



Unofficial translation

Ordinance № 2 of 19 March 2013 on Natural Gas Price Regulation

(suppl. SG, 17/ 28 February 2014, am. SG, 65/ 25 August 2015, amended and suppl. SG, 94/4 December 2015, amended and suppl. SG, 105/ 30 December 2016)

Chapter One GENERAL PROVISIONS

Article 1. (1) This Ordinance regulates:

1. natural gas price regulation methods, rules for the natural gas price formation or determination and amendment, the procedure of providing information, submission of price proposals and their approval;
- 2 methods for energy enterprises compensation of costs incurred by imposed public service obligations under the Energy Act;
3. terms and conditions for networks connection price formation;
- 4.terms and conditions on natural gas access and transmission through the transmission/distribution networks price formation.

Article 2. (amended, SG No.94/2015, in force since 4 December 2015) Under the Ordinance terms, the Energy and Water Regulatory Commission (herein “the Commission”, EWRC) regulates the following prices:

1. prices, at which the public provider sells natural gas to the natural gas suppliers of last resort and to consumers connected to the natural gas transmission network;
2. prices, at which suppliers of last resort sell natural gas to the consumers connected to the respective natural gas distribution networks;
3. (amended, SG No.94/2015, in force since 4 December 2015) prices of natural gas access and transmission through the transmission/distribution networks, except the cases where the Commission at its own discretion, approves a methodology for price formation of access and transmission through the transmission network;
4. prices for natural gas access and storage in storage facilities;
5. prices for connection to the natural gas transmission and distribution networks;
6. prices for provided to the consumers services, defined by the Commission, related to the licensed activity.

Article 3. (1) When exercising its price regulation powers, the Commission may apply different regulatory methods, may define efficiency indicators for the energy enterprises, benchmarking indicators and basic criteria performance.

(2) The Commission applies the following basic price regulation methods:

1. “rate of return on capital”, where the Commission, after carrying out a regulatory review, approves prices and annual revenue requirements of the energy enterprise for a regulatory period not shorter than one year. Following regulatory review shall be carried out with a Commission’s decision or at the energy enterprise request when significant deviations occur between the approved and reported revenue requirements elements.

2. “price cap” and “revenue cap” regulation, where the regulatory period duration is from 2 to 5 years. After a regulatory review the Commission approves prices and annual revenue requirements of the energy enterprise for the first year of the regulatory period and may amend them at the end of each price year or at the end of the regulatory period in compliance with Chapter Three of the Ordinance.

(3) (amended, SG No.94/2015, in force since 4 December 2015) for price regulation purposes, the Commission may apply benchmarking indicators between the energy enterprises and may require the performance of basic criteria based on analyses using the good practices data at national and international level.

(4) by a decision and at its own discretion, the Commission defines the price regulation method applied to the energy enterprises, led by the principles laid down in art. 23 and 31 of the Energy Act.

(5) in the cases when the Commission, at its own discretion, approves the price formation methodology for access and transmission through the transmission network, at the same time it defines the regulation method as well.

Article 3a.(New - SG, 17/2014, in force as of 28.02.2014, repealed by Decision No.15465 of 18.12.2014 of the SAC - SG, 65/2015, in force as of 25.08.2015).

Article 4. (1) The energy enterprises’ accounting shall be carried out in a way that the financial reports shall be elaborated in consistence with the requirements of the Accounting Act and applicable accounting standards.

(2) For regulation purposes, energy enterprises lead separate accounting records under the requirements of art. 37 of the Energy Act.

(3) (amended, SG No.94/2015, in force since 4 December 2015) The rules for keeping separate accounts, including assets allocation for pricing purposes by group of clients and activities, as well as the form and content of the financial statements for regulation purposes, are adopted by a Commission decision at the proposal of the relevant energy enterprise.

(4) (amended, SG No.94/2015, in force since 4 December 2015) Financial reports for regulation purposes shall be accompanied by reports and additional information presenting that all requirements for the licensed activity performance, including non-admission of cross-subsidization, pursuant to art.31, item 6 of EA, are met in the submitted price proposals or in the defined in art. 2, item 3 prices.

(5) The form and content of the information required for price formation purposes are set by Commission’s instructions, which instructions are mandatory for the energy enterprises.

(6) (amended, SG No.94/2015, in force since 4 December 2015) Rules under para.3 shall be amended on the Commission’s initiative or at the proposal of the energy enterprises and applied as of the beginning of the calendar year following the date of their adoption or their amendment.

Article 5. (amended, SG No.94/2015, in force since 4 December 2015) (1) The Commission may approve the regulated under the Ordinance prices by components depending on the cost structure or common prices, which include two or more components.

(2) The Commission may approve, at the request of a licensee that holds more than one license for natural gas distribution and/or natural gas supply by end supplier and a proven positive effect to customers, uniform prices by customer groups for territories within the scope of these licenses.

(3) The Commission approves prices with no value added tax included.

Article 6. (amended, SG No.94/2015, in force since 4 December 2015) Energy enterprises may apply lower than the approved by the Commission prices provided this do not lead to cross-subsidization among separate activities and among customers groups too.

Article 7. (1) Upon the proposal of energy enterprises, the Commission approves natural gas quality indicators and sets service quality indicators for each licensing activity and their annual target levels.

(2) Natural gas quality indicators and service quality indicators are components of the license requirements.

(3) For price regulation purposes, the achievement of each of the target indicators shall be the criterion for the overall performance of the licensed activity of the energy enterprise.

Article 8. (1) In order to guarantee the customers interests, the Commission shall adjust the revenue requirements and/or prices of the energy enterprise for each price period depending on the performance of the natural gas quality indicators and service quality indicators in the previous year.

