

**Updated Guidelines for management and allocation of capacity on  
the  
IGB INTERCONNECTOR  
according to paragraph 6 of article 36 of Directive 2009/73/EC**

<b><u>PHASE I: Invitation of interested parties to express their interest in reserving capacity</u></b>
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Considering that:

- The company ICGB AD has submitted to the National Regulatory Authorities of Bulgaria (hereafter: EWRC) and Greece (hereafter: RAE) an application for exemption for the Gas Interconnector Greece-Bulgaria Project (IGB Project) from the provisions of Articles 9, 32 and 41(6), (8) and (10) of Directive 2009/73/EC. The IGB Project comprises of a new transmission line, the IGB Pipeline, designed to connect the national transmission systems of Greece and Bulgaria and thus qualifying as an interconnector;
- Directive 2009/73/EC is relevant for Greece and Bulgaria as Member States of the European Union and has been transposed into the national legislation;
- Article 36 of Directive 2009/73/EC and national legislation require that, in the case where the IGB Pipeline in question is located in the territory of more than one country, any exemption decision should be taken jointly by the National Regulatory Authorities of the countries concerned.
- ICGB AD has performed a market test (the Market Test) between May 2013 and September 2014 in accordance to (i) "Guidelines for management and allocation of capacity on the IGB INTERCONNECTOR according to paragraph 6 of article 36 of Directive 2009/73/EC - PHASE I: Invitation of interested parties to express their interest in reserving capacity and subsequently to (ii) "Guidelines for management and allocation of capacity on the IGB INTERCONNECTOR according to paragraph 6 of article 36 of Directive 2009/73/EC - PHASE II: Invitation of EoI Participants to present binding offers to reserve capacity in the IGB Pipeline".
- Further to receipt of binding offers in Phase II (the Bidding Phase), ICGB AD informed the NRAs that the Market Test procedure has been terminated by the company due to insufficient market indications from the Bidding Phase owing to intervening significant gas market changes.
- ICGB intends to re-perform the Market Test within the framework of the same request of exemption as cited above.

In consideration of the above, the National Regulatory Authorities of Bulgaria and Greece have jointly updated these Guidelines for the management and allocation of capacity to the IGB Interconnector Project, according to paragraph 6 of Article 36 of Directive 2009/73/EC, the first phase of which refers to the invitation of interested parties to express their interest in reserving capacity in the above mentioned project.

The National Regulatory Authorities of Bulgaria and Greece have jointly decided as follows:

**Article 1  
Definitions**

The following definitions apply:

**Allocated Participant:** The parties being allocated with IGB capacity on the basis of the Bidding

Phase and asked to execute an Advanced Reservation Capacity Agreement (ARCA).

**Advanced Reservation Capacity Agreement (ARCA):** is the agreement containing main terms and conditions of transportation contracts, to be executed in respect of allocated capacity by and between ICGB AD and any Allocated Participant, committing the parties thereto to execute gas transportation contracts on a long term ship or pay basis upon final investment decision by ICGB AD and its Sponsors.

**Authorities:** shall mean the National Regulatory Authorities (NRAs) of Bulgaria and Greece (respectively Комисия за енергийно и водно регулиране - KEBP, *Energy and Water Regulatory Commission- EWRC* and Ρυθμιστική Αρχή Ενέργειας, *Regulatory Authority for Energy-RAE*);

**Bidding Phase Updated Guidelines (or BPUG):** The document to be approved by the Authorities containing the rules to run the Bidding Phase in the Market Test and in particular the Tariff principles and the IGB capacity allocation mechanism.

**Day(s):** shall mean calendar day(s);

**Directive** shall mean Directive 2009/73/EC;

**Commercial Operation Date** shall mean the date on which the IGB Pipeline will be completed and able to commercially receive, transport and re-deliver natural gas.

**Eol Participants** shall mean entities having provided a valid and complete Eol application, shortlisted in accordance to the Eol Notice;

**Exemption Application** shall mean the exemption application sent by the company ICGB AD to the Authorities (ref: SEWRC Ref №E-12-00-183/29.11.2012, RAE Ref. I-165459/30.11.2012);

**Host Countries** shall mean Bulgaria and Greece;

**ICGB AD** shall mean the on purpose company incorporated under the Bulgarian Law (entered into the Commercial Register of the Registry Agency under unified identification code EИК 201383265) for developing, designing, financing, managing, constructing, owning and operating on a long term basis the IGB Pipeline and whose Shareholders are, on 50/50 basis, Bulgarian Energy Holding EAD and IGI POSEIDON SA;

**IGB Entry Point** shall mean the IGB Pipeline entry point in the vicinity of Komotini as proposed in the Exemption Application.

