



Market Test Guidelines  
for the allocation of capacity  
at the Greek Side  
of the Interconnection Point “Evzoni – Gevgelija”

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## Preamble

Considering that:

- With its decision 116/2021 of 8<sup>th</sup> January 2021, published in the Gov. Gazette (1392-B-8.4.2021) the Authority approved DESFA's Ten Year Development Plan 2021-2030, which includes the project aiming at the interconnection of the natural gas transmission systems of DESFA and NER subject to the carrying out of a binding capacity allocation procedure (Market Test);
- DESFA has signed with NER, in October 2016, an MoU, in presence of the competent Ministers of the two countries, for the development of a gas interconnection between Greece and North Macedonia. This was confirmed with the MoU Amendment, signed in April 2019, further specifying the framework of cooperation between the two companies;
- The Gas Interconnection Greece – North Macedonia project has earned the status of “Project of Mutual Interest” (PMI) from the Energy Community, in November 2018;
- A Joint Feasibility Study has been submitted by DESFA and NER to the European Investment Bank, in January 2019;
- The European Commission approved the provision of Technical Assistance to NER for the preparation of an Environmental and Social Impact Assessment and the preparation of the necessary Engineering Design;
- The Western Balkans Investment Framework (WBIF) in its 21<sup>st</sup> Steering Committee meeting (London, 16-17.12.2019) approved a 12.7 m€ grant to NER for the implementation of the Section of the Project in North Macedonia;
- On 9<sup>th</sup> of July 2021, the Government of the Hellenic Republic and the Government of the Republic of North Macedonia have signed an Agreement for the development of the Natural Gas Interconnection Greece – North Macedonia, by DESFA and NER;
- Among other, this project will enhance the Security of Supply and the diversification of supply sources to North Macedonia and will ensure a higher degree of utilization of the National Natural Gas System of Greece;
- The implementation and operation of the Section of the Project in Greece is governed by Greek Law;
- Gas Interconnection Greece – North Macedonia project is subject to EU legislation, including Directive 2009/73/EC and Regulation (EC) No 715/2009 of the European Parliament and of the Council and the provisions of the secondary

legislation that result from said Regulation as well as Regulation (EU) No 2017/1938 of the European Parliament and of the Council.

RAE has decided as follows:

### **Article 1 – Definitions and References**

1.1. The following definitions shall apply:

- a) **Allocated Capacity** shall mean the allocated capacity at the Greek Side of the Interconnection Point in the direction from Greece to North Macedonia to a Market Test Participant according to Article 7.
- b) **Allocation Notification** shall mean the Notification to each Market Test Participant entitled to sign an ARCA for the Allocated Capacity.
- c) **Allocated Participant(s)** shall mean the Market Test Participant(s), who have signed an ARCA.
- d) **Appeal Notification** shall mean the Notification to the Market Test Participant on the outcome of the Appeal Process.
- e) **Appeal Process** shall mean the appeal process detailed in Article 3.13.iii.
- f) **Appeal Letter** shall mean the letter prepared by the Market Test Participant who seeks remedy through the Appeal Process.
- g) **ARCA** shall mean the Advanced Reservation of Capacity Agreement pursuant to Article 10, the pro-forma of which is attached to the Notice.
- h) **ARCA Guarantee** shall mean a valid and enforceable bank guarantee to be provided by an Allocated Participant for the execution of an ARCA, which complies with the form attached to the pro-forma ARCA (Bank Guarantee).
- i) **Authority** shall mean the National Regulatory Authority for Energy of Greece (RAE).
- j) **Binding Offer Deadline** shall mean the date and time until which the Market Test Participants may submit a Binding Offer.
- k) **Binding Offer** shall mean the offer submitted for the allocation of Binding Capacity at the Greek Side of the IP, as per Article 3.9.
- l) **Binding Product Form** shall mean the form attached to the Notice where the Market Test Participant declares the requested Binding Capacity pursuant to Article 5.
- m) **Binding Capacity** is the amount of GNM Capacity up to the Maximum GNM Capacity on Offer declared in the Binding Product Form.
- n) **Business Day** shall mean a Day other than a Saturday, Sunday or a public holiday in Greece.

- o) **Commercial Operation Date** shall mean the Gas Day that DESFA notifies to the Allocated Participant as being the date on which it is ready to commence commercial operation of the Section of the Project in Greece and which thereafter will be published on DESFA's website.
- p) **FID Conditions Precedent** shall have the meaning assigned to it in Article 10.6.
- q) **Day(s)** shall mean calendar day(s). If the last day of any period set forth herein is a Saturday, Sunday, or public holiday in Greece, the period is extended to include the next day that is not a Saturday, Sunday, or public holiday in Greece.
- r) **DESFA** shall mean the Hellenic Gas Transmission System Operator.
- s) **Economic Test** shall have the meaning assigned to it in Article 9.
- t) **Final Investment Decision (or FID)** is the decision of DESFA approving the implementation of the Section of the Project in Greece.
- u) **Firm capacity** shall have the meaning assigned to it in article 2 of Regulation (EC) No 715/2009.
- v) **Gas Day** shall have the meaning assigned to it in Regulation (EC) No 459/2017 (CAM Network Code).
- w) **Gas Transportation Agreement (or GTA)** shall mean the NNGS Standard Framework Agreement for Transmission of Natural Gas, pursuant article 68 of Law 4001/2011, approved by the Authority as in force at the time of its execution.
- x) **GTA Guarantee** shall mean the guarantee required according to the relevant provisions of the GTA, of Chapter 3A of the Network Code and of the Greek Law in force at that time.
- y) **Gas Year** shall mean a time period of twelve consecutive months, starting at 7.00 am on October 1st of a year and ending at 7.00 am on October 1st of the subsequent year.
- z) **GNM Capacity** shall have the meaning assigned to it in Article 5.1.
- aa) **Greek Side of the IP** shall mean the side of the Interconnection Point Evzoni - Gevgelija operated by DESFA.
- bb) **Guidelines** shall mean the present Market Test Guidelines for the allocation of capacity at the Greek Side of Interconnection Point "Evzoni – Gevgelija"
- cc) **Indicative Commercial Operation Date** shall mean the non-binding estimate of the date on which the Section of the Project in Greece will be completed, which shall be indicated in the Notice.
- dd) **Interconnection Point (or IP)** shall mean the point at the border between Greece and North Macedonia located near the villages Evzoni (Greek side) and Gevgelija (side in North Macedonia) where the gas transmission systems of the Section of the Project in Greece and the Section of the Project in North Macedonia will be connected. The Interconnection Point, to be created, shall be named "Evzoni/Gevgelija".