(2) (amended, SG No.94/2015, in force since 4 December 2015) In case the performance of the natural gas quality indicators and/or service quality indicators of the energy enterprise do not reach the target indicators for the relevant price period, the respective performance level reflects in reducing the revenue requirements and/or prices for the following price period under a defined by the Commission methodology.

Chapter Two PRICE FORMATION

Section I Price formation components

Article 9. (amended, SG No.94/2015, in force since 4 December 2015) Annual revenue requirements for the relevant licensing activity include economically justified costs and the return on capital under the following formula:

$$R R = C + (RAB \times RR),$$

where:

RR - annual revenue requirements;

C – annual licensed activity costs;

RAB – allowed by the Commission regulatory asset base;

RR - set by the Commission rate of return on capital for the regulatory period.

Article 10. (1) The types of costs directly related to the relevant licensed activity, which are included in the price formation are divided into two main groups: conditional-fixed costs and variable costs according to their relation to the natural gas quantity and/or to the service provision. In each of the specified groups, costs shall be indicated by economic elements too.

(2) The Commission approves the forecasted amount of costs under para. 1, assessing their economic justification based on the presented by the energy enterprise evidence under para. 3, based on benchmarking analyzes using local and international practice data and taking into consideration the current control outcomes considering the regulation principles under the Energy Act.

(3) The Commission requires the energy enterprise to present a written justification and evidence for all or some of the costs and their relation to the licensed activity performance.

(4) (deleted, former 5 - amended, SG No.94/2015, in force since 4 December 2015) For price regulation purposes, costs, which are not related to the relevant licensed activity, financial costs and costs with occasional and/or extraordinary nature, shall not be included in the allowed by the Commission costs, as well as the following:

1. costs related to the natural gas sale at freely negotiated prices;
2. tax costs related to the corporate income taxation of the profits;
3. costs on sanctions and/or penalties imposed by state or municipal bodies or by the Commission;
4. costs related to charges and other payments resulting from violation of agreements and interest for delays;
5. costs for future periods, which are part of the income report;
6. (amended, SG No.94/2015, in force since 4 December 2015) costs for impairment losses, current costs of accrued provisions of obligations under art. 38 of Corporate Income Taxation Act (CITA) and expenses for impairment losses excluding costs for impairment losses on inventories of natural gas;
7. costs under art. 204 of CITA, as well as costs for accrued tax on them under art. 216 of CITA;
8. costs for donation and unused leave;
9. all other costs, where lack of technical-economic or other justification and evidence of the energy enterprise is in presence;
10. costs, for which the Commission reasonably assumes, that are not in the interest of customers or costs, which do not appear necessary for the licensed activity performance;
11. (amended, SG No.94/2015, in force since 4 December 2015) legal costs other than State fees related to the opening of recovery cases;
12. (new, SG No.105/2016, in force since 30 December 2016) expenses under art.17, para.14.

Article 11. (amended, SG No.94/2015, in force since 4 December 2015) (1) Allowed by the Commission costs of the energy enterprises incurred from public service obligations shall be compensated through the prices payable by all consumers in a non-discriminatory and transparent manner.

(2) The total amount of costs related to public obligations and recognized by the Commission, is included in the annual revenue requirements of the transmission company;

(3) The expenses under par. 2 shall be reimbursed as part of the service value by all natural gas consumers on the basis of their measured consumption and shall be defined as a separate component in the approved or determined under the methodology of art. 2, item 3, price for transmission through the gas transmission network;

(4) The way to offset the costs arising from public service obligations of the respective energy companies, and the mechanism by which these costs are reimbursed to energy companies that have suffered them are determined in methodology adopted by the Commission.

Article 11a. (new, SG No.105/2016, in force since 30 December 2016) (1) Where a public

service obligation is imposed on more than one energy undertaking, the resulting of the obligation costs are offset by the respective energy companies in proportion to the part of their commitment to the public service obligation, through the prices paid by their customers;

(2) In the cases under para. 1 the costs recognized by the Commission are determined as a separate component in the approved price of the respective energy company and are reimbursed by its customers and/or end suppliers of natural gas with which a supply contract has been concluded, based on their measured consumption;

(3) The component under para. 2 shall be formed on the basis of the reasoned estimated cost of the imposed public service obligation for the respective year and the forecast natural gas quantities for the same year;

(4) When in the year under par. 3 the energy enterprise has more than one price period, the component under para. 2 shall be adjusted for each subsequent price period on the basis of the difference between forecasted and actual reported costs of the imposed public service obligation in the previous price period.

Article 12. (amended, SG No.94/2015, in force since 4 December 2015) (1) The approved by the Commission regulatory asset base for assets acquired after a payment by the energy enterprise and directly connected to the licensed activity, shall be the allowed asset value on which the energy enterprise receives return of the invested capital and includes the following elements:

$$RAB = A - CG - D + WC + INV$$

where:

RAB – regulatory asset base;

A - allowed reported value of used assets and useful assets;

F – balanced value of assets acquired through financing or in gratuitous way, including grand schemes, donations, social assistance, by customers, etc.;

D - depreciation, set for regulatory purposes for the period of asset use related to the licensed activity and calculated applying a linear method;

WC – required working capital;

I – the amount of investments approved by the Commission in the cases of regulation under art. 3, para. 2, item 2.

(2) (amended, SG No.94/2015, in force since 4 December 2015) The allowed asset value (*A*) is the adopted by the Commission reported value of assets as to the end of the base year, which assets are used and directly related to the licensed activity.

