



EUROPEAN COMMISSION

Brussels,
C(2012)

PUBLIC VERSION

WORKING LANGUAGE

**This document is made available for
information purposes only.**

**Subject: State aid No. 33405 2012/N – Greece
Expansion of district heating network infrastructure of Amyntaio area.**

Sir,

I am pleased to inform you that the European Commission has assessed the planned aid to the District Heating Municipal Company of Amyntaio (hereinafter, DHCA) and has decided not to raise objections to it on the ground that the measure constitutes State aid which is deemed to be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty on the Functioning of the European Union (hereinafter, "TFEU").

I. PROCEDURE

- (1) On 10 July 2012, following pre-notification contacts, the Greek authorities notified the Commission of the above measure pursuant to Article 108(3) of the TFEU.

II. DESCRIPTION OF THE MEASURE

- (2) The objective of the aid is to expand the existing district heating network infrastructure, without implementing any cogeneration installations, covering the increased demand of the populations of the regions of Amyntaio, Filotas and Levea for this type of heating, which is more environmentally friendly and less costly.

Κύριο Δημήτρης Λ. Αβραμόπουλος
Υπουργό Εξωτερικών
Βασιλίσσης Σοφίας 5
Grèce - 10671 Αθήνα

Commission européenne, B-1049 Bruxelles – Belgique
Europese Commissie, B-1049 Brussel – België
Τηλέφωνο: 00-32-(0)2-299.11.11.

II.1 Legal basis, objective and description

- (3) The legal bases for the measure at hand in national legislation are:
- Presidential Decree 323/89 which, in combination with Presidential Decree 410/95, provides for the "Municipal and Community Code"¹,
 - Law 1069/80 on incentives for the foundation of Municipal Enterprises for Water Supply and Sewerage which has been modified by the laws 2218/94, 2839/00 and 3274/04.
 - L.3463/2006 and L.3852/2010 "Recommendation - Constitution of Municipal Authorities And Decentralised Administration -"Kallikratis".
 - Operational programme "Environment and Sustainable Development" 2007-2013².
- (4) The project at hand, under the framework of the European Fund for Regional Development, refers to Priority Axis 1 of the Operational Programme (Protecting the Atmospheric Environment and Urban Transport - Tackling Climate Change - Renewable Energy) and is co-financed by the Cohesion Fund³.
- (5) The overall objective of Priority Axis 1 is the contribution to reducing air pollution, improving quality of life of the population and tackling climate change by implementing energy saving projects and exploitation of renewable energy. The project of district heating of Amyntaio contributes to the objectives of Priority Axis 1 of OP Environment and Sustainable Development 2007–2013, in that it is expected to reduce air pollution and greenhouse gases emissions and to promote sustainable regional development by using local energy resources.
- (6) The notification concerns environmental aid for district heating infrastructure without co-generation. The given project under evaluation involves the extension of the following facilities:
- (a) Increase of the capacity of the central pumping station;
 - (b) Installation of heat storage 3,45tn /year reduction of CO emissions;
 - (c) Installation of hydraulic separation - pressure reduction in Filotas;
 - (d) Construction of a hydraulic balancing loop.
- (7) The project also involves the extension of internal district heating networks in the settlements of Amyntaio, Filotas, and Levea, the supply thermal substations consumer and other supporting projects.

¹ As amended and supplemented pursuant to w 3463/2006 Ratification of the Code of Municipalities and Communities, w 3852/2010 Constitution of Municipal Authorities of Government and Decentralized Administration - Program "Kallikrates".

² Decision C(2007)5442 of 5 November 2007.

³ The total budget for financing Priority Axis 1 is EUR 440 million, of which EUR 272 million are financed through the EU Structural Funds (Cohesion Fund). The national participation is EUR 68 million and the remaining EUR 100 million are financed through other sources.