- ee) **Interested Entity** shall mean any entity interested in participating in the Market Test and fulfilling the requirements of Article 6.1.
- ff) **Market Test Decision** shall mean the decision issued by the Authority for the purposes of Article 3.20.
- gg) **Market Test Guarantee** shall mean a valid and enforceable guarantee as described in Articles 11.1 and 11.2, the form of which is attached to the Notice, to be issued in favour of a Market Test Participant for submitting a valid and complete Binding Offer.
- hh) **Market Test Participant (or MTP)** shall mean any Interested Entity who has submitted a Binding Offer.
- ii) **Market Test Report** shall have the meaning given to it in Article 3.19.
- jj) **Market Test** shall mean the process followed pursuant to the present Guidelines for the capacity allocation at the Greek Side of the Interconnection Point “Evzoni/Gevgelija”.
- kk) **Maximum GNM Capacity on Offer** shall have the meaning given to it in Article 5.2.
- ll) **NER** shall mean the company under the name of “National Energy Resources Skopje” which is the transmission system operator in the Republic of North Macedonia responsible for the construction and operation of the Section of the Project in North Macedonia.
- mm) **Network Code** shall mean the Network Code of the National Natural Gas System (Gov. Gazette B’ 4687/11.10.2021) as in force from time to time.
- nn) **NNGS** shall mean the National Natural Gas System of DESFA, as defined in Law 4001/2011.
- oo) **Non-Disclosure Agreement (or NDA)** shall mean the confidentiality and non-disclosure agreement signed by DESFA and the Market Test Participant, the form of which is attached to the Notice.
- pp) **Notice** shall mean the notice to invite the Interested Entities to submit a Binding Offer for the allocation of capacity at the Greek Side of the IP pursuant to these Guidelines and in accordance with Article 4.
- qq) **Section of the Project in Greece** shall mean the section of the Project to be built and operated by DESFA in the territory of the Hellenic Republic, interconnected with the Section of the Project in North Macedonia at the Interconnection Point “Evzoni/Gevgelija”.
- rr) **Parties** shall mean DESFA and each Market Test Participant, and each a **Party**.
- ss) **Planned Commercial Operation Date** shall mean the binding estimate of the date on which the Section of the Project in Greece will be completed, which shall be indicated in the ARCA signed by the Allocated Participant.
- tt) **Product** shall have the meaning given to it in Article 5.

- uu) **Project** shall mean the Gas Interconnection Greece - North Macedonia project, consisting of the Section of the Project in Greece and the Section of the Project in North Macedonia, interconnected at the Interconnection Point “Evzoni/Gevgelija”.
- vv) **Rejection Notification** shall mean the Notification to a Market Test Participant that has been excluded from the Market Test, stating the reasons for such exclusion pursuant to Article 3.13.
- ww) **Remedy Notification** shall mean the Notification to a Market Test Participant pursuant to Article 3.13.ii.
- xx) **Section of the Project in North Macedonia** shall mean the section of the Project to be built and operated by NER in the territory of the Republic of North Macedonia, connected with the Section of the Project in Greece at the Interconnection Point “Evzoni/Gevgelija”.
- yy) **Tariff Regulation** shall mean the Tariff Regulation for the Basic Activities of the National Natural Gas System as defined in article 88 of Law 4001/2011 and in force from time to time (RAE’s Decision No. 1434/2020, Gov. Gazette B’ 4801/30.10.2020)
- zz) **Tariff** shall mean RAE’s Decision setting the Tariffs for accessing the NNGS, as in force from time to time.
- aaa) **Transmission System Operator (or TSO):** shall have the meaning given to it in article 2 par. 4 of Directive 2009/73/EC
- bbb) **Weighted Average Cost of Capital (or WACC)** shall mean the WACC pre-tax nominal of 2022 as approved by the Tariff Decision (Authority’s Decision 1038/2020, Gov. Gazette B’ 3367/12-8-2020) as in force.

1.2. References in these Market Test Guidelines to Articles are to Articles of this Market Test Guidelines.

## **Article 2 – Subject matter and scope**

- 2.1. The Market Test is structured in one binding phase in which all Interested Entities are invited to participate and submit a Binding Offer to DESFA for an allocation of capacity at the Greek Side of the IP in accordance with the present Guidelines and the Notice.
- 2.2 DESFA shall allocate capacity in the Greek Side of the IP, in accordance with these Guidelines and the Notice.

