

**ORDINANCE № 3 as of March 21st, 2013 ON LICENSING
THE ACTIVITIES IN THE ENERGY SECTOR**

**Chapter One
GENERAL PROVISIONS**

Article 1. (1) This ordinance establishes the terms and procedure for:

1. Issuance, amendment, extension of the term, termination, suspension and withdrawal of licenses for the activities in the energy sector, as determined by the Energy Act (EA);
2. Holding of tenders in accordance with Article 43, Para 9 and Article 46 of the Energy Act;
3. Issuance of permits under the Energy Act;
4. Certifying the operators of the electricity and gas transmission networks;
5. Approving and amendment of the general terms in the contracts under the Energy Act (EA) and under the Renewable Energy Sources Act (RESA);
6. Approving and amendment of the rules for operation with the energy services users;
7. Clients supply with electrical and heat energy and natural gas;
8. Submitting of complaints, considering them and amicable settlement of disputes as per Article 22 of the EA;
9. Audit assignment and performance under Article 201, Para 2 Item 5 of the Energy Act and defining of the requirements with regard of the persons performing the audit.
10. Approval, monitoring and control of the independent transmission operator for electricity and the independent system operator for gas Ten Years Networks Development Plan (TYNDP).
11. Elaboration of the forecasts under RESA Article 22, Para 1 and 2.
12. Reporting by the electricity transmission and distribution networks operators for the cases of substantial decrease in the amounts of RES electrical power transmitted and distributed and the respective correction measures undertaken by the operator in order to prevent the decrease in these amounts.

(2) This ordinance establishes also the particulars subject to entry into the registers, as per EA Article 25, Para 1, item 1, 5 and 6, the entry into the registers procedure, and the provision of information.

(3) This ordinance determines also other data, except those mentioned in Article 38, Para 3 of the EA, which data are to be stored for a 5 years period by the suppliers companies for electrical power and natural gas.

**Chapter Two
LEGAL PROCEEDING BEFORE**

THE STATE ENERGY AND WATERS REGULATORY COMMISSION

Article 2. A legal proceeding before the State Energy and Waters Regulatory Commission, referred to hereinafter “the Commission” or “SEWRC” shall be opened on:

1. Application in writing for the cases as per Article 1, Para 1, Item 1, 3, 4, 5, 6, 10, 11 and as per Article 13, Para 5 and Para 6.
2. Complaint or request for amicable settlement of dispute in accordance with Article 22 of the EA;
3. Initiative of the Commission in the cases provided for in Article 8;
4. Motivated request of the European Commission as laid down in Article 81a, Para 2 of the EA.

Article 3. (1) The Commission approves of the sample application forms as per Article 2, Item 1 and the annexes thereto, and prescribes their minimum content. The application samples are published and displayed on the Commission's Internet site.

(2) The application with the set of required documents shall be filed at the records office of the Commission or sent by registered letter with advice of delivery. The applications are entered in the incoming register of the records office of the Commission.

(3) The documents enclosed to the application shall be submitted in original or certified copy.

Article 4. (1) The Commission shall check the submitted applications and complaints for compliance with the provisions of the law and the ordinance within a 7-day period after they have been filed.

(2) If the application or claim is found to be non-compliant with the requirements, a written notice shall be forwarded to the applicant/complainant to correct the irregularities within a 7-day period.

(3) If, within the term of paragraph (2), the applicant does not remove the irregularities, the correspondence shall not be further processed essentially and with decision of the Commission the file is suspended.

(4) The applicant, respectively – the complainant shall be notified in writing that the correspondence is suspended and the application or the complaint are not subject to further essential processing.

(5) The method for originating and examination of the correspondences, the order for considering the applications and complaints submitted, as well as the order for making decisions on them, shall be defined in the Organizational Rules of the State Energy and Waters Regulatory Commission and its administration.

Article 5. (1) The Commission, based on an adopted resolution, shall terminate the proceeding and notify the applicant in writing within a 3-day period after the adoption of the resolution in the case when a proper authorization of the Commission for Protection of Competition (CPC) in accordance with the Protection of Competition Act is needed for issuance of a license and/or for providing permit or agreement.

(2) Within a period of 3 days after the adoption of the resolution as per paragraph (1), the Commission shall bring the case to the Commission for Protection of Competition for commencement of proceeding in accordance with the procedures of the Protection of Competition Act.

(3) The Commission shall resume the proceeding of issuing of the administrative act after the decision of the Commission for Protection of Competition comes into force.

Article 6. During the performance of its regulatory authorities, the Commission shall consider the existence of the principles, laid down by the EA and the RESA.

Article 7. (1) The Commission may verify the stated data and facts by routine checks.

(2) The commission may request opinions from the persons listed in Article 19 of the Energy Act in connection with reviewing the relevant file

(3) The Commission proceeds with the resolutions on a current file when it decides that all facts and circumstances pertaining to the respective case have been clarified and after discussing the clarifications and the objections of the interested citizens and organizations, if such are provided and respectively made. collected and verified and the terms as provided for in the Energy Law have been observed.

(4) The Commission makes decision on a current file following an application/claim at a closed session.

(5) The decisions made by the Commission are announced to the applicants/claimers following the procedures defined in the Organizational Rules of the State Energy and Waters Regulatory Commission and its administration.

(6) If the Commission does not come up with a decision within the terms laid down in the Energy Act, it is considered an implicit (silent) refusal.

Article 8. (1) The Commission, upon its initiative and resolution, shall open proceedings in the following cases determined by the Energy Act:

1. Revision and/or amendment of an issued license in the cases listed in Article 51, paragraph 2 of the Energy Act;

2. Carrying out a tender, as specified in Article 43, paragraph 9 and Article 46, paragraphs 1 and 2 of the Energy Act for defining a license titulary/holder/licensee;

3. Certifying a transmission network operator as per Article 81a, Article 81 1 and Article 81o of the Energy Act;

4. Termination of a license in the cases specified in Article 55, paragraph 2 of the Energy Act for the whole territory or part of the territory covered by the license in the case when the licensee fails to exercise the licensed activity for a period in excess of one year;

5. Appointment of a special manager, according to Article 56, paragraph 4 of the Energy Act;

6. Withdrawal of a license in the cases specified by Article 59, paragraph 1, 2 or 3 of the Energy Act;

(2) The Commission shall open proceedings also in case of a motivated request of the European Commission, as per Article 81a, Para 2 of the Energy Act.

(3) The proceedings as per Para 1 or 2 shall be open by decision of the Commission.

(4) A copy of the decision with the grounds to it shall be sent to the interested person, who shall have the right within 14 days after receipt to provide a standpoint in written and to submit evidences.

Chapter Three ISSUANCE OF LICENSES

Section I

General Provisions

Article 9 (1) The Commission shall issue the following licenses for exercising the activities defined by the Energy Act:

1. For generation of electricity;

2. For generation of heat energy;

3. For generation of electricity and heat energy;

4. For transmission of electricity;

5. For transmission of heat energy;

6. For transmission of natural gas;

7. For distribution of electrical electricity;

8. For distribution of natural gas;

9. For storage of natural gas in storage installation and/or liquefaction of natural gas, or import, unloading and regasification of liquefied natural gas in an installation for liquefied natural gas;

10. For electricity trade;

11. For organizing a power exchange;

12. For public supply of electricity;

13. For public supply of natural gas;

14. For electricity supply from end-suppliers (for public retail of electricity);

15. For natural gas supply from end-suppliers (for public retail of natural gas);

16. For traction electrical power distribution over the distribution networks of the railway transport;

17. For electricity supply from supplier of last resort.

(2) A license titulary/holder/licensee as per Para 1, Items 1, 3, 4, 7, 10, 11, 12, 14, 16 and 17 may carry out activities of a balancing group coordinator, according to Article 96a of the Energy Act.

(3) Licenses as per Para 1 shall be issued for a 35 years term. The Commission shall fix the term of the respective license depending on the lifetime resource of the assets involved in exercising the respective licensed activity, and on the financial status of the applicant. The Commission shall not fix a term of the license longer than the term requested by the applicant.

(4) A license shall be issued by decision of the Commission and it shall be an integral part of the said decision.

(5) When the applicant for a license for any of the activities as per Para 1, Items 1, 3, 4, 7, 10, 11, 12, 14, 16 and 17 or the holder of such a license meets the requirements for a balancing group coordinator according to Article 96a of the Energy Act, the respective license shall mention the rights and the obligations connected with the balancing group coordinator activities.

Article 10. (1) A license for the activities in the energy sector mentioned in Article 9, Para 1 shall be issued to every person registered under the Commercial Act or to a person with registration equivalent to the afore mentioned under the legislation of another EU member state, who has filed an application and meets the provisions for issuance of a license under Article 40 of the Energy Act or who has been awarded at a tender in the cases laid down in Article 43, paragraph 9 and Article 46 Para 1 and 2 of the Energy Act.

(2) In cases when according to Article 43 of the Energy Act only one license can be issued for the territory of the country or for a differentiated territory, the license is issued to the person, who has filed an application for issuance of new license:

1. In the case that an existing license is terminated and the Commission has authorized the transfer of the licensee's enterprise of the terminated license to the same person, who has filed an application;

2. In the case of terminating of an existing license for a part of the territory covered by it, if this part meets the requirements of the Energy Act, and the Commission has authorized the transfer of the assets for exercising the licensed activities in the separated territory to the same person.

(3) The license under Article 9, Paragraph 1, Item 17, shall be issued to:

1. The licensee for the public supply with electricity activity - for the clients connected to the electricity transmission network;

2. The licensees for electricity supply from end-suppliers (for public retail of electricity) activity - for the clients connected to the respective electricity distribution network, for the territory of the acting licenses for end-supplier (retail supply).

Article 11. (1) The application for issuance of a license contains:

1. The firm, registered office and address of management, the ID number given by the Registry Agency, the Civil Identification Number and the full names of the applicant and of the person(s), who represent(s) it respectively - registration data in the case of commercial registration under the legislation of an EU Member State.

2. The type of the license applied for;

3. Description of the energy enterprise (facilities) for carrying out the licensed activity, if the application for license is for an activity as laid down in Article 9, Paragraph 1, Items 1-9 and Item 16;

4. Proposal and justification of the term of the license required;

5. Evidence of ownership or applications for licenses for other activities, subject to the Energy Act;

6. Specimen of the signature of the person(s), representing the applicant.

(2) The following documents shall be attached to the application in accordance with paragraph (1):

1. ID number code or certificate of good standing, issued by the court of registration of the applicant;

2. Declarations, stating that:

a) The managers and the members of the management bodies of the applicant, and, in case the members are legal persons – their representatives in the corresponding management body – have not been deprived of the right to exercise trade activity;

b) The managers and the members of the management bodies of the applicant, and, in case the members are legal persons – their representatives in the corresponding management body – have not been sentenced by judgement-at-law for offense against property, unless discharged;

c) The applicant is not subject to bankruptcy adjudication proceedings, is not declared insolvent and is not in liquidation;

d) The applicant has not had a license for the same activity withdrawn, or the period under Article 59, paragraph 4 of the Energy Act has expired;

e) More than three months have passed from the entry into force of the act of denial of issuance of license for the same activity, if such an act has been issued;

3. Business plan, elaborated in accordance with Article 13;

4. The annual financial statements of the applicant for the last three years, and - when the legal person is newly registered – proofs of financial resources (certificate from the corresponding bank for opened bank accounts and availability of funds); if the annual financial statement of the applicant is subject to independent financial audit, the applicant presents also the auditor's report;

5. Information about the sources for financing of the activity and evidence of the availability of these sources;

6. Proofs that the person, to whom it refers, satisfies the requirements, set by the rules pursuant to Article 24, paragraph 2 and Article 173, paragraph 1 of the Energy Act, for financial provision of the deals they sign in electricity or natural gas;

7. Information about the share percentages of the partners or shareholders of the applicant and the corresponding copies of documents (corporate bylaws, court rulings or copy of the shareholders' record book, etc.) providing proofs of the correctness of this information.

8. Evidence of the applicant's experience in carrying out such activity; if the applicant is newly incorporated, evidence shall be presented of the experience of the partners or shareholders, who exercise control over the newly founded company;

9. Information about the management and organizational chart of the applicant and the education and qualifications of the management personnel of the applicant, as well as data about the number and qualifications of the staff occupied in carrying out the activity subject to licensing;

10. Proofs by the persons pursuant to Article 39, Para 5 of the Energy Act about satisfying the requirements for balancing group coordinator according to Article 96a of the Energy Act;

11. Documentary evidence of paid fee for processing the application.

(3) The declarations under Paragraph 2, Item 2, "c", "d" and "e" shall be submitted by the person(s) representing the applicant. The declarations under Paragraph 2, Item 2, "a", and "b" shall be submitted by each member of the management body of the applicant.

(4) To the application for issuance of license pursuant to Article 9, Para 1, Item 1 – 9, except for the documents listed in Para 2, are also attached:

1. Permit for use of the energy enterprise and the corresponding infrastructure, which represent the means for exercising the licensed activity, issued in accordance with the Territorial Development Act (TDA), in case these facilities are newly constructed; no such permit is required if these facilities have been used for carrying out of activity according to an issued license by the applicant or a third party;

2. Data characterizing the technical status of the energy enterprise and its technical and operational characteristics, as well as those of its service infrastructure, and a list of the primary and auxiliary equipment of the energy enterprise;

3. Written evidence of the observation and compliance with:

a) The normative requirements for safe and healthy working conditions, for technical safety of machines, equipment and installations, for the values of parameters of the working environment, for the measures for prevention, diminishing or limiting of the risks for safety and health at work, for provision of the personnel with personal protection means and special workclothes, for conducted evaluation and assessment of the risk of the working positions, for the provision of the workers with medical service by specialized medical office of labour medicine;

b) The normative requirements for technical operation of power stations, transmission networks, equipment and installations;

c) The normative requirements for protection of the environment, resolutions, authorizations and/or permits for the environment;

4. Documents, providing evidence of the ownership, respectively limited real right of usage of the facility (facilities), which constitute the means of exercising of the licensed activity, with drawings and maps of the corresponding territories and networks;

5. Description of the territory of deployment of the respective distribution networks and data, reflecting the number of connected clients and the number of potential clients, if the application for issuance of license is filed pursuant to Article 9, Para 1, Items 5, 7 and 8;

6. Description of the territory, subject to the application of license for transmission of heat energy, and authenticated copies of the acting plans of the built-up area and its infrastructure;

7. Opinion on the fire and emergency safety of the facility, issued by the competent authorities of the Ministry of Interior.

(5) The following documents shall be also attached to an application for issuance of license pursuant to Article 9, Paragraph 1, Items 5, 7, 8, 14, 15 and 17, in addition to the documents listed in Para 2:

1. Information about the fixed assets in possession, including information about deployed information networks and software for carrying out the activity;

2. Energy Services User Code as a part of the general conditions in the contracts, in case that the EA or RESA require the licensee to elaborate such rules or as an attachment to the contracts;

3. Draft of general conditions of the contracts, if the EA or RESA require such provisions to be prepared by the licensee.

(6) In addition to the documents mentioned in Para 2, the following documents shall be also attached to an application for issuance of license pursuant to Article 9, Paragraph 1, Items 10 and 11:

1. Information and evidence about the fixed assets in possession, including information and evidence about deployed information networks and software for carrying out the activity;

2. Evidence of the availability of technical provisions for concluding deals with electricity in accordance with the Electricity Trading Rules;

3. Evidence of availability of personnel and its qualifications for carrying out the activity and of knowledge of the electrical power market.

4. Evidences, defined in the rules under Article 24, Para 2 and Article 91 Para 2 of the Energy Act, that the person satisfies the conditions to guarantee financially the transactions with electricity or natural gas which it concludes.

Article 12. (1) When the application for issuance or complementing of an issued license according to Article 9, Paragraph 1, Items 1, 3, 4, 7, 10, 11, 12, 14, 16 and 17 demanded also to assign a balancing group coordinator, evidences shall be attached to the application to prove that the person satisfies the requirements for balancing group coordinator and also a draft contract for participation in a balancing group for undertaking the responsibility to balance market participants sites, different than the applicant's sites, shall be attached, in case that such a contract is required under the rules stipulated in Article 91, Para 2 of the Energy Act.

(2) The draft contract under Para 1 shall include:

1. The obligations of the coordinator and the balancing group members;

2. Requirements for the balancing group members to submit forecast schedules;

3. Terms for carrying out the physical and financial settlement within the balancing group;

4. Providing of information of the balancing group members for their participation in the total imbalance, including data from the commercial electrical meters for metering, invoicing, contesting and payment of obligations of the balancing group members;

5. Conditions, procedure and terms for changing a balancing group coordinator;

6. Principles for allocating the total imbalance between the different the balancing group members, in accordance with the Electricity Trading Rules;

7. The operating procedures for the balancing group coordinator with the the balancing group members, the procedure and the terms for receiving, considering, checking and answering to claims raised by the the balancing group members.

(3) When the applicant is a part of a vertically integrated undertaking and applies for the issuance of a license according to Article 9, Para1, Item 7 and 8, a programme with the measures guaranteeing the independence of the applicant's activity from the other activities of the vertically integrated undertaking shall be attached to the application for issuance of a license.

(4) When the applicant does not submit a programme as per Para 3, the application for issuance of a license shall not be considered.

(5) The programme as per Para 3 must contain:

1. Measures guaranteeing the independence when making decisions of the persons responsible for the management of the activity under the license, as well as with regard to the decisions relating to the network operation, maintenance and development.

2. Obligatory rules for the operational personnel behavior, guaranteeing impartiality and not allowing discriminatory behavior while performing the obligations stipulated by the Energy Act;

3. The terms and procedures for training the operational personnel to perform the programme;

4. Detailed regulation on the confidential information and directions for treating it;

5. The terms and procedures for access of the operational personnel to commercial confidential information, providing for its security;

6. Procedure for access of the operational personnel to the corresponding premises and the systems for recording, processing and storage of confidential information, guaranteeing not to allow access to these systems to persons other than the directly involved with the performance of the respective activity;

7. Procedure for programme performance control, comprising also the rights and the obligations of the persons, who shall provide the control.

(6) When considering the programme as per Para 3, the Commission may demand the applicant to provide additional information and may give mandatory instructions for amendment of the programme within a specified term, with regard to put it in conformity with the requirements and the goals of the Energy Act.

(7) When the applicant does not remove the irregularities in the programme within the term as per Article 4 Para 2 or does not comply with the instructions of the Commission under Para 6, the application for issuance of a license shall not be considered.

