



Πειραιώς 132,
118 54 Αθήνα
Τηλ.: 210-3727400
Fax: 210-3255460
E-mail: info@rae.gr
Web: www.rae.gr

ΑΠΟΦΑΣΗ ΡΑΕ ΥΠ' ΑΡΙΘΜ. 911/2018

Έγκριση των κατευθυντήριων γραμμών για τη διαχείριση και κατανομή δυναμικότητας αναφορικά με το προτεινόμενο έργο «Ανεξάρτητο Σύστημα Φυσικού Αερίου (ΑΣΦΑ) Αλεξανδρούπολης» της εταιρείας Gastrade A.E., σύμφωνα με την παράγραφο 6 του άρθρου 36 της Οδηγίας 2009/73/ΕΚ – Μέρος Ι: Πρόσκληση Εκδήλωσης Ενδιαφέροντος

Η Ρυθμιστική Αρχή Ενέργειας

Κατά την τακτική συνεδρίασή της, στην έδρα της, στις **25 Σεπτεμβρίου 2018**, και

Λαμβάνοντας υπόψη:

1. Τις διατάξεις του ν. 4001/2011 (ΦΕΚ Α' 179), όπως ισχύει, και ιδίως του άρθρου 76.
2. Τις διατάξεις της Οδηγίας 2009/73/ΕΚ (εφεξής η «Οδηγία»), και ιδίως του άρθρου 36 αυτής, και του Κανονισμού (ΕΚ) αριθ. 715/2009.
3. Τον «Κανονισμό Αδειών Φυσικού Αερίου» ο οποίος εκδόθηκε με την υπ' αριθμ. οικ. 178065 Απόφαση του Υπουργού Περιβάλλοντος και Ενέργειας (ΦΕΚ Β' 3430/17.08.2018), κατόπιν των υπ' αριθμ. 3/06.04.2017 και 5/04.04.2018 Γνωμοδοτήσεων της ΡΑΕ, σε αντικατάσταση της Υπουργικής Απόφασης Δ1/Α/5815 (ΦΕΚ Β' 464/19.04.2010), και ιδίως το άρθρο 23 αυτού.
4. Τις διατάξεις του π.δ.139/2001 «Κανονισμός Εσωτερικής Λειτουργίας και Διαχείρισης της ΡΑΕ» (ΦΕΚ Α' 121).
5. Τη σύσταση των Ευρωπαϊκών Ρυθμιστών για τον Ηλεκτρισμό και το Φυσικό Αέριο με τίτλο «*ERGEG Guidelines for Good Practice on Open Season Procedures (GGPOS)*» σχετικά με τη διεξαγωγή Ανοιχτής Διαδικασίας για τη δέσμευση δυναμικότητας σε νέες υποδομές (Ref: C06-GWG-29-05c, May 2007).
6. Την υπ' αριθμ. Δ1/Α/19466-19.08.2011 Άδεια Ανεξάρτητου Συστήματος Φυσικού Αερίου (ΑΣΦΑ) που έχει χορηγηθεί στην εταιρεία Gastrade A.E. για το έργο “Ανεξάρτητο Σύστημα Φυσικού Αερίου (ΑΣΦΑ) Αλεξανδρούπολης”, όπως τροποποιήθηκε με τις υπ' αριθμ. 60/26.01.2017 και 406/09.05.2018 Αποφάσεις της ΡΑΕ και ισχύει.

