EUROPEAN COMMISSION

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Subject: **State aid SA.35164 (2013/NN) – Greece – Compressor Station in Nea Messimvria**

Excellency,

The European Commission wishes to inform the Hellenic Republic that, having examined the information supplied by your authorities on the matter referred to above, it has decided to raise no objections to the notified aid measure.

I. PROCEDURE

1. Following pre-notification contacts, by electronic notification of 27 November 2012, the Hellenic Republic notified, pursuant to Article 108(3) of the Treaty on the Functioning of the European Union (hereinafter referred to as TFEU), the project of financing a construction of the compressor station at Nea Messimvria.

2. The Commission asked additional information by letter of 21 December 2012. By letter dated 31 December 2012 (received and registered on 14 January 2013), the Greek authorities informed the Commission that the public financing was partially granted for the above-mentioned project on the same day. Further information

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requested by the Commission was submitted by the Greek authorities by letters registered on 15 February 2013, 30 April 2013 and 19 July 2013.

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II. DESCRIPTION OF THE MEASURE

Background and objectives of the notified project

3. The notified project consists of the installation of a natural gas compressor station in Nea Messimvria, located in the Northern Greece in the Thessaloniki region. The new construction includes two centrifugal compressor units (one in operation and one in standby mode) coupled with two gas turbines of 7.7 MW each, and the necessary auxiliary facilities. Compressor stations are essential components of any natural gas transmission system.

4. According to the Greek authorities, the implementation of the project will contribute to security of supply by increasing the transmission capacity of the National Natural Gas System (hereinafter referred to as NNGS) and by enhancing its hydraulic stability.

5. The Greek authorities explained that the main aims of the project are:

- Improvement of energy security in Greece and in the European Union by increasing the overall capacity of NNGS and by adding more flexibility to the Greek market, and therefore to the EU internal market: As a result of the notified investment project, larger volumes of gas can be transported from the North, where the entry points of natural gas from Bulgaria and Turkey are located, to the South, where the gas consumption is high on an annual basis. Thus, the new compressor station serves all consumers of NNGS in the country. Users are able to obtain larger quantities of natural gas with the appropriate specifications (mainly pressure) even under conditions of an increased demand.

- Development of a competitive gas market by enabling the Greek gas transmission operator to offer extra transmission capacity to system users: All interested entities have equal access to the gas transmission system network on the basis of a third party access (hereinafter referred to as TPA) regime.

- Strengthening the bargaining position, due to the extra transmission capacity, of local entities active in the Greek gas market, willing to transfer gas *via* the two northern entry points (Sidirokastro and Kipi) *vis-à-vis* the main gas supplier who has booked almost all of the existing capacity of the aforementioned entry points.

- Enhancement of environmental standards by reducing CO_2 emissions, resulting from the increased use of natural gas, serving new areas using so far lignite or heavy fuel oil for their thermal activities.

- Improvement of the socio-economic situation due to new employment opportunities that arise during the development and operation phases of the notified project.

6. The Greek authorities have stressed that, in the absence of public funding, either the project would not be implemented at all or the tariffs would have to be increased. Therefore, a further distributed and social effect of the notified project is allegedly the fact that the cost of the investment corresponding to the public funding will not be fully recouped from consumers in the form of an increased gas transmission tariff. According to the available calculations, in the absence of the public financing, the tariff would need to increase by up to 4.4%.

Beneficiary

7. The beneficiary of the measure is DESFA, Hellenic Gas Transmission System Operator S.A. DESFA was established in 2007 as a wholly owned subsidiary of DEPA, Public Gas Corporation S.A.[1]

8. Pursuant to Article 68 of the Law 4001/2011, *"DESFA S.A operates, maintains, manages, exploits and develops the National Natural Gas System in an economically efficient, technically sound and integral way and with the aim to serve the needs of the Users in a safe, adequate, reliable and economically efficient way, to ensure the functioning of a unified natural gas market in the European Union, and to preserve the environment."*

9. DESFA is the gas Transmission System Operator (TSO) in Greece[2] and is the only provider of activities of gas transportation, gas storage and gasification of LNG within the Greek territory (so-called regulated activities). Within its field of activities, it is also responsible for gas balancing and congestion management and carries the responsibility for granting non-discriminatory third party access to the NNGS system. In addition, it also provides other (non-regulated) services, such as for instance operation and maintenance of distribution and other transmission networks, project management, consultancy, gas equipment calibration, ships cooling, training.

NNGS and planned gas transit networks in Greece

10. Greece started to develop its gas network only in the 1990s in order to diversify its energy supply and replace lignite and oil-powered power stations with less

[1] DEPA is, in turn, owned 65% by the Greek State and 35% by Hellenic Petroleum ELPE S.A. A privatisation process of DEPA and DESFA has been launched and is on-going at present.

