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In the published version of this decision, some information has been omitted, pursuant to articles 24 and 25 of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus […].		PUBLIC VERSION This document is made available for information purposes only.

Subject: **State Aid SA.43168 (2015/N) – Hellenic Republic**
State guarantee for EIB loan to PPC (projects on non-interconnected islands)

Sir, Madam,

I am pleased to inform you that the European Commission has assessed the measure notified by the Hellenic Republic (hereafter, "Greece") aimed at granting a State guarantee to the Public Power Corporation S.A. (hereafter, "PPC") in order for PPC to secure a loan from the European Invesment Bank (hereafter, "EIB"), and decided to consider the aid to be compatible with the Treaty on the Functioning of the European Union (hereafter, "TFEU").

1. PROCEDURE

(1) By electronic submission dated 15 December 2015, Greece notified the Commission of a State guarantee it intends to grant to PPC in order to enable the latter to secure a loan from the EIB so as to finance the installation, upgrade, refurbishment and expansion of fossil-fuel fired power generation units on 18 Greek islands.

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(2) On 5 February 2016, the Commission sent a request for information, to which you have responded by submissions of 9 March 2016 and 13 April 2016. Additional information was received by the Commission on 1 June 2016.

2. DETAILED DESCRIPTION OF THE MEASURE

2.1. The notified measure

(3) Greece intends to grant a State guarantee to secure a loan from the EIB for the benefit of PPC, the incumbent electricity utility, in order for PPC to finance electricity generation projects on 18 Greek islands, mainly by upgrading and refurbishing existing generation units. The combined generation capacity concerned is approximately 290 MW and the total investment cost of the projects amounts to EUR 380 million. The following table provides an overview of the projects.

No.	Location	FUEL	ADDITIONAL POWER		
			Engine Type	No (#) / Unit Size (MW)	MW
1	Thira	Diesel/HFO	Reciprocating	8x1.27-1x10-1x10	30.16
2	Lesvos	Diesel/HFO	Reciprocating	8x1.355-2x11	32.84
3	Kalymnos	HFO	Reciprocating	1x8	8
4	Samos	HFO	Reciprocating	1x8	8
5	Kythnos	Diesel	Reciprocating	2x1	2
6	Serifos	Diesel	Reciprocating	2x1	2
7	Astypalaia	Diesel	Reciprocating	1x1	1
8	Skyros	Diesel	Reciprocating	1x1.8	1.8
9	Othoni	Diesel	Reciprocating	1x0.18	0.18
10	Ereikousa	Diesel	Reciprocating	1x0.18	0.18
11	Donousa	Diesel	Reciprocating	2x0.18	0.36
12	Anafi	Diesel	Reciprocating	2x0.25	0.50
13	Megisti	Diesel	Reciprocating	1x0.25	0.25
14	Limnos	HFO	Reciprocating	3x5.5	16.5
15	Kos	HFO	Reciprocating	(3x15-17)or(2x22-25)	51
16	Ikaria	HFO/Diesel	Reciprocating	2x2.5-2x1.3	7.6
17	Karpathos	HFO	Reciprocating	3x4	12
18	Rhodes	HFO/Diesel	Reciprocating	7x16,5	115.4
	Total				**289.77**

(4) The Greek authorities put forward that the projects are necessary to maintain security of electricity supply on these islands, which are not connected to the Greek mainland grid (hereafter, 'interconnected grid'). The projects will enable to accommodate for the expected increase in electricity demand in the near future. Furthermore, the improvement of efficiency of the generators will have the environmentally beneficial effects of saving fuel costs, lowering CO2-emissions and enabling a larger proportion of renewables generation.

(5) In November 2014 the EIB approved a EUR 190 million loan facility for the financing of the 18 projects, i.e. 50% of the total investment costs. The other 50% will be financed from PPC's own funds.

(6) The terms of the loan agreement between PPC and the EIB include the obligation of the provision of a guarantee by the Hellenic Republic for the total amount of the loan. In March 2015, PPC requested the Hellenic Republic by letter to

examine whether the latter would be willing to provide such guarantee. The Hellenic Republic has indicated that the premium payable to the State for the required guarantee is 1.50% per annum and covers the entire amount of the loan, i.e. EUR 190 million. However, the Hellenic Republic has thus far not issued the guarantee pending the notification of the measure to the European Commission.

