

LAW OF GEORGIA ON ENERGY

No [•] of [•] [•] 2017

SECTION I GENERAL PROVISIONS

Chapter I - Scope, purpose and objectives of the Law

Article 1 - Scope and purpose of the Law

1. This Law establishes a general legal framework for the generation, transmission, distribution, supply of and trade in electricity, and for the transmission, distribution, supply, storage of and trade in natural gas with a view to the facilitated emergence, opening, development and integration of well-functioning, transparent and competitive electricity and natural gas markets in Georgia.

2. This Law lays down the rules relating to the governing, organisation, regulation, monitoring and supervision of electricity and natural gas sectors, open access to electricity and natural gas markets, cross-border exchanges in electricity and natural gas, the criteria and procedures applicable to calls for tenders and the granting of authorisations for energy activities, operation of and access to electricity and natural gas systems, public service obligations in electricity and natural gas sectors, and the rights of customers and their protection.

3. This Law also establishes measures to safeguard an adequate level for the security of supply so as to ensure the proper functioning of electricity and natural gas markets. It establishes a legal framework within which transparent, stable and non-discriminatory security of supply policies are being defined, responsibilities of market participants set, and procedures to safeguard security of supply determined in compliance with the requirements of competitive electricity and natural gas markets.

4. The rules established by this Law for natural gas, including LNG, shall also apply in a non-discriminatory way to biogas and gas from biomass or other types of gas in so far as such gases can technically and safely be injected into, and transported through, the natural gas system.

5. This Law, to the extent provided herein, establishes the terms and conditions for the participation of natural gas producers in the natural gas market of Georgia which, in particular, include requirements for the connection of natural gas production facilities to transmission or distribution networks, access to the natural gas system, and sale of natural gas on the market. This Law shall not apply to the exploration, extraction and processing of natural gas or other hydrocarbons, as well as for the production of gas products and for any relations thereto, except for activities related to the access to upstream pipeline networks and processing of natural gas at LNG facilities.

6. This Law also regulates the drinking water supply and establishes a general framework for legal relations thereof. This Law shall not apply to the groundwater intake and/or extraction.

Article 2 - Objectives of the Law

Objectives of this Law shall be the following:

- 1) to establish a legal background for uninterrupted supply of electricity and natural gas, as well as reliable drinking water supply at defined quality standards for the benefit of all categories of customers in Georgia;
- 2) to ensure secure, reliable and efficient operation of electricity and natural gas systems, and the provision of related services to all system users;
- 3) to define the rights and obligations of regulated undertakings under the terms and conditions stipulated in this Law and to set the rights and obligations of the Commission, as well as to establish a legal background for mutual relations among regulated undertakings and their relations with the Commission;
- 4) to create conditions for a full opening of electricity and natural gas markets in Georgia based on the principles of competitiveness, transparency and non-discrimination aiming at unrestricted trade in electricity and natural gas;
- 5) to establish common rules for the organisation and functioning of electricity and natural gas markets in Georgia, including their further development and, subject to future interconnections with Energy Community Parties, their pan-European integration;
- 6) to set the terms and conditions for the provision of public service obligations in electricity and natural gas sectors, and to ensure the protection of final customers;
- 7) to regulate and monitor the unbundling of transmission system operators and distribution system operators, as well as to ensure their effective independence from other energy activities and related commercial interests;
- 8) to create conditions for adequate investments in electricity and natural gas systems, including interconnections with neighbouring systems, and in other facilities enhancing the security of supply, as well as in drinking water supply systems; and
- 9) to establish a legal background for regional and international cooperation of transmission system operators and of the Commission, as well as for mutual cooperation among competent national authorities, institutions and other public bodies of Georgia.

Chapter II - Definitions and use of terms

Article 3 - Definitions of terms

For the purposes of this Law, the following definitions shall apply:

- 1) **“ancillary services”** shall mean for electricity – services necessary for access to electricity systems and for the operation of electricity transmission and/or distribution networks, and for natural gas – services necessary for access to natural gas systems and for the operation of natural gas transmission and/or distribution networks, natural gas storage facilities and/or LNG facilities, including load balancing, blending and injection of inert gases, but not including facilities reserved exclusively for the transmission system operator for natural gas carrying out its functions;
- 2) **“available capacity”** shall mean the part of the technical capacity that is not allocated as is still available to the electricity or natural gas system at that moment;
- 3) **“balance between supply and demand”** shall mean the satisfaction of foreseeable demands of customers to use electricity or natural gas without the need to enforce measures to reduce consumption of electricity or natural gas respectively;

- 4) **“balancing”** shall mean all actions and processes through which the transmission system operator ensures a continuous maintenance and upkeep of predefined parameters and quality standards aimed at the operation of systems within the stability range allowing secure and reliable physical delivery of electricity or natural gas to customers, including management of capacities and of energy inputs to and outputs from the system as well as balancing of supply and demand;
- 5) **“balancing electricity”** shall mean electricity required for balancing of the electricity system;
- 6) **“balancing group”** shall mean a group made up of one or more electricity market participants whose imbalances fall under the responsibility of a single balancing group responsible party;
- 7) **“balancing group responsible party”** shall mean an electricity market participant that is responsible for imbalances of a balancing group and that has concluded a balancing contract with the transmission system operator and/or, where appropriate following the establishment of the organised electricity balancing market, a contract with the electricity market operator;
- 8) **“bilateral electricity market”** shall mean the market on which purchase and sale of electricity is performed directly between electricity market participants on the basis of a bilateral contract on purchase and sale of electricity;
- 9) **“bilateral natural gas market”** shall mean the market on which purchase and sale of natural gas is performed directly between natural gas market participants on the basis of a bilateral contract on purchase and sale of natural gas;
- 10) **“capacity”** shall mean for electricity – the maximum volume of electricity, as expressed in energy units, to which the electricity system user is entitled in accordance with the provisions of the electricity transmission contract entered with the transmission system operator for electricity, and for natural gas – the maximum flow of natural gas, as expressed in cubic meters per time unit or in energy unit per time unit, to which the natural gas system user is entitled in accordance with the provisions of the natural gas transport contract entered with the transmission system operator for natural gas or other contract entered with the natural gas storage system operator or LNG system operator;
- 11) **“certification”** shall mean a procedure which establishes conformity of the transmission system operator with the conditions for its independence and unbundling, as well as other relevant requirements imposed on the transmission system operator by this Law, and leads towards designation of the transmission system operator;
- 12) **“Commission”** shall mean the Georgian National Energy and Water Supply Regulatory Commission;
- 13) **“Commissioner”** shall mean an appointed member of the Commission;
- 14) **“Competition Agency”** shall mean the Competition Agency of Georgia;
- ~~14)~~15) “Competitive bidding procedure” shall mean a non-discriminatory bidding process that provides for the participation of a sufficient number of producers and where the incentives are granted on the basis of either the initial bid submitted by the bidder or a clearing price. In addition, the budget or volume related to the bidding process is a binding constraint leading to a situation where not all bidders can receive incentives;
- ~~15)~~16) “congestion” shall mean a situation in which an interconnector and/or systems concerned cannot accommodate all physical flows of electricity or natural gas requested by system users, including those resulting from cross-border trade, because of a lack of capacity of an interconnector and/or of systems concerned;

17) **“congestion management”** shall mean management of the capacity portfolio of a system operator in charge with a view to optimal and maximum use of the capacity and timely detection of future congestion and saturation points;

16)18) **“contract for difference”** shall mean an agreement between the Market Operator and the producer of energy from renewable sources, who was declared the successful bidder in the competitive bidding process to profit from the support scheme;

17)19) **“contractual congestion”** shall mean a situation where the level of firm capacity demand exceeds the technical capacity of the natural gas transmission network, the natural gas storage facility or the LNG facility;

18)20) **“control”** shall mean rights, contracts or any other means which, either separately or in combination and having regard to the considerations of fact and law involved, confer the possibility of exercising decisive influence on an energy undertaking, in particular by ownership or the right to use all or part of the assets of an energy undertaking, and/or rights or contracts which confer decisive influence on the composition, voting or decisions of the bodies of an energy undertaking;

19)21) **“contracted capacity”** shall mean capacity that the transmission system operator for natural gas, the natural gas storage system operator or the LNG system operator has allocated to a system user by means of a natural gas transport contract entered with the transmission system operator for natural gas or other contract entered with the natural gas storage system operator or the LNG system operator respectively;

20)22) **“cross-border exchange in electricity”** shall mean a physical flow of electricity on the electricity transmission network of Georgia, which results from the impact of the activity of electricity market participants related to cross-border trade in electricity with persons operating in neighbouring electricity systems;

21)23) **“cross-border exchange in natural gas”** shall mean a physical flow of natural gas on the natural gas transmission network of Georgia, which results from the impact of the activity of natural gas market participants related to cross-border trade in natural gas with persons operating in neighbouring natural gas systems;

22)24) **“customer”** shall mean a wholesale or final customer of electricity and/or natural gas, or an energy undertaking which purchases electricity and/or natural gas;

23)25) **“day-ahead electricity market”** shall mean an organised wholesale electricity market where the purchase and sale of electricity take place on hourly basis each day prior to the day of actual sale and physical delivery of electricity;

24)26) **“day-ahead natural gas market”** shall mean an organised wholesale natural gas market where the purchase and sale of natural gas take place on hourly basis each day prior to the day of actual sale and physical delivery of natural gas;

25)27) **“deliverability of the natural gas storage facility”** shall mean the rate at which the system user using the natural gas storage facility is entitled to withdraw natural gas from the natural gas storage facility;

26)28) **“delivery”** shall mean a physical delivery of electricity or natural gas by the system operator in charge to a system user or final customer up to a defined point of delivery;

27)29) **“direct electricity line”** shall mean a line linking an isolated site for the generation of electricity with an isolated customer, or a line linking an electricity producer and an electricity supplier to supply directly their own premises, subsidiaries and eligible customers;

28)30) **“direct line”** shall mean a direct electricity line and/or a direct natural gas line;

29)31) **“direct natural gas line”** shall mean a pipeline complementary to the interconnected natural gas system connecting a natural gas undertaking with a customer;

~~30)32)~~ **“dispatching”** shall mean the management of operational capacities, energy outputs of and/or energy flows from production facilities to the transmission system, and/or the management of overall energy flows in the transmission system, including the use of interconnectors with other systems;

~~34)33)~~ **“distributed production”** shall mean electricity generation or natural gas production facilities connected to respective distribution networks;

~~32)34)~~ **“distribution”** shall mean the distribution of electricity and/or the distribution of natural gas;

~~33)35)~~ **“distribution network”** shall mean the electricity distribution network and/or the natural gas distribution network;

~~34)36)~~ **“distribution of electricity”** shall mean the transport of electricity on medium-voltage and low-voltage electricity distribution systems with a view to its delivery to final customers, but shall not include the supply of electricity;

~~35)37)~~ **“distribution of natural gas”** shall mean the transport of natural gas through local or regional pipeline networks with a view to its delivery to final customers, but shall not include the supply of natural gas;

~~36)38)~~ **“distribution system operator”** shall mean a distribution system operator for electricity and/or a distribution system operator for natural gas;

~~37)39)~~ **“distribution system operator for electricity”** shall mean an electricity undertaking carrying out the distribution of electricity and responsible for operating, ensuring the maintenance of and, if necessary, developing the electricity distribution system in a given area and, where applicable, its interconnections with other systems, and for ensuring the long-term ability of the system to meet reasonable demands for the distribution of electricity;

~~38)40)~~ **“distribution system operator for natural gas”** shall mean a natural gas undertaking carrying out the distribution of natural gas and responsible for operating, ensuring the maintenance of, and, if necessary, developing the natural gas distribution system in a given area and, where applicable, its interconnections with other systems, and for ensuring the long-term ability of the system to meet reasonable demands for the distribution of natural gas;

~~39)41)~~ **“drinking water customer”** shall mean a natural person residing or a legal entity operating in Georgia which purchases drinking water for its household or commercial consumption needs;

~~40)42)~~ **“drinking water supplier”** shall mean an undertaking which carries out the function of drinking water supply;

~~41)43)~~ **“drinking water supply”** shall mean the sale of drinking water to drinking water customers;

~~42)44)~~ **“drinking water supply system”** shall mean infrastructure and equipment used for withdrawal, transportation and distribution of drinking water for its final supply to drinking water customers, including water pipes, reservoirs, open and closed channels, pumping stations and other facilities;

~~43)45)~~ **“economic precedence”** shall mean the ranking of sources of the supply of electricity in accordance with economic criteria;

~~44)46)~~ **“electricity activities”** shall mean economic activities related to the generation, transmission, distribution and supply of electricity, trade in electricity, and operation of the electricity market;

~~45)47)~~ **“electricity balancing market”** shall mean an organised market for the purchase and sale of electricity, as needed for balancing of the electricity system in real time;

~~46)~~48) “**electricity derivative**” shall mean a financial instrument aimed to secure electricity market participants from possible fluctuations of the price of electricity in the market, where that instrument relates to electricity;

~~47)~~49) “**electricity distribution network**” shall mean an electricity network composed of electricity facilities, transformers, and medium-voltage and low-voltage lines of the voltage level not higher than 110 kV leading up to points of delivery within the electricity distribution system, in addition to other facilities, telecommunication and IT equipment and other infrastructure required for the functioning of the network;

~~48)~~50) “**electricity market**” shall mean a market for trade in electricity organised under the terms and conditions stipulated in this Law, the Electricity Market Rules and other applicable legal acts;

~~49)~~51) “**electricity market operator**” shall mean a legal person responsible for organising the defined segments of the electricity market in Georgia, as assigned pursuant to this Law;

~~50)~~52) “**electricity market participant**” shall mean any natural or legal person authorised for purchase and/or sale of electricity based on its right to participate in the electricity market in compliance with this Law, the Electricity Market Rules and other applicable legal acts;

~~51)~~53) “**electricity producer**” shall mean an electricity undertaking which operates an electricity generating facility (power plant) and generates electricity;

~~52)~~54) “**electricity supplier**” shall mean an electricity undertaking which carries out the function of the supply of electricity;

~~53)~~55) “**electricity supply contract**” shall mean a contract for the supply of electricity, but shall not include electricity derivatives;

~~54)~~56) “**electricity system**” shall mean any electricity transmission and/or distribution networks owned and/or operated by an electricity undertaking, including its facilities supplying ancillary services and those of related undertakings necessary for providing access to transmission and distribution of electricity;

~~55)~~57) “**electricity system services**” shall mean services which are necessary for due operation of the electricity transmission and distribution systems, including managing the electricity transmission and distribution networks, frequency regulation, voltage control, and restoration of supply, as provided by the system operator in charge;

~~56)~~58) “**electricity transmission network**” shall mean an electricity network composed of electricity facilities, transformers and lines of the voltage level higher than 110 kV leading up to points of delivery within the electricity transmission system, in addition to other facilities, telecommunication and IT equipment and other infrastructure required for the functioning of the network;

~~57)~~59) “**electricity undertaking**” shall mean any natural or legal person carrying out at least one of the following activities: generation, transmission, distribution or supply of electricity, or trade in electricity, or operation of the electricity market, which is responsible for the commercial, technical and/or maintenance tasks related to those activities, but shall not include final customers;

~~58)~~60) “**eligible customer**” shall mean a customer who is free to purchase electricity and/or natural gas from the supplier of its choice;

~~59)~~61) “**Energy Community Parties**” shall mean the Contracting Parties to the Energy Community Treaty, as well as the European Union and its Member States;

~~60)~~62) “**energy activities**” shall mean electricity activities and/or natural gas activities;

~~61)~~63) “**energy efficiency/demand-side management**” shall mean a global or integrated approach aimed at influencing the amount and timing of electricity and/or natural gas consumption in order to reduce primary energy consumption and peak loads by giving

precedence to investments in energy efficiency measures, or other measures, such as interruptible supply contracts, over investments to increase production capacities, if the former are the most effective and economical option, taking into account the positive environmental impact of reduced energy consumption and the security of supply and distribution cost aspects related to it;

~~62)~~64) **“energy market”** shall mean the electricity market and/or the natural gas market;

~~63)~~65) **“energy undertaking”** shall mean an electricity undertaking and/or a natural gas undertaking;

~~64)~~66) **“final customer”** shall mean a customer purchasing electricity and/or natural gas for its own use;

~~65)~~67) **“firm capacity”** shall mean the capacity of the natural gas transmission network, the natural gas storage facility or the LNG facility contractually guaranteed as uninterruptible by the transmission system operator for natural gas, the natural gas storage system operator or the LNG system operator respectively;

~~66)~~68) **“firm services”** shall mean services offered by the transmission system operator for natural gas, the natural gas storage system operator or the LNG system operator in relation to firm capacity;

~~67)~~69) **“generation of electricity”** shall mean the production of electricity in generating facilities (power plants) using technologically defined and accessible energy sources;

~~68)~~70) **“Government”** shall mean the Government of Georgia;

~~69)~~71) **“guaranteed electricity generation capacity”** shall mean a generating capacity of electricity generation facilities reserved and allocated to ensure the stability, safety and reliability of the electricity system, including balance between supply and demand, and which is justified as a measure necessary for the security of electricity supply and imposed as a public service obligation pursuant to the terms and conditions stipulated in this Law;

~~70)~~72) **“horizontally integrated undertaking”** shall mean a horizontally integrated electricity undertaking or a horizontally integrated natural gas undertaking;

~~71)~~73) **“horizontally integrated electricity undertaking”** shall mean an electricity undertaking performing at least one of the functions of generation of electricity for sale, transmission, distribution or supply of electricity, or trade in electricity, or operation of the electricity market, and another non-electricity activity;

~~72)~~74) **“horizontally integrated natural gas undertaking”** shall mean a natural gas undertaking performing at least one of the functions of production, transmission, distribution, supply or storage of natural gas, or trade in natural gas, and a non-gas activity;

~~73)~~75) **“household customer”** shall mean a customer purchasing electricity and/or natural gas for its own household consumption, excluding commercial or professional activities;

~~74)~~76) **“implicit auction”** shall mean a mechanism for cross-border trade in electricity which includes consolidated prices calculated by the service provider, containing at least components for the costs of electricity traded and the costs for using cross-border transmission capacities;

~~75)~~77) **“injectability to the natural gas storage facility”** shall mean the rate at which the system user using the natural gas storage facility is entitled to inject natural gas into the natural gas storage facility;

~~76)~~78) **“integrated undertaking”** shall mean a vertically or horizontally integrated energy undertaking;

~~77)~~79) **“interconnected system”** shall mean a number of electricity systems or natural gas systems which are linked with each other by means of one or more interconnectors;

~~78)~~80) **“interconnection”** shall mean a physical cross-border connection, by means of an interconnector, with neighbouring electricity or natural gas systems;

~~79)~~81) **“interconnector”** shall mean an electricity transmission line or a natural gas transmission pipeline which crosses or spans a border between Georgia and the other country for the sole purpose of connecting national electricity or natural gas transmission systems of Georgia and that other country;

~~80)~~82) **“interruptible capacity”** shall mean the capacity that may be interrupted by the transmission system operator for natural gas, the natural gas storage system operator or the LNG system operator in accordance with the conditions stipulated in the natural gas transport contract entered with the transmission system operator for natural gas or other contract entered with the natural gas storage system operator or the LNG system operator respectively;

~~81)~~83) **“interruptible services”** shall mean services offered by the transmission system operator for natural gas, the natural gas storage system operator or the LNG system operator in relation to interruptible capacity;

~~82)~~84) **“intra-day electricity market”** shall mean an organised wholesale electricity market where the purchase and sale of electricity take place by way of continuous trading in transactions created after closing the day-ahead electricity market;

~~83)~~85) **“large customer”** shall mean a final non-household customer, the legal status of which shall be defined by the Commission, and which shall be allowed to enter into electricity or natural gas supply contracts with several suppliers to secure its electricity or natural gas demand respectively under the terms and conditions stipulated in this Law and its implementing regulations;

~~84)~~86) **“license”** shall mean a formal and official authorisation issued by the Commission in order for a natural or legal person to engage, under defined conditions, in licensed activities regulated by this Law;

~~85)~~87) **“license applicant”** shall mean a natural or legal person which applies to the Commission for issuance of a license for licensed activities regulated by this Law;

~~86)~~88) **“license holder”** shall mean a natural or legal person holding a license for licensed activities regulated by this Law;

~~87)~~89) **“linepack”** shall mean the storage of natural gas by compression in natural gas transmission and distribution systems, but excluding facilities reserved for the transmission system operator for natural gas carrying out its functions;

~~88)~~90) **“LNG”** shall mean liquefied natural gas;

~~89)~~91) **“LNG facility”** shall mean a terminal which is used for the liquefaction of natural gas or the importation, offloading, and re-gasification of LNG, and includes ancillary services and temporary storage necessary for the re-gasification process and subsequent delivery to the natural gas transmission system, but does not include any part of LNG terminals used for the storage of natural gas;

~~90)~~92) **“LNG facility capacity”** shall mean capacity at an LNG terminal for the liquefaction of natural gas or the importation, offloading, ancillary services, temporary storage and re-gasification of LNG;

~~91)~~93) **“LNG system operator”** shall mean a natural gas undertaking which carries out the function of liquefaction of natural gas, or the importation, offloading, and re-gasification of LNG and is responsible for operating a LNG facility;

~~92)~~94) **“long-term natural gas supply contract”** shall mean a natural gas supply contract with a duration of more than ten (10) years;

~~93)95)~~ **“long-term planning”** shall mean the planning of the need for investments in the capacity of generation, transmission and/or distribution of electricity, or the planning of supply and transport capacity of natural gas undertakings on a long-term basis, *i.e.* for the period of at least three (3) years, for meeting the demand of the system for electricity or natural gas, securing supplies to customers and, where applicable, diversification of energy sources;

~~94)96)~~ **“long-term services”** shall mean services offered by the transmission system operator for natural gas, the natural gas storage system operator or the LNG system operator with a duration of one (1) year or more;

~~95)97)~~ **“major natural gas supply disruption”** shall mean a situation where Georgia or the Energy Community would risk to lose more than 20% of its natural gas supply from third countries and such a situation is not likely to be adequately managed with national measures;

~~96)98)~~ **“market operator”** shall mean an electricity market operator and/or a natural gas market operator responsible for organization and management of the market, electricity purchase from the privileged producers and resale to suppliers and self - supplying customers;

~~97)99)~~ **“market participant”** shall mean an electricity market participant and/or a natural gas market participant;

~~98)100)~~ **“micro-generating power plant”** shall mean an electricity generating facility owned by a final customer and which uses renewable energy sources, is connected to the electricity distribution network at the consumption point of a final customer, and the designed capacity of which does not exceed 100 kW;

~~99)101)~~ **“Ministry”** shall mean the Ministry of Energy of Georgia;

~~100)102)~~ **“natural gas activities”** shall mean economic activities related to the transmission, distribution, supply and storage of natural gas, activities related to LNG facilities, trade in natural gas, and operation of the natural gas market;

~~101)103)~~ **“natural gas balancing market”** shall mean an organised market for the purchase and sale of natural gas, as needed for balancing of the natural gas system;

~~102)104)~~ **“natural gas derivative”** shall mean a financial instrument aimed to secure natural gas market participants from possible fluctuations of the price of natural gas in the market, where that instrument relates to natural gas;

~~103)105)~~ **“natural gas distribution network”** shall mean a pipeline network with a design pressure not exceeding 1,2 MPa bar, as well as metering and regulating stations at all points of delivery within the natural gas distribution system, other energy facilities, electronic communication and information systems and other infrastructure necessary for the distribution of natural gas, including linepack;

~~104)106)~~ **“natural gas market”** shall mean a market for trade in natural gas organised under the terms and conditions stipulated in this Law, the Natural Gas Market Rules and other applicable legal acts;

~~105)107)~~ **“natural gas market operator”** shall mean a legal person responsible for organising the defined segments of the natural gas market in Georgia, as assigned pursuant to this Law;

~~106)108)~~ **“natural gas market participant”** shall mean any natural or legal person authorised for purchase and/or sale of natural gas based on its right to participate in the natural gas market in compliance with this Law, the natural gas market rules and other applicable legal acts;

~~107)~~109) **“natural gas producer”** shall mean a natural gas undertaking which operates natural gas production facility (or facilities) and is authorised for the processing of natural gas in accordance with applicable legal acts;

~~108)~~110) **“natural gas storage capacity”** shall mean any combination of the natural gas storage space, injectability to and deliverability of the natural gas storage facility;

~~109)~~111) **“natural gas storage facility”** shall mean a facility used for the stocking of natural gas and owned and/or operated by a natural gas undertaking, including the part of LNG facilities used for storage but excluding the portion used for operations of the production of natural gas, and excluding facilities reserved exclusively for the transmission system operator for natural gas in carrying out its functions;

~~110)~~112) **“natural gas storage space”** shall mean the volume of natural gas which a system user using the natural gas storage facility is entitled to use for the storage of natural gas;

~~111)~~113) **“natural gas storage system operator”** shall mean a natural gas undertaking which carries out the function of the storage of natural gas and is responsible for operating a natural gas storage facility;

~~112)~~114) **“natural gas supplier”** shall mean a natural gas undertaking which carries out the function of the supply of natural gas;

~~113)~~115) **“natural gas supply contract”** shall mean a contract for the supply of natural gas, but shall not include a natural gas derivative;

~~114)~~116) **“natural gas system”** shall mean any natural gas transmission and/or distribution networks, natural gas storage facilities and/or LNG facilities owned and/or operated by a natural gas undertaking, including linepack and facilities supplying ancillary services as well as facilities of related undertakings necessary for providing access to transmission, distribution and storage of natural gas and to LNG;

~~115)~~117) **“natural gas system services”** shall mean services which are necessary for due operation of the natural gas transmission and distribution systems, including managing the natural gas transmission and distribution networks, pressure control and regulation, and restoration of supply, as provided by the system operator in charge;

~~116)~~118) **“natural gas transmission network”** shall mean a pipeline network with a design pressure over 1,2 MPa bar, except for the upstream pipeline network, as well as compression stations, block stations, metering and regulating stations at all points of delivery within the natural gas transmission system, other energy facilities, electronic communication and information systems and other infrastructure necessary for the transmission of natural gas, including linepack;

~~117)~~119) **“natural gas transport contract”** shall mean a contract which the transmission system operator for natural gas has concluded with a system user with a view to carrying out transmission of natural gas;

~~118)~~120) **“natural gas undertaking”** shall mean any natural or legal person carrying out at least one of the following activities: production, transmission, distribution, supply or storage of natural gas, or trade in natural gas, including LNG, which is responsible for the commercial, technical and/or maintenance tasks related to those activities, but shall not include final customers;

~~119)~~121) **“new electricity interconnector”** shall mean an electricity interconnector not completed by 1 July 2007.