**IGB Exit Point** shall mean the IGB Pipeline exit point in the vicinity of Stara Zagora, as proposed in the Exemption Application.

**IGB Minimum Capacity** shall mean a capacity of the IGB Pipeline of 380,517 Ncm/h of natural gas (circa 3.0 bNcm/year)

**IGB Maximum Capacity** shall mean a capacity of the IGB Pipeline of 634,196 Ncm/h of natural gas (circa 5.0 bNcm/year)

**IGB Project** shall mean the project concerning the IGB Pipeline;

**IGB Pipeline** shall mean the gas interconnector pipeline and the related facilities connecting the Greek and Bulgarian natural gas transportation systems from Komotini (Greece) to Stara Zagora (Bulgaria), to be developed, designed, financed, built, owned and operated by ICGB AD.

**Market Test (or MT)** shall mean the process described in paragraph 6 of the article 36 of the Directive in order to assess the interest of all potential users in contracting capacity, based upon this Updated Guidelines before capacity allocation in the new IGB Pipeline takes place;

**Updated Guidelines or UG** shall mean the present document

## **Article 2** **Subject matter and scope**

- 2.1 According to Article 36.6 of the Directive, the Authorities decide upon the rules and mechanisms for management and allocation of capacity. The rules require a market test to be implemented.
- 2.2 The market test for the IGB Project is structured in two phases:
  - (i) Expression of Interest (Eol) Phase;

(ii) Bidding Phase.

The Market Test is concluded upon the signature, by ICGB AD and Allocated Participants, of Advanced Capacity Reservation Agreements.

- 2.3 In the EoI Phase, all potential users, including TSOs are invited to express their interest, according to the present UG, in contracting capacity on, or in connecting to, the IGB Pipeline and are asked to submit data and information in order for the Authorities to assess the criteria set in Article 36.1 of the Directive. The EoI Phase neither binds **EoI** Participants to book the capacity for which they have expressed their interest on nor it binds ICGB AD to offer it. However, participation in the EoI Phase is a prerequisite for a subsequent participation in the Bidding Phase.
- 2.4 In the Bidding Phase EoI Participants will be asked to submit binding requests in contracting capacity on, or in connecting to the IGB Pipeline, in accordance with the BPUG.
- 2.5 The present document provides the general framework for capacity allocation and management procedures and defines, in particular, how to perform the EoI Phase.

### **Article 3**

#### **Framework rules and mechanisms for capacity allocation and management**

- 3.1 ICGB AD will submit to the Authorities the EoI Phase Notice described in Article 4 within 10 (ten) Days after the approval of the present UG by both Authorities. Should the approval of the UG by the Authorities take place in different dates, the 10 Days period is computed from the date of the last approval.
- 3.2 The Authorities will assess and jointly decide upon the EoI Phase Notice within 10 (ten) Days from its submission by ICGB AD. In particular, the Authorities will review the EoI Phase Notice with a view of confirming that the procedures for performing the EoI Phase, as set out in the EoI Notice, are open, non-discriminatory, transparent and in accordance with EU, national legislations in the Host Countries and the present UG.
- 3.3 The EoI Phase of the MT will be conducted by ICGB AD who is responsible for the proper conduct of the proceedings as a result of the approval of the Authorities.
- 3.4 Shareholders of ICGB AD may participate in the EoI Phase of the MT, and in the subsequent Bidding Phase, under the same terms and conditions applicable to other interested parties, as set out in the EoI Notice.
- 3.5 Once the EoI Phase has been completed, the Authorities, taking also into consideration the report referred to in Article 7 below, shall proceed alternatively with the following:
- (a) if no interested parties, other than ICGB Stakeholders, have participated in the EoI Phase, the Authorities shall request ICGB to refine its Exemption Application taking into account the EoI results. Following the receipt of the refined Exemption Application, the Authorities will assess if the criteria set by Article 36.1 of the Directive are fulfilled and if so, they will express a positive opinion upon granting the exemption. The opinion will also relate indicatively to the duration of the exemption and to any additional conditions for ensuring non-discriminatory access to the infrastructure, taking also into account any specific national circumstances in the Host Countries and the technical and economic aspects of the IGB project.
  - (b) if interested parties other than ICGB Stakeholders have participated in the EoI Phase and expressed interest in reserving capacity in the IGB Pipeline, the Authorities shall request ICGB to perform the Bidding Phase of the MT prior to any assessment of the Exemption Application and/or any request for its refinement. A positive opinion upon granting the exemption may be conditional on the obligation of ICGB AD to offer part or the whole of the capacity requested in the EoI Phase in the Bidding Phase and to build it if allocated, in so far as it is technically and economically feasible to do so.
- 3.6 The exemption decision may also include an obligation of ICGB AD to run further market tests in subsequent years, with the view to investigate the willingness of potential users to contract additional capacity.
- 3.7 In the case that a necessity for carrying out a Bidding Phase arises, as outlined in