(7) Greece has notified the measure as not constituting State aid, on the basis that the terms of the guarantee do not confer an advantage on PPC in view of the conditions set out in the Commission Notice of State guarantees, i.e. the fact that the State guarantee proposed is granted on market terms. The Greek authorities argue furthermore that in case the Commission should find the measure to constitute State aid, it would be compatible on the basis of Article 106(2) TFEU, in view of the present public service obligation (hereafter, 'PSO') imposed on PPC for the islands concerned.

2.2. The beneficiary

(8) PPC is Greece's largest power generation company and the country's main power supply company. In 2014, the nearly 7.4 million customers of PPC consumed 97.9% of the total electricity supplied to end-consumers in Greece.

(9) PPC is the operator of the existing installations the project intends to refurbish, upgrade and/or expand. To date, PPC is *de facto* and *de jure* the only undertaking carrying out the PSO as a supplier of consumers on the NII. Renewable energy generation on the islands increasingly contributes to the electricity production, but its contribution does not exceed 20% on any island.

2.3. The public service obligation

(10) PPC carries out a PSO on fifty non-interconnected islands (hereafter, 'NII'). The obligation consists in the supply of electricity to consumers on the NII at a price equal to that charged to consumers on Greece's interconnected grid. A compensation mechanism ensures that PPC is compensated for the higher costs it has for purchasing power generated on the NII than it would have made if it could have purchased the power on the interconnected system. The compensation methodology is developed and decided by the Greek regulatory authority RAE.

(11) By Decision C(2014)5902 of 14 August 2014 (hereafter, 'Derogation Decision'), the Commission granted Greece derogation from certain provisions of the Electricity Directive 2009/72/EC (hereafter, 'Electricity Directive').[1] Article 2 of the Derogation Decision *inter alia* grants a derogation from the provisions of Article 33 Electricity Directive on the NIIs until the necessary infrastructure to enable competition – as foreseen by the Greek NII Code – has been installed, but not beyond 17 February 2019.

(12) The Derogation Decision also concludes that there are substantial problems for the operation of conventional power plants on the NII and hence foresees derogation from Article 7(1) Electricity Directive until 1 January 2021, which implies that until 2021 Greece is not bound by the obligation to apply an authorisation procedure for expansions, refurbishments or upgrades of generation

[1] Commission Decision C(2014)5902 of 14 August 2014

units on the NII. This derogation in practice only applies to PPC as it is the only party operating existing conventional power plants on the NII.

(13) In its State aid Decision SA.32060 (2014/NN)[2] the Commission assessed the compatibility of the PSO and its compensation mechanism with the internal market. The Commission concluded that the PSO and its compensation mechanism fulfilled the conditions of the Framework for Services General Economic Interest (hereafter, 'the SGEI Framework')[3] and that the PSO was thus compatible with the internal market pursuant to Article 106(2) TFEU. The Commission noted that its decision only covered the duration of the aforementioned Derogation Decision, which runs until 17 February 2016 or until the necessary infrastructure had been installed to enable competition on the NII – as provided for by secondary legislation concerning network operation (hereafter, "NII Code") – to occur, whichever comes later.

(14) The PSO is laid down in the Greek Law 4001/2011, which implements the Electricity Directive. The abovementioned law explicitly limits the obligation of carrying out the PSO to PPC, but only until the necessary infrastructure has been installed to enable competition in the supply segment to occur on the islands. Hence, until the present day, the PSO has *de facto* and *de jure* only been carried out by PPC which has continued to be the sole supplier on the islands. The installation of this infrastructure is foreseen by the abovementioned NII Code but this has not been fully implemented to date.

(15) The fact that PPC is the only supplier on the NII does not mean it is the only generator of electricity on the islands. The PSO does not explicitly include the generation of electricity, thus enabling third party generators to become active on the islands. This in practice happens exclusively through the construction of renewable energy sources generation units. However, in order for these generators to become and remain active, PPC's existing conventional generation units are necessary as a back-up for the intermittency of the renewables.