~~120)~~122) **“new natural gas infrastructure”** shall mean a natural gas infrastructure not completed by 1 July 2007;

~~121)~~~~123)~~ **“nomination”** shall mean the prior reporting by the system user to the transmission system operator for natural gas, the natural gas storage system operator or the LNG system operator of the actual flow of natural gas that the system user wishes to inject into or withdraw from the natural gas system;

~~122)~~~~124)~~ **“non-household customer”** shall mean a customer purchasing electricity and/or natural gas which is not for its own household use, including producers and wholesale customers;

~~123)~~~~125)~~ **“operational security of electricity networks”** shall mean continuous operation of electricity transmission and, where appropriate, distribution networks under foreseeable circumstances;

~~124)~~~~126)~~ **“parallel operation of electricity systems”** shall mean a synchronous operation of two or more interconnected neighbouring electricity systems, or any parts thereof, under harmonised parameters aiming at the maintenance of stability of electricity systems;

~~125)~~~~127)~~ **“Parliament”** shall mean the Parliament of Georgia;

~~126)~~~~128)~~ **“physical congestion”** shall mean a situation where the level of demand for actual deliveries of natural gas exceeds the technical capacity at some point in time;

~~127)~~~~129)~~ **“point of delivery”** shall mean a defined point within the system where a system user or customer has electricity or natural gas being physically delivered by the system operator in charge for its further transport or consumption;

~~128)~~~~130)~~ **“point of receipt”** shall mean a defined point within the system where the system operator in charge receives electricity or natural gas from producers or other interconnected systems;

~~129)~~~~131)~~ **“President”** shall mean the President of Georgia;

~~132)~~ **“primary natural gas market”** shall mean the market of the capacity traded directly by the transmission system operator for natural gas, the natural gas storage system operator or the LNG system operator;

~~130)~~~~133)~~ **“privileged producer”** shall mean an energy undertaking that generates electricity from renewable energy sources or high-efficiency cogeneration and is entitled to the support scheme/incentive measures pursuant to this Law;

~~131)~~~~134)~~ **“producer”** shall mean an electricity producer and/or a natural gas producer;

~~132)~~~~135)~~ **“production”** shall mean the generation of electricity and/or the production of natural gas;

~~133)~~~~136)~~ **“production of natural gas”** shall mean the extraction, treatment and processing of natural gas before its delivery to the natural gas system for its further transport, storage, re-processing and/or consumption;

~~134)~~~~137)~~ **“protected customers”** shall mean household customers and small enterprises connected to a natural gas distribution network, and essential social services connected to a natural gas distribution or transmission network, as well as district heating installations to the extent that they deliver heating to the abovementioned customers, provided that these installations are not able to switch to other fuels and are connected to a natural gas distribution or transmission network;

~~135)~~~~138)~~ **“public service obligation”** shall mean a duty imposed upon an energy undertaking entrusted with the provision of services of general economic interest, which may relate to security, including security of supply, regularity, quality and price of supplies, and environmental protection, which is non-discriminatory and does not distort competition beyond what is strictly necessary in order to achieve the public service in question;

~~136)~~139) “**re-nomination**” shall mean the subsequent reporting of a corrected nomination;

~~137)~~140) “**related undertaking**” shall mean an affiliated undertaking and/or associated undertaking, within the meaning prescribed by applicable laws governing activities of commercial enterprises and companies, and/or an undertaking which belongs to the same shareholders;

~~138)~~141) “**regulated undertaking**” shall mean an undertaking the activities of which are regulated by this Law and are assigned to the regulatory competence of the Commission, including all energy undertakings and drinking water suppliers;

~~139)~~142) “**renewable energy sources**” shall mean renewable non-fossil energy sources (wind, solar, geothermal, wave, tidal, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases);

~~140)~~143) “**secondary natural gas market**” shall mean the market of the capacity traded otherwise than on the primary natural gas market;

~~141)~~144) “**security**” shall mean both security of electricity and/or natural gas supply and technical safety;

~~142)~~145) “**security of electricity supply**” shall mean the ability of an electricity system to supply final customers with electricity, as provided for under this Law;

~~143)~~146) “**security of natural gas supply**” shall mean the ability of a natural gas system to supply final customers with natural gas, as provided for under this Law;

~~144)~~147) “**short-term services**” shall mean services offered by the transmission system operator for natural gas, the natural gas storage system operator or the LNG system operator with a duration of less than 1 (one) year;

~~145)~~148) “**small enterprise**” shall mean any non-household customer with fewer than 20 employees and an annual turnover or balance sheet not exceeding GEL 500.000;

~~146)~~149) “**small power plant**” shall mean an electricity generating facility the designed capacity of which does not exceed 13 MW;

~~147)~~150) “**storage of natural gas**” shall mean the stocking of natural gas in the natural gas storage facility or, as the case may be, in the LNG facility, including related services provided to system users by the system operator in charge;

~~148)~~151) “**supplier**” shall mean a supplier of electricity and/or a supplier of natural gas;

~~149)~~152) “**supplier of last resort**” shall mean an electricity undertaking performing the supply of electricity or a natural gas undertaking performing the supply of natural gas as a public service for a limited period of time according to regulated conditions to those final customers which failed to choose or lost their supplier of electricity or natural gas respectively under specified circumstances;

~~150)~~153) “**supply**” shall mean the supply of electricity and/or the supply of natural gas;

~~151)~~154) “**supply contract**” shall mean an electricity supply contract and/or a natural gas supply contract;

~~152)~~155) “**supply of electricity**” shall mean the sale, including resale, of electricity to customers;

~~153)~~156) “**supply of last resort**” shall mean the supply of electricity or natural gas as a public service for a limited period of time according to regulated conditions to those final customers which have failed to choose or lost their supplier of electricity or natural gas respectively under specified circumstances;

~~154)~~157) **“supply of natural gas”** shall mean the sale, including resale, of natural gas, including LNG, to customers

~~155)~~158) **“system”** shall mean an electricity system and/or a natural gas system;

~~156)~~159) **“system operator”** shall mean an energy undertaking authorised for and in charge of the operation of its owned or otherwise managed electricity or natural gas system, i.e. transmission system operator for electricity, distribution system operator for electricity, transmission system operator for natural gas, distribution system operator for natural gas, natural gas storage system operator and LNG system operator;

~~157)~~160) **“system services”** shall mean electricity system services and/or natural gas system services;

~~158)~~161) **“system user”** shall mean any natural or legal person supplying to or being supplied by the electricity or natural gas system, or any natural or legal person who is a customer or a potential customer of the electricity or natural gas system being in use or applying for the use of respective networks, facilities and/or other related services;

~~159)~~162) **“take-or-pay contract”** shall mean a natural gas sale and purchase contract which requires the buyer to pay for the contractually set natural gas quantity, irrespective whether the natural gas quantity in question is consumed by the buyer or not;

~~160)~~163) **“tariff”** shall mean a regulated price or set of prices for electricity or natural gas, for the use of the electricity or natural gas systems, or for other electricity or natural gas related services;

~~161)~~164) **“tariff methodology”** shall mean the entirety of rules, methods and principles that are prescribed and enacted by the Commission and are applied for setting the tariffs;

~~162)~~165) **“technical capacity”** shall mean the maximum firm capacity that the transmission system operator for natural gas, the natural gas storage system operator or the LNG system operator can offer to the system users, taking account of the natural gas system integrity and the operational requirements of the respective natural gas system;

~~163)~~166) **“tendering procedure”** shall mean the procedure through which planned additional requirements and replacement capacity are covered by supplies of electricity from new or existing electricity generating capacity;

~~164)~~167) **“third country”** shall mean any country which is not the Energy Community Party, or a member of the European Economic Area;

~~165)~~168) **“third party access”** shall mean the right of any natural or legal person to access and use electricity and natural gas systems according to the defined terms and conditions;

~~166)~~169) **“trade”** shall mean the trade in electricity and/or natural gas;

~~167)~~170) **“trade in electricity”** shall mean the sale and purchase of electricity on the wholesale electricity market and, in any case, shall not include the supply of electricity;

~~168)~~171) **“trade in natural gas”** shall mean the sale and purchase of natural gas on the wholesale natural gas market and, in any case, shall not include the supply of natural gas;

~~169)~~172) **“trader”** shall mean a person trading in electricity on the electricity market and/or a person trading in natural gas on the natural gas market;

~~170)~~173) **“transmission”** shall mean transmission of electricity and/or transmission of natural gas;

~~171)~~174) **“transmission network”** shall mean the electricity transmission network and/or the natural gas transmission network;

~~172)~~175) **“transmission of electricity”** shall mean the transport of electricity on the high-voltage interconnected electricity system with a view to its delivery to final customers or to distributors, but shall not include the supply of electricity;

~~173)~~176) **“transmission of natural gas”** shall mean the transport of natural gas through a network of high-pressure pipelines, other than the upstream pipeline network and other than the part of high-pressure pipelines primarily used for local distribution of natural gas, with a view to its delivery to customers, but shall not include the supply of natural gas;

~~174)~~177) **“transmission system operator”** shall mean a transmission system operator for electricity and/or a transmission system operator for natural gas;

~~175)~~178) **“transmission system operator for electricity”** shall mean an electricity undertaking which carries out the function of the transmission of electricity and is responsible for operating, ensuring the maintenance of and, if necessary, developing the electricity transmission system in a given area and, where applicable, its interconnections with other systems, and for ensuring the long-term ability of the system to meet reasonable demands for the transmission of electricity;

~~176)~~179) **“transmission system operator for natural gas”** shall mean a natural gas undertaking which carries out the function of the transmission of natural gas and is responsible for operating, ensuring the maintenance of and, if necessary, developing the transmission system in a given area and, where applicable, its interconnections with other systems, and for ensuring the long-term ability of the system to meet reasonable demands for the transport of natural gas;

~~177)~~180) **“transmission system owner”** shall mean an undertaking which is in a legal possession of the electricity or natural gas transmission system under the ownership right, but which is not a transmission system operator;

~~178)~~181) **“universal service”** shall mean supply of electricity as a public service according to regulated conditions to those final customers which are entitled to be supplied with electricity under such conditions, *i.e.* household customers and small enterprises, and freely choose such a method of supply or use it by default;

~~179)~~182) **“universal service supplier”** shall mean an electricity undertaking offering household customers and small enterprises the supply of electricity of a specified quality at reasonable, transparent and cost-reflective prices according to regulated conditions;

~~180)~~183) **“unused capacity”** shall mean firm capacity which a system user has acquired under a natural gas transport contract entered with the transmission system operator for natural gas or other contract entered with the natural gas storage system operator or the LNG system operator but which that system user has not nominated by the deadline specified in the contract;

~~181)~~184) **“upstream pipeline network”** shall mean any pipeline or network of pipelines operated and/or constructed as part of an oil or gas production project, or used to convey natural gas from one or more such projects to a processing plant or terminal or final coastal landing terminal;

~~182)~~185) **“vertically integrated undertaking”** shall mean a vertically integrated electricity undertaking or a vertically integrated natural gas undertaking;

~~183)~~186) **“vertically integrated electricity undertaking”** shall mean an electricity undertaking or a group of electricity undertakings where the same person or the same persons are entitled, directly or indirectly, to exercise control, and where an undertaking or a group of undertakings perform at least one of the functions of transmission or distribution of electricity, and at least one of the functions of generation or supply of electricity;

~~184)~~187) **“vertically integrated natural gas undertaking”** shall mean a natural gas undertaking or a group of natural gas undertakings where the same person or the same

persons are entitled, directly or indirectly, to exercise control, and where an undertaking or a group of undertakings perform at least one of the functions of transmission, distribution or storage of natural gas, or operation of a LNG facility, and at least one of the functions of production or supply of natural gas;

~~185)~~188) “**vulnerable customer**” shall mean a household customer which due to its social status and/or health condition and in accordance with applicable legal acts is recognised by the competent national authority of Georgia as being a vulnerable customer to whom the right to system use and/or supply of electricity or natural gas is granted under special conditions in accordance with the provisions of this Law;

~~186)~~189) “**wastewater disposal**” shall mean the transportation and purification of wastewater up to the permissible standard by water treatment facilities;

~~187)~~190) “**wholesale customer**” shall mean any natural or legal person other than the transmission system operator or distribution system operator who purchases electricity and/or natural gas for the purpose of resale inside or outside the territory of Georgia.

Article 4 - Use of terms

1. All general terms used in this Law without an explicit reference to the electricity and/or natural gas sector shall be construed and interpreted so as applicable to both electricity and natural gas sectors, except for in cases where the context of the provision in question invokes its specific and exclusive application only to the electricity and/or natural gas sector or any relations thereof.
2. Any terms defined and/or used in other legal acts of Georgia regulating or related to energy activities shall be applied without prejudice to the definitions established in Article 3 [*Definitions of terms*] of this Law.

SECTION II ENERGY ACTIVITIES

Chapter III - Governing of energy activities

Article 5 - General principles governing energy activities

1. Organisation, regulation, monitoring and supervision of energy activities shall be implemented in compliance with the following general principles:
 - 1) security and reliability of the operation of electricity and natural gas systems, and of the provision of related services;
 - 2) security of supply in order to fulfil the demand for electricity and natural gas of customers residing and operating in Georgia;
 - 3) unrestricted access to electricity and natural gas systems under the terms and conditions stipulated in this Law, as well as effective implementation of the supplier switching right;
 - 4) competitiveness, transparency, non-discrimination and legal certainty in all energy activities, whether related to public service obligations or market-based;
 - 5) independence of the transmission and distribution from other energy activities and their related commercial interests, including the elimination of preconditions for the conflict of interest and cross-subsidisation;

- 6) increase of the efficiency and decrease of the negative environmental impact of energy activities, including reduction of greenhouse gas emissions, and their sustainable development in compliance with environmental, economic and social security policies of Georgia;
 - 7) promotion of the use of smart and environmentally friendly technologies while transporting electricity and operating the electricity system;
 - 8) promotion of the generation of electricity from renewable energy sources and of the combined generation of electricity and heat;
 - 9) facilitation of cross-border exchanges in electricity and natural gas in accordance with clearly defined, transparent and non-discriminatory instruments for the capacity allocation and congestion management with a view towards the effective use of interconnection capacities as well as increased diversification and competitiveness in energy markets;
 - 10) protection of rights and legitimate interests of electricity and natural gas market participants; and
 - 11) availability, accessibility and affordability of electricity and natural gas for the benefit of customers residing and operating in Georgia.
2. Other legal acts of Georgia regulating or related to energy activities shall be construed and implemented in line with the general principles laid down in paragraph 1 of this Article.

Article 6 - Competent national authorities

1. The Government and the Ministry shall be responsible for taking relevant decisions with regard to the governing of energy activities within the scope of their specific competences as assigned in accordance with this Law, other applicable laws and their implementing regulations.
2. The Commission shall be designated and shall act as a single national regulatory authority for energy in Georgia under the terms and conditions stipulated in Section III [*Regulatory authority*] of this Law.
3. Administrative bodies designated by the Government, including, where applicable, local self-government bodies, shall be responsible for the adjustment of the design and territorial planning documentation for the construction of electricity and natural gas facilities, as well as for the issuance of construction permits under the terms and conditions stipulated in the Law of Georgia on Licenses and Permits and other applicable legal acts.
4. Competent national authorities of Georgia shall ensure close mutual cooperation at different national and regional levels for the purposes of harmonised regulatory and administrative practices in electricity and natural gas sectors.

Article 7 - State Energy Policy

1. The Ministry shall develop and implement, in cooperation with the Commission, the State Energy Policy for a period of at least ten (10) years, which shall be adopted by the Parliament.
2. The State Energy Policy shall provide at least for the following:
 - 1) strategies and priorities, whether of short, medium and/or long term, in electricity and natural gas sectors;

- 2) measures aimed at secure and reliable supply of electricity and natural gas in order to meet the demand for electricity and natural gas of customers residing and operating in Georgia;
 - 3) measures to ensure the availability, accessibility and affordability of electricity and natural gas for the benefit of customers residing and operating in Georgia;
 - 4) long-term balance between supply and demand through development of energy activities and the energy sector in general, taking into account the trends of electricity and/or natural gas consumption;
 - 5) diversification of primary energy sources used for the generation of electricity, as well as diversification of sources, routes and suppliers for electricity and natural gas imports to Georgia;
 - 6) measures aimed to facilitate the use of renewable energy sources for the generation of electricity and consumption of electricity produced from such sources, as well as any incentives and support mechanisms applied for the promotion of the use of renewable energy sources;
 - 7) measures aimed to facilitate the combined generation of electricity and heat, including any support mechanisms thereto;
 - 8) measures aimed at increased efficiency in energy activities and in consumption of electricity and natural gas;
 - 9) protection of the environment from any negative impact of energy activities and their sustainable development in compliance with environmental, economic and social security policies of Georgia;
 - 10) protection of the rights and interests of all stakeholders in the energy sector, including protection of vulnerable customers;
 - 11) measures applied for the promotion and attraction of investments in the infrastructure used for the generation, transmission and distribution of electricity, as well as in the infrastructure used for the transmission and distribution of natural gas and, as the case may be, in natural gas production, storage and LNG facilities, including introduction of innovative, environmentally friendly and smart technologies both in electricity and natural gas sectors;
 - 12) measures for the efficient reorganisation and, as the case may be, privatisation of State-owned energy undertakings;
 - 13) measures aimed at the promotion and facilitation of the competitiveness, transparency, non-discrimination and legal certainty in energy activities;
 - 14) measures aimed at the promotion and development of the scientific research and education in the field of energy, including the State subsidisation and attraction of private investments; and
 - 15) other relevant analyses, forecasts, considerations and recommendations relevant for the functioning and development of the energy sector in Georgia.
3. The State Energy Policy shall in all cases consider and aim at unrestricted third-party access to electricity and natural gas systems in accordance with the principles of transparency and non-discrimination.
 4. The State Energy Policy, when adopted, shall be published in the Legislative Herald of Georgia and published on the websites of the Government and the Ministry.

Chapter IV - Organisation of energy activities

Article 8 - Energy activities

1. This Law, to the extent provided herein, shall cover the following energy activities:
 - 1) electricity activities:
 - a) generation of electricity;
 - b) transmission of electricity;
 - c) distribution of electricity;
 - d) supply of electricity;
 - e) trade in electricity; and
 - f) operation of the electricity market;
 - 2) natural gas activities:
 - a) production of natural gas;
 - b) transmission of natural gas;
 - c) distribution of natural gas;
 - d) storage of natural gas;
 - e) operation of LNG facilities;
 - f) supply of natural gas;
 - g) trade in natural gas; and
 - h) operation of the natural gas market.
2. Energy undertakings performing any of energy activities referred to in paragraph 1 of this Article shall be established, incorporated and organised in accordance with applicable laws of Georgia.
3. Energy undertakings operating in Georgia shall comply with the requirements for independence and unbundling of transmission and distribution system operators as well as for unbundling of accounts as stipulated in this Law.
4. Generation of electricity in cases where all electricity produced is being consumed by the producer itself shall not be deemed as an electricity activity and therefore shall not be regulated by this Law, except for in cases where such a producer intends to sell its surplus electricity to other electricity undertakings or to customers.

Article 9 - Public services

1. In the general economic interest, an energy undertaking may be obliged to carry out public service obligations in order to ensure security, including security of supply, regularity, quality and price of supplies, as well as environmental protection, including energy efficiency, energy from renewable sources and climate protection. Public service obligations in electricity or natural gas sectors may be imposed by the Government or the Commission, following consultations with other competent national authorities of Georgia and with the Energy Community Secretariat, as a measure limited in time and shall be reviewed on a regular basis in order to determine the further necessity of maintaining such obligations and their effects.
2. The following energy activities shall be performed as public services according to regulated conditions established by this Law and its implementing regulations:

- 1) transmission of electricity and transmission of natural gas performed by the transmission system operator in charge; and
 - 2) distribution of electricity and distribution of natural gas performed by the distribution system operator in charge.
3. Other energy undertakings not referred to in paragraph 2 of this Article may be imposed with public service obligations for the provision of public services expressly specified in this Law or justified as necessary to reach the objectives stipulated herein. Public service obligations shall be imposed and performed in a transparent, non-discriminatory and easily verifiable manner, they shall be proportionate and shall not distort competition in energy markets beyond what is strictly necessary in order to achieve objectives of the public service in question, and shall guarantee equality of access for energy undertakings of the Energy Community Parties to final customers in Georgia.
4. All financial or other forms of compensation, as well as any exclusive rights, which may be granted for the performance of public service obligations, shall be so provided in a non-discriminatory and transparent way.
5. All measures proposed under this Law as imposing public service obligations shall be screened and, where required, justified in accordance with competition and/or State aid rules as established by applicable laws of Georgia.
6. Energy undertakings providing public services shall ensure, within the specific scope of and in conformity with the requirements for respective energy activity as established by this Law and its implementing regulations, the following:
- 1) security of supply;
 - 2) prescribed or contracted quality of electricity or natural gas supplies;
 - 3) application of tariffs or prices set according to regulated conditions, where applicable;
 - 4) environmental protection and increase of the energy efficiency;
 - 5) protection of health, life and property of citizens; and
 - 6) measures on customer protection.
7. The Energy Community Secretariat shall be notified of any measure proposed as imposing new public service obligations or affecting public service obligations in force, including customer protection and environmental protection, accompanied by an assessment of their possible effect on national and international competition. The Energy Community Secretariat shall be subsequently informed of any changes to such measures.
8. The Ministry, in cooperation with the Commission, shall be in charge of preparation and submission of notifications and information referred to in paragraph 7 of this Article.

Article 10 - Market activities

1. Energy activities, which are not defined or imposed as public services under Article 9 [*Public services*] of this Law, shall be performed as market activities in accordance with the rules governing the organisation of respective activities, where amounts and prices of electricity or natural gas and/or related services as well as other commercial terms and conditions are freely negotiated by the conclusion of contracts and/or achieved by direct bidding on organised electricity or natural gas markets.
2. Market activities shall be performed and organised in accordance with the needs of final customers residing and operating in Georgia aiming at secure, reliable and efficient supply of electricity and natural gas, while at the same time following the principle of fair competition and recognising equal legal status of all energy undertakings.

Chapter V - Authorisation of energy activities

Article 11 - Mandatory authorisation of energy activities

1. Performance of the following energy activities shall be subject to a prior license to operate issued by the Commission under the terms and conditions stipulated in the Law of Georgia on Licenses and Permits and in this Law:

- 1) electricity activities:
 - a) generation of electricity;
 - b) transmission of electricity;
 - c) distribution of electricity; and
 - d) operation of the electricity market;
- 2) natural gas activities:
 - a) transmission of natural gas;
 - b) distribution of natural gas;
 - c) storage of natural gas;
 - d) operation of LNG facilities; and
 - e) operation of the natural gas market.

2. Performance of energy activities specified in paragraph 1 of this Article without a valid license issued by the Commission and thus authorising an energy undertaking to engage in a respective energy activity shall be forbidden, except for the following activities:

- 1) generation of electricity exclusively for personal (household and/or commercial) consumption by a producer the electricity generation facilities of whom are not connected to the electricity transmission or distribution networks;
- 2) generation of electricity in a facility during its commissioning stage as regulated under Article 36 [*Commissioning of electricity generation facilities*] of this Law; and
- 3) generation of electricity in a micro-generating power plant as regulated under Article 38 [*Micro-generating power plants*] of this Law.

3. Energy undertakings performing or intending to perform the supply of electricity or natural gas, which is not subject to the mandatory licensing under paragraph 1 of this Article, shall comply with the notification requirements established by Article 114 [*Notification on supply activities*] of this Law.

4. Energy undertakings shall be entitled to trade in electricity or natural gas on respective energy markets under the terms and conditions stipulated in this Law and its implementing regulations. No authorisations shall be required for trading in electricity or natural gas. Traders authorised for any licensed energy activity or performing the supply shall report their trade related activities together with their performed other energy activity (or activities) as required by this Law. Traders which are not licensed for any other energy activity and do not perform the supply shall, *mutatis mutandis*, comply with Article 114 [*Notification on supply activities*] of this Law.

5. Apart from mandatory licenses for activities specified in paragraph 1 of this Article, construction of electricity and natural gas facilities may be subject to a prior construction permit, including, as the case may be, a permit to construct facilities of special importance or

a permit to construct radioactive and nuclear facilities. Permits for construction of electricity and natural gas facilities shall be issued under the terms and conditions stipulated in the Law of Georgia on Licenses and Permits.

