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ERGEG

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## Comments on ERGEG Draft Proposal on Guidelines on Inter TSO Compensation

Please find enclosed comment from Baltic Cable AB to ERGEG Draft Proposal on Guidelines on Inter TSO Compensation, dated 10 April 2006 (E06-CBT-09-08) – hereinafter called Draft Proposal. Baltic Cable AB is a Swedish limited company, and owner of Baltic Cable, a subsea cable between Sweden and Germany.

In our view this Regulation only applies to TSOs and not to third parties such as Baltic Cable. Article 3 of the Regulation only refers to TSOs and only makes provision for an inter-transmission compensation system between TSOs. Hence the proposed Guidelines, which take this Article as their legal basis, cannot be extended beyond the scope of Article 3.

Notwithstanding Article 3, Article 5.2 (*DC interconnectors that are legally separate entities from the TSOs and do not form part of the regulated network*) of the Draft Proposal seems to include cables like Baltic Cable into the Guidelines.

The article states that such cables have to pay a contribution to the fund without receiving any of the redistributed compensation. We fail to understand the logic behind this, which is furthermore a completely new cost imposed on Baltic Cable. We cannot see that this article is in line with EU law or Regulation (EC) 1228/2003.

Furthermore, we would also point out that if the Regulation was taken to apply to interconnections which do not form part of the TSOs regulated basis, the guidelines do not however offer any explanation of why such non-TSO interconnections are treated differently from a cable owned by a TSO, which would receive its share of the redistributed fund.

We would also draw your attention to the fact that the proposed compensation to the TSO is not capped. The introduction of a new pan-European regime such as this introduces large uncertainties as to how it would actually function, and could have unforeseen and unwanted skewed effects.

The compensation system proposed in the Draft Proposal for a DC interconnector like Baltic Cable would thus introduce a separate and discriminatory cross-border charge or tariff on imports and exports to be levied by a TSO on electricity flowing through the Baltic Cable. This type of charge is contrary to Article 30 and Article 31EC.

**Baltic Cable AB**

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These costs laid on Baltic Cable would directly influence the flow in that the exchange on the cable would be reduced, as it would also have to take into account that the flow would have to cover the compensation to be paid. For TSO owned cables, this would be a different case, as they would be recipients also.

Baltic Cable is not part of the regulated asset base of any TSO and therefore Article 5.2 should be removed from the Guidelines – or otherwise reformulated to ensure equal treatment. We therefore request total exclusion for non-TSO DC interconnectors that are legally separate entities from a TSO, and which do not form part of their regulated asset base: in other words, there should be neither a contribution nor compensation.

**Baltic Cable AB**

Jan Brewitz

Deputy Managing Director