- (8) The district heating system for the Greater Amyntaio Area includes the agglomerations of Amyntaio, Filotas and Levea (in the municipality of Amyntaio) and first came online in 2005. Heat energy is supplied by the Amyntaio steam-electric power station of the Public Power Corporation (hereinafter "PPC") via an insulated underground network, made up of a transport pipeline some 10 km of double pipeline in length, a central transmission and distribution pumping-station located next to the power station, and internal district heating networks 37 km, 26 km and 10 km long for the three agglomerations, respectively.
- (9) The first building phase of the project was to fit the equipment needed for the district heating system to work at thermal loads of up to 25 MWth (equal to the original capacity of the power station), with the gradual installation of up to 1 300 heating sub-stations, gradually increasing the capacity of the central plant to fully cover the needs of the agglomerations, i.e. a heat load of 34 MWth.
- (10) An increase in the plant's thermal input from 25 MWth to 34 MWth (the medium term plan) may be achieved by fitting heat accumulators in the area of the main pumping station (in the power plant), with an estimated capacity of 1 200 m³.
- (11) Furthermore, increasing circulation supply will require the installation of the planned additional electromechanical equipment in the central pumping-station. This will enable the plant to achieve sufficient hot water circulation capacity for the distribution of 34 MWth of heat load.
- (12) Since increasing the pumping capacity of the central pumping-station will bring about high pressure in Filotas, a local hydraulic separation station will be set up there. For the same purpose, two pipelines will be completed in the area of social housing in Amyntaio.
- (13) The distribution networks in the three agglomerations will be twin piped in an underground radial, tree like structure, consisting of pipelines suitable for transporting hot water, with a nominal set pressure of PN 16 bar and nominal diameters ranging from DN 20 mm to DN 300 mm. More specifically, they will be made up of insulated steel pipes and laid directly in the ground.
- (14) As part of the project it will be necessary to supply consumers with heat sub stations, via which it will be possible to connect to the district heat distribution system. Indirect heat sub stations in buildings will have brazed plate heat exchangers, one current of which is connected to the district heating network (primary circuit) and the other to the building central heating installation (secondary circuit). The heat load assigned to a given building will be adjusted by means of an electric valve controlled by the operations programmer at the heat sub-station.
- (15) The project will be completed in 3 years from the commencement of the works. All project disbursements will be completed in 2014 based on the completion of the works.

- (16) The breakdown of the yearly disbursements for the entire period of the project is presented below⁴.

DISBURSEMENT BREAKDOWN BY YEAR

YEAR	AMOUNT (€)
2011	841,940.00
2012	4,475,155.83
2013	3,884,806.50
2014	2,143,319.33
TOTAL	11,345,221

- (17) The Greek authorities allege that the project at hand is expected to provide for significant environmental, economic and social effects.
- (18) As for the environmental effects, the project of district heating (hereinafter "DH") implementation (initial and the proposed project) will allow for a reduction of total greenhouse gas emissions of about 19.000 tn per year. The proposed project results in a reduction of 5.683 tn greenhouse gas emission reduction, which means 28,41% reduction of the gas emissions before the DH project implementation.
- (19) The improvement of emissions due to substitution of the fuel oil:
- (a) 18,95 tn/year reduction of CO₂ emissions
 - (b) 4,22tn /year reduction of SO₂ emissions
 - (c) 3,45tn /year reduction of CO emissions
 - (d) 1,150tn /year reduction of HC emissions 1,72tn /year reduction of dust emissions
- (20) Greece also alleges a reduction of energy-dependency with regards to imported fuels (oil, natural gas), as the power plant relies on indigenous lignite co-production. More than 6.000 TOE/year (in total) will be substituted in the wider area of Amyntaio, because of DH. The project entails Currency savings and local redistribution of more than 3.200.000 €/year (in total) oil equal costs.

⁴ The Greek authorities have however clearly indicated that the aid will not be granted to DCHA and thus no payments will be made before the the European Commission approves the aid. The initial payment will therefore not take place before the 3rd quarter of 2012.

- (21) As for the social effects, according to the Greek authorities, quality of life for the resident population is expected to benefit of the upgraded standards in the security and quality of the supply of heating services to citizens as well as of new opportunities for sustainable regional development. Cheaper Space Heating and water for the residents of the wider area of Amyntaio more than 30 % - 50% than Oil equal costs because of the social motivation and profile of DH company. 25% cost reduction is contracted by DHCA (District Heating Company of Amyntaio) with consumers.

II.2 Budget of the project, form of aid, aid amount and aid intensity

- (22) The total costs of the investment is € 11.345.222 from which all the costs are eligible costs (excluding VAT, which is not eligible).