Article 13. (1) The business plan shall be prepared for a period of up to five years following the directives of the Commission and shall contain:

1. Investment program;

2. Production Program;

3. Repair Program;

4. Social program for the activities and measures with social content, regulated as compulsory by legislative acts;

5. Projection of the structure and volume of expenditure scheduled on a yearly basis in accordance with the classification of expenses taking into account the directions of the Commission about the format and content of the information, required for the purpose of pricing pursuant to the ordinances for price regulation of electricity, heat energy and of natural gas.

6. Forecasted annual financial reports.

(2) The operators of the transmission and the distribution networks shall prepare the investments and maintenance programmes for each year of the business plan and shall envisage in them funds, including for:

1. Development of networks related to connection, transmission and distribution of electricity generated with renewable energy sources with regard to comply with the goals and the measures set in the National Action Plan for RES Energy;

2. Construction of the necessary interconnection lines for the goals to implement joint projects for electrical power generation from renewable sources between the Republic of Bulgaria and EU Member States or between the Republic of Bulgaria and third countries.

(3) The business plans of the licensees whose prices are being regulated by the method “upper limit of prices” or “upper limit of income” shall indicate for every year of the regulatory period:

1. The forecasted capital structure;

2. The volume, method of financing and schedule of all planned investments with justification of the necessity of each one, as well as the term for their commissioning for operation and the effect of the investments made in natural measurement values;

3. Projection of the prices of energy and/or the services delivered for every price period over the time period of the business plan;

4. Proposals for uniform changes of prices in case of significant deviations of the price setting factors;

5. Determination of areas for upgrading effectiveness.

(4) The first business plan and the first energy services user code shall be approved by the Commission on issuing of the license.

(5) The licensees present by application for approval of the Commission every subsequent business plan not later than three months prior to the expiration of the term of the previous business plan.

(6) The business plan updating within the term of the approved business plan shall be provided after resolution of the Commission following licensee application.

Article 14. The energy services user code shall stipulate in compulsory manner the procedure and terms for receiving, considering, inspection and response to the filed complaints, alerts and proposals, the format of the demand data and the procedure for the energy services suppliers and clients to get access to this information, as well as special procedures for providing vulnerable clients with information related to the demand and to the supply suspension.

Article 15. (1) When the applicant requests issuance of license with provisions for transactions at regulated prices, the application for issuance of license is presented with an attached application for price endorsement elaborated according to the provisions of the corresponding ordinance on prices regulation.

(2) The application for issuance of a license shall not be considered if the applicant fails to present the application under Paragraph 1, accompanied by all required documents.

(3) The Commission shall deliver a separate resolution on each of the submitted applications as per Para 1. When announcing the resolution for issuance of license, the Commission announces also the decision for approval of the prices.

(4) An appeal of the resolution concerning endorsement or fixing of prices of electricity and/or heat energy or natural gas does not prevent the resolution for issuance of license to be executed.

Article 16. (1) Commission evaluates the availability of technical, material and human resources of the applicant in accordance with the requirements of the technical regulations and norms for carrying out of the corresponding activity adopted by the provisions of Article 83, Paragraph of the Energy Act.

(2) The Commission assesses the availability of financial resources of the applicant based on his capability to ensure the required funds and guarantees for carrying out of the licensed activity.

Article 17. (1) When the applicant has filed a common application for issuance of more than one license for exercising of different licensed activities, every request shall be considered individually with respect to the provisions for issuing of the respective license.

(2) The commission shall issue separate licenses for each licensed activity if the applicant fulfils the requirements for issuance of the corresponding license and the limitations of Article 44 of the Energy Act do not exist.

(3) The Commission shall issue separate licenses for distribution or supply of electricity or natural gas for every differentiated territory.

(4) When the applicant has filed an application for issuance of license for generation of electricity or heat energy, or for storage of natural gas involving several independent from each other energy facilities, the Commission shall issue a single license.

(5) In the cases of Paragraph 4, if the applicant files a second application before the Commission has pronounced its decision on the first application within the statutory term, the two applications shall be integrated into one common file and the period for response of the Commission commences from the date of filing of the second application. If the term for

announcing of the resolution on the first application has expired before filing of the second application, the Commission shall consider the second application in the ordinary manner.

Section II

Issuance of Licenses without Tender before Construction of the Energy Facilities

Article 18. (1) A license for the activities under Article 9, Paragraph 1 may be issued before the construction of the energy facility, which will carry out the corresponding activity, at an application in accordance with Article 11, Para 1.

(2) The time period of construction of the energy facility for exercising the licensed activity shall not be included in the term of the license.

(3) The documents under Article 11, Para 2 shall be attached to the application, as well as the following:

1. Information about the sources for financing of the construction of the energy facility and evidences for the availability of these sources; for the availability of rised funds a document guaranteeing the financing shall be submitted; for the use of own funds for the project financing a decision of the management body shall be presented;
2. Preliminary design and/or technical design, and/or working design of the construction of the energy facility, elsborated and approved in conformity with the Territorial Development Act (TDA);
3. Investment analysis and financial model, containing the forecasted prices of energy and/or service;
4. Detailed schedule with time frame for the construction of the energy facility, bound with the investments by years;
5. A proposal and justification of the term of exercising the activity (the term of the license);
6. A preliminary contract with the transmission or distribution company for connection to the network;
7. Business plan, indicating without restriction: the number of years for which it has been compiled, with the year of issuance of the license set as the zero reference; planned investment, investment made prior the presentation of the business plan; forecasts for: the capital structure, income and expenditures, production and maintenance programs and the associated expenses, return of investment, annual cash flow, sales, prices;
8. Evaluation of the existing and forecasted potential of the resource, administrative acts enforced under the procedures of Chapter 6 of the Environmental Protection Act (EPA), Article 31 of the Biological Diversity Act (BDA), the Protected Ares Act (PAA), Waters Act (WA), the Renewable and Alternative Energy Sources and Biological Fuels Act (RAESBFA), when these documents are required for the activity, subject to the license;
9. Description of the territory, subject to the application of license for transmission of heat energy, and authenticated copies of the valid drawings and plans of the built-up area;
10. Description of the territory, subject to the application of license for transmission over natural gas transmission or distribution network, and authenticated copies of the valid drawings and plans of the built-up area;

Article 19. (1) The financial models under Article 18, Paragraph 3, Item 3, which have been presented for approval, shall satisfy the following requirements:

1. The price structure provided for by the contracts shall not create burdens in violation of the clients' interests by unjustifiable high values of the prices;
2. The risks taken by the sides shall not create conditions for violation of the clients' interests.

(2) Exception made for generators who are to produce energy from renewable energy sources, the energy enterprises shall submit variants of the financial models, which shall contain the possible economic and financial consequences with forecasts of their impact on prices in cases

when deviations from the assumptions underlying the primary models should occur (forecasted loads, fuel prices, inflation, etc.). The energy enterprises who are to produce energy from renewable energy sources shall submit a financial model elaborated according to the actual price, determined by the SEWRC to the date of submission of the application for issuance of a license. In case that a new price for the electrical energy generated from renewable energy sources is adopted at the time of considering the application, the Commission shall provide the applicant with an appropriate term to revise accordingly the financial model.

(3) The Commission may issue mandatory instructions with respect to prices and price-setting methodologies provided for by the financial models and contracts, including their updating.

(4) The Commission shall determine the market values of prices for the duration of a given contract by performing analysis using the present value method in order to verify if the price fixed by the contract would not exceed its forecasted market value, and issues mandatory instructions for elimination of the inconsistency.

(5) The Commission shall determine the extent of the risks taken by the sides in the contracts under paragraph 1 and issues mandatory instructions for their balancing with the aim of protecting the clients against violation of their interests.

(6) The Commission shall determine the level and the means of risk management (insurance coverage, etc.) with the aim of preventing excessive debt burden on the energy enterprise and threat to reliable supply.

(7) If the mandatory instructions as per Para 1-6 are not observed and adhered to, the Commission may refuse issuance or amendment of the license.

Article 20. (1) The Commission shall issue a license pursuant to the provisions of this section if the person, who has filed the application, possesses the financial capabilities to build the energy enterprise and meets the requirements for issuance of the corresponding license.

(2) In the license under Paragraph 1 the Commission shall set the conditions for the construction of this facility and the term for commencing the licensed activity.

Article 21. (1) On commencement of exercising the licensed activity by means of the energy facility subject to the license under Article 20, the licensee shall be obliged to submit to the Commission:

1. Document for commissioning of the construction site, issued under the condition and the procedures of the Territorial Development Act (TDA).

2. Information about the technical and operational characteristics of the newly constructed site and its service infrastructure as well as a list of the basic and auxiliary equipment of the energy facility;

3. Documents, providing evidence of ownership (title), respectively limited real right for use of the facility (facilities), which will provide the means of exercising the licensed activity, accompanied by the corresponding plans and maps of the corresponding networks;

4. Evidence that the applicant has fulfilled the requirements of the normative environmental regulations for the commissioning of the facility and permit for water usage, in case it is provided for by the Environmental Protection Act (EPA), the Biological Diversity Act (BDA), the Protected Area Act (PAA) and the Waters Act (WA);

5. Evidence concerning the employed personnel and its qualifications, information about the management and organizational structure of the licensee and data including the number and qualifications of the personnel involved in exercising the activity - subject to licensing;

6. Updated business plan and financial model.

(2) Within a period of one month from the filing of the documents in accordance with Paragraph 1, the Commission shall determine by resolution:

1. To permit commencement of exercising of the licensed activity, or

2. To provide mandatory instructions and fix a time schedule for correcting any found inconsistencies with the requirements for exercising the licensed activity or

3. To withdraw the issued license, if the instructions under Item 2 have not been implemented within the specified time period.

(3) When adopting the resolution under Para 2, the Commission assesses if the conditions under Article 40, Para 1, Items 1-3 of the Energy Act are met.

(4) The Commission notifies the licensee in writing about its decision under Paragraph 2 within a period of three days after the resolution has been adopted.

Article 22. (1) On the licensee's request the procedure under Article 21 Paragraph 1 may be conducted after signing of Act 15 - pursuant to Ordinance No. 3 of 2003, regulating the types of acts and protocols in the construction process (State Gazette, No. 72, 2003) – for determining the readiness for acceptance of the constructed site. In this case the licensee shall submit the documents under Article 21 Paragraph 1, Items 2–6 and the act itself.

(2) Within a period of one month from the filing of the documents in accordance with paragraph (1), the Commission shall determine by resolution:

1. To permit commencement of exercising of the licensed activity under condition – after receipt of a document for commissioning of the construction site issued under the conditions and procedures of the Territorial Development Act (TDA), or

2. To issue compulsory directives and set a time period for elimination of found inconsistencies with the requirements for exercising of the licensed activity;

3. To withdraw the issued license, if the instructions under Item 2 have not been implemented within the specified time period.

Article 23. At the procedures under Article 21 and Article 22 applies also Article 15.

Section III

Issuance of Licenses in the Case of Selection of the Licensee without Conducting a Tender

Article 24. (1) Licenses for the activities stipulated in Article 9, Para 1, Items 8 and/or 15 shall be issued without conducting a tender as per Article 43, Para 8 and 10 of the Energy Act for territories which do not pertain to the described in the inventory under Article 4, Para 2, Item 6 of the Energy Act.

(2) The application for issuance of a license under Para 1 contains:

1. Documents and the information according to Article 11 and Article 18, Para 3, Items 1-4, 6-10;

2. Evidence that the proposed project for gas supply is agreed with the respective municipality in the cases as per Article 43, Para 8 of the Energy Act.

3. Evidence for consent of the respective municipality for connection of its territory to a differentiated territory for natural gas distribution or to the territory of a municipality for which a license for the same activity has been issued (decision of the Municipality Council, agreed by the municipality project for natural gas supply etc.);

4. Compliance program, when the applicant is part of a vertically integrated undertaking, except for cases when less than 100 000 end-clients for natural gas are connected to the respective distribution network.

(3) At the procedure under this Article applies also the procedure under Article 15.

Article 25. (1) The Commission explores in due order the filed application to find out the availability of grounds for issuance of a license under Article 9, Para 1, Items 8 and/or 15 without conducting a tender, by:

1. Exploring in due order, based on the information of the application, if the territory does not pertain to the described in the inventory under Article 4, Para 2, Item 6 of the Energy Act.

2. Exploring in due order if for the territory mentioned in the application another application for issuance of a license under Article 9, Para 1, Items 8 and/or 15, meeting the formal requirements as per Article 42, Para 2, is also filed in the Commission.

(2) When in the course of the procedure for considering the application for issuance of a license another application for the same territory is also filed, meeting the requirements under Article 24, Para 2 and 3 or an application under Article 26, the Commission shall cease the procedure with an argued resolution. A notification in written for ceasing the procedure shall be sent to the applicant in three days term after adoption of the resolution.

(3) In case of ceasing the procedure as per Para 2 due to an application filed under Article 26 for amendment of an existing license for distribution of natural gas, the Commission shall proceed to consider the file under Article 26.

(4) The Commission shall resume the ceased procedure on the application for issuance of a license, when the grounds under Article 26 for amendment of an existing license for distribution of natural gas are not available and no other application has been filed.

(5) The Commission shall make a resolution at a closed session on the the application for issuance of a license without tender, by which:

1. Shall issue a license for the activities under Article 9, Para 1, Items 8 and/or 15, when the applicant is compliant with the conditions under the Energy Act and under Section I of this Chapter;

2. Shall withhold a license issuance.

(6) The Commission shall by its resolution launch a tender to select a licensee/titulary/holder of a license, when for the same territory more than one applications for issuance of a license are filed, meeting the requirements of Article 24, Para 2, and 3..

Article 26. (1) A licensee/titulary/holder under Article 9, Para 1, Items 8 and/or 15 may file an application for amendment of the issued license by annexation to the territory under his license of a territory, which does not pertain to the described in the inventory under Article 4, Para 2, Item 6 of the Energy Act.

(2) A decision of the Municipality Council of the municipality, which territory does not pertain to the inventory under Article 4, Para 2, Item 6 of the Energy Act for agreement on adding this territory to the territory under the applicants license, shall be attached to the application.

(3) The Commission shall verify the availability of technical and financial possibilities, material and human resources and organizational structure of the applicant for performance of the normative requirements to carry out the activity of the license in respect of the territory required for annexation and the economical expediency of the required amendment of the license, taking into consideration the principles under Article 23 of the Energy Act and the aims of Article 2 of the Energy Act.

(4) The consent of the municipality shall not bind the Commission.

(5) In such a case the Commission shall issue the license without conducting a tender.

(6) The Commission shall make a resolution on the application for amendment of a license by which:

1. Shall amend the license by annexing the territory of the municipality, which does not pertain to the defined in Article 4, Para 2, Item 6 of the Energy Act, to the territory under the license for distribution of natural gas; .

2. Shall withhold a license amendment.

Article 27. As far as this Section does not provide else, the stipulations of Section II shall respectively apply.

Section IV.

Issuance of Licenses in the Case of Selection of the Licensee after Conducting a Tender

Article 28. (1) Only after a tender for selecting the license holder under Article 43, Para 9 and Article 46 or the Energy Act a license shall be issued for:

1. Generation of electricity in the cases of justified and properly announced pursuant to Article 4, Paragraph 2, Item 5 of the Energy Act necessity for new energy capacity for electricity generation;
2. Distribution of natural gas with the exception of the cases under Article 43, Paragraph 8 and 11 of the Energy Act;
3. Distribution of natural gas for the exempted territory with the withdrawal of the license under Article 59, Para 3 of the Energy Act.

(2) The differentiated territories under the licenses for distribution of natural gas shall be determined by the list pursuant to Article 4, Paragraph 2, Item 6 of the Energy Act.

Article 29. (1) The list of demanded new power capacities for generation of electricity shall contain the following characteristics of each energy facility:

1. Location;
2. Basic technical and operational parameters, including the nature of the primary energy sources;
3. Time schedule for the commissioning of the facility with respect to the demand for electricity and the total energy balance.

(2) The list of new differentiated territories for distribution of natural gas and for revision of existing differentiated territories for distribution of natural gas, for which no license has been issued, shall contain the boundaries of the territory.

Article 30. (1) Within a three months period after the promulgation of the list in the State Gazette the Commission shall prepare a program for the tenders, which have to be conducted on the basis of the list(s).

(2) The program under Paragraph 1 shall be published on the Internet site of the Commission.

(3) In accordance with the program under Paragraph 1 the Commission, by adopting a resolution, shall determine for each facility:

1. The subject of the tender;
2. The procedure and term for the preparation of the tender documentation.

Article 31. (1) A working group, appointed by a Commission resolution shall prepare the draft of the tender documentation.

(2) The members of the working group are obliged to observe the confidentiality of the information submitted to them in accordance with the assigned task and sign a proper declaration of non-disclosure.

(3) Members of a working group do not have the right:

1. To provide consultations in any form to third parties with respect to the subject of the tender;
2. To take part in the tender directly or by connected persons as specified in the Trade Act.

Article 32. (1) The tender documentation shall be prepared in the Bulgarian language and shall contain all data, directions and requirements necessary for the preparation of the proposal by the candidates. The Commission may decide to compile the tender documentation also in another language.

(2) The tender documentation includes the following mandatory components:

1. Detailed description of the subject of the tender;
2. The tender provisions – technical and price, etc.;

3. Draft of the license;
4. Draft of the contract for purchasing of electricity in the case under Article 46, Paragraph 1 of the Energy Act, proposed by the public supplier, its provisions shall be approved by the Commission;
5. List of documents, which must be submitted by the candidate for evaluating of the proposal and as evidence of the candidate's technical, financial, economic and organizational capabilities for the implementation of the proposal;
6. Requirements to the candidates;
7. Requirements to the proposal and the annexes thereto;
8. The evaluation criteria and the methods of evaluation of the proposal.

(3) The description of the subject of the tender shall contain sufficient data for the preparation of the candidates' proposal – description of the facility with information of its financial, economic, technical, operational, ecological and other characteristics, as well as data concerning the expected trends in the general and detailed territory development plans pertaining to the facility (the cadastre or the construction site), information about the territory of the license, etc.

(4) The Commission shall approve by resolution the tender documentation, if it has been prepared in accordance with the provisions of the ordinance, and satisfies the conditions concerning its assignment.