## **Article 3 – Rules and Procedures for the Market Test**

- 3.1 Procedures for performing the Market Test, are open, non-discriminatory and transparent.

- 3.2 The Market Test shall be conducted by DESFA, in accordance with the rules set out in present Guidelines and the Notice.
- 3.3 All costs associated with the participation of an MTP in the Market Test shall be entirely borne by the respective Market Test Participant, as the case may be. An exclusion from the Market Test shall not give any right to the respective Market Test Participant to claim reimbursement of any costs associated with its participation in the Market Test.
- 3.4 DESFA reserves the right to extend or postpone or cancel or relaunch the Market Test without any responsibility or obligation whatsoever to indemnify and/or to compensate the Market Test Participant for any expense or loss incurred for the preparation and submission of the Binding Offer, including the case its Binding Offer is not accepted, or the Market Test is extended or postponed or cancelled or relaunched at any stage and time and for any reason whatsoever. Therefore, Market Test Participants which submit a Binding Offer have no right against DESFA deriving from the Guidelines and/or the Notice and/or from participating to the Market Test.
- 3.5 Participation to the Market Test shall constitute an acceptance by the Market Test Participant that it has complete knowledge of the applicable Greek Law as well as of the terms and provisions of the Guidelines, the Notice and its Attachments the content of which it accepts without reservation.
- 3.6 Any omission to submit the Binding Offer according to the Guidelines and the Notice as well as the omission of a signature on any document submitted to DESFA does not entitle the Market Test Participant to invoke this fact in its favor in any way.
- 3.7 The Market Test Participant shall be responsible for and be bound by its Binding Offer as submitted.
- 3.8 Following the publication of this Decision to the Government Gazette [*the approval by the Authority of the Guidelines and the Notice*], DESFA shall publish the Guidelines and the Notice with its Attachments, i.e. the NDA, the form of Market Test Guarantee, the Binding Product Form and the pro-forma ARCA, on DESFA's website <https://www.desfa.gr/en/regulated-services/transmission/market-test>.
- 3.9 Interested Entities shall be invited to submit, till the Binding Offer Deadline specified in the Notice, a Binding Offer to DESFA for the allocation of capacity at the Greek Side of the IP. Interested Entities willing to participate to the Market Test are not allowed to submit more than one Binding Offers. Interested Entities shall participate to the Market Test procedure by submitting their Binding Offer in a sealed package containing two sealed envelopes as follows:
- ENVELOPE A, containing the following duly signed set of documents:
- a) The mandatory supporting documentation listed in Article 6.2; and



- b) The signed NDA (in two identical copies); and
- c) Market Test Guarantee pursuant to Article 11.1 and 11.2.

ENVELOPE B, containing:

the Binding Product Form pursuant to Article 5.

- 3.10 The Binding Offer Deadline shall be set at least twenty (20) Days after the publication in the Government's Gazette of this [RAE's] Decision approving the Guidelines and the Notice, as per Article 3.8 here-above. DESFA shall be entitled to postpone the Binding Offer Deadline by giving a notice, uploaded to DESFA's website.
- 3.11 In the event that an Interested Entity has a point of clarification with regards to the documents published by DESFA, as per Article 3.8, said entity shall notify DESFA within the Binding Offer Deadline and by no means later than ten (10) Days before its expiration. Within five (5) Business Days from its receipt, DESFA shall provide said clarifications by uploading them, along with the Interested Entity's request, to DESFA's website without disclosing the requesting Interesting Entity's identity.
- 3.12 Market Test Participants shall submit a Binding Offer in DESFA's Protocol service (Secretariat Unit) at the address specified in article 7 of the Notice, as further specified in the Notice, not later than the Binding Offer Deadline. After the Binding Offer Deadline, no additional document shall be accepted for any reason, unless DESFA has specifically requested that additional submission, with a Remedy Notification according to Articles 3.13.i and 3.13.ii.

Binding Offers submitted later than the Binding Offer Deadline shall not be accepted by DESFA, regardless of the reason for the late submission, and shall be returned unsealed.

- 3.13 Following the Binding Offer Deadline, DESFA shall evaluate the Binding Offers received by each Market Test Participant, according to the following procedure:
  - i. Validity and completeness of the documents contained in ENVELOPE A, submitted by each Market Test Participant, shall be evaluated first. Within five (5) Business Days after the Binding Offer Deadline, DESFA shall address a notification confirming to the Market Test Participants the completeness and the validity of the documents submitted.
  - ii. In case of any invalidity or incompleteness, DESFA shall issue a Remedy Notification requesting the Market Test Participant to submit the necessary documents and relevant supplementary or supporting documentation in relation to Envelope A. In such case, Market Test Participant shall submit the documents requested in the Remedy Notification not later than ten (10) Business Days from receipt of said request. DESFA shall evaluate the submitted documents and within five (5) Business Days shall address a notification to the said Market Test Participant confirming the completeness and the validity of the documents submitted. In case that

the Market Test Participant does not submit or the documents submitted are still invalid or incomplete, said Market Test Participant shall be excluded from the Market Test, following relevant justified Rejection Notification from DESFA.

- iii. Where a Market Test Participant disputes the terms of the Rejection Notification, that Market Test Participant may seek remediation by filing an Appeal Letter dully signed by the legal representative of the Market Test Participant, within two (2) Business Days from the receipt of the Rejection Notification, either by courier or registered mail at the address specified in Article 7 of the Notice, according to the provisions of Article 12, with a copy to the Authority:

Regulatory Authority for Energy  
132 Pireos St., 118 54 Athens  
To the attention of .....