- (23) The total budget is broken down next:

TYPES OF WORKS	Cost(€)
A. Extension of facilities	3,380,000
B. Extension of internal district heating networks in the settlements of Amyntaio, Filotas, and Levea	5,193,277
C. Supply of thermal substations	2,394,910.00
D. Supervision during implementation	329,345.28
E. Railway network passages - Public Utility networks - Archaeological expenses	47,689.08
F. Adjustment of prices	402,937.42
TOTAL	11,345,221

- (24) The Building and construction costs comprise of : preinsulated steel pipes, valves, sluices, safety valves, heat exchangers, pumps, motors, electrical equipment, systems of instrumentation and automation, drain and discharge outlets, vents, insulations, measuring devices, supports, spare parts, foundations, excavations, civil engineer works, restorations.

- (25) The financing of the project is as follows:

- EU contribution: direct grant from the ERDF amounting to EUR 6.919.269,00
- Greek State contribution: direct grant from the State budget amounting to EUR 1.549.083,00
- Private contribution: EUR 2.876.869,00 by means of a loan provided by the Deposits and Loans Funding Organisation (hereinfter, "TP&D") at the annual interest rate of 6.5%.

- (26) There is no counterfactual situation as the total project implementation cost is eligible and relates entirely to the environmental protection of the Amyntaio

area. No reference investment or counterfactual situation can be identified as the project does not concern co-generation but only infrastructure.

- (27) Furthermore there are no other viable solutions, technically achievable for heat supply with the same environmental impacts. It should also be noted that:
- Imported Fuel Oil is the exclusive alternative fuel for space heat,
 - No other energy resources and fuels are used in the vicinity of West Macedonia region.
 - Gas national networks are not in the vicinity of the region.
 - Biomass is unavailable and renewables are not used for heat energy production,
 - Other heat installations are not available in the region, neither by PPC or other private bodies, nor by state organizations.
 - Municipal interest on district heating remains the only sustainable, environmental implemented system.
- (28) As concerns the loan, the Deposits and Loans Funding Organisation (TP&D) is a public entity⁵ which operates under the Ministry of Finance, to serve the public and social interest. Namely, its objectives include, inter alia, the strengthening of regional development with financial and technical support to the Municipalities & Prefectures as well as their companies, and other Legal Entities and Organizations operating under the Public and Private Law. The loan supplied by TP&D might therefore involve a transfer of State resources⁶.
- (29) In this respect, the Greek authorities mention that the loan of EUR 2.876.869,00 to be granted to DHCA by the Deposits and Loans Funding Organization (TP&D), complies with the regulations and terms imposed and supervised by the Bank of Greece. They explain that DHCA has also requested the loan from a private bank. The rates offered by the Piraeus bank for the same amount are 6.71% over an amortization period of 10 years. The rates are similar to these of TP&D.
- (30) They also explain that the options for Municipal investments' financing are generally limited, especially concerning infrastructure investments, since private Banks are not interested in mortgages, such as pipelines, pumps or other instruments used in such type of projects; thus, Banks generally do not allocate funds to small infrastructure projects, like the beneficiary's. TP&D policy to support Municipalities and Municipal Companies on infrastructure investments has as a major objective to offset this reluctance of the market.
- (31) In this respect, the Communication of the Commission on the revision of the method for setting the reference and discount rates of 19 January 2008 provides for the calculation of the reference rate that would apply for a loan to

⁵ It is an independent financial management agency for regional development established by Law 1608 of 1919. In detail, it supplies loans to local government (Municipal and Prefecture), DEYA (Municipal Water Supply and Sewerage Companies) and other Municipal & Community Companies outside DEYA.

⁶ Case C-482/99, France vs Commission (Stardust Marine), [2002] ECR p. I – 4397, paras 37-39.

DHCP so as to define to which extent the loan embeds a gross grant equivalent stemming from the difference between the loan interest rate charged by the financing institution and the corresponding rate calculated pursuant to the mentioned Communication.