Article 33. (1) The resolution of the Commission for announcing the tender shall contain:

1. The subject of the tender;
2. The beginning and final date for the construction of the facility; when the subject of the tender is the selection of a licensee/holder of license for electricity generation or terms for the construction of particular parts of the corresponding gas distribution network;
3. The conditions and procedure of conducting the tender;
4. The requirements to the candidates for license;
5. The type, amount and the payment method of a guarantee for participation in the tender;
6. Place and deadline for acquiring the tender documentation, price of the tender documentation for participation in the tender and payment method;
7. Place and deadline for filing the applications for participation;
8. Date, place and time of opening of the submitted applications for participation;
9. Term for evaluation of the proposals.

(2) The resolution of the Commission may also stipulate a requirement for establishing a legal person, registered under the Trade Act, when the tender is awarded to a foreign person, who is not registered in an EU Member State or in other state – party under the Agreement on the European Economical Area (EAA), or to a consortium, who is not a legal person. The newly established legal person shall be bound by the application filed by the foreign person or the consortium.

(3) With the resolution under Paragraph 1 a sample form of the declaration for the confidentiality of the data in the tender documentation shall be approved. The resolution constitutes an inseparable part of the tender documentation.

(4) In cases when the territory, which will be covered by the license for construction of new gas distribution networks, encompasses the territory of more than one municipality, the draft resolution under Paragraph 1 shall be coordinated with the corresponding municipalities.

(5) The tender shall be promulgated by resolution of the Commission, which shall be published in the State Gazette and in the Official Journal of the European Union.

(6) The resolution of the Commission for opening the tender may be appealed only together with the resolution for selection of the candidate – winner of the tender.

Article 34. (1) The tender documentation shall be acquired after payment of the determined price in accordance with a bilaterally signed inventory of the documentation package

contents and after signing a declaration of confidentiality concerning the information contained in the tender documentation.

(2) The guarantee for participation in the tender shall be set to the amount of the initial license fee of the corresponding license, the holder of which is being selected by the announced tender.

(3) The period for submitting of the applications for participation shall be determined depending on the type of energy facility, which constitutes the means of exercising of the licensed activity, however it cannot be shorter than six months since the date of promulgation of the resolution for announcing the tender.

(4) The date of opening of the applications for participation shall be no later than 30 days after the expiry of the term for the submission of the applications for participation.

(5) The period for evaluation shall not exceed three months after the date of opening of the submitted applications.

Article 35. Candidate for participation in a tender may be a person satisfying the requirements as per Article 47, Para 4 of the Energy Act.

Article 36. (1) The application for participation in the tender shall be in writing. The Commission shall approve a sample application form for participation in the tender as part of the tender documentation.

(2) Attached to the application under Paragraph 1 are:

1. The proposal of the applicant and the annexes to it in accordance with the tender documentation;

2. Copy of the ruling for registration (incorporation) of the participant as trader in compliance with its national legislation and an updated certificate for entry in the trade register;

3. Copy of the certificate of tax registration;

4. Declarations for the absence of circumstances as laid down by Article 40, Paragraph 3 of the Energy Act.

5. Authenticated annual financial reports for the last three years and, for newly incorporated legal persons – proofs of financial resource (certificate from a corresponding bank);

6. Document providing evidence of the purchase of the tender documentation and documentary evidence of deposited bank guarantee for participation in the tender;

7. Evidence concerning the candidate's experience in similar projects and/or performance of the licensed activity;

8. Analysis for the importance of the project for gasification for the Bulgarian market of natural gas;

9. Miscellaneous documents specified by the tender documentation.

(3) When the application for participation in the tender is filed by a consortium which is not a legal person, a contract for the establishment of the consortium shall be attached to the application.

Article 37. (1) Filing of the application and the attachments thereto shall be done at the location, specified by the tender documentation, sending the documents by registered post with advice of delivery, or by courier service.

(2) Applications for participation in the tender shall be received up to the date and time, specified in the resolution or the announcement. A certificate of filing the application shall be issued to the candidate.

(3) The application and the attachments thereto shall be submitted in a non-transparent sealed envelope observing the requirements of the tender documentation.

(4) In the case of sending the application by post the valid date shall be the date of the post stamp of the sending station.

(5) A register of the filed applications shall be kept with entries reflecting the sequence of received applications and the date and time of receipt of the applications.

Article 38. If, within the term of filing the applications for participation in the tender, no application has arrived, or only one application has been filed, the term can be extended by no more than 60 days from the date of promulgation in the State Gazette and in the Official Journal of the European Union of the resolution about the extension of the term. In this case the date of opening of the applications shall be changed too.

Article 39. (1) After expiry of the term for submission of the applications, SEWRC by adopting a resolution shall appoint a commission for conducting the tender, counting from four to eight members, including a chairman.

(2) The chairman of the commission for conducting the tender is member of SEWRC.

(3) Members of the commission for conducting the tender shall become officials of the administration of the SEWRC and, depending on the subject of the tender – also representatives of the corresponding municipalities, covered by the territory of /under the license, and representatives of other institutions and organizations taking interest in the tender.

(4) It is compulsory to include in the commission for conducting the tender a licensed attorney and economist, the other members shall possess the required professional qualifications and working experience corresponding to the subject of the tender.

(5) Member of the commission for carrying out the tender shall not become a person, who:

1. Possesses material interest in setting up the facility – subject of the tender;
2. Is connected person according to the Trade Act with a candidate in the tender;
3. Has participated in the working group for the preparation of the tender documentation;

(6) The members of the commission for conducting the tender are obliged to observe the confidentiality of the information submitted to them in connection with holding the tender and information contained in the candidates' proposals, keep secret any circumstances, which have become known to them in the process of working for the commission. The members of the commission for conducting the tender do not have the right to take out of the place determined for the commission sessions the documents related to the tender.

(7) The members of the commission for conducting the tender shall certify by proper declaration the absence of the circumstances under paragraph 5 and shall sign a declaration for their obligations under Para 6 at their appointment.

(8) The compensation of the outside experts – members of the commission for conducting the tender, and all expenses in connection with its activities shall be provided for by the SEWRC.

(9) SEWRC may make changes of the members of the commission for conducting the tender in the case of death or continued illness of a member or for other objective reason, which prevents its members of performing their activities.

Article 40. (1) The chairman of the commission for conducting the tender shall hold a meeting of the commission within three days after its appointment.

(2) The meeting shall be considered regular if at least 2/3 of the total number of its members are present at the meeting.

(3) At its first meeting the commission for conducting the tender:

1. Shall determine the place of holding meetings and the procedure of its operation;
2. In case of necessity the commission for conducting the tender may propose to SEWRC to invite experts observing the requirements for confidentiality and to determine the amount of compensation of the invited experts.

(4) The commission for conducting the tender shall adopt its resolutions with a majority of 2/3 of the total number of members. When a member objects to the resolution made, he shall sign with minute of dissent and state his arguments in written.

(5) Minutes shall be taken of the meetings of the commission for conducting the tender.

Article 41. (1) On the day, appointed for opening of the applications for participation in the tender, the commission for conducting the tender shall open the submitted applications and check their formal (technical) compliance with the requirements for participation.

(2) Minutes shall be taken of this meeting, which shall be signed by all members of the commission for conducting the tender. A separate annex to the minutes of the meeting shall be prepared for every single application, in which the commission for conducting the tender states the extent of compliance with the requirements, specified by the tender documentation, which must be satisfied by the application and the annexes to it.

(3) Authorized representatives of the candidates for participation in the tender may attend the meeting for opening of the applications. The list of the candidate representatives or their authorized representatives shall be attached to the minutes.

(5) The commission for conducting the tender shall remove from participating in the tender a candidate, whose application and the attachments to it do not meet the requirements, specified by the tender documentation.

(6) The commission for conducting the tender is obliged to notify in writing the candidate about his removal within three days after the day of holding the meeting.

(7) A removed candidate can appeal the decision for selection of the winning candidate of the tender.

Article 42. (1) After the check of the formal compliance the commission for conducting the tender shall proceed with the evaluation of the applications.

(2) Minutes shall be taken for every meeting of the evaluation.

(3) The commission for conducting the tender shall have the authority to remove participants in the tender, who have reached this phase of the selection if, in the process of evaluation, discrepancies of their proposals with the tender provisions are encountered. In this case Article 41, Paragraph 6 and 7 shall be applied.

(4) The commission for conducting the tender may request additional information from the candidates and specify a term for its submission.

(5) The submitted additional information as per Para 4 shall become an inseparable part of the candidate proposal under Article 36, Para 2, Item 1, but it cannot represent an amendment or supplement to the proposal.

Article 43. The members of the commission for conducting the tender are obliged to observe the confidentiality with respect to the contents of the proposals and are forbidden to take out of the place determined for the commission sessions the documents related to the tender.

Article 44. (1) After completion of the evaluation the chairman of the commission for conducting the tender shall submit to the SEWRC a report concerning the results of the evaluation and a draft resolution within a three day period of the documents elaboration.

(2) In its report in compliance of Para 1 the commission for conducting the tender shall evaluate the candidates and propose a motivated grading of the candidates. Reservations (if any) expressed in minutes of dissent of members of the commission for conducting the tender shall be attached to the report together with the proposals of all candidates in the tender.

(3) The commission for conducting the tender may, in its report, propose termination of the tender, if the conditions under Article 50, Paragraph 1 of the Energy Act exist.

(4) The contents of the report of the commission for conducting the tender with the proposals shall not be disclosed to the candidates and made public in the media.

(5) SEWRC alone shall assess the proposals, circumstances and facts, presented in the report of the commission for conducting the tender.

Article 45. (1) SEWRC shall within a 14-day period from the receipt of the proposal of the commission for conducting the tender grade the candidates and by a motivated resolution shall appoint the person – winner of the tender.

(2) With its resolution under Paragraph 1 SEWRC shall issue the corresponding license.

(3) SEWRC shall notify in writing the candidates about the resolution within three days, including the removed candidates.

Article 46. (1) (1) SEWRC shall terminate the tender and announce a new one, if:

1. Only one candidate has applied;
2. The proposals of the candidates do not meet the tender requirements.

(2) In case there is only one candidate after the second announcement of the tender, SEWRC shall pronounce this candidate winner of the tender if it meets the tender provisions.

Article 47. (1) In its resolutions for appointing the winning candidate of the tender or for termination of the tender SEWRC shall pronounce on the retaining (withholding) or release of the guarantees for participation in the tender.

(2) SEWRC shall have the right to retain the guarantee for participation when a candidate:

1. Withdraws his proposal after the expiration of the term for submission of proposals;
2. Files a complaint against the resolution for grading of candidates till the solution of the dispute by the court;
3. Withdraws his proposal after being appointed winner of the tender.

(3) The guarantees of the removed candidates shall be released by the assigner of the tender within three working days after the expiration of the term for filing a complaint (appeal) against the resolution under Paragraph 1. At termination of the tender the guarantees of all candidates shall be released within the same period of time.

(4) The guarantees of the graded candidates shall be released within three days after coming into force of the resolution for issuance of license.

(5) SEWRC shall release the guarantees without being liable for interest for the period when the guarantee sums have been deposited as collateral for the tender.

(6) The guarantee of the winner of the tender may be retained as an initial license fee.

Article 48. After the construction of the energy facility the stipulation of Article 21 shall be applied correspondingly.

Section V. Contents of the License

Article 49. (1) The license shall contain:

1. The name of the state body issuing the license;
2. The name and registration number of the act;
3. The legal grounds for issuance of the act;
4. The name (firm), registered office, address of management and ID number of the licensee;
5. The activity, for which the license has been issued;

6. The term of the license;
7. The territory of the license (for activities, for which it is required);
8. The facility (facilities) for exercising the activity;
9. Regulatory section, which specifies the special conditions for exercising the licensed activity, depending on the type of license and the special requirements, including the requirements for coordinator of balancing group, as determined by the current normative, general and individual administrative acts.

(2) The following annexes constitute an inseparable part of the license and they are updated periodically:

1. List and description of the facility or facilities, which provide the means of exercising the licensed activity with their technical and technological characteristics;
2. Description of the boundaries and, if needed, a map indicating the territory covered by the corresponding license for transmission or for distribution of electricity, heat energy or natural gas and supply of electricity and natural gas;
3. Business plan;
4. User code;
5. Resolutions for price setting or approval related to the activity of the license;
6. Resolutions for setting the quality measures of the energy and/or the service and program for achieving and guaranteeing the target values;
7. Approved general terms of contracts (if such are required).
8. Program for conformity of the measures for guaranteeing the licensee independence from the other activities of the vertically integrated undertaking;
9. Time schedule for the construction of the energy facility, when the license is issued before the construction of the energy facility.
10. Draft contract for participation in a balancing group as stipulated in Article 12, Para 2.

(3) The change of the licensee name (firm) and/or address and registered office of management, the transformation of a licensee from one legal form to another, as well as the updating of the attachments under Paragraph 2, Item 3 – 7 shall not be considered revision of the license.

Article 50. General terms for exercising the licensed activity shall be the effective provisions of normative acts, as well as the adopted by the Commission individual and general administrative acts, applicable to the corresponding licensed activity, and observing the goals and principles of the regulation in accordance with the Energy Act..

Article 51. The special provisions of the license shall be determined depending on the licensed activity and they shall include, without limitation:

1. Obligation for research of the power consumption, forecasting, planning, and development of the generating capacities, respectively of the transmission and distribution networks;
2. Obligation for effective utilization of energy and energy resources in accordance with the norms and standards, related to energy efficiency and protection of the environment;
3. Obligation for taking out insurances – types, covered risks and amount of insurance coverage;
4. Rules for supply and quality standards of the delivered energy and/or services, approved by the Commission;
5. Requirements to the construction of the energy facility, in the case when the license has been issued prior to its erection;
6. Requirements to the decommissioning (terminating of the operation) of an energy facility.

Section VI

Collection and Submission of Information according to the Energy Act

Article 52. (1) In the process of executing of its functions as of the Energy Act the Commission may require from the licensees to submit information and documents, related to the licensed activity.

(2) Each licensee shall be obliged to submit on an annual basis to the Commission within the designated time frames and in conformity with its directions the following information:

1. Annual report for the execution of the programs according to the business plan and for maintaining of the safety and security of the energy facility(facilities);

2. Information about signed contracts;

3. Information about newly constructed energy facilities, components of the transmission and distribution network and submission of documents for permission of their usage or commissioning (commencement of operation).

4. Information about the fulfillment of the energy quality parameters, for continuity of supply and quality of service;

5. Information about the fulfillment of the program for compliance with the measures guaranteeing the independency of the licensee activity from the other activities in the vertically integrated undertaking.

(3) Upon the Commission's request, the licensee shall, without limitations, submit the following information:

1. Active power and available generation capacity, offered for purchase or purchased by the Public Provider for a given time period;

2. Generated and/or sold volume of electricity, heat energy or natural gas and the payments made according to the sales contracts;

3. Activity in execution of the sales contracts for electricity, heat energy and natural gas;

4. Relations with clients – quality of service, reliability and security of supply;

5. Publication of the general terms and prices;

6. Any accounting documentation, which is of significance for the regulation.

7. Contracts concluded with the balancing group members.

Article 53. (1) The transmission operators shall without further delay submit to the Commission the decisions of:

1. The general assembly of the shareholders for election of supervisory board member(s), as well as information about the conditions arranging the mandate, its duration and cessation, the work conditions including remunerations;

2. The supervisory board for election of the management board member(s), as well as information about the conditions arranging the mandate, its duration and cessation, the work conditions including remunerations;

(2) The transmission operators shall submit to the Commission:

1. The general assembly of the shareholders decisions for pre-term dismissal of supervisory board member(s), together with the grounds for the decisions;

2. The supervisory board decisions for pre-term dismissal of the management board member(s), together with the grounds for the decisions;

(3) The transmission operators shall submit to the Commission upon its request, within the term it defined and according to its instructions, documents and information about:

1. The services provided to the vertically integrated undertaking;

2. Transactions concluded, which may impose reevaluation of the keeping by the transmission operator of the requirements for independency;

3. All commercial and financial relations with the vertically integrated undertaking, including loans, provided by the operator to the vertically integrated undertaking.

Article 54. (1) When the Commission places a request with the licensee for submitting information or documentation, it shall notify the licensee in writing and specify a time frame for their submission.

(2) In the case when the requested information or documents have not been submitted, the Commission may impose a property sanction or a fine pursuant to the Energy Act.

Article 55. (1) The Commission may obligate the licensee to collect and store information and documents pertaining to the:

1. Readings of the metering devices;
2. Fulfillment of the energy quality parameters, for continuity of supply and quality of service and paid indemnities;
3. Clients and energy services users contracts;
4. Complaints.

(2) The transmission operators shall store detailed documentation on the commercial and financial relations with the vertically integrated undertaking, including loans, provided by the operator to the vertically integrated undertaking and at request of the Commission shall provide it access to the said documentation.

Article 56. (1) The Commission may publish all documents and information, received under the procedure of this section, which do not constitute corporate confidential matter, when this is to the benefit of the clients of electricity, heat energy or natural gas.

(2) The Commission shall collect and store the information and documents, submitted by the licensees, in the files, which are kept for every license.

(3) Licensees are obliged to store the information and the documents mentioned in this section for a five year term.

Section VII

Collection and placing of information according to RESA

Article 57. (1) The transmission and distribution electricity networks operators shall elaborate every six months written reports containing the following information:

1. The cases of important decrease of the transmitted and distributed amounts of electricity from renewable energy sources;
2. The measures undertaken by the operator to correct and prevent the decrease of the transmitted and distributed amounts of electricity from renewable energy sources.

(2) The report under Para 1 shall be sent to the Commission by July 31st of the respective calendar year and by January 31st of the following calendar year.

(3) Attached to the reports shall be:

1. Abstract of the dispatcher's record with the exact description of the cases of restriction and suspension of the RES electricity supply to the network;
2. Reference about the reasons imposing the restriction and suspension by mentioning the date and time of the restriction implementation and its respective range.

(4) Upon request of the Commission, the transmission and distribution electricity networks operators shall elaborate written reports for the cases of restriction and suspension, including remotely, of the RES electricity supply to the network, when the transmission capacities of the respective network, to which the RES generators are connected, have been exceeded.

Article 58. (1) The transmission and distribution electricity networks operators shall elaborate a yearly paper containing:

1. Report on the fulfillment of the activities set in the investment and maintenance programs for the networks development under Article 13, Para 2 during the previous calendar year, with regard to the goals to connect energy facilities for RES electricity generation;
 2. The measures undertaken by the operator in case of non-performance of the activities, set in the investment and maintenance programs for the networks development;
 3. Information about the sums collected under Article 29, Para 1 of the RESA and their expenditure;
 4. Sumarized information according Article 57.
- (2) The reports under Para (1) shall gbe submitted to the Commission by March 31st of the respective calenda year.