[2] Other companies have expressed their interest to the Regulatory Authority for Energy in developing transit projects connected with NNGS. However, at the same time, they have asked for an

polluting gas-powered power stations. Moreover, Greece plans to become a transit country for gas originating from Central Asia and the Middle East and destined for South-East and Central Europe.

11. Currently, the entire gas supply in Greece relies on imports. NNGS is the only gas transmission network in Greece, comprising of a main pipeline from the Greek-Bulgarian border to Attiki region with a length of 512 km and branches with a total length of 779 km, and the Liquefied Gas (LNG) terminal in Revithoussa island. There are two entry pipeline points to NNGS through which gas is being imported to Greece: Sidirokastro at the Greek-Bulgarian border and Kipi at the Greek-Turkish border. The LNG terminal receives supplies (via sea transport) from different sources, such as Algeria, Egypt, Nigeria, Trinidad and Norway. In 2012, approximately 32% of LNG regasification quantities were imported by alternative suppliers than DEPA using third party access rules.

Figure 1: Map of the current and planned gas transmission network in Greece

12.

The Greek authorities have stressed that the flexibility of the gas transmission system operation has reached a marginal point due to the low line-pack[3] and pressure levels in the network. Currently, the maximum daily gas demand which could be handled by

exemption from TPA rules and from tariff regulation, in accordance with the provisions of the Second Gas Directive 2003/55/EC.

[3] The actual amount of gas in a pipeline or distribution system.

the Greek pipeline network is at the level of approximately 24.5 million Nm^3/day, whereas the maximum daily demand noted in 2012 was at the level of approximately 21.4 million Nm^3/day and is expected to increase within the next years and exceed the level of 27 million Nm^3/day in 2021. As it can be seen from the table below, the available capacity of the northern entry points, after the installation of the compressor unit at Nea Messimvria, is increasing by 37.4% or 4.67 million Nm^3/day. As a result of the notified project, the existing users of the system can book extra capacity or new users, in particular in regions where until now the replacement of conventional fuels was not possible, can be activated in the Greek market. Also, the compressor station increases the maximum line-pack of the high pressure network from 21.97 to 29.9 million Nm^3 (increase by 36%). Therefore, in view of the Greek authorities, any postponement of the notified project would entail lack of necessary capacity and flexibility in the system. In addition, the new compressor station also ensures the appropriate delivery pressure at the exit points which may be very important or even critical under peak demand situations in Southern Greece where the main gas consumption is located. Moreover, the operation of the Revithoussa LNG terminal at the entry point in Aghia Triada is more easily optimized, once the notified project has been carried out. *Table 1: Technical capacity of the entry points prior to and after the construction of the compressor station in Nea Messimvira*

Year 2013	**Technical capacity Greek-Bulgarian border (Nm^3/day)**	**Technical capacity Greek-Turkish border (Nm^3/day)**	**TOTAL (Nm^3/day)**
Before compressor station installation	9 766 700	2 724 000	12 490 700
After compressor station installation	11 740 000*	5 420 000**	17 160 000

* Confirmed by the upstream TSO (Bulgartransgaz)

** The upstream operator (BOTAS) has confirmed 2 330 000 Nm^3/day.

13. There are several transit projects currently under development or consideration, in various stages of execution or planning, as Independent Natural Gas Systems (INGS) in Greece: Trans Adriatic Pipeline (TAP); Interconnector Greece Italy (IGI); Interconnector Greece-Bulgaria (IGB); South Stream Pipeline and East Mediterranean pipeline.

14. The Greek authorities have submitted other projects for state aid approval connected with different investments to improve and extend the gas transmission network in Greece[4]. All those projects are included in the NNGS development programme. The Greek authorities claim that all the projects contribute to the security of gas supply and promote the development of the internal gas market. The project examined in this decision, though functionally independent from the others, is to be put in the broader context of the notified projects supported with state aid which all contribute to the enhancing and/or extending the operation of the NNGS. These projects are altogether expected to i) increase the potential for diversification of sources and increase (LNG) gas supply to Greece, (ii) increase flexibility and transport capacity of the NNGS from North to South and (iii) help to connect the NNGS with geographic areas previously isolated therefrom. Furthermore, according to the Greek authorities, the NNGS is expected to increase annual transportation capacity from 26 483 246 Nm^3/day(2011) to 35 409 609 Nm^3/day (2017). While the assessment of the project subject to the present notification is carried out in this wider context, it is without prejudice of the assessment of the other projects referred to.

15. The Greek authorities have emphasised that, since the compressor station in Nea Messimvria is an integral part of the NNGS, any planned transit project with provision to connect to the NNGS will benefit from the added value that the compressor station offers. That means that the compressor station may increase the flow of gas from a transit project to the Greek market in case this project is connected to the national grid.[5]

16. Furthermore, although the compressor station in Nea Messimvria is currently one-directional (and this will still be the case after the implementation of the notified project), it is technically feasible to provide for permanent reverse flows of gas from Greece to Bulgaria by means of an additional up-grade of the compressor station to operate as bi-directional. The Greek authorities have explained that currently there are no short-term prospects for conducting such an investment.[6] However, following the completion of the second upgrade of the Revithoussa LNG Terminal[7], which would increase the reverse flow capacity to Bulgaria, DESFA will examine the feasibility of upgrade of the compressor station to provide for reverse flow, evaluating also the market interest.