(3) (amended, SG No.94/2015, in force since 4 December 2015) In the allowed value of non-current assets (*A*) the following shall not be included:

1. costs of acquired assets in the form of non-accomplished commissioning;
2. assets, reported under an agreement of financial leasing, in case they are not related to the direct licensed activity;
3. assets, related to non-licensed activities (incl. recreational facilities, other social places) and/or leased assets, decommissioned and other;
4. value of assets exceeding market levels for similar or analogous assets, including revalued assets.

(4) Depreciation costs are calculated based on justified by the enterprise and allowed by the Commission technical and economic useful life of the assets applying a linear method of depreciation.

(5) The working capital allowance in the regulatory asset base shall reflect the results of a study of the funds required to maintain a suitable level of receivables and cash to meet current obligations, as

well as payables to suppliers. The working capital allowance study is for a period not shorter than one year.

(6) The energy enterprise may calculate the working capital likewise on the basis of the so called “Net commercial cycle”, based on the number of days for which the company returns the spent cash funds to provide the services. The enterprise presents the study as a component of the tariff application.

(7) The components forming the working capital are: net revenues of natural gas transmission/ distribution/ storage/sales, activity cash costs, payables from customers and suppliers (uncollectable receivables not included), inventories and payables to suppliers and customers related to the regulated activities in compliance with the annual financial statements of the enterprise.

(8) In case the enterprise does not provide the required documents and information under para. 5, 6 and 7 or the Commission assumes that the working capital value is not justified, this value is set as not higher than 1/8 of the approved annual working cash costs of the licensed activity and depreciation costs and impairment costs of uncollectable receivables are not included.

(9) Investments, which are to be done during the regulatory period shall be presented by years, excluding the investments by which assets under para. 3 are created or acquired.

(10) Energy enterprises regulated through the methods under art. 3, para. 2, item 2, submit for approval detailed justified investments by years, by directions and unit/sites groups aiming the record of the target indicators performance of natural gas quality and service quality.

(11) The justification of the proposed for approval investment includes the achievement of specific objectives regarding the licensed activity performance, including network development and improvement, security of supply enhancement, technological costs reduce and other goals.

(12) The Commission may include in the regulatory asset base investments based on presented by the energy enterprise detailed report and analysis on their implementation and results achieved regarding natural gas and customers service quality, as well as efficiency changes.

Article 13. (1) The Commission sets rate of return on capital for the regulatory period equal to a forecast weighted average cost of capital. The weighted average cost of capital is the estimated by the Commission target rate of return of the energy enterprise on equity and debt, weighted according to the share of each of these financing resources in the set target capital structure.

(2) The rate of return on capital is estimated as a rate on a pre-tax basis by the following formula:

$$RR = C_{EP} \times \left(\frac{RR_{EQ}}{1 - \frac{TR}{100}} \right) + C_{DP} \times RR_D$$

where:

RR - is the rate of return on capital, before taxation;

C_{EP} - the equity portion of capital;

RR_{EQ} - the rate of return on equity, after taxation;

TR - the corporate profit tax rate in compliance with the Corporate Income Tax Act, %;

C_{DP} - the debt portion of capital;

RR_D - is the rate of return on debt, in line with the market rate.

(3) The Commission sets rate of return on capital before taxation, calculated at target rate of return on equity after the taxation, target rate of return on debt and target capital structure of equity/debt.

(4) The Commission sets rate of return on capital considering a number of factors like: riskless profitability, comparisons with other companies with similar risk levels, access to financing, current financial and economic conditions in the country, alternative cost of capital, the specific risk of the company, the financial policy and capital structure of the company, the company’s financial history, based on statistic data of the market values and/or officially published forecast information.

Section II

Allocation of revenue requirements by customers groups

Tariffs and tariff structures

Article 14. (1) Energy enterprises may propose for approval by the Commission different tariff structures by customers groups, reflecting the allocated annual revenue requirements needed for the service provision for each group based on presented service value study.

(2) Customers groups are approved by the Commission at the proposal of the energy enterprises depending on similar consumption characteristics and/or other feature.

(3) Tariff structure costs/prices may include the following components: capacity price, natural gas transmission price, provision or supply price, as well as other components depending on the costs structure.

Article 15. (1) The Commission may set hourly, season and other tariff structures for the customers groups under art. 14, para. 2 based on technical and economic justification under art. 32, para. 2, item 2 of EA.

(2) (deleted, SG No.94/2015, in force since 4 December 2015).

Article 16. (1) The Commission issues instructions for the access and transmission through the transmission network price formation or approves methodology for the access and transmission through the transmission network price formation.

(2) Access and transmission prices are set using the entry-exit tariff system and every network point has a price formation set by following an individual tariff.

(3) In applying the entry-exit tariff system for every entry and exit point, prices shall be transparent and shall be applied in a non-discriminatory manner and shall be set individually. Prices indicate the necessity of integrity of the system and its enhancement and reflect actually realized costs, to the extent they correspond to costs incurred by an efficient and structurally comparative network operator and simultaneously include economically justified investment return and when applicable, they indicate the comparative tariffs by certain parameters of the regulatory authorities.

Section III

Price regulation

Article 17. (1) (amended and suppl., SG No.94/2015, in force since 4 December 2015) The prices, at which the public provider shall sell natural gas to suppliers of last resort and to consumers connected to the gas transmission networks, shall be formed based on the last forecast natural gas amounts nominated by the suppliers of last resort and consumers connected to the gas transmission networks and the import supplies costs for the internal market needs, by local extraction undertakings, by natural gas reserves and the public provision activity component.