(16) Pursuant to Article 133(3) of Greek Law 4001/2011:

"*With the exception of cases in which electricity is produced using renewable energy sources or by high-efficiency cogeneration or hybrid plants and in the case of auto producers, if a derogation has been granted in accordance with the provisions of Article 139, a generation licence shall only be granted to PPC SA in accordance with certain licensing regulations. PPC SA shall be responsible for the uninterrupted supply to micro isolated systems for which it obtains a licence and for safeguarding the long-term financial operation of the electricity systems on those islands*."

Pursuant to Article 134 of Law 4001/2011:

"*Without prejudice to Article 139 of the present law, supply licences for micro isolated networks shall be granted solely to PPC SA in accordance with the*

[2] Commission Decision C(2014)6436, State aid SA.32060 (2014/NN) – Greece, Alleged aid for discharging Public Service Obligations in the Non-Interconnected Islands, OJ C 203, 19.6.2015, p. 1.

[3] Communication from the Commission – European Union framework for State aid in the form of public service compensation (2011), OJ C 8, 11.1.2012, p.15.

requirements of Licensing Regulations. PPC SA must supply non-eligible customers with electricity on request" (note: non-eligible customers are consumers established in micro-isolated networks).

(17) The Greek authorities underline that in order to comply with its PSO of supplying the NII, PPC's existing conventional generation units are indispensable given that security of supply cannot be guaranteed in a system based on intermittent renewable sources only. It is against this background that the Derogation for existing conventional power generation on the NII in view of the substantial problems for their operation, must be viewed.

(18) The compensation methodology laid down by RAE is based on a so-called 'avoided cost' methodology, which means that the compensation that the supplier receives covers the cost difference between the interconnected system and the NII, whereby all costs are deemed equal except for the purchase of generated power. The full cost of production of PPC in the NII is taken into account in the calculation methodology for calculating the compensation. The Greek authorities put forward that the costs for the purchase of generated power will decrease thanks to the more efficient generation that will result from the upgrade and refurbishment of the ageing generation units.

2.4. The projects

(19) The projects concern the installation of fossil fuel fired reciprocating engine generation units on 18 NIIs. In 17 cases, the expansion, refurbishment or upgrade of existing diesel and heavy-fuel oil-fired plants is concerned. The 18^{th} project concerns the construction of a new thermal power plant on the island of Rhodes.

(20) As a result of growing demand forecast and the ageing of current installations, the Greek authorities put forward that all 18 projects for ensuring the development of autonomous power plants and smooth power supply on the islands in view of the fact that there is no alternative supply in case of failure of the existing autonomous plants, that existing renewable generation is not a reliable back-up particularly in times of peak demand (i.e. in the evening) and finally because many of the islands are not connected with other islands. The Greek authorities underline that the projects not only ensure continued security of supply but are also necessary to enable the development of third parties' production from renewable sources.

(21) The Greek authorities put forward that the refurbishment and upgrading of the existing plants is urgent in view of the state of the plants. Moreover, refurbishing and upgrading the plants will also result in more efficient power generation and hence substantially lower overall costs for PPC to acquire the power it needs to fulfil its supply obligation and therefore lower overall costs to be recovered from consumers' energy bills through the so-called PSO levy.

(22) Ongoing projects for the interconnection of a number of Greek islands on the basis of a ten-year network development plan by the Greek independent power transmission operator ADMIE do not concern the 18 islands.

(23) The Greek authorities underline that in view of the fact that the Derogation Decision does not apply to new capacity, it is relevant to clarify that the construction of the power plant in Rhodes was already underway and a licence by

the NRA had already been granted by the time the Derogation was adopted. The Derogation holds that:

'(60) For the purpose of this derogation: (a) existing conventional generation capacity comprises projects for the construction of conventional generation capacity for which a license by RAE has already been granted and has not been cancelled on the date this Decision takes effect;'

The Greek authorities furthermore clarify that PPC was obliged, as supplier of last resort, to ensure the continued security of supply on the island of Rhodes which it has done so far by operating existing units and renting far less efficient and more expensive movable diesel generators. The latter will be replaced by the new thermal power plant which, as put forward by the Greek authorities, will enable not only to cater for increasing demand, but to do so in a more cost-efficient and environmentally friendly way. In sum, even though the power plant in Rhodes is not operational yet, it must nevertheless be viewed as existing conventional capacity, operated by PPC, and therefore falls within the scope of the Derogation.