- (32) In this respect, the Greek authorities mention that the loan of EUR 2.876.869,00 to be granted to DHCA by the Deposits and Loans Funding Organization (TP&D), complies with the regulations and terms imposed and supervised by the Bank of Greece.
- (33) In this respect, the Greek authorities refer to a study of the Basel Committee on Banking Supervision, according to which, “subject to national discretion, claims on certain domestic Public Sector Entities (PSEs) may also be treated as claims on the sovereigns in whose jurisdictions the PSEs are established”. DHCA does not have a credit rating of its own different from that of the Greek state and it is wholly owned by a local authority. The Greek State, at the present time, is given a rating of Ca by Moody’s, CCC by Fitch and CC by Standard & Poor’s. As a consequence, under the mentioned Communication, in order to set loan margins in basis points, DHCA is to be considered a "Bad/Financial difficulties" recipient.
- (34) As far as collateralisation is concerned, the Greek authorities also report that the loan agreement provides full collateralisation of the loan and related interest and expenses in question for the benefit of the loan granting bank.
- (35) According to the submitted business plan, the forecasted annual cost of the loan interests and amortization is only a small fraction of the forecasted annual receipts of DHCA, which were contractually assigned by it as collateral to the TP&D Bank. Therefore, the Greek authorities conclude that the loan exposure (seen as interests and amortization annually) is over-collateralized.
- (36) On the basis of the above, the Greek authorities conclude that the collateralisation of the loan in question should be considered “high” under the Communication from the Commission on the revision of the method for setting the reference and discount rates.
- (37) As a result, according to the mentioned Communication, the interest rate to be considered for the definition of the gross grant equivalent should be 6.07%, as calculated for undertakings operating in Greece and combining strong rating category and high loan collateralisation in December 2008.
- (38) On the basis of this calculation the interest applying to the loan in question is higher than the interest rate (6,07%) calculated in accordance with the above Commission Communication. According to Greece, the loan is therefore free of aid.
- (39) In the light of the above, the aid amount for the project at hand consists of a direct grant of EUR 8.468.352,00.
- (40) The aid intensity accounts for 74,64% of the overall updated eligible project cost.

II.3 Beneficiary

- (41) The beneficiary is the District Heating Municipal Company of the wider area of Amyntaio (DHCA) established in 1997, according to the Municipal law (410/95), as an inter-municipal company. It is owned 100% and managed by the municipality of Amyntaio. All the distinctive sub-projects and supplies will be carried out through open, public tenders.
- (42) DHCP has been assigned the project at hand following after an open and transparent call for proposals by the Managing Authority of the "Operational Programme Environment & Sustainable Development 2007-2013", PRIORITY AXIS A1. Protecting the Atmospheric Environment & Urban Transportation - Managing Climate Change - Renewable Energy Sources, Title of project: "Extension of District Heating Network Infrastructure of Amyntaio area"(Pr. Nr. 164600/II5/22-05-09).
- (43) In this respect, the Greek authorities specified that, according to the relevant legislative framework into force at the time the project proposal was submitted to the Ministry of Environment, the implementation, operation and maintenance of district heating infrastructure lay within the responsibilities of Municipal Companies. The latter have been transformed into Special Purpose Entities, either as DH only municipal companies or merged with Water Supply and Sanitation Municipal Companies⁷. Accordingly, the Call for proposals was addressed only to Municipal Organisations and Legal Entities of the Public Sector.

II.4 Cumulation and other information

- (44) The Greek authorities reported that under ERDF regulations and the national management and control system of co-funded programs, cumulation of funding stemming from two or more sources is not allowed.
- (45) The Greek authorities also submitted that all sub-projects will be carried out according to Directive 17/2004 and Directive 18/2004 of 31 March 2004⁸ coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors and to the Presidential Decree 59/2007, using open call tendering procedures in competitive conditions, thus securing the minimum possible cost for the execution of the overall project.
- (46) It is worth recalling that the Greek authorities consider that eligible costs only refer to district heating infrastructure for the acquisition and distribution of the thermal energy already produced at Amyntaio's plant, i.e. without including any expenses linked to co-generation or any heat generation whatsoever at central level, at an agreed price.
- (47) In this respect, the Greek authorities specified that DHCA will be the owner of the new and existing heating infrastructure equipment. DHCA has also the

⁷ Water Supply and Sanitation Law 1069/80, which has been modified by the laws 2218/94, 2839/00 and 3274/04, includes DH and Gas networks in the activities of this kind of municipal organizations.

⁸ JO L 134, 30.4.2004, respectively p.1-113 and p.114-240

responsibility of the construction, installation, operation and maintenance of all facilities and equipments related to heat supply in the wider area of Amyntaio.