Article 12 - Licensing conditions

1. The Commission shall issue licenses only to energy undertakings which comply with the requirements stipulated in the Law of Georgia on Licenses and Permits and with specific licensing conditions stipulated in this Law.
2. Each license applicant shall ensure and justify, through the documents referred to in Article 13 [*Issuance of licenses*] of this Law, the following:
 - 1) technical, economic, financial and operational (human resources) capability to perform the functions particular to each respective licensed energy activity as established by this Law and other applicable legal acts;
 - 2) ability to implement the measures required to ensure the quality of the services provided to market participants;
 - 3) ability to provide public services and to implement applicable public service obligations, as referred to in Article 9 [*Public services*] of this Law; and
 - 4) ability to fulfil the obligations referred to in Article 14 [*Rights and obligations of license holders*] of this Law and further on elaborated by provisions of this Law regulating particular energy activities.
3. Requirements specified in paragraph 2 of this Article shall be deemed as mandatory licensing conditions. Failure to prove their proper implementation may result in refusal by the Commission to issue a license.
4. Following the issuance of a license, requirements specified in paragraph 2 of this Article shall be continuously ensured by a license holder throughout the entire period of the validity of the license. The Commission, while monitoring licensed activities, may require from a license holder to justify its compliance with these requirements. Failure to comply shall be considered as a violation of licensing conditions and may invoke the liability of a license holder under the Law of Georgia on Licenses and Permits and this Law.

Article 13 - Issuance of licenses

1. Licenses for energy activities shall be issued in a transparent, objective, legally justified and non-discriminatory manner in accordance with the procedures established or referred to by the Law of Georgia on Licenses and Permits.
2. In addition to the requirements established by the Law of Georgia on Licenses and Permits, a license applicant shall submit to the Commission the following documents together with the license application:
 - 1) documents proving the ownership or other form of legal possession of electricity or natural gas facilities necessary to perform a particular energy activity;
 - 2) approval for the commissioning of electricity or natural gas facilities referred to in subparagraph 1, where such approval is required by applicable legal acts, and/or documents proving the compliance of facilities with applicable technical rules as referred to in Article 108 [*Interoperability of systems and technical rules*] of this Law;
 - 3) documents proving the ownership or other form of legal possession of equipment necessary to perform a particular energy activity and to provide related services to market participants or, as the case may be, documents proving the outsourcing of such an equipment and/or related operational or maintenance services;

- 4) layout of electricity or natural gas networks owned or otherwise legally possessed by the energy undertaking, where applicable;
 - 5) technical conditions for the connection to electricity or natural gas networks, in cases where the performance of a particular energy activity is subject to the connection of respective facilities to electricity or natural gas networks;
 - 6) environmental impact assessment report, in cases where such a report is mandatory required by applicable laws for a particular energy activity;
 - 7) list of fixed assets and the audit report of a license applicant; and
 - 8) management and staff scheme (organisational structure) of a license applicant proving that all professional functions related to a particular energy activity are covered by human resources of a license applicant or, as the case may be, documents proving the outsourcing of respective professional functions.
3. License applicants for the transmission of electricity or natural gas shall be duly unbundled and certified as required under Chapters XI [*Unbundling of the TSO*] and XII [*Certification of the TSO*] of this Law. In case a license applicant is already certified by the Commission as a transmission system operator, no additional documents proving the unbundling shall be required for submission together with the license application.
4. License applicants for the distribution of electricity or natural gas shall comply with the requirements for their unbundling as required under Article 82 [*Unbundling of the DSO*] of this Law and shall submit to the Commission documents proving such compliance.
5. A license applicant, where so requested by the Commission, shall present all factual circumstances, including relevant documents, data and information, which demonstrate its compliance with the licensing conditions for a particular energy activity.
6. A complete list of documents to be submitted by license applicants pursuant to the Law of Georgia on Licenses and Permits and this Law, including relevant references to governing legal acts, public bodies in charge, standard forms and/or examples, shall be published and constantly updated by the Commission on its website.
7. Issuance of the license shall be evidenced by a license certificate issued by the Commission under the terms and conditions stipulated in the Law of Georgia on Licenses and Permits. A license certificate shall *inter alia* specify a license holder, a licensed energy activity, services provided by a license holder, location of service assets, service territory to which the license shall apply, and the date of issuance of the license. A standard form of the license certificate shall be adopted by the Commission.
8. Applications for issuance of a license may be refused only on grounds specified in the Law of Georgia on Licenses and Permits. Decision on such a refusal shall be taken on a legally justified basis in an objective, transparent and non-discriminatory manner, and shall be well substantiated and explained to a license applicant. A license applicant shall be allowed to appeal against such a refusal under the terms and conditions stipulated in the Law of Georgia on Licenses and Permits and in this Law. Each refusal to issue a license, including the reasons for such a refusal, shall be notified by the Commission to the Energy Community Secretariat for information.

Article 14 - Rights and obligations of license holders

1. Each license holder shall be entitled to the rights and shall fulfil the obligations, including a full-scope performance of assigned functions, duties and responsibilities, attributable to a particular licensed energy activity as established by this Law, other applicable laws and their implementing regulations, including decisions of the Commission.
2. License holders may not, without a prior written consent of the Commission, terminate, restrict or expand the services defined by this Law and/or other applicable acts and the

provision of which is authorised by a particular license, except for the cases where the termination or restriction of services is processed due to the failure of a system user or a customer to pay for the services and/or for technical or safety reasons under the terms and conditions stipulated in this Law and/or other applicable legal acts.

3. Without prejudice to paragraph 2 of this Article, no license holder shall be required to continue the provision of its services in cases where a system user or a customer receiving such services defaults its obligations established by law and/or in the service contract.

4. Each license holder shall report its activities to the Commission and, where expressly provided by this Law, to other competent national authorities of Georgia under the terms and conditions stipulated in the Law of Georgia on Licenses and Permits, this Law and reporting rules adopted by the Commission.

5. Failure by a license holder to fulfil its obligations may invoke its liability under the Law of Georgia on Licenses and Permits and this Law.

Article 15 - Validity and territorial application of licenses

1. Licenses to perform energy activities under this Law shall be issued for an indefinite period of time.

2. Licenses issued for the operation of electricity and natural gas markets shall grant respective license holders an exclusive right to perform any of these activities throughout the entire territory of Georgia, *i.e.* only one (1) license may be issued for the performance of each of these activities in Georgia.

3. Licenses issued for the transmission and distribution of electricity and natural gas shall grant respective license holders an exclusive right to perform any of these activities throughout the geographical territory defined in the license, *i.e.* only one (1) license may be issued for the performance of each of these activities in the respective territory.

4. Number of licenses issued for the generation of electricity, for the storage of natural gas and for LNG activities shall not be limited, as well as market entrance of new developers of electricity or natural gas facilities shall not be restricted by regulatory, administrative, financial and/or any other measure.

Article 16 - Modification and revocation of licenses

1. The Commission may modify or revoke a license under the terms and conditions stipulated in the Law of Georgia on Licenses and Permits.

2. In any other case, if not justified under paragraph 1 of this Article, the Commission may modify or revoke a license only with a prior written consent of the license holder, except where such a modification or revocation is mandatory required due to the changes in law.

SECTION III REGULATORY AUTHORITY

Chapter VI - Designation and organisation of the Commission

Article 17 - Designation of the Commission

1. Energy activities shall be regulated, monitored and supervised by the Commission, which shall act as a single national regulatory authority for energy in Georgia designated pursuant to the Law of Georgia on National Regulatory Bodies.

2. Without prejudice to paragraph 1 of this Article, the Commission may be assigned with regulatory, monitoring and/or supervisory competences in other regulated sectors, including the drinking water supply, under the terms and conditions stipulated in this Law and/or other applicable laws.

3. The Commission shall function and perform its activities pursuant to and in compliance with the Constitution of Georgia, international treaties and agreements ratified by the Parliament, the Law of Georgia on National Regulatory Bodies, this Law, other applicable laws and their implementing regulations, and the Charter of the Commission.

Article 18 - Legal status of the Commission

1. The Commission shall be a specialised, independent, autonomous and non-profit institution with the status of a legal person incorporated under the laws of Georgia.

2. The Commission shall have its individual bank account and a seal designed, used and stored in line with applicable laws of Georgia.

Article 19 - Independence of the Commission

1. The Commission shall carry out its duties and exercise its regulatory powers as an independent authority in accordance with the principles of objectivity, transparency and non-discrimination duly following legal requirements for the regulation of energy activities in Georgia and, as the case may be, other activities assigned to the regulatory competence of the Commission as well as best international practices thereto.

2. When carrying out its duties and exercising its regulatory powers conferred upon the Commission by this Law and other applicable legal acts, the Commission, as well as its Commissioners and other staff, shall comply with the requirements for their independence stipulated in the Law of Georgia on National Regulatory Bodies.

3. Without prejudice to paragraph 2 of this Article, the independence requirements shall be applied without prejudice to close cooperation, as appropriate, between the Commission and other competent national authorities of Georgia, or to general energy policy guidelines issued pursuant to Article 7 [*State policy in the energy sector*] where not related to the duties and regulatory powers assigned to the Commission.

Article 20 - Formation of the Commission

1. The Commission shall consist of five (5) Commissioners appointed by the Parliament following their nomination by the President and subject to initial approval of the Government.

2. Any individual may be appointed as a Commissioner if he or she complies with the following requirements:

- 1) is a citizen of Georgia;
- 2) holds a university degree in law, economics, finances, engineering, public administration or business management, and has at least ten (10) years of relevant experience in the field of energy, which may include electricity, natural gas, renewable energy, nuclear energy and/or oil and petroleum, as proven by respective diplomas, certificates and references; and
- 3) has a good knowledge regarding the legal system of Georgia, as well as its energy, environmental, social and economic policies, as proven by his or her previous employment experience and, in particular, professional tasks, duties and responsibilities of positions held and/or functions performed.

3. Commissioners shall be of a good reputation and shall comply with the norms of ethics and independence requirements stipulated in the Law of Georgia on National Regulatory

Bodies. Commissioners shall not be allowed to undertake any simultaneous political or commercial activities, except for those of the academic, educational, scientific or research field, unless the latter activities are funded by any regulated undertaking.

4. Candidate Commissioners shall be nominated by the President after being selected in accordance with an open competition procedure in a transparent and non-discriminatory manner. Competition procedure shall be organised and conducted by the selection committee formed in accordance with paragraph 5 of this Article.

5. The selection committee shall be formed within the Presidential Administration of Georgia and shall comprise of five (5) members with at least three (3) members being independent, *i.e.* not being public servants or appointed officials in public bodies of Georgia and not employed by or appointed to the bodies of regulated undertakings. Members of the selection committee may include representatives appointed by the Energy Community Secretariat. The term of office of the selection committee shall be three (3) years. The selection committee shall elect its chairperson and shall approve its rules of procedure.

6. Announcement of competition for the selection of candidate Commissioners shall be published on the websites of the Presidential Administration, the Commission and the Civil Service Bureau of Georgia. Public announcement shall be made not later than three (3) months before the term of the appointed Commissioners expires or not later than ten (10) days after the dismissal of a Commissioner from the office and, in any case, at least fourteen (14) days prior to the scheduled interview with potential candidates and shall contain at least the information regarding requested qualifications, deadline for the submission of application, list of documents to be submitted with the application, other relevant requirements and procedural rules for the competition, or a link to the source where such information is published with an unrestricted public access.

7. Candidate Commissioners shall be selected by the selection committee and nominated by the President for their appointment not later than in thirty (30) days from the date of the public announcement of the competition. The selection committee may postpone such selection and extend the competition for up to additional thirty (30) days in cases where there are less than two (2) candidates applying for each vacant position of the Commissioner.

8. After the President nominates candidate Commissioners, the Government shall make its decision on the initial approval of candidate Commissioners not later than in ten (10) days from the receipt of nominations and the Parliament shall appoint the Commissioners not later than in twenty (20) days from the date of the Governmental approval.

9. Approval of candidate Commissioners by the Government and appointment of Commissioners by the Parliament shall be based exclusively on the evaluation of their compliance with the requirements stipulated in paragraphs 2 and 3 of this Article. Rejection of nominated candidate Commissioners, whether by the Government or the Parliament, shall require for a renewed competition procedure under paragraphs 6 and 7 of this Article.

10. Commissioners shall be appointed for a fixed term of six (6) years which may be renewed once.

11. In cases where it is necessary to ensure an appropriate rotation scheme of Commissioners, subject to the nomination by the President, new Commissioners may be appointed for a shorter term than specified in paragraph 10 of this Article.

12. The Parliament shall have the sole authority to dismiss a Commissioner from the office during its assigned term, whether by its own initiative or following application of the President or the Prime Minister of Georgia, and only for the reasons a comprehensive list of which is established by the Law of Georgia on National Regulatory Bodies. A Commissioner shall have the right to appeal his or her dismissal as prescribed by applicable legal acts.

13. Whenever the vacancy of a Commissioner opens prior to the expiration of the assigned term, a new Commissioner shall be appointed for the remaining term of previous assignment following the procedure laid down in this Article.

14. In case the term of a Commissioner expires, such a Commissioner shall remain in his or her position until a new Commissioner is appointed. This rule shall not apply in case a Commissioner was dismissed from the office as referred to in paragraph 12 of this Article.

15. Within the period of two (2) years after the expiration of the assigned term or the dismissal from the office prior to the expiration of the assigned term, a Commissioner shall not be allowed to hold a position in any regulated undertaking.

Article 21 - Administration of the Commission

1. Activities of the Commission shall be organised and its daily operations ensured by the Chairman and its administrative staff. The structure, functions and competences of the administrative staff of the Commission shall be established by its Charter and/or other internal regulations.

2. The Chairman shall be appointed by the Parliament from among the candidate Commissioners, following their selection and nomination procedure under Article 20 [*Formation of the Commission*], as proposed by the President and initially approved by the Government.

3. The Chairman may resign from the position but still remain a Commissioner for his or her remaining term as of a Commissioner. The Chairman may, in his or her absence, designate one of the Commissioners to serve as an Acting Chairman.

4. The Chairman shall preside over the sessions and meetings of the Commission, be responsible for complying with the Charter of the Commission and other internal regulations, its decisions, their promulgation and enforcement, as well as for the work organisation of the Commission and its administrative staff.

5. In order to carry out its duties and exercise its regulatory powers in full scope and proper manner, the Commission shall have its staff covering all professional areas assigned to the competence of the Commission. The Commission shall be independent in setting up its staffing plans and organisational structures.

6. Staff employees of the Commission shall be appointed and dismissed by the Chairman in consultation with other Commissioners under the terms and conditions stipulated in applicable legal acts and internal regulations of the Commission.

7. Commissioners and staff employees of the Commission shall be assigned with duties and entitled to rights as stipulated in the Law of Georgia on National Regulatory Bodies, this Law, the Charter and other internal regulations of the Commission. Employment conditions of the Commissioners and staff employees, including remuneration and other benefits, shall be set pursuant to applicable laws and internal regulations of the Commission. In any case, laws and/or other acts regulating civil service in Georgia shall not be applied to the Commissioners and staff employees of the Commission.

8. Establishment of political, social or labour organisations or of their structural units within the Commission shall be prohibited.

Article 22 - Work organisation of the Commission

1. Work of the Commission shall be organised in accordance with its Charter and other internal regulations within the scope of its competence and regulatory powers.

2. Sessions of the Commission shall be open to the public, except in limited circumstances where confidential information or trade secrets are involved, as determined by the Commission in accordance with its internal regulations.
3. Before any decision or resolution is taken in its session, the Commission shall be obliged to notify the interested parties and to provide them with an opportunity to attend the respective session of the Commission. The Commission shall provide respective parties with an opportunity of an unimpeded presentation of their interests at its sessions.
4. Records of all proceedings of the Commission, minutes of its sessions, official documentation, working materials, and other related documents, data and information shall be maintained in accordance with the Law of Georgia on National Regulatory Bodies and internal regulations of the Commission. Such documents shall be available to the public, except that sensitive business and/or personal information shall remain confidential whenever such confidentiality is necessary, as required by applicable laws and described in the internal regulations of the Commission.
5. The Commission shall adopt and publish its Code of Ethics *inter alia* governing conflict of interests and other ethical standards for its Commissioners and staff. The Code of Ethics shall comply with the requirements stipulated in the Law of Georgia on National Regulatory Bodies and this Law and shall reflect prevailing international practices.
6. All internal regulations adopted by the Commission shall be in compliance with the requirements established by this Law and other applicable laws, and shall be published on the website of the Commission.
7. Orders regarding work organisation and other internal matters of the Commission shall be issued by the Chairman.

Article 23 - Decisions of the Commission

1. The Commission shall be liable for the legitimacy of its decisions and resolutions. All decisions of the Commission shall be made and resolutions shall be issued in a written form and shall contain their justification and, where relevant, explanation on their implementation.
2. Decisions of the Commission shall be made and resolutions issued by a majority vote of all the Commissioners attending the session. Each Commissioner shall have one (1) vote.
3. The Commission shall be entitled to make decisions and issue resolutions at its session only if attended by at least three (3) Commissioners and chaired by the Chairman or the Acting Chairman.
4. Decisions and resolutions of the Commission shall be effective on the date and in the manner that the Commission shall prescribe in accordance with applicable laws and shall remain in effect unless changed by the Commission or modified by the competent court in accordance with this Law.
5. Decisions and resolutions of the Commission shall be binding on all regulated undertakings concerned depending on the regulatory scope of such decisions and resolutions or, in case individual act is adopted, on a person or persons to whom a decision or resolution of the Commission is addressed.
6. All resolutions of the Commission issued in a form of the legal act shall be published in the Legislative Herald of Georgia and on the website of the Commission. Individual acts and other decisions issued by the Commission shall be published on the website of the Commission and delivered to the parties concerned.

Article 24 - Public consultations and cooperation

1. The Commission shall publish on its website all draft legal acts initiated for adoption and other relevant decisions within the scope of its competence and regulatory powers, and shall ensure a reasonable time period for any interested party to submit its comments, remarks and proposals thereto. Public consultations shall not be required for individual acts or decisions and dispute settlement decisions, except for in cases where such acts or decisions fall within the scope of paragraph 2 of this Article,
2. The Commission shall conduct public consultations in cases required by the Law of Georgia on National Regulatory Bodies, including licensing related and tariff setting acts or decisions.
3. The Commission shall adopt the rules on public consultations, which *inter alia* shall regulate the scope and conditions for public consultations, its procedures, formal requirements and public announcement of information. Information regarding on-going public consultations shall be publicly available on the website of the Commission. The Commission shall announce results of public consultations, except for any confidential or otherwise sensitive information.
4. The Commission, duly following the conditions for its independence and without prejudice to its own specific competences, may consult with system operators and other regulated undertakings, and shall closely cooperate with other competent national authorities of Georgia when necessary in carrying out its duties and exercising its regulatory powers.

Article 25 - Cooperation in regard to cross-border issues

1. The Commission shall closely consult and cooperate with regulatory authorities of the Energy Community Parties, and shall provide them and the Energy Community Regulatory Board with any information necessary for the fulfilment of their tasks, and may request for

such information respectively. In respect of the information exchanged, the Commission shall ensure the same level of confidentiality as that required of the originating authority.

2. The Commission shall cooperate at the regional and international level, as referred to in paragraph 3 of this Article, in order to:

1) foster the creation of operational arrangements in order to enable an optimal management of electricity and/or natural gas networks, promote joint electricity and/or natural gas exchanges and the allocation of cross-border capacity, and to enable an adequate level of interconnection capacity, including through new interconnections, within the region and between regions to allow for development of effective competition and improvement of security of supply, without discriminating between supply undertakings in different Energy Community Parties;

2) participate in the development of all network codes relevant for transmission system operators and other market participants;

3) participate in the development of the congestion management rules applicable to Georgia and, where relevant, represent Georgia in all mechanisms for regionally coordinated capacity allocation and congestion management.

3. The Commission shall have a right to enter into cooperative arrangements with any other competent regulatory authority to foster regulatory cooperation.

4. The actions referred to in paragraph 2 of this Article shall be carried out, as appropriate, in close consultations with other competent national authorities of Georgia and without prejudice to their specific competences and jurisdictional powers.

5. The Commission shall comply with, and implement, any relevant legally binding decisions of the competent bodies of the Energy Community.

Article 26 - Funding of the Commission

1. The Commission, when carrying out its duties and exercising its regulatory powers, shall be financially independent pursuant to the Law of Georgia on National Regulatory Bodies and this Law.

2. The Commission, by the 1st of October each year, shall adopt a detailed budget for the next year, which shall indicate all expenses of the Commission, including salaries and benefits of the Commissioners and the staff, as well as other budgeted expenses of the Commission planned for the next year.

3. The Commission shall be funded from regulatory fees established by the Commission for each of its regulated energy and other activities and paid by respective license holders and other regulated undertakings under the terms and conditions stipulated in the Law of Georgia on Regulatory Fees and this Law.

4. On the basis of load and/or turnover forecasts for the next year received from license holders and other regulated undertakings by the 15th of September, the Commission shall establish regulatory fees at a level sufficient to cover its budgeted expenses.

5. The regulatory fee shall be deposited to the bank account of the Commission under the terms and conditions adopted by the Commission. The Commission shall have the sole right to use the means on its account. Unused funds in the current financial year shall be transferred to the budget of the next year. If a budget deficit occurs during the current financial year, the Commission shall be entitled to cover it from the budget means planned for the next year adjusting regulatory fees accordingly.

6. The Commission shall be entitled to take bank loans at reasonable and justifiable interest rates to cover current expenditures which cannot be covered by collected regulatory

fees. The Commission shall pay off the loans from the means obtained from the regulatory fees collected later.

7. The Commission, without prejudice to its independence, shall be entitled to make use of the State budget allocations and grants for its activities under the terms and conditions stipulated in applicable legal acts.

8. License holders and other regulated undertakings shall be entitled to recover regulatory fees established by the Commission through the tariffs set by the Commission or through the price margin charged for the commodity or services related to their respective commercial (market-based) activities.

9. The budget of the Commission shall be published on the website of the Commission and shall be publicly accessible without any restrictions.

Article 27 - Accounting and reporting of the Commission

1. The Commission, by the 31st of March each year, shall prepare and publish a financial report of the preceding year reflecting amounts of the regulatory fee received by the Commission and its expenses, as well as the loans taken and other funds used.

2. Control over the fiscal activities of the Commission shall be exercised by competent national authorities of Georgia in accordance with applicable legal acts. Accounts of the Commission shall be audited annually by an independent auditor. Audit report shall be prepared and published together with the financial report as required under paragraph 1 of this Article. Audit of the fiscal activities of the Commission shall not affect its daily operations.

3. The Commission, by the 31st of March each year, shall prepare an annual report on its activities and the fulfilment of its duties *inter alia* covering the steps taken and the results obtained as regards each of the objectives, duties and regulatory powers of the Commission specified in Chapter VII [*Objectives, duties and regulatory powers of the Commission*] of this Law. The annual report of the Commission shall be submitted to the President, the Parliament, and to the Government, as well as to the Energy Community Regulatory Board and the Energy Community Secretariat, and published on the website of the Commission.

Chapter VII - Objectives, duties and regulatory powers of the Commission

Article 28 - General objectives of the Commission

1. In carrying out its duties and exercising its regulatory powers as laid down in this Law, the Commission shall take all reasonable measures in pursuit of the following objectives:

- 1) promoting, in close cooperation with the Energy Community Regulatory Board, regulatory authorities of other Energy Community Parties and the Energy Community Secretariat, competitive, secure and environmentally sustainable internal energy markets within the Energy Community, and effective market opening for all customers and suppliers in the Energy Community, and ensuring appropriate conditions for the effective and reliable operation of energy networks, taking into account long-term objectives;
- 2) developing competitive and properly functioning regional energy markets within the Energy Community in view of the achievement of the objectives referred to in subparagraph 2;
- 3) eliminating restrictions on trade in energy between the Energy Community Parties, including developing appropriate cross-border transmission capacities to meet

demand and enhancing the integration of national markets which may facilitate energy flows across the Energy Community;

- 4) helping to achieve, in the most effective way, the development of secure, reliable and efficient non-discriminatory systems that are customer oriented, and promoting system adequacy and, in line with general energy policy objectives, energy efficiency;
- 5) helping to achieve the integration of large and small-scale generation of electricity and production of gas from renewable energy sources, and distributed production in both transmission and distribution networks;
- 6) facilitating access to the network for new capacities of the generation of electricity and production of gas, in particular removing barriers that could prevent access for new market entrants and of electricity and gas from renewable energy sources;
- 7) ensuring that system operators and system users are granted appropriate incentives, in both the short and long term, to increase efficiencies in system performance and foster market integration;
- 8) ensuring that customers benefit through the efficient functioning of energy markets, promoting effective competition and helping to ensure customer protection;
- 9) helping to achieve high standards of public services provided in electricity and natural gas sectors, contributing to the protection of vulnerable customers and contributing to the compatibility of necessary data exchange processes for switching the supplier.

2. The objectives established in paragraph 1 of this Article shall be pursued in close cooperation with other competent national authorities of Georgia, including the Competition Agency, as appropriate, and without prejudice to their respective competences.