Within two (2) Business Days from receipt, DESFA shall examine any submitted Appeal Letter and inform the appealing Party on its decision by issuing an Appeal Notification. Such decision shall be dully substantiated.

- iv. Market Test Guarantee shall be returned to the excluded Market Test Participant(s) within ten (10) Business Days from the Rejection Notification or the negative outcome of the Appeal Notification, as the case may be.
- v. DESFA shall sign and return the NDAs of all Market Test Participants who have not been excluded, pursuant to this Article.
- vi. Within two (2) Business Days, as of the completion of the Appeal process of Article 3.13.iii, DESFA shall proceed to the evaluation of the Binding Product Forms contained in the ENVELOPE B, submitted by such Market Test Participants, in order to allocate transmission capacity in accordance with the procedure of Article 7 and DESFA shall perform the Economic Test pursuant to Article 9.

3.14 In case of a positive outcome of the Economic Test, DESFA shall notify all Market Test Participants to whom has been allocated capacity pursuant to Article 7 by sending an Allocation Notification to each Market Test Participant, within two (2) Business Days, as of the completion of the procedure of Article 3.13.vi, here-above.

3.15 Where a Market Test Participant disputes the terms of the Allocation Notification, that Market Test Participant may seek remediation under the terms of the Appeal Process. In such case the procedure described in above Article 3.13.iii applies. If the Appeal Process results in an outcome which affects other Market Test Participants, DESFA shall notify the affected Market Test Participants, by sending them a revised Allocation Notification.

3.16 The Market Test Participant(s) to whom an Allocation Notification is sent shall be invited to provide, within twenty (20) Days from above invitation, an ARCA

Guarantee and sign an ARCA. Within fourteen (14) Days from the signing of the ARCA, the Market Test Guarantee(s) shall be returned to the Allocated Participant(s).

- 3.17 Failure of a Market Test Participant to provide an ARCA Guarantee and/or sign an ARCA, within the deadline set in above Article 3.16, following DESFA's invitation, said Market Test Participant shall be excluded from the Market Test and its Market Test Guarantee shall be forfeited.
- 3.18 The allocation of less capacity than the one requested in the Binding Product Form, is not a valid reason for a Market Test Participant to withdraw from the Market Test without forfeit of its Market Test Guarantee, if such Market Test Participant has declared, in the Binding Product Form, that it accepts the allocation of less capacity as per Article 5.4. If any Market Test Participant withdraws from the Market Test after the Binding Offer Deadline, its Market Test Guarantee shall be forfeited.
- 3.19 Following finalization of the procedure specified in Articles 3.13 – 3.18, and the latest ten (10) Days after such finalization, DESFA shall submit to the Authority a Market Test Report containing:
  - a) the summary of the outcome of the Market Test, including the list of the Market Test Participants, the Rejection Notifications (if any), the Allocation Notifications and the Allocated Participants as well as and the signed ARCA(s);
  - b) the Appeal Letters (if any) submitted by Market Test Participants excluded from the Market Test by DESFA and the Appeal Notification replying to the above Appeal Letters;
  - c) the results of the Economic Test performed in accordance with Article 9 and all input parameters and assumptions;
- 3.20 Within twenty (20) Days from the submission of the Market Test Report, the Authority shall issue the Market Test Decision stating whether the Market Test is successful or not.

#### **Article 4 – Market Test Notice**

The Notice shall include at least the following:

- a) the proposed project's technical description, indicative investment cost and time frame.
- b) the Indicative Commercial Operation Date;
- c) the products on offer proposed at the Greek side of the IP, specifying for each product starting date, gas flow direction and duration, pursuant to Article 5;
- d) the procedure and deadlines to present the Binding Offers;

- e) the Non-Disclosure Agreement to be signed by each Market Test Participant;
- f) the Binding Product Form for presenting the Binding Offers;
- g) a pro-forma of the Market Test Guarantee (in the form of a Bank letter of guarantee);
- h) a pro-forma of the ARCA and a pro-forma of the ARCA Guarantee (in the form of a Bank letter of guarantee).

## **Article 5 – Products on Offer**

- 5.1 During the Market Test, DESFA shall offer twenty (20) yearly Firm Capacity Products, at the Greek Side of the IP in the direction from Greece to North Macedonia (GNM Capacity) expressed in kWh/Gas Day. In line with the provisions of article 8 of Regulation (EU) No 2017/459 of 16 March 2017 establishing a network code on capacity allocation mechanisms in gas transmission systems, an amount of 10% of the actually built capacity will be set aside to be offered as short-term capacity. In case the Commercial Operation Date is different than the start of a Gas Year, the first Firm Capacity Product shall be of a duration shorter than a year, starting from the Commercial Operation Date up to the end of the Gas Year which includes the Planned Commercial Operation Date. For the avoidance of doubt, each Gas Year, for which a GNM Capacity is requested, is considered as a different Product.
- 5.2 The Maximum GNM Capacity on Offer for each Product at the Indicative Commercial Operation Date shall be equal to 34.000.000 kWh/Gas Day.
- 5.3 Market Test Participants shall declare the Binding Capacity in the Binding Product Form, for each separate yearly Firm Capacity Product.
- 5.4 Market Test Participants shall declare, in the Binding Product Form, whether they accept, or not, for each Gas Year, the allocation of a capacity lower than their Binding Capacity, in case there will not be sufficient capacity available to be allocated to all Market Test Participants in accordance with their requests. If yes, Market Test Participants shall declare the minimum acceptable Binding Capacity.
- 5.5 The following EU Regulations shall apply to Greek Side of the IP:
  - a) Regulation (EC) 715/2009 of the European Parliament and the Council on conditions for access to the natural transmission networks;
  - b) Commission Regulation (EU) no 2015/703, establishing a network code on interoperability and data exchange rules;
  - c) Commission Regulation (EU) no 2017/459, establishing a network code on capacity allocation mechanisms;

- d) Chapter IV of Commission Regulation (EU) no 312/2014 establishing a network code on gas balancing of gas transmission networks;
- e) Commission Regulation (EU) no 2017/460 establishing a network code on harmonized transmission tariff structures for gas.