7. Το υπ' αριθμ. πρωτ. 160/3/ΚΣ/28.6.2018 έγγραφο της εταιρείας Gastrade Α.Ε. με θέμα «Αίτηση τροποποίησης της υπ' αριθμ. Δ1/Α/19466-19.08.2011 Άδειας Ανεξάρτητου Συστήματος Φυσικού Αερίου (ΑΣΦΑ) που έχει χορηγηθεί στην εταιρεία Gastrade Α.Ε. για το έργο “Ανεξάρτητο Σύστημα Φυσικού Αερίου (ΑΣΦΑ) Αλεξανδρούπολης” σύμφωνα με το Άρθρο 15, παρ. (ε) του Κανονισμού Αδειών Φυσικού Αερίου (ΦΕΚ 464/19.04.2010)» (αριθμ. πρωτ. ΡΑΕ Ι-241771/28.06.2018).
8. Το υπ' αριθμ. πρωτ. 161/3/ΚΣ/29.6.2018 έγγραφο της εταιρείας Gastrade Α.Ε. με θέμα «Υποβολή προς έγκριση των Κατευθυντήριων Γραμμών (Guidelines) για τη διαχείριση και κατανομή δυναμικότητας αναφορικά με το έργο “Ανεξάρτητο Σύστημα Φυσικού Αερίου (ΑΣΦΑ) Αλεξανδρούπολης” σύμφωνα με την παράγραφο 6 του άρθρου 36 της Οδηγίας 2009/73/ΕΚ» (αριθμ. πρωτ. ΡΑΕ Ι-241866/29.06.2018).

Σκέφτηκε ως εξής:

Επειδή, η εταιρεία Gastrade Α.Ε. είναι κάτοχος της Άδειας Ανεξάρτητου Συστήματος Φυσικού Αερίου (ΑΣΦΑ) που αναφέρεται στο υπό στοιχείο 6 σχετικό.

Επειδή, με το υπό στοιχείο 7 σχετικό έγγραφο, η εταιρεία Gastrade Α.Ε. υπέβαλε στη ΡΑΕ αίτηση για την εξαίρεση της προτεινόμενης νέας υποδομής φυσικού αερίου από την εφαρμογή συγκεκριμένων διατάξεων της Οδηγίας, καθώς και για τη συνεπακόλουθη τροποποίηση της Άδειας ΑΣΦΑ που κατέχει, κατά τα οριζόμενα στο άρθρο 23 του Κανονισμού Αδειών Φυσικού Αερίου.

Η προτεινόμενη υποδομή αφορά στην ανάπτυξη νέου υπεράκτιου σταθμού υποδοχής, προσωρινής αποθήκευσης και αεριοποίησης ΥΦΑ στο Θρακικό Πέλαγος (Floating Storage Regasification Unit, FSRU), περίπου 17,5 χιλιόμετρα νοτιοδυτικά του λιμένα Αλεξανδρούπολης και σε απόσταση 10 χιλιομέτρων από την ακτή, καθώς και αγωγού σύνδεσης αυτού με το Εθνικό σύστημα Φυσικού Αερίου (ΕΣΦΑ).

Επειδή, η αίτηση εξαίρεσης εξετάζεται σύμφωνα με τις διατάξεις της παραγράφου 2 του άρθρου 76 του ν. 4001/2011. Ειδικότερα, προβλέπεται η χορήγηση απαλλαγής από την υποχρέωση παροχής πρόσβασης σε τρίτους σε ΑΣΦΑ με απόφαση της ΡΑΕ, σύμφωνα με τη διαδικασία και τις προϋποθέσεις που προβλέπονται στις διατάξεις του άρθρου 36 της Οδηγίας.

Επειδή, σύμφωνα με την παράγραφο 6 του άρθρου 36 της Οδηγίας, πριν από τη χορήγηση εξαίρεσης, η ρυθμιστική αρχή αποφασίζει τους κανόνες και τους μηχανισμούς για τη διαχείριση και την κατανομή δυναμικού. Σύμφωνα με τους κανόνες αυτούς πρέπει να καλούνται όλοι οι δυνητικοί χρήστες της υποδομής να εκδηλώσουν ενδιαφέρον για μίσθωση δυναμικού, προτού γίνει η κατανομή του δυναμικού στην υποδομή ακόμη και για ίδια χρήση (εφεξής «Market Test»). Κατά την αξιολόγηση της Αίτησης Εξαίρεσης ιδίως κατά τα κριτήρια της παραγράφου 1 στοιχεία α), β) και ε) του άρθρου 36 της Οδηγίας, η Ρυθμιστική Αρχή λαμβάνει υπόψη τα αποτελέσματα της εν λόγω διαδικασίας κατανομής δυναμικού.