Article 29 - Duties of the Commission

1. The Commission shall have the following duties with regard to the authorisation of energy activities and other activities regulated by this Law, establishing the conditions for such activities and their monitoring:

- 1) issuance, modification and revocation of licenses under the terms and conditions stipulated in the Law of Georgia on Licenses and Permits and in this Law;
- 2) certification of transmission system operators and monitoring their continual compliance with the requirements for independence and unbundling as well as other requirements imposed on transmission system operators by this Law;
- 3) establishing the terms and conditions for the provision of services by regulated undertakings pursuant to this Law and other applicable laws;
- 4) defining the norm of drinking water consumption;
- 5) approving special regulatory requirements for accounting in regulated undertakings, monitoring and enforcing their proper implementation;
- 6) establishing the terms and conditions regulating the provision of information possessed by regulated undertakings to system users and/or customers;
- 7) monitoring the performance of regulated undertakings and ensuring their compliance with respective obligations and requirements set by this Law, other applicable laws and their implementing regulations; and
- 8) monitoring the provision of public services and implementation of public service obligations in accordance with the requirements stipulated in this Law and its implementing regulations;

2. The Commission shall have the following duties with regard to setting of tariffs and/or fees, and adoption of methodologies:

- 1) adopting methodologies used for calculating and setting:
 - a) tariffs for the transmission and distribution of electricity and natural gas;
 - b) tariffs for access to electricity and natural gas transmission and distribution systems;
 - c) fees for connection to electricity and natural gas transmission and distribution networks;
 - d) tariffs for access to LNG facilities; and
 - e) tariffs for the drinking water supply;
- 2) ensuring that methodologies referred to in subparagraph 1 are published sufficiently in advance within the reasonable time period prior to their entry into force and incorporate the following principles:
 - a) tariffs and fees shall be justified, reasonable, verifiable, non-discriminatory, based on objective criteria, and determined in a transparent manner;
 - b) tariffs and fees shall reflect the justified costs of operation, maintenance, replacement, construction and reconstruction of networks, including a reasonable return of investment, amortisation and taxes, with consideration of environmental and customer protection;
 - c) tariffs and fees shall allow the necessary investments in networks and facilities to be carried out in a manner allowing these investments to ensure the viability of such networks and facilities and their uninterrupted development, taking into account relevant development plans;
 - d) transmission and distribution system operators shall be granted appropriate incentive, over both the short and long term, to increase efficiencies, foster market integration and security of supply, and support the related research activities;
 - e) while setting tariffs for provision of the transmission related services, domestic transport of electricity or natural gas on the one hand and cross-border exchanges in electricity or natural gas on the other hand shall be treated on equal terms, except for cases where specific costs related to the particular service have to be considered and such costs are clear, justified and applied in a transparent and non-discriminatory manner;
 - f) the Commission shall be permitted to establish performance based rates;
 - g) interruptible rates, load balancing rates and other mechanisms to improve energy efficiency and demand side management shall be encouraged for services in the electricity sector, including consideration of the development and dispatch of renewable energy sources;
 - h) season and time-of-use rates shall be allowed, in case tariffs may be adjustable according to the cost of peak and off-peak services;
 - i) cross-subsidies between the transmission, distribution and supply activities and discrimination between system users or customers, or different categories of system users or customers shall be eliminated;
 - j) connection fees that are cost justified may be included for connection to transmission and distribution networks or for substantially increasing the connection capacity; and

- k) setting of tariffs and fees, as well as respective terms and conditions thereto, shall reflect prevailing international practices;
 - 3) setting tariffs, fees and/or price caps, *i.e.* highest rates possible to be charged by regulated undertakings for the provision of their respective services, following the adopted methodologies and in line with the procedures and criteria set by the Commission, which *inter alia* shall require regulated undertakings to prepare and submit to the Commission their tariff schedules for each group of system users and/or customers and their justifications. Decisions of the Commission on setting tariffs, fees and/or price caps shall be published sufficiently in advance within the reasonable time period prior to their entry into force; and
 - 4) monitoring the application of tariffs and fees and of respective methodologies, as well as enforcing their proper implementation.
3. The Commission shall have the following duties with regard to the regulation and monitoring of activities related to the operation of electricity and natural gas systems:
- 1) revising and approving the rules on fair and non-discriminatory third-party access to electricity and natural gas transmission and distribution systems and, where so expressly provided by this Law, to natural gas storage and LNG facilities in accordance with the general terms and conditions stipulated in this Law, and monitoring the implementation of these rules;
 - 2) establishing, monitoring and enforcing quality standards for the operation of electricity and natural gas systems and for the provision of related services, including ancillary and system services;
 - 3) approving and monitoring investment plans of system operators in charge and providing in the annual report of the Commission an assessment of those plans, including, where relevant, recommendations for their amendment;
 - 4) monitoring activities of transmission system operators, including the efficiency of mechanisms and methods to secure a balance between supply and demand;
 - 5) where so expressly provided by this Law, revising and approving the network codes prepared by system operators in charge;
 - 6) monitoring compliance with and reviewing the past performance of network security and reliability rules, and setting standards and requirements for quality of services and supply in cooperation, where applicable, with other competent national authorities of Georgia;
 - 7) monitoring the time taken by transmission and distribution system operators to make connections and repairs;
 - 8) monitoring and reviewing the conditions for the access to natural gas storage and linepack, as provided for in Article 98 [*Organisation of access to natural gas storage facilities and linepack*] of this Law. In the event that the access to natural gas storage is defined according to paragraph 4 of Article 98 [*Organisation of access to natural gas storage facilities and linepack*] of this Law, this task shall exclude the reviewing of tariffs;
 - 9) monitoring the correct application of the criteria that determine whether a natural gas storage facility falls under paragraphs 4 or 6 of Article 98 [*Organisation of access to natural gas storage facilities and linepack*] of this Law; and
 - 10) contribute, within its competence, to the monitoring of the implementation of safeguard measures in energy activities in accordance with Articles 149 [*Monitoring the security of electricity supply*] and 154 [*Monitoring the security of natural gas supply*] of this Law.

4. The Commission shall have the following duties with regard to the regulation and monitoring of energy markets:

- 1) regulation and monitoring of activities in energy markets within the regulatory competence of the Commission defined by this Law;
- 2) monitoring the level and effectiveness of the opening of energy markets and competition in energy markets, as well as any distortion or restriction of competition, including providing any relevant information to the Competition Agency;
- 3) monitoring the level of transparency in energy markets, including of wholesale and retail prices, and ensuring compliance of energy undertakings with transparency obligations;
- 4) publishing recommendations, at least annually, in relation to compliance of supply prices with requirements of this Law and its implementing regulations, and providing those to other competent national authorities of Georgia, where appropriate;
- 5) monitoring the occurrence of restrictive contractual practices in energy markets, including exclusivity clauses which may prevent large customers from contracting simultaneously with more than one supplier or restrict their choice to do so, and, where appropriate, informing the Competition Agency of such practices;
- 6) respecting contractual freedom with regard to interruptible supply contracts, as well as with regard to long-term contracts provided that they are compatible with applicable laws of Georgia and with Energy Community law;
- 7) where so expressly provided by this Law, revising and approving market rules prepared by market operators in charge, as well as setting fees applied by market operators and monitoring their activities;
- 8) ensuring that there are no cross-subsidies between energy activities; and
- 9) contributing to the compatibility of data exchange for the most important energy market processes at regional level.

5. The Commission shall have the following duties with regard to cross-border exchanges in electricity and natural gas:

- 1) monitoring enforcement of conditions related to cross-border exchanges in electricity and natural gas, in particular ensuring that relevant technical requirements are met and adhered to;
- 2) monitoring the quality and availability of technical and commercial data on the interconnectors required by system users in order to allow them to participate in respective energy markets with no discrimination;
- 3) monitoring congestion management of electricity and natural gas systems, including interconnectors with neighbouring systems, and implementation of the congestion management rules;
- 4) approving the rules for the access to the cross-border infrastructure, including procedures for the capacity allocation and congestion management (*inter alia* taking into account regionally coordinated arrangements thereto), as prepared and implemented by transmission system operators in charge; and
- 5) cooperating in regard to cross-border issues with competent regulatory authorities of the Energy Community Parties concerned, and with the Energy Community Regulatory Board.

6. The Commission shall have the following duties with regard to customer protection and dispute settlement:

- 1) ensuring, together with other competent national authorities of Georgia, that the customer protection measures are effective and enforced, so as to ensure:
 - a) fair and non-discriminatory treatment;
 - b) receipt of high-quality services; and
 - c) competition and prevention of anti-competitive actions;
 - 2) ensuring access to customer consumption data, the provision for optional use, of an easily understandable harmonised format at national level for consumption data and prompt access for all customers to such data under paragraph 1 of Article 117 [*Obligations of suppliers*] of this Law; and
 - 3) resolving the disputes, as referred to in Article 173 [*Dispute settlement*] of this Law and set forth in more detail in the dispute settlement rules adopted by the Commission.
7. The Commission may adopt or issue other rules and regulations, as well as relevant methodologies, guidelines and/or explanatory notices, where not expressly mentioned in paragraphs 1-6 of this Article, within its competence and in consistency with this Law, other applicable laws and their implementing regulations.
8. The Commission shall carry out other duties if so assigned under this Law and/or other applicable laws.

Article 30 - Regulatory powers of the Commission

1. The Commission shall have necessary regulatory powers enabling it to carry out the duties referred to in Article 29 [*Duties of the Commission*] of this Law. In particular, the Commission shall be entitled to:
- 1) require for any information, which is relevant for full and proper implementation of its competences, to be provided under the terms and conditions stipulated in this Law and its implementing regulations by:
 - a) regulated undertakings; and
 - b) competent national authorities, institutions and other public bodies of Georgia, which due to their direct responsibilities are in a possession of information with a justified relevance to the Commission;
 - 2) require system operators, if necessary, to modify the terms and conditions, including tariffs and/or prices, to ensure that they are proportionate and applied in a non-discriminatory manner. In the event that the access regime to natural gas storage facilities is defined according to paragraph 3 of Article 98 [*Organisation of access to natural gas storage facilities and linepack*] of this Law, this power shall exclude the modification of tariffs;
 - 3) fix or approve, in the event of delay in the fixing of transmission and distribution tariffs, provisional transmission and distribution tariffs. And to decide on the appropriate compensatory measures if the final tariffs deviate from those provisional tariffs;
 - 4) initiate procedures for public consultations and cooperation, as regulated under Article 24 [*Public consultations and cooperation*] of this Law, whenever it is required for collection of necessary information, harmonisation of regulatory practices, justification of intended decisions, or evaluation of proposed legal and/or regulatory solutions;
 - 5) initiate and carry out investigations with regard to the functioning of energy markets in Georgia, and to decide upon and impose any necessary and proportionate measures to promote effective competition and ensure the proper functioning of energy markets. For this purpose, where relevant, the Commission may consult with the

Competition Agency, a regulator of the financial market in Georgia and the Energy Community Secretariat;

6) issue binding decisions, as it may be required for due implementation of this Law, other applicable laws and/or their implementing regulations, to be directly implemented by regulated undertakings;

7) impose effective, proportionate and dissuasive penalties on regulated undertakings not complying with their obligations under this Law, other applicable laws and their implementing regulations, or with any legally binding decision of the Commission or of competent bodies of the Energy Community in accordance with Article 171 [*Penalty provisions*] of this Law; and

8) possess appropriate rights of investigations and relevant powers of instructions for dispute settlement, as referred to in Article 173 [*Dispute settlement*] of this Law.

2. Any approvals given by the Commission or competent bodies of the Energy Community, as referred to in this Law, shall be without prejudice to any duly justified future uses of its powers by the Commission under this Article, or to any penalties imposed by the Commission or by any other competent national authority of Georgia, including the Competition Agency.

3. Decisions taken by the Commission shall be fully reasoned and justified to allow for a judicial review by the competent court of Georgia. Decisions shall be available to the public while preserving the confidentiality of commercially sensitive information as required under Article 23 [*Decisions of the Commission*] of this Law.

Article 31 - Additional duties and regulatory powers of the Commission

1. In addition to the duties conferred upon it under Article 29 [*Duties of the Commission*] and regulatory powers assigned under Article 30 [*Regulatory powers of the Commission*] of this Law, in cases where an independent system operator has been designated under Article 46 [*ISO*] of this Law, the Commission shall:

1) monitor the compliance of the transmission system owner and of the independent system operator with their obligations established by this Law, and issue penalties for non compliance in accordance with Article 171 [*Penalty provisions*] of this Law;

2) monitor the relations and communication between the independent system operator and the transmission system owner so as to ensure compliance of the independent system operator with its obligations, and in particular approve contracts and act as a dispute settlement authority between the independent system operator and the transmission system owner in respect of any complaint submitted by either party;

3) without prejudice to the procedure under Article 59 [*Development of the transmission network and investment decisions*] of this Law, for the first ten-year transmission network development plan, approve the investments planning and the multi-annual network development plan presented annually by the independent system operator;

4) ensure that system access tariffs collected by the independent system operator include remuneration for the transmission system owner, which provides for adequate remuneration of the network assets and of any new investments made therein, provided they are economically and efficiently incurred; and

5) have the powers to carry out inspections, including unannounced inspections, at the premises of the transmission system owner and the independent system operator.

2. The Competition Agency, in close cooperation with the Commission, shall monitor compliance of the transmission system owner with its obligations under paragraph 3 of Article 47 [*Duties of the ISO and transmission system owner*] of this Law.

3. In addition to the duties conferred upon it under Article 29 [*Duties of the Commission*] and assigned under Article 30 [*Regulatory powers of the Commission*] of this Law, in cases where an independent transmission operator has been designated under Article 49 [*ITO*], the Commission shall:

- 1) issue penalties in accordance with Article 171 [*Penalty provisions*] of this Law for discriminatory behaviour in favour of the vertically integrated undertaking;
- 2) monitor the communication between the transmission system operator and the vertically integrated undertaking so as to ensure compliance of the transmission system operator with its obligations;
- 3) act as dispute settlement authority between the vertically integrated undertaking and the transmission system operator in respect of any complaint submitted by either party;
- 4) monitor commercial and financial relations including loans between the vertically integrated undertaking and the transmission system operator;
- 5) approve all commercial and financial agreements between the vertically integrated undertaking and the transmission system operator, provided that they comply with market conditions;
- 6) request justification from the vertically integrated undertaking when notified by the compliance officer in accordance with Article 60 [*Compliance programme and compliance officer*] of this Law. Such justification shall in particular include evidence to the end that no discriminatory behaviour to the advantage of the vertically integrated undertaking has occurred;
- 7) carry out inspections, including unannounced inspections, on the premises of the vertically integrated undertaking and the transmission system operator; and
- 8) assign all or specific tasks of the transmission system operator to an independent system operator to be designated under Article 46 [*ISO*] of this Law in case of a persistent breach by the transmission system operator of its obligations under this Law, in particular in case of repeated discriminatory behaviour to the benefit of the vertically integrated undertaking.

SECTION IV PRODUCTION

Chapter VIII - Generation of electricity

Article 32 - Mandatory conditions for the generation of electricity

1. Construction, maintenance and operation of electricity generation facilities, their related equipment and connections to the transmission and/or distribution networks shall be compliant with technical standards, norms and other relevant conditions, including those concerning protection of the environment, public safety and property, as stipulated by applicable laws and their implementing regulations, and with the requirements established by transmission and/or distribution system operators in charge.

2. Construction of electricity generation facilities shall be subject to a prior construction permit issued under the terms and conditions stipulated in the Law of Georgia on Licenses and Permits as referred to in paragraph 5 of Article 11 [*Mandatory authorisation of energy activities*] of this Law.
3. Generation of electricity shall be subject to a license issued under the terms and conditions stipulated in the Law of Georgia on Licenses and Permits and in accordance with Chapter V [*Authorisation of energy activities*] of this Law.

Article 33 - Rights of electricity producers

1. Each electricity producer shall be entitled to:
 - 1) produce electricity in a facility (or facilities) commissioned for the operation and use energy sources specified in a license, while respecting the technical characteristics and conditions for environmental protection as determined by the license and by applicable laws and their implementing regulations;
 - 2) enter into contracts for sale and purchase of electricity under the terms and conditions stipulated in this Law and the Electricity Market Rules;
 - 3) enter into contracts for the provision of balancing and ancillary services under the terms and conditions stipulated in this Law, the Electricity Transmission Network and/or the Electricity Distribution Network Code and/or, when applicable following the establishment of the organised electricity balancing and ancillary services markets, in the Electricity Market Rules; and
 - 4) access electricity transmission and/or distribution systems under conditions established by this Law, the Electricity Transmission Network Code, the Electricity Distribution Network Code and other applicable legal acts.
2. Electricity producers shall be entitled to any other rights provided by this Law, other applicable laws and/or their implementing regulations.

Article 34 - Obligations of electricity producers

1. Each electricity producer shall be obliged to:
 - 1) comply with the requirements and conditions laid down in this Law and established under the specific terms of a license for the generation of electricity;
 - 2) possess a metering device that enables measurement of electricity delivered to the appropriate network;
 - 3) meet and comply with technical and operational rules elaborated in the Electricity Transmission Network Code and the Electricity Distribution Network Code;
 - 4) comply with operational instructions issued by a transmission and/or distribution system operator in charge, including those related to dispatching, balancing of the electricity and emergencies in the system;
 - 5) comply with the prescribed requirements pertaining to energy efficiency and environmental protection;
 - 6) abide by the rules on protecting market competition when participating in the electricity market of Georgia, which includes prohibiting unjustified withdrawal of capacities and unjustified reduction of the electricity generation;
 - 7) maintain electricity generation facilities in a proper working order, provide for their continuous operational readiness and secure operation in compliance with technical and other regulations and standards subject to the inspectional supervision;

- 8) place at the disposal of the transmission system operator or the distribution system operator data and information required for the operation and management of the electricity system;
 - 9) provide the transmission system operator and the distribution system operator with free access to the equipment in its electricity generation facility (or facilities) which are being used for the transmission or distribution of electricity for the purpose of carrying electricity flows; and
 - 10) maintain and upgrade installations and equipment in its electricity generation facility (or facilities) which are also being used for the transmission or distribution of electricity in conformity with the operational needs and system management needs, as well as plans for development of the electricity transmission and/or distribution networks subject to the inspectional supervision.
2. Electricity producers operating electricity generation facilities with a nominal capacity of at least 100 MW or more, shall store and keep at the disposal of the Commission, the Competition Agency, other competent national authorities of Georgia and competent international bodies pursuant to international commitments of Georgia all hourly data per electricity generation facility that are necessary to verify all operational dispatching decisions and the bidding behaviour at electricity exchanges, interconnection auctions, reserve markets and over-the-counter markets.
3. The data referred to in paragraph 2 of this Article shall include, but shall not be limited to, the data on available electricity generation capacity and committed reserves, including allocation of those committed reserves on a level per each electricity generation facility, at the times the bidding is carried out and when the generation of electricity takes place.
4. The Commission, based on its mandate under paragraph 2 of this Article, shall perform the supervision and, where appropriate, require individual electricity producers and other electricity undertakings to implement specific measures aimed at ensuring application of fair competition principles.
5. Each electricity producer shall prepare and publish in the appropriate form a programme of measures for improvement of energy efficiency, and shall produce and publish in the appropriate form an annual report on the results of such measures.
6. The Government, if it perceives the necessity to introduce additional requirements for improving energy efficiency in generation of electricity, may prescribe the minimum efficiency level for individual technologies which needs to be achieved when constructing new or reconstructing existing electricity generation facilities.
7. Without prejudice to the requirements stipulated in this Article, legal acts elaborating obligations of electricity producers with regard to their respective activities in the electricity sector may envisage simplified and alleviated requirements applied to small power plants.

Article 35 - Tendering for new electricity generation capacities

1. The Government may decide to proceed with a public tender or any procedure equivalent in terms of transparency and non-discrimination in accordance with the rules and regulations governing public procurement in Georgia for construction of new electricity generation capacities, including increase of the existing capacities, in case where the existing electricity generation capacities, or those to be built, and the existing regulatory measures with regard to the authorisation for electricity activities in Georgia are insufficient to:
- 1) ensure the security of electricity supply;
 - 2) ensure the energy efficiency and/or demand-side management;
 - 3) protect the interests of environmental protection; and/or

- 4) promote infant new technologies for the generation of electricity.
2. Without prejudice to paragraph 1 of this Article, the tendering procedure may be applied to the construction of new electricity generation facilities using renewable energy sources in case relevant incentives or support measures will be granted to such generation facilities under the terms and conditions stipulated in ~~applicable legal acts~~ Articles 37 et seqq.
3. General conditions for the tendering procedure shall be prepared and adopted by the Government and, when adopted, shall be published in the Legislative Herald of Georgia and published on the website of the Government.
4. Details of each particular tendering procedure, as prepared by the Government, shall be published on the website of the Government and in a dedicated section of the website of the Energy Community. The tender specifications shall be made available to any interested undertaking established in the territory of the Energy Community Parties so that it has sufficient time in which to submit a tender.
5. With a view to ensuring transparency and non-discrimination, the tender specifications shall contain a detailed description of the contract specifications and of the procedure to be followed by all tenderers and an exhaustive list of criteria governing the selection of tenderers and the award of the contract, including incentives and/or support measures, which are covered by the tender. These specifications may also relate to the criteria for issuance of a construction permit for electricity generation facilities as established by the Law of Georgia on Licenses and Permits.
6. In the invitation to tender for the necessary electricity generation capacity, consideration must also be given to the offers for the supply of electricity with long-term guarantees from existing electricity generation facilities in Georgia, provided that additional requirements can be met in this way as required under this Law, other applicable laws and their implementing regulations.
7. The Government shall be responsible for organising, conducting and monitoring the tendering procedure. The Government shall take all necessary steps to ensure confidentiality of the information contained in the tenders.

Article 36 - Commissioning of electricity generation facilities

1. Undertakings having their electricity generation facilities constructed (or reconstructed, including increase of capacities) and connected to the electricity transmission or distribution network pursuant to applicable legal acts and technical conditions shall apply to the transmission or distribution system operator to whose network the facilities are connected for their testing and approval for commissioning.
2. The commissioning stage of the electricity generation facility shall start the next business day following the registration of an undertaking owning respective facility by the electricity market operator as of an electricity market participant and subsequent notification to the transmission or distribution system operator in charge.
3. Transmission and distribution system operators shall proceed with the testing of electricity generation facilities and shall issue approvals for their commissioning under the terms and conditions stipulated in the Electricity Transmission Network Code and/or the Electricity Distribution Network Code. The commissioning stage of the electricity generation facility in any case shall not exceed ninety (90) calendar days.
4. Undertakings owning electricity generation facilities shall not be required to obtain licenses for a temporary and interruptible generation of electricity during the commissioning stage where and to the extent it is reasonably needed for the testing of facilities.
5. Electricity produced during the commissioning stage shall be treated as balancing electricity and shall be traded under the terms and conditions stipulated in this Law.

6. Generation of electricity in a commissioned facility, *i.e.* following the approval for commissioning granted by the transmission or distribution system operator, shall be allowed only subject to a license for the generation of electricity issued in accordance with Chapter V [*Authorisation of energy activities*] of this Law.

Article 37 - Promoted generation of electricity

1. Promotion of the generation of electricity shall be regulated in a transparent and non-discriminatory manner, taking into account the criteria of economic feasibility, least cost for final customers, and general effect towards the electricity balance and operation of the electricity system of Georgia.

~~1.2. Generation of electricity in facilities using renewable energy sources or waste and/or combined generation of electricity and heat may be promoted from renewable energy sources and high-efficiency cogeneration may be incentivized by promotional and support measures~~ under the terms and conditions stipulated in applicable laws or established by the Government with the aim at achieving the goals of the generation of electricity from renewable sources and/or of the combined generation of electricity and heat as set for Georgia in applicable legal acts.

1. Promotion of the generation of electricity, including all incentives and/or support measures provided therefore, shall be screened and, where required, justified in accordance with competition and/or State aid rules as established by applicable laws of Georgia.

2. The terms and conditions referred to in paragraph 1 of this Article shall include, in particular, applicable incentives and support mechanisms, rights and obligations of electricity undertakings, conditions for the promoted generation of electricity and regulatory requirements thereto.

1.3. Support referred to under paragraph 1 shall be granted in the form of a premium, which is calculated as the difference between the price with which the renewable energy producer was declared successful in the competitive process for granting the aid (the strike price) and the market price for electricity (the reference price). The strike price is the final price that the privileged producer of electricity will benefit, as a result of being selected as beneficiary of a support scheme in a competitive bidding process – it determines the maximum level of the reward that can be granted to each project of renewable energy. The reference price is the hourly day-ahead market price, which is based in the organised electricity market.

~~2.1. Promotion of the generation of electricity shall be regulated in a transparent and non-discriminatory manner, taking into account the criteria of economic feasibility, least cost for final customers, and general effect towards the electricity balance and operation of the electricity system of Georgia.~~

~~3.1. Promotion of the generation of electricity, including all incentives and/or support measures provided therefore, shall be screened and, where required, justified in accordance with competition and/or State aid rules as established by applicable laws of Georgia.~~

Article 37a – Privileged producer

1. The status of privileged producer shall be granted to the successful bidder in the competitive bidding process to profit from the support scheme, as defined in this law, and by signing a contract for difference.