Section VIII Insurance

Article 59. (1) The licensees shall be obliged to take out and keep for the term of the license issued to them the following types of insurance:

1. Insurance of the assets at the facilities, which constitute the means of exercising of the licensed activity;
2. Insurance against civil liability;
3. Other types of insurance, prescribed by the Commission in implementing the regulatory principles.

(2) The insurance shall be to an extent and amount sufficient to provide for the financial means necessary for replacement of each component of the energy facilities and equipment, damaged or destroyed as a result of an accident or other emergency circumstances, as well as for payments of compensations for damages caused to third parties.

(3) The license shall specify the particular covered risks and the amount of the insurance coverage, which the licensee is obliged to keep for the duration of exercising the license.

Article 60. (1) The licensees are obliged to submit to the Commission on an annual basis and within time frames set up by the license information about the signed insurance contracts.

(2) On the Commission's request the licensee shall submit proofs of the validity of the insurance(s).

Chapter Four AMENDMENT, EXTENSION OF THE TERM, TERMINATION, SUSPENSION AND WITHDRAWAL OF LICENSES

Section I

Revision and Amendment of Licenses

Article 61. (1) An issued license shall be revised and/or amended by a resolution of the Commission.

(2) Proceedings for revision/amendment of a license shall commence:

1. On the initiative of the Commission;
2. On the licensee's request.

(3) The resolution of the Commission for opening of proceeding for revision and amendment of the license shall not be subject to appeal.

Article 62. (1) A license may be revised or amended on the Commission's initiative in the following cases:

1. For providing of reliable, uninterrupted, high quality supply of the clients with electricity, heat energy and natural gas;
 2. In case of changes in the governing legislation, as well as for fulfillment of legally binding resolutions of the European Commission or ACER;
 3. For the purpose of ensuring the national security and public order in coordination with the respective competent state bodies and offices;
 4. In case of danger for human life and health, environmental pollution and harm to the environment and the property of third persons, when it does not imply withdrawal of license, and/or on proposal of specialized state bodies in exercising their authority;
 5. In the event of authorization of corporate transformation of a licensee or transaction of disposal, if it does not lead to termination of the license;
 6. On resolution of the Commission for Protection of Competition or court ruling, which affect the license conditions, related to violation of competition rights;
 7. In pursuance of the control functions of the Commission;
 8. In case of obvious error in facts.
- (2) The Commission shall explicitly mention in its resolution under Para 1 the necessity and the goal of the proposed amendment.

Article 63. (1) In the case, when the Commission opens proceedings for revision and/or amendment of an issued license on its initiative, a copy of the decision about the opening of proceedings shall be sent to the licensee, mentioning explicitly the grounds for the proposed amendment and the content of the proposed modification of the license.

(2) Within a 14-day period after receipt, the licensee may submit a statement in written on the motives for revision and/or amendment of the license. The Commission may amend a license even if the licensee would not provide a written statement.

(3) The Commission may demand opinion on its proposal for amendment of an issued license from the competent state and municipal bodies, and they shall submit it in a 14-day term, in written form accompanied by the required data and documents.

(4) The Commission shall revise and/or amend the license after the expiration of the term under Para 2 and 3.

Article 64. (1) A licensee may request revision and /or amendment of the license in cases under Article 62 Paragraph 1 if a substantial change of the circumstances of exercising the licensed activity occurs, as well as changes with respect to the nature of the primary energy sources, which are used, and/or the technology of energy transformation, when this will lead to increase of the effectiveness of utilization of energy and energy resources and/or diminishing of the harmful effect on the environment.

(2) The licensee shall be obliged to apply for revision of the license in case of decommissioning of generating capacities.

(3) Holder of a license, issued by tender procedure before the construction of the energy facility, may request the license revision and/or amendment may request its revision and/or amendment before commencing of operation only in the case of occurrence of extraordinary circumstances, which could not be foreseen or evaded.

Article 65. (1) The licensee shall submit an application in written form for revision and/or amendment of a license, which shall contain:

1. The name (firm), registered office, address of management and tax number of the applicant;
2. The registration number of the license;
3. The grounds and motives of the request for revision and/or amendment of the license;
4. Proposal for revision and/or amendment.

(2) The following documents shall be attached to the application under Paragraph 1:

1. Proofs (evidence) of the circumstances, which constitute the ground for the requested revision and/or amendment;

2. Document of paid fee.

(3) Depending on the ground for revision and/or amendment of the license, the applicant submits the documents needed for assessment of the application.

(4) In the proceeding for revision and/or amendment of a license the procedure and terms for submission, examination and resolution of the applications for issuance of license shall be applied respectively.

Article 66. After considering the submitted opinions and the collected opinions, statements, data and documents under the open proceeding, the Commission shall pronounce its decision for:

1. Revision and/or amendment of the license, or

2. Termination of the procedure for revision and/or amendment.

Section II

Extension of the Term of the License

Article 67. (1) The licensee may request extension of the term of the license at least one year before the expiration of the term of the license.

(2) If the applicant would not keep the term as per Para 1, the application shall not be processed. In such a case the licensee may submit an application for issuance of a new license by the procedure under the ordinance.

(3) If, on expiry of the term of the license, the energy facility exercising the licensed activity is subject to final decommissioning for technical reasons, the Commission may extend the term of the license till the complete decommissioning (termination of the operation) of the energy facility.

(4) The term under paragraph (3) shall not exceed the term for the final and complete decommissioning of the energy enterprise.

(5) The right of application for extension of the term of the license may be exercised at every expiration of the extended term of the license.

Article 68. (1) The application for extension of the term of the license shall include:

1. Name (firm), registered office, address of management and tax number of the applicant;

2. Registration number of the permit or the license;

3. Application for extension of the term of the license;

4. Proposal and justification of the new term of the license.

(2) The following documents shall be attached to the application under Paragraph 1:

1. ID number or certificate of good standing, issued by the court of registration of the applicant;

2. Declaration stating that the applicant is not subject bankruptcy adjudication proceedings;

3. Evidence of the technical status of the energy facility and of its technical and operational characteristics and its service infrastructure;

4. Document of paid fee.

5. Business plan.

Article 69. (1) The Commission shall consider the demands in the application and determine the fulfillment of the requirements and obligations under the effective license as well as the documents, which are attached to the application, with respect to the ongoing compliance of the applicant with the terms and conditions for exercising of the license for its new term.

(2) The Commission shall, by resolution:

1. Extend the term of the license;

2. Refuse extension of the term of the license.

(3) With its resolution under Paragraph 2, Item 1 the Commission shall specify the conditions for exercising of the licensed activity during the new term.

(4) In the proceeding for extension of a license the terms and procedure for submission, consideration and resolution of an application for issuance of license shall be implemented.

Section III.

Termination of License

Article 70. (1) An issued license shall be terminated by resolution of the Commission.

(2) The proceedings for termination of a license shall be opened on the initiative of the Commission or by application in writing of the licensee.

Article 71. (1) The license shall be terminated in the following cases:

1. On expiration of the term of the license with the exception under Article 56 of the Energy Act;

2. On the licensee's demand, including the case of transfer of the assets, which constitute the means of exercising of the licensed activities under the conditions of Article 53 of the Energy Act;

3. On corporate transformation of the licensee, when the transformation leads to termination of the legal person – holder of the license;

4. On destruction of the energy enterprise, which constitutes the means of exercising of the licensed activity by the licensee;

5. On entry into force of the court ruling of declaring the licensee insolvent or the ruling for termination of the activity as a result of winding-up of the licensee beyond the instances provisioned under Article 61 of the Energy Act;

6. When the licensee has not exercised the licensed activity for a period of more than a year.

(2) A licensee, selected by tender, may submit an application for termination of the license only if the energy enterprise under construction (incomplete construction)/the assets, which constitute the means of exercising of the licensed activities has/have been transferred to a third party under the conditions stipulated by Article 53, paragraph 1 of the Energy Act. In such a case the Commission shall consider the application with regard of the needs of the state total forecasted energy balance and the secure and reliable supply of the clients with energy and natural gas.

Article 72. (1) The licensee shall submit an application for license termination with the following contents:

1. Name (firm), registered office, management address and tax number of the applicant;

2. Registration number of the license;

3. Justification of the termination applied for;

4. The procedure of disposal of the assets, which constitute the means of exercising of the licensed activity, or the incomplete energy enterprise (if construction has commenced).

(2) Document of paid fee and documents, providing evidence of the grounds for the termination required shall be attached to the application.

(3) In the proceeding for terminating of a license the terms and procedure for submission, consideration and resolution of an application for issuance of license shall be implemented.

Article 73. (1) In the case, when the Commission opens proceedings for terminating of an issued license on its initiative, a copy of the decision about the opening of proceedings shall be sent to the licensee.

(2) The Commission may demand opinion of the opened proceedings for termination of a license from the competent governmental and municipal bodies, which deliver such opinion in writing and the data and documents requested from them within a 14-day time frame.

(3) The licensee shall submit a statement in writing on the decision about the opening of proceedings for the license termination within a 7-day period after receipt of the said decision. The commission may terminate the license even if the licensee does not submit a statement in writing.

(4) The Commission shall make a decision to terminate the license after the expiration of the terms under paragraphs (2) and (3).

Article 74. (1) The Commission shall execute routine check if the termination of the licensed activity may provoke disturbance in the security of the supply for the clients with electricity or heat energy or natural gas, or the national security and the public order may be endangered.

(2) When performing the check the Commission may demand opinion statements of the Ministry of Economy, Energy and Tourism (MEET), Ministry of Defense (MD), Ministry of Regional Development and Public Works (MRDPW), and of the corresponding municipality, as well as of other involved persons. In case the application for termination concerns a license for generation of heat energy and/or electricity, it may demand an opinion statement from the corresponding transmission enterprise.

(3) In case that the circumstances under Para 1 are present, the Commission shall determine by resolution:

1. A term within which the licensee shall be obliged to transfer to a third person its ownership or to establish right of use on the assets, which constitute the means of exercising of the licensed activities, in its integrity only.

2. A term within which the licensee shall be obliged to submit to the Commission an application for permission of the disposal transaction, following the proceedings and the conditions stipulated in Article 53, Para 3 of the Energy Act.

(4) A copy of the resolution as per Para 3 shall be sent to the licensee within 3-day term.

(5) When the licensee does not perform his obligations under Para 3 within the term defined by the Commission or the Commission does not permit the disposal transaction, or no new licensee is awarded within the term of advance notification by which the licensee has applied for the license termination, the Commission shall appoint a special business manager, according to Section V of this Chapter.

Article 75. (1) When an application is submitted for termination of a license awarded at a tender, the Commission shall consider the application with regard of the needs of the state total forecasted energy balance and the secure and reliable supply of the clients with energy and natural gas.

(2) The licensee, selected by tender, may submit an application for termination of the license if the energy enterprise under construction (incomplete construction)/the assets, which constitute the means of exercising of the licensed activities has/have been transferred to a third party under the conditions stipulated by Article 53, paragraph 1 of the Energy Act.

Article 76. (1) The Commission shall terminate the license by resolution upon application of the licensee:

1. Within a one-year period from submission of the application for the reason of term expiry;

2. On entry into force of a license for the same activity in the cases specified by Article 52 and Article 53 of the Energy Act;

3. Within a period of three months from submission of the application for terminating the license in all other cases.

(2) The resolution of the Commission shall determine the period of actual cessation of the activity or appoint a special manager.

(3) The licensee shall be obliged to exercise the licensed activity till closing of the proceedings for termination of the license.

(4) The Commission shall suspend processing of the application for termination of a license, when the licensee withdraws his application prior to adoption of the resolution. In the cases under Article 71, Paragraph 1, Item 1 the licensee shall be obliged to file an application for extension of the term of the license at the same time with the withdrawal of the application for termination of the license.

Section IV

Suspension and Withdrawal of License

Article 77. (1) Procedure for withdrawal of an issued license shall be opened by resolution of the Commission in the cases under Article 59 of the Energy Act.

(2) By its resolution for opening of the procedure for withdrawal of the license the Commission shall notify in written the licensee to cease the infringement and to rectify its after-effects, specifies a term for fulfillment of the prescription and sets up a date for an open meeting after the expiry of the rectification period.

(3) The resolution for opening of a procedure for withdrawal of a license shall not be subject to appeal.

Article 78. (1) The Commission shall withdraw the issued license for electricity generation without opening procedure for withdrawal of the license, in the presence of an administrative act for withdrawal of a license for operation of a nuclear facility pursuant to the Act of Safe Use of Nuclear Energy or for cancellation of a permit for water use under the Water Act (when the license has been issued for electricity generation by a hydro power plant).

(2) The resolution under Para 1 shall be adopted by the Commission after entering in force of the administrative act for withdrawal of a license for operation of a nuclear facility or for cancellation of a permit for water use.

Article 79. (1) In a 3-day term from adoption of the resolution for opening of a procedure for withdrawal of a license, the Commission shall send a copy of the resolution to the licensee.

(2) The Licensee may provide a written statement in 14-day term after the notification.

(3) The Commission may demand a standpoint concerning a license withdrawal to be provided by the competent state and municipality authorities within 14-day term, in written and with the data and documents required in attachment.

(4) If, within the time frame, set by the Commission, the licensee fulfills the made warning, stops the infringement and eliminates the consequences and this is acknowledged by the inspection and control authorities of the Commission, it shall, by resolution, terminate the procedure of withdrawal of the license. A written notification for termination of the procedure shall be sent to the licensee.

Article 80. (1) If the licensee does not fulfill the warning made, does not discontinue the infringement or does not rectify the consequences the Commission shall hold an open meeting for withdrawal of the license.

(2) The Commission shall determine, if a given infringement of the license or the law represents a ground for the withdrawal of the license, depending on its significance for the uninterrupted and reliable supply of the clients, violating of the goals and principles of the Energy

Act, and/or a systematic infringement by the licensee of the obligations pursuant to the license or the Energy Act.

(3) The Commission shall in due order explore the need of appointment of a special business manager.

(4) At the open meeting the licensee has the right to deliver his objections to the withdrawal of the license.

Article 81. (1) The Commission shall deliver a resolution by the open procedure for withdrawal of the license at a closed meeting. With its resolution the Commission:

1. Terminates the procedure, if the ground for withdrawal of the license became irrelevant;
2. Withdraws the license.

(2) With the resolution for withdrawal of the license the Commission shall specify the period needed for the actual termination of the activity, exception made by the cases when this may violate the requirements for secure and uninterrupted deliveries of electrical and heat energy or natural gas, and the term in which the person cannot apply for issuance of a new license for the same activity. This term shall not be less than two years.

(3) If the circumstances for appointment of a special business manager are present, with the resolution for withdrawal of the license the Commission shall appoint such special manager. By its resolution for withdrawal of the license the Commission shall appoint a special manager with authorities in accordance with the stipulated in Article 56 Paragraph 4 of the Energy Act, by the final decision of the Supreme Administrative Court, in case of appeal.

(4) The discontinuation of the procedure of the license withdrawal, as well as the withdrawal of the license itself, shall not exclude searching of administrative and penal responsibility for the infringement, documented by an act for establishment of the infringement.

Article 82. (1) The Commission may, by resolution, stop the exercising of the activity under an issued license in cases, when its inspection and control body has found an offence by the licensee, as per Article 201, Para 1 of the Energy Act.

(2) In its resolution the Commission shall determine the term of discontinuation of the activity and for rectifying of the offense.

(3) In cases, when the discontinuation of the licensed activity may bring to violation of the security of the supply for the clients with electrical or heat energy, or natural gas, or the national security and public order may be threatened, the Commission shall appoint a special business manager for the time period set in Para 2.

(4) In cases, when the license has been issued for a differentiated territory, the Commission shall appoint another licensee, meeting the conditions of issuance of license, who shall exercise the activity in this territory till the expiration of the discontinuation term.

Section V

Appointment of a special business manager

Article 83. (1) The Commission shall appoint a special business manager in the cases when the termination, withdrawal or suspension of license, as well as a refusal to extend the term of a license may provoke violation of the security of the supply for the clients with electrical or heat energy, or natural gas, or the national security and public order may be threatened.

(2) A special commercial manager in the cases mentioned in Para 1 shall be appointed:

1. If the licensee has informed the Commission that he shall not perform the licensed activity after the term, but he has not performed before the term of the license his obligation to transfer to a third person his ownership or to establish right of use on the assets, which constitute the means of exercising of the licensed activities in its integrity, or the Commission has not permitted a transaction for disposal;

2. When the Commission refuses to extend the term of a license and the licensee has not performed before the term of the license his obligation to transfer to a third person his ownership or to establish right of use on the assets, which constitute the means of exercising of the licensed activities in its integrity, or the Commission has not permitted a transaction for disposal;

3. When the license is terminated following application of the licensee, including transfer of the assets which constitute the means of exercising of the licensed activities, at the stipulations in Article 53 of the Energy Act and in case that the Commission has obliged the licensee to transfer to a third person his ownership or to establish right of use on the assets, which constitute the means of exercising of the licensed activities in its integrity, if the acquirer is a licensee or has applied and meets the requirements for issuance of a license for the respective activity, and within one month after termination of the license the licensee does not transfer his ownership or establish right of use on the assets;

4. When the license is terminated as the licensee does not perform the licensed activity for a more than one year period and in case that the Commission has obliged the licensee to transfer to a third person his ownership or to establish right of use on the assets, which constitute the means of exercising of the licensed activities in its integrity, if the acquirer is a licensee or has applied and meets the requirements for issuance of a license for the respective activity, and within one month after termination of the license the licensee does not transfer his ownership or establish right of use on the assets;

5. When the license is terminated following application of the licensee, before the term and within the term of the notification, there is no new licensee appointed;

6. At withdrawal of a license, when the resolution for license withdrawal is appealed;

7. At suspension of exercising the licensed activity.

(3) In the case as per Para 2, Item 6 the appointment of the special business manager shall be for the term by the final decision of the Supreme Administrative Court on the notice of appeal, and under Para 2, Item 7 – for the term of the licensed activity suspension.

Article 84. (1) The special business manager shall be appointed by resolution of the Commission.

(2) The special business manager shall be appointed by mutual consent of the licensee and the Commission in the cases as per Article 83, Para 2, Item 1 and 2 within 30 days before the term of the license expiry. If consent may not be reached, the special business manager shall be decided by the Commission.

