

## **POWEO Answer to ERGEG Public Consultation**

### **On Guidelines on Article 22**

POWEO welcomes ERGEG decision to implement more precise guidelines on Article 22 and shares most of the principles expressed by ERGEG in draft guidelines. However, POWEO wishes to clarify some issues answering to the following questions raised by ERGEG:

1. 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?

The difference between the different types of infrastructures shall be highlighted. In particular, LNG importing terminals shall be considered as very specific infrastructures as they are connecting regional markets to the global LNG market whereas interconnectors are connecting two regional markets and storage facilities are located within a specific regional market. Moreover, interconnectors and storage facilities will generally be classified as “not easily duplicable infrastructures” which is not the case for LNG receiving terminals.

2. 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?

POWEO favours open season procedures in the specific case of “not easily duplicable infrastructures” such as interconnectors and storage facilities. In addition, capacity of some infrastructures can be more easily adapted with respect to the final result of an open season procedure without prejudice to the operational management or the global economics of the infrastructure. This is particularly the case for interconnectors. In addition open season procedures shall be conducted whenever an infrastructure project is developed by an incumbent or one of its affiliates (if it is agreed incumbents or their affiliates may benefit from Art 22 exemptions).

For all other cases, open season procedures shall not be mandatory. For projects developed by newcomers, open season procedures may as well threaten investment as they may generate higher costs, time delays and increasingly complicated operational management.

3. Should open seasons also be used to allocate equity?

The aim of open seasons shall not be to allocate equity. Usage of open seasons to allocate equity can seriously endanger investment.

4. 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 expressed before, LNG terminals are connecting regional markets to the global LNG market. It is POWEO's belief that the LNG market is shifting to a more global market where LNG vessels can be more and more easily redirected where the LNG is better valued. This seems to be particularly the case of the Atlantic Basin LNG market. As a consequence, LNG terminals shall be considered as increasing security of supply as such. This is also true for enhancement of competition as LNG terminals will themselves introduce more liquidity onto the markets.

5. 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?

Partial exemption threatens financing possibilities (for project financing) to an extent almost similar to no exemption. In addition, partial exemption may lead to high complexity in contractual and operational management.