### **Article 6 – Documents for Participation to the Market Test**

- 6.1. The participation to the Market Test is open to entities active in, or intending to enter the natural gas market, including owners and/or operators of natural gas infrastructure, registered in a European Union (EU) or in a European Economic Area (EEA) or an OECD country or in a Contracting Party of the Energy Community, or having established a Branch office in Greece (Interested Entities).
- 6.2. Market Test Participants are requested to submit as part of their Binding Offer pursuant to Article 3.9 the following mandatory supporting documentation, duly signed:
  - a) Legalization Documents:
    - i. Duly certified copy of the Market Test Participant’s current version of Articles of Association, certified by the Business Registry or the competent supervising authority or, if the registered office of the Market Test Participant is located abroad, a certificate of Good Standing, or an equivalent document issued by the competent supervising authority in the area of the Market Test Participant’s registered office.
    - ii. Duly certified copies of the Market Test Participant’s legalization documents, i.e. in the case of a Société Anonyme (S.A.) minutes of the current Board of Directors on its constitution into corpus; in the case of an Ltd., Minutes of the General Meeting on the appointment of the Administrator(s), both duly certified by the Business Registry or the competent supervising authority of the location where the Market Test Participant is established, as well as minutes (S.A. or Ltd as the case may be) or a Power of Attorney on the appointment of the legal representative of the Market Test Participant for the submission of the Binding Offer and the execution and the performance of the ARCA and any other action needed according to present Guidelines, without restrictions as to the amount of the financial obligations assumed.
    - iii. If the Market Test Participant has a legal form other than that of an S.A. or a Ltd. company, the Articles of Association and any amendments thereto are required, as well as official legalization documents, depending on the Market Test Participant’s legal form, in order to identify the natural person having legal authority/ power of representation. If the Market Test Participant’s registered office is established abroad, the Market Test Participant shall submit documents and certificates equivalent to the above,

issued by a competent foreign authority, which identify the natural person having legal authority/ power of representation.

- iv. In the case of a foreign legal entity and if any of the above legalization documents is not possible to be issued, a recent certificate issued by the Business registry (the competent authority for the EU member in accordance with the Directive 2017/1132/EU) or for the non-EU countries the competent supervising authority, as the case may be, which will certify:
  - the current status of the company (legal establishment/operation of the company, not under administration, not insolvent or bankrupt, not subject to any settlement procedure or any similar situation),
  - that the submitted version of the company's articles of association is not subject to any further amendment,
  - the current board of directors (in case of a S.A.), the current managers (in case of a limited liability company) or the company's legal representatives (in case of other type of company).
- b) Audited financial statements of the three most recent completed financial years of the Market Test Participant except if it is duly justified that said financial statements are not available due to reasons related to the Market Test Participant's date of establishment. For the avoidance of doubt, the lack of legal obligation for any entity to issue audited financial statements will not relieve a Market Test Participant from the obligation to submit such audited financial statements.
- c) Extract from the judicial record or, failing that an equivalent document issued by a competent judicial or administrative authority in the country of establishment of the Market Test Participant, showing that the Market Test Participant's member(s) of the administrative, management or supervisory body of that Market Test Participant or any person(s) having powers of representation and decision in respect of the company have not been the subject of a conviction by final judgment rendered at the most five (5) years ago or in which an exclusion period is set out and continues to be applicable for one or more of the reasons listed below:
  - i. Participation in a criminal organization, as defined in article 2 of Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organized crime (OJ L 300, 11.11.2008, p. 42);
  - ii. Corruption, as defined in article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union (OJ C 195, 25.6.1997, p. 1) and article 2(1) of Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector (OJ L 192, 31.7.2003, p. 54) as

well as corruption as defined in the national law of the contracting authority or the economic operator;

- iii. Fraud within the meaning of article 1 of the Convention on the protection of the European Communities' financial interests (OJ C 316, 27.11.1995, p. 48), which was ratified by Law 2803/2000 (A· 48);
  - iv. Terrorist offences or offences linked to terrorist activities, as defined in articles 1 and 3 of Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism (OJ L 164, 22.6.2002, p. 3) respectively, or inciting or aiding or abetting or attempting to commit an offence, as referred to in article 4 of that Framework Decision;
  - v. Money laundering or terrorist financing, as defined in article 1 of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (OJ L 309, 25.11.2005, p. 15) which was incorporated in the national legislation by Law 3691 / 2008 (A' 166);
  - vi. Child labor and other forms of trafficking in human beings as defined in article 2 of Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (OJ L 101, 15.4.2011, p. 1), which was incorporated in the national legislation by Law 4198/2013 (A' 215);
  - vii. Market Test Participant has not been convicted for anything related to its professional integrity and behavior.
- d) Extracts from Judicial records, or failing this, equivalent documents issued by competent judicial or administrative authorities in the country of origin and/or the country where the Market Test Participant is registered, proving that:
- i. Market Test Participant is not bankrupt, under liquidation, bankruptcy, obligatory administration or winding up, compromise, or any other similar situation resulting from a similar procedure, as provided by national legislation.
  - ii. Market Test Participant is not the subject of proceedings for a declaration of bankruptcy, obligatory administration or winding up, compromise or any other similar situation or resulting from any other similar procedure as provided by national legislation.
  - iii. Market Test Participant has not committed any serious professional misconduct.