(3) The resolution of the Commission under Para 1 shall mention:

1. The full names, education and qualification of the person, determined for special business manager;

2. The license, according to which the special business manager shall be appointed;

3. The term for the appointment of the special business manager;

4. The conditions for exercising the activity;

5. The remuneration of the special business manager.

Article 85. (1) A person may be appointed for special business manager when meeting the following requirements:

1. To have a university degree and professional experience in the management of energy enterprises;

2. Not to have been sentenced as major for a criminal offence with malice prepense, if except for being exculpated;

3. Not to be in relations with the licensee, which may arouse just suspicion about his impartiality.

(2) The special business manager shall submit to the Commission a certificate of showing no previous conviction and shall sign a statement for absence of the circumstances under Para 1, Item 3.

(3) The name and the address of the appointed special business manager shall be entered:

1. In the public license register;
2. In the commercial register, following a request of the Commission Chairman and further shall be published in State Gazette.

(4) After entering in the commercial register of the special business manager, the managerial bodies of the licensee may only provide actions, relevant to preparation and conclusion of a disposal transaction for the assets, which constitute the means of exercising of the licensed activity.

Article 86. The special business manager shall possess the following authorities:

1. To receive the sites on the inventory, which constitute the means of exercising of the licensed activity, when the assets are transferred to him for management; and
2. To continue the performance of the licensed activity on behalf of the licensee by the transfer of the ownership on the energy sites and the nomination of a new licensee.
3. To carry out only actions and transactions, which are directly connected to the licensed activity;
4. Shall not have the right to expropriate and to encumber immovables with burden, except with permission of the Commission, as well as to carry out actions, determined by the Commission in the act for appointment.

Chapter Five

APPROVALS OF CORPORATE TRANSFORMATION OF LICENSEES AND OF DISPOSALS AND TRANSACTIONS

Article 87. (1) The Commission shall approve the corporate transformation of a licensee by consolidation, merger, separation, division of single-owner joint-stock company and through change of the legal form (transformation), if the entity that will perform the licensed activity after the transformation meets the requirements for issuance of a license for the activity and /or amendment of the license.

(2) The procedure for approval of corporate transformation of a licensee pursuant to Article 52 of the Energy Act shall be started by written application of the licensee, which shall be submitted to the Commission before issuance of the resolution for corporate transformation in accordance with the Trade Act

(3) The application under para 2 shall contain:

1. name, registered office, address of management of the applicant;
2. registration number of the license;
3. the application for corporate transformation and its type;
4. description of the facilities, with which (depending on their type) the licensed activity shall be performed after the transformation;
5. specimen of the signature of the person who represents the applicant.

(4) The following documents shall be attached to the application under para 2:

1. contract for the corporate transformation or plan for transformation;
2. report of the auditor as provided by Article 262 I of the Trade Act;
3. evidence and data that the requirements for issuance and /or amendment of license are present after the transformation of the applicant, by applying art. 11, para 2.
4. document of paid fee.

(5) The contract or the plan for transformation under paragraph 4 must provide evidence that following the planned corporate transformation the goals and principles of the regulation pursuant to the Energy Act shall be observed.

Article 88. (1) The Commission shall pronounce a resolution on the application for corporate transformation within a period of one month after submission of the application or rectification of the irregularities, governed by the goals and principles as laid down in the Energy Act.

(2) The term under paragraph 1 may be extended with the time necessary for conducting an outside expert assessment, assigned by the Commission, which must determine whether, as a result of the planned corporate transformation, the balance of the interests of the energy enterprise and the clients and their equal standing will be impaired, as well as the other goals and principles of the Energy Act.

(3) The Commission, with the resolution:

1. issues approval of the transformation and amends or terminates the current license and /or issues new license, respectively, if the application corresponds to the requirements for implementation of the license activity.

2. Issues refusal for the transformation.

(4) In the cases, when the Commission approves the corporate transformation, with its resolution under paragraph 3, item 1, it revises or terminates the existing license and/or issues a new license.

(5) The termination, revision or issuance of a license comes into force from the date of entry of the transformation in the commercial register and in case of transformation of a legal entity with issued license under art. 40 para 7 of EA, it comes into force as of the date of the transformation of the legal entity under the legislation of the country in which it is registered.

Article 89. (1) The Commission shall authorize the execution of disposal with uncompleted construction sites or with assets, which constitutes the means for exercising the activity pursuant to an issued license only as a whole, including at due to announcement of bankruptcy of the licensee. Subject of the disposal can be a separate block in the cases when the activity under the license is implemented through generating capacities (block), which technologically can be operated independently from each other.

(2) In case of a privatisation of the part of the going concern, approval from the commission is not needed.

(3) The procedure of issuance of the authorization under paragraph 1 shall be opened on a written application of the licensee, and shall contain:

1. name, registered office, address of management of the licensee and the future purchaser;

2. registration number of the license;

3. request for authorization of execution of the transactions as laid down in Article 53, paragraph 1 or 2 of the Energy Act;

4. request for amendment, addition or termination of the issued licence;

5. description of the facility (entity) – subject of the transaction.

(4) The following documents shall be attached to the application under Para 3:

1. an application of the future purchaser for acquisition of the energy facility (site) and for issuance of a new license when the termination or the amendment of the licence can lead to violation of the security of supply with electricity or heat energy or natural gas; The application shall contain all required documents for issuance of license under the ordinance;

2. preliminary contract between the licensee and the purchaser.

(5) The Commission shall issue licence of the purchaser under the privatisation transaction according para 2, if he had requested the issuance of license and meets the conditions for this.

Article 90. (1) The Commission shall consider the applications under Article 89, paragraphs 3, and 4 within a three-month period as of their submission, or from rectifying of the irregularities.

(2) In the process of consideration of the request for execution of a disposal and for issuance of a new license the provisions of Chapter Two shall be applied.

(3) The Commission shall authorise the execution of the disposals defined in the EA, if the request corresponds to the requirements for implementation of the license activity and meets the conditions for granting of the relevant authorisation.

Article 91. (1) The Commission shall pronounce a resolution on the request for executing disposal with uncompleted entities under construction, or with assets, which constitutes the means for execution of the activity under an issued license, by which it:

1. issues authorization for executing of a disposal and indicates the purchaser and the term of execution of the transaction and amends, adds or terminates the license and issues licence of the purchaser if he meets the conditions under the EA for issuance of a licence for the relevant activity;

2. issues refusal of execution of the disposal, when the purchaser does not meet the requirements for issuance of license.

(2) The Commission may issue an authorization for execution of the disposal irrespective of the purchaser's submission of application for issuance of license, when the termination or revision of the license does not imply degradation of the reliability of supply.

(3) The licensee and the purchaser shall be obliged to submit to the Commission information and evidence of executing the disposal in the term specified by it.

(4) The license, issued to the purchaser, shall become effective after the execution of the disposal.

Article 92. (1) The Commission shall issue authorization for the following transactions:

1. establishment of a guarantee deposit, including special guarantee deposit or mortgage on the property and assets, which constitute the means of exercising the licensed activity

2. transactions, which may lead to degrading of the reliability and security of supply as a result of indebtedness of the energy company, as laid down by Article 21, para 1, item 23 of the Energy Act– issuance of bonds, contracting loans with repayment (redemption) term exceeding one year, signing contracts for purchasing of energy with terms over one year;

3. transactions amounting to more than 10 % of the assets of the licensee as specified by the last audited annual financial report.

(2) The procedure for issuance of an authorization under paragraph 1 shall be opened on a written application of the licensee, which shall contain:

1. Name, registered office, address of management of the licensee;

2. registration number of the license;

3. request for authorisation of execution of the relevant transaction, the grounds for its conclusion, financial reasoning.

4. description of the entity - subject of guarantee at establishment of a guarantee deposit or mortgage and data of the entity in favour of which is the guarantee.

(3) The following documents shall be attached to the application under Para 2:

1. copy of the draft contract, serving as a basis for the request for establishment of the guarantee;

2. copy of the draft contract, for which authorization is being requested, including the financial models of the agreements for energy purchasing;

3. redemption plan for the contractual liabilities.

(4) The Commission shall pronounce its resolution on the application within one month as of its filing or from the rectifying of the irregularities of the application, and shall:

1. authorize the establishment of a guarantee deposit or mortgage;
2. authorize the execution of the requested transaction;
3. refuse the issuance of authorization for the respective transaction or for establishment of guarantee or mortgage, when the execution of the transaction or the establishment of guarantee or mortgage will lead to breaking of substantial conditions for exercising of the licensed activity, including the principles pursuant to Article 23 of the Energy Act. In such cases, the Commission may issue mandatory instructions to the licensee, concerning the provisions and clauses of the submitted draft contract.

(5) The licensee may submit a new application with the same request, pursuant to this article, after the fulfilment of the the mandatory instructions of the Commission as laid down in paragraph 4, item 3.

Article 93. In executing its authority under this chapter, the Commission may demand statements from the Commission for Protection of Competition, concerning the adherence to the competition regulations.

Chapter Six

CERTIFICATION OF TRANSMISSION NETWORK OPERATORS

Section I.

General provisions

Article 94. (1) The Commission shall certify each operator of transmission network for the implementation of the independence requirements.

(2) The certification procedure shall be opened at:

1. written application from the transmission operator;
2. initiative of the Commission;
3. reasoned request from the European Commission; or
4. application form owner or transmission network operator, which is controlled by entity or entities form third country or third countries

Article 95. (1) Within 4 months as of the date of opening of the certification procedure of a transmission operator, the Commission shall adopt draft decision for certification or shall refuse certification.

(2) The draft decision under para 1, together with all related information and documentation shall be immediately notified to the European Commission for opinion. In case the European Commission does not issue explicit opinion it shall be deemed the draft decision for certification is accepted.

(3) During the certification procedure, the Commission and the European Commission shall be entitled to request any information related to the implementation of the obligations for independence of the operator and the operator of the transmission network and the enterprises fulfilling any of the functions of electricity generation, natural gas extraction or electricity or natural gas supply and natural gas generation from renewable sources are obliged to provide it at request within the specified deadlines. The State Energy and Water Regulatory Commission is obliged to keep the confidentiality of the information which is trade secret.

(4) The deadline for receipt of opinion of the European Commission is two months, and in case the European Commission has requested opinion from ACER – 4 months, and it

starts as of the provision for the draft decision under para 2 and the relevant information and documents.

(5) The Opinion of the European Commission shall be published on the official internet site of the European Commission

Article 96. (1) The Commission shall adopt final decision for certification or shall refuse certification after the receipt of the EC opinion or after the deadline for its receipt.

(2) The Commission shall adopt final decision in relation to the certification of the transmission operator which or which owner is controlled by entity or entities from third country, in accordance with the Opinion of the European Commission within two months after its receipt or after the deadline for the receipt of such Opinion.

(3) The decision for determination of operator shall be notified to the European Commission and shall be published in the "Official Journal" of the EU and shall be entered in the register of the Commission.

Article 97. (1) When the certification is requested by owner or transmission network operator which is controlled by entity or entities from third country or third countries, the Commission shall refuse certification in the cases specified in art. 81b, para 5 and 6 of the EA.

(2) Before adoption of the final decision, the Commission may request from the Council of Ministers to assess whether the circumstances under art. 81b para 5, item 2 and para 6, items 1 and 2 from the EA are present, by presenting all related information. The Council of Ministers shall adopt decision which is binding for the Commission.

Section II

Certification of independent transmission operator

Article 98. (1) The application for certification of independent transmission operator shall contain:

1. the name, head office, management address and business ID number of the applicant;
2. registration number of the license;
3. the request for certification;
4. description of the transmission network;
5. specimen of the signature of the person who represents the applicant.
6. document of paid fee

(2) The application under para 1 shall be accompanied with evidences that the applicant meets the criteria for certification:

1. documents for the corporate structure of the independent transmission operator – copy of the documents for the establishment, including decision for the appointment of the members of the Supervisory board and the appointment of the members of the Management Board, as well as information on the conditions which regulate the mandate, its term and its termination, the working conditions, including remuneration, copy of the Articles of Association;

2. data and documents in relation to the ownership of the shares in the capital of the transmission operator, as well as for the participation of the independent transmission operator in undertakings from the vertically integrated undertaking, performing the functions of supply or generation of electricity energy or the functions of supply or production of natural gas;

3. curriculum vitae of the members of the management board of the independent transmission operator, of the persons who report directly to the members of the management

board of the independent transmission operator on issues related to the operation, maintenance and the development of the network;

4. declarations from the members of the supervisory board and the management board of the transmission operator, from the persons who report directly to the members of the management board on issues related to the operation, maintenance and the development of the network, that:

a) they do not occupy professional position or have responsibility, they do not have economic interests or business relations, directly or indirectly with any part of the vertically integrated undertaking or with its controlling shareholders;

b) do not have interest in or receive any financial benefit, directly or indirectly, from any part of the vertically integrated undertaking;

c) they receive remuneration which does not depend on the activity or the results of the vertically integrated undertaking other than the transmission system operator.

d) they haven't occupy any professional position or had responsibility, didn't have interest or business relationship, directly or indirectly, with the vertically integrated undertaking or any part of it, other than the transmission operator, or its controlling shareholders (for the majority of the member of the management board) or that for a period of at least six months (for the rest of the members of the management board) before the their appointment they haven't exercise any managerial or other similar function in the vertically integrated undertaking.

5. declarations for the professional independence form the members of the management board and the members of the supervisory board and the compliance officer;

6. evidences for the ownership of the assets needed for the function of transmission of electricity energy or natural gas, including of the transmission network;

7. data on the organisational structure of the independent transmission operator (approved structure, functions and relations between separate units), on the education and the qualification of the managerial personnel, for the number and the qualification of the personnel of the independent transmission operator, on the concluded labour contracts (information, analysis);

8. declaration from the persons representing the enterprise that the independent transmission operator does not employ or does not provide personnel from and to other parts of the vertically integrated undertaking.

9. evidences in regards to the presence of own corporate identity and separate head office of the independent transmission operator;

10. data and evidences for the presence of financial resources needed for the implementation of the obligations for execution of the activity on transmission of electricity energy or natural gas, including external and internal financing, evidences for compliance with the market conditions (internal rules under the Public Procurement Act, performed procedures under the PPA, contracts, expertise statements, etc.);

11. ten-year network development plan and business plan;

12. evidences for the presence of informational separation from any other part of the vertically integrated undertaking, performing the functions of supply or generation of electricity energy or natural gas (independent systems or equipment for information technologies, premises and security systems in regards to the access to them, usage of different consultants or external contractors for system or information technologies equipment and security systems as in regards to the access), description of the unbundling;

13. evidences for the separation of the information services (report on separation, description of the unbundling, etc.);

14. evidences that the independent transmission operator uses independently the needed for its activity equipment, as well as legal, accountancy and other services;

15. evidences for provided by the independent transmission operator services to the vertically integrated undertaking at market conditions (internal rules on PPA, performed procedures under the PPA, contracts, expertise statements, etc.);

16. evidences that the operator does not receive services from any other part of the vertically integrated undertaking performing the functions of supply or electricity generation or the functions of supply or production of natural gas – declaration from the persons representing the enterprise, internal rules and other evidences;

17. evidences that the independent transmission operator is independently audited by an auditor different from the one of the vertically integrated undertaking and the enterprises within it (executed procedures under the PPA, decision for the appointment of auditor, declaration from the auditor);

18. compliance programme;

19. data on the person appointed for compliance officer by the supervisory board of the independent transmission operator (decision of the supervisory board, curriculum vitae, documents for the professional competency and the independence of the person, the contract with the person);

20. evidences for the powers provided to the compliance officer (Articles of association, related internal acts – instructions, rules, orders, ethic code, etc.).

(3) The declarations under art. 2, item 4, letter “d“, shall applied to at least to half minus one of the members of the supervisory board, of the majority of the members of the management board, of the persons who report directly to the members of the management board of the independent transmission operator on issues related to the operation, maintenance and the development of the network and the of the compliance officer.

Article 99. (1) The commission shall start procedure for certification of the independent transmission operator at its own initiative in the following cases:

1. if in the provided under § 192 form the Transitional and Conclusive Provisions of The Act for Amendment and Addition of the Energy Act (SG 54 from 2012, in force as of 17.07.2012, amen. 23 from 2013, in force as of 8.03.2013) deadline the operators of the electricity and gas transmission networks fail to submit an application for certification under the EA and this Ordinance;

2. when there is information that planned change in the powers or the influence of the owners of the transmission systems or the operators of transmission systems can lead to violation of the requirements for independence, specially - art. 81e, para 5 and para 6 of the EA.

(2) The procedure under para 1 shall be opened with a decision of the Commission. A copy of the decision shall be sent to the transmission operator which is obliged within the determined by the Commission deadline, not longer than 14 days, to provide to the Commission all data and documents indicated in art. 98, para 2.

Article 100. (1) The commission shall start certification procedure upon reasoned request by the European Commission.

(2) The Commission shall notify in written form the transmission operator of the received reasoned request of the European Commission within 3-days as of its receipt.

(3) The transmission operator shall be obliged within the deadline determined by the Commission, which shall be not longer than 14 days, to provide to the Commission all data and documents indicated in art. 98, para 2.

Article 101. (1) When the certification is requested by owner or transmission network operator which is controlled by entity or entities from third country or third countries, the application shall be submitted pursuant to art. 98.

(2) The documents under para 1 shall be accompanied with data and evidences that:

1. the certification will not put at risk the security of supply with electricity energy and natural gas in the Republic of Bulgaria and in the European Union, taking into account:

a) the rights and the obligations of the European Union with respect to the third country, arising from the international law, including any agreement concluded with one or more third countries to which the European Union is a party and which addresses the issues of security of supply with electricity energy and natural gas;

b) the rights and the obligations of the Republic of Bulgaria with respect to the third country, arising from agreements concluded with it as far as they respect the European Union law and

c) other specific facts and circumstances related to the case and the third country concerned.

2. the certification will not lead to violation of the security of supply in the Republic of Bulgaria or the security of supply in other country- member of the European Union and it will not endanger the national security and the public order;

Article 102. (1) The Commission shall adopt a decision for certification of the independent transmission operator when it is established in an indisputable manner that the applicant meets the criteria for certification according the EA.

(2) With the decision for certification, the Commission shall approve:

1. the elaborated by the independent transmission operator 10-year network development plan;

2. the terms and conditions for provision of services from the independent transmission operator to the vertically integrated undertaking;

3. all trade and financial agreements with the vertically integrated undertaking and the operator, in case they influence on the conditions for market development;

4. the compliance programme according art. 81k, para 1 of the EA;

5. compliance officer according art. 81k, para 2 of the EA.