2.5. Budget

(24) The EIB loan consists of a total amount of EUR 190 million for the duration of [XX] years at an interest rate of [X]%. The premium payable to the State for the proposed guarantee amounts to 1.50% per annum and covers the total amount.

2.6. Duration

(25) The envisaged State guarantee at a premium of 1.50% per annum applies to the entire loan, which is to be paid back over a period of [XX] years. The financed assets are to be depreciated over a period of 25 years, i.e. by 4% per year.

3. ASSESSMENT OF THE MEASURE

3.1. Qualification of the measure as State aid

(26) According to Article 107(1) TFEU, "*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 internal market*".

(27) In determining whether a measure constitutes State aid within the meaning of Article 107(1) TFEU, the Commission has to apply the following criteria: the measure must be imputable to the State and involve State resources, it must confer an advantage on certain undertakings or certain sectors which distorts or threatens to distort competition and is liable to affect trade between Member States.

(28) In Decision SA.32060, the Commission concluded that the compensation granted to PPC for discharging its PSO is imputable to the State and granted through State resources, i.e. resources which are under the control of the State.

(29) In the present case, the aid that is granted to PPC does not directly concern the remuneration for carrying out the PSO, but rather the granting of a State

guarantee which enables PPC to carry out the investments which in turn are necessary for it to continue to fulfil its obligations under the PSO.

(30) For the sake of clarity, it should be underlined that it is only the State guarantee that is covered by this decision and not the EIB loan, because the latter is not a measure imputable to the Greek State.

(31) The Commission has published guidance on the application of the State aid rules of the Treaty to State guarantees[4] (hereinafter: "the Guarantee notice"), making it clear that the general criteria of Article 107(1) TFEU equally apply to guarantees. As indicated in the Guarantee notice, the benefit of a State guarantee for the beneficiary is constituted by the fact that the risk associated with the guarantee is carried by the State.

(32) As regards the application of the State aid criteria of Article 107(1) TFEU to the foreseen State guarantee, the Commission considers the following. As the guarantee is based on powers given by Parliament and can be issued only upon express decision by the Government, the decision to grant the guarantees is imputable to the State. The guarantees are granted from State resources since, in the event the Greek State would actually have to pay out money under the guarantees, the necessary funds would be drawn from the central State budget, which is consequently burdened by the financial risk linked to the guarantees.

(33) The guarantee is also selective since it covers one particular loan granted to one particular undertaking. Finally, as underlined in Decision SA.32060 the Greek market is open to competition and the compensation received by PPC for discharging the PSO on the NII can have an effect on its position on both the NIIs and the interconnected market where it holds a market share of 97.9% of electricity supply to end consumers. Accordingly, the granting of the guarantee to the benefit of PPC in the context of its carrying out of the PSO on the NII is liable to distort competition and intra-Union trade.

(34) In order to establish whether the guarantee constitutes State aid within the meaning of Article 107(1) TFEU, the Commission must also assess whether it provides an advantage to PPC. As indicated in the Guarantee notice, a State measure is not State aid unless it also provides the beneficiary with an advantage it would not otherwise have been able to obtain on market terms. In this context, in order to determine whether an advantage is being granted through a guarantee, the Commission should compare the State's behaviour with that of a normal economy market operator[5] (hereafter referred to as the "market economy operator principle"). Account should therefore be taken of the possibilities for a beneficiary to obtain equivalent financial resources by having recourse to the capital market. State aid is not involved where a new funding source is made available on conditions which would be acceptable for a private operator under the normal conditions of a market economy.

[4] Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees, OJ C 155, 20.6.2008, p. 10.

[5] This follows from extensive European Court of Justice's case law, see e.g. the Court's judgment in joined cases C 278-280/92, Spain v. Commission (Hytasa), ECLI:EU:C:1994:325

(35) The premium to be paid for the proposed State guarantee is 1.50% of the agreed amount per annum. The Hellenic State puts forward that given the current state of the Greek economy and its banking system, there is currently no corresponding guarantee premium benchmark. It furthermore underlines that guarantees from Greek banks would not have met the criteria of the EIB due to their rating at the time. Nevertheless, the Greek authorities have obtained an offer from one commercial bank which offered a premium of 2.6% per annum. However, the conditions and duration of that commercial guarantee are not comparable to those of the State guarantee at stake. The guarantee offered by the commercial bank would cover a loan of EUR [X] million and be applicable for a duration of [X] years only. It is reasonable to assume that the rate charged for a higher amount and longer duration would have been higher than [X]% and hence higher than the 1.5% premium charged by the Greek State.