(2) Prices under para. 1 may be adjusted periodically in compliance with the conditions of the commercial contracts under which the public provider shall buy natural gas for the internal market.

(3) (amended, SG No.94/2015, in force since 4 December 2015) Natural gas price at the entry of the gas transmission networks shall be formed by the public provider as weighted average value, taking into consideration the last nominated forecast natural gas amounts for import for the internal market, local extraction undertakings and natural gas reserves aiming sale in the following period, the conditions in the provision and transmission to the Bulgarian border contracts and average exchange

rate of the Bulgarian National Bank of the BGN to the foreign currency in which the imported gas shall be paid for a period of forty-five days before the month of submission of the price approval proposal.

(4) The public provider shall make a forecast of the natural gas provision amounts for the following period based on the last nominated forecast natural gas provision amounts given by the suppliers of last resort and consumers connected to the gas transmission networks.

(5) The public provider shall form the natural gas amounts under para. 4 from the different provision sources: commercial import contracts for the internal market, local extraction undertakings and natural gas reserves, following the principle of the lowest expenditures when forming the natural gas price at the entry of the gas transmission networks.

(6) (amended, SG No.94/2015, in force since 4 December 2015) Over the price under para. 3 a public provision component shall be calculated in the amount of 2.5 per cent for one-year period of the approved average natural gas purchase price and as part of the price under para. 1. In the public provision component shall not be included the public provider's natural gas purchase costs.

(7) The component under para. 6 shall include economically justified costs and return on capital for the public provision activity set in the terms and conditions of art. 10 and art. 13 of the Ordinance.

(8) (amended, SG No.94/2015, in force since 4 December 2015) The component under para. 6 shall be calculated base on forecast annual data of the revenue requirements under art. 9 of the Ordinance, divided by the periods of natural gas price adjustments under para. 2.

(9) (amended, SG No.94/2015, in force since 4 December 2015) When calculating the component under para. 6, the approved forecast conditional-permanent costs for the public provision activity shall be divided proportionally for each price adjustment period under para. 2.

(10) (amended, SG No.94/2015, in force since 4 December 2015) When calculating the component under para. 6 the natural gas storage costs (calculated based on submitted by the company planned natural gas amounts for injection and withdrawal valued by the current storage price approved by the Commission) shall be included in the forecast annual variable costs. The difference between the forecast and actual storage costs shall be indicated in the periodic natural gas price adjustments.

(11) (amended, SG No.94/2015, in force since 4 December 2015) Public provision activity component shall be recalculated for each period of price adjustment under para. 2, depending on the value change of the working capital and the cash expenditure changes of the public provider. The provisions of art.12, para.5, 6, 7 and 8 shall be applied when setting the working capital.

(12) (amended, SG No.94/2015, in force since 4 December 2015) Should a difference between forecast and reported natural gas amounts at the entry of the gas transmission network from a previous price period be established, prices can be adjusted by this difference in the following price periods, when approving the periodic price adjustments under para.2.

(13) (new, SG No.94/2015, in force since 4 December 2015) Prices under par.1 shall be validated in BGN for 1000 cubic meters and / or in BGN for MWh.

(14) (new, SG No.105/2016, in force since 30 December 2016) Additional costs incurred by the public provider as a result of delivery in the respective year of natural gas quantities requested by end suppliers after August of the year preceding delivery year, are paid by the persons who have caused them.

(15) (new, SG No.105/2016, in force since 30 December 2016) The costs recognized by the Commission under para. 14 form a separate component at the approved price of the public provider for the relevant price period.

(16) (new, SG No.105/2016, in force since 30 December 2016) The component under para. 15 shall be formed based on the reported amount of additional costs.

(17) (new, SG No.105/2016, in force since 30 December 2016) The public provider can claim about recognition and compensation of the additional costs together with the application under art.32 regarding validation of prices for the respective price period, to which application it shall also apply the

necessary evidence for these costs.

Article 18. (amended, SG No.94/2015, in force since 4 December 2015) (1) The price for access and transmission through the transmission networks shall be two-component and shall include the following components: access price (capacity price) and transmission price (price for the natural gas physically transmitted amounts) under the conditions of the concluded transmission contract, in line with the instructions or methodology under art. 16.

(2) (amended, SG No.94/2015, in force since 4 December 2015) the price under para. 1 shall be formed based on the annual revenue requirements under art. 9 and the approved forecast transmission parameters (realized capacities and quantities of transmitted natural gas) for the respective price/regulatory period based on the applied tariff model.

(3) (amended, SG No.94/2015, in force since 4 December 2015) Transmission companies shall return via the transmission price the natural gas transmission technological costs, which maximum size shall be set by a Commission decision.

(4) (new, SG No.94/2015, in force since 4 December 2015) The price under para.1 shall be set as follows:

1. access price in BGN per unit capacity for a certain period of use;
2. natural gas transmission price in BGN per 1000 cubic meters and/or in BGN per MWh transported natural gas.

Article 19. (amended, SG No.94/2015, in force since 4 December 2015) (1) Natural gas sale prices of the suppliers of last resort selling to customers connected to the respective gas distribution networks shall be formed based on the expenses for the purchase of natural gas and the approved forecast annual revenue requirements for natural gas supply under art. 9.

(2) Prices may include the following components: natural gas price, supply price, as well as some other components depending on the costs structure.

(3) The supply price is determined on the basis of the annual revenue requirements according to Art. 9 for the supply of natural gas to the natural gas projected quantity.

(4) Natural gas price is the price of the public provider.

(5) In cases where end suppliers do not buy natural gas from the public provider, the gas price is the weighted average price of the concluded commercial contracts and for pricing purpose, the latter cannot be higher than the approved price of the public supplier for the respective quarter.