[4] See Commission Decisions in cases SA.35165, SA.35166, SA.35167, SA.35976 and SA.35977, not yet published.

[5] For instance, TAP has expressed its intention to connect to NNGS at least for security of supply purposes. Also, the market tests conducted in Greece underline the interest of market operators for the NNGS to be connected with TAP close to Nea Messimvria. See, for example, Joint Opinion of the Energy Regulators on TAP AG's Exemption Application.

[6] Following a market test, DESFA and Bulgartransgaz have decided to implement only an investment in the border metering station at Sidirokastro (in Greece).

[7] See Commission Decision in case SA.35165 and SA.35977, not yet published.

17. Finally, the compressor station is complimentary to the extension of the LNG terminal. As explained by the Greek authorities, the up-grade of the LNG terminal should be considered also as a way of increasing the capacity of an entry point and of covering the daily and hourly peaks of the market, while the compressor station is the necessary infrastructure to transport that increased capacity. While at the moment the gas only flows in one direction through the compressor station, it is possible for the gas to flow in both directions, provided additional investments take place. This means that the interconnection between South and North (as well neighbouring countries) may further be optimized following the potential reverse-flow update. In addition, after the implementation of the notified project, the operation of the Revithoussa LNG terminal will be optimised, insofar as during the past years and due to the lack of compression power in the south part of NNGS, the LNG terminal has also been used for sustaining the right level of pressure to the most demanding customers of the system.

National regulatory framework for gas transmission in Greece

18. Law 3428/2005[8], as amended by Law 4001/2011[9], sets the legal framework for the activities of supply, distribution, storage and liquefaction of natural gas and gasification of LNG within the Greek territory. Pursuant to its provisions, the activities of the operation, management, exploitation and development of the NNGS have been transferred from the incumbent operator, DEPA (Public Gas Corporation S.A.) to DESFA (Hellenic Gas Transmission System Operator S.A.) through a "spin-off", *i.e.* a legal, operational – functional and accounting separation. Following the transfer, DESFA acquired a full and exclusive ownership and control of NNGS, including the LNG Terminal in Revithoussa Island.

19. Gas transmission infrastructure is offered by DESFA for use by interested parties on the basis of the TPA regime. That means that all interested users have equal access to the transmission system and are provided with essential information required to ensure effective use of the system, based on the provisions and principles of Regulation (EC) 715/2009. The rules and provisions for TPA access are specified in the NNGS Network Code and the capacity allocation procedure is based on the "first come, first served" principle[10]. Technical procedures and specifications for the TPA access are specified in the Regulation for Measurements.

20. Non-discriminatory access to the NNGS is realized through the conclusion of a Standard Transportation Contract between DESFA and the network user. Minimum duration of the Transportation Contract is one day. The users have the option to conclude long term (≥365 days) and/or short term (<365 days) contracts.

[8] Gov. Gaz. A' 313/27.12.2005.
[9] Gov. Gaz. A' 179/22.08.2011.
[10] This might later be replaced by an auctioning mechanism.

21. Access to network may be refused solely for reasons of lack of capacity, pursuant to the special provisions of the NNGS Network Code or if the access to the system potentially obstructs DESFA from fulfilling the obligations assigned to it. The refusal of access must be specifically substantiated and communicated to the interested user(s) and to the Regulatory Authority for Energy (hereinafter referred to as RAE). Refusal of access is allowed as long as the procedure provided under Article 48 of Directive 2009/73/EC has been observed and in case that serious economic and financial difficulties exist due to contracts containing clauses of compulsory purchase irrespectively of receipt (*i.e.* take-or-pay clauses). In all cases of access refusal, gas suppliers can appeal the decision to RAE and to the administrative courts.

22. The activities of DESFA are monitored by RAE. This includes prior approval of the tariff levels for the use of NNGS. On 1 February 2013, a new Tariff Regulation[11] entered into force, which, among other changes, has introduced a decoupled entry-exit system in setting the tariffs, instead of fixed rates which are used to determine capacity and commodity charges (M. D. 4955/2006 - postage stamp system). The tariffs consist of distinct and independent charges for entry and exit capacities rather than a fixed rate tariff for the transmission system. This methodology has been introduced with a view to enhance further cost reflectivity of the charges to the maximum possible extent and to avoid any discrimination among the different types of users. With the new system, DESFA shall recover all the regulated costs with an approved return on capital (cost-plus regime), ensuring at the same time the expansion of the Greek gas network to new regions of the country.