(3) The Commission shall refuse certification of the independent transmission operator in case the analysis of the provided data and evidences establishes that there is no compliance with the certification criteria according the EA, in relation to:

1. the separation of the independent transmission operator;

2. the legal form, the management system, the powers of the management bodies, the independence of the management bodies, of the compliance officer and of the persons reporting directly to the Management Board;

3. the ownership of the transmission network;

4. the resources (human, technical, physical and financial), needed for the implementation of the obligations related to the function of transmission of electricity energy or natural gas;

5. the corporate identity and head office of the independent transmission operator;

6. independent usage of the required equipment and legal, accountancy and informational and other services;

7. the auditing of the company;

8. the provision of services from and to the independent transmission operator to and from the vertically integrated undertaking and any other parts of the vertically integrated undertaking, implementing the functions of supply or generation of electricity energy or the functions of supply or production of natural gas;

9. the compliance programme elaborated by the independent transmission operator;

Article 103. The Commission shall exercise constant control on the independent transmission operator for the presence of compliance with the certification criteria according the EA.

Section III.

Certification of independent system operator

Article 104. (1) In case of systematically violation of the obligations of the independent transmission operator related to the requirements for independence, according Section II of Chapter eight "a" of the EA, including in case of systematically discriminatory behaviour in favour of the vertically integrated undertaking, the Commission, at its own initiative, shall start a procedure for certification of independent system operator which shall be implemented according art. 81a or 81b of the EA.

(2) The procedure shall be started with a decision of the Commission, copy of which shall be sent to the independent transmission operator and to the owner of the transmission network.

(3) Within 14 days, the owner of the transmission network shall submit to the Commission written proposal for entity which to be determined for independent system operator of the transmission network.

(4) The Commission shall sent written notification to the entity indicated by the owner and shall determine a deadline within which the entity should confirm its consent for certification and should provide written application containing data and evidences of compliance with the certification criteria.

(5) The Commission shall sent written notification to the owner of the transmission network and to the operator of equipment for natural gas storage and shall determine deadline within which the necessary documents shall be provided.

Article 105. (1) Written application according art. 104, para 4 shall be submitted to the Commission and shall contain:

1. the name, head office, management address and ID number of the applicant;
2. the request for certification;
3. specimen of the signature of the person, who represents the applicant.
4. document of paid fee

(2) The application under para 1 shall be accompanied with evidences that the applicant meets the certification criteria:

1. documents for the corporate structure of the applicant – copy of the documents for the establishment, including decision for the appointment of the members of the Supervisory board and for the appointment of the members of the Management Board, as well as information on the conditions which regulate the mandate, its term and its termination, the working conditions, including remuneration, copy of the Articles of Association;

2. data and documents in relation to the ownership of the shares in the capital of the applicant, as well as for the participation of the applicant in enterprises from the vertically integrated undertaking, performing the functions of supply or generation of electricity energy or the functions of supply or production of natural gas;

3. curriculum vitae of the members of the management bodies of the applicant;

4. evidences that one and the same person or one and the same persons, according the requirements of the law:

a) do not directly or indirectly exercise control over an undertaking performing any of the functions of generation or supply of electricity energy or natural gas, and

simultaneously directly or indirectly exercise control or exercise any right over transmission system operators or over a transmission system;

b) do not directly or indirectly exercise control over a transmission network operator or over a transmission network, and simultaneously directly or indirectly exercise control or exercise any right over an undertaking performing any of the functions of generation or supply of electricity energy or natural gas;

c) do not appoint members of the Supervisory board or of the managing bodies of the transmission network operator or of the owner of the transmission network and directly or indirectly exercise control or exercise any right over an undertaking performing any of the functions of generation or supply of electricity energy or natural gas;

d) are not members of the Supervisory board or management bodies of an undertaking performing any of the functions of generation or supply, and simultaneously - of a transmission network operator or owner of transmission network;

5. data and evidences that:

a) the applicant has at its disposal all human, technical, physical and financial resources needed for the implementation of the obligations related to the activity on transmission of electricity energy or natural gas;

b) data on the organisational structure of the applicant (approved structure, functions and relations between separate units), on the education and the qualification of the managerial personnel, for the number and the qualification of the personnel of the applicant, on the concluded labour contracts (information, analysis);

c) on the ensured external and internal financing of the activity;

d) on the technical equipment, machines, apparatus and other equipment;

e) on the IT equipment, premises and security systems in regards to the access to them;

6. decision by the management bodies of the applicant for obligation to observe the network development plan according art. 81d of the EA;

7. evidences that the applicant is able to implement the obligations according Regulation (EC) No 714/2009 or Regulation (EC) No 715/2009, including the cooperation between transmission network operators at European and regional level;

8. draft agreements between the owner of the transmission network and the applicant - candidate for independent system operator, and other related agreements, including the financial agreements under art. 81l, para 5, item 2 of the EA.

Article 106. (1) In the course of the certification procedure of independent system operator of the electricity transmission network, the Commission shall require from the owner of the transmission network, in case the same is part of a vertically integrated undertaking, to provide evidences for its independence in relation to the legal organisational form, the organisation and the decision-making by the other functions of the vertically integrated undertaking which are not related to the electricity transmission:

1. declarations that the persons responsible for the management:

a) do not participate in enterprises of the integrated energy undertaking responsible directly or indirectly for the day-to-day activity on generation, distribution, public supply and trade;

b) independently take decisions for the implementation of the assigned by this law obligations and in relation to them, the appropriate measures are taken, taking account of their professional interests, in order to ensure possibility to act independently;

c) are obliged to prevent discrimination in implementing the assigned duties and obligations according the EA;

2. programme with measures to meet the requirements of art. 81m, para 1 and 2 of the EA, containing specific obligations of the employees for its implementation;

3. decision for appointment of person responsible for the programme implementation control pursuant to item 2;

(2) In the course of the certification procedure of independent system operator of the gas transmission network, the Commission shall require from the owner of the transmission network and the operator of the natural gas storage facility, in case the same are part of a vertically integrated undertaking, to provide evidences for their independence in relation to the legal organisational form, the organisation and the decision-making by the other functions of the vertically integrated undertaking which are not related to transmission, distribution and storage of natural gas:

1. declarations from the persons responsible for the management, that they:

a) do not participate in enterprises of the integrated energy undertaking responsible directly or indirectly for the day-to-day activity on extraction of natural gas, production, production from renewable sources, public supply and trade with natural gas;

b) independently take decisions for the implementation of the assigned by this law obligations and in relation to them, the appropriate measures are taken, taking account of their professional interests, in order to ensure possibility to act independently;

c) are obliged to prevent discrimination in implementing the assigned duties and obligations according this law;

2. programme with measures to meet the requirements of art. 81n, para 1 and 2 of the EA, containing specific obligations of the employees for its implementation.

3. decision for the appointment of person responsible for the programme implementation control pursuant to item 2;

Article 107. (1) The Commission shall adopt a decision for certification of the independent system operator when it is established in an indisputable manner that the requirements under art. 81l, para 2 of the EA are met and the owner of the transmission network has proved ability to implement its obligations under art. 81l, para 5 of the EA.

(2) With the decision for certification the Commission shall approve:

1. the financial agreements between the applicant and the owner of the transmission network after the consultations with the owner of the transmission network and with other stakeholders;

2. other related agreements between the applicant and the owner of the transmission network;

3. the compliance programme, as well as the person responsible for the implementation control;

(3) The decision for designation of the independent system operator shall be immediately notified to the European Commission for approval. The decision of the Commission shall be published in the "Official Journal" of the European Union together with the decision of the European Commission for approval.

(4) The Commission shall refuse certification of the independent system operator when the analysis of the provided data and evidences established presence of some of the following circumstances:

1. non-compliance with the certification criteria under the EA;

2. the owner of the transmission network failed to prove ability to implement the obligations under art. 81l, para 5 of the EA;

3. the independence of the owner of the transmission network being part of the vertically integrated undertaking is not ensured.

Article 108. The Commission shall exercise control on the independent system operator for the presence of compliance with the certification criteria according the EA.

Section IV.

Certification of operators of transmission networks unbundled by ownership

Article 109. (1) The application for certification of an operator of transmission network unbundled by ownership shall contain the information under art. 98, para 1;

(2) The application under para 1 shall be accompanied with evidences that the applicant meets the certification criteria:

1. documents for the corporate structure of the operator – copy of the documents for the establishment, including decision for the appointment of the members of the Supervisory board and for the appointment of the members of the Management Board, as well as information on the conditions which regulate the mandate, its term and its termination, the working conditions, including remuneration, copy of the Articles of Association;

2. documents evidencing that the operator has at its disposal all human, technical, physical and financial resources needed for the implementation of the obligations related to the function of transmission of electricity energy or natural gas;

3. documents evidencing that one and the same person or persons are not entitled to:

a) directly or indirectly exercise control over an undertaking performing any of the functions of generation or supply of electricity energy or natural gas, and simultaneously directly or indirectly exercise control or exercise any right over transmission system operators or over a transmission system;

b) directly or indirectly exercise control over a transmission network operator or over a transmission network, and simultaneously directly or indirectly exercise control or exercise any right over an undertaking performing any of the functions of generation or supply of electricity energy or natural gas;

c) appoint members of the Supervisory board or of the management bodies of the transmission network operator or of the owner of the transmission network and directly or indirectly exercise control or exercise any right over an undertaking performing any of the functions of generation or supply of electricity energy or natural gas;

d) be members of the Supervisory board or management bodies of an undertaking performing any of the functions of generation or supply, and simultaneously - of a transmission network operator or owner of transmission network;

4. evidences on the ownership of the assets needed for the activity on transmission of electricity energy or natural gas, including of the transmission network;

5. data on the organisational structure of the operator (approved structure, functions and relations between separate units), on the education and the qualification of the managerial personnel, for the number and the qualification of the personnel of the independent transmission operator, on the concluded labour contracts (information, analysis);

6. evidences that the operator is not part of the vertically integrated undertaking.

7. data and evidences on the availability of financial resources needed for the implementation of the obligations related to the activities on electricity energy or natural gas transmission, including external and internal financing;

8. ten-year network development plan and business plan.

Article 110. The Commission shall adopt a decision for certification of the operator unbundled by ownership when it is established in an indisputable manner that the requirements under art. 81o of the EA are met and the owner of the transmission network has proved ability to implement its obligations.

Article 111. The Commission shall exercise control over the operator unbundled by ownership for the presence of compliance with the certification criteria according the EA.

Section V.

Transmission network development plan

Article 112. (1) The transmission network operator shall submit for approval to the Commission 10-year network development plan, which shall consist:

1. forecast on construction, extension, reconstruction and modernisation in the next 10 years of the main transmission infrastructure;
2. all the investments for which a decision is already taken;
3. identified new investments which have to be executed in the next three years;
3. time frame for all investment projects.

(2) The ten-year network development plan shall be elaborated by the transmission network operator on the grounds of the available information about generation, supply, consumption and the exchanges with other countries, including their evolution, taking into account the investment plans for regional and Community-wide networks. When elaborating the 10-year transmission network development plan the operator shall take into account the researches, plans and forecasts under art. 87, para 3 of the EA. When elaborating the 10-year gas transmission network development plan the operator shall take into account the investment plans for natural gas storage facilities.

(3) The transmission network operator shall consult the elaborated under the previous paragraphs 10-year network development plan with all stakeholders. The draft network development plan shall be published on the internet site of the operator not later than 30 days before its submission for approval by the Commission.

(4) The first 10-year network development plan shall be approved by the Commission with the decision for certification of the transmission network operator.

Article 113. (1) The Commission shall consult all actual or potential system users on the ten-year network development plan in an open and transparent manner by organising public consultation on the plan.

(2) The stakeholders shall be given a deadline for the submission of comments and proposals, the deadline being not less than 14 days.

(3) Persons or enterprises claiming to be potential system users may be required to substantiate such claims. The Commission shall publish on the internet site the result of the consultation process, including the possible needs for investments.

(4) The Commission shall examine whether the ten-year network development plan covers all investment needs identified during the consultation process, and whether it is consistent with the Community-wide ten-year network development plans.

Article 114. (1) The Commission shall monitor and evaluate the implementation of the ten-year network development plan.

(3) When the independent transmission operator fails to execute an investment under the ten-year network development plan, which was to be executed in the following three years, the Commission shall require written description of the reasons, together with supporting data and documents.

(3) The Commission, with a decision, shall oblige the operator to execute the investments in question, if they are still to be executed, as well as to provide for the reimbursement of the costs for such investments through the prices for network services,

unless the non-execution under para 2 is due to overriding reasons beyond the control of the network operator.

Chapter seven

Decisions for approval of the forecast annual electricity capacities under the RESA

Article 115. (1) Each year, the operators of the electricity distribution networks shall elaborate forecasts for the electricity capacities which can be provided for connection of sites for electricity generation from renewable sources to the relevant distribution networks for the next price period.

(2) The forecasts of the operators of the electricity distribution networks shall be elaborated per regions of connection of the generation sites and voltage level in accordance with the approved by the Commission investment programme of the electricity distribution company, taking into account the transmission capabilities of the networks, the realised and the forecast electricity consumption and the concluded preliminary connection contracts.

(3) On the grounds of the forecasts under para 1, the operators of the electricity distribution companies shall elaborate proposal which they shall present to the transmission network operator till 28 February of the relevant year.

(4) To the proposals under para 3 the operator of the electricity distribution companies shall attach data, information and documents for:

1. concluded preliminary contracts;
2. realised and forecast electricity consumption;
3. transmission capabilities of the networks;
4. possibilities for capacity balancing within the electricity distribution network.

Article 116. (1) The electricity transmission network operator, on the grounds of the proposals from the operators of the electricity distribution networks, the approved by the Commission investment programme and the 10-year network development plan, shall elaborate forecast of the electricity energy capacities which can be provided for connection to the transmission and the electricity distribution networks of facilities for generation of electricity energy from renewable sources.

(2) The forecast of the transmission network operator under para 1 shall be elaborated per regions of connection of the sites for generation and voltage level.

Article 117. The electricity transmission network operator may request additional data and information from the operators of the electricity distribution networks in relation to the forecasts per regions of connection of the sites for generation and voltage level, which the operator of the relevant electricity distribution network is obliged to provide within the specified deadline.

Article 118. (1) On the grounds of the forecast under art. 116, para 1, the electricity transmission network operator shall elaborate proposal for the electricity capacities which can be provided for connection to the transmission and the distribution networks of facilities for generation of electricity from renewable source for the next price period. The proposal shall be submitted to the Commission and the Minister of economy, energy and tourism till 30 April of the relevant year.

(2) To the proposal under para 1, the electricity transmission network operator shall attach:

1. the proposals of the operators of the electricity distribution networks together with all their appendices, as well as additionally provided data and information;

2. information and data on:
 - a) concluded preliminary contracts;
 - b) realised and forecast electricity consumption;
 - c) transmission capabilities of the networks;
 - d) possibilities for capacity balancing within the power system.

Article 119. Within one month as of the receipt of the proposal of the electricity transmission network operator, the Minister of economy, energy and tourism shall prepare and send to the Commission opinion on its compliance with the National Action plan for the energy from renewable sources.

Article 120. (1) The Commission shall consider the proposal of the electricity transmission network operator within two months as of its submission.

(2) In the course of the examination of the proposal, the Commission may request from the operators of the transmission and the distribution networks to present additional data and information.

(3) The Commission shall oblige the electricity transmission network operator to review the elaborated proposal for the forecast electricity capacities for an annual price period in the following cases:

1. when the proposals are not in compliance with:
 - a) The National action plan for development of renewable sources according the opinion of the Minister of economy, energy and tourism;
 - b) the forecasts according the 10-year network development plan;
 - c) the approved investment programmes of the operators of the transmission and the distribution networks;
2. when it is established that the transmission capacities of the networks and the possibilities for capacity balancing in the power system are not precisely taken into account.

(4) The operator of the electricity network shall be obliged to review the proposal within the specified by the Commission deadline.

Article 121. (1) The Commission shall announce a decision on the proposal of the electricity transmission network operator for forecast of the electricity capacities which can be provided for connection to the transmission and the distribution networks of facilities for generation of electricity from renewable sources till 30 June.

(2) With its decision under para 1, the Commission shall approve the forecast for a period of one year as of 01 July of the electricity capacities which can be provided for connection to the transmission and the distribution networks of facilities for generation of electricity from renewable sources, per regions of connections and voltage level.

(3) The decision of the Commission shall be published on the internet site of the Commission.

Chapter eight SUPPLY TO CLIENTS

Section I. General provisions

Article 122. (1) The licensees are obliged to ensure secure and reliable, uninterrupted and with high quality supply to the clients with the exception of cases of turning/switching off or discontinuation of the supply when:

1. planned or emergency repairs of the transmission and distribution network are carried out;

2. a competent governmental body has determined a restrictive administration schedule of using electricity, heat energy and natural gas;

3. bills have not been paid;

4. clients have violated the contract and the contract infringement is subject to such a sanction.

(2) Consumers of energy services shall have the right of connecting to the licensees' networks under the conditions and procedure provided for by the Energy Act and the ordinances for its application, which regulate the connection to these networks.

(3) The licensees shall be obliged to ensure the metering and reading (logging) of electricity, heat energy and natural gas by:

1. installing and keeping in good order the equipment for commercial metering;

2. employing of qualified personnel for control and taking the readings of the metering equipment.

Article 123. (1) Licensees providing services of public interest are obliged to provide for the protection of the clients' rights and to ensure equal standing of the clients groups by:

1. elaboration of contracts with users of energy services, the conditions of which and the proposals for their amendment are announced before the conclusion or the confirmation of the contract.

1. preparation and approval by the Commission, and publishing of the general terms for supply to the clients;

3. provision of information to the users of energy services;

4. preparation, approval by the Commission and publishing of the Energy Services User code,

3. execution of sales contracts for electricity, heat energy and natural gas on the basis of the general terms;

6. establishment of Clients Centres;

7. publication of emergency handling rules and for modification of the rules.

(2) The contracts between users of energy services and the energy enterprises providing services of public interest shall contain obligatory:

1. data for the energy company, including address;

2. the services offered and the terms and conditions for their provision;

3. the means through which an up-to-date information can be received for all applicable prices of the services offered;

4. term of the contract, the conditions for temporary termination, termination of their provision and of the contract;

5. the conditions for unilateral termination of the contract by the user of the energy services and possibility for such termination without any additional payment;

6. the terms and conditions for set off and reimbursement of sums in case of violation of the requirements for quality of the contracted services, including incorrect or delayed invoicing;

7. the rights of the users of energy services, including information on the procedure for consideration and decision on claims;

8. other conditions according the provided in the EA.