(6) The supply price is set in BGN per 1000 cubic meters or in BGN per MWh or in BGN per customer.

Article 19a. (new, SG No.94/2015, in force since 4 December 2015) (1) In the cases when the end suppliers supply customers with compressed natural gas, the price for sale of natural gas to these customers shall also include a price component under Art.19, para.2, reflecting the costs of compression, transport, decompression and heating of natural gas.

(2) The price under para.1 shall apply only to the part of the respective licensing territory where the customers are supplied with compressed natural gas.

Article 20. (amended, SG No.94/2015, in force since 4 December 2015) (1) The price for access and transmission through the distribution network may include the following components: access price (capacity price) and transmission price (the price of the natural gas physically distributed amounts) under the conditions of the concluded contract for transmission through the distribution network.

(2) (suppl, SG No.94/2015, in force since 4 December 2015) The natural gas transmission through the distribution networks price shall be formed based on the approved annual revenue

requirements under art. 9 to the approved forecast amount for distribution in BGN for 1000 cubic meters and/or in BGN for MWh by customer groups.

(3) (amended, SG No.94/2015, in force since 4 December 2015) Gas distribution companies shall return via the transmission price the natural gas transmission technological costs for the gas transmission through the relevant distribution network, which maximum size shall be set by a Commission decision.

Article 21. (amended, SG No.94/2015, in force since 4 December 2015) (1) Prices under art.17 shall be adjusted in line with the price change at the entry of the gas transmission networks.

(2) Prices under Art.19 shall be adjusted in line with the price change at the entry of the gas transmission networks. In cases where the end supplier does not buy natural gas from the public provider, for the purposes of pricing, the gas price cannot be higher than the approved price of the public supplier for the relevant quarter.

Article 22. (amended, SG No.94/2015, in force since 4 December 2015) (1) The price for access and storage of natural gas in the storage facilities shall be formed based on the approved annual revenue requirements under art. 9 and the approved forecast storage parameters (realized capacities and natural gas storage quantities) for the relevant period.

(2) (amended, SG No.94/2015, in force since 4 December 2015) The price under para. 1 include the components: access price (capacity prices) and storage price (price of natural gas stored amounts) under the conditions of the concluded storage contract.

(3) Gas storage facilities operators shall return the set by the Commission technological costs on the natural gas storage via the access and storage prices.

(4) (new, SG No.94/2015, in force since 4 December 2015) The price under para.1 shall be approved as follows:

1. access price in BGN per unit injection capacity, storage and extraction for the period of its use or in BGN for an integrated product representing a combination of the respective capacities;
2. natural gas storage price in BGN per 1000 cubic meters and/or in BGN for MWh injected, stored and extracted natural gas.

Article 23. (amended, SG No.94/2015, in force since 4 December 2015) When applying the regulation methods under art. 3, para. 2, item 2 the transmission companies, storage facilities operators and the gas distribution companies form prices for the first year of the regulatory period based on the annual revenue requirements under the approved investment programme for the regulatory period.

Article 24. (amended, SG No.94/2015, in force since 4 December 2015) (1) The connection price of customers connected to the gas distribution networks shall be formed by customers groups, depending on the nominated maximum capacity and pressure and the respective allowed costs per group. Costs on additional equipment for connecting at the request of the customer shall be on his account.

(2) (amended, SG No.94/2015, in force since 4 December 2015) The price for connection to the gas transmission and gas distribution networks of extracting pipeline networks, natural gas storage facilities, LNG facilities, RES gas production units, gas distribution networks and industrial customers, outside the groups listed in para.1, shall be individual and shall include the actual costs for the connection facilities construction of the relevant company.

(3) (new, SG No.94/2015, in force since 4 December 2015) The connection price under para. 2 shall be calculated based on the costs incurred for all connection activities, the value of gas pipelines and facilities in accordance with the regulatory and technological requirements ensuring a direct connection

from the technologically approved connection point to the respective network to the connection point of the customer's/customers' group's facility, in line with Ordinance No 4 of 2013 on Connection to Gas Transmission and Gas Distribution Networks (SG, No 105/2013).

(4) (new, SG No.94/2015, in force since 4 December 2015) Connection prices shall be set in BGN for one connection or in BGN per connected customer.

Article 24a. (new, SG No.105/2016, in force since 30 December 2016) (1) The types of services provided to the customers and related to the licensed activity shall be determined by a decision of the Commission on the basis of the information provided by the energy companies.

(2) The prices of services under para. 1 shall be formed on the basis of economically justified costs recognized by the Commission for their provision.

(3) The prices of the services provided to the customers related to the licensed activity shall be determined in BGN for each type of a single service, excluding VAT.

Chapter Three

PRICE ADJUSTMENT UNDER THE MAIN REGULATION METHODS

Article 25. (1) When regulating the prices under art. 3, para. 2, item 1 using the method “rate of return on capital” during the regulatory period, prices may be adjusted at the presence of circumstances, which could not be predicted at the time of the price approval and which circumstances lead to substantial change in the price formation components and the financial state of the regulated companies.

(2) When regulating the prices using the methods under art. 3, para. 2, item 2 the following annual adjustments may be done:

1. through an inflation index (I) for the previous year based on National Statistics Institute data, in accordance with its impact on the allowed operational costs (without the depreciation costs) and an efficiency enhancement ratio X following the principles under art. 23 and art.31 of EA.