paragraph 3.5(b) above, the guidelines for its detailed design and implementation and the amount of capacity available for booking will be issued jointly by the Authorities, upon proposal by ICGB, in line with the principles of the present UG. The BPUG will include rules for capacity allocation, products, tariffs and duration of contracts, as well as mechanism to deal with cost-overruns and penalties applied to ICGB AD if capacity is not delivered in time taking into account the criteria referred in Article 36.1 of the Directive, and the results of the EoI Phase.

- 3.8 As a general principle in the Bidding Phase:
- a) Capacity is allocated through auctions;
  - b) Tariffs applied to users are cost reflective and non-discriminatory
- 3.9 Rules for capacity management will be applied also according to the following general principles:
- a) Congestion Management Procedures, Use-It-Or-Lose-It arrangements, secondary capacity trading arrangements, balancing regimes, capacity overruns, nomination and renomination rules compliant with relevant EU provisions as they will be established, amended or integrated by comitology according to the procedure established in articles 6, 7, 23 of Regulation 715/2009 of the Parliament and the Council will be included;
  - b) ICGB AD will define a network code compliant with the rules mentioned above, subject to Authorities' approval. The network code will provide for a harmonized regime for capacity allocation for the entire route of the IGB project.

#### **Article 4** **Expression of Interest Notice (EoI Notice)**

- 4.1 The EoI Phase begins with the publication of the Expression of Interest Notice for capacity allocation (EoI Notice) by ICGB AD. ICGB AD shall publish the EoI Notice the day after its approval by the Authorities as foreseen in Article. 3. The EoI Notice should be sufficiently publicised to attract interest from third parties and allow for their meaningful participation.
- 4.2 Avenues used to publicise the EoI Notice should include appropriate national and international media and the ICGB AD's (and the ICGB sponsors) website. The EoI Notice should be available in English.
- 4.3 The EoI Notice should provide general information on the IGB Project and of the service(s) participants are being proposed. Participants should at least be informed about:
- a) The IGB Entry and Exit Points and route and any alternative designs if applicable.
  - b) The technical specifications of the IGB Project, such as operating pressure and gas quality constraints, if any, at each intake and offtake point, and for each design under consideration.
  - c) The estimated Commercial Operation Date (COD).
  - d) A detailed description of the proposed connections of the IGB Pipeline to other networks in the Host Countries, as well as information on the way that ICGB AD will pursue with the corresponding expansion of capacity in those other networks for the accommodation of the capacity required for the IGB Pipeline, if such an expansion is required.
  - e) The transportation services proposed at the IGB Entry and Exit Points, specifying for each service the starting date and duration.
  - f) Additional transportation services including at least the following:
    - Firm forward transportation of natural gas from the IGB Entry Point in Greece (Komotini) to an exit point in Greece or Bulgaria, other than the IGB Exit point;
    - Firm and/or interruptible reverse transportation of natural gas from the IGB Exit Point to any point in Bulgaria or Greece, up to the IGB Entry Point;
  - g) A non binding estimate of the investment and operating costs, for different capacities to be built in the range of the IGB Minimum Capacity and the IGB Maximum Capacity;
  - h) A summary of authorizations, licences and regulatory approvals that have been

acquired up to now, if any, and a timetable for submitting applications and obtaining the remaining documents of this type, if any.

