



**REPUBLIC OF ALBANIA**  
**ENERGY REGULATOR AUTHORITY**  
Board of Commissioners



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**DECISION**

**No. 130, Date October.31.2015**

**FOR THE PRELIMINARY CERTIFICATION OF TAP AG COMPANY AS  
INDEPENDENT TRANSMISSION OPERATOR OF NATURAL GAS**

Based on Law no.102/2015 “ On Natural Gas Sector” articles 13, 37 and 38, the *Regulation for the Certification of Transmission System Operator for Natural Gas article 11 point 3*, approved with ERE Board of Commissioners Decision no. 100, of August.05.2015, as amended, point 4.5.2 of the Final Joint Opinion, approved with ERE Board of Commissioners Decision No. 64, of June.13.2013, Energy Community Treaty ratified with Law no. 9501, of April.03.2006, the Rules for ERE Organization, Operation and Procedures, Ministerial Council Decision No. D/2011/02/MC-EnC, as well as in conformity with Directive 2009/73-EC and the Regulation EC No.715/2009, ERE Board of Commissioners, on their October.31.2015 meeting, after reviewing the report prepared by the working group “For the application made by TAP AG company, regarding the certification as Transmission System Operator in natural gas” as well as:

**Considering that:**

- On July.1.2015, TAP AG has submitted at ERE the request no.12/11 prot, of July.06.2015 and the respective documentation that is also accessible even in the Data Room established for the certification of the Independent Transmission Operator for Natural Gas in conformity with point 4.5.2 of the

Final Joint Opinion, approved with Decision No. 64 of June.13.2013 of ERE Board of Commissioners.

- This request and the documentation submitted at ERE, is set at the disposal of the RAE, AEEGSI Authorities as part of the necessary documentation for the certification procedure by the three Regulators of the countries where TAP project passes respectively Greece, Albania, Italy.
- This request for approval, is supported on what is defined in point 4.5.2 of the Final Joint Opinion, approved with ERE Board of Commissioners Decision no. 64 of June.13.2013.
- For the effect of this application there are deposited the following documents:
  - The application for certification that has the connections and the supporting documents of the formal application;
  - Position Paper I- The Draft of the Certification Application (confidential)
  - Position Paper II – The Financing (confidential)
  - TAP Road Map to operate according to ITO Model, (konfidencial)
- Referred Law no.102/2015 “For natural gas sector” article 37 point 6, ERE preserves the confidentiality of the commercial information.
- The communication of TAP-AG October.19. 2015 (protocolled with no. 12/18 of October.27.2015. which has a copy of TAP Shareholder’s Agreement, between the shareholders and the company.
- Paragraph 4.5 of the Final Joint Opinion decided TAP-AG exemption from the rules of ownership separation according to article 9, point 1 Directive 2009/73/EC for a period of 25 years beginning from the set of the infrastructure into operation.
- Paragraph 4.5, point 2 of the Final Joint Opinion requires that TAP AG to be certified as independent transmission operator for natural gas, before the beginning of infrastructure construction and not later than January.1.2018.
- On point 4.5 of the Final Joint Opinion are defined the criterias for the certification before the pipeline is set into operation.
- ERE in the quality of the responsible authority for the regulation of natural gas sector and in conformity with Law No. 102/2015 “On Natural Gas Sector”, as well as the obligations according to Energy Community Treaty ratified with Law No.9501 of April.03.2006 has approved with decision no.100 of

August.05.2015 the Rules for the Certification of Transmission System Operator for Natural Gas, as amended.

- Article 10, paragraph 6, Directive 73/2009-EC, provides that the regulatory authorities shall inform the Commission, for the expressed/not expressed decision with words for the certification of transmission system operator for natural gas, as well as the relevant information that has led to this decision; the Commission decides on the basis of the procedures defined in article 3 of Regulation CE 715/2009;
- Article 11 of Energy Community Treaty and article 9 of Ministerial Council Decision No. D/2011/02/MC-EnC, provides that ERE shall inform the Energy Community Secretariat for the decision expressed/unexpressed with words for the certification of transmission system operator of natural gas. The Secretariat decides according to the procedures defined in article 9, point 2 the Ministerial Council Decision of Energy Community.
- Article 10, paragraph 8 of Directive 73/2009-EC provides that the regulatory authorities and the European Commission shall guarantee the commercial information privacy with confidential nature, as provided in the certification procedure;
- Through the communication of July.1.2015, that has the certification circumstances, TAP AG has presented the arguments in favour of its certification in the quality of transmission system operator according to ITO model provided in Chapter IV Directive 2009/73/CE, except of non compliance of some obligations provided in this model;
- In this communication TAP-AG company has evidenced, that it is a company established for the construction of TAP pipeline without any direct or indirect interest in the generation or supply activities and separated by its shareholders. Consequently TAP AG is not a vertically integrated company as provided in article 2, paragraph 22 directive 2009/73/CE;
- With Decision no.101 of August.05.2015 ERE has opened the procedure to review TAP AG company application to be certified as Independent Transmission Operator for Natural Gas.
- Regarding the application done by TAP AG company for the certification, ERE has started the necessary activities in collaboration with RAE and AEEGSI, to finalise the adoption of a joint decision for TAP AG according to ITO model, that is in conformity with Chapter IV Directive 2009/73/CE, and exempted from article 22 of the Directive, as provided in paragraph 4.5 point 2 of the e Final Joint Opinion.

For all of the above mentioned ERE Board of Commissioners

**Decided:**

1. The preliminary approval of TAP AG company certification as Independent Transmission Operator for Natural Gas, in conformity with article 10 Directive 2009/73/CE and paragraph 4.5.2 of the *Final Joint Opinion*, according to the material attached to this decision (Annex A) agreed with RAE and AEEGSI, that is the integral part of the decision;
2. To send this decision to Energy Community Secretariat, for opinion as defined in article 3 of Regulation No. 715/2009-EC and article 9 point 1 of the Ministerial Council Decision of the Energy Community. No. D/2011/02/MC-EnC.
3. To send this decision to the Ministry of Economic Development, Trade, Tourism and Entrepreneurship, to the Ministry of Energy and Industry, to the Competition Authority, to RAE, AEEGSI and to TAP AG Company;

This decision enters immediately into force

This decision is published in the Official Gazette.



REPUBLIC OF ALBANIA  
ENERGY REGULATOR AUTHORITY  
BOARD



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ERE Board of Commissioners Vote for,

*DECISION*

*No. 130, Date October.31.2015*

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INDEPENDENT TRANSMISSION OPERATOR OF NATURAL GAS**

**Board Members**

	Pro-s	Con-s
<b>Petrit Ahmeti</b>	_____	_____
<b>Adriatik Bego</b>	_____	_____
<b>Entela Shehaj</b>	_____	_____
<b>Abaz Aliko</b>	_____	_____
<b>Maksim Shuli</b>	_____	_____