax or other taxes and charges.

5 Termination

5.1 Either Party may terminate Customer's subscription without giving reason with a notice period of four weeks to the end of the current subscription period. Termination by Customer shall be declared explicitly by email to sales@appygas.com or by letter to the address of appygas as indicated in the footer of page one; termination by appygas may be declared by email to any email address provided by Customer upon entering into the subscription contract.

5.2 In the absence of a timely termination, the subscription shall automatically be renewed. Subject to appygas' discretion in particular with a view to Customer's solvency and unless advised otherwise by Customer, appygas shall deposit the same amount of appies in Customer's Wallet at the beginning of the next subscription period as in the previous subscription period. Sentence 1 shall not apply to a subscription granted free of charge.

6 General Use

6.1 Customer may authorise any individual directly employed by Customer as User by notifying their email address to appygas. Upon request and subject to a separate agreement, appygas may offer to grant Customer the right to authorise individuals employed by affiliated enterprises within the meaning of sec. 15 of the German Stock Corporation Act ('Customer Group').

6.2 User may not grant use of their authorisation to anyone else and shall make reasonable efforts to prevent anyone else from accessing the Platform using their authorisation. For the avoidance of doubt, passing on login data falls within the scope of said actions.

6.3 Customer may at any time revoke any of its Users' authorisation. Authorisation and revocation may take up to three business days after receipt by appygas to take effect. appygas shall consider any undue delays in the effectuation of a revocation when invoicing a fee for appies used by a User whose authorisation revocation was pending by the time of usage of the appies.

6.4 appygas may, in urgent cases even without notice, restrict and/or block any Customer or User from accessing the Platform if there are objective grounds to suspect any violation of the Terms reasonably attributable to said Customer or User as far and as long this is necessary to ensure or establish future compliance. appygas shall inform Customer of such decision and the underlying reasons. appygas shall take due account of the gravity of the suspected violation of the Terms when defining the scope and intensity of measures under this subsection.

6.5 Use of the Platform is strictly limited to its destined functions. Any inappropriate or illegal use, manipulation, or amendment of the Platform is prohibited. It is particularly, but not exclusively, forbidden to use the Platform

- to carry out or to support anticompetitive practices, including advertisement for other information services or utilities in general;
- to use pornographic, insulting, offensive, sexist, racist, threatening, youth protection law infringing, or other illegal or immoral contents or to advertise, offer, or sell such products;
- to use malware;
- to upload contents that affect or infringe the rights of third parties or that are covered by copyrights, unless the offending Customer or User owns the respective copyright or has the permission of the copyright owner;
- to influence the availability of the Platform or the services provided by appygas in a negative way, including the interception of messages, the transmission of junk mail and/or false information or data, and the transmission of messages for own commercial purposes;

- to use multiple or temporary email addresses;
- to provide false names, addresses, telephone numbers, facsimile numbers, email addresses, or other data of messenger services
- to copy, decompile or reverse engineer Platform software or parts thereof, unless permitted under sec. 69d and 69e German Copyright Act.

7 Data Usage and Copyright

7.1 Data is at least partly the intellectual property of appygas or third party providers. User may not publish, distribute or transfer in any other manner Data to recipients other than Customer or other Users of the same Customer.

7.2 Any licensing or sub-licensing of Data by appygas to the benefit of Customer or User is limited in time to the duration of the subscription and limited personally to the Customer and its Users. Upon request and subject to a separate agreement, appygas may offer to grant Customer the right to distribute Data to the Customer Group.

7.3 Customer shall ensure that no Data remains on Customer servers, User devices, Customer Group servers or other storage media after Customer's subscription with appygas has ended.

7.4 Customer may not use the Platform or other appygas services to enter into commercial competition with appygas.

7.5 Some contents of the Platform are protected under data protection law, copyright law, trademark law or other laws. Without prejudice to sec. 7.1 and 7.2, Data must not be copied, promoted, reproduced, forwarded, resold or otherwise be used without permission of the respective owner of rights except for the use of the Platform according to the Terms. This particularly applies to the use of robots, crawlers, or other automatic techniques.

