

14th Madrid Forum

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European Federation of Energy Traders

Directive 2003/55: Article 22 exemptions

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Directive 2003/55 – Article 22 exemptions

Start with the fundamentals.



First make sure the regulatory TSO regime is effective

- § **Improve the co-ordination of investments that should be made by regulated Transmission System Operators (TSO)**
- § **Clarify what investments the regulated grid operators (TSOs) should be making**
- § **For pipeline projects: only interconnectors that are not responsibility of TSOs should be considered for TPA exemption under article 22**

Directive 2003/55 – Article 22 exemptions

The guidelines are worthwhile and we support them



Guidelines need to provide certainty and consistency

- § focus on the ‘5 tests’
- § detail is needed on the competition analysis process

Exemptions are for major infrastructure, all must

- § provide information about aggregate infrastructure use
- § offer unused capacity to the market

Directive 2003/55 – Article 22 exemptions

Some key answers on ERGEG Consultation (I)



Are general principles and guidelines appropriate?

- § **Welcome guidelines to provide consistency and transparency**
- § **Regulators need to be transparent about their assessments**
- § **Same results when applied by different regulators**

View on scope of eligible infrastructure?

- § **Article 22 should remain for major infrastructure projects that are outside the responsibility or obligations of a regulated TSO**
- § **Differences between interconnectors, LNG terminals and storage need to be recognised**

Directive 2003/55 – Article 22 exemptions

Some key answers on ERGEG Consultation (II)



Are open season procedures appropriate?

- § EFET views on Open Seasons (see www.EFET.org January 2007)
- § Most Open Seasons are failing to deliver either the clarity on economics or the consistency between TSOs and regulators that are both needed for efficient interconnector investment
- § Improvements to Open Season procedures are urgently needed
- § Important to consider fully whether or in what form an open season may or may not be practicable

- § Open Seasons should not be mandated for equity allocation

Directive 2003/55 – Article 22 exemptions

Some key answers on ERGEG Consultation (III)



Should deciding authorities be entitled to review the exemption?

§ **Yes, review if market conditions and structure have changed such that the exemption is now detrimental to competition and security of supply, or if there is evidence of failure to comply with conditions**

§ **But regulatory certainty is crucial for investment decisions and mandated review requirement after a period of time could seriously undermine this**



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