



## EREGE's Draft Guidelines on Article 22

### Contribution from Gaz de Normandie

#### General Comments:

Gaz de Normandie fully supports EREG's initiative to propose an EU-wide common approach for interpreting the exemption criteria to rTPA regime and shares most of the principles expressed by EREG in their draft guidelines on article 22.

Nevertheless Gaz de Normandie has some reservations on the following points:

- the draft guidelines do not make any difference between infrastructure's type (LNG terminals, interconnectors or storages) which deny their specificities;
- open season procedure (or comparable) cannot be considered as the only tool able to assess market demand for capacity as some more informal processes can sometime be more effective.

#### Specific Questions Highlighted by EREG:

- **Do you consider the described general principles and guidelines appropriate to achieve a consistent and transparent framework for competent authorities when deciding on exemption procedures?**

These guidelines should be strengthened by differentiating exemption procedures for (i) interconnectors, (ii) storages and (iii) LNG terminals, as each infrastructure's type is specific. Having specific guidelines for each infrastructure's type will help to achieve a more consistent framework through Europe when applying for exemption procedures.

- **Do you consider the present scope of eligible infrastructure to be too narrow?**

We see no need to widen the present scope.

- **Do you consider open season (or comparable) procedures an important tool in assessing market demand for capacity with respect to determining the size of the project applying for exemption, as well as in the subsequent capacity allocation? Should open season (or comparable) procedures be mandatory?**

A open season procedure do not allow to assess “the market demand for capacity” but only a *market demand for capacity in a specific infrastructure project* , which can not be considered as and be extended to “the market demand for capacity”. For this reason open season shall not be mandatory.

- **Should open seasons also be used to allocate equity?**

This question is not relevant.

- **Some stakeholders think that Art. 22 should be applied differently to LNG terminals as they may be generally better suitable for enhancing competition and security of supply than other types of eligible infrastructure. What is your point of view on this? If you agree, how should this be reflected in the guidelines?**

As proposed above, exemption procedures for interconnectors, storages or LNG terminals should be applied differently through dedicated guidelines. Regarding LNG terminals, as expressed by the European Commission<sup>1</sup>, “new LNG facilities could, in principle, be assumed to meet the security of supply eligibility criterion embedded in Article 22(1) a.”, which is not the case for others.

- **To what extent should consultations with neighbouring authorities be done?**

For interconnectors only.

- **Parts 3.3.1.1 and 3.3.1.2 of the proposed guidelines deal respectively with partial and full exemptions. Do you consider the described decisions (partial/full exemption) appropriate in safeguarding the goal of Directive 2003/55/EC in making all existing infrastructure available on a non-discriminatory basis to all market participants and safeguarding the principle of proportionality?**

Any partial exemption is detrimental to project financing.

- **Do you agree that under certain circumstances, deciding authorities should be entitled to review the exemption? How can it be assured that this does not undermine the investment?**

Once an exemption is being granted, general competition law would continue to apply: an exemption should be reviewed under this sole legal framework as it is the only way not to undermine the investment.

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<sup>1</sup> Note of DG Energy & Transport on directives 2003/54/EC and 2003/55/EC on the internal market in electricity and natural gas – Security of supply provisions for gas – 16.01.2004