- (48) The Greek authorities confirm that the aid will not be granted to DCHA and thus no payments will be made until the relevant approval decision is issued by the European Commission.
- (49) The beneficiary is located in a region eligible for assistance under Article 107 (3) (c)

II.5 Compatibility arguments put forward by the Greek authorities

- (50) The Greek authorities claim that the proposed project pursues an objective of common interest, i.e. environmental protection, and relates as a whole to the development of new district heating infrastructure, thus any state aid element involved should be assessed only under article 107(3)(c) of the TFEU. They also submitted evidence that the proposed project includes infrastructure components (e.g., network pipes, heat exchangers, pumps and other equipment), which will be attached to the production installations of PPC and do not interfere with energy generation. Accordingly, the Greek authorities also claim that the total project implementation cost is eligible and relates entirely to the environmental protection; thus no reference investment or counterfactual situation can be identified.
- (51) The Greek authorities have provided a cost-benefit analysis (CBA) in line with the guidelines of the document “Guide to COST-BENEFIT ANALYSIS of investment projects”, Revenue-generating Projects, (EC) No 1083/2006, released, 05/08/2009. According to pg 4, par. 2.2 “ Cost of investment”, it is mentioned that in case the project is part of an existing infrastructure that generates revenues, and is difficult to separate the revenues of the new and existing infrastructure, the method of “remaining historical costs” can be adopted. By this method, it is taken into consideration the investment costs of both the proposed infrastructure and the existing one, estimated at its residual value. Furthermore, total revenues of the whole project are taken into consideration. The proposed projects fall into the case above, as it concerns the expansion of the existing DH system and it is difficult to separate the revenues of the final expanded DH system to the existing system.
- (52) The Greek authorities submitted detailed financial and Cost-Benefit analyses that, in their view, demonstrate that without the grant at hand such a project would not be feasible, unless considering prices for DH services substantially higher and socially unacceptable. Furthermore, in the light of the mentioned analyses and of the savings achieved via the tendering procedure with respect to the original business plan, the Greek authorities also consider that the aid is limited to the minimum. They also state that there is no other support in any form currently into force to promote investments in district heating.
- (53) The Greek authorities also argue that the final beneficiaries are consumers, mostly houses, commercial and service shops and public services’ buildings (health, education and leisure centres) of the residential area of Amyntaio. Therefore, they conclude that the effect on competition is extremely limited. Eventually, the Greek authorities consider that DH infrastructure is local by

nature and the effects of any state funding in such a local market cannot be deemed to have negative effects on intra community trade, also recalling that DHCA is obliged to grant third party access to any interested undertaking.

III. ASSESSMENT OF THE AID

III.1 Presence of State aid within the meaning of Article 107(1) TFEU

(54) A support measure to an undertaking constitutes State aid within the meaning of Article 107(1) of the TFEU if the following conditions are cumulatively fulfilled: the measure (a) confers an economic advantage to the beneficiary; (b) is granted by the State or through State resources; (c) is selective; (d) has an impact on intra-community trade and is liable to distort competition within the EU.

(55) As for the four abovementioned conditions:

- The measure at hand is co-financed by the ERDF and the budget of the State. Funds from the ERDF qualify as State resources once they come under control of a Member State⁹. The aid is granted by the latter via a competitive bidding process, therefore, the aid is deemed to be granted directly through State resources¹⁰ and to be imputable to the State¹¹;
- The measure is also selective, since a single beneficiary has been awarded the available resources out of a restricted number of eligible entities;
- As the related markets are open to competition and to intra-EU trade, according to settled case-law¹², the measure is therefore liable to affect intra-EU trade and to distort competition within the EU;

(56) Therefore, the Commission considers that the notified measure constitutes State aid within the meaning of Article 107(1) of the TFEU.

III.2 Legality of the measure

(57) The Commission notes that the Greek authorities state that they have not put the notified aid measure into effect before obtaining the approval of the Commission in compliance with Article 108(3) of the TFEU.

III.3 Compatibility within the meaning of Article 107(3)(c) TFEU

(58) Pursuant to a well-established case-practice¹³ and in the light of the provisions laid down in the Community Guidelines on State Aid for Environmental

⁹ See, *inter alia*, Commission Decision N 157/2006 – United Kingdom, at para. 29.

¹⁰ Cf., *inter alia*, Preussen-Elektra, *ibidem*, paragraph 58.

¹¹ Cf., *inter alia*, judgment of the ECJ of 22 May 2002 in Case C-482/99 *France v. Commission (Stardust Marine)*, [2002] ECR p. I-4397 paragraph 24.