23. Accordingly, the tariffs recover operating costs and capital costs (*i.e.* depreciation and return on capital employed). The rate of return on capital is calculated by RAE by reference to the Weighted Average Cost of Capital (WACC), with consideration of the actual cost of debt. Pursuant to the recent RAE Decision 722/2012, WACC currently amounts to 10.99% in nominal pre-tax terms.

Financing: budget, aid intensity and duration

24. The notified project is co-financed from the EU Structural Funds and the Greek State budget. Under the EU Structural Funds, the financing is implemented under the National Strategic Reference Framework (NSRF) for Greece for the period 2007-2013. The grant from the EU Structural Funds, as well as the grant from the State budget, are given to DESFA through the Public Investments Programme of the Greek State.

25. The maximum share of co-financing of a project measure in terms of eligible expenditure may not exceed the so-called *funding gap* applicable to all projects financed by the EU Structural Funds as laid down in the Structural Funds Regulation[12]. The Structural Funds Regulation requires that the eligible

[11] RAE Decision 594/2012 and RAE Decision 722/2012, Gov. Gaz. B' 2093 / 05.07.2012.

[12] Council Regulation (EC) 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999 (OJ L 210, 31.7.2006, p. 25).

expenditure on revenue-generating projects shall not exceed the current value of the investment cost, less the current value of the net revenue from the investment over a specific reference period for investments in infrastructure or other projects where it is possible to objectively estimate the revenues in advance. In other words, the *funding gap* is established on the basis of investment costs, less any foreseeable revenues resulting from operating the infrastructure after investment. That means that the aid shall be limited to these costs of the project for which it is impossible to be financed by the revenues resulting from the implementation of the project.

26. The total investment costs of the notified project are estimated at EUR 58 264 931.32. Public financing from the EU Structural Funds (EUR 17 405 042.88) and from the Greek State budget (EUR 3 522 025.63) accounts for 36.45% of the eligible costs under the EU Structural Funds, corresponding to the funding gap rate. The aid intensity in proportion of the total investment costs is therefore 35.91%[13]. The remainder of the total costs (EUR 37 337 862.81) is primarily financed by DESFA's own funds, obtained as on-going revenues from the activity of the company.

27. According to the Cost Benefit Analysis, submitted in the notification, financial performance of the project without the public funding (both from the EU Structural Funds and the Greek State budget) is very low or negative. After the requested public funding, the financial performance still remains very low or negative (FRR/K = 4.93% and FNPV/K = - 279,273 EUR), which means that the project could not have attracted private capital in general and particularly during the current economic crisis and uncertainty in Greece. Specifically, the main results of the financial analysis of the project are presented in Table 2.

Table 2: Summary of main results of financial analysis

	without public funding		**with public funding***	
Financial rate of return (%)	1.24%	(FRR/C)	4.93%	(FRR/K)
Net present value (EUR)	-19 509 734	(FNPV/C)	-279 273	(FNPV/K)

* includes both contributions from the EU Structural Funds and the Greek State budget

28. The Greek authorities have explained that the amount of the public financing (in terms of both the EU Structural Funds and the Greek State budget contribution) for the notified project is subtracted from DESFA's regulatory asset base and the part of infrastructure corresponding to the public funding does not produce depreciation for the purpose of tariff calculation. This means that the aid should not be regarded as engaged capital (i.e. capital taken into account for the determination of the regulated tariff, thus remunerated by revenues accruing from the application of those tariffs) and hence, does not generate additional revenues for the beneficiary in terms of return on engaged capital. As a result of the notified project, DESFA's regulated asset base shall increase to include the position of

[13] Total public funds divided by 1% of total project costs.

assets financed through its own means (recital 26) which will thus be regarded as engaged capital for the purpose of the tariff calculation.

29. In practical terms, DESFA requests co-financing under the notified project upon the submission of the relevant invoices for the activities performed (procurement, construction, inspection, etc.). Each paid invoice is submitted officially for payment to the Managing Authority and checked by the relevant services and then, if all the relevant procedures have been fulfilled, it is reimbursed. Moreover, DESFA is required, on a regular basis, to submit reports to the General Secretariat for Energy and Climate Change of the Ministry of Environment, which present in detail the implementation progress of the technical and financial aspects of the project. Based on these reports, any excessive amount received is subject to recovery including interests.[14]

30. The project was covered by two EU Structural Funds for Greece and from the Greek State budget. Initially, DEPA (prior to the incorporation of DESFA as a separate legal entity) applied for financing from the 3rd Community Support Framework (CSF III) on 2 June 2005 and was informed about the acceptance of co-financing on 9 August 2005. This application and the award of funds covered the entire project. However, due to the fact that the CSF III for Greece ended in 2006 and the project was still in the engineering phase, it was decided at that point to finance only the studies of the project from CSF III and the construction to be financed from NSRF 2007-2013. This was confirmed in a letter dated 29 September 2008 from the General Secretary of the Ministry of Development, which stated a clear intention of the Managing Authority to include the part of the project not financed from CSF III in the NSRF 2007-2013. Accordingly, DESFA applied for co-financing of the project under NSRF on 7 April 2010 and amended its application on 17 December 2010. Co-financing was accepted on 21 October 2011.[15] The EPC (Engineering, Procurement and Construction) contract was signed on 9 December 2008. On 31 December 2012, the co-financing from NSRF was partly disbursed to the beneficiary.