(3) In the invoices or with them, and on their internet sites, the energy enterprises under para 1 shall provide information on:

1. the ways of payment, prices for disconnection or reconnection of the supply, prices of maintenance services and other prices of services related to the licensed activity;

2. the procedure for change of supplier and information that users of energy services do not owe additional payments at change of their supplier;
3. actual quantities consumed and the costs made without obligation for additional payment for this service;
4. preparation of final adjusted bill at each change of the supplier;
5. the share of each energy source in the overall supplied energy from the supplier over the preceding calendar year in a comprehensible and clearly comparable manner;
6. existing sources of public available information on the influence on the environment at least in relation to the emissions of carbon dioxide and the radioactive waste - result from the generation of electricity energy from the different energy sources, in the total supplied energy by the supplier during the preceding year;
7. information on the means for disputes settlement.
8. check list, adopted by the European Commission, containing practical information on their rights.

(4) The electricity energy producers, the electricity energy public provider, respectively, are obliged to provide to the end suppliers of electricity energy and to the suppliers of last resort the information needed for the implementation of their obligations under art. 3, items 5 and 6.

Article 124. (1) The licensees providing services of public interest are obliged to publish on their internet site, at visible place in the Clients Centres and in other appropriate way, up-to-date information at least for:

1. the general terms and conditions of the contracts with the users of energy services or the conditions of the contracts with users of energy services;
2. name, address and telephone for contacts with the energy company;
3. services offered:
 - a) type of the offered by the energy company services;
 - b) prices of the provided services and the content of each price element, such access fee, consumer fees, maintenance fee; the applied standard discounts, special and target tariff schemes, additional fees and costs in regards to end electronic communication devices;
 - c) procedures for compensation and reimbursement of costs;
4. procedures for disputes settlement, including the elaborated by the energy company;

(2) The information under para 1 shall be published in a clear, understandable and accessible form.

(3) The Commission may determine additional requirements in relation to the form in which the information under para 1 is published.

Section II

Quality of Service Standards

Article 125. (1) The quality of supply with electricity, heat energy and natural gas shall be determined by the following groups of indicators:

1. Quality of the electricity, heat energy and natural gas;
2. Security, uninterrupted supply and effectiveness of the supply;
3. Quality of the commercial services.

(2) The quality indicators included in the groups under paragraph 1 and their normative values shall be determined by the Commission with methodologies and/or instructions for performance monitoring of the target indicators for energy quality, for uninterrupted supply and for service quality.

(3) The particular values (norms) of the quality indicators and the time frame for reaching of these target values shall be determined for each licensee by resolution of the Commission and shall become provisions of the license.

(4) The quality indices which shall be taken in consideration when applying the ordinances for price regulation of electricity, heat energy and natural gas are aggregated indicators for the quality of the supplied energy, for uninterrupted supply and for service quality;

(5) The licensees shall take into consideration in a compulsory manner the achievement of the target normative values under paragraph 3 in their business plans.

(6) The licensees shall elaborate, as part of their business plans, programs for collection, storage, analysis and presentation before the Commission of the information needed for the assessment of the quality of electricity and heat energy, and of natural gas, and of the services provided.

(7) The Commission shall supervise the implementation of the plans and the programs under paras 5 and 6 as part of its supervisory activity on the compliance with the license provisions.

(8) The licensees shall keep the whole information for the quality indicators, for uninterrupted supply and for service quality in a manner and in time-frames determined by the Commission.

(9) The Commission is entitled to monitor the performance of the indicators for quality of the service, as well as the process of collection and storage of the provided information.

Section III.

Sale of Electricity, Heat Energy and Natural Gas, distribution of electricity energy and transmission of natural gas at Publicly Known General Terms

Article 126. (1) The Commission shall approve the general terms of the contracts for sale of electricity, heat energy and natural gas under article 95a, 98a, 150 and 183a of the EA, the general terms for transmission/distribution of electricity energy under art 104a of the EA and the general terms for transmission of natural gas through the gas distribution networks under art 183b of the EA.

(2) The public known general terms and conditions under paragraph 1 shall be elaborated and proposed by:

1. The end suppliers of electricity energy – for sales of electricity energy;
2. The heat transmission enterprise – for sales of heat energy for domestic purposes;
3. The end suppliers of natural gas – for sales of natural gas;
4. The electricity transmission network operator, the operator of the electricity distribution network and the operator of the gas transmission network - for transmission of electricity energy and natural gas through the electricity transmission, electricity distribution and the gas distribution networks to the end consumers;
5. The suppliers of last resort – for sales of electricity energy.

Article 127. (1) The general terms and conditions under Article 126 shall contain the conditions under art. 123, para 2, as well as:

1. The rights and the obligations of the energy enterprise and of the users of energy services;
2. The conditions for quality of supply;
3. The information submitted by the energy enterprise pursuant to art.123, para 3;

4. The conditions for termination or disconnection of the supply with electricity, heat energy or natural gas;

5. The procedure for metering, reading, distribution and payment of electricity, heat energy and natural gas;

6. The procedure for providing access to the devices for commercial metering or to other monitoring equipment, as well as to the heating elements, when consuming heat energy;

7. The responsibility of the energy enterprise in case of unregulated interruption or low quality of supply with electricity, heat energy and natural gas;

8. The procedure for provision and receipt by the end consumers of their individual bills for distribution of heat energy, as well as determination of the moment as of which the term for appeal starts.

9. transparent and accessible procedures for examination of claims from clients, as well as procedures for reimbursing of unduly paid sums and for indemnification of caused damages.

10. the contents of the invoices and bills issued by the energy enterprises which shall reflect the actual consumption and shall contain particulars of the number of the measuring device, the consumption of electricity, heat energy or natural gas for the billing period in consideration, the value added tax (VAT) and a breakdown of the price into components, if such have been approved of.

11. prior notification in case of termination, limitation or interruptions of the services when there are repair works, operational switching, commissioning of new facilities and other similar works which shall be planned, as well as of the the period of the termination, limitation or interruption of the service;

12. notification of the end consumers of amendments in the general terms and conditions within one month before their presentation in the Commission for approval;

13. prior notification of the end consumer at request for access to his premises;

14. public announcement of address and/or telephone for contact in case of failures and for information;

15. provision of information;

16. storage of the data needed for the payments for a specified time;

17. procedure for notification of the client in case of correction of bill according the rules under art. 83, para 1, item 6 of the EA.

(2) The general terms and conditions shall be elaborated by the energy enterprise in a clear, comprehensive and accessible form.

Article 128. (1) The drafts of the general terms and conditions shall be made public to the consumers in an adequate way by the energy enterprise and shall be announced in the Clients Centres at least 30 days before their submission for approval by the Commission. The announcement shall contain:

1. telephone and address for submission of proposals on the draft,

2. deadline for submission of the proposals.

3. the date, time and the place of the public consultation on the draft terms and conditions;

(2) The energy enterprises shall draw up minutes of the public consultation.

Article 129. (1) The energy enterprises shall present the draft general terms and conditions for approval by the Commission after the term under art. 128. para 1, with a written application accompanied by the following:

1. the statements and the comments on the draft, which have been received in the course of the public consultation, as well as the minutes of the public consultation;

2. opinion of the energy enterprise on the received comments and notes in the course of the public consultation on the draft terms and conditions;

3. resolution of the management bodies of the energy enterprise for acceptance of the general terms and conditions.

(2) In the course of examination of the proposed drafts of general terms and conditions, the Commission may require from the energy enterprises additional information and to issue mandatory instructions and deadline for revision and amendment of the draft general terms and conditions with respect to rendering them in line with the requirements of the law and ensuring of equal standing.

Article 130. (1) The Commission shall take a decision on the application for approval of the general terms and conditions in a period of 30 days after the submission of the information or implementation of the instructions.

(2) The Commission, by its resolution under para 1, shall:

1. Approve of the general terms and conditions;

2. In case the enterprise failed to implement the mandatory instructions within the specified term and the general terms and conditions do not provide for equal standing of the parties of the contract, the Commission shall approve the general terms and conditions according the instructions issued or shall refuse to approve the general terms and conditions.

Article 131. (1) The energy enterprises shall publish the approved by the Commission general terms and conditions, in one central daily and one regional daily as a minimum, within 7 days after the adoption of the resolution for their approval. The general terms and conditions shall be published on the internet site of the energy enterprise and shall be available in the Clients Centres during the whole period of functioning of the energy enterprise.

(2) The general terms and conditions shall enter into force 30 days after their first publication without any need for explicit written acceptance by the consumers.

(3) End consumers who disagree with the general terms and conditions shall have the right in a period of 30 days after their entry into force to file with the respective energy enterprise an application with proposal of special conditions.

(4) The special conditions, accepted by the energy enterprise, which differ from the published ones, shall be reflected in an additional written agreements. These agreements cannot provide for conditions which place the end consumers in an unequal position with respect to the rest of the consumers.

(5) The provisions under paragraphs 3 and 4 shall be applied also to new clients.

Article 132. (1) The general terms and conditions can be revised and/or amended with a decision of the Commission:

1. at request from the licensee;

2. at initiative of the Commission, including at proposal from consumers organisations under the Customers protection and NGO Act.

(2) For a revision or amendment of the general terms and conditions at request from the licensee, the procedure foreseen for their initial adoption shall be applied.

(3) In case when the Commission has requested the licensee to elaborate proposal for revision and amendment of the general terms and conditions and the licensee failed to do it within the specified by the Commission deadline, a report shall be issued by working group, appointed by an order of the chairman of SEWRC, and which report shall be adopted at closed meeting of the Commission and shall be published on its internet site. With the adoption of the report, the Commission shall determine date for the public consultation with the stakeholders. Within not less than 14 days as of the date of the public consultation, the

licensee and the stakeholders shall be entitled to present their written comments on the proposed draft for amendment of the general terms and conditions.

(4) The Commission shall take a decision for:

1. revision and/or amendment of the general terms and conditions, or
2. refusal to revise and /or amend the general terms and conditions.

Section IV.

Written Contracts under General Terms and conditions

Article 133. (1) The Commission shall approve general terms and conditions of the written contracts for:

1. Sale of heat energy pursuant to Article 149 of the Energy Act;
2. Assignment of the provision of the service of share distribution of heat energy pursuant to Article 139c of the EA;

(2) The general terms and conditions under paragraph 1 shall be elaborated:

1. by the heat transmission company:
 - a) For sale of heat energy to industrial consumers;
 - b) For purchase of heat energy from the producers;
 - c) For assignment of entity under art. 139b of the EA, to provide the service share distribution of heat energy;
 - d) for sale of heat energy to supplier;
 - e) for sale of heat energy to association of the clients in a building - condominium;
2. by the heat energy generating enterprise - for sale of heat energy to directly connected industrial clients;
3. by the heat energy supplier:
 - a) for sale of heat energy to clients in a building - condominium;
 - b) For assignment of entity under art. 139b of the EA, to provide the service share distribution of heat energy;

(3) The general terms and conditions under para 1 shall meet the requirements of art. 123, para 2, and to contain:

1. the conditions and the requirements for quality of the service;
2. offered additional services for maintenance of devices and facilities of the clients;
3. responsibility of the energy enterprise for unregulated disconnection and supply with poor quality;
4. penalties for violations of the contract.

(4) The general terms or their amendment shall be published by the licensee on its internet site and shall be available on a visible place in the clients centres or in other way, within not less than 30 days before their submission to the Commission for approval.

(5) The energy enterprises shall present the draft general terms and conditions for approval by the Commission after the term under para 4, with a written application accompanied by the following:

1. received comments and notes on the draft;
2. opinion of the energy enterprise on the received comments and notes;
3. resolution of the management bodies of the energy enterprise for acceptance of the general terms and conditions.

(6) In the course of examination of the proposed drafts of general terms and conditions, the Commission may require from the energy enterprises additional information and to issue mandatory instructions and specify deadline for revision and amendment of the draft general terms and conditions with respect to rendering them in line with the requirements of the law and ensuring of equal standing.

Article 134. (1) The Commission shall decide on the application for approval of the general terms and conditions in a period of 30 days after the submission of the information or implementation of the instructions.

(2) The Commission, by its resolution under para 1, shall:

1. Approve of the general terms and conditions;

2. In case when the enterprise failed to implement the mandatory instructions within the specified term and the general terms and conditions do not provide for equal standing of the parties of the contract, the Commission shall approve the general terms and conditions according the instructions issued or shall refuse to approve the general terms and conditions.

(3) The general terms and conditions can be revised and/or amended with a decision of the Commission:

1. at request from the licensee;

2. at initiative of the Commission, including at proposal from consumers organisations under the Customers protection and non-profit legal entities Act.

(4) In case the Commission had requested the licensee to elaborate proposal for revision and amendment of the general terms and conditions and the licensee failed to do it within the specified by the Commission deadline, a report shall be issued by working group, appointed by an order of the chairman of SEWRC, and which report shall be adopted at closed meeting of the Commission and shall be published on its internet site. With the adoption of the report, the Commission shall determine date for the public consultation with the stakeholders. Within not less than 14 days as of the date of the public consultation, the licensee and the stakeholders shall be entitled to present their written comments on the proposed draft for amendment of the general terms and conditions.

(5) The Commission shall take a decision for:

1. revision and/or amendment of the general terms and conditions, or

2. refusal to revise and /or amend the general terms and conditions.

Article 135. (1) Each client shall be entitled to read the draft contract and the approved by the Commission general terms and conditions of this contract in advance.

(2) The energy enterprises/the supplier of heat energy are obliged to propose to the clients alternative ways for payments under the contracts.

Section V.

General terms and conditions for access to the electricity energy transmission and distribution networks under the RESA

Article 136. (1) The Commission shall approve general terms and conditions for access to the electricity energy transmission and distribution networks under art.30 of the RESA.

(2) The general terms and conditions under paragraph 1 shall be elaborated and proposed by:

1. the operator of the electricity transmission network - for access to the electricity energy transmission network;

2. the operators of the electricity distribution networks - for access to the electricity energy distribution networks;

(3) The Commission shall decide on the request for approval of the general terms and conditions. With its decision, the Commission shall approve the general terms and conditions or shall refuse their approval and shall gives mandatory instructions for revision and amendment of the draft.

(4) For a revision or amendment of the general terms and conditions, the procedure foreseen for their initial adoption shall be applied.

Article 137. The general terms and conditions under art. 136 shall contain obligatory:

1. the rights and the obligations of the energy enterprise and of the producers of electricity energy from renewable sources;
2. requirements for presentation of assessment of the potential under art. 19, para 1 of the RESA, when its elaboration is obligatory, on the grounds of which potential the forecast schedules for generation of electricity energy from renewable sources are prepared;
3. the conditions for implementation of the forecast schedules for generation of electricity energy from renewable sources;
4. the conditions and the procedure for submission of data by the producers of electricity energy from renewable sources above 30 kW in real time, to the operator of the transmission or the distribution network for the supplied electricity capacity in the connection point;
5. the conditions for termination or disconnection of the access to the relevant network;
6. the conditions and the procedure for notification of the producer of electricity energy from renewable sources for the introduced limitations;
7. the responsibility of the energy enterprise in case of unregulated termination or limitation in the generating regime of the energy facility of the producers of electricity energy from renewable sources, except the cases of planned repairs, as well as the case under art. 72 and art. 73 of the EA.

Article 138. (1) The draft general term and conditions shall be announced and consulted under the conditions and according the procedure under art. 128.

(2) The energy enterprises shall submit for approval to the Commission the draft general terms and conditions with written application, which shall be accompanied with:

1. the opinions and the comments on the draft, received by the stakeholders;
2. opinion of the energy enterprise on the received comments and notes;
3. resolution of the management bodies of the energy enterprise for acceptance of the general terms and conditions.

(3) In the course of examination of the proposed drafts of general terms and conditions, the Commission may require from the energy enterprises additional information and to issue mandatory instructions for revision and amendment of the draft general terms and conditions with respect to rendering them in line with the requirements of the law and ensuring of equal standing.

Article 139. (1) The Commission shall decide on the request for approval of the general terms and conditions.

(2) The Commission, by its resolution under para 1, shall:

1. approve of the general terms and conditions;
2. refuse to approve the general terms and conditions when the mandatory instructions of the Commission under art. 138, para 3 are not implemented or the general terms and conditions do not provide for the equal treatment of the parties of the contract, as well as when the they are not in compliance with the requirements of art. 137.

Article 140. (1) The energy enterprises shall publish the approved by the Commission general terms and conditions in one central daily and on its internet site as a minimum, within 3 days

as of the notification of the decision for their approval according art. 61 of the Administrative Procedure Code.

(2) The approved by the Commission general terms and conditions shall enter into force 30 days after their publication, without any need for explicit written acceptance by the producers of electricity energy from renewable sources..

Article 141. (1) The general terms and conditions can be revised and/or amended with a decision of the Commission:

1. at request from the licensee;
2. at initiative of the Commission;

(2) For a revision or amendment of the general terms and conditions, the procedure foreseen for their initial adoption shall be applied.

Chapter Nine

CONSIDERATION OF COMPLAINTS AND SETTLEMENT OF DISPUTES

Section I. Complaints

Article 142. (1) The Commission shall consider complaints of:

1. users of networks and facilities against operators of transmission and distribution networks, producers, operators of facilities for natural gas storage and operators of facilities for liquefied natural gas, related to the performance of their obligations under the Energy Act, and of consumers against operators of water and sanitation services, related to the subject of regulation under the Regulation of water and sanitation services Act;

2. clients against suppliers of energy or natural gas, including end suppliers, related to the performance of their obligations under the EA;

3. licensees against licensees, related to the performance of the licensed activity under the Energy Act, as well as of water and sanitation services operators against water and sanitation services operators, related to the subject of regulation under the Regulation of water and sanitation services Act;

4. the members of the bodies of the transmission network operator, of the compliance officers of a transmission network operator and of the persons under art. 81e, para 9 of the EA, at termination of their employment relationships in the provided by the EA cases.

(2) Organisations of the consumers, under The Consumers Protection and non-profit legal entities Act, for protection of the energy services users, can file complaints under para 1, item 1 и 2 for violation of collective interests of the energy services consumers, as well as to propose to the Commission to start a procedure for amendment of the general terms and conditions of the contracts in accordance with this ordinance

(3) The Commission shall also consider complaints of:

1. the independent transmission operator against the vertically integrated undertaking and of the vertically integrated undertaking against the independent transmission operator;

2. the independent system operator against the owner of the transmission network and of the owner of the transmission network against the independent system operator, and the decision on such complaint shall be taken within 2 months as of its receipt; this term can be extended with two months if the nature of the dispute requires collection of additional data and information by the Commission; with the consent of the complainant the extended term can be extended with another two months.