6.3 All certificates and required documents should be issued after the date of

publication of the Guidelines and the Notice with its Attachments, on DESFA's website, as per Article 3.8.

- 6.4 Private documents, including the Binding Product Form, are required to bear a certificate of authenticity of the signature of the signatory from a competent authority.

Private documents coming from a foreign country should be notarized (official or notarial authentication of signatures) and certified by an Apostille in line with The Hague Convention of 1961, unless they are signed by an advanced electronic signature. In the latter case, documents bearing an advanced electronic signature should be submitted as hard copies following the provisions of the law 4727/2020. Specifically, printed private documents, issued by natural or legal persons or legal entities, using an authorized electronic signature or an approved electronic stamp are accepted if they are certified as true copies of the electronic documents in accordance with the article 15 of law 4727/2020.

Public documents are required to be original or copies of the original, certified by competent authorities. Printed original electronic public document or electronic exact copy or digitized electronic copy are accepted in accordance with the provisions of the article 14 of law 4727/2020.

Public documents coming from a foreign country (i.e. court documents, administrative documents, notarial acts), are required to be certified by an Apostille in line with The Hague Convention of 1961.

All documents submitted or originally issued in a language other than Greek or English shall be accompanied by an official translation in Greek or English language issued by an official translator or a competent authority. The English language shall be used in all Market Test related communication.

- 6.5 If one or more of the documents submitted under Article 6.2 has been, from the date of its submission to DESFA to the date of signing of the ARCAs, amended, revoked or is no longer valid, the Market Test Participant or Allocated Participants must immediately submit such new or amended document to DESFA together with a solemn declaration, by its legal representative, confirming that the remaining documents are still valid. The updated documents produce legal effects for the purposes of this Market Test only when they have been duly received and acknowledged by DESFA, in accordance with Article 12.

### **Article 7 – Allocation Procedure**

- 7.1 In case the sum of Binding Capacities requested for each Gas Years does not exceed the Maximum GNM Capacity, DESFA shall allocate the capacity to all Market Test Participants according to their Binding Offer.
- 7.2. In case the sum of Binding Capacities requested for a given Gas Year exceeds the Maximum GNM Capacity, DESFA shall consider the increase of the Maximum GNM



Capacity subject to the technical and financial feasibility of such increase.

If the above is not possible, DESFA shall allocate the capacity to each Market Test Participant according to their ranking, which is determined as follows:

- a) The present value of all Binding Capacities throughout all Gas Years for which a Market Test Participant has requested Binding Capacity in the Binding Product Form is firstly calculated (Capacity PV). The calculation refers to the end of the calendar year that corresponds to the Binding Offer Deadline and is discounted at the value of WACC.
- b) Then, Market Test Participants are ranked according to their Capacity PV as calculated according to Article 7.2.a) in decreasing order (the highest value is ranked first and the lowest value is ranked last).
- c) The ranking list of Market Test Participants will be unique regardless of the Gas Year for which it will be applied.

The last Allocated Participant will be the higher ranking one for whom the remaining non-allocated capacity is lower than its Binding Capacity, for the given Gas Year, and who has declared, in the Binding Product Form, that it accepts an Allocated Capacity lower than its Binding Capacity. In case, for a specific Gas Year, there are more than one such Allocated Participants with the same ranking, the remaining capacity will be allocated to them pro-rata to their Binding Capacities.

## **Article 8 – Tariffs and Fees**

- 8.1 The tariff for the Allocated Capacity shall be governed by the principles and methodology detailed in the Tariff Regulation as in force from time to time.
- 8.2 Consistently with the current tariff regulatory framework, DESFA considers applying a floating reference price. For indicative purposes, the tariff for the current regulatory period for delivering 1kWh of gas at Evzoni new exit point, according to the applicable Tariff Regulation, as in force at the time of publication of these Guidelines is equal to 4.1717691 €/ (kWh/h)/y without taking into account any regulatory adjustment provisioned in the applicable Tariff Regulation. For the avoidance of doubts, the reference price effectively applied will be finally determined according to the provisions of the regulatory framework in place at the time of the transmission service and considering the actual costs incurred by the TSO.

## **Article 9 – Economic Test**

- 9.1 DESFA will conduct an Economic Test to determine whether the sum of the Binding Capacities after the conclusion described in Article 7, is sufficient to ensure the financial feasibility of the Section of the Project in Greece.

The economic test set out in this Article shall be carried out by DESFA after the Binding Offer Deadline and shall consist of the following parameters:

- a) the present value of the Binding Capacities, which is calculated as the discounted sum of the respective estimated tariff, as defined in Article 8.2, multiplied by the said capacities;
- b) the present value of the estimated increase in the allowed revenue of DESFA, which is estimated at 56.716.482 mill. €
- c) the f-factor ( $f \leq 1$ ) which is a coefficient that reflects the remaining value of the asset, any positive externalities, as well as the amount of booked capacity for short-term bookings. The f-factor will be equal to [•]

The outcome of the Economic Test shall be:

- a) positive, where the value of the parameter set out in Article 9.1.a is at least equal to the share of the parameter set out in Article 9.1.b as defined by the f-factor;
- b) negative, where the value of the parameter set out in Article 9.1.a is lower than the share of the parameter set out in Article 9.1.b as defined by the f-factor.