31. The project is now in the operation phase. The mechanical completion was achieved on 9 November 2012, while the operation of the station started on 17 December 2012.

III. ASSESSMENT

Presence of state aid

32. Article 107 (1) TFEU provides that "*any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods, shall, in so far as it affects trade between Member States, be incompatible with the common market*".

[14] In accordance with Ministerial Decision ΦΑ/Ε 3.4/58/4, Gov. Gaz. B' 237/11.02.2011.
[15] All dates of application and allocation of the funds coincide for both the Greek State budget funds and the EU Structural Funds.

Aid granted by a Member State or through State resources

33. The project is co-financed from the Structural Funds of the EU and the State budget of the Hellenic Republic.

34. Before being granted to the beneficiary undertaking, the EU Structural Funds are first disbursed to the Member State in question and thus, are under the control of the Member State's authorities at the moment of the final payment to the beneficiary. In the case at hand, since the choice of the project and the final transfer of the Structural Funds depend on the discretion of the Greek authorities, and the additional co-funding comes from the budget of the Hellenic Republic, the aid is considered to be granted from State resources within the meaning of Article 107(1) TFEU.

Favouring certain undertakings or the production of certain goods

35. The contribution to the financing of the project from the State resources by means of the EU Structural Funds and the Greek State budget provides the beneficiary undertaking, DESFA, with additional funds to cover investment costs of installation of the natural gas compressor station in Nea Messimvria. Under normal market conditions, the beneficiary would have to bear those costs from own means. Therefore, the Commission considers that DESFA receives an economic advantage within the meaning of Article 107(1) TFEU.

36. As this advantage is only granted to DESFA, the Commission concludes that it has a selective nature.

Distortion of competition and affectation of trade between Member States

37. DESFA is active on markets other than gas transportation, such as gas storage and gasification of LNG, operation and maintenance for distribution and other transmission networks, project management, consultancy, gas equipment calibration, ships cooling and training. The public support provided for the purpose of the notified project is capable of having the effect of improving DESFA's ability to compete on the LNG operation market, where other undertakings could be present in the future. Moreover, the aid, by strengthening the position of DESFA and favouring the development of the gas infrastructure at hand, has the potential of influencing the patterns of competition between energy sources which are partly substitutable with gas, such as coal or lignite, for instance, as concerns electricity generation in Greece. Also with respect to the activities of gas supply which DEPA, Public Gas Corporation S.A., carries out through other subsidiaries in competition with other gas suppliers, the public support to DESFA is capable of having the effect of improving DEPA's ability to compete on gas supply, which is a market open to competition. It is therefore likely, first, that, since gas and other energy products are traded across Member States, through the implementation of the notified project with the public co-financing, the trading conditions are affected across the EU. Secondly, since the public support thus has at least the potential to distort competition on markets

open to competition, it is not necessary to establish that the planned aid actually restricts competition on the possible markets affected[16]

38. Trade of natural gas takes place between Greece and other Member States in the EU and in the EEA. The same is true with respect to the other markets on which DESFA is active. It is therefore likely that, through the implementation of the notified project with public co-financing, the trading conditions are affected across the EEA.

Conclusion with regard to the presence of state aid

39. Taking the above into consideration, the Commission concludes that the financing of the project involves state aid within the meaning of Article 107 (1) TFEU.

Legality

40. By disbursing the aid under assessment on 31 December 2012, the Greek authorities have put the aid measure into effect before a final Commission decision. Thus, the Hellenic Republic has breached the stand-still obligation set out in Article 108(3) TFEU.

Compatibility under Article 107(3) (c) TFEU

41. The Commission notes that the measure aims at the installation of a gas compressor station in the Greek gas transmission network at the Nea Messimvria location. As regards support for gas infrastructure, aid for such projects does not fall within the scope of the 2008 Environmental Aid Guidelines.[17]

42. The project covered by the measure is located within areas eligible under the European Regional Development Fund, as well as assisted areas under Article 107(3)(a) TFEU within the meaning of the *Guidelines on national regional aid for 2007-2013*.[18] However, regional aid is designed to contribute to regional development by supporting investment and job creation. It promotes the expansion and diversification of the economic activities of enterprises located in the less-favoured regions, in particular by encouraging firms to set up new establishments there. In the case at hand, job creation is temporary and constitutes a secondary objective of the aid. As stated by the Greek authorities and assessed below, the measure primarily aims at enhancing hydraulic stability of NNGS and increasing its transmission capacity.