2. (amended, SG No.105/2016, in force since 30 December 2016) through performance indicators (natural gas quality, quality of service supply), and the energy company allowed revenue requirements shall be adjusted in case they fail to fulfill the set by the Commission target indicators;

3. (amended, SG No.105/2016, in force since 30 December 2016) through the value of the difference between forecast and reported investments based on reliable data for non-current assets by types of activities according to the presented reports and/or carried out inspections.

(3) (amended, SG No.94/2015, in force since 4 December 2015) When applying the method “revenue cap” over the adjustment shall be added Z factor too – the absolute value of the difference between the forecast and reported costs for a previous price period; should the forecast costs be higher than the reported, the revenue requirements shall be reduced for the following price period, and vice versa – should the reported costs be higher than the forecast, the revenue requirements shall be risen by the same sum for the following price period; Z adjustment shall be applied only for differences in the natural gas sale and purchase costs, as well as differences in costs incurred by a change in the customers number.

Article 26. (1) Price adjustment shall be applied in case the real revenues of the energy company provide different from the forecast revenue amount to cover costs incurred by public service obligations and the difference shall be indicated in the energy company's allowed revenue requirements for following price periods.

(2) (deleted, SG No.94/2015, in force since 4 December 2015).

Chapter Four

TERMS AND CONDITIONS ON PRICES' APPROVAL, SETTING AND ADJUSTMENT

Article 27. (1) Energy companies shall submit applications at the Commission in approved by EWRC samples for the approval of:

1. revenue requirements and prices and the related to them indicators and ratios for their adjustment during the regulatory period;
2. change in the tariff structure;
3. change in prices currently in effect;
4. other issues connected to the Commission's price regulation powers.

(2) Applications under para. 1 shall be submitted not later than 3 months prior to expiry of the previous price period or the entry into force of the proposed adjustment of current prices and/or tariff structures.

Article 28. (1) Applications shall be reviewed for compliance with the requirements of the Ordinance within a 7-day period as of their receipt.

(2) should there be found any irregularity of the application, a written notice shall be sent to the applicant to remove the irregularities within 7 days.

(3) should the applicant fail to remove the irregularities within the time limit specified in para. 2, the file shall not be reviewed in essence and shall be terminated by a decision of the Commission.

(4) a written notice shall be sent to the applicant saying that the file shall be terminated and the application shall not to be reviewed in essence.

Article 29. (1) Together with the application for revenue requirements, prices and tariff structures approval, licensees submit at the Commission information on a previous 12-month reported period called base year.

(2) Application under para.1 shall be annexed with:

1. annual certified financial statement with all its attachments, in line with the requirements of the Accountancy Act and applicable Accounting Standards;
2. financial-accounting information in line with art. 4 for the base year;
3. technical-economic data including monthly reports for the sales during the base year, as well as any other information related with the prices proposed for approval, requested in pursuance of the instructions under art. 4, para. 5;
4. information by types of consumers groups for the base year, including number of customers, natural gas sales, revenues and billing information;
5. other data that the energy company may consider to present in support to the submitted application or requested by the Commission;
6. (new, SG No.94/2015, in force since 4 December 2015) the commercial contracts under which the end supplier buys natural gas.
7. (former item 6, SG No.94/2015, in force since 4 December 2015) a document showing the evidence of paid fee about the application review.

(3) Should with the suppliers of last resort and gas distribution companies be applied regulation methods under art. 3, para. 2, item 2, these entities shall attach to their applications under para.1 forecast data like forecast sales, number of customers, investment foreseen and any other information in compliance with the instructions of the Commission under art. 4, para. 5, by years of the regulatory period and in line with their approved investment programmes.

(4) Documents under para. 2 and 3 shall be submitted at the Commission in hard (paper) copy

and electronic copy, certified by the signature of a representative of the energy company and a stamp.

(5) (amended, SG No.94/2015, in force since 4 December 2015) Energy companies shall submit the required evidence for the data authenticity of the information under para. 2 and 3.

(6) Alongside with the price approval applications, the energy companies may request allowance and compensation of costs incurred for public service obligations, attaching the relevant evidence justifying their request.

(7) Should the approved by the Commission price have an impact on the prices of other energy companies, the Commission may give instructions to these companies to submit applications for the adjustment of their approved prices. In case they fail to comply with the instructions, the Commission may, by virtue of its powers, adjust those prices.

Article 30. (1) When the Commission regulates the prices using the method “rate of return on capital”, the energy companies can submit applications for adjustment of approved prices before the end of the price period at the presence of circumstances which could not be foreseen at the moment of approving the prices and leads to substantial change of the approved price formation components and the financial state of the energy company.

(2) Annexed to the application for adjustment of the approved prices, information on justifying the circumstances under art. 25, para. 1 shall be provided.

(3) Should the adjusted under para.1 prices have an impact on the prices of other energy companies, the Commission may give instructions to these companies to submit applications for the adjustment of their approved prices. In case they fail to comply with the instructions, the Commission may by virtue of its powers, adjust those prices.

(4) The decision for adjustment of prices under para. 3 shall not terminate the regulatory period.

Article 31. (1) When the Commission regulates the prices using the methods under art. 3, para. 2, item 2, the energy companies shall submit applications for the approval of adjusted revenue requirements and/or prices for the second or following price periods of the regulatory period.

(2) Applications under para. 1 shall be submitted not later than 3 months before the end of the previous price period.

(3) Alongside with the application under para. 1, information in line with the instructions of the Commission under art. 4, para. 5 shall be submitted.

(4) In case the transmission network operators fail to propose prices for access and transmission on time, the Commission shall have the power to determine temporary prices and take a decision for appropriate compensation measures in case the final access and transmission prices deviate from the temporary ones.