9.2 If the Economic Test is negative, DESFA may:

- a) Following approval of the Authority, decrease the value of coefficient f, or
- b) Declare the Market Test “not successful” and terminate its further continuation. In this latter case, DESFA shall inform the Authority and the Market Test Participants accordingly.

9.3 In case of a positive Economic Test, DESFA:

- a) shall notify Market Test Participants on the final outcome of the Economic Test and
- b) in accordance with the procedure described in Article 3, shall invite Market Participants to sign an ARCA.

## **Article 10 – ARCA and GTA**

10.1 The ARCA includes the commitment, inter alia, of:

- a) DESFA to make available the Allocated Capacity according to the Allocation Notification at the Greek Side of the IP, starting from the Commercial Operation Date, for the term set out in the ARCA and for the Tariff determined according to the Tariff Regulation as in force; and
- b) the Allocated Participant to reserve the Allocated Capacity in accordance with the Allocation Notification,

- c) the Allocated Participant to sign the GTA pursuant to the provisions of the applicable Greek law in force at that time and to book the Allocated Capacity reserved in the ARCA upon DESFA's invitation.

10.2 The Allocated Participants shall sign the ARCA as per attachment IV of the Notice.

10.3 Each ARCA shall remain in full force and effect up to the signing of a GTA, subject to Article 11.5 b), covering the totality of the Allocated Capacity booked, pursuant to the provisions of the Greek Law in force at that time.

10.4 The ARCA shall be terminated *ipso jure* if:

- a) no FID is taken by DESFA following a Market Test Decision that will declare the Market Test non-successful and/or
- b) the Section of the Project in Greece is still subject to conditions in DESFA's Ten Year Development Plan or the total cost of the Section of the Project in Greece is not approved to be included in DESFA's Regulated Asset Base for transmission services and/or
- c) no FID has been taken by NER, the operator responsible for the construction and operation of the Section of the Project in North Macedonia and/or
- d) no FID is taken by DESFA by the Cut-Off-Date specified in the ARCA.

In all above cases, the ARCA Guarantee shall be returned to the Allocated Participant.

10.5 DESFA and the ARCA signatories shall bear no liability whatsoever for the period from the ARCA signing until the FID is taken by DESFA. The liabilities of the Parties after the FID is taken by DESFA are detailed in the pro-forma ARCA approved by the Authority.

10.6 DESFA's FID is subject to the following FID Conditions Precedent: (i) the Market Test Decision declaring the Market Test successful by confirming the positive outcome of the Economic Test; and (ii) the inclusion of the Section of the Project in Greece in DESFA's TYDP without any conditions as well as the approval of RAE for the inclusion of the total cost of the Section of the Project in Greece in DESFA's Regulated Asset Base for transmission services; and (iii) NER's FID.

10.7 As from the COD and the execution of the GTA, the Allocated Participant, in its capacity as a Network User, undertakes to pay to DESFA the amount corresponding to the Allocated Capacity reserved under the ARCA, pursuant to the provisions of the Tariff Regulation and the applicable Tariff.

10.8 DESFA will bear no liability whatsoever for any delay related to:

- a. the Section of the Project in North Macedonia;
- b. the Tie-in of the NNGS with NER's transmission system and/or the timely commissioning of the Project, to the extent that such delay is not attributable to DESFA's fault.

10.9 The ARCA Guarantee will be returned to the Allocated Participant in accordance with the procedure specified in the pro-forma of the ARCA.

### **Article 11 – Guarantees**

11.1 Market Test Participants shall submit to DESFA a Market Test Guarantee for the capacity that they will request to be allocated to them during the Market Test.

The Market Test Guarantee may have any of the equivalent following forms:

a) a Bank Guarantee, on first demand, issued by:

- any Greek financial institute supervised by the ECB (systemic Banks, namely any of Alpha Bank, Eurobank, National Bank of Greece and Piraeus Bank) including their subsidiaries;
- any Greek branch of an internationally reputable bank with a minimum investment grade credit rating from the following Agencies: BBB at Standard and Poor's, BBB at Fitch or Baa3 at Moody's;
- any internationally reputable bank with a minimum investment grade credit rating (as described above);
- any subsidiary - of an internationally reputable bank - with a minimum investment grade credit rating (as described above);
- any subsidiary - of an internationally reputable bank - without a minimum investment grade credit rating (or without any rating at all), provided that the Bank Guarantee is counter-guaranteed by any internationally reputable bank with a minimum investment grade credit rating (as described above);

which has been approved in advance by DESFA, at its sole discretion, and in compliance with the form attached to the Notice;

b) Cash deposit to DESFA's bank account. No interest shall be credited to the Market Test Participants for Cash deposits.

11.2 The amount of Market Test Guarantee shall be equal to 100.000 € (one hundred thousand Euros).

11.3. The ARCA Guarantee, to be provided for the execution of the ARCA shall have the form of a Bank Guarantee as per Article 11.1 a) hereinabove. The ARCA shall be signed by DESFA subject to the provision of the ARCA Guarantee and DESFA's prior approval.

11.4 The amount of the ARCA Guarantee shall be equal to the sum of products (maximum of 20 products) of the tariff indicated in Article 8.2 times the average value of the capacities allocated to an Allocated Participant, according to the Allocation Notification, times:

- a) 20% for the first Gas Year of allocation pursuant to the Allocation Notification, plus
- b) 4% for each of the subsequent Gas Years of allocation following the first year pursuant to the Allocation Notification.