43. The Commission therefore considers, in keeping with past decision-making practice[19], that the assessment of the compatibility of the measure with the internal

[16] (1)Case T-303/05, AceaElectrabel v Commission, ECR 2009, p. II-137, paragraph 48 et seq
[17] OJ C 82 of 01.04.2008.
[18] OJ C 54, 4.3.2006, p. 13.
[19] See, in particular Commission Decision in case SA.35255 Aid to PSE Operator S.A. for the construction of Stanisławów power station and among other energy infrastructure cases: Commission Decisions in cases N 594/2009 Gas pipelines in Poland; SA 33823 (2012/N) Electricity cable Aland – Finland (mainland); SA.31953 (2011/N) Construction of a LNG

market requires an evaluation of the contribution of the measure to the development of the European Union markets for gas and to security of supply in the European Union. Therefore, the measure is assessed directly on the basis of Article 107(3)(c) TFEU which 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.

44. In order to be compatible under Article 107(3)(c) TFEU, the aid measure must pursue an objective of common interest in a necessary and proportionate way. In this regard, the Commission considers it appropriate to assess the following questions:

    (1) Is the aid measure aimed at a well-defined objective of common interest (*i.e.* does the proposed aid address a market failure or has another objective of common interest)?

    (2) Is the aid well designed to deliver the objective of common interest? In particular:

        - Is the aid measure an appropriate instrument, *i.e.* are there other, better-targeted instruments?
        - Is there an incentive effect, *i.e.* does the aid change the behavior of firms?
        - Is the aid measure proportionate, *i.e.* could the same change in behavior be obtained with less aid?

    (3) Are the distortions of competition and the effect on trade limited, so that the overall balance is positive?

Objective of common interest

45. The aid measure has to aim at a well-defined objective of common interest. When an objective has been recognised by the EU as being in the common interest of the EU Member States, it follows that it is an objective of common interest.

46. According to Article 194 TFEU, *"[i]n the context of the establishment and functioning of the internal market and with regard for the need to preserve and improve the environment, Union policy on energy shall aim, in a spirit of solidarity between Member States, to:*
    a) ensure the functioning of the energy market;
    b) ensure security of the energy supply in the Union; (…)"

47. The Hellenic Republic claims that the implementation of the investment project covered by the present notification is essential for the following reasons:

Terminal in Świnoujście, Poland; SA.29870 (N 660/2009) Aid to PGNiG for underground gas storage, Poland; SA.34235 (2012/N) Gas pipeline Rembelszczyzna – Gustorzyn (phase III).

- Improvement of energy security in Greece and in the European Union;
- Development of a competitive market in gas;
- Strengthening of the bargaining position of local entities active in the Greek gas market;
- Enhancement of environmental standards by reducing CO_2 emissions;
- Improvement of the socio-economic situation.

48. The Commission considers that the construction of a gas compressor station in Nea Messimvria contributes to the development of the Greek system for the transmission of natural gas, as it improves the system's efficiency by increasing its capabilities. The project guarantees a minimum delivery pressure to all the off-takes of the network, which is of utmost importance especially under peak demand situations in Southern Greece, and at the same time, increases the technical capacity of the two northern entry points of NNGS by 37.4%. The notified project reinforces the still under-developed gas transmission network in Greece, the limited scope of which is portrayed at recital 11, figure 1, by increasing its flexibility, as described above in recital 12, and therefore makes a contribution to objectives of common interest, such as the enhancement of the internal natural gas market and increased security of energy supply in keeping with Article 194 TFEU, as well as the improvement of the so far poorly developed gas infrastructure in Greece.

49. The notified project has strategic value not only for Greece, but also contributes as an alternative element of the system linking the markets of European Member States in the South-Eastern region. As described above in recital 13, a number of gas transit projects on the Greek territory are under different stages of development or implementation, with a view to connect gas networks between EU and non-EU Member States in the region. The compressor station may allow pumping gas from these pipelines to the Greek system once, the NNGS is connected.

50. Furthermore, in Greece, using gas has less negative effects from an environmental point of view than the fuels it substitutes (i.e. oil and lignite) in electricity generation.[20] Moreover, it may also serve as a backup capacity for intermittent renewable energy sources. In particular, construction of the compressor station in Nea Messimvria and thereby increased capacity of the network ensures a continuous supply of existing users and in addition, it enables construction of new branches for the connection of new consumers in regions where until now the replacement of heavy fuels was not possible.

51. The public co-financing provided with a view to cover investment costs of the compressor station in Nea Messimvria contributes to achieving the above-mentioned goals. The Commission considers therefore that the implementation of the notified project contributes to the effective performance of the internal natural gas market and to improved energy security.within the European Union. It can

[20] It has been submitted by the Greek authorities that the CO_2 emission for the production of 1 MWh of electricity produced from natural gas is 0.45 tn while from lignite and fuel oil it is 1.4 tn and 0.7 tn respectively. Also, when combusted natural gas does not emit sulfur oxides or other pollutants (aromatic hydrocarbons, particulates, etc.).

thus be concluded that the project aims at a well-defined objective of common interest.