Article 32. The public provider shall submit at the Commission an application with a proposal for prices in compliance with the change of the natural gas price at the entry of the gas transmission network within 20 days before the end of the period under art. 17, para. 2.

Article 33. In a one-month time limit before the submission of application for the approval of new prices or the adjustment of current valid prices, the public provider and the suppliers of last resort publicly announce in the mass media their proposal for the approval of new prices or the adjustment of current valid prices.

Article 34. (amended, SG No.94/2015, in force since 4 December 2015) (1) Within two months as of receipt of the applications for approval and/or adjustment of approved prices, respectively for the elimination of irregularities, the Commission at a closed session shall adopt the working group report

and draft decision and shall schedule a date and time for an open session to discuss the adopted report and to hold a public discussion under Art.14 of EA on the adopted draft decision.

(2) In the case of art. 32, the Commission within 10 days as of receipt of the application containing the price proposal in accordance with the natural gas price change at the entry of the gas transmission networks, at a closed session shall adopt a report from the officials concerned and shall schedule a date and time for an open session to discuss the adopted report.

(3) (amended, SG No.94/2015, in force since 4 December 2015) The Commission shall announce the report, the draft decision and the date and time of holding a public discussion on its internet page.

(4) (amended, SG No.94/2015, in force since 4 December 2015) At an open session the Commission shall discuss together with the energy companies the report and shall set a deadline for submission of opinions and written justification of the made at the open session objections within 5 days as of the date of its conducting.

Article 35. (para.1 deleted, former para.2, SG No.94/2015, in force since 4 December 2015) In the case of art. 32, within 5 days as of the date of the open session, the Commission shall conduct a closed session, where it shall adopt a decision by which it shall adjust the prices under art. 17 and 19, in compliance with the price change at the entry of the gas transmission networks.

Article 36. (1) For energy companies regulated by using the method “rate of return on capital”, the draft decision, respectively the decision under art. 39, shall contain:

1. the forecasted and/or adjusted revenue requirements of the energy companies, including economically justified costs for the activities under the relevant licenses, the regulatory asset base and the rate of return on capital and the respective prices;
2. the forecasted natural gas amounts for the following price period.

(2) Should the carried out analysis and assessment of the presented by the energy company information under art. 30 do not give the grounds for the adjustment of the approved prices, the Commission shall adopt a draft decision, respectively decision under art. 39, para. 1, by which it shall refuse to adjust the currently valid prices.

Article 37. (1) For energy companies regulated by using the methods under art.3, para.2 item 2, the draft decision, respectively the decision under art. 39, para.1 shall contain:

1. At the beginning of a new regulatory period:
 - a) the regulatory period duration and the rate of return on capital;
 - b) the forecasted revenue requirements of the energy companies for the first price period or by years for the regulatory period;
 - c) the forecasted natural gas amounts for the first price period or by years for the regulatory period;
 - d) prices for the first price period including by customers groups and tariff structure;
2. For every following price period within the regulatory period:
 - a) corrections indicators values in compliance with the requirements of art. 3;
 - b) the forecasted revenue requirements of the energy companies for the price period in compliance with the values under item "a";
 - c) the forecasted natural gas amounts for the price period;
 - d) prices for the price period including by customers groups and tariff structure.

(2) In case the energy company has requested customers groups and tariff structure approval, but failed to justify this request in the presented study for the service value under art.14, the Commission may refuse to approve them.

(3) In case the energy company has not submitted an application and/or has not provided information under art. 29, the Commission may, by virtue of its powers, approve adjusted revenue requirements and prices for the following price period of the regulatory period based on the available data.

Article 38. (1) Public hearing and discussion procedure under art. 14 of the Energy Act shall commence with announcement of the draft decision on the internet page of the Commission;

(2) The Commission shall discuss with the stakeholders, under art. 14, para. 2 of the Energy Act, the draft decision and schedules a deadline for the introduction of opinions not shorter than 14 days.

Article 39. (1) After the conclusion of the public hearing and discussion procedure, the Commission shall adopt a decision at a closed session.

(2) When files representing actual and legal complexity, the reasons attached to the decision may be adopted up to 10 days after the adoption of the relevant decision.

(3) The Commission shall publish decisions under para. 1, respectively the reasons under para. 2, on its internet page within 3 days as of their adoption.

Article 40. (amended, SG No.105/2016, in force since 30 December 2016) (1) Within 7 days as of receipt of the decisions for approval of new prices the Public Provider, end suppliers, gas transmission and distribution network operators and storage facilities operators publish on their internet pages the approved prices, including the prices by tariff structures and the prices which they shall apply under the contracts with customers in the following price period.

(2) In case of price regulation on the basis of a methodology approved by the Commission, the energy company shall publish the set prices on its website within 7 days as of the date of the decision regarding their determination.

(3) The new prices shall be applied as of the date specified in the Commission's decision and, in the case of price regulation based on a methodology approved by the Commission, as of the date specified in the decision regarding their determination.

Article 40a. (new, SG No.105/2016, in force since 30 December 2016) (1) Validating prices procedure for the services provided to consumers and related to the licensed activity is initiated at the initiative of the Commission or at the request of a licensee.

(2) In the cases under para.1 the Commission shall require the energy companies carrying out the respective licensing activity, to provide information on the types of services related to the licensed activity, within a period specified by the Commission.

(3) Para.2 shall not apply in the case of a validating prices application of a licensee for the provision of services related to licensing activity, when for this activity only one license is issued for the territory of the country.

(4) Within one month as of receipt of the information under para.2 or the submission of the request under para.3, the Commission, at a close session, shall adopt a draft decision on services types determination and shall set a date and time for holding an open session about its discussion.

