

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

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

September 2022

Whereas:

1. On July 17th 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 of the European parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC (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 “*2nd 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 29th 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° R-VO-1 of 29.05.2018 and 483/2018, respectively. Both decisions were notified to the European Commission.
3. On July 25th 2018, the Commission adopted its decision [C(2018) 5058 (final)] on the exemption (hereinafter the “Commission Decision”).
4. On August 8th 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° P-BO-2 of 08.08.2018 r. of EWRC and 768/2018 of RAE).
5. The Final Joint Decision has been amended three times:
 - i. Decision No. P-BO-1 of 20.03.2020 of EWRC and Decision No. 568 of 12.03.2020 of RAE, which extended the Commercial Operation Date (COD) from 1 July 2020 to 31 December 2020 (target COD) and no later than 1 July 2021.
 - ii. Decision No. P-BO-1 of 20.05.2021 of EWRC and Decision No. 424 of 13.05.2021 of RAE, which extended the COD to 1 July 2022.
 - iii. Decision No. P-BO-3 of 30.09.2022 r. of EWRC and Decision No. 742 of 29.09.2022 of RAE, which extended the COD to 1 October 2022.
6. With the Final Joint Decision, 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 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.

7. 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 of the European parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005 (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 shippers;
- 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.

Also, 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 8th of August 2018” (ref. no II-09/19.02.2019), with the final submission taking place on 03.10.2019.

10. By Decision No. K-1 of 08.10.2019 by EWRC and 918 of 09.10.2019 of RAE, the Authorities approved the IGB Network Code (INC). INC contained the IGB Tariff Code and the Gas Transportation Agreement as annexes. In their common Decision, the Authorities urged ICGB to “*review and simplify the procedure for capacity booking, avoiding unnecessary paperwork by adopting a framework contract in which distinct capacity bookings may be incorporated*”.

11. By letter Outgoing No. VI-01 of 01.06.2022 (Entry No. E-15-59-1002 of 03.06.2022 of EWRC and I-329244 of 03.06.2022 of RAE) and then VIII-27/24.08.2022 (E-15-59-1005 of 25.08.2022 of EWRC and I-334443/25.08.2022 of RAE) submitted for approval the INC, along with it Annexes. More specifically, the following documents were submitted:

- a. IGB Network Code
- b. IGB Tariff Code
- c. Gas Transportation Agreement for Exempted Users
- d. Amendment to the Gas Transportation Agreement for Exempted Users
- e. Gas Transportation Agreement for Non-Exempted Users
- f. Virtual Trading Point (VTP) Agreement.

12. The INC was set under public consultation by both Regulators during the period September 12th to September 28th, 2022. Comments were received from five companies (DEPA, PPC, Bulgartransgaz,

Bulkan Gas Hub, GASTRADE and Bulgargaz, which were carefully considered by the Authorities and sent to ICGB S.A. for their response. Several of these comments have been accepted and the relevant changes were incorporated in the final proposal submitted by ICGB AD (Outgoing No. IX-103 of 27.09.2022).

13. The main changes introduced are the following:

- The procedure for capacity booking has been simplified.
- According to the initial version of the INC, Network User is the person that had signed a GTA with ICGB. With this amendment, the definition has been extended to any Registered Party, for the purpose either to sign a GTA or to access the Virtual Trading Point (VTP). Therefore, access to the VTP is now free also to “paper traders”, i.e. those that have not booked capacity at IGB. To regulate the access of a Registered Party to the VTP, a new VTP Agreement has been introduced as Annex D of the INC. Moreover, a VTP Minimum Credit Limit is introduced, which is the minimum amount of the Network User Credit Support applicable for the purpose of the Network User’s trading volumes of Gas (buy and sell) at the VTP (described in Article 29.3.6 of INC).
- Within-day capacity products are not offered. The Authorities recognize that, at least in the first years of operation, entry capacity can only be allocated at the Interconnection Point with Trans Adriatic pipeline (TAP), which is also temporarily waived from the obligation to offer within-day capacity products.
- Provisions for allowing Distribution and/or Other System(s) to be connected as Exit Points with the ICGB’s Facilities. To this end, several provisions throughout the INC have been amended. Moreover, provisions regarding Capacity Overrun, in case Network User's total Allocated Quantities at these points exceed its total Reserved Capacity or total Booked Capacity for a given Gas Day, have been included.
- The provisions regarding the Termination of the Gas Transportation Agreement (GTA) have been elaborated.
- The Guarantee scheme for the non-exempted users has been elaborated to take into consideration the different and rolling capacity booking that may take place, the access to the VTP as well as Capacity Overrun.
- The GTA prototype included as Annex C in the original INC contained provisional clauses for exempted and non-exempted users. In the submitted proposal, different GTAs for each category are provided. According to the Authorities’ careful assessment, the GTAs do not differ in principle and do not introduce any discrimination between the exempted and non-exempted users, but have been adjusted according to the specific needs. Indicatively, the exempted users a) base their GTA on the capacity booked through the signed ARCAs, b) have booked only annual capacity, c) do not incur overrun charges since exempted capacity is only relevant at the Exit Point of Stara Zagora, while the non-exempted users book capacity of various durations through the auction platforms. Moreover, a Supplementary GTA for exempted users has been added to align amendments in terminology and definitions of the amended INC, since several non-exempted users have already signed GTAs.

14. The Authorities conclude that the above-mentioned amendments improve the regulatory framework of the IGB pipeline and that the IGB Network Code and IGB Tariff Code are:

- a. In accordance with the Final Joint Decision, especially the terms and conditions set forth in sections 4.2,

4.3 and 4.4 thereof.

- b. 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.
 - c. In accordance with Commission Regulation (EU) 2017/459 of 16 March 2017 establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation (EU) No 984/2013 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.
 - d. In accordance with Commission Regulation (EU) No 312/2014 of 26 March 2014 establishing a Network Code on Gas Balancing of Transmission Networks, a VTP is foreseen to which all users have access. The balancing and information rules and neutrality arrangements are in place.
 - e. In accordance with Commission Regulation (EU) 2015/703 of 30 April 2015 establishing a network code on interoperability and data exchange rules, the required provisions for maintenance planning, cooperation and coordination with the adjacent TSOs are included.
15. 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.

Based on the above, the Authorities jointly

- 1. Approve, to the extent of their capacity, the “*IGB Network Code*”, including the “*IGB Tariff Code*”, the “Gas Transportation Agreement” and the “Virtua; Trading Point Agreement” as annexes, as proposed by ICGB AD and attached hereto as APPENDIX.
- 2. The Authorities strongly encourage ICGB AD to:
 - i. review the congestion management procedures after one year of operation, when enough operational data will be available for their evaluation.
 - ii. review the offer of within-day capacity products, when they become available upstream.
 - iii. review the balancing procedures.