Επειδή, σύμφωνα με τη συνήθη βέλτιστη πρακτική σε συμφωνία με το ως άνω υπό στοιχείο 5 σχετικό, η διεξαγωγή του Market Test προκειμένου για τη στάθμιση τυχόν επενδυτικού ενδιαφέροντος προβλέπεται σε δύο στάδια:

- (α) Μέρος Ι : Στάδιο υποβολής μη δεσμευτικών προσφορών (Expression of Interest Phase)
- (β) Μέρος ΙΙ: Στάδιο δέσμευσης δυναμικότητας (Bidding Phase).

Επειδή, με το υπό στοιχείο 8 σχετικό η εταιρεία Gastrade A.E. αιτήθηκε την έγκριση Κατευθυντήριων Γραμμών για το στάδιο υποβολής μη δεσμευτικών προσφορών (Μέρος Ι).

Επειδή, κατά τη διαμόρφωση των Κατευθυντήριων Γραμμών για το στάδιο υποβολής μη δεσμευτικών προσφορών (Μέρος Ι), ο Ρυθμιστής δίνει έμφαση στην υποχρέωση της εταιρείας Gastrade A.E. να διασφαλίσει ότι η Πρόσκληση Εκδήλωσης Ενδιαφέροντος που θα συντάξει η εταιρεία θα πρέπει να είναι ανοιχτή προς όλους τους ενδιαφερόμενους και να τους παρέχει επαρκείς πληροφορίες σχετικά με τα ο έργο, αλλά και δυνατότητα εκδήλωσης ενδιαφέροντος για τα προϊόντα τα οποία δυνητικά θα ήθελαν να δεσμεύσουν στην υποδομή, πιθανώς και πέραν αυτών που προτείνει η εταιρεία.

Για τους παραπάνω λόγους

Αποφασίζει

Την έγκριση του Πρώτου Μέρους των Κατευθυντήριων Γραμμών για τη διαχείριση και κατανομή δυναμικότητας αναφορικά με το προτεινόμενο έργο της εταιρείας Gastrade A.E. σύμφωνα με την παράγραφο 6 του άρθρου 36 της Οδηγίας 2009/73/ΕΚ, ως ακολούθως:

«

**Guidelines for management and allocation of capacity on the
Alexandroupolis Independent Natural Gas System
(Alexandroupolis LNG Terminal) according
to paragraph 6 of article 36 of Directive 2009/73/EC**

PHASE I:

Invitation of interested parties to express their interest in reserving capacity

Considering that:

- The company GASTRADE S.A. has submitted to the National Regulatory Authority for Energy of Greece (Regulatory Authority for Energy- RAE) an application for exemption for the Alexandroupolis Independent Natural Gas System (Alexandroupolis LNG Terminal)

from the provisions of Articles 9, 32, 33 and 41(6), (8) and (10), which will be examined according to the provisions of paragraph 6 of article 36 of the Directive 2009/73/EC.

- The Alexandroupolis LNG Terminal (**the “Project”**) comprises a permanently moored offshore Floating LNG Storage and Regasification Unit (FSRU) and suited transmission pipeline, designed to connect the floating unit to the national transmission system of Greece as a new natural gas import facility. The FSRU will be stationed in the sea of Thrace, approximately 17.6km SW of the town of Alexandroupolis in NE Greece, at an offshore distance of approximately 5.4 nautical miles from the nearest shore. The FSRU will have a capacity of up to 170,000m³ LNG storage and a peak (without redundancy) gas send out rate of up to 900,000 Ncm/h corresponding to approximately 8.3bcm/y. The Project will be developed, designed, financed, built, owned and operated by GASTRADE;
- Directive 2009/73/EC is relevant for Greece as a Member State of the European Union and has been transposed into the national legislation through law 4001/2011;

RAE has developed these Guidelines for the management and allocation of capacity to the Alexandroupolis LNG Terminal, according to paragraph 6 of Article 36 of Directive 2009/73/EC, the first phase of which refers to the invitation of interested parties to express their interest in reserving capacity in the abovementioned project.