(36) On this basis, the Commission concludes that it appears excluded that PPC would have been able to obtain a similar guarantee at the same price on the market. There is hence an advantage for PPC, amounting to the difference between the premiums payable to the State and the premiums that a market operator would have charged.

(37) With regard to the question whether the State guarantee is liable to distort competition and trade, the Commission notes that the Greek market is at least formally open to competition from foreign suppliers and that even if the generation via conventional sources on the NII can *de facto* and *de iure* be executed only by PPC, this does not take away the possibility that PPC may use the selective advantage it will receive through the State guarantee, to cross-subsidise its activities on the interconnected market.

(38) The State guarantee therefore constitutes State aid within the meaning of Article 107(1) TFEU.

3.2. Compatibility of the Aid

(39) In Decision SA.32060, the Commission assessed the PSO that PPC carries out on the NII and concluded that the compensation for providing the PSO constitutes aid and fulfils the conditions of the SGEI Framework and that the PSO was thus compatible with the internal market pursuant to Article 106(2) TFEU.

(40) Article 106(2) TFEU provides the legal basis for assessing the compatibility of State aid for SGEIs. It states that undertakings entrusted with the operation of SGEIs or having the character of a revenue-producing monopoly are subject to the rules contained in the Treaty, in particular to the rules on competition. However, Article 106(2) TFEU provides for an exception from the rules contained in the Treaty insofar as the application of the competition rules would obstruct, in law or in fact, the performance of the tasks assigned. This exception only applies where the development of trade is not affected to such an extent as would be contrary to the interests of the Union.

(41) Greece submits that the conditions of an exemption under Article 106(2) TFEU also apply to the proposed State guarantee, i.a. in view of the fact that it will ensure the financing of projects which are necessary for security of supply and equal quality of services of residents of the islands concerned.

(42) The Commission considers that in order to assess whether the proposed State guarantee should indeed be regarded as aid granted in the context of the existing PSO, which has been found compatible with the SGEI Framework, it needs to be demonstrated that the PSO can not be carried out without ensuring a sufficient degree of conventional generation capacity. If it is confirmed that the projects on the eighteen islands are necessary to continue to carry out the PSO, then it moreover must be established that the aid granted by way of the State guarantee fulfils the criteria of the SGEI Framework.

(43) In Decision SA.32060, the Commission established that the main PSO entrusted to PPC is to supply customers on the NII at standard tariffs similar to the tariffs enjoyed by customers in the Greek interconnected system. The Commission found that in view of the derogation from Article 33 of Directive 2009/72/EC for market opening as granted to Greece by the Derogation Decision, the PSO is in line with the applicable sectorial legislation for as long as the Derogation Decision is valid. The Commission considered that the PSO at issue concerns a particular form of price regulation and is designed to address the very specific geographical and economic situation of the NII, underlining that the small scale electricity generation necessary to supply the small number of customers on the micro isolated systems will always incur higher costs than generating power in large power plants.[6] The Commission concluded that due to the costs of electricity generation in the NII the public service at stake cannot be provided satisfactorily and under conditions consistent with the public interest by undertakings operating under normal market conditions.

(44) Whilst not explicitly recognised in Decision SA.32060, the Commission considers that the PSO and hence the SGEI must be understood to include the obligation to generate sufficient electricity to meet demand on the NII and thus includes existing conventional generation units. The investment projects covered by the EIB Loan must therefore be regarded as an integral part of the PSO, currently entrusted to PPC and the State guarantee has to be analysed as an additional compensation measure for this PSO. This follows from the nature of the obligation on PPC, which is to ensure the supply of end consumers with electricity at standard tariffs. Electricity can only be supplied in sufficient quantities when sufficient power is generated. Whilst the share of renewable generation on the islands concerned is growing, the stable supply of consumers is crucially dependent on the continued operation of conventional power generation. When insufficient quantities of renewable power are generated to meet demand, PPC has no option but to meet the missing volumes through its own conventional generation units, given that PPC is *de jure* and *de facto* the only party with a generation licence for power generation from non-renewable sources. It is thus not possible to carry out the PSO without relying on the generation of power in the existing conventional generation units.