- i) Details on how to obtain information on the requirements to be satisfied for admittance by ICGB AD to the due diligence procedures and data room, and in particular standard contractual terms in relation to paragraph 5.1 below, in the event where ICGB deems appropriate to organize a data room.
- 4.4 The Eol Notice should also include at least the following general information:
- a) Arrangements in place to ensure the confidentiality of information received by the Eol Phase applicants.
  - b) A declaration that participation in the Eol Phase is a prerequisite for participation at the Bidding Phase that might follow.
  - c) The start and end dates of the Eol Phase: the end date must be set at least 1 (one) month after the publication of the Eol Notice.
  - d) Details on how to apply in the Eol Phase, and, in particular, a standard form of the expression of interest.
  - e) The criteria upon which an applicant may be excluded from the Eol phase and the procedure for notifying the applicants that their application is rejected.

## **Article 5**

### **Expression of interest Procedure**

- 5.1 ICGB AD may provide for an appropriate due-diligence to disclose to all participants, under a confidentiality agreement, more specific information about the project.
- 5.2 The terms and conditions for access to the data room, in the event where ICGB deems appropriate to organize a data room, will be further specified by ICGB AD as a part of the Eol Notice according to 4.3.i.
- 5.3 In their application for the Eol Phase, participants have to declare that information provided is true (attested affidavit).
- 5.4 A participation fee may be requested by ICGB AD with the sole purpose of covering the administrative costs of the Eol Phase. The level of the fee is part of the Authorities' evaluation as of Article 3.
- 5.5 Information is to be provided about products offered on natural gas systems in the Host Countries. As far as Bulgaria is concerned, connection with the gas transmission system, owned and operated by the TSO (BULGARTRANGAZ) is done according to the Bulgarian Energy Act (2003, last amendment 56/24.07.2015). As far as Greece is concerned, connection with the National Gas Transmission System, owned and operated by DESFA SA, is done according to the provisions of Law 4001/2011 (Government Gazette A' 179/22.08.2011) and the Transmission System Network Code (RAE Decision 526/2013, Government Gazette B' 3131/09.12.2013).

## **Article 6**

### **Participation in the Eol Phase**

- 6.1 All interested parties, including TSOs, may participate in the Eol Phase.
- 6.2 When expressing their interest, participants should indicate, at least:
  - a) the transportation services they are interested in;
  - b) the type of transportation service (firm/interruptible), start date, duration and the amount of capacity for each service.

Participants to the Eol Phase should be allowed to request differentiated starting dates and duration of the services they require, within the general frame of the corresponding dates proposed by ICGB AD.
- 6.3 Participants should not consider to be confined to the proposed route and therefore in case

they are interested in services other than the ones specified in the EoI Notice, they can indicate appropriate modifications to ICGB AD's proposal that would better accommodate their needs, such as:

- a) additional intake and offtake points to be built along the entire route of the IGB Pipeline or located elsewhere from the original project;
- b) different starting and ending date of the transportation services that proposed by ICGB AD or duration;
- c) interruptible services.

Participants should also indicate the scope of the requested modifications, such as to serve countries in the vicinity of the proposed project route, from other intake and offtake points.

- 6.4 Market operators must submit their application to ICGB AD with a copy to the Authorities. Only on the Authorities' copy, applicants should add the following information:
  - (a) The upstream and downstream transportation systems they will rely upon.
  - (b) Whether they already have capacity booked on these systems or transportation contracts coherent with the required capacity.
  - (c) Source and origin of gas.
  - (d) Status of the agreements with upstream suppliers (already effective, MOU, other), in order to complete information.
- 6.5 TSOs and institutions participating in the EoI Phase should express their interest to the Authorities and to ICGB AD.
- 6.6 For avoidance of any doubt, any further obligations other than those stated in this regulation can't be imposed on participants and on ICGB AD in the EoI Phase .

#### **Article 7**

##### **Reporting of ICGB AD on the results of the EoI Phase**

- 7.1 Within 15 (fifteen) Days after the completion of the EoI Phase, ICGB AD will deliver to the Authorities a report summarising the results of the EoI Phase, including its evaluation on EoI Phase results, with specific reference to the implications on the project. ICGB AD assessment is not binding for the opinion to be given by the Authorities.