The National Regulatory Authority of Greece has decided as follows:

Article 1

Definitions

The following definitions apply:

Advanced Reservation Capacity Agreement (ARCA): is the agreement containing the main terms and conditions of the Terminal Use Agreement, to be executed in respect of allocated capacity by and between GASTRADE and any Allocated Participant, committing the parties thereto to execute a Terminal Use Agreement on a long-term ship-or-pay basis upon final investment decision by GASTRADE;

Allocated Participant: The party being allocated capacity of the Project on the basis of the Bidding Phase and asked to sign an Advanced Reservation Capacity Agreement (ARCA);

Authority: shall mean the National Regulatory Authority of Greece (Ρυθμιστική Αρχή Ενέργειας, Regulatory Authority for Energy-RAE);

Bidding Phase Guidelines: shall mean the document to be approved by the Authority containing the rules to run the Bidding Phase and in particular the tariff principles and the capacity allocation mechanism at the Project;

Commercial Operation Date shall mean the date on which the Project will be completed and able to commercially receive, store, regasify, send-out and transport the regasified natural gas via its assorted transmission pipeline;

Day(s): shall mean calendar day(s);

Directive shall mean Directive 2009/73/EC;

EoI Notice has the meaning given in Article 4.2 hereof;

EoI Participants shall mean entities having provided a valid and complete EoI application (applicants);

EoI Phase has the meaning given in Article 2.2 of these Guidelines;

Exemption Application shall mean the exemption application submitted by GASTRADE to the Authority on 28 June, 2018 (ref: I-241771/28.06.2018);

Gas Delivery Point shall mean the entry point to the NNGTS in the vicinity of Alexandroupolis to which the pipeline of the Project will be connected through an M/R Station;

GASTRADE shall mean GASTRADE S.A., the company incorporated under Greek Law (entered into the Commercial Register of the Registry Agency (General Commercial Registry – ΓΕΜΗ) under unified identification code 95699101000 for developing, designing, financing, managing,

constructing, owning and operating on a long-term basis the Project and whose Shareholders are 80% Mrs. Asimina – Eleni Copelouzou and 20% Gaslog Cyprus Investments LTD;

Guidelines shall mean the present document;

Host Country shall mean Greece;

Market Test shall mean the process described in paragraph 6 of article 36 of the Directive in order to assess the interest of all potential users in contracting capacity before capacity allocation in the Project takes place as referred to in Article 2.2 of the present Guidelines;

NNGTS shall mean the National Natural Gas Transmission System of Greece, operated by DESFA S.A., the Hellenic TSO;

Project Normal Operation Capacity shall mean the technical capacity of the Project equal to 600,000 Ncm/h of natural gas (circa 5.5 bcm/year) at an operating pressure of up to 100 barg at the Gas Delivery Point;

Project Sustainable Capacity shall mean the peak technical capacity of the Project, equal to 900,000 Ncm/h of natural gas (circa 8.3 bcm/year) at an operating pressure of up to 100 barg pressure at the Gas Delivery Point, and;

TSO shall mean Transmission System Operator.