(45) The need to regard PPC's conventional generation units as forming an integral part of the PSO is also recognised by the Derogation Decision, which states that there are substantial problems for the operation of conventional power plants on the NII and that hence grants derogation from Article 7(1) Electricity Directive until 2021 so as to ensure the continued operation of the units. The Derogation Decision thus consists of two parts: a derogation from market opening rules for

6 Recitals (140) and (141)

the entire NII and a derogation from generation related rules for the upgrading, refurbishing and expanding of existing conventional power generation.

(46) This latter derogation implies that until 2021 Greece is not bound by the obligation to apply an authorisation procedure for expansions, refurbishments or upgrades of existing conventional generation units on the NII. The projects for which PPC intends to secure the EIB loan are therefore covered by the Derogation Decision and part of the derogation foreseen for the NII. As long as the derogation is in place, the PSO of supplying consumers on the NII can only be carried out by PPC.

(47) In expanding, upgrading and refurbishing its conventional fuel generators, PPC is thus carrying out its PSO of supplying end consumers on the NII with electricity at standard tariffs similar to the tariffs enjoyed by the customers in the Greek interconnected system. Moreover, the Commission notes that the Greek authorities have convincingly demonstrated the urgent need for the upgrading, refurbishment and expansion projects on the islands concerned.

(48) The Commission therefore concludes that the generation of electricity by means of existing conventional power plants is an integral part of the PSO on the NII which constitutes a recognised genuine service of general economic interest as referred to in Article 106 TFEU.

(49) The fact that the aid that is granted by way of the State guarantee is part of an existing SGEI, does not take away the fact that a new compensation mechanism is concerned for which it needs to be ascertained that it meets all the compatibility criteria as foreseen by the SGEI Framework. The following sections assess the compatibility with these criteria whereby Decision SA.32060 is referred to where relevant and additional assessment is provided where the criterion is not sufficiently covered by Decision SA.32060.

3.2.1. Entrustment of the SGEI to PPC

(50) With regard to the entrustment of the SGEI to PPC, the assessment of the measure as provided for in paragraph 3.3.3. of Decision SA.32060 is applicable also to the proposed State guarantee, which implies that the Greek legislation defines the PSO as an SGEI and places an obligation on suppliers to provide the PSO at a regulated price. The legislation foresees that in case a derogation is in place a supply licence for the NII shall be granted solely to PPC. The Greek legislation as quoted in recital (14) of the present Decision furthermore foresees that as long as a derogation is in place a generation licence for non-renewable generation shall only be granted to PPC.

3.2.2. Duration of the entrustment period

(51) Paragraph 17 of the SGEI Framework determines that: *'The duration of the period of entrustment should be justified by reference to objective criteria such as the need to amortise non-transferable fixed assets. In principle, the duration of the period of entrustment should not exceed the period required for the depreciation of the most significant assets required to provide the SGEI.'*

(52) The PSO can only be carried out by PPC exclusively for as long as the NII enjoy derogation from Third Energy Package requirements. In the same vein, Decision

SA.32060 only covers the duration of the Derogation Decision, which for the derogation from market opening rules runs until 17 February 2016 or until the necessary infrastructure as provided for by the NII Code has been installed to enable competition on the NNI to occur, whatever comes later. However, as explained above, the Derogation Decision contains a separate derogation regarding the upgrading, refurbishing and expanding of existing conventional power generation units. This derogation runs until 2021.

(53) The Greek authorities note that the NII Code has not been fully implemented yet and that therefore competition on the supply market is as yet not possible. Therefore the PSO is at present still entrusted exclusively to PPC.