Appropriate Instrument

52. The Greek authorities have explored alternative possibilities than financing of the construction of the gas compressor station in Nea Messimvira to achieve the above mentioned objective of common interest of improving security of supply.

53. As mentioned above and illustrated on the map under recital 11 above, the two entry points of the Greek gas network are in the North of Greece, while the main consumption is in the South of Greece (Attiki region). In order to respond to this situation and to provide for a better network usage through transporting higher gas volumes to the South and at a higher pressure, the installation of the compressor station in Nea Messimvria (Northern Greece, area of Thessaloniki), *i.e.* below the entry points to the network, but above the Attiki region with increased consumption, seems to be the appropriate technical solution. In addition, given the increasing demand for gas, forecasted to exceed the level of 27 million Nm^3/day in 2021, an increase of capacity of the transmission network seems to be an appropriate instrument.

54. In this context, it has been pointed out that an alternative way would be to construct a new pipeline from Northern Greece to Southern Greece (more than 400 km of high pressure pipeline from Thessaloniki to Attiki region) so as to increase the capacity of the system. Such a project does not necessarily increase the connection of Greece with other EU Member States and there is indeed no evidence it would be carried out without or with less aid. Indeed, according to the Greek authorities, such a theoretical alternative would be far more expensive than the compressor station at Nea Messimvria, as well as technically much more complicated, so that it has been considered not feasible from a technical and economic point of view, in particular in comparison to the selected option.

55. In addition, even if the compressor station in Nea Messimvria is currently one-directional (see recital 16), the Greek authorities consider that it is complementary to the extension of the LNG terminal at Revithoussa, as both are necessary to increase transport capacity and control daily and hourly peaks. Should the compressor station allow for reverse flows in the future, gas originating from the LNG terminal can be transported to the North or even to neighbouring countries (in particular, Bulgaria).

56. DESFA is the only company that is operating in the Greek market at the moment that could undertake a project such as the installation of the compressor station in Nea Messimvria on its own motion. The project generated a financial rate of return of 1.24% and it is highly unlikely that if it had been funded purely on a commercial basis that this low rate of return would have attracted the interest of DESFA. The construction of a new compressor station in order to provide for a better flexibility of the gas transmission system and possibility of increased gas supplies is primarily of interest to the TSO, namely DESFA. This means that it is

unlikely that the project could have attracted private capital in general and particularly during the current economic crisis and uncertainty in Greece.

57. In the absence of public financing, the project would have to be financed by way of an increase of the regulated tariff. However, this might result in a significant postponement of the execution of the notified project, which would undermine the objective of common interest in the form of security of supply.

58. Consequently, the Commission considers that co-financing of the notified project from the EU Structural Funds and from the Greek State budget is an appropriate instrument to accelerate investments in the gas transmission system network in Greece and thereby to fulfil the objectives of common interest, as identified above.

Incentive effect

59. An incentive effect is present if the aid changes the recipients' behaviour towards reaching the objective of common interest.

60. The analysis presented in recital 27 above on the financial performance indicates that the notified project would not be financially profitable without the public co-financing from the EU Structural Funds and the Greek State budget. Indeed, both the financial rate of return and the net present value are at a very low or negative level, which means that the revenue generated by the project would not cover the expenses incurred. Accordingly, a rational investor would not undertake it. Even with public co-financing, the project's financial performance is still below the regulated return on capital that the beneficiary can presently expect from its investments (10.99%, as shown in recital 23 above). It is therefore most unlikely that the beneficiary, or any hypothetical alternative investor, would carry out the project without public financial support.

61. In addition, the application for co-financing of the entire project was submitted and accepted under the CSF III and before the start of the construction works in 2008. The renewal of the applications in 2010 was necessary only due to the fact that the financing was re-scheduled to the following EU Structural Funds programming period.

62. In the light of the above considerations, it can be concluded that the aid to the notified project provides for the necessary incentive effect.

Proportionality

63. A state aid measure is proportionate if the measure is designed in a way that the aid as such is kept to the minimum.

64. In the case at hand, the financial analysis portrayed at recital 27 indicates that even with the planned aid, the project would still yield very low profitability. In this context, the aid intensity of 35.91% does not seem inadequate. In particular, the *funding gap* methodology (recital 26) for the determination of the planned aid

amount ensures that all benefits which can be predicted for the relative long lifetime of the project are deducted from the aid. It follows that the planned aid amount can *a priori* be seen as preventing that any excess return is achieved and as proportionate in order to incentivise the beneficiary.