2. The beneficiaries of the support scheme, under a contract for difference and the maximal level of the support, will be determined in a competitive bidding process, open to all producers of electricity from renewable sources, on the basis of clear, transparent and non-discriminatory criteria, unless when:

- a. Only one or a very limited number of projects or sites could be eligible;
 - b. a competitive bidding process would lead to higher support levels; or
 - c. a competitive bidding process would result in low project realisation rates.
3. The competitive bidding process can be limited to specific technologies where a process open to all generators would lead to a suboptimal result which cannot be addressed in the process design, in view of, in particular:
 - a. The longer-term potential of a given new and innovative technology; or
 - b. The need to achieve diversification; or
 - c. Network constraints and grid stability; or
 - d. System (integration) costs; or
 - e. The need to avoid distortions on the raw material markets from biomass support.
4. The obligations under paragraph 2 and 3 are not applicable to installations with installed capacity of less than 1 MW or demonstration projects, except for electricity from wind energy where an installed electricity capacity of up to 6 MW or 6 generation units.
5. The Market Operator will prepare a request form for obtaining of the status of the privileged producer and support scheme measures, which includes among others the applicant's name and the type of company, a description of the project, including its location, start and completion date of the project, the amount of support needed to carry it out and the eligible costs. In the request form, beneficiaries must describe the chance of development of the project without the support scheme.
6. A status of a privileged producer shall be established by the Contract for difference for a maximum period of 12 years, but not longer than until the plant has been fully depreciated according to normal accounting rules.
7. Privileged producers of electricity are responsible for balancing unless no liquid intra-day market exists. Producers become a responsible party for balancing, by signing a contract with the transmission system operator or by signing a contract for the transfer of the balancing responsibility to another responsible balancing party, thus becoming a member of a balancing group, in accordance with the respective Market Rules.
8. Privileged producers with installed capacity of less than 500 kW or demonstration projects, except for electricity from wind energy where an installed electricity capacity of 3 MW or 3 generation units applies, are not responsible for balancing.

Article 38 - Micro-generating power plants

1. Each final customer who owns a micro-generating power plant shall be entitled for its connection to the electricity distribution network and for delivery of its generated surplus electricity to the network under the terms and conditions stipulated in the Electricity Distribution Network Code.
2. Surplus electricity generated in a micro-generating power plant and delivered to the electricity distribution network shall be purchased and settled by a universal service supplier operating in a particular service area where a power plant is located under the terms and conditions stipulated in the Electricity Market Rules. The price for surplus electricity purchased from final customers shall be regulated by the Commission.
3. Generation of electricity in micro-generating power plants and delivery of surplus electricity to the distribution network shall not be considered as an energy activity and shall therefore not invoke the regulatory regime established by this Law, the Law of Georgia on Licenses and Permits and the Law of Georgia on Regulatory Fee. Legal acts regulating electricity market relations shall be applied to micro-generating power plants only to the extent where it is expressly referred so.

4. Final customer generating electricity in a micro-generating power plant and delivering its surplus electricity to the distribution network shall not be charged for any electricity system and market operation services.
5. In order to ensure the sustainability and stable functioning of the electricity system, total capacity of micro-generating power plants connected to the electricity distribution network shall not exceed the maximum limits set by the Commission in consultations with system operators.

Chapter IX - Production of natural gas

Article 39 - Mandatory conditions for the production of natural gas

1. Natural gas shall be produced by undertakings authorised for the processing of natural gas in facilities commissioned and operating under the terms and conditions stipulated in the Law of Georgia on Oil and Gas and its implementing regulations.
2. Each natural gas producer, subject to its compliance to paragraph 1 of this Article, shall be entitled to trade in natural gas on the natural gas market of Georgia following its registration by the natural gas market operator as of a natural gas market participant in accordance with the Natural Gas Market Rules.
3. Notwithstanding the regulatory scope of the Law of Georgia on Oil and Gas, as referred to in paragraph 1 of this Article, this Law shall be considered as *lex specialis* and therefore shall be applied in full scope for relations between natural gas producers and system operators, as well as for relations with other natural gas market participants and for overall activities of natural gas producers on the market.

Article 40 - Rights of natural gas producers

1. Each natural gas producer, for the purposes of this Law, shall be entitled to:
 - 1) enter into contracts for sale and purchase of natural gas under the terms and conditions stipulated in this Law and the Natural Gas Market Rules;
 - 2) enter into contracts for the provision of balancing and ancillary services under the terms and conditions stipulated in this Law, the Natural Gas Transmission Network and/or the Natural Gas Distribution Network Code and/or, when applicable following the establishment of the organised natural gas balancing and ancillary services markets, in the Natural Gas Market Rules; and
 - 3) access natural gas transmission and/or distribution systems under conditions established by this Law, the Natural Gas Transmission Network Code, the Natural Gas Distribution Network Code and other applicable legal acts.
2. Natural gas producers shall be entitled to any other rights provided by this Law, other applicable laws and/or their implementing regulations.

Article 41 - Obligations of natural gas producers

1. Each natural gas producer, for the purposes of this Law, shall be obliged to:
 - 1) comply with the requirements and conditions laid down in this Law, the Natural Gas Market Rules and other applicable legal acts;
 - 2) possess a metering device that enables measurement of natural gas delivered to the appropriate network;
 - 3) meet and comply with technical and operational rules specified in the Natural Gas Transmission Network Code and the Natural Gas Distribution Network Code;
 - 4) comply with the prescribed requirements pertaining to energy efficiency and environmental protection;
 - 5) place at the disposal of a transmission or distribution system operator data and information required for the operation and management of the natural gas system; and

- 6) provide a transmission and distribution system operator with free access to the equipment in its natural gas production facilities which are being used for the delivery of natural gas to the transmission or distribution networks respectively.
2. Each natural gas producer shall prepare and publish in the appropriate form a programme of measures for improvement of energy efficiency, and shall prepare and publish in the appropriate form an annual report on the results of such measures.
3. The Government, if it perceives the necessity to introduce additional requirements for improving energy efficiency in production of natural gas, may prescribe the minimum efficiency level for individual technologies which needs to be achieved when constructing new or reconstructing existing natural gas production facilities.

SECTION V TRANSMISSION

Chapter X - Status and designation of the transmission system operator

Article 42 - Status of the transmission system operator

1. Transmission is an activity of public interest which encompasses the transport of electricity or natural gas on the transmission network as well as the operation, maintenance and development under economic conditions of the transmission network, and other related activities necessary for secure, reliable and efficient functioning of the electricity and natural gas systems of Georgia.
2. Transmission shall be carried out by the transmission system operator under the terms and conditions stipulated in this Law as well as in line with other applicable laws and/or other legal acts regulating activities in the energy sector of Georgia.
3. The transmission system operator shall be organised as a specialised and independent energy undertaking with the status of a legal person incorporated under the laws of Georgia. While carrying its duties and fulfilling its tasks, the transmission system operator shall be independent from any other energy activities, namely production, distribution, supply and trade, and related commercial interests.
4. The transmission system operator shall not be entitled for sale and/or purchase of electricity or natural gas, except for in cases expressly referred to in this Law, including procurement of electricity or natural gas to cover the losses in the transmission network.
5. The transmission system operator shall be entitled to undertake its activities subject to its designation under the terms and conditions stipulated in Article 43 [*Designation of the TSO*] of this Law.
6. Independence of the transmission system operator shall be implemented and further on ensured through unbundling of the transmission system operator under the terms and conditions stipulated in Chapter XI [*Unbundling of the TSO*] of this Law.

Article 43 - Designation of the transmission system operator

1. The transmission system operator shall be designated by the Commission by issuance of a license for the transmission under the terms and conditions stipulated in the Law of Georgia on Licenses and Permits in accordance with Chapter V [*Authorisation of energy activities*] of this Law.

2. License for the transmission may be issued only to a duly certified transmission system operator in accordance with Article 55 [*Certification of the TSO*] or, as the case may be, with Article 56 [*Certification in relation to third countries*] of this Law.

Chapter XI - Unbundling of the transmission system operator

Article 44 - Unbundling model

1. Unbundling model for each transmission system operator, including the action plan for its implementation, shall be decided by the Government as submitted by the Commission and in consultations with the Energy Community Secretariat.

2. The following unbundling models may be applied:

- 1) to transmission system operators for electricity:
 - a) ownership unbundling in compliance with Article 45 [*Ownership unbundling*] of this Law; or
 - b) as an exception to the ownership unbundling, in cases where the transmission system operator in question belonged to a vertically integrated undertaking before or on 6 October 2011:
 - i) an independent system operator in compliance with Articles 46 [*ISO*] - 48 [*Independence of the transmission system owner*] of this Law; or
 - ii) an independent transmission operator in compliance with Articles 49 [*ITO*] -53 [*Supervisory Body of an ITO*] of this Law.
- 2) to transmission system operators for natural gas:
 - a) ownership unbundling in compliance with Article 45 [*Ownership unbundling*] of this Law; or
 - b) as an exception to the ownership unbundling, in cases where the transmission system operator in question belonged to a vertically integrated undertaking before or on 6 October 2011, an independent system operator in compliance with Articles 46 [*ISO*] -48 [*Independence of the transmission system owner*] of this Law.

3. Implementation of the unbundling model which implies a higher level of independence of the transmission system operator shall not allow for a later regression towards another model which would cause a transmission system operator being tighter bundled with and more dependent on a vertically integrated undertaking or any part thereof.

4. Transmission system operators and/or transmission system owners shall not in any event be prevented from taking steps to comply with and to implement the ownership unbundling under Article 45 [*Ownership unbundling*] of this Law.

Article 45 - Ownership unbundling

1. Energy undertaking which owns the transmission system shall act as a transmission system operator. The transmission system operator shall acquire the license for the transmission, as referred to in paragraph 1 of Article 43 [*Designation of the TSO*] of this Law.

2. To ensure the independence of the transmission system operator the same person or persons shall not be entitled in the same time:

- 1) directly or indirectly to exercise control over an energy undertaking performing any of the activities of production or supply, and directly or indirectly exercise control or exercise any right over a transmission system operator or over a transmission network;

- 2) directly or indirectly to exercise control over a transmission system operator or over a transmission network, and directly or indirectly exercise control or exercise any right over an energy undertaking performing any of the activities of production or supply;
 - 3) to appoint members of the supervisory board, the management board or bodies legally representing the undertaking, of a transmission system operator or a transmission network, and directly or indirectly exercise control or exercise any right over an energy undertaking performing any of the activities of production or supply; and
 - 4) to be a member of the supervisory board, the management board or bodies representing the undertaking, of both an energy undertaking performing any of the activities of production or supply and a transmission system operator or a transmission network.
3. The rights referred to in paragraph 3 of this Article shall include in particular:
- 1) the power to exercise voting rights;
 - 2) the power to appoint members of the supervisory board, the management board or bodies representing the undertaking; or
 - 3) the holding of a majority share.
4. The obligation set out in paragraph 2 of this Article shall be deemed to be fulfilled in a situation where two or more energy undertakings which own transmission systems have created a joint venture which acts as a transmission system operator in two or more countries. No other undertaking may be part of the joint venture, unless it has been designated as the transmission system operator following implementation of the unbundling requirements and certified under the terms and conditions stipulated in applicable legal acts.
5. Where the person or persons referred to in paragraph 2 of this Article is a national authority, institution or another public body of Georgia, two separate public bodies that exercise control over a transmission system operator or over a transmission system on the one hand, and over the undertaking that performs any of the activities of production or supply on the other hand, shall be deemed not to be the same person or persons.
6. Neither commercially sensitive information held by a transmission system operator which was part of a vertically integrated undertaking, nor the staff of such a transmission system operator, shall be transferred to undertakings performing any of the activities of production or supply.
7. For the purpose of this Article, the notion “energy undertaking performing any of the activities of production or supply” shall include both electricity and natural gas producers and suppliers, and the terms “transmission system operator” and “transmission system” shall include both transmission system operators for electricity and natural gas on the one hand, and electricity and natural gas transmission systems on the other hand within the meaning defined by this Law.

Article 46 - Independent system operator

1. As an exception to Article 45 [*Ownership unbundling*] of this Law, subject to the conditions specified in paragraph 2 of Article 44 [*Unbundling models*] of this Law, the Commission may designate an independent system operator.
2. An independent system operator may only be designated if:
 - 1) the candidate operator has demonstrated that it complies with the requirements of paragraph 2 of Article 45 [*Ownership unbundling*] of this Law;

- 2) the candidate operator has demonstrated it has at its disposal the required financial, technical, physical and human resources to carry out its tasks under Articles 57 [*Tasks of the TSO*] and 58 [*Responsibilities of the TSO*] of this Law;
- 3) the candidate operator has undertaken to comply with the ten-year transmission network development plan in accordance with Article 59 [*Development of the transmission network and investment decisions*] of this Law;
- 4) the transmission system owner has demonstrated its ability to comply with its obligations under paragraph 3 of Article 47 [*Duties of the ISO and transmission system owner*] of this Law. To that end, it shall provide all the draft contractual arrangements with the candidate operator and any other relevant entity; and
- 5) the candidate operator has demonstrated its ability to comply with its obligations regarding access to the transmission system including the cooperation of transmission system operators at European and regional level.

Article 47 - Duties of the independent system operator and transmission system owner

1. If, under Article 46 [*ISO*] of this Law, an independent system operator has been designated, it shall be responsible for:
 - 1) granting and managing third-party access, including the collection of access charges and congestion charges; and
 - 2) operating, maintaining and developing the transmission system, as well as for ensuring the long-term ability of the system to meet reasonable demand through investment planning. When developing the transmission system, the independent system operator shall be responsible for planning (including authorisation procedure), construction and commissioning of the new infrastructure. For this purpose, the independent system operator shall act as a transmission system operator in accordance with Articles 57 [*Tasks of the TSO*] and 58 [*Responsibilities of the TSO*] of this Law.
2. The transmission system owner shall not be responsible for granting and managing third-party access, nor for investment planning.
3. In case an independent system operator has been designated, the transmission system owner shall:
 - 1) provide all the relevant cooperation and support to the independent system operator for the fulfilment of its tasks, including in particular all relevant information;
 - 2) finance the investments decided by the independent system operator and approved by the Commission, or give its agreement to financing by any interested party including the independent system operator. Relevant financing arrangements shall be subject to approval by the Commission. Prior to such approval, the Commission shall consult the transmission system owner together with other interested parties;
 - 3) provide for the coverage of liability relating to the network assets, excluding the liability relating to the tasks of the independent system operator; and
 - 4) provide guarantees to facilitate financing any network expansions with the exception of those investments where, pursuant to subparagraph 2, it has given its agreement to financing by any interested party including the independent system operator.

Article 48 - Independence of the transmission system owner

1. If an independent system operator has been designated under Article 46 [ISO] of this Law, the transmission system owner which is a part of a vertically integrated undertaking shall be independent at least in terms of the legal form, organisation and decision making from other activities not relating to transmission, distribution and storage.
2. In order to ensure the independence of the transmission system owner referred to in paragraph 1, the following minimum criteria shall apply:
 - 1) persons responsible for the management of the transmission system owner shall not participate in company structures of the integrated undertaking responsible, directly or indirectly, for the day-to-day operation of the production, distribution and supply;
 - 2) appropriate measures shall be taken to ensure that the professional interests of persons responsible for the management of the transmission system owner are taken into account in a manner that ensures that they are capable of acting independently;
 - 3) the transmission system owner shall establish a compliance programme, which sets out measures taken to ensure that discriminatory conduct is excluded, and ensure that observance of it is adequately monitored. The compliance programme shall set out the specific obligations of employees to meet those objectives. An annual report, setting out the measures taken, shall be submitted by the person or body responsible for monitoring the compliance programme to the Commission and shall be published.

Article 49 - Independent transmission operator

1. As an exception to Article 45 [Ownership unbundling] of this Law, subject to the conditions specified in paragraph 2 of Article 44 [Unbundling models] of this Law, the Commission may designate an independent transmission operator.
2. In addition to the requirements under Articles 57 [Tasks of the TSO] and 58 [Responsibilities of the TSO] of this Law, an independent transmission operator shall comply with Articles 50 [Assets, equipment, staff and identity of an ITO] -53 [Supervisory Body of an ITO] of this Law.

Article 50 - Assets, equipment, staff and identity of an independent transmission operator

1. An independent transmission operator shall be equipped with all human, technical, physical and financial resources necessary for fulfilling its obligations under this Law and carrying out the transmission, in particular:
 - 1) assets that are necessary for the transmission, including the transmission system, shall be owned by an independent transmission operator;
 - 2) personnel necessary for the transmission, including the performance of all corporate tasks, shall be employed by an independent transmission operator;
 - 3) leasing of personnel and rendering of services, to and from any other parts of the vertically integrated undertaking shall be prohibited. An independent transmission operator may, however, render services to the vertically integrated undertaking as long as:
 - a) the provision of those services does not discriminate between system users, is available to all system users on the same terms and conditions and does not restrict, distort or prevent competition in production or supply; and
 - b) the terms and conditions of the provision of those services are approved by the Commission;

- 4) without prejudice to the decisions of the Supervisory Body under Article 53 [*Supervisory Body of an ITO*] of this Law, appropriate financial resources for future investment projects and/or for the replacement of existing assets shall be made available to an independent transmission operator in due time by the vertically integrated undertaking following an appropriate request from an independent transmission operator.
2. An independent transmission operator shall be responsible at least for the following, in addition to the tasks and responsibilities listed in Articles 57 [*Tasks of the TSO*] and 58 [*Responsibilities of the TSO*] of this Law:
- 1) representation of an independent transmission operator and contacts with third parties and the Commission;
 - 2) granting and management of third-party access on a non-discriminatory basis between system users or different categories of system users;
 - 3) collection of all the transmission system related charges, including access charges, balancing charges for ancillary services such as purchasing of services (balancing costs, energy for losses);
 - 4) the operation, maintenance and development of a secure, efficient and economic transmission system;
 - 5) investment planning ensuring the long-term ability of the system to meet reasonable demand and guaranteeing security of supply;
 - 6) setting up of appropriate joint ventures, including with one or more transmission system operators, exchanges (trading platforms) and/or other interested parties pursuing the objective to develop the creation of regional energy markets or to facilitate the markets liberalisation process; and
 - 7) all corporate services, including legal services, accountancy and IT services.
3. An independent transmission operator shall be organised in a form of a limited liability company under the applicable laws of Georgia.
4. An independent transmission operator shall not, in its corporate identity, communication, branding and premises, create confusion in respect of the separate identity of the vertically integrated undertaking or any part thereof.
5. An independent transmission operator shall not share IT systems or equipment, physical premises and security access systems with any part of the vertically integrated undertaking, nor use the same consultants or external contractors for IT systems or equipment, and security access systems.
6. Accounts of an independent transmission operator shall be audited by an auditor other than the one auditing the vertically integrated undertaking or any part thereof.

Article 51 - Independence of an independent transmission operator

1. Without prejudice to the decisions of the Supervisory Body under Article 53 [*Supervisory Body of an ITO*] of this Law, an independent transmission operator shall have:
- 1) effective decision-making rights, independent from the vertically integrated undertaking, with respect to assets necessary to operate, maintain and develop the transmission system; and
 - 2) the power to raise money on the capital market in particular through borrowing and capital increase.

2. An independent transmission operator shall at all times act so as to ensure it has the resources it needs in order to carry out the activity of transmission properly and efficiently and develop and maintain an efficient, secure and economic transmission system.
3. Subsidiaries of the vertically integrated undertaking performing functions of production or supply shall not have any direct or indirect shareholding in an independent transmission operator. An independent transmission operator shall neither have any direct or indirect shareholding in any subsidiary of the vertically integrated undertaking performing functions of production or supply, nor receive dividends or any other financial benefit from that subsidiary.
4. The overall management structure and the corporate statutes of an independent transmission operator shall ensure effective independence of the transmission system operator in compliance under Article 50 [*Assets, equipment, staff and identity of an ITO*] -53 [*Supervisory Board of an ITO*] of this Law. The vertically integrated undertaking shall not determine, directly or indirectly, the competitive behaviour of the transmission system operator in relation to the day-to-day activities of the transmission system operator and management of the network, or in relation to activities necessary for the preparation of the ten-year transmission network development plan developed pursuant to Article 59 [*Development of the transmission network and investment decisions*] of this Law.
5. In fulfilling its tasks in accordance with this Law, an independent transmission operator shall not discriminate against different persons or entities and shall not restrict, distort or prevent competition in production or supply.
6. Any commercial and financial relations between the vertically integrated undertaking and the transmission system operator, including loans from an independent transmission operator to the vertically integrated undertaking, shall comply with market conditions. The transmission system operator shall keep detailed records of such commercial and financial relations and make them available to the Commission upon request.
7. An independent transmission operator shall submit for approval by the Commission all commercial and financial agreements with the vertically integrated undertaking.
8. An independent transmission operators shall inform the Commission of the financial resources, referred to in subparagraph 4 of paragraph 1 of Article 50 [*Assets, equipment, staff and identity of an ITO*], available for future investment projects and/or for the replacement of existing assets.
9. The vertically integrated undertaking shall refrain from any action impeding or prejudicing an independent transmission operator from complying with its obligations under Articles 50 [*Assets, equipment, staff and identity of an ITO*] -53 [*Supervisory Board of an ITO*] of this Law and shall not require an independent transmission operator to seek permission from the vertically integrated undertaking in fulfilling those obligations.

Article 52 - Independence of the staff and the management of an independent transmission operator

1. Decisions regarding the appointment and renewal, working conditions including remuneration, and termination of the term of office, of the persons responsible for the management and/or members of the administrative bodies of an independent transmission operator shall be taken by the Supervisory Body of an independent transmission operator appointed in accordance with Article 53 [*Supervisory Body of an ITO*] of this Law.
2. The identity of, and the conditions governing the term, the duration and the termination of office of, the persons nominated by the Supervisory Body for appointment or renewal as persons responsible for the executive management and/or as members of the administrative bodies of an independent transmission operator, and the reasons for any proposed decision terminating such term of office, shall be notified to the Commission.

3. Decisions referred to in paragraph 1 and conditions referred to in paragraph 2 of this Law shall become binding only if the Commission has raised no objections within three (3) weeks of notification.
4. The Commission may object to the decisions referred to in paragraph 1 of this Article where:
 - 1) doubts arise as to the professional independence of a nominated person responsible for the management and/or member of the administrative bodies; or
 - 2) in the case of premature termination of a term of office, doubts exist regarding the justification of such premature termination.
5. No professional position or responsibility, interest or business relationship, directly or indirectly, with the vertically integrated undertaking or any part of it or its controlling shareholders other than an independent transmission operator shall be exercised for a period of three (3) years before the appointment of the persons responsible for the management and/or members of the administrative bodies of an independent transmission operator who are subject to this paragraph.
6. The persons responsible for the management and/or members of the administrative bodies, and employees of an independent transmission operator shall have no other professional position or responsibility, interest or business relationship, directly or indirectly, with any other part of the vertically integrated undertaking or with its controlling shareholders.
7. The persons responsible for the management and/or members of the administrative bodies, and employees of an independent transmission operator shall hold no interest in or receive any financial benefit, directly or indirectly, from any part of the vertically integrated undertaking other than an independent transmission operator. Their remuneration shall not depend on activities or results of the vertically integrated undertaking other than those of an independent transmission operator.
8. Effective rights of appeal to the Commission shall be guaranteed for any complaints by the persons responsible for the management and/or members of the administrative bodies of an independent transmission operator against premature terminations of their term of office.
9. After termination of their term of office in an independent transmission operator, the persons responsible for its management and/or members of its administrative bodies shall have no professional position or responsibility, interest or business relationship with any part of the vertically integrated undertaking other than an independent transmission operator, or with its controlling shareholders for a period of not less than four (4) years.
10. Paragraph 5 of this Article shall apply to the majority of the persons responsible for the management and/or members of the administrative bodies of an independent transmission operator.
11. The persons responsible for the management and/or members of the administrative bodies of an independent transmission operator who are not subject to paragraph 5 of this Article shall have exercised no management or other relevant activity in the vertically integrated undertaking for a period of at least six (6) months before their appointment.
12. Paragraphs 6 to 9 of this Article shall be applicable to all the persons belonging to the executive management of an independent transmission operator and to those directly reporting to them on matters related to the operation, maintenance or development of the transmission system.

Article 53 - Supervisory Body of an independent transmission operator

1. An independent transmission operator shall have a Supervisory Body which shall be in charge of taking decisions which may have a significant impact on the value of the assets of the shareholders within an independent transmission operator, in particular decisions

regarding the approval of the annual and longer-term financial plans, the level of indebtedness of an independent transmission operator and the amount of dividends distributed to shareholders.

2. The decisions falling under the remit of the Supervisory Body shall exclude those that are related to the day-to-day activities of an independent transmission operator and management of the network, and in relation to activities necessary for the preparation of the ten-year transmission network development plan developed pursuant to Article 59 [*Development of the transmission network and investment decisions*] of this Law.

3. The Supervisory Body shall be composed of members representing the vertically integrated undertaking, members representing third party shareholders and members representing other interested parties such as employees of an independent transmission operator.

4. Paragraphs 2 and 3, and paragraphs 5-9 of Article 52 [*Independence of the staff and the management of an ITO*] of this Law shall apply to at least half of the members of the Supervisory Body minus one.

5. Subparagraph 2 of paragraph 4 of Article 52 [*Independence of the staff and the management of an ITO*] of this Law shall apply to all the members of the Supervisory Body.

Article 54 - Monitoring the unbundling of the transmission system operator

1. The Commission shall monitor the continuing compliance of the transmission system operator with the requirements for its independence and unbundling. Such monitoring competences shall be possessed and related functions carried out by the Commission irrespective of the independence level required and/or unbundling model applied.