(54) The Commission considers that whilst the NII Code should be implemented as soon as possible with a view to enabling competition in the supply segment of the market, the possible introduction of new parties carrying out the PSO does not take away the necessity of PPC's conventional power generation units and the need for their upgrade, refurbishment and/or expansion. Even when multiple suppliers will compete for the supply of the consumers on the NII concerned, these suppliers will remain dependent on these generation units. The Derogation Decision acknowledges that there are substantial problems for the operation of these units at least until 2021 and as long as the derogation is in place PPC will remain the only party with a generation licence for these plants on the NII.

(55) The State guarantee, which grants the aid to PPC by applying a non-market based interest fee, runs as long as the EIB Loan has not been paid back. The EIB Loan will be paid back over a period of [XX] years. The Commission notes that it is therefore likely that the current derogation, applicable to the existing generation units, will expire before the loan and the State guarantee ends. The Commission however also notes that Decision SA.32060 contains an invitation to Greece to notify in case of it being maintained beyond the end of the Derogation.[7] Finally, the Commission considers that, in view of the fact that the SGEI is principally aimed at ensuring the delivery of power to consumers on the NII at prices below the elevated generation costs applicable on the NII, the end of the derogation will not automatically result in lower generation costs of the existing conventional generators on the NII and that hence it cannot be excluded that measures aimed at ensuring affordable electricity consumption on NII will be applicable in the future.

(56) The Commission hence concludes that in case the State guarantee should continue to apply to the EIB Loan beyond the abolishment of the PSO, then the conditions of the State guarantee should be revised to reflect a market-based rate, in order for it not to constitute State aid.

3.2.3. Amount of compensation

(57) Point 21 of the SGEI Framework states that "(...) *the amount of the compensation must not exceed what is necessary to cover the cost of discharging the public service obligations, including a reasonable profit*".

[7] Recital (211)

(58) It has already been established in Decision SA.32060 that the compensation methodology applied by RAE for the PSO and described in that decision complies with this criterion. The compensation methodology described in that decision takes into account the costs incurred by PPC for the purchase of power, including from its own conventional generation units. The compensation methodology moreover takes into account the capital costs of the production of PPC, namely by calculating a reasonable return on capital employed. This means that the interest fees paid to the EIB for the loan and to the State for the guarantee are passed on through the PSO levy.

(59) It this context it is relevant to underline that the aid to PPC as a result of the granting of the State guarantee to the EIB consists of the difference between the premium PPC will pay to the State and the premium PPC would have paid if it had to acquire a similar guarantee on the financial market.

(60) It also means that a costlier capex for the production units translates into a higher PSO levy. The Greek authorities underline that without the EIB Loan a much costlier loan would have to have been entered into by PPC with higher compensation costs under the PSO as a result. These compensation costs would continue to be higher even after the Derogation period is over, because the generators would still be able to recover their costs via the compensation methodology. The Greek authorities put forward that such scenario would have been highly costly for PPC, and therewith for the Greek consumers on whom the levy is imposed, given the financial situation it is currently in.[8]

(61) On this basis the Commission concludes that the cost-based compensation mechanism does not exceed what is necessary to cover the cost of discharging the public service obligations, including a reasonable profit. Moreover, the current approach, where a State guarantee is granted at what can be assumed as a lower than market-based rate, has the actual effect of lower PSO-related costs and thus a lower overall compensation for PPC. This conclusion however applies only for as long as PPC carries out the SGEI. The Commission considers that should the State guarantee continue to apply to the EIB Loan beyond a possible abolishment of the PSO, then the conditions of the State guarantee should be revised to reflect a market-based rate.

3.2.4. Compliance with Directive 2006/111/EC

(62) According to point 18 of the SGEI Framework: "Aid will be considered compatible with the Internal Market on the basis of Article 106(2) of the Treaty only where the undertaking complies, where applicable, with Directive 2006/111/EC on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings".

[8] The Greek authorities have provided the Commission with a calculation of the extra cost that PPC would have borne if it had to seek a similar guarantee on the private market. This calculation takes as a proxy the PPC 5-year bond yield (given that State guarantees can only be granted by states the assumed counterfactual scenario is that the EIB Loan would have fallen through) of 7 December 2015, i.e. 9.652%. On that basis, the Greek authorities estimate that the extra financial cost is an extra interest rate of [X]% ([X] -/- ([X] + [X])) which for the whole duration of the [XX] year loan equals approximately EUR 120 million.