¹² Cf., *inter alia*, the judgment of the ECJ in Philip Morris/Commission, (Case 730/79, ECR [1980] p. 02671, paragraph 11) and judgment of the ECJ in Air Liquide Industries/Ville de Seraing et Province de Liège (Joint Cases C 393/04 and C 41/05, [2006] ECR p.I-05293).

¹³ See Commission Decision SA.31091(2011/NN) – Greece, SA.30828 (N 494/2010) – Italy, SA. 26988 (N 584/2008) - France, SA.26618 (N 485/2008) - Austria

Protection¹⁴, the Commission shall assess the compatibility of aid to district heating infrastructure directly under Article 107(3)(c) of the TFEU.

- (59) The proposed project relates as a whole to the extension of the existing district heating infrastructure of the Amyntaio wider area and any state aid element involved should be assessed only under article 107(3) (c) of the EC Treaty, as provided by the footnote 44 of the Environmental Aids Guidelines. The proposed project does not relate to public funding of energy generation process and in general of investment envisaged in section 3.1.8 (120) and (121) of the Environmental Aids Guidelines.
- (60) Article 107(3)(c) of the TFEU states that "aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest" may be considered to be compatible with the internal market. In this regard, the Commission shall assess whether the aid measure
- a) aims at a well-defined objective of common interest,
 - b) is an appropriate instrument to deliver the objective of common interest,
 - c) presents an incentive effect (i.e., changes the behaviour of the beneficiary),
 - d) is proportional (i.e., does not overcompensate the beneficiary),
 - e) distorts competition and affects intra-EU trade at a limited extent, so that the overall balance is positive.

III.3.1 Objective of Common Interest

- (61) An objective of common interest is an objective which has been recognised by the EU as being in the common interest of the Member States. The Greek authorities stipulate that the scheme at hand aims at a well-defined objective of common interest, namely environmental protection.
- (62) As recalled in its decision in case SA.31091 (2011/N)¹⁵, the Commission notes that Greece referred to the Decision CE (2007) 5442 of 5 November 2007 adopting the Regional Operational Programme under the Regional Competitiveness and Employment Objective for the 2007-13 period. The Programme aims to, inter alia, support projects which reduce pollution of the atmospheric environment, improving quality of life of the population and tackling climate change by implementing energy saving projects
- (63) Besides, Directive 2009/28/EC of 23 April 2009¹⁶ calls for Member States to favour investments in the development of district heating so as to ease the fulfilment of the national renewable energy and emission reductions targets. In detail, pursuant to Article 13(3) of the mentioned Directive, Member States shall

¹⁴ See recital 67 and footnote 44 to the EAG.

¹⁵ Case SA.31091 (2011/N) Ptolemaida District Heating: connection to KardiasPower Station and expansion of distribution network, decision of 20.12.2011

¹⁶ JO L140, 5.6.2009, p.16-62

recommend to all actors, in particular local and regional administrative bodies to ensure equipment and systems are installed for (...) district heating and cooling when planning, designing, building and renovating industrial or residential areas.

- (64) The Commission also considers that district heating infrastructure promotes a more efficient and environmentally-friendly use of primary energy, as the central installations feeding the network are due to meet more severe requirements than the decentralised ones. This ensures a better control on the emission of pollutants (e.g., NO_x, SO_x, particulates) and an improvement of the quality of the air of the urban areas involved.
- (65) The Commission thus verified that the scheme at hand aims at a well-defined objective of common interest, namely environmental protection.

III.3.2 Appropriate instrument

- (66) An instrument is appropriate if there are no other less distortive instruments to achieve the same results.
- (67) The Commission notes that, according to the Greek law, DH services shall be supplied at socially acceptable prices thus preventing the beneficiary to independently set prices at a level which would cover the investment expenses and a fair remuneration of the own capital injection, should the project be carried out without State aid. In this respect, it is worth recalling that DHCA is constrained to providing services to customers at prices 30% lower than conventional heating. It follows that the planned aid is not the only instrument, but is used in combination with price regulation to act as disincentive to decentralised and less environmentally friendly sources of heating.
- (68) On the basis of the information above, it seems that there is no less distortive instrument to achieve these goals. Accordingly, the envisaged aid constitutes an appropriate instrument to achieve the construction of the new DH infrastructure for the city of Amyntaio and to obtain the desired effects in terms of primary energy savings and emission reductions.