2. The Commission shall assess the compliance of the transmission system operator with requirements for its independence and unbundling and, where necessary, shall reopen the certification procedure pursuant to Chapter XII [*Certification of the TSO*] of this Law in the following cases:

- a) upon notification by the transmission system operator pursuant to paragraph 3 of this Article;
- b) on its own initiative where it has knowledge that a planned change in rights or influence over the transmission system operator may lead to an infringement of respective requirements for independence and unbundling of the transmission system operator, or where it has a reason to believe that such an infringement may have occurred; or
- c) upon a reasoned request from the Energy Community Secretariat.

3. The transmission system operator shall notify to the Commission any planned transaction which may require a reassessment of its compliance with the requirements for independence and unbundling of the transmission system operator.

4. The Commission shall adopt its decision on compliance of the transmission system operator with the requirements for its independence and unbundling not later than in four (4) months from the date of respective notification by the transmission system operator or receipt of a request from the Energy Community Secretariat, or the beginning of an inspection on its own initiative, which shall be considered as a date of the notification by the Commission to the transmission system operator on such inspection.

5. In case the Commission considers the requirements for independence and/or unbundling of the transmission system operator have been infringed, the transmission system operator shall eliminate such infringements during the reasonable time period determined by the Commission and shall therefore submit any documents, data and information evidencing and justifying such elimination. Until the Commission adopts its final

decision on elimination of the considered infringements, the transmission system operator shall be authorised, on a temporary basis, to perform its respective activities.

6. For the purposes of this Article, a certification procedure reopened by the Commission shall be followed under Article 55 [*Certification of the TSO*] or, as the case may be, with Article 56 [*Certification in relation to third countries*] of this Law.

7. Failure by the transmission system operator to eliminate infringements of requirements for its independence and/or unbundling, as considered by the Commission, may result in revocation of its license under the terms and conditions stipulated in the Law of Georgia on Licenses and Permits, and/or in financial penalties imposed pursuant to Article 171 [*Penalty provisions*] of this Law.

Chapter XII - Certification of the transmission system operator

Article 55 - Certification of the transmission system operator

1. An energy undertaking, after implementation of the unbundling of the transmission system operator in compliance with Chapter XI [*Unbundling of the TSO*] of this Law, shall notify the Commission in written and shall submit all respective documents, data and information evidencing and justifying due compliance thereto. Procedure and requirements for such notification and submission of documents, data and information shall be regulated under the rules on certification of the transmission system operator adopted by the Commission.

2. The Commission shall adopt a decision on the certification of the transmission system operator within a period of four (4) months from the date of the notification by the transmission system operator and proper submission of all required documents, data and information. After expiry of that period, the certification shall be deemed to be granted based on the tacit decision of the Commission. The explicit or tacit decision of the Commission shall become effective only after conclusion of the procedure set out in paragraphs 3-8 of this Article.

3. The explicit or tacit decision of the certification of the transmission system operator shall be notified without delay to the Energy Community Secretariat by the Commission, together with all the relevant information with respect to that decision.

4. Within two (2) months after receiving an opinion of the Energy Community Secretariat as to the compatibility with respective requirements for designation and certification of the transmission system operator, the Commission shall adopt its final decision regarding the certification of the transmission system operator, taking the utmost account of that opinion. Decision of the Commission and opinion of the Energy Community Secretariat shall be published together.

5. Where the final decision of the Commission diverges from the opinion of the Energy Community Secretariat, the Commission shall provide and publish together with such decision, the reasoning underlying its diverging decision, and shall inform the Energy Community Secretariat accordingly.

6. At any time during the certification procedure, the Commission and the Energy Community Secretariat may request from the transmission system operator and/or energy undertakings performing any activities of production or supply any information relevant for fulfilment of their tasks under this Article. The Commission and the Energy Community Secretariat shall preserve the confidentiality of commercially sensitive information.

7. The final decision of the Commission on certification of the transmission system operator and its following materials, as referred to in this Article, shall be published on the

website of the Commission and within a designated section of the website of the Energy Community Secretariat.

8. Upon a separate request of the transmission system operator or by initiative of the Commission, the certification procedure may be followed by issuance of a new license for the transmission or modification of the existing license, as it may be required.

Article 56 - Certification in relation to third countries

1. Where certification is requested by the transmission system operator which is controlled by a person or persons from a third country or third countries, the Commission shall notify the Energy Community Secretariat. The Commission shall also notify the Energy Community Secretariat without delay of any circumstances that would result in a person or persons from a third country or third countries acquiring control of the transmission system operator or the transmission system.

2. For the purposes of paragraph 1 of this Article, the transmission system operator shall notify to the Commission any circumstances that would result in a person or persons from a third country or third countries acquiring control of the transmission system operator or the transmission system.

3. The certification procedure in relation to third countries shall be implemented following the requirements of Article 55 [*Certification of the TSO*] of this Law taking into account specific requirements stipulated in this Article.

4. The Commission shall refuse the certification of the transmission system operator which is controlled by a person or persons from a third country or third countries if it has not been demonstrated that:

- 1) the transmission system operator complies with the requirements for its independence and unbundling established by this Law; and
- 2) granting certification will not put at risk the security of energy supply of Georgia and the Energy Community. When considering such question the Commission shall take into account:
 - a) the rights and obligations of the Energy Community with respect to that third country arising under the international law, including any agreements concluded with one or more third countries to which the Energy Community is a party and which addresses the issues of security of energy supply;
 - b) the rights and obligations of Georgia with respect to that third country arising under agreements concluded with it, insofar as they are in compliance with the Treaty establishing the Energy Community;
 - c) the rights and obligations resulting from association or trade agreements between Georgia and the European Union; and
 - d) other specific facts and circumstances of the case and the third country concerned.

5. The Ministry and/or other competent national authorities of Georgia shall provide, upon request of the Commission, their opinion on the questions referred to in paragraph 4 of this Article. Commission shall take into account such opinions while adopting the decision on certification of the transmission system operator or refusing to grant the certification.

6. The relevant decision of the Commission on certification of the transmission system operator or the refusal to grant certification shall be notified to the Energy Community Secretariat without delay, together with all the relevant information with respect to such decision.

7. The final decision on certification of the transmission system operator in relation to third countries shall be adopted and published following the procedure stipulated in Article 55 [*Certification of the TSO*] of this Law.

8. While taking utmost account of the opinion of the Energy Community Secretariat, the Commission shall have the right to refuse certification where granting certification puts at risk security of supply in Georgia or in any other Energy Community Party, or threatens the public security interests of Georgia.

Chapter XIII - Tasks and responsibilities of the transmission system operator

Article 57 - Tasks of the transmission system operator

1. Regardless of the implemented unbundling model, transmission system operators shall construct, operate, maintain and develop under economic conditions secure, reliable and efficient transmission systems to secure an open market, as well as to ensure the long-term ability of the systems to meet reasonable demands for the transmission of electricity or natural gas in a defined territory and adequate means to meet service obligations. Transmission system operators, while carrying out their duties and fulfilling their tasks, shall pay due regard to the environment.

2. Transmission system operators shall provide transmission related services in accordance with this Law, the applicable Transmission Network Code, license conditions and applicable technical rules as referred to in Article 108 [*Interoperability of systems and technical rules*] of this Law.

3. Transmission related services shall be provided to individual system users on the basis of service contracts concluded with the transmission system operator. Each transmission system operator shall prepare and, subject to the approval by the Commission, adopt standard contracts on provision of its services, in particular on connection to the transmission network and on transmission (transport) services. Adopted standard contracts shall be published on the website of the transmission system operator.

4. Transmission system operators shall build sufficient cross-border capacities to integrate electricity and natural gas transmission systems of Georgia with such systems of other Energy Community Parties accommodating all economically reasonable and technically feasible demands for capacities and taking into account security of supply.

5. Transmission system operators shall refrain from discrimination among system users or different categories of system users, particularly in favour of their related undertakings.

6. Transmission system operators shall provide any neighbouring system operator, including transmission and distribution system operators, natural gas storage system operators and LNG system operators, with sufficient information to ensure that the transport of electricity or natural gas or, where relevant, storage of natural gas takes place in a manner compatible with secure and efficient operation of interconnected systems.

7. Transmission system operators shall provide system users with detailed information in a meaningful, quantifiably clear and easily accessible way regarding services offered as well as conditions for such services and technical information necessary for system users to gain effective access to the system in consistency with confidential information exemptions approved by the Commission.

8. Transmission system operators shall procure the energy they use for carrying out of their functions according to transparent, non-discriminatory and market based procedures.

9. Transmission system operators shall keep at the disposal of competent national authorities of Georgia, including the Commission and the Competition Agency, as well as of

the Energy Community Secretariat all information referred to in this Article and all technical information necessary for system users to gain effective access to the transmission system, information related to relevant points for transparency requirements, and information to be published at all relevant points and the time schedule according to which that information should be published at least for a period of five (5) years.

Article 58 - Responsibilities of the transmission system operator

1. Each transmission system operator shall be required to:
 - 1) adopt the Transmission Network Code under Articles 68 [*Electricity Transmission Network Code*] and 77 [*Natural Gas Transmission Network Code*] of this Law;
 - 2) adopt annual plans for the transmission system development for a minimum period of ten (10) years under Article 59 [*Development of the transmission network and investment decisions*] of this Law and in compliance with investment plans of other system operators;
 - 3) adopt the compliance programme to ensure non-discriminatory behaviour and designate a person responsible for monitoring the implementation of the compliance programme and for elaborating annual reports in accordance with Article 60 [*Compliance programme and compliance officer*] of this Law;
 - 4) establish transparent and efficient procedures as well as terms and conditions for non-discriminatory and unrestricted third party access to the transmission system in accordance with Articles 65 [*TPA to the electricity transmission system*], 66 [*Refusal of access to the electricity transmission system*], 74 [*TPA to the natural gas transmission system*] and 75 [*Refusal of access to the natural gas transmission system*] of this Law;
 - 5) establish transparent and efficient procedures as well as terms and conditions for non-discriminatory and most viable connection of distribution systems and other energy facilities, including those of industrial customers, to the transmission network in accordance with Articles 67 [*Connection to the electricity transmission network*] and 76 [*Connection to the natural gas transmission network*] of this Law;
 - 6) establish the terms and conditions for and perform dispatching functions in the transmission system, *i.e.* manage operational capacities of production facilities connected to the transmission network, energy flows from such production facilities to the transmission system and/or overall energy flows in the transmission system, including the use of interconnectors for cross-border exchanges with other interconnected systems;
 - 7) establish the terms and conditions for and ensure balancing of the transmission system in accordance with the general requirements laid down in this Law;
 - 8) establish the terms and conditions for and proceed with the procurement of ancillary services and provision of system services in accordance with the general requirements laid down in this Law;
 - 9) establish the terms and conditions for and perform the functions of the capacity allocation and congestion management aiming at efficient use of the capacities in the transmission network, including interconnectors with other systems, in accordance with Articles 70 [*Allocation and use of cross-border electricity transmission capacities*], 71 [*Congestion management in the electricity transmission network*] and 79 [*Principles of CA mechanisms and CM procedures concerning the natural gas transmission system*] of this Law;
 - 10) take appropriate safety measures for using the transmission system and other associated facilities;

- 11) ensure the confidentiality of commercially sensitive information obtained from conducting business operations in accordance with Article 53 [*Confidentiality obligations*] of this Law, and publish the information that may provide advantages in the market in a non-discriminatory manner;
 - 12) collect and publish data and information necessary to meet the prescribed requirements related to transparency and monitoring of energy markets in accordance with the applicable Transmission Network Code and technical rules as referred to in Article 108 [*Interoperability of systems and technical rules*] of this Law;
 - 13) contribute to security of supply through adequate transmission capacity and system reliability, and perform in compliance with the security of supply requirements under Chapters XXXIII [*Security of electricity supply*] and XXXIV [*Security of natural gas supply*] of this Law;
 - 14) take measures to increase energy efficiency and ensure environmental protection;
 - 15) apply modern methods of the energy efficiency/demand-side management by observing minimal standards related to the maintenance and development of the transmission system, including interconnectors;
 - 16) cooperate and promote operational arrangements and the development of energy exchanges with other system operators and relevant interested parties in order to establish regional energy markets in accordance with Article 64 [*Regional and international cooperation of the TSO*] of this Law;
 - 17) facilitate the integration and liberalisation of energy markets; and
 - 18) submit to the Commission and, where so required by this Law, to other competent national or international institutions the information and documents needed to enable them to exercise their duties.
2. In addition to responsibilities specified in paragraph 1 of this Article, each transmission system operator for electricity shall be required to collect congestion rents and payments under the inter-transmission system operator compensation mechanism, in compliance with Article 72 [*Inter-TSO compensation mechanism*] of this Law, granting and managing third-party access and giving reasoned explanations when it denies such access, which shall be monitored by the Commission.
3. Transmission system operators shall carry out other duties and perform other tasks assigned to their competence under the terms and conditions stipulated in this Law, other applicable laws and their implementing regulations.

Article 59 - Development of the transmission network and investment decisions

1. Each transmission system operator, by 1st of October each year, shall submit to the Commission a ten-year transmission network development plan based on existing and forecast supply and demand after having consulted all relevant stakeholders. The ten-year transmission network development plan shall contain efficient measures in order to guarantee the adequacy of the transmission network and security of supply therein.
2. The ten-year transmission network development plan shall in particular:
 - 1) provide information on existing and forecasted demand for and supply of electricity or natural gas;
 - 2) provide forecasted domestic generation of electricity or production of natural gas and cross-border exchanges in electricity or natural gas;
 - 3) indicate the main transmission infrastructure that needs to be built or upgraded over the next ten (10) years;

- 4) contain all the investments already decided and identify new investments which have to be executed in the next three (3) years;
 - 5) provide for a time frame for all investment projects;
 - 6) provide information on integration of new production facilities into the network, including those using renewable energy sources; and
 - 7) provide other information necessary for effective operation and management of energy systems in Georgia pursuant to the requirements laid down by this Law and the applicable Transmission Network Code.
3. When elaborating the ten-year transmission network development plan, the transmission system operator shall make reasonable assumptions about the evolution of the production, supply, consumption of and exchanges in electricity or natural gas with other countries, taking into account investment plans for surrounding networks and, in case of natural gas network developments, also investment plans for natural gas storage and LNG facilities.
4. The Commission shall consult all actual or potential system users regarding the ten-year transmission network development plan in an open and transparent manner. The Commission shall publish the result of the consultation process, in particular possible needs for investments.
5. The Commission shall examine whether the ten-year transmission network development plan covers all investment needs identified during the consultation process. The Commission may require the transmission system operator to amend its ten-year transmission network development plan.
6. The Commission shall monitor and evaluate the implementation of the ten-year transmission network development plan.
7. In circumstances where the transmission system operator, other than for overriding reasons beyond its control, does not execute an investment, which, under the ten-year transmission network development plan, was to be executed in the following three (3) years, the Commission shall take at least one of the following measures to ensure that the investment in question is made, if such investment is still relevant on the basis of the most recent ten-year transmission network development plan:
- 1) require the transmission system operator to execute the investments in question;
 - 2) organise a tender procedure open to any investors showing interest for the investments in question; and/or
 - 3) oblige the transmission system operator to accept a capital increase to finance the necessary investments and allow independent investors to participate in the capital.
8. Where the Commission has made use of its powers under the subparagraph 2 of paragraph 7 of this Article, it may oblige the transmission system operator to agree to one or more of the following options:
- 1) financing by any third party;
 - 2) construction by any third party;
 - 3) building the new concerned assets itself; and/or
 - 4) operating the new concerned assets itself.
9. The transmission system operator shall provide the investors with all information needed to realise the investments, connect new assets to the transmission network and generally make its best efforts to facilitate the implementation of the investment project. The relevant financial arrangements shall be subject to approval by the Commission.

10. Where the Commission made use of its powers under paragraph 7 of this Article, the costs of the investments in question shall be covered by tariff items for the transmission related services.

Article 60 - Compliance programme and compliance officer

1. The transmission system operator shall establish a compliance programme setting out measures taken to ensure that discriminatory conduct is excluded, and ensure a method for monitoring compliance with that programme. The compliance programme shall set out the specific obligations of employees of the transmission system operator to meet those objectives. It shall be subject to approval by the Commission. Compliance with the programme shall be independently monitored by a compliance officer.

2. The compliance officer shall be appointed by the Supervisory Body, in case the independent transmission operator is designated, or by the supervisory board or, if such body is not formed, by the collective management body of the transmission system operator, subject to the prior approval by the Commission. The Commission may refuse the approval of the compliance officer only for reasons of lack of independence or professional capacity. The compliance officer may be a natural or legal person and shall be independent in its work and actions.

3. The independence of the compliance officer shall be ensured in the following manner:

1) the compliance officer shall have no other professional position or responsibility, interest or business relationship, directly or indirectly, with any part of the vertically integrated undertaking or with its controlling shareholders or, as the case may be, with any energy undertaking exercising another activity than the transmission;

2) the compliance officer shall exercise no professional position or responsibility, interest or business relationship, directly or indirectly, with the vertically integrated undertaking or any part of it or its controlling shareholders other than the transmission system operator for a period of three (3) years before the appointment;

3) upon termination of its contractual relation with the transmission system operator, the compliance officer shall have no professional position or responsibility, interest or business relationship with any part of the vertically integrated undertaking or its controlling shareholders or, as the case may be, with any energy undertaking exercising another activity than the transmission, for a period of not less than four (4) years; and

4) the compliance officer shall hold no interest in or receive any financial benefit, directly or indirectly, from any part of the vertically integrated undertaking or, as the case may be, from any energy undertaking exercising another activity than the transmission.

4. The transmission system operator shall without delay deliver to the Commission a proposal for appointment of the compliance officer and the terms of its agreement with the company, especially terms relating to commencement, duration and termination of appointment, remuneration conditions, substantive and other rights.

5. Within three (3) weeks from the day of receipt of the proposal referred to in paragraph 4 of this Article, the Commission may object to the proposed appointment decision or to the terms of the agreement concluded with the compliance officer where:

1) doubts arise as to the professional independence of the nominated compliance officer within the meaning of paragraph 3 of this Article and the appointment terms, including remuneration and other substantive rights; or

2) in the case of premature termination of a term of office, doubts exist regarding the justification of such premature termination. Premature termination shall be

considered unlawful where indicated termination circumstances are not in conformity with the provisions of this Law concerning independence from the vertically integrated undertaking.

6. The compliance officer shall be in charge of:
 - 1) monitoring the implementation of the compliance programme;
 - 2) elaborating an annual report, setting out the measures taken in order to implement the compliance programme and submitting it to the Commission;
 - 3) reporting to the responsible bodies of the transmission system operator and issuing recommendations on the compliance programme and its implementation;
 - 4) notifying the Commission on any substantial breaches with regard to the implementation of the compliance programme; and
 - 5) reporting to the Commission on any commercial and financial relations between the vertically integrated undertaking and the transmission system operator.
7. Where an independent system operator has been designated, the compliance officer shall make recommendations with respect to the decisions regarding the appointment and renewal, the working conditions, including remuneration, and the termination of the term of office of the persons responsible for the management and/or members of the administrative bodies of the transmission system owner and of the independent system operator.
8. The compliance officer shall submit the proposed decisions on the investment plan or on individual investments in the transmission network to the Commission, at the latest by the moment when respective decision on such plan and/or investments is adopted by the responsible management body of the transmission system operator.
9. The conditions governing the mandate or the employment conditions of the compliance officer, including the duration of its mandate or employment, shall be subject to approval by the Commission. Those conditions shall ensure the independence of the compliance officer, including by providing it with all the resources necessary for fulfilling its duties. During its mandate, the compliance officer shall have no other professional position, responsibility or interest, directly or indirectly, in or with any part of the vertically integrated undertaking or with its controlling shareholders or, as the case may be, with any energy undertaking exercising another activity than the transmission.
10. The compliance officer shall report to the Commission regularly, either verbally or in writing, and shall have the right to report regularly, either orally or in writing, to the responsible bodies of the transmission system operator.
11. The compliance officer may attend all meetings of the managing staff and corporate bodies of the transmission system operator, including the general assembly, supervisory and management bodies, which have the obligation to inform the compliance officer of scheduled meetings and to provide it with all necessary materials. The compliance officer shall attend all meetings that address the following matters:
 - 1) terms and conditions for the access to and the use of the transmission system and, in particular, regarding relevant tariffs and/or charges, services provided by the transmission system operator, capacity allocation and congestion management in the transmission network, as well as transparency, balancing and secondary markets,
 - 2) projects undertaken in order to manage the transmission system and to maintain and develop the transmission network, including investments in interconnectors; and
 - 3) energy purchases or sales necessary for the operation of the transmission system and the transmission networks, including procurement of ancillary services and balancing service.

12. The compliance officer shall monitor the compliance of the transmission system operator with the provisions regulating confidentiality of the transmission system operator and, where relevant, of the transmission system owner.

13. The compliance officer shall have access to all relevant data and to the offices of the transmission system operator and to all the information necessary for the fulfilment of its tasks. The compliance officer shall have access to the offices of the transmission system operator without prior announcement.

14. With prior approval of the Commission, the Supervisory Body, in case the independent transmission operator is designated, or the supervisory board or, if such is not formed, the collective management body of the transmission system operator may dismiss the compliance officer. It shall dismiss the compliance officer for reasons of lack of independence or professional capacity upon request of the Commission.

Article 61 - Transparency requirements concerning the transmission system operator

1. The transmission system operator shall publish detailed information regarding the services it offers and the relevant conditions applied, together with the technical information necessary for system users to gain effective access to the transmission system.

2. In order to ensure transparent, objective and non-discriminatory tariffs and facilitate efficient utilisation of the transmission network, the transmission system operator shall publish reasonably and sufficiently detailed information on tariff derivation, methodology and structure.

3. For the services provided, under the terms and conditions stipulated in the applicable Transmission Network Code, the transmission system operator shall publish information on capacities on a numerical basis for all relevant points, including entry and exit points, on a regular and rolling basis and in a user-friendly and standardised manner.

4. The relevant points of a transmission system on which the information is to be published shall be approved by the Commission after consultations with system users.

5. The transmission system operator shall always disclose the information required by this Law and other applicable legal acts in a meaningful, quantifiably clear and easily accessible manner and on a non-discriminatory basis.

6. The transmission system operator shall publish *ex-ante* and *ex-post* supply and demand information, based on nominations, forecasts and realised flows in and out of the transmission system. The level of detail of the information that is published shall reflect the information available to the transmission system operator. The Commission shall ensure that all such information is published in a proper and timely manner.

7. The transmission system operator shall publish measures taken as well as costs incurred and revenue generated to balance the system.

Article 62 - Delivery of data and information to the transmission system operator

1. Producers, system operators and final customers, facilities of whom are connected to the transmission network shall, at the request of the transmission system operator, deliver to the transmission system operator data and information required for the purpose of system operation, management and development, as required by this Law, the applicable Transmission Network Code and the rules on provision of information adopted by the Commission, *inter alia* the data and information:

- 1) on production/import and consumption characteristics, including the forecasted demand for electricity or natural gas, and other information necessary for effective operation and management of the system;

- 2) on deviations from the production development plans and investments plans;
 - 3) required for realising the access to and the use of the transmission system;
 - 4) required for the provision of system services;
 - 5) required for monitoring the quality of supply in the transmission network; and
 - 6) required for monitoring security of supply.
2. The transmission system operator shall exchange metering data and other necessary information with other operators of interconnected systems.
3. System users and market participants, even if not expressly referred in paragraph 1 of this Article, shall provide the transmission system operator with any other relevant data and information, which is necessary for carrying out the duties and performing the tasks of the transmission system operator, including those required for collection and aggregation of the respective system data.

Article 63 - Annual report of the transmission system operator

1. At the latest by the 1st of March each year, the transmission system operator shall issue the annual report on:
- 1) implementation of all the tasks and duties of the transmission system operator during the previous calendar year;
 - 2) implementation of the Transmission Network Code during the previous calendar year;
 - 3) losses in the transmission network during the previous calendar year, including results of the respective monitoring of the losses in the transmission network;
 - 4) the quality of supply in the transmission network during the previous calendar year, including results of the respective monitoring of the continuity of supply, voltage/pressure quality and commercial quality in addition to other quality aspects defined by the Commission; and
 - 5) the security of supply in the transmission network.
2. Annual report issued by the transmission system operator, as referred to in paragraph 1 of this Article, shall be approved by the Commission and published on the website of the transmission system operator.
3. Based on the annual report issued by the transmission system operator, the Commission may request the transmission system operator and/or, where appropriate, other energy undertakings to implement certain measures aimed at:
- 1) ensuring the principles of transparency, objectivity and non-discrimination;
 - 2) ensuring normal operation and management of the transmission system;
 - 3) reducing losses in the transmission network;
 - 4) improving the quality of supply; and/or
 - 5) improving the security of supply.
4. The transmission system operator shall submit its annual report, subject to its prior approval of the Commission, to the Ministry, which shall then prepare its own annual report on the state of the security of supply and the expected demand for electricity and natural gas in Georgia.

