

Energy and Water Regulatory Commission (Bulgaria)  
Regulatory Authority for Energy (Greece)

## Joint Decision of the Energy Regulators on the approval of the Network Code of the IGB Pipeline

Whereas:

1. On July 17<sup>th</sup> 2017, the company ICGB AD submitted to the Energy and Water Regulatory Commission of Bulgaria (EWRC) and to the Regulatory Authority for Energy of Greece (RAE) an *“Application in Accordance with Art. 36 of the Directive 2009/73/EC for the Interconnector Greece-Bulgaria”*, as foreseen by Article 36 of the Gas Directive 2009/73/EC. Consequently, two supplementary documents have been submitted to the Authorities: *“Integration of the assessment of the criteria for grant of exemption after performance of the Market Test (art. 36.6)”* in October 2017, following request for additional information by the National Regulatory Authorities, and *“2<sup>nd</sup> Integration of the assessment of the criteria for grant of exemption after performance of the Market Test (art. 36.6)”* in April 2018.
2. On May 29<sup>th</sup> 2018, EWRC and RAE (hereinafter, the **“Authorities”**) decided on the exemption of the IGB pipeline from the requirements regarding third party access, tariff regulation and ownership unbundling for a period of 25 years, adopting the common document *“Joint Opinion of the Energy Regulators on the Exemption Application of ICGB AD”*, with their decisions N<sup>o</sup> R-VO-1 and 483/2018, respectively. Both decisions were notified to the European Commission.
3. On July 25<sup>th</sup> 2018, the Commission adopted its decision [C(2018) 5058 (final)] on the exemption (hereinafter the *“Commission Decision”*) .
4. On August 8<sup>th</sup> 2018, the Authorities took the final decision on the exemption, adopting the *«Final Joint Decision of the Energy Regulators on the Exemption Application of ICGB AD - Energy and Water Regulatory Commission (Bulgaria) and Regulatory Authority for Energy (Greece)»* (hereinafter, the **“Final Joint Decision”**), a document jointly drafted by the Authorities, which amended the Joint Opinion to comply with the Commission Decision (Decisions N<sup>o</sup> P-BO-2 of EWRC and 768/2018 of RAE).
5. In the aforementioned document, an exemption from the provisions of Articles: (i) 9 (Unbundling), (ii) 32 (Third-Party Access) for the part of the Minimum Capacity that has been booked through the Market Test and for which Advanced Reservation Capacity Agreements have been signed, and (iii) 41.6, 41.8, 41.10 (Regulated Tariffs) of Directive 2009/73/EC (hereinafter the *“Gas Directive”*) has been granted to ICGB AD for a period of 25 years starting from the Commercial Operation Date (COD), under the conditions imposed in Part 4 of the Final Joint Decision.
6. Pursuant to article 4.4 point 1 of the Final Joint Decision, ICGB AD is obliged, not later than 12 months before the Commercial Operation Date, to submit for approval to the Authorities an IGB Network Code which shall comply with all the provisions of Regulation

(EC) No 715/2009 and the European Network Codes pursuant to its Article 8 (6) that are not in conflict with the Final Joint Decision and which shall include, at least, the following:

- Detailed procedures of normal operation, including nomination of capacity at IGB entry and exit points for forward and reverse flow;
  - All necessary procedures for the secondary trading, which will be available to all traders;
  - Congestion management procedures and the use-it-or-lose-it arrangements;
  - Data publication procedures on the functionality and availability of capacity for all pipeline users.
7. Pursuant to article 4.3 point 1 of the Final Joint Decision, ICGB AD is obliged, not later than 3 months from the adoption of the decision, to submit for approval to the Authorities the final methodology (IGB Tariff Code) for the implementation of the IGB Tariff.
  8. On 5.11.2018, ICGB AD submitted to the Authorities for approval a proposal for the IGB Tariff Code (ICGB letter with ref. no XI-01/05.11.2018).
  9. On 19.02.2019, ICGB AD submitted to the Authorities for approval a proposal for the IGB Network Code, with the letter entitled “Submission of IGB Network Code, pursuant to the Final Joint Decision on the Exemption Application of ICGB AD issued on 8<sup>th</sup> of August 2018” (ref. no II-09/19.02.2019).
  10. On April 5<sup>th</sup> 2019, ICGB AD addressed to the Authorities and the European Commission (Directorate General for Energy) the ref. nº IV-05/05.04.2019 letter entitled “Request for guidance in the interpretation of clauses 4.2.1 and 4.5.1 from the Joint Exemption Decisions for the Exemption of IGB project awarded on 8<sup>th</sup> of August 2018”.
  11. On May 2<sup>nd</sup> 2019, the Directorate General for Energy of the European Commission responded to the letter by ICGB AD with the Ares(2019)2938446-02/05/2019 letter.
  12. The IGB Tariff Code was put under public consultation by both Authorities from 19.04.2019 until 17.05.2019.
  13. With the letter with ref. no IV-19/30.04.2019 entitled “Submission of amended version of IGB Network Code pursuant to the Final Joint Decision on the Exemption Application of ICGB AD issued on 8<sup>th</sup> of August 2018, as well as Gas Transportation Agreement”, ICGB submitted an amended version of the Network Code.
  14. On May 31<sup>st</sup> 2019 a meeting between ICGB AD and the Authorities took place in RAE’s premises, during which high-level comments on the Network Code were offered.
  15. On June 27<sup>th</sup> 2019, ICGB AD submitted a revised version of the Network and Tariff Codes,

with ref. no IV-19/27.06.2019 entitled “Submission of amended version of IGB Network Code, Tariff Code and Gas Transportation Agreement pursuant to the Final Joint Decision on the Exemption Application of ICGB AD issued on 8<sup>TH</sup> of August 2018”.

16. The IGB Network Code and the IGB Tariff Code were put under public consultation by EWRC from 25.7 till 25.8.2019 and by RAE from 26-8 till 2.9.2019.
17. Extensive comments were received by three participants.
18. With ICGB AD ref. no IX-14/26.09.2019 “Submission of revised version of IGB Network Code, revised version of Gas Transportation Agreement and revised version of IGB Tariff Code”, a revised Network Code and revised Tariff Code were submitted by ICGB AD, taking into account the comments offered at the public consultation as well as detailed comments by the Authorities.
19. Through an electronic message of 03.10.2019 by ICGB AD, the Network Code was further amended (correction of errors).
20. After the above-mentioned amendments following the discussions and collaboration of the Authorities with ICGB AD throughout the period November 2018 - October 2019, the Authorities conclude that the IGB Network Code and IGB Tariff Code are:
  - i. In accordance with the Final Joint Decision, especially the terms and conditions set forth in sections 4.2, 4.3 and 4.4 thereof.
  - ii. In accordance with Regulation (EC) 715/2009, applying the principles of capacity allocation and congestion management foreseen. More specifically, surrender, Long-Term Day-Ahead Use-It-Or-Lose-It (LT-UIOLI) and Firm Day-Ahead Use-It-Or-Lose-It (FDA-UIOLI) procedures are in place, as well as rules for secondary trading.
  - iii. In accordance with Regulation (EU) 2017/459 (network code on capacity allocation mechanisms) for the non-exempted capacity. That is, at the Interconnection Points with the systems operated by DESFA, TAP and Bulgartransgaz, the non-exempted part of the capacity will be auctioned according to the ENTSOg calendar with the foreseen auction algorithms, with all products offered and 10% of the capacity reserved for short-term products.
  - iv. In accordance with Regulation (EU) 312/2014 (network code on gas balancing), a VTP is foreseen to which all users have access. The balancing and information rules and neutrality arrangements are in place.
  - v. In accordance with Regulation (EU) 2015/703 (network code on interoperability and

data exchange rules), the required provisions for maintenance planning, cooperation and coordination with the adjacent TSOs are included.

21. Furthermore, the Authorities believe that the IGB Network and Tariff Codes introduces no discrimination between Users and foresee the provision of services on an equal treatment basis, without prejudice to the exemption as decided in the Final Joint Decision.

The Authorities jointly

approve, to the extent of their capacity, the *“IGB Network Code”*, including the *“IGB Tariff Code”* which is an annex to the Network Code, as proposed by ICGB AD and attached hereto as APPENDIX B.

The Authorities strongly encourage ICGB AD to:

- review the congestion management procedures after one year of operation, when enough operational data will be available for their evaluation.
- review and simplify the procedure for capacity booking, avoiding unnecessary paperwork by adopting a framework contract in which distinct capacity bookings may be incorporated.