III.3.3 Incentive effect and necessity of the aid

- (69) State aid provides an incentive effect if the aid changes the recipients' behaviour towards reaching the objective of common interest.
- (70) First, the Commission considers that the information submitted by the Greek authorities proved that DHCA did not start any activity before analysing the main financial aspects of the project and a clear commitment by the government to grant support under the Regional Operational Programme.
- (71) Second, with reference to an established case-practice, the Commission considers that DH services do not generally provide for adequate returns to companies investing in district heating infrastructure, due to the very high cost of developing transmission and distribution network which are hardly covered by substantial direct revenues.
- (72) According to the Greek law, furthermore, operators are bound to provide DH services at socially acceptable prices thus not necessarily factoring in all costs

incurred. In this respect, the Commission considers that the detailed profitability calculations submitted by the Greek authorities are consistent with market practices and indicates that the investment at hand has no economic viability per se¹⁷. Namely, the overall IRR of the project at hand, including the aid, is negative amounting to -5.57% while the Net Present Value is calculated with a 5% discount rate, which is not incongruent with the rate applied to loans to DHCA, and is negative.

- (73) Besides, according to the business plan, the project will not generate any taxable income over the 25-years time horizon taken into account. In the circumstances, any such project would seldom attract the interest of a market investor.
- (74) Therefore the Commission considers that, in the light of the beneficiary's mission and operating constraints, the aid provides the necessary incentive effect for DHCA to invest into the infrastructure at hand.

III.3.4 Proportionality

- (75) A State aid measure is proportional if the measure is designed in a way that the aid as such is kept to the minimum and if the beneficiaries are selected in a non-discriminatory and transparent process.
- (76) The Commission notes that the aid has been awarded by means of a non-discriminatory and transparent process, open to all undertakings allowed under the Greek law to provide DH infrastructure services (i.e., Municipal Organisations and Public Legal Entities), resulting in a substantial reduction of the total costs.
- (77) All sub-projects will be implemented through open public tendering procedures, according to Directive 18/2004 of 30 March 2004¹⁸. The tenders for contracting sub-projects will be transparent, under open public tenders, with non discriminatory criteria, according to the EU legislation for public tenders for public projects construction and supplies. In this way, it is ensured that the investment cost and subsequently the aid intensity (amount) are limited to the minimum necessary. Moreover without the existence of aid, as also the Cost-benefit analysis clearly demonstrates, such project would not be feasible.
- (78) As for investment costs eligibility, the Commission notes that the cost elements allowed according to the detailed list provided by the Greek authorities only refer to the purchase of infrastructure equipment and the related activities (such as engineering, design, civil works).
- (79) Moreover, as concerns the loan provided by the TP&D Bank, the Commission considers that the reasoning and calculation put forward by the Greek authorities are compliant with the provisions laid down by Communication from the

¹⁷ The Greek authorities applied the Guide to Cost benefit Analysis of Investment Projects – July 2008 and the Working Document n° 4, "Guidance on the methodology for carrying out Cost-Benefit analysis" – June 2006 for the 2007-2013 period, issued by DG REGIO.

¹⁸ JO L 134, 30.4.2004, p.114-240

Commission on the revision of the method for setting the reference and discount rates (2008 /C 14/02)¹⁹.

- (80) As mentioned in recital (29) above, the Greek authorities submitted as a benchmark a loan provided by the Piraeus bank for the same amount as the loan granted by the TP&D Bank for an interest rate of 6.71%. The Commission believes that the difference in the underlying interest rates between the private loan and the TP&D Bank loan is not substantial (21 percentage points) and would tend to confirm that the loan received by the TP&D Bank is indeed on market terms.
- (81) The Commission therefore believes that the TP&D bank loan is free of aid.
- (82) The Commission also verified that if the soft loan was to be compared with the benchmark of a loan provided by the Piraeus bank for the same amount for an interest rate of 6.71%, the Gross Grant Equivalent stemming from the difference would amount to EUR 30.5 thousand which would not alter the aid amount substantially and would have no consequence on the assessment of the proportionality of the aid.
- (83) As for eligible costs, the Commission acknowledges that all investment cost might be deemed to be eligible, also according to the mentioned case practice, as no technically comparable investment that provides a lower degree of environmental protection might be defined, as no mandatory or national Community standards apply and no comparable centralised investment would credibly be realised without aid by a single undertaking.
- (84) It is also worth noting that, with reference to the mentioned profitability calculations, the expected Net Present Value of the project ("NPV") achieved with the aid remains negative and DHCA might be considered to accept to undertake this investment only in the light of the social mission assigned by the central authorities. It follows that the beneficiary is not likely to obtain excessive profits from the construction and operation of the aided project.
- (85) In this regard, taking into account the information provided by the Greek authorities, the Commission considers that the aid at hand ensures that the aid is limited to the minimum.