Article 2

Subject matter and scope

- 2.1 According to Article 36 (6) of the Directive, following an Exemption Application, the Authority decides upon the rules and mechanisms for management and allocation of capacity. The rules require a market test to be implemented.
- 2.2 The Market Test for the Project is structured into two phases:
- (i) Expression of Interest (Eol) Phase;
 - (ii) Bidding Phase.
- The Market Test is concluded upon the signature, by GASTRADE and Allocated Participants, of Advanced Reservation Capacity Agreements.
- 2.3 In the Eol Phase all potential users, including shippers and TSOs, are invited to express their interest, pursuant to these Guidelines, in contracting capacity in, the Project and are asked to submit data and information in order for the Authority to assess the criteria set out in Article 36 (1) of the Directive. The Eol Phase neither binds Eol Participants to book the capacity for which they have expressed their interest in, nor does it bind GASTRADE to offer such capacity. However, participation in the Eol Phase is a prerequisite for subsequent participation in the Bidding Phase.
- 2.4 In the Bidding Phase, Eol Participants will be asked to submit binding requests for contracting capacity in the Project, in accordance with the Bidding Phase Guidelines. GASTRADE will allocate capacity in the Project according to the Bidding Phase Guidelines.
- 2.5 These Guidelines provide the general framework for capacity allocation and management procedures and define, in particular, how to perform the Eol Phase.

Article 3

Framework rules and mechanisms for capacity allocation and management

- 3.1 GASTRADE shall submit to the Authority the Eol Phase Notice described in Article 4 within 5 (five) Days after the notification of the approval of the present Guidelines by the Authority.
- 3.2 The Authority will assess and approve the Eol Phase Notice within 15 (fifteen) Days from its submission by GASTRADE. In particular, the Authority will review the Eol Phase Notice with a view to ensuring that the procedures for performing the Eol Phase, as set out in the Eol Notice, are open, non-discriminatory, transparent and in accordance with EU, national legislation in the Host Country and the present Guidelines.
- 3.3 The Eol Phase of the Market Test will be conducted by GASTRADE who is responsible for the proper conduct of the proceedings as a result of the approval of the Authority.

- 3.4 Any shareholders of GASTRADE can participate in the Eol Phase of the Market Test, and in the subsequent Bidding Phase, under the same terms and conditions applicable to other interested parties, as set out in the Eol Notice.
- 3.5 After the Eol Phase has been completed, the Authority, taking also into consideration the report referred to in Article 7 below, shall request GASTRADE S.A. to perform the Bidding Phase of the Market Test prior to any assessment of the Exemption Application. A positive opinion upon granting the exemption may be conditional on the obligation on GASTRADE to offer part or the whole of the capacity requested in the Eol Phase in the Bidding phase and to build it if allocated, in so far as it is technically and economically feasible to do so.
- 3.6 The Bidding Phase Guidelines will be issued by the Authority, upon proposal by GASTRADE, in line with the principles of the present Guidelines. The Bidding Phase Guidelines will include rules for capacity allocation, products, tariffs and duration of contracts, as well as mechanisms to deal with cost-overruns and penalties applied to GASTRADE if capacity is not delivered in time, taking into account the criteria referred in Article 36.1 of the Directive and the results of the Eol Phase.
- 3.7 As a general principle in the Bidding Phase:
- (a) Capacity is allocated through auctions; and
 - (b) Tariffs applied to users shall be cost reflective and non-discriminatory.
- 3.8 Rules for capacity management will be applied also according to the following general principles:
- (a) Congestion Management Procedures, Use-It-Or-Lose-It arrangements, secondary capacity trading arrangements, balancing regimes, capacity overruns, nomination and renomination rules compliant with relevant EU provisions as they will be established, amended or integrated by comitology, according especially to articles 15, 17, 19, 23 of Regulation 715/2009 of the Parliament and the Council, will be included;
 - (b) GASTRADE will implement and publish a non-discriminatory and transparent capacity allocation mechanism compliant with the rules mentioned above in accordance with the applicable Licensing Regulation, subject to Authority's approval, which will provide for a harmonized regime for capacity allocation for the entire Project.