(4) The Commission shall consider complaint under para 1, item 1 and item 2, if the same is considered by the relevant enterprise and the complainant is not satisfied by the response, as well as in cases when response is not received.

(5) In the cases under para 4, when the complaint is not considered, the same shall be forwarded for consideration by the the relevant enterprise which is obliged to consider it and to notify the complainant of the results.

Article 143. (1) The complaint shall meet the following requirements:

1. It must be written in the Bulgarian language;
2. It must specify the name and the address of the complainant, as well as the name of the entity against which it is complaint;
3. It must specify the nature of the complaint;
4. It must present the circumstances pertaining to the case and factual evidences, if available;
5. The complainant must sign it.

(2) The complainant shall attach to the complaints under art. 142, para 1, item 1 and 2 the response from the enterprise or other evidences that the complaint is considered by the relevant enterprise.

(3) The complaint shall be filed to the Commission through the relevant energy enterprise or water and sanitation services operator, which are obliged to perform examination and to send the complaint to the Commission together with their opinion, as well as the whole case file on it, within 7 days as of the receipt of the complaint.

(4) In the cases the complaint is not filed through the relevant energy enterprise or the water and sanitation services operator, the Commission shall send the filed complaint to the energy enterprise or water and sanitation services operator, requiring implementation of examination and return of complaint in the Commission together with the opinion of the enterprise, as well as the whole case file within 7 days as of the receipt of the complaint.

(5) In the cases under para 3 and para 4, the relevant energy enterprise or water and sanitation enterprise shall be obliged to send a copy of their opinion on the complaint to the complainant, as well as to provide to the Commission evidences of its receipt by the complainant.

(6) The Commission shall consider the complaint if the opinion of the energy enterprise or water and sanitation services operator is attached, together with the whole case file.

Article 144. (1) During the examination of the filed complaint, all necessary evidences for clarification of the circumstances shall be collected.

(2) For the purpose of examination of a complaint:

1. a meeting between the parties can be organised in the registered office of the Commission for additional clarification of the circumstances. Minutes shall be taken of the meeting, signed by the parties present.

2. assistance can be provided for the voluntary dispute settlement.

Article 145. (1) On completion of the examination report and draft decision shall be prepared, in which the circumstances, the opinion of the examined entity, the collected on the administrative file evidences, the legal and the actual findings from the complaint shall be reflected. The report and the draft decision shall be accompanied with all collected evidences on the administrative proceeding.

(2) The report, the draft decision, the complaint and the case file shall be presented to the chairman of the Commission, who shall decide with a resolution on the consideration of the complaint and its consideration by the Commission in a closed meeting.

Article 146. (1) Within two months as of the filing of complaint under art.142, para 1, items 1, 2 and 3 and para 2, the Commission can provide assistance for voluntary dispute settlement. The term can be extended with another two months, if the nature of the dispute requires collection of additional data and information by the Commission.

(2) In the case of complaints under art.142, para 1, items 1, 2 and 3, including filed under art. 142, para 2, when agreement for voluntary settlement of the dispute is not reached or at refusal of a party for voluntary settlement, the Commission shall take a decision on the complaint within two months as of its receipt. The term can be extended with another two months, if the nature of the dispute requires collection of additional data and information by the Commission.. With complainant's consent, the extended term can be extended with another two months.

Article 147. (1) When as a result of the examination on the complaint and on the grounds of the collected in the course of the administrative proceeding evidences, the Commission establishes that the complaint is not reasonable, it shall terminate the case with a decision.

(2) When as a result of the examination on the complaint and on the grounds of the collected in the course of the administrative proceeding evidences, the Commission establishes that the complaint is reasonable, it shall issue mandatory instructions and shall determine appropriate term for their implementation.

(3) The Commission shall notify the parties of the complaint of its decision within 7 days as of its adoption.

Article 148. (1) The decisions of the Commission pertaining to this chapter shall be subject to appeal before the Supreme Administrative Court (SAC) according the procedures of the Administrative Procedure Code (APC).

(2) The Commission may publish the decisions on the complaints on its Internet page but not the evidences, statements and opinions and the arguments of the parties in the dispute.

Article 149. (1) The complaint under art. 142, para 1, item 4 shall be filed within 7 days as of the receipt of the decision or the act for termination of the relevant legal relationship

(2) The complaint shall meet the requirements of art. 143, para 1 and has to be filed to the Commission through the entity which is subject of the complaint.

(3) The entity which is subject to the complaint shall send the whole case file and its opinion on it to the Commission within three days of its receipt.

(4) During the examination of the filed complaint all necessary evidences for clarification of the circumstances shall be collected.

(5) The Commission shall decide on the complaint within two weeks as of its receipt.

(6) When as a result of the examination on the complaint and on the grounds of the collected in the course of the administrative proceeding evidences, the Commission establishes that the complaint is not reasonable, it shall terminate the case with a decision.

(7) When as a result of the examination on the complaint and on the grounds of the collected in the course of the administrative proceeding evidences, the Commission establishes that the complaint is reasonable, it shall issue mandatory instructions and shall determine appropriate term for their implementation.

(8) When as a result form the examination it is established that there is violation of the termination of the legal relationship of the complainant with the examined entity, the

Commission shall appeal against the termination of the legal relationship, and the decision for termination of the legal relationship shall not produce effects pursuant to art. 81e, para 3 of the EA.

(9) The Commission shall notify the parties of the complaint of its decision within 3 days as of its adoption.

Section II

Voluntary Settlement of Disputes

Article 150. (1) The Commission shall assist in voluntary settlement of disputes on reception of complaint under art. 142, para 1, items 1, 2 and 3 and para 2 and written consent from the parties.

(3) The Commission shall not pronounce any resolution in voluntary settlement of disputes.

Article 151. (1) At written consent from the parties for voluntary settlement of the dispute, the working group shall propose to the Commission to extend the term for consideration of the complaint with 2 months.

(2) With the decision for extension of the term, the Commission shall nominate a person from the working group - mediator, who shall assist for the voluntary settlement of the dispute. Copy of the decision for extension of the term shall be sent to the parties of the complaint.

(3) The mediator shall notify the parties that the reconciliation procedure is voluntary and confidential and it does not prevent the sides from seeking protection of their rights in court.

(4) The reconciliation procedure shall be held in the head office of the Commission.

(5) The parties and the nominated mediator shall obligatory participate in the meetings for voluntary settlement of the dispute. Minutes shall be taken of the meetings held, which shall be signed by the parties and the mediator.

Article 152. (1) The mediator shall use all reasonable means and effort for the settlement of the dispute and, with the consent of each side, reveal information, regarded as confidential, to the other, with the aim of contributing to reaching an agreement.

(2) The mediator may propose to the parties a solution of the dispute and, with their consent, to prepare the written agreement which shall be signed by them.

(3) The voluntary dispute settlement agreement may contain obligations for payment of production expenses, and other liabilities, related to the provisions of the license, signed contracts or normative and administrative acts.

Article 153. In case the parties cannot reach voluntary settlement of their dispute within two months as of the decision for extension of the term for consideration of the complaint, the working group shall continue the examination of the complaint according the procedure under Section I.

Section III.

Complaints and Disputes on Competition

Article 154. (1) When, in exercising its authorities, the Commission finds out that a licensee violates or restricts competition, it shall refer the matter to the Commission for Protection of Competition (CPC).

(2) The Commission shall send a request in writing to the Commission for Protection of Competition to consider and examine the case file, to which the evidences of the violation relates, and to take the required measures within the scope of its authority.

(3) The request under paragraph 2 shall contain the grounds for referring the matter to the Commission for Protection of Competition and copies of the pertaining evidences shall be attached to it. A copy of the request shall be sent to the licensee too.

(4) The Commission shall assist the Commission for Protection of Competition by providing all necessary information and documents, which may be used by the Commission for Protection of Competition in connection with the case file.

(5) In the course of the proceeding at the Commission for Protection of Competition, the Commission shall notify it of any changes related to the case file, that have occurred in the mean time.

Article 155. (1) In case the Commission for Protection of Competition establishes by resolution that by its activity the licensee violates or restricts competition, the Commission may impose compulsory administrative measures as laid down in the Energy Act.

(2) In case the Commission for Protection of Competition establishes systematic violation of the competition rules, the Commission may withdraw the license.

Chapter Ten Registers

Article 156. (1) The Commission shall keep public registers of:

1. issued licenses, in which all licensee shall be registered, issued licenses and other circumstances,
2. issued by it authorizations under the EA;
3. issued by it authorisations under art. 21, para 1, item 1, 4, 5, 9, 10, 15, 18, 21, 25 and 26 of the EA.

(2) The registers shall be kept in a computer data base and index files of the persons and the circumstances and the decisions, subject to entry.

(3) Subject to entry shall be only circumstances, provided for by the ordinance, and consequent changes in their status.

(4) The licensees shall be obliged to report the changes of the circumstances, subject to entry within a seven-day period after their occurrence.

Article 157. (1) The license register shall be public. Everyone shall be entitled to review it and to receive copies or extracts from it.

(2) Requests for extracts from the register shall be directed to the chairman of the Commission.

(3) Entries in the register shall have notification function only.

Article 158. (1) Entries in the registers shall be made on the basis of resolutions of the Commission. In case of change of the name of the licensee and/or the address and the head office, the entries shall be made after notification of the change made and ex officio document from the trade register for the change of the indicated by the licensee circumstance.

(2) An entry of circumstances into a personal file shall be made on the basis of data contained in documents submitted to the Commission or collected by the Commission by an official procedure.

(3) Entries in the registers shall be made by officials, appointed by the chairman of the Commission to keep and maintain the corresponding registers.

Article 159. (1) Each entity, subject to registration in the computer database, shall be assigned a file with unique index, which shall store all entries, provided for by the ordinance.

(2) Each file shall consist of fields, corresponding to the circumstances, subject to entry. Each field shall have a unique index – common (one and the same) to all files.

(3) Each field shall contain columns and rows for entry of the following particulars:

1. Filing number and date of the Commission's resolution for making the entry;
2. Date of entry;
3. The corresponding circumstance, subject to entry;
4. Name of the official, who has made the entry;
5. Notes.

(4) All subsequent entries shall be made in a manner not affecting the information, contained in previous entries.

(5) When an entered particular is being deleted, an entry shall be made in the corresponding field, indicating that the original entry has been deleted. The deletion must not lead to destruction (loss) or damage of the information related to the entry being deleted.

(6) Entry errors shall be corrected on the basis of a resolution of the Commission, and the correction is indicated in the corresponding field. The correction must not lead to destruction (loss) or damage of the information related to the circumstance being corrected.

Article 160. (1) For each entity, subject to entry in the register, a file shall be opened in the index register, which shall contain in the order of submission all documents and acts of the Commission related to it.

(2) Each file shall have an unique index, being the same with the index of the file of the registered entity in the computer database.

(3) The documents, arranged in the case file, shall be accompanied by a list of contents with the dates of submission of the listed documents. The official who keeps the register shall authenticate the list of contents.

Article 161. Files shall be opened to the entity, subject to entry in the register of licenses, in the computer database and in the index register, which shall contain:

1. Name of the company, registered office, address of management and subject of activity;
2. business ID number;
3. the court of registration, case file number of the company, partition, register, volume and page of entry of the entity;
4. registered offices of branches, if applicable;
5. management bodies, names of the persons who manage and represent them, the form of representation; in case legal persons are members of management bodies or representatives – their name, registered office, address of management, business ID number, as well as the full names of the persons representing them, shall be entered;
6. the term of incorporation of the company, the amount of the registered corporate capital, number, type and face (par) value of the shares;
7. date of receipt in the Commission of the application for issuance of license;
8. date and filing number of the resolution of the Commission for issuance of license;
9. date and filing number of the resolution of the Commission for revision, amendment or withdrawal of the license;
10. date and filing number of the resolution of the Commission for authorization of the licensee pursuant to the EA

11. date and filing number of the resolution of the Commission containing mandatory instruction to the licensee;
12. imposed penalty sanctions and compulsory measures.

Chapter eleven

Conditions and procedure for procurement and implementation of audit under art. 201, para 2, item 5 EA

Section I.

General rules

Article 162. (1) The audit shall be implemented on the grounds of a decision of the Commission, taken in the cases under art. 201, para 1 of the EA, in order to prevent or terminate violations, as well as to deal with the harmful results.

(2) The costs for implementation of the audit are at the expense of the audited entity.

(3) With the decision for procurement of audit, the Commission shall determine:

1. the audited entity;

2. subject and term of the audit;

3. the time frame for implementation of the audit;

4. initial amount of the costs needed for the implementation of the audit and term within which they should be paid by the audited entity to indicated by the Commission bank account.

(4) In its decision under para 1, the Commission may determine that external experts shall take part in the audit as well.

Article 163. (1) The audit shall be implemented by working group which, by implementing procedures and actions, shall establish, analyse and assess the collected in the course of the audit evidences.

(2) In the working group, except the official employees of the Commission, external experts determined by the decision of the Commission on procurement of the audit shall be included.

Section II

Audit procedure

Article 164. (1) On the grounds of the decision of the Commission under art. 162, the Commission shall issue an order which shall consist:

1. the working group which shall implement the audit;

2. the working programme;

(2) The composition of the working group shall include at least one certified jurist and economist, and all members should have the necessary professional qualification and practical experience in accordance with the subject of the audit.

(3) By the decision, a leader of the working group shall be determined who shall be responsible for the planning, the implementation and the reporting of the results of the audit, by:

1. distributing the work between the members of the working group and participating in its implementation;

2. preparing a draft audit plan which shall contain: range, aims, time frame of the stages of planning, implementation and reporting of the audit, as well as allocation of the resources for the implementation of the engagement;

3. organising the audit report;
4. organising file of the audit;
5. supervising the implementation of the work programme.

Article 165. (1) The leader and the members of the working group shall be impartial and independent from all aspect of the management or the financial interest of the audited entity, as well as its managers and/or supervisory bodies or other directly related persons and organisations. It is not allowed in the audit to participate persons who are related persons according § 1, item 1 of the complementary regulation of the Law for prevention and ascertainment of conflict of interest, with officials in the audited person, as well as the ones who have worked in it or have participated in its management during the last two years, or have personal interest from the audit.

(2) The circumstances under para 1 shall be declared in written before the audit, before the chairman of the Commission, and the members of the working group fill in also a declaration for confidentiality and protection of trade secret.

(3) When an incompatibility under para 1 is established in the course of the audit, the persons are obliged to make a written statement of exclusion.

(4) When the person failed to make statement of exclusion under para 3, the chairman of the Commission shall suspend him/her immediately.

Article 166. (1) In the course of the audit, the leader and the members of the working group are entitled:

1. to free access to the audited by them persons and sites for examination;
2. to request the needed documents, data, information, explanations, operational and other information, including to perform metering and tests for clarification of the technical status and the operational conditions of the site, including for the qualification of the personnel, of the relevant officials, as well as nay other information related with the implementation of the conditions of the license;
3. to perform counter examinations and to require from third parties information and documents, needed for the implementation of the counter examinations.

(2) The audited person shall cooperate with the working group by providing rooms, necessary equipment and access to the data bases, as well as the required additional information and documents both on paper and in electronic form according the instructions of the leader and the members of the working group.

Article 167. (1) For the results of the implemented audit an audit report shall be prepared in one copy, and it shall contain: aims and range; findings and results; recommendations. All collected evidences, written explanations, documents, statements proving the findings and the results from the examination shall be attached to the report. Information on the incurred costs, with attached supporting documents, shall be presented together with the audit report.

(2) The audit report shall be signed by all members of the working group. In case some of the members of the working group has dissenting opinion, he/she shall sign the audit report with "dissent opinion" and within 3 days he/she shall provide his/her written opinion.

(3) Within 10 days as of the conclusion of the activity of the working group, its leader shall present the audit report to the chairman of the Commission.

(4) The chairman of the Commission, with resolution, shall decide on the consideration of the audit report by the Commission in a closed meeting.

(5) When the Commission decides that the facts, the circumstance and the findings of the audit report are not fully and comprehensively clarified, the Commission shall send back

the report to the working group for additional examination with specific mandatory instructions and shall determine a deadline for their implementation.

(6) The revised and amended audit report shall be considered by the Commission pursuant to para 3 and para 4.

Article 168. (1) The Commission shall accept the audit report with a decision, with which it shall determine the final amount of the costs for the implementation of the audit and the term within which the audited person shall pay them on the specified by the Commission bank account.

(2) With its decision for acceptance of the audit report, the Commission may give to the audited person mandatory instructions on the application of the law, the legislative acts, the obligations under the licenses and under the general terms and conditions of the contracts and the decisions of the Commission, as well as to specify a deadline for their implementation.

(3) When there is data in the audit report for an administrative violation committed by the audited person, administrative penalty proceeding shall be started.

(4) When there is data for committed crime, the chairman of the Commission shall send certified copy of the audit report to the Prosecution office.

Section III.

External experts

Article 169. (1) The Commission shall issue a list of external experts who can participate in audits under the conditions and the procedures of this chapter.

(2) An external expert can be any person with an university education with qualification degree "Master" who has not been sentenced to imprisonment for an intentional criminal offence, and who meets the requirements of art. 164, para 2 and art 165, para 1 and has professional experience of at least three years.

(3) The specific requirements for the professional qualification of the external experts for their inclusion in the list under para 1, shall be determined with a decision of the Commission and shall be published in its internet site.

(4) The Commission shall take a decision on the inclusion of persons in the list of the external experts.

(5) At any change of the circumstances under para 2 or in the requirements of para 3, the Commission shall take a decision for exclusion from the list of the external experts persons who failed to meet the specified conditions.

Supplementary provisions

§ 1. Within the meaning of this ordinance:

1. A company shall be considered as “newly incorporated company” for a period of three financial years after its incorporation (entry in the commercial register).

2. “Systematic violation of the obligations under the license or the law” shall be reported, when three or more administrative violations of the EA or the ordinances for its application have occurred for a period of two years.

§ 2. This Ordinance shall implement requirements of: Directive 2009/72/EO of the European Parliament and of the Council concerning common rules for the internal market in

electricity and repealing Directive 2003/54/EC and Directive 2009/73/EO of the European Parliament and of the Council concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC.

§ 3. The provisions of this ordinance which relate to the member countries of the European Union shall apply also to the other countries - parties of The Agreement on the European Economic Area.

Conclusive provisions

§ 4. The ordinance is accepted on the grounds of Article 60 of the Energy Act and Article 22, Para 6 and Article 30, Para 7 of the Renewable Energy Sources Act.