III.3.5 Distortion of competition and effects on intra-EU trade

- (86) A State aid measure is compatible with the common market if it does not affect competition and intra-EU trade or if the resulting effects are limited and balanced with regard to the pursued objective of common interest.
- (87) The Commission first recalls that DHCA is held to be active in the business activity of district heating market, but it is not active in the electric energy market.

¹⁹ JO C14, 19.1.2008, p.6-9

- (88) The Commission also considers that neither DHCA nor PPC will benefit of any substantial competitive advantage stemming from the project at hand; in this respect:
- (a) DHCA does not retain any remuneration based on market terms, as explained above, mainly due to the commitment to provide the thermal energy purchased by PPC to the residents of the city of Amyntaio at social tariffs;
 - (b) PPC cannot draw any substantial indirect advantage or side benefit from the additional infrastructure as, inter alia:
 - the thermal energy recaptured and used in its entirety by DHCA will be paid to PPC at a price without any profit;
 - PPC will not own the new infrastructure equipment for district heating and therefore cannot sell them in future and get the corresponding profit or use them for any purpose after the agreement with DHCA comes to an end. Therefore there is no PPC benefit associated with the residual value of the investment in DH infrastructure by DHCA.
 - The PPC capacity for electrical production is not increased through this specific investment. On the contrary, for technical reasons, the process used for the extraction of thermal energy results to a slight reduction of the PPC capacity for electrical energy production. Moreover, PPC will not benefit from any reduction in operation costs for the production of electricity as a result of the new DH infrastructure facilities, because the state financing is not addressed to the generation of energy but only to investment in infrastructure for DH
 - PPC would not have an incentive to implement on its own cost and for its own benefit the project in question because, in accordance with the submitted cost benefit analysis, it would not be able to sell thermal energy to the Amyntaio new customers at attractive prices while these customers are already using electric power supplied by PPC.
 - Furthermore, there is free access of third energy producers to the heating distribution infrastructure. Therefore PPC and DHCA do not acquire a monopoly for the use of the heating distribution infrastructure.
- (89) Furthermore, the Commission also notes that third party access to the DHCA infrastructure is guaranteed for undertakings willing to provide thermal energy to the served residential area.
- (90) Thermal energy will be provided to additional 550 buildings as a result of this state financed new infrastructure. These are mainly local houses and also local small commercial and service shops. In the area of Amyntaio, with the exception of local shops, are not established any undertakings of industrial or service

activity, the selective benefit to which in the form of cheaper thermal energy bills by the extension of DH could distort the intra community trade.

- (91) Therefore, the Commission acknowledge that the distortion to competition is limited and to a large extent justified by the social interests in the supply of DHCA services at low prices as well as by safeguards applied by the Greek authorities (e.g., methods for the calculation of the price charged by PPC to DHCP, third-party access, tendering procedure for both the grant to DHCP and the subsequent execution of the civil works).
- (92) Eventually, according to the case practice, the Commission considers that the transport of heat is by definition bound to the location of the pipelines and therefore local by nature. Therefore the effect on trade between Member States of the financing of the project at hand is a priori limited.

III.3.6 Conclusion

- (93) Accordingly, the Commission considers that the aid at hand can be approved directly under Article 107(3)(c) TFEU.

IV. CONCLUSION

- (94) The Commission has accordingly decided not to raise objections to the notified measure because the aid is to be considered compatible with the common market within the meaning of Article 107(3)(c) TFEU and Article 61(3)(c) of the EEA Agreement.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site:

<http://ec.europa.eu/competition/elojade/isef/index.cfm>

Your request should be sent by registered letter or fax to:

European Commission
Directorate-General for Competition
State Aid Registry
B-1049 Brussels
Fax No: +32-2-296 12 42

Yours faithfully,
For the Commission

Joaquín ALMUNIA
Vice-President