

**New Gas Infrastructure
Investment Regulation (NGIIR)
for the Energy Community of South East Europe**

AEEG Comments and Proposals

Vienna, 12 October 2006



Main critical issues

1. TPA rules and consistency with EU regulation
2. Transmission Project Operator
3. Role of guidelines in Participant countries
4. Open season and its regulation
5. How to prevent increase of market power
6. Relevant infrastructure and regulators



TPA rules and consistency with EU regulation

- Guidelines are useful as a step towards single market of EU, Energy community
- A double set of rules in EU, Energy Community leads to regulatory uncertainty, discourages investment
- A separate set of TPA rules may discriminate Participant countries towards other EU Member States
- **Regulation 1775 should be extended to the Energy Community, with appropriate lead time**
- **Exception: one stop principle may be introduced**



Transmission Project Operator

- A useful tool for new transmission project
- A new and untested concept
- Current definition is not clear
- Individual TSOs may agree on one stop shop service even if a TPO is not established
- **TPO should be optional solution**



Geographical scope of guidelines

- Guidelines are designed to harmonize regulation in the EU and Energy Community Member States
- Should be applied to Projects involving Participant *and* Contracting countries
- Infrastructure in participant countries subject to NGIIR may be damaged with respect to other EU Member States
- **Projects not involving Contracting countries should only respect EU *Acquis*, not the NGIIR**



Should open season be mandatory to grant exemptions?

- OS is a good way to render exemptions compatible with competition, optimize investment
- OS rarely tested, outcome not sure
- OS is one way of ensuring competitive investment, limited TPA is the other (*Directive Explanatory Notes*)
- Exemptions without OS already granted and EC approved, new Projects should not be discriminated
- **Open season should not be mandatory if at least XX% of capacity is subject to TPA, or if marginal capacity increase is available on demand**



Open season regulation

- Current version of open seasons should be clarified both in case of exemption or in other cases
- It should be clarified whether it is held before or after exemption is granted (**better if after**)
- In case of abuse energy regulators and competition authorities may react timely, also by removing the exemption (UK example)



How to prevent market power

- Reference to market role of applicants in their home countries may violate the relevant market principle
- **Should not grant exemption if it leads to increasing market power by incumbent suppliers**
- **May grant exemption to new gas suppliers but cannot be automatic and based on plateau level of the Project**



Relevant infrastructure and regulators

- Scope of guidelines: applicable to pipelines only, or to LNG terminals as well (**should be both**)
- Must clarify which regulatory authorities are involved in the decision (what are the “relevant authorities”?)
- Must clarify relationships between national regulatory authorities and the ECRB
- Congestion may be relieved by including the enhancement into national TSO asset basis