(63) In Section 3.3.5. of Decision SA.32060, the Commission ascertained that PPC complies with the obligations under Directive 2006/111/EC.

3.2.5. *Public procurement requirements*

(64) Point 19 of the SGEI Framework, applicable to measures put in place after 31 January 2012, requires that the responsible authority entrusts the provision of the service in question in compliance with the applicable Union rules in the area of public procurement.

(65) In Section 3.3.6. of Decision SA.32060, the Commission concluded that there was no tendering requirement at the time of entrustment. This conclusion also holds for the current decision, in view of the existing exemption for existing conventional generation on the NII.

(66) For the sake of clarity, the Commission adds that Greece has ensured that the public procurement rules applicable to PPC in disbursing the EIB loan, by contracting the services necessary for the upgrade, refurbishment and expansion of the plants, have been or will be adhered to.

3.2.6. *Absence of discrimination*

(67) Point 20 of the SGEI Framework provides that where the authority assigns the provision of the same SGEI to several undertakings, the compensation should be calculated on the basis of the same method for each undertaking.

(68) The Commission notes that PPC is the only operator of existing conventional generation facilities on the NII. The Commission also considers that the conclusion of Section 3.3.6. of Decision SA.32060 continues to hold, which argued that because the method of calculation the compensation for supplying the NII customers is provided by the law, it would be applicable to all entities providing such services in the same manner.

3.2.7. *Additional requirements which may be necessary to ensure that the development of trade is not affected to an extent contrary to the interests of the Union*

(69) As provided by Point 51 and further of the SGEI Framework, the requirements set out in sections 2.1 to 2.8 of that Framework and assessed in this Chapter, are usually sufficient to ensure that aid does not distort competition in a way that is contrary to the interests of the Union. It is conceivable, however, that in some exceptional circumstances, serious competition distortions in the internal market could remain unaddressed and the aid could affect trade to such an extent as would be contrary to the interest of the Union. In such a case, the Commission will examine whether such distortions can be mitigated by requiring conditions or requesting commitments from the Member State. Serious competition distortions such as to be contrary to the interests of the Union are only expected to occur in exceptional circumstances. The Commission will restrict its attention to those distortions where the aid has significant adverse effects on other Member States and the functioning of the internal market, for example, because they deny undertakings in important sectors of the economy the possibility to achieve the scale of operations necessary to operate efficiently.

(70) Decision SA.32060 concluded that the PSO of supplying electricity at standard prices to the clients on the NII has been set up so that it applies to any company active in the respective market. De facto and de iure, PPC is currently the only supplier providing the public service on the basis of the Derogation Decision due to the specificities of the NII market. Consequently, the Commission considered that there were no exceptional circumstances leading to serious competition distortions in the internal market that would remain unaddressed or to an affectation of trade to such an extent as would be contrary to the interest of the Union.

(71) The Commission concludes that this reasoning also applies in the present case because the measure targets existing power plants only[9], which are all operated by PPC. The guarantee could therefore not have been offered to any other party. Even though the measure, by granting a selective advantage to PPC, is liable to have an effect on competition on the generation market, the measure minimises this distortion by limiting its application to existing generation only, which means that any direct distortions of competition on the market for new generation capacity, for instance in RES, is avoided. For this reason, the Commission deems it reasonable to exclude that the aid has significant adverse effects on the functioning of the internal market.

3.2.8. Conclusion of the assessment

(72) On the basis of the assessment above, the Commission concludes that the proposed State guarantee is to be regarded as granted in the context of PPC's PSO of supplying electricity to consumer on the NII, of which it has been established by Decision SA.32060 that it fulfils the conditions applicable to SGEIs, and that all the conditions of the SGEI Framework are fulfilled as regards the proposed State guarantee.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 106(2) of the Treaty on the Functioning of the European Union.

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Your request should be sent electronically to the following address:

European Commission,
Directorate-General Competition
State Aid Greffe
B-1049 Brussels
Stateaidgreffe@ec.europa.eu

[9] On the basis of Recital (21) the power plant in Rhodes must be regarded as existing capacity for the purpose of the Derogation.

Yours faithfully
For the Commission

Margrethe VESTAGER
Member of the Commission