

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

Fourth amendment to the Final Joint Decision of the Energy Regulators on the Exemption Application of ICGB AD

March 2024

I. Whereas:

1. In connection with the application of 17.07.2017 by ICGB AD under Art. 36 of 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), the Energy and Water Regulatory Commission of the Republic of Bulgaria (EWRC) and the Regulatory Authority for Energy, Waste and Water of the Republic of Greece (RAEWW) with Decision № P-BO-1 of 29 May 2018 and Decision № 483 of 29 May 2018, respectively, adopted the "*Joint Opinion of the Energy Regulators on the Exemption Application of ICGB AD - Energy and Water Regulatory Commission (Bulgaria) and Regulatory Authority for Energy (Greece)*", though which they preliminarily provided to ICGB AD in reference to the Interconnector Greece-Bulgaria (IGB gas pipeline) exemption from the requirements for third-party access, regulated tariffs and ownership unbundling for a period of 25 years, starting from the commercial operation date (COD). The decisions of the regulatory authorities were notified to the European Commission.

2. The European Commission adopted Decision C(2018) 5058 final of 25 July 2018 regarding the exemption of the Greece-Bulgaria interconnector (IGB gas pipeline) from the requirements for third-party access, regulated prices and ownership unbundling.

3. EWRC and RAEWW by Decision № P-BO-2 of 8 August, 2018, and Decision № 768 of 8 August 2018, respectively, adopted the "*Final Joint Decision of the Energy Regulators on the Exemption Application of ICGB AD*" (hereinafter, the "Final Joint Decision") in compliance with the Commission's Decision.

4. EWRC and RAEWW by Decision № P-BO-1 of 20 March 2020, and by Decision № 568 of 12 March 2020, respectively, amended the "Final Joint Decision", regarding COD, by determining that the IGB gas pipeline will start commercial operation no later than 31 December 2020 (target COD) and no later than 1 July 2021.

5. EWRC and RAEWW by Decision № P-BO-1 of 20 May 2021, and by Decision № 424 of 12 May 2021, respectively, amended the "Final Joint Decision", regarding COD, by determining that the IGB gas pipeline will start commercial operation no later than 1 July 2022.

6. EWRC and RAEWW by Decision № P-BO-3 of 30 September 2022, and by Decision № 742 of 29 September 2022, respectively, amended the "Final Joint Decision", regarding COD, by determining that the IGB gas pipeline will start commercial operation no later than 1 October 2022.

7. The IGB gas pipeline started commercial operation on 1 October 2022.

8. Pursuant to Article 4.3 of ICGB AD's "Final Joint Decision" regarding the Greece-Bulgaria interconnector (IGB gas pipeline), an exemption from the provisions of article 41.6, article 41.8, article 41.10 of Directive 2009/73/EC has been granted for 100% firm flow capacity, 100% interruptible capacity straight flow and 100% interruptible capacity reverse flow. One of the conditions of the exemption is that no multiplier shall be applied for the calculation of the tariff of short-term capacity products.

9. EWRC and RAEWW by Decision № K-1 of 8 October 2019, respectively by Decision № 918 of 9 October 2019, approved the IGB Network Code, containing as an appendix the IGB Tariff Code, to be applied by ICGB AD.

10. EWRC and RAEWW by Decision № K-1 of 30 September 2022, respectively Decision № 743 of 29 September 2022, approved an amendment to the IGB Network Code, containing as an appendix the IGB Tariff Code.

11. Pursuant to article 7.4. the IGB Tariff Code ICGB AD should apply multipliers for determining reserve prices for standard products, for firm capacity for a period shorter than one year, using the relevant tariffs for input and output capacity, as follows:

- i. for quarterly capacity: $ENT_{xxx} * 1.1$; $EXT_{xxx} * 1.1$ (i.e. transmission tariff per yearly firm product + 10%)
- ii. for monthly capacity: $ENT_{xxx} * 1.2$; $EXT_{xxx} * 1.2$ (i.e. transmission tariff per yearly firm product + 20%)
- iii. for daily capacity: $ENT_{xxx} * 1.3$; $EXT_{xxx} * 1.3$ (i.e. transmission tariff per yearly firm product + 30%)
- iv. for within-day capacity: $ENT_{xxx} * 1.4$; $EXT_{xxx} * 1.4$ (i.e. transmission tariff per yearly firm product + 40%)

II. The regulatory authorities, after carefully assessing the content of article 4.3 of the "Final Joint Decision" regarding the condition of not applying a multiplier in the calculation of the tariff for short-term capacity products, as well as the content of item 7.4 of the IGB Tariff Code, consider it reasonable to amend the "Final Joint Decision" due to the following reasons:

1. There is an inconsistency between article 4.3 of the "Final Joint Decision" regarding the condition of not applying a multiplier in the calculation of the tariff for short-term capacity products and item 7.4 of the IGB Tariff Code.

2. The determination of capacity reserve prices for yearly and short-term standard products should reflect the costs related to the guaranteed provision of the relevant product.