Article 64 - Regional and international cooperation of the transmission system operator

1. The transmission system operator, in coordination with the Commission, shall particularly promote and facilitate the cooperation of transmission system operators at a regional level, including cross-border issues, with the aim of creating a competitive regional market in electricity or natural gas and fostering the consistency of legal, regulatory and technical frameworks concerning activities of transmission system operators, in line with the assumed international commitments of Georgia.
2. The transmission system operator shall cooperate with the Energy Community Regulatory Board and, where relevant, with regulatory authorities and transmission system operators of other Energy Community Parties within the framework determined by Energy Community law, this Law and other applicable legal acts.
3. The transmission system operator, subject to a prior approval of the Commission, may participate in the work of one or more integrated system (or systems) at the level of one or more regions covering two or more Energy Community Parties for the allocation of transmission capacities and for checking the security in transmission networks.
4. The transmission system operator shall promote operational arrangements in order to ensure the optimum management of transmission networks in the Energy Community and shall promote the development of energy exchanges, the coordinated allocation of cross-border capacity through non-discriminatory market-based solutions, paying due attention to the specific merits of implicit auctions for short-term allocations, as well as to the integration of balancing and reserve mechanisms.

Chapter XIV - Operation and management of the electricity transmission system**Article 65 - Third-party access to the electricity transmission system**

1. The transmission system operator shall provide system users with a non-discriminatory and unrestricted access to the electricity transmission system in line with the terms and conditions laid down in the Electricity Transmission Network Code. Charges for access to the electricity transmission system shall be based on tariffs set by the Commission as calculated under its adopted methodology.
2. Where the transmission system operator offers the same service to different electricity system users, it shall do so under equivalent contractual terms and conditions, either using harmonised transmission service contracts and/or pursuant to the Electricity Transmission Network Code.
3. The provisions of this Law shall not prevent the conclusion of long-term contracts in so far as they comply with the competition rules stipulated in the applicable laws, as required by Energy Community law.
4. The transmission system operator shall publish on its website the procedure, terms and conditions for the access to the electricity transmission system, including requirements stipulated in the Electricity Transmission Network Code and charges set by the Commission, as well as technical and quantitative data relevant for the access to and the use of the electricity transmission system which shall be regularly updated.
5. Where appropriate, third-party access services may be granted subject to appropriate guarantees from system users with respect to the creditworthiness of such users. Such guarantees shall not constitute undue market-entry barriers and shall be non-discriminatory, transparent and proportionate.

6. The transmission system operator shall, if necessary for the purpose of carrying out its functions including in relation to cross-border transmission of electricity, have access to the network of other transmission system operators of neighbouring countries following their mutual agreements and/or other terms of cooperation.

Article 66 - Refusal of access to the electricity transmission system

1. The transmission system operator may fully or partially refuse access to the electricity transmission system on the basis of lack of capacity or connection, or where the access to the system would prevent the transmission system operator from providing its public services as regulated by this Law, or in cases where public health or safety is threatened.

2. Duly substantiated reasons shall be given by the transmission system operator for any refusal of access, including the time period of refused access and measures that would be necessary to remove the stated reasons. Each system user whose request for access to the electricity transmission system was refused shall be provided with such reasons in a written form together with the evidence based on objective, non-discriminatory, technically and economically justified criteria, as to be prepared and submitted by the transmission system operator without any undue delay and, in any case, not later than in five (5) business days after receiving the request for access.

3. The transmission system operator, if refusing access to the electricity transmission system on the basis of lack of capacity or a lack of connection, shall make the necessary enhancements as far as it is economic to do so or when a potential customer is willing to pay for such enhancements.

4. The Commission shall ensure, where appropriate, that the transmission system operator provides relevant information on measures that would be necessary to enhance the electricity transmission system as referred to in paragraph 3 of this Article. The party requesting for information may be charged a reasonable fee reflecting the cost of providing such information.

5. A system user whose access to the electricity transmission system has been refused or is unsatisfied with conditions of its access to the system may file a complaint with Commission as referred to in Article 173 [*Dispute settlement*] of this Law.

Article 67 - Connection to the electricity transmission network

1. The transmission system operator shall ensure the connection of electricity facilities to the electricity transmission network in line with the terms and conditions laid down in the Electricity Transmission Network Code. Charges for connection to the electricity transmission network shall be set by the Commission as calculated under its adopted methodology.

2. In cases where electricity producers or final customers apply for connection of their facilities to the electricity transmission network, the transmission system operator, in cooperation with distribution system operator for electricity serving a respective territory, shall evaluate an overall viability for such connection, including its impact towards security and reliability of the electricity system, and shall propose an appropriate solution for connection to the electricity transmission or distribution network based on clearly justified technical, operational and economic criteria.

3. The transmission system operator shall not be entitled to refuse the connection of a new electricity generation facility on the grounds of possible future limitations to available capacities, such as congestion in distant parts of the electricity transmission network, except for in cases where such connection would threaten the overall security or reliability of the electricity system based on duly justified technical criteria indicated and proved by the transmission system operator. The transmission system operator shall provide necessary

information thereon to a person concerned, including conditions for necessary developments and/or other technical solutions reasonably required for connection.

4. The connection point shall be defined by the transmission system operator following relevant published technical criteria and based on a solution which is, *ceteris paribus*, economically or commercially most viable from the aspect of a person who applies for connection of its electricity facilities.

5. The transmission system operator shall not be entitled to refuse a new connection point on the ground that it will lead to additional costs linked with necessary capacity increase of network elements in the close-up range to the connection point.

6. The transmission system operator, in case of connection of a respective facility to the electricity transmission network, shall be responsible for the construction of connecting installations at the connection point, unless it is otherwise expressly provided by the Electricity Transmission Network Code, and shall ensure that all technical requirements regarding the electricity transmission network are properly met.

7. A person whose request for the connection of its electricity facilities to the electricity transmission network has been refused or who is unsatisfied with the conditions for the connection issued by the transmission system operator may file a complaint with Commission as referred to in Article 173 [*Dispute settlement*] of this Law.

Article 68 - Electricity Transmission Network Code

1. The operation and management of the electricity transmission network shall be regulated by the Electricity Transmission Network Code.

2. The Electricity Transmission Network Code shall establish:

1) technical and other prerequisites for safe operation of the electricity transmission network aiming at secure and reliable transport of electricity in compliance with prescribed electricity quality requirements;

2) procedures for operating the electricity system under normal network operation regime and operation under extraordinary conditions, operation under fault conditions, events of force majeure and other cases of disturbed operation;

3) procedure, terms and conditions for granting third party access to the electricity transmission system, including third-party access services provided by the transmission system operator, in accordance with Articles 65 [*TPA to the electricity transmission system*] and 66 [*Refusal of access to the electricity transmission system*] of this Law;

4) procedure, terms and conditions for the connection to the electricity transmission network in accordance with Article 67 [*Connection to the electricity transmission network*] of this Law, including:

a) technical and other prerequisites for the connection to the electricity transmission network, including safety requirements;

b) method of the electricity metering, and functional requirements and accuracy class of metering equipment;

c) ownership of metering equipment at the connection point or other determined accounting metering point; and

d) rights and obligations of the transmission system operator and system users related to connections to the electricity transmission network;

5) terms and conditions for dispatching, including services provided by the transmission system operator thereto, taking into account the economic precedence of

electricity from available electricity generation facilities and/or cross-border exchanges in electricity and the technical constraints of the electricity system. Where appropriate, following the measures introduced under Article 37 [*Promoted generation of electricity*], when dispatching electricity generation facilities the priority may be given to facilities using renewable energy sources and/or producing combined electricity and heat;

6) terms and conditions for balancing of the electricity system reflecting genuine system needs taking into account the resources available to the transmission system operator at minimum cost. The balancing rules shall be designed in a an objective, non-discriminatory and transparent manner, and shall be market-based;

7) terms and conditions for the elaboration of electricity balances providing the forecasted data of the generation of electricity as well as supply and demand in the system and applied for dispatching and balancing operations. Electricity balances shall be prepared and updated on periodical basis in cooperation with operators of interconnected systems and other relevant system users and shall be published on the website of the transmission system operator;

8) terms and conditions for management of cross-border exchanges in electricity in accordance with Article 69 [*Management of cross-border exchanges in electricity*] of this Law;

9) terms and conditions for capacity allocation, including terms and conditions for the allocation and use of cross-border electricity transmission capacities in accordance with Article 70 [*Allocation and use of cross-border electricity transmission capacities*] of this Law;

10) terms and conditions for congestion management in accordance with Article 71 [*Congestion management in the electricity transmission network*] of this Law;

11) criteria for and method of as well as terms and conditions for the procurement of ancillary services and provision of electricity system services;

12) criteria for planning the operation and development of the electricity transmission network;

13) procedure, terms and conditions for measuring capacities and delivered electricity to and transported through the electricity transmission network;

14) terms and conditions for the implementation of procedures for interruptions of electricity deliveries through the electricity transmission network;

15) rights and obligations of system users related to the operation and management of the electricity transmission network;

16) general terms and conditions for the provision of transmission related services, including for relevant contractual relations with regard to connection to the electricity transmission network (pursuant to standard contract on connection) and transmission of electricity (pursuant to standard contract on transmission services);

17) terms and conditions for the settlement of disputes arising from electricity transmission contracts and from other relations with regard to access and connection to and use of the electricity transmission network;

18) method of publication of data and information possessed by the transmission system operator necessary for the operation and management of electricity systems and for organising the electricity market, including definition of all relevant points and time schedule of publications, *inter alia* in accordance with Article 61 [*Transparency requirements concerning the TSO*] of this Law;

19) methods of data and information exchange with other system operators of interconnected electricity systems;

- 20) requirements for the submission of data and information to the transmission system operator necessary for the operation and management of the electricity transmission network in accordance with Article 62 [*Delivery of data and information to the TSO*] of this Law;
 - 21) measures aimed at energy efficiency and security of electricity supply within the competence of the transmission system operator;
 - 22) other terms and conditions relevant for the operation and management of the electricity transmission network.
3. The Electricity Transmission Network Code shall be adopted by the transmission system operator, subject to its prior approval by the Commission. In the process of adoption of the Electricity Transmission Network Code, the transmission system operator shall ensure appropriate participation of and consultations with all interested parties. The transmission system operator shall harmonise the Electricity Transmission Network Code with the rules on the quality of electricity supply adopted by the Commission.
 4. The Electricity Transmission Network Code shall be published in the Legislative Herald of Georgia and on the website of the transmission system operator.
 5. Without prejudice to paragraph 1 of this Article, any item referred to in paragraph 2 of this Article, in cases where deemed necessary by the transmission system operator and subject to its justification, may be excluded from the Electricity Transmission Network Code and therefore elaborated and adopted as a separate act (rules or regulation). Requirements laid down in paragraphs 3 and 4 of this Article shall be fully applied to such a separate act.

Article 69 - Management of cross-border exchanges in electricity

1. In line with international agreements which bind Georgia, the transmission system operator shall manage cross-border transmission of electricity through the transmission network under the conditions and in the manner established by those agreements and technical capacities of cross-border electricity transmission lines as well as of the overall electricity transmission network.
2. The amount of financial resources which are collected for using cross-border electricity transmission lines shall be settled between the transmission system operator and system operators in other countries involved in the transit of electricity, in line with this Law, arranged procedures and all applicable international agreements and obligations.
3. The transmission system operator shall inform the Commission on actual use and purpose of revenues received in relation to use of cross-border electricity transmission lines so as to allow the Commission to exercise its regulatory powers with respect to cross-border electricity transmission lines and interconnections as defined by this Law.
4. The transmission system operator shall be responsible for the development of a general scheme for the calculation of the electricity transfer capacity through the electricity transmission network and the transmission reliability margin based upon the electrical and physical features of the electricity transmission network. Transmission system operator shall submit that scheme and all its amendments to the Commission for prior approval and shall publish it in appropriate form.
5. The transmission system operator shall publish estimates of available electricity transfer capacity for each day, indicating any available electricity transfer capacity already reserved. Those publications shall be made at specified intervals before the day of transmission and shall include, in any event, week-ahead and month-ahead estimates, as well as a quantitative indication of the expected reliability of the available electricity transfer capacity.

6. Producers who own or operate the electricity generation facilities, where at least one generation unit has an installed capacity of at least 100 MW, shall keep, at the disposal of the Commission, the Competition Agency and the Energy Community Secretariat, at least for five (5) years all hourly data per generation facility (or unit) that is necessary to verify all operational dispatching decisions and the bidding behaviour at electricity exchanges, interconnection auctions, reserve markets and over-the-counter-markets. Such information to be stored shall include, but not be limited to, data on available electricity generation capacity and committed reserves, including allocation of those committed reserves on a per-plant (unit) level, at the times the bidding is carried out and when the generation takes place.

7. The Commission, in line with internationally assumed obligations of Georgia, shall deliver, upon request, to the competent bodies of the Energy Community all data related to cross-border exchanges in electricity.

Article 70 - Allocation and use of cross-border electricity transmission capacities

1. Allocation and use of cross-border electricity transmission capacities shall be arranged following the rules established by the Electricity Transmission Network Code *inter alia* taking into account regionally coordinated arrangements thereto.

2. For the purpose of allocation and use of the cross-border electricity transmission capacities within one or more regions, or the implicit purchase and sale of electricity along with the cross-border transmission capacities, the transmission system operator shall, in conformity with international agreements, establish together with the transmission system operators of other countries, one or more legal persons for coordinating auctions of cross-border transmission capacities.

3. The rules on allocation and use of cross-border electricity transmission capacities in accordance with harmonised rules at the level of the region of the Energy Community shall be adopted, subject to the prior approval of the Commission, by the transmission system operator in line with the instructions of the Commission, and in coordination with other competent authorities in the region concerned. Supervision over cross-border capacity allocation at the level of the region of the Energy Community shall be implemented in conformity with the decision on establishing a legal person for coordinated auctions.

Article 71 - Congestion management in the electricity transmission network

1. Congestion in the electricity transmission network, including congestion related to the cross-border transmission of electricity, shall be addressed with non-discriminatory market-based solutions which give efficient economic signals to the electricity market participants, the transmission system operator and other involved electricity undertakings.

2. Congestion problems in the electricity transmission network shall preferentially be solved with non-transaction based methods, *i.e.* methods that do not involve a selection between the contracts of individual electricity market participants.

3. Transaction curtailment procedures shall only be used in emergency situations where the transmission system operator must act in an expeditious manner and re-dispatching or counter trading is not possible. Any such procedure shall be applied in a non-discriminatory manner. Except in cases of *force majeure*, electricity market participants which have been allocated with the transmission capacity shall be compensated for any curtailment.

4. The transmission system operator shall make the maximum capacity of interconnectors and electricity transmission network affecting cross-border exchanges in electricity available to electricity market participants, providing consistency with the security standards of the electricity system operation in Georgia and neighbouring systems.

5. Electricity market participants shall inform the transmission system operator a reasonable time in advance of the relevant operational period whether they intend to use

allocated transmission capacity. Any allocated transmission capacity that is not used shall be reattributed to the electricity market, in an open, transparent and non-discriminatory manner.

6. The transmission system operator shall, as far as technically possible, net the capacity requirements of any electricity flows in opposite direction over the congested interconnectors in order to use that line to its maximum capacity.

7. Having full regard to security of operation of the electricity system, the transmission system operator shall make sure that transactions which relieve congestions are never to be denied.

8. In cases when capacity nominations for the use of the interconnector from all the electricity market participants net out to a total capacity lower than the available transfer capacity and no congestion exists, all market participants shall be served and no additional congestion management charges shall be imposed.

9. Any revenues that the transmission system operator receives in relation to use of cross-border electricity transmission lines shall be used for the following purposes:

- 1) guaranteeing the actual availability of the allocated transmission capacity; and/or
- 2) maintaining or increasing interconnection capacities through investments in the electricity transmission network, in particular in new interconnectors.

10. If the revenues received by the transmission system operator cannot be efficiently used for the purposes set out in paragraph 9 of this Article, the Commission shall include this unused revenue in the methodology used to calculate charges for the use of the electricity transmission system with the view of decreasing the tariff. The rest of the revenues shall be placed on a separate internal account until such time as they can be spent on the purposes set out in paragraph 9 of this Article. The Commission shall inform the Energy Community Regulatory Board thereof.

Article 72 - Inter-transmission system operator compensation mechanism

1. Transmission system operators shall receive compensation for costs incurred as a result of hosting cross-border flows of electricity on their networks as a result of cross-border exchanges in electricity.

2. The compensation referred to in paragraph 1 shall be paid by the operators of national electricity transmission systems from which cross-border flows of electricity originate and the systems where those flows end.

3. Compensation payments shall be made on a regular basis with regard to a given period of time in the past. *Ex-post* adjustments of compensation paid shall be made where necessary, to reflect costs actually incurred.

4. The magnitude of cross-border flows of electricity hosted and the magnitude of cross-border flows of electricity designated as originating and/or ending in national electricity transmission systems shall be determined on the basis of the physical flows of electricity actually measured during a given period of time.

5. The costs incurred as a result of hosting cross-border flows of electricity shall be established on the basis of the forward-looking long-run average incremental costs, taking into account losses, investment in new infrastructure, and an appropriate proportion of the cost of existing infrastructure, in so far as such infrastructure is used for the transmission of cross-border flows of electricity, in particular taking into account the need to guarantee security of supply.

6. When establishing the costs incurred, as referred to in paragraph 5 of this Article, recognised standard-costing methodologies shall be used. Benefits that a network incurs as

a result of hosting cross-border flows of electricity shall be taken into account to reduce the compensation received.

Article 73 - Parallel operation of electricity systems

1. The transmission system operator shall be entitled to conclude with competent operators of neighbouring electricity systems an agreement (or agreements) on parallel operation of electricity systems.
2. Any agreement on parallel operation of electricity systems may be concluded and applied only if it does not contradict the requirements established by this Law, including unbundling and independence of the transmission system operator and its competences, other applicable laws and their implementing regulations as well as commitments of Georgia under the Treaty establishing the Energy Community.
3. Parallel operation of electricity system may only encompass measures and instruments for synchronous operation of two or more neighbouring electricity systems, or any parts thereof, aimed at the maintenance of stability of electricity systems and shall in no case involve cross-border trade in electricity.
4. Technical operation and cooperation management related to parallel operation of electricity systems shall be implemented pursuant to respective agreement and in compliance with the Electricity Transmission Network Code.

Chapter XV - Operation and management of the natural gas transmission system

Article 74 - Third-party access to the natural gas transmission system

1. The transmission system operator shall provide system users with a non-discriminatory and unrestricted access to the natural gas transmission system in line with the terms and conditions laid down in the Natural Gas Transmission Network Code. Charges for access to the natural gas transmission system shall be based on tariffs set by the Commission as calculated under its adopted methodology.
2. The transmission system operator, for the purposes of paragraph 1 of this Article shall provide both firm and interruptible third-party access services, where the price of interruptible capacity shall reflect the probability of interruption, and offer to system users both long and short-term services.
3. Where the transmission system operator offers the same service to different natural gas system users, it shall do so under equivalent contractual terms and conditions, either using harmonised natural gas transport contracts and/or pursuant to the Natural Gas Transmission Network Code.
4. The transmission system operator shall publish on its website the procedure, terms and conditions for the access to the natural gas transmission system, including requirements stipulated in the Natural Gas Transmission Network Code and charges set by the Commission, as well as technical and quantitative data relevant for the access to and the use of the natural gas transmission system which shall be regularly updated.
5. Where appropriate, third-party access services may be granted subject to appropriate guarantees from system users with respect to the creditworthiness of such users. Such guarantees shall not constitute undue market-entry barriers and shall be non-discriminatory, transparent and proportionate.

6. Natural gas transport contracts signed with non-standard start dates or with a shorter duration than a standard annual transport contract shall not result in arbitrarily higher or lower tariffs that do not reflect the market value of the service.
7. The provisions of this Law shall not prevent the conclusion of long-term contracts in so far as they comply with the competition rules stipulated in the applicable laws, as required by Energy Community law.
8. The transmission system operator shall, if necessary for the purpose of carrying out its functions including in relation to cross-border transmission of natural gas, have access to the network of other transmission system operators of neighbouring countries following their mutual agreements and/or other terms of cooperation.

Article 75 - Refusal of access to the natural gas transmission system

1. The transmission system operator may fully or partially refuse access to the natural gas transmission system on the basis of lack of capacity or connection, or where the access to the system would prevent the transmission system operator from providing its public services as regulated by this Law, or in cases where public health or safety is threatened, or on the basis of serious economic and financial difficulties with take-or-pay contracts that have been effective before the request for access to the transmission system was received.
2. Apart from conditions referred to in paragraph 1 of this Article, the transmission system operator may also fully or partially refuse access to the natural gas transmission system on the basis of serious economic and financial difficulties with take-or-pay contracts that have been effective before the request for access to the transmission system was received in accordance with Article 142 [*Derogations in relation to take-or-pay commitments*] of this Law.
3. Duly substantiated reasons shall be given by the transmission system operator for any refusal of access, including the time period of refused access and measures that would be necessary to remove the stated reasons. Each system user whose request for access to the natural gas transmission system was refused shall be provided with such reasons in a written form together with the evidence based on objective, non-discriminatory, technically and economically justified criteria, as to be prepared and submitted by the transmission system operator without any undue delay and, in any case, not later than in five (5) business days after receiving the request for access.
4. The transmission system operator, if refusing access to the natural gas transmission system on the basis of lack of capacity or a lack of connection, shall make the necessary enhancements as far as it is economic to do so or when a potential customer is willing to pay for such enhancements.
5. The Commission shall ensure, where appropriate, that the transmission system operator provides relevant information on measures that would be necessary to enhance the natural gas transmission system as referred to in paragraph 3 of this Article. The party requesting for information may be charged a reasonable fee reflecting the cost of providing such information.
6. A system user whose access to the natural gas transmission system has been refused or is unsatisfied with conditions of its access to the system may file a complaint with Commission as referred to in Article 173 [*Dispute settlement*] of this Law.

Article 76 - Connection to the natural gas transmission network

1. The transmission system operator shall ensure the connection of natural gas facilities to the natural gas transmission network in line with the terms and conditions laid down in the Natural Gas Transmission Network Code. Charges for connection to the natural gas transmission network shall be set by the Commission as calculated under its adopted methodology.

2. In cases where natural gas producers, natural gas storage system operators, LNG system operators or final customers apply for connection of their facilities to the natural gas transmission network, the transmission system operator, in cooperation with distribution system operator for natural gas serving a respective territory, shall evaluate an overall viability for such connection, including its impact towards security and reliability of the natural gas system, and shall propose an appropriate solution for connection to the natural gas transmission or distribution network based on clearly justified technical, operational and economic criteria.
3. The transmission system operator shall not be entitled to refuse the connection of a new natural gas production facility, natural gas storage facility, LNG facility or facility of an industrial customer on the grounds of possible future limitations to available capacities, such as congestion in distant parts of the natural transmission network, except for in cases where such connection would threaten the overall security or reliability of the natural gas system based on duly justified technical criteria indicated and proved by the transmission system operator. The transmission system operator shall provide necessary information thereon to a person concerned, including conditions for necessary developments and/or other technical solutions reasonably required for connection.
4. The connection point shall be defined by the transmission system operator following relevant published technical criteria and based on a solution which is, *ceteris paribus*, economically or commercially most viable from the aspect of a person who applies for connection of its natural gas facilities.
5. The transmission system operator shall not be entitled to refuse a new connection point on the ground that it will lead to additional costs linked with necessary capacity increase of network elements in the close-up range to the connection point. The transmission system operator shall ensure sufficient entry and exit capacity for new connections.
6. The transmission system operator, in case of connection of a respective facility to the natural gas transmission network, shall be responsible for the construction of connecting installations at the connection point, unless it is otherwise expressly provided by the Natural Gas Transmission Network Code, and shall ensure that all technical requirements regarding the natural gas transmission network are properly met.
7. A person whose request for the connection of its natural gas facilities to the natural gas transmission network has been refused or who is unsatisfied with the conditions for the connection issued by the transmission system operator may file a complaint with Commission as referred to in Article 173 [*Dispute settlement*] of this Law.

