

Frequently asked questions



To participate at the Non-Binding Phase 1 of the 2009 Open Season Procedure a license for the trade, distribution or transmission of gas should be attached to the application. Should the required license be valid only for the Republic of Poland or are any other licenses valid outside of the Republic of Poland allowed under the 2009 Open Season Procedure?



Gaz-System has launched the 2009 Open Season Procedure with the purpose of establishing new interconnectors with the national transmission systems of two other Member States – Denmark and Lithuania. In order to achieve this objective, Gaz-System intends to cooperate with entities that can ensure the correct performance of their obligations, resulting from the transmission contracts concluded under the 2009 Open Season Procedure and complying with the provisions of law. Since the planned interconnectors shall intersect: (1) in case of the interconnection with Denmark– the territories of Poland and Denmark, (2) in case of the interconnection with Lithuania – the territory of Poland, obligations resulting from the Polish provisions of law (in particular the Energy Law Act) and from the Danish provisions of law have to be observed. The Regulations of the 2009 Open Season Procedure stipulate that *The legal grounds for conducting the 2009 Open Season Procedure shall be laid down by the provisions of the Energy Law Act of 10th April 1997, (Unified text, Journal of Laws of 2006, No. 89, item 626 No. 104, item 708, No. 158, item 1123, No. 170, item 1217, 2005, No. 62, item 552, 2007, No. 21, item 124, No. 04, item 07, No. 52, item 343, No. 06, item 24, No. 115, item 790, No. 130, item 905, 2008, No. 01, item 01, No. 180, item 1112) (point 1.2).*

According to Article 32 of the Polish Energy Law Act a licence shall be required to perform business activity of the scope of (1) the transmission or distribution of fuels, (2) trade in fuels. As a consequence, an undertaking which intends to conclude a transmission contract under the 2009 Open Season Procedure in order to transmit natural gas to Poland and subsequently perform business activity, that would encompass transmission, distribution or trade in the natural gas, shall be obliged to hold an appropriate licence. Similar regulations have been set forth in the Danish law. In particular Act of 8th November 2006 No. 1116 on natural gas supply has to be considered. This Act introduces an obligation to obtain a licence to perform activity of scope, among others, transmission, distribution and storage of natural gas. Since such undertaking's business activity will be only possible, after the interconnector has been constructed, the Regulations of the 2009 Open Season Procedure do not require from the undertaking to present the licence when submitting the declaration of participation in the 2009 Open Season Procedure. An undertaking intending to participate in the 2009 Open Season Procedure shall be obliged to present an appropriate licence **within 30 days before the commencement of the provision of transmission services** (required under the Polish or Danish law). Nevertheless, in such case, when submitting the declaration of participation in the Open Season Procedure, it has to present a declaration that that the licence will be provided within 30 days before the commencement of the provision of transmission services. If the undertaking intending to participate in the Open Season Procedure already performs business activity and is a licence holder, the Regulations require from such an undertaking to present that licence (required under the Polish or Danish law).

It is possible that in certain cases no licence will be required under the provisions of law. For example if the undertaking intending to participate in the 2009 Open Season Procedure does not plan to perform business activity and intends to transmit the natural gas via the new interconnector solely for the purpose of its own consumption, it is not obliged under the Polish law to obtain a licence. Also in such case the undertaking is not obliged to present a licence. The undertaking shall however present a declaration signed by the

Management Board (persons empowered for representation), that the activities thereof do not require any licences. Please refer to the following provision of the Regulations of the 2009 Open Season Procedure, contained in point 2.1.1., regarding the necessary documents that have to be presented:

a certified true copy of the original license or license promise for the trade, distribution or transmission of gas or a declaration that the license will be provided within 30 days before the commencement of the provision of transmission services or a declaration signed by the Management Board (persons empowered for representation) of the undertaking intending to participate in the Open Season Procedure, that the activities thereof do not require any licences.