3. Commission Regulation (EU) 2017/460 of 16 March 2017 establishing a network code on harmonised transmission tariff structures for gas (Regulation (EU) 2017/460) allows transmission system operators to determine the prices of yearly standard products for firm capacity to use a coefficient (multiplier), applied to the respective proportion of the reference price in order to calculate the reserve price for a non-yearly standard capacity product

4. According to article 13, paragraph 1 of Regulation (EU) 2017/460, the level of coefficient (multipliers) shall fall within the following ranges: a) for quarterly standard capacity products and for monthly standard capacity products – no less than 1 and no more than 1,5; b) for daily standard capacity products and for within-day standard capacity products – no less than 1 and no more than 3 and in duly justified cases, the level of the respective coefficient (multipliers) may be less than 1, but higher than 0, or higher than 3.

5. The coefficient levels under item 7.4 of the IGB Tariff Code fall well within the scope of the levels under article 13, paragraph 1 of Regulation (EU) 2017/460 and are low compared with the multipliers of other transmission system operators in the region.

III. The regulatory authorities, after carefully assessing the content of article 4.2 of the "Final Joint Decision" regarding the obligation to conduct a market test, no later than three years as of the Commercial Operation Date, in order to investigate the market interest in upgrading the IGB capacity to approximately 5 bcm/y, consider it reasonable to clarify the following:

1. According to article 4.2 of the “Final Joint Decision”, ICGB AD is exempted from the provisions of Article 32 of the Directive 2009/73/EC (third-party access) for a period of 25 years starting from the COD for the amount of firm forward capacity that had been booked through the conducted Market Test and is depicted in the Table and the Figure in article 4.2 of the “Final Joint Decision”. The remaining capacity is considered non-exempted and is governed by the European Regulations, to the extent that they do not contradict to the provisions of the “Final Joint Decision”. More specifically, under item 2 of article 4.2, ICGB AD must follow the provision of 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 (Regulation (EU) 2017/459) for the allocation of any capacity beyond the exempted capacity.

2. Therefore, ICGB AD must also follow the provisions of Chapter V of Regulation (EU) 2017/459 regarding the Incremental Capacity Process.

3. The Market Test foreseen in article 4.2, item 3 of the Final Joint Decision may be conducted according to the rules of the incremental capacity process of Regulation (EU) 2017/459. The specific condition of item 3 was to emphasize the obligation to investigate within a specific time-frame the expansion to 5bcm. Its fulfillment does not require the conduct of a separate market test procedure.

4. According to the information provided to the Regulators by the adjacent transmission system operators, Trans Adriatic Pipeline (TAP) is already capable of providing inlet pressure of 70 barg at the Interconnection Point of TAP-IGB in Komotini, while greek transmission system operator (DESFA) has made the necessary investments to be able to guarantee it in Q1 2025. In light of the above, the inlet pressure required for the flow of 5 bcm through IGB will soon be available; in case certain upgrades of IGB are needed to allow the aforementioned expansion – which is desirable for the security of supply of the region, especially in view of the disruption of the Ukrainian route that may affect the supply of the Union – ICGB AD may, upon approval of the Regulatory Authorities, proceed to these investments without conducting a Market Test, in case they do not result in a significant increase of the IGB tariff significantly, as the significance level is judged by the Regulators.

IV. Based on the above arguments, the Authorities jointly decide to:

A. Amend the "Final Joint Decision of the Energy Regulators on the Exemption Application of ICGB AD", adopted by Decision № P-BO-2 of 8 August, 2018 of EWRC, as amended by Decisions № P-BO-1 of 20 March 2020, № P-BO-1 of 20 May 2021 and № P-BO-3 of 30 September 2022 of EWRC, and Decision № 768 of 8 August 2018 of RAEWW, as amended by Decisions № 568 of 12 March 2020, № 424 of 12 May 2021 and № 742 of 29 September 2022 of RAEWW, as follows:

Article 4.3, point 9 shall read: "Multipliers may be applied for the calculation of the tariff of short-term capacity products."

The income that ICGB AD receives from the application of multipliers shall be taken into account in view of any adjustment of the Net Transmission Tariff and/or the Profit Sharing Mechanism scheme.

B. The first paragraph of item 3 of article 4.2 shall be read:

“ICGB AD shall conduct a market test, no later than three years as of the Commercial Operation Date, to investigate the market interest in upgrading the IGB capacity to approximately 5 bcm/y (§1.1.3). ICGB AD shall conduct the market test according to the Incremental Capacity

process of Regulation (EU) 2017/459. ICGB is obliged to upgrade the pipeline above the Minimum Capacity in order to accommodate the binding capacity requests resulting from the Market Test, taking into account the provisions of points 2 and 3 of §4.4, if its construction is economically viable. If constructed, the additional capacity is not exempted from the provisions of article 32 of the Directive 2009/73/EC.

Exceptionally, upon approval of the Regulatory Authorities, in case it is deemed appropriate especially for reasons of security of supply, the expansion of IGB to 5 bcm/y may take place without the conduct of a Market Test under the strict condition that the required investments do not increase the IGB tariff significantly, as the significance level is judged by the Regulators.”.