(5) The Commission shall announce the draft decision, the date and time of the open session on its website.

(6) At the open session, the Commission discusses with the energy enterprises the draft decision and sets a deadline for submission of opinions within 5 days as of the date of the open session.

(7) Within 15 days as of the date of the open session, the Commission shall hold a closed session, at which it shall adopt a decision to define the types of services. By the decision, the Commission shall instruct the energy companies, carrying out the respective licensing activity, to submit within a certain period of time a prices approval application for the types of services it has defined.

(8) Together with the application, energy companies apply evidence and justify the costs

associated with the provision of the types of services defined by the Commission.

(9) At a closed session, the Commission shall, within two months after the submission of the prices approval application for services related to the licensed activity, adopt a report and a draft decision and shall schedule a date and time for holding an open session to discuss the adopted report and carry out a public discussion under Art.14 of EA regarding the adopted draft decision.

(10) After closing the public discussion at a closed session, the Commission shall adopt a decision.

Article 41. The terms and conditions for the approval, setting and adjustment of prices regulated in the present Chapter shall not be applied to cases under art.16 para.1, where the Commission approves a methodology of the access and transmission through the gas transmission networks price setting. In these cases, the terms and conditions for the price setting and adjustment shall be determined in the approved methodology.

Additional provisions

§ 1. Within the terms of the Ordinance:

1. **Base year** shall mean the previous calendar year or a 12-months period, prior the submission of the application for which the energy company shall provide information about the licensed service used as basic to set the prices.

2. **Natural gas reserves** shall mean the amounts of natural gas injected by natural gas storage facilities operators and which can be withdrawn with commercial goal and/or when necessary.

3. **Efficiency enhancement ratio** shall mean the target rate expressing the relative costs reduction of the energy companies about the performance of the relevant licensed activity.

4. **Natural gas cubic meter** shall mean the natural gas quantity in a volume one cubic meter at temperature 20°C and absolute pressure 0.101325 M Pa.

5. **Capacity** shall mean the maximum flow expressed in m³ per a time unit or in energy unit per time unit which the network user have the right to use under the provisions of a transmission contract.

6. **Revenue requirements** shall mean the economically justified revenues needed for the energy company to provide the licensed service with a certain level of quality and to reach a certain return.

7. **Rate of return on capital** shall mean a return of the invested capital expressed as percentage of that capital.

8. **Service value study** shall mean the study on the energy company costs for the provision of the licensed service by customers groups and a comparison with the actual and forecast revenue received by each customers group at the currently valid or proposed prices.

9. **Useful life** shall mean the time period for which the Commission assumes a certain asset can be depreciated.

10. (deleted, former para.11, SG No.94/2015, in force since 4 December 2015) **Allowed asset value** shall mean the allowed by the Commission value of the all energy company assets which are used for and are directly connected with the licensed activity.

11. (former para.12, SG No.94/2015, in force since 4 December 2015) **Variable costs** – shall mean the costs which value varies depending on the natural gas amounts.

12. (former para.13, SG No.94/2015, in force since 4 December 2015) **Regulatory asset base** shall mean the value of the tangible and intangible assets that are both used and have a useful life for the provision of the service under the license and the necessary working capital.

13. (former para.14, SG No.94/2015, in force since 4 December 2015) **Regulatory period** shall

mean the period between two regulatory reviews.

14. (former para.15, SG No.94/2015, in force since 4 December 2015) **Regulatory review** shall mean the activity the Commission carries out to perform analysis and assessment of the reported information for the base year and the forecast information for the following price/regulatory period provided by the energy companies. As a result of the regulatory review the Commission shall approve:

a) the forecasted revenue requirements and prices of the energy companies including economically justified costs and return on the capital or a mark-up for the activities in the respective licenses;

b) the duration of the regulatory period using the regulation method “price cap” and “revenue cap”, as well as the price formation elements values, based on which the energy companies propose price for approval for the following price period within the regulatory period.

15. (former para.16, SG No.94/2015, in force since 4 December 2015) **Capital structure** shall mean the relative shares of the equity and debt in the total amount of the energy company capital.

16. (former para.17, SG No.94/2015, in force since 4 December 2015) **Tariff structure** shall mean the price system of the natural gas sale or the provision of a service, the revenues of which correspond to the revenue requirements of the respective activity.

17. (former para.18, SG No.94/2015, in force since 4 December 2015) **Tariff price** shall mean each separate price of the tariff structure.

18. (former para.19, SG No.94/2015, in force since 4 December 2015) **Conditional – fixed costs** shall mean the costs which do not change when a change of the natural gas amounts occur.

19. (former para.22, SG No.94/2015, in force since 4 December 2015) **Price period** shall mean the period when the prices stay unchanged by the Commission – usually twelve months.

20. (deleted, SG No.94/2015, in force since 4 December 2015) **Provision or supply price** shall mean the price which reflects the natural gas sale to customers, the billing and natural gas encashment.

21. (deleted, SG No.94/2015, in force since 4 December 2015) **Distribution price** shall mean е цената, the price which reflects the natural gas distribution costs, the customers’ disconnection/reconnection and natural gas metering.

Transitional and final provisions

§ 2. The Ordinance shall enter into force as of the day of its promulgation in State Gazette;

§ 3. The Ordinance shall be adopted on the grounds of art. 36, para. 3 of the Energy Act and in compliance with the requirements of Directive 2009/73/EC of the European Parliament and the Council of 13 July 2009 on the common rules of the internal natural gas market;

§ 4. Proceedings instituted before the Ordinance entry into force shall be accomplished in outgoing line.