7.6 Customer as well as User may provide their own content, e.g. ratings. By submitting their own content, they grant appygas all rights of use regarding the handling and publishing of that content. This also applies to partial handling and publishing. The rights of use are unrestricted in time, territorial scope, and content.

8 Malfunctions

8.1 Customer shall inform appygas of any malfunctions experienced without undue delay.

8.2 appygas shall inform Customer of planned maintenance measures well in advance and make best efforts to minimize both planned and unplanned downtime.

9 Subcontractors and Staff

9.1 appygas may outsource parts of its service provision, in particular technical implementation and support, to diligently selected subcontractors. appygas needs not to disclose the identity of said subcontractors. appygas shall ensure that its subcontractors observe a level of security and confidentiality at least equal to its own.

9.2 appygas shall be responsible for said subcontractors' fault to the same extent as for its own fault.

9.3 The Parties may neither directly nor indirectly enter into employment or service agreements with members of the staff, or service providers, or members of their staff, of the other Party, as long as they are involved in projects governed by the Terms and a period of six months after the end of such involvement. Each violation of sentence 1 shall entitle the other Party to a penalty of 50.000 EUR.

10 Liability

10.1 For damages with respect to injury to health, body or life caused by appygas, appygas' representatives or appygas' agents in the performance of the contractual obligations, appygas is fully liable.

10.2 appygas is fully liable for damages caused wilfully or by gross negligence by appygas, appygas' representatives or appygas' agents in the performance of the contractual obligations. The same applies to damages which result from the absence of a quality which was guaranteed by appygas or to damages which result from malicious action.

10.3 Except for cases covered by sections 10.1, 10.2 or 10.4, appygas is liable for damage from a breach of contractual core duties only up to the amount typically foreseeable. Contractual core duties are duties the accomplishment of which is required for the very functioning of the subscription contract and the performance of which the other Party may regularly rely on.

10.4 appygas' liability under the German Product Liability Act remains unaffected.

10.5 Any further liability of appygas is excluded. The limitation period for claims for damages against appygas expires after one (1) year, except for such cases covered by sections 10.1, 10.2 or 10.4.

10.6 The clauses 10.1 to 10.5 apply accordingly to European Energy Exchange AG, Augustaplatz 9, 04109 Leipzig ('EEX') as far as Data has been provided to appygas by EEX.

10.7 Customer shall indemnify appygas against all claims third parties enforce against appygas if Customer is responsible for the reason of the claim, e.g. because they have provided their own contents. In such cases, Customer shall also bear the necessary legal costs for the defence, including lawyer and court fees.

11 Final provisions

11.1 Any alteration of or deviation from the Terms (including this form requirement) is subject to the form requirement set out in sec. 126b German Civil Code.

11.2 Ineffectiveness of individual provisions of the Terms does not affect the validity of the Terms as a whole. Within just and reasonable bounds and according to good faith, the Parties shall replace the ineffective definition by a permissible regulation identical in economic success, provided that no essential change of the contents is caused by that replacement.

11.3 The Terms, including any issues arising out of it in connection with them, are governed by German law. They are to be construed according to German law, having regard to the use of English as a language of convenience. If any term is open to interpretation, the intended German and not the common law meaning shall prevail. English is not the native language of the Parties nor of their advisors.

11.4 Place of performance and legal venue is the seat of appygas.

11.5 appygas reserves the right to change the Terms. appygas shall notify Customer by email of the amended terms at least four weeks before they come into force and shall draw Customer's attention to the intended validity of the new terms and to their right to object to the validity of the new terms. If the Customer does not object to the validity of the new terms within this period or if it uses the Platform after the amended terms have come into force, the new terms shall be deemed accepted. appygas shall inform Customer of the significance of the four-week period, the right of objection and the legal consequences of silence in a suitable form.

11.6 The Platform may contain links to third-party websites ('Links'). Links are provided solely as a convenience to Customer and User. They are not subject to any control of appygas. appygas is not responsible for the content of Links, including any information or materials contained therein. Customer and User is required to use their own judgment and discretion regarding the use and content of Links.