65. Moreover, the amount of public co-financing will not be taken into account for the purposes of tariff remuneration and hence will not contribute directly to any revenue formation. This indicates that the aid shall not provide DESFA with significant profits on the planned infrastructure, when compared to similar projects undertaken solely by the beneficiary. In addition, appropriate mechanisms are put in place to ensure that the benefits are properly calculated and any surpluses are controlled and recovered if they arise unduly (see above at recitals 28-29).

66. Bearing in mind the above, it can be concluded that the state aid granted for the notified project is proportionate, as it is limited to the minimum necessary to achieve the above-identified objective of common interest.

Distortion of competition and balancing test

67. The TSO on the market of gas transmission in Greece has been assigned by the State, and the aid granted for the project under assessment allowed DESFA to own and operate transmission assets that could make it more unlikely for any alternative operators to apply for a TSO concession and invest in the envisaged infrastructure on its own, at least in the medium term. Therefore the financing of the notified project, in so far as it contributes to development of existing network, has the effect of deterring an operator from investing in new gas transmission networks.

68. However, the existence of a single national TSO is widespread in the EU. Moreover, the impacts on potential competition on the market for transmission of gas are mitigated on the downstream markets, as the beneficiary of the aid is obliged to ensure third party access to its network for all suppliers of gas.

69. Pursuant to the Gas Directive, TSOs are required to develop the transmission system notably as regards throughput of their reciprocal interconnectors. In addition, Member States must ensure access to the transmission system for third parties. In the context of such requirements, implementation of the notified project may be perceived as compliance with the duties imposed on Greece under these provisions. Indeed the implementation of the provisions of the Gas Directive, notably the third party access to the gas transmission infrastructure strengthens the EU dimension of the envisaged investment.

70. Third party access rules to transmission pipelines ensure satisfactory access rights of gas companies to the gas transmission network in Greece. Accordingly, appropriate third party access provisions ensure that access to the network is granted in a non-discriminatory manner and the notified project ensures positive effects in terms of increased interpenetration of gas systems within the internal market. Increased gas flows within the Greek transmission network which are

made possible by the notified project should have a positive effect on competition on the market for gas supply. Hence, relatively low negative effects on potential competition of the planned aid are outweighed by the identifiable and significant positive effects of the aid.

71. The Commission also notes that, in the context of implementation of the provisions of the Gas Directive, steps have been taken in the direction of unbundling the beneficiary DESFA from its parent-company DEPA S.A. Furthermore, Greece has implemented the provisions of the Gas Directive regarding the third party access rules to transmission pipelines. Access cannot be denied if technical possibilities of transmission exist, the supplier is legally entitled to use the transmission network, there is measurement equipment in place which measures the quantity and quality of the gas supplied and the transmission of gas will not result in an increase in tariffs of transmitted gas for other suppliers. In all cases of denying the access, gas suppliers can appeal the decision to the RAE and to the administrative courts. These provisions seem to ensure that the rights of gas companies to access the gas transmission network in Greece are satisfied.

72. In addition, the notified project aims at enhancing the quality characteristics of the NNGS. The Greek authorities have also emphasised that the operation of DESFA is subject to evaluation by RAE by means of control over operating costs and revenues, which ensures setting reasonable and objective tariff levels. In particular, as submitted by the Greek authorities, the new methodology for the calculation of tariffs based on decoupled entry-exit tariffs, introduced as of 1 February 2013, should further enhance cost reflectivity of the charges to the maximum possible extent and avoid any discrimination among the different types of gas transmission system users.

73. Therefore, it can be concluded that possible distortions of competition and trade resulting from the state aid for the envisaged measures are limited, and that the overall balance with regard to the objective of common interest is positive.

Conclusion with regard to the compatibility of the measure

74. In light of the above, the Commission considers that the notified project financing pursues an objective of common interest in a necessary and proportionate way and thus, is compatible with the internal market on the basis of Article 107(3)(c) TFEU.

IV. CONCLUSION

75. The Commission regrets that the Hellenic Republic put the aid for the construction of the gas compressor station in the Greek gas transmission network in Nea Messimvria into effect, in breach of Article 108(3) of the Treaty on the Functioning of the European Union.

76. However, it has decided, on the basis of the foregoing assessment, to consider the aid compatible with the internal market pursuant to Article 107(3)(c) TFEU.

77. The Commission reminds the Greek authorities that, in accordance with article 108(3) TFEU, any plans to refinance, alter or change this aid have to be notified to the Commission pursuant to provisions of the Commission Regulation (EC) No 794/2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty (now Article 108 TFEU).[21]

78. 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:

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

    European Commission
    Directorate-General for Competition
    State Aid Registry
    B-1049 BRUSSELS
    Telefax nº: + 32-2-296.12.42

Please mention the name and number of the case in all correspondence.

Yours faithfully,

For the Commission

Joaquin ALMUNIA
Vice-President

[21] OJ L 140, 30.4.2004, p. 1.