Article 77 - Natural Gas Transmission Network Code

1. The operation and management of the natural gas transmission network shall be regulated by the Natural Gas Transmission Network Code.
2. The Natural Gas Transmission Network Code shall establish:
 - 1) technical and other prerequisites for safe operation of the natural gas transmission network aiming at secure and reliable transport of natural gas in compliance with prescribed natural gas quality requirements;
 - 2) procedures for operating the natural gas system under normal network operation regime and operation under extraordinary conditions, operation under fault conditions, events of force majeure and other cases of disturbed operation;
 - 3) procedure, terms and conditions for granting third party access to the natural gas transmission system, including third-party access services provided by the transmission system operator, in accordance with Articles 74 [*TPA to the natural gas transmission system*] and 75 [*Refusal of access to the natural gas transmission system*] of this Law;

- 4) procedure, terms and conditions for the connection to the natural gas transmission network in accordance with Article 76 [*Connection to the natural gas transmission network*] of this Law, including:
 - a) technical and other prerequisites for the connection to the natural gas transmission network, including safety requirements;
 - b) method of the natural gas metering, and functional requirements and accuracy class of metering equipment;
 - c) ownership of metering equipment at the connection point or other determined accounting metering point; and
 - d) rights and obligations of the transmission system operator and system users related to connections to the natural gas transmission network;
- 5) terms and conditions for dispatching, including services provided by the transmission system operator thereto;
- 6) terms and conditions for balancing of the natural gas system in accordance with Article 78 [*Natural gas balancing rules and imbalance charges*] of this Law;
- 7) capacity-allocation mechanisms and congestion management procedures in accordance with Article 79 [*Principles of CA mechanisms and CM procedures concerning the natural gas transmission system*] of this Law;
- 8) criteria for and method of the procurement of ancillary services and provision of natural gas system services;
- 9) criteria for planning the operation and development of the natural gas transmission network;
- 10) virtual point (or points) in the natural gas transmission network;
- 11) range of quality, chemical contents and other characteristics of natural gas taken to the natural gas transmission network and delivered from the network;
- 12) procedure, terms and conditions for measuring capacities and delivered natural gas to and transported through the natural gas transmission network;
- 13) terms and conditions for data exchange on planned and delivered quantities of natural gas in cases where daily measurements are not possible;
- 14) terms and conditions for the implementation of procedures for interruptions of natural gas deliveries through the natural gas transmission network;
- 15) rights and obligations of system users related to the operation and management of the natural gas transmission network;
- 16) general terms and conditions for the provision of transmission related services, including for relevant contractual relations with regard to connection to the natural gas transmission network (pursuant to standard contract on connection) and transmission of natural gas (pursuant to standard natural gas transport contract);
- 17) terms and conditions for the settlement of disputes arising from natural gas transport contracts and from other relations with regard to access and connection to and use of the natural gas transmission network;
- 18) method of publication of data and information possessed by the transmission system operator necessary for the operation and management of natural gas systems and for organising the natural gas market, including definition of all relevant points and time schedule of publications, *inter alia* in accordance with Article 61 [*Transparency requirements concerning the TSO*] of this Law;

- 19) methods of data and information exchange with other system operators of interconnected natural gas systems;
 - 20) requirements for the submission of data and information to the transmission system operator necessary for the operation and management of the natural gas transmission network in accordance with Article 62 [*Delivery of data and information to the TSO*] of this Law;
 - 21) measures aimed at energy efficiency and security of natural gas supply within the competence of the transmission system operator;
 - 22) other terms and conditions relevant for the operation and management of the natural gas transmission network.
3. The Natural Gas Transmission Network Code shall be adopted by the transmission system operator, subject to its prior approval by the Commission. In the process of adoption of the Natural Gas Transmission Network Code, the transmission system operator shall ensure appropriate participation of and consultations with all interested parties. The transmission system operator shall harmonise the Natural Gas Transmission Network Code with the rules on the quality of natural gas supply adopted by the Commission.
4. The Natural Gas Transmission Network Code shall be published in the Legislative Herald of Georgia and on the website of the transmission system operator.
5. Without prejudice to paragraph 1 of this Article, any item referred to in paragraph 2 of this Article, in cases where deemed necessary by the transmission system operator and subject to its justification, may be excluded from the Natural Gas Transmission Network Code and therefore elaborated and adopted as a separate act (rules or regulation). Requirements laid down in paragraphs 3 and 4 of this Article shall be fully applied to such a separate act.

Article 78 - Natural gas balancing rules and imbalance charges

1. Natural gas balancing rules shall be designed in a fair, non-discriminatory and transparent manner and shall be based on objective criteria. Balancing rules shall reflect genuine system needs taking into account the resources available to the transmission system operator. Balancing rules shall be market-based.
2. Imbalance charges shall be cost-reflective to the extent possible, while providing appropriate balancing incentives to balance input and off-take of natural gas, and shall avoid cross-subsidies between natural gas system users or entry barriers to new system users.
3. The transmission system operator shall publish sufficient, well-timed, and reliable on-line information on the balancing status of natural gas system users that is necessary to enable system users to take timely corrective actions. The level of information provided shall reflect the level of information available to the transmission system operator. No charge shall be made for the provision of information under this paragraph.
4. The transmission system operator shall publish tariffs for the provision of natural gas balancing services.
5. The transmission system operator shall cooperate with transmission system operators of other Energy Community Parties with an aim to endeavour to harmonise balancing regimes in the natural gas system and streamline structures and levels of imbalance charges in order to facilitate trade in natural gas.

Article 79 - Principles of capacity-allocation mechanisms and congestion management procedures concerning the natural gas transmission system

1. The maximum capacity at all relevant points of the natural gas transmission system, including entry and exit points, shall be made available to natural gas market participants, taking into account system integrity and efficient network operation.
2. The transmission system operator shall implement and publish non-discriminatory and transparent capacity-allocation mechanisms, which shall:
 - 1) provide appropriate economic signals for the efficient and maximum use of technical capacity, facilitate investment in new natural gas infrastructure and facilitate cross-border exchanges in natural gas;
 - 2) be compatible with the market mechanisms including spot markets and trading hubs, while being flexible and capable of adapting to evolving natural gas market circumstances; and
 - 3) be compatible with the terms and conditions for the access to the systems of other Energy Community Parties.
3. The transmission system operator shall implement and publish non-discriminatory and transparent congestion-management procedures which facilitate cross-border exchanges in natural gas on a non-discriminatory basis and which shall be based on the following principles:
 - 1) in the event of contractual congestion, the transmission system operator shall offer unused capacity on the primary market at least on a day-ahead and interruptible basis; and
 - 2) natural gas system users who wish to re-sell or sublet their unused contracted capacity on the secondary market shall be entitled to do so, following notification of the transmission system operator to be provided by such system users under the terms and conditions stipulated in the Natural Gas Transmission Network Code.
4. In the event that physical congestion exists, non-discriminatory, transparent capacity-allocation mechanisms shall be applied by the transmission system operator or, as appropriate, by the Commission.
5. The transmission system operator shall regularly assess the natural gas market demand for new investment. When planning new investments, the transmission system operator shall assess the natural gas market demand and take into account security of natural gas supply.

**SECTION VI
DISTRIBUTION****Chapter XVI - Status, designation and unbundling of the distribution system operator****Article 80 - Status of the distribution system operator**

1. Distribution is an activity of public interest which encompasses the transport of electricity or natural gas on the distribution network, ensuring secure and reliable deliveries of electricity or natural gas for final consumption, as well as the operation, maintenance and development under economic conditions of the distribution network, and other related

activities necessary for the efficient functioning of and access to electricity and natural gas distribution systems of Georgia.

2. Distribution shall be carried out by the distribution system operator under the terms and conditions stipulated in this Law, as well as in line with other applicable laws and/or other legal acts regulating activities in the energy sector of Georgia.

3. The distribution system operator shall be organised as a specialised and independent energy undertaking with the status of a legal person incorporated under the laws of Georgia. While carrying its duties and fulfilling its tasks, the distribution system operator shall be independent from any other energy activities, namely production, transmission, supply and trade, and related commercial interests.

4. The distribution system operator shall not be entitled for sale and/or purchase of electricity or natural gas, except for in cases expressly referred to in this Law, including procurement of electricity or natural gas to cover the losses in the distribution network.

5. The distribution system operator shall be entitled to undertake its activities subject to its designation under the terms and conditions stipulated in Article 81 [*Designation of the DSO*] of this Law.

6. Independence of the distribution system operator shall be implemented and further on ensured through unbundling of the distribution system operator under the terms and conditions stipulated in Article 82 [*Unbundling of the DSO*] of this Law.

Article 81 - Designation of the distribution system operator

1. The distribution system operator shall be designated by the Commission by issuance of a license for the distribution under the terms and conditions stipulated in the Law of Georgia on Licenses and Permits in accordance with Chapter V [*Authorisation of energy activities*] of this Law.

2. License for the distribution may be issued only to a duly unbundled distribution system operator in accordance with Article 82 [*Unbundling of the TSO*] of this Law.

Article 82 - Unbundling of the distribution system operator

1. Where the distribution system operator is part of a vertically integrated undertaking, it shall be independent at least in terms of its legal form, organisation and decision making from other activities not relating to distribution.

2. The independence of the distribution system operator, as referred to in paragraph 1 of this Article, shall not create an obligation to separate the ownership of assets of the distribution system operator from the vertically integrated undertaking.

3. To guarantee the independence of the distribution system operator, as required under paragraph 1 of this Article, the following minimum criteria shall apply:

1) those persons responsible for the management of the distribution system operator must not participate in company structures of the integrated natural gas undertaking responsible, directly or indirectly, for the day-to-day operation of the production, transmission, supply or trade;

2) appropriate measures must be taken to ensure that the professional interests of the persons responsible for the management of the distribution system operator are taken into account in a manner that ensures that they are capable of acting independently; and

3) the distribution system operator must have effective decision-making rights, independent from the integrated natural gas undertaking, with respect to assets necessary to operate, maintain or develop the distribution network. In order to fulfil

those tasks, the distribution system operator shall have at its disposal the necessary resources including human, technical, physical and financial resources.

4. The independence of the distribution system operator shall not prevent the vertically integrated undertaking from approving the annual financial plan, or any equivalent instrument of the distribution system operator and setting global limits on the levels of its indebtedness.
5. The vertically integrated company shall not have the right to give instructions regarding day-to-day operations of the distribution system operator, nor with respect to individual decisions concerning the construction or upgrading of distribution lines, which are within the terms of the approved financial plan, or any equivalent instrument.
6. The distribution system operator must establish a compliance programme, which sets out measures taken to ensure that discriminatory conduct is excluded, and ensure that observance of it is adequately monitored. The compliance programme shall set out the specific obligations of employees to meet that objective.
7. An annual report, setting out the measures taken by the distribution system operator, shall be submitted by the person responsible for monitoring the compliance programme of the distribution system operator, *i.e.* by the compliance officer, to the Commission and shall be published on the website of the distribution system operator. The compliance officer shall be fully independent and shall have access to all the necessary information of the distribution system operator and any affiliated undertaking to fulfil its tasks.
8. The distribution system operator cannot take advantage of its vertical integration to distort competition. In particular, the distribution system operator shall not, in its communication and branding, create confusion in respect of the separate identity of the supply branch of the vertically integrated undertaking.
9. The Commission shall monitor the compliance of the distribution system operator with the requirements for its independence and unbundling stipulated by this Law.
10. The Ministry shall be entitled to take complementary measures regarding the organisation and independence of the distribution system operator, in order to guarantee its independence from other activities not related to distribution, as required under paragraph 1 of this Article.
11. The Ministry may decide, upon consultation with the Commission, that requirements of this Article shall not be applied to the distribution system operator, considering that the vertically integrated undertaking in question is serving less than 100 000 connected customers.

Article 83 - Combined operator

Requirements for independence of the distribution system operator, as required under paragraph 6 of Article 80 [*Status of the DSO*] of this Law, shall not prevent the operation of a combined transmission and distribution system operator and, as the case may be, natural gas storage operator and/or LNG system operator provided that such a combined operator complies with requirements for the independence and unbundling of the transmission system operator.

Chapter XVII - Tasks and responsibilities of the distribution system operator

Article 84 - Tasks of the distribution system operator

1. Distribution system operators shall be responsible for ensuring the long-term ability of the distribution system in their service area to meet reasonable demands for the distribution

of electricity or natural gas, and for operating, maintaining and developing under economic conditions a secure, reliable and efficient distribution system, with due regard for the environment and energy efficiency.

2. Distribution system operators shall provide reliable and efficient distribution related services in accordance with this Law, the applicable Distribution Network Code, license conditions and applicable technical rules as referred to in Article 108 [*Interoperability of systems and technical rules*] of this Law.

3. Distribution related services shall be provided to individual system users on the basis of service contracts concluded with the distribution system operator. Each distribution system operator shall prepare and, subject to the approval by the Commission, adopt standard contracts on provision of its services, in particular on connection to distribution network and on distribution services. Adopted standard contracts shall be published on the website of the distribution system operator.

4. Distribution system operators shall not discriminate between system users or different categories of system users, particularly in favour of their related undertakings.

5. Distribution system operators shall provide any other system operator, including transmission and distribution system operators, natural gas storage system operators and LNG system operators, with sufficient information to ensure that the transport of electricity or natural gas or, where relevant, storage of natural gas takes place in a manner compatible with the secure and efficient operation of interconnected systems.

6. Distribution system operators shall provide system users with detailed information in a meaningful, quantifiably clear and easily accessible way regarding services offered as well as conditions for such services and technical information necessary for system users to gain effective access to the system in consistency with confidential information exemptions approved by the Commission.

7. Where the distribution system operator is responsible for balancing the distribution system, rules adopted by it for that purpose shall be objective, transparent and non-discriminatory, including rules for the charging of system users for energy imbalance. Terms and conditions, including rules and tariffs, for the provision of such services by the distribution system operator shall be established pursuant to a methodology adopted by the Commission in a non-discriminatory and cost-reflective way and shall be published.

8. When planning the development of the distribution network, energy efficiency/demand-side management measures or distributed production that might supplant the need to upgrade or replace existing capacities shall be considered by the distribution system operator.

9. Distribution system operators shall procure the energy they use for carrying out of their functions according to transparent, non-discriminatory and market based procedures.

10. Distribution system operators shall carry out other duties and perform tasks assigned to their competence under the terms and conditions stipulated in this Law, other applicable laws and their implementing regulations.

Article 85 - Development of the distribution network and investment plan

1. Each distribution system operator shall establish a development and investment plan with a view to ensure the security, reliability, regularity and quality of the supply in the distribution network. Distribution system operators shall take account of environmental interests and of energy efficiency when adopting development and investment plans.

2. The development and investment plan shall be prepared in accordance with the applicable Transmission Network Code and system information published by transmission system operators as well as territorial planning documents related to physical planning.

3. The development and investment plan shall *inter alia* contain the following information:
 - 1) a detailed description of the existing distribution network infrastructure, of its current state and degree of utilisation, as well as of the major infrastructures which should be built during the years covered by the said plan;
 - 2) an estimation of the needs in capacity, including forecasted demand and supply;
 - 3) likely developments in production, including production from renewable energy sources, applied energy efficiency measures, possible development of smart meters, as well as imports;
 - 4) a detailed description of the means which should be called upon and of the investments which should be made to meet the estimated demand for electricity or natural gas, including, if necessary, construction of new distribution network segments and/or reinforcement of the existing network, the reinforcement or construction of interconnectors in order to ensure the proper connection to the distribution networks, as well as information on necessary investments which have already been decided upon, a detailed description of developments and investments which have been approved and which are to be carried out in the following three (3) years as well as the schedule for these projects;
 - 5) the quality objectives that are being pursued, especially regarding the duration of interruptions and the quality of services in the distribution network;
 - 6) the policy which is and shall be carried out in respect of environmental interests in respect of the envisaged developments to the distribution network and related facilities;
 - 7) the description of the maintenance policy which shall be pursued to guarantee the on-going efficiency, security and availability of the existing distribution network and related facilities;
 - 8) the list of urgency interventions carried out during the previous calendar year or, as the case may be, other defined period of time; and
 - 9) the results and implementation of studies on the deployment of smart networks and, when needed, of smart metering systems.
4. The development and investment plan shall be established by the distribution system operator for ten (10) years and adapted each year for the next ten (10) years. In practice the development and investment plan shall if possible contain indications relating to the short, medium and long-term perspective. The short-term planning shall cover a period of three (3) years, the medium-term a period of six (6) years and the long-term a period of ten (10) years.
5. The distribution system operator shall submit its proposal for the development and investment plan to the Commission for approval. The Commission may consult the concerned authorities, energy undertakings and the existing or potential system users and, in such case, shall publish the results of consultations. The Commission shall notably examine if the investments which are envisaged by the distribution system operator are sufficient to cover all the relevant needs which are put forward during the consultation process.
6. In case the Commission considers that the development and investment plan does not enable the distribution system operator to carry out its tasks and perform its duties, it shall request from the said distribution system operator that it remedies such a situation within a reasonable period of time determined by the Commission.
7. Once a year the distribution system operator shall, following the adoption of its development and investment plans, send extracts of the said plan to the transmission system operator in charge in order for it to develop and adopt the ten-year transmission network development plan for transmission capacities.

Article 86 - Delivery of data and information to the distribution system operator

1. Producers and final customers, facilities of whom are connected to the distribution network shall, at the request of the distribution system operator, deliver to the distribution system operator data and information required for the purpose of system operation, management and development, as required by this Law, the applicable Distribution Network Code and the rules on provision of information adopted by the Commission, *inter alia* the data and information:

- 1) on production/import and consumption characteristics, including the forecasted demand for electricity or natural gas, and other information necessary for effective operation and management of the system;
- 2) on deviations from the production development plans and investments plans;
- 3) required for realising the access to and the use of the distribution system;
- 4) required for the provision of system services;
- 5) required for monitoring the quality of supply in the distribution network; and
- 6) required for monitoring security of supply.

2. The distribution system operator shall exchange metering data and other necessary information with other operators of interconnected systems.

3. System users and market participants, even if not expressly referred in paragraph 1 of this Article, shall provide the distribution system operator with any other relevant data and information, which is necessary for carrying out the duties and performing the tasks of the distribution system operator, including those required for collection and aggregation of the respective system data.

Article 87 - Annual report of the distribution system operator

1. At the latest by the 1st of March each year, the distribution system operator shall issue the annual report on:

- 1) implementation of all the tasks and duties of the distribution system operator during the previous calendar year;
- 2) implementation of the Distribution Network Code during the previous calendar year;
- 3) losses in the distribution network during the previous calendar year, including results of the respective monitoring of the losses in the distribution network;
- 4) the quality of supply in the distribution network during the previous calendar year, including results of the respective monitoring of the continuity of supply, voltage/pressure quality and commercial quality in addition to other quality aspects defined by the Commission; and
- 5) the security of supply in the distribution network.

2. Annual report issued by the distribution system operator, as referred to in paragraph 1 of this Article, shall be approved by the Commission and published on the website of the distribution system operator.

3. Based on the annual report issued by the distribution system operator, the Commission may request the distribution system operator and/or, where appropriate, other energy undertakings to implement certain measures aimed at:

- 1) ensuring the principles of transparency, objectivity and non-discrimination;
- 2) ensuring normal operation and management of the distribution system;

- 3) reducing losses in the distribution network;
 - 4) improving the quality of supply; and/or
 - 5) improving the security of supply of natural gas.
4. The distribution system operator shall submit its annual report, subject to a prior approval of the Commission, to the Ministry, which shall then prepare its own annual report on the state of the security of supply and the expected demand for electricity and natural gas in Georgia.

Chapter XVIII - Operation and management of the distribution system

Article 88 - Third party access to the distribution system

1. The distribution system operator shall provide system users with a non-discriminatory and unrestricted access to the distribution system in line with the terms and conditions laid down in the applicable Distribution Network Code. Charges for access to the distribution system shall be based on tariffs set by the Commission as calculated under its adopted methodology.
2. With regard to the access to the distribution network, the distribution system operator shall not, in any case, discriminate between system users or categories of system users, particularly in favour of its related undertakings.
3. Where the distribution system operator offers the same service to different system users, it shall do so under equivalent contractual terms and conditions, either using harmonised distribution service contracts and/or pursuant to the applicable Distribution Network Code.
4. The distribution system operator, when dispatching the production facilities, may give priority to the facilities using renewable energy sources or to other promoted production facilities under the terms and conditions stipulated in applicable legal acts.

Article 89 - Refusal of access to the distribution system

1. The distribution system operator may fully or partially refuse access to the distribution system on the basis of lack of capacity or connection, or where the access to the system would prevent the distribution system operator from providing its public services as regulated by this Law, or in cases where public health or safety is threatened.
2. Apart from conditions referred to in paragraph 1 of this Article, the distribution system operator for natural gas may also fully or partially refuse access to the natural gas distribution system on the basis of serious economic and financial difficulties with take-or-pay contracts that have been effective before the request for access to the distribution system was received in accordance with Article 142 [*Derogations in relation to take-or-pay commitments*] of this Law.
3. Duly substantiated reasons shall be given by the distribution system operator for any refusal of access, including the time period of refused access and measures that would be necessary to remove the stated reasons. Each system user whose request for access to the distribution system was refused shall be provided with such reasons in a written form together with the evidence based on objective, non-discriminatory, technically and economically justified criteria, as to be prepared and submitted by the distribution system operator without any undue delay and, in any case, not later than in five (5) business days after receiving the request for access.

4. The distribution system operator, if refusing access to the distribution system on the basis of lack of capacity or a lack of connection, shall make the necessary enhancements as far as it is economic to do so or when a potential customer is willing to pay for such enhancements.
5. The Commission shall ensure, where appropriate, that the distribution system operator provides relevant information on measures that would be necessary to enhance the distribution system as referred to in paragraph 4 of this Article. The party requesting for information may be charged a reasonable fee reflecting the cost of providing such information.
6. To manage access to the distribution system, the distribution system operator shall keep a register of access points, including points of delivery and receipt, identified by a specific number and providing all the necessary data for the management of access, including the status of access points as activated or deactivated, the identity of the supplier which is considered as the holder of the access point and of its related client. The data contained in the register shall be used for the invoicing of suppliers for the compensation of the system use and services related to the access to the system.
7. A system user whose access to the distribution system has been refused or is unsatisfied with conditions of its access to the system may file a complaint with Commission as referred to in Article 173 [*Dispute settlement*] of this Law.

Article 90 - Connection to the distribution network

1. The distribution system operator shall ensure the connection of electricity or natural gas facilities to the distribution network in line with the terms and conditions laid down in the applicable Distribution Network Code. Charges for connection to the distribution network shall be set by the Commission as calculated under its adopted methodology.
2. Connection of any facilities or equipment to the distribution network without an express approval by the distribution system operator and/or without due compliance with the technical conditions issued by the distribution system operator shall be prohibited.
3. The distribution system operator shall not be entitled to refuse the connection of a new facility on the grounds of possible future limitations to available capacities, such as congestion in distant parts of the distribution network, except for in cases where such connection would threaten the security or reliability of the distribution network or of the overall electricity or natural gas system based on duly justified technical criteria indicated and proved by the distribution system operator. The distribution system operator shall provide necessary information thereon to a person concerned, including conditions for necessary developments and/or other technical solutions reasonably required for connection.
4. The connection point shall be defined by the distribution system operator following relevant published technical criteria and based on a solution which is, *ceteris paribus*, economically or commercially most viable from the aspect of a person who applies for connection of its facilities.
5. The distribution system operator shall not be entitled to refuse a new connection point on the ground that it will lead to additional costs linked with necessary capacity increase of network elements in the close-up range to the connection point.
6. The distribution system operator, in case of connection of a respective facility to the distribution network, shall be responsible for the construction of connecting installations at the connection point, unless it is otherwise expressly provided by the applicable Distribution Network Code, and shall ensure that all technical requirements regarding the distribution network are properly met.
7. A person whose request for the connection of its electricity or natural gas facilities to the distribution network has been refused or who is unsatisfied with the conditions for the

connection issued by the distribution system operator may file a complaint with Commission as referred to in Article 173 [*Dispute settlement*] of this Law.

Article 91 - Access to metering points and devices

1. Producers and customers shall be obliged to provide authorised representatives of the distribution system operator with unhindered access to the metering devices, structures and equipment owned by themselves or by the distribution system operator which are located on the property of the producer or customer, for the purposes of reading, testing, monitoring, checking accuracy, removal of damages, dislocation and replacement of metering devices and, when necessary, interruption or termination of the delivery of electricity or natural gas. Producers and customers shall protect metering devices which are located on their property from any form of unauthorised access.
2. The distribution system operator may take over ownership of the metering devices referred to in paragraph 1 of this Article, which are owned by the producer or customer, when the existing producer or customer makes such an offer in accordance with the applicable Distribution Network Code. If so, the distribution system operator shall be responsible for the maintenance, replacement and verification of the metering devices as from the day on which the ownership of such device is transferred to the distribution system operator in accordance with the applicable Distribution Network Code.
3. If the existing producer or customer, having invested in the connection and metering point, does not wish to transfer ownership of the connection and metering point to the distribution system operator, such producer or customer shall:
 - 1) bear the costs of regular and investment maintenance of its connection;
 - 2) bear the costs of maintenance and calibration of the metering devices; and
 - 3) seek in writing an intervention to eliminate any failure on the connection and cover the costs of necessary repairs.
4. The distribution system operator shall perform maintenance of the connection and metering point referred to in paragraph 3 of this Article.

Article 92 - Distribution Network Code

1. The operation and management of the distribution network shall be regulated by the Distribution Network Code.
2. Each distribution system operator for electricity shall develop its Electricity Distribution Network Code and each distribution system operator for natural gas shall develop its Natural Gas Distribution Network Code in accordance with this Article.
3. The Distribution Network Code shall establish:
 - 1) technical and other prerequisites for safe operation of the distribution network aiming at secure and reliable transport of electricity or natural gas in compliance with prescribed quality requirements;
 - 2) procedures for operating the distribution network under normal network operation regime and operation under extraordinary conditions, operation under fault conditions, events of force majeure and other cases of disturbed operation;
 - 3) procedure, terms and conditions for granting third party access to the distribution system, including third-party access services provided by the distribution system operator, in accordance with Article 88 [*TPA to the distribution system*] of this Law;
 - 4) procedure, terms and conditions for the connection to the distribution network in accordance with Article 89 [*Connection to the distribution network*] of this Law;

- a) technical and other prerequisites for the connection to the distribution network, including safety requirements;
 - b) method of the electricity or natural gas metering, and functional requirements and accuracy class of metering equipment;
 - c) ownership of metering equipment at the connection point or other determined accounting metering point; and
 - d) rights and obligations of the distribution system operator and system users related to connections to the distribution network;
- 5) terms and conditions for dispatching, including services provided by the distribution system operator thereto, in cases where the distribution system operator is in charge for dispatching of production facilities connected to its network;
 - 6) criteria for and method of the procurement of ancillary services and provision of system services;
 - 7) criteria for planning the operation and development of the distribution network;
 - 8) procedure, terms and conditions for measuring capacities and delivered electricity or natural gas to and transported through the distribution network;
 - 9) terms and conditions for the implementation of procedures for interruptions of electricity or natural gas deliveries through the distribution network;
 - 10) rights and obligations of system users related to the operation and management of the distribution network;
 - 11) general terms and conditions for the provision of distribution related services, including