Article 4

Expression of Interest Notice (Eol Notice)

- 4.1 The Eol Phase begins with the publication of the Expression of Interest Notice for capacity allocation (Eol Notice) by GASTRADE. GASTRADE shall publish the Eol Notice after its approval by the Authority pursuant to Article 3. The Eol Notice should be sufficiently publicized to attract interest from third parties and allow for their meaningful participation.
- 4.2 Avenues used to publicize the Eol Notice should include appropriate national and international media and GASTRADE's website. The Eol Notice should be available in English.
- 4.3 The Eol Notice should provide general information on the Project and the services which are being proposed by GASTRADE. Prospective Eol Participants should at least be informed about:
- (a) The basic elements of the Project design.
 - (b) The technical specifications of the Project, such as operating pressure and gas quality constraints, if any, at each intake and offtake point.
 - (c) The estimated Commercial Operation Date (COD).
 - (d) A detailed description of the proposed connection point of the Project to the NNGTS.
 - (e) The services proposed; specifying for each service the starting date and duration.
 - (f) A non-binding estimate of the investment and operating costs for the Project.
 - (g) A summary of authorizations, licenses and regulatory approvals that have been acquired up to now, if any, and a timetable for submitting applications and obtaining the remaining documents of this type, if any.

(h) Details on how to obtain information on the requirements to be satisfied for admittance by GASTRADE to the due diligence procedures and data room, in the event where GASTRADE deems appropriate to organize a data room, and in particular standard contractual terms in relation to Article 5.1 below.

4.4 The Eol Notice should also include at least the following general information:

- (a) Arrangements in place to ensure the confidentiality of information received by the Eol Phase applicants.
- (b) The start and end dates of the Eol Phase: the end date must be set at least 45 (forty-five) Days after the publication of the Eol Notice.
- (c) Details on how to apply in the Eol Phase and a standard form of the expression of interest.
- (d) The criteria upon which an applicant may be excluded from the Eol Phase and the procedure for notifying the applicants that their application is rejected.

Article 5

Expression of Interest Procedure

- 5.1 GASTRADE may provide for an appropriate due-diligence to disclose to all participants, under a confidentiality agreement, more specific information about the Project.
- 5.2 The terms and conditions for access to the data room, in the event that GASTRADE organizes such data room, will be further specified by GASTRADE as a part of the Eol Notice.
- 5.3 In their application for the Eol Phase, participants have to declare that information provided is true (attested affidavit).
- 5.4 A participation fee may be requested by GASTRADE with the sole purpose of covering the administrative costs of the Eol Phase. The level of the fee shall be subject to the Authority's evaluation pursuant to Article 3 hereof.
- 5.5 Information is to be provided about products offered on natural gas systems in the Host Country. Connection with the National Natural Gas Transmission System, owned and operated by DESFA SA, is done according to the provisions of Law 4001/2011 (ΦΕΚ 179, 22.08.2011) and the Network Code (RAE Decision No 123/2018, Transparency platform (ΑΔΑ): ΩΚ8ΕΙΔΞ-ΔΕΤ, Governmental Gazette (ΦΕΚ): 788/Β/07.03.2018).

Article 6

Participation in the Eol Phase

- 6.1 All interested parties, including shippers and TSOs, may participate in the Eol Phase.
- 6.2 When expressing their interest, participants should indicate at least:
 - (a) The services they are interested in.
 - (b) The start date, duration and the amount of capacity for each service.

Participants in the Eol Phase should be allowed to request differentiated starting dates and duration of the services they require, within the general frame of the corresponding dates proposed by GASTRADE.
- 6.3 Participants should not consider themselves to be confined to the proposed services specified in the Eol Notice. Participants can indicate appropriate modifications to GASTRADE's proposal that would better accommodate their needs, such as:
 - (a) Additional offtake points other than the Gas Delivery Point; or
 - (b) Different service duration, start dates or/and end dates to those proposed by GASTRADE.

Article 7

Reporting of GASTRADE S.A. on the results of the EoI Phase

- 7.1 Within 5 (five) Days of completion of the EoI Phase, GASTRADE will deliver to the Authority a report, summarizing the results of the EoI Phase, including its evaluation of the EoI Phase results, with specific reference to the implications for the Project. The GASTRADE assessment is not binding on the opinion to be given by the Authority.

»

Αθήνα, 25 - 9 - 2018

Ο Πρόεδρος της ΡΑΕ

Δρ. Νικόλαος Γ. Μπουλαξής