#### 11.5 Duration of guarantees:

- a) The Market Test Guarantee shall have a duration equal to twelve (12) months from the Binding Offer Deadline. In the event where the Market Test Guarantee is about to expire before the termination of this Market Test, DESFA shall invite the Market Test Participant to extend the validity of the Market Test Guarantee up to six (6) months. Failure of the Market Test Participant to extend the validity of the Market Test Guarantee 14 days before its expiry date, DESFA shall have the right to exclude said Market Test Participant.
- b) The ARCA Guarantee shall always have a duration until the Planned Commercial Operation Date plus twelve (12) months or the entering into the GTA, whichever comes first.

### **Article 12 – Notices**

- 12.1 Any notice to be given hereunder shall be in writing and may be given by sending a letter by register mail or courier service to the relevant address set out in the Notice or such other address as the relevant Party may notify to the other Party from time to time. Communications between the Parties shall be in the English language. For the avoidance of doubt, for the submission of the Binding Offer Article 3.9 applies.
- 12.2 Any notice which requires a response within a fixed time period shall be sent by registered mail or courier service and shall be deemed to have been received at the time and date recorded at delivery. For the response to be given within a fixed time period, the date taken into account shall be deemed to be the date the documents were sent, as proven by the relative seal of registered mail or courier service. Notices addressed to DESFA shall be sent to the address specified in article 7 of the Notice.
- 12.3 The calculation of any periods required for response shall run from such delivery date, provided that such delivery falls into the Business Day, failing which the first Business Day following the date of delivery shall apply.

### **Article 13 – Suspension and Termination of the Market Test**

DESFA shall have the right to suspend and/or terminate the Market Test unilaterally at any time and at its own discretion without having to justify the reason for such suspension or termination:

- a) before the Binding Offer Deadline, by uploading a relevant announcement on DESFA's website;
- b) after the Binding Offer Deadline, by giving notice to the Market Test Participants. In such case the Market Test Guarantee(s) will be returned by DESFA to the Participant(s) within fourteen (14) days.

In case of suspension, a notice of cessation of the suspension shall be given in the same forms.

#### **Article 14 – Force Majeure**

Force majeure is an occurrence beyond the control and without the fault or negligence of the invoking Party and which said Party is unable to prevent or provide against by the exercise of reasonable diligence including, but not limited to, natural disaster, expropriation or confiscation of facilities, changes in applicable law, war declared or not, rebellion, sabotage or riots, terrorist actions, floods, hurricanes, or in general unusually severe weather that could not reasonably have been anticipated, fires, explosions, pandemics or other catastrophes, strikes, general banking disruptions, and other similar occurrences.

#### **Article 15 – Liability**

No Party shall be liable to the other Parties for any damage arising out of or in connection with this Market Test process unless such damage is the result of a willful misconduct or arises from the gross negligence of the Party concerned. For the avoidance of doubt, DESFA bears no liability whatsoever in case of suspension and/or termination of the Market Test pursuant to Article 13.

#### **Article 16 – Assignments**

Following DESFA's written approval, the Allocated Participant(s) shall have the right to assign to third parties their rights and obligations in connection with the ARCA, whether in whole or in part, provided that such third parties fulfill the requirements of the present Guidelines, the Notice, the ARCA and the applicable Greek Law. In such case, their ARCA Guarantees shall be replaced by equivalent ARCA Guarantees presented by the third parties.

#### **Article 17 - Anti-Bribery Policy**

Market Test Participants acknowledge DESFA's Code of Ethics (the "Code"), as published on DESFA's site, which shall be fully applicable to this Market Test, and the Market Test

Participants shall comply with the relevant provisions of the Code, including conflicts of interest<sup>1</sup>. Market Test Participants further acknowledge that DESFA's Anticorruption Policy, as published on DESFA's site<sup>2</sup>, shall be applicable to them and that they shall comply with its provisions. Market Test Participants shall not violate or knowingly permit anyone to violate the Code's prohibition on bribery or any applicable anti-corruption laws, regulations, policies and procedures in participating in this Market Test. If any Market Test Participant breaches this Article, DESFA may immediately reject its participation.

### **Article 18 - Personal Data**

DESFA and Market Test Participants shall process personal data exchanged during the Market Test and for its purpose (hereinafter referred to as "Personal Data") in accordance with the provisions of applicable legislation and today those of Regulation 2016/679/EU (hereinafter "General Regulation"). Personal data shall not be transmitted, disclosed or communicated to third parties, nor shall they be subject to any other processing for purposes other than conduct of the Market Test, except in cases of legal obligation or explicit consent of the data subject. Market Test Participants declare to have implemented relative data protection measures in compliance with the General Regulation. DESFA has implemented the data protection policy publicly available on DESFA's corporate website<sup>3</sup>.

### **Article 19 – Governing Law and Dispute resolution**

The present guidelines, the Notice and the ARCA shall be governed by the Greek Law. For any dispute or disagreement which may arise between the Parties in interpreting or implementing the Guidelines, the Notice and the ARCA and which may not be amicably resolved, the courts exclusively competent to resolve said dispute or disagreement shall be the courts of Athens.

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<sup>1</sup> <https://www.desfa.gr/regulatory-framework/compliance/code-of-conduct>

<sup>2</sup> <https://www.desfa.gr/regulatory-framework/compliance/anticorruption-policy>

<sup>3</sup> <https://www.desfa.gr/regulatory-framework/compliance/prostasia-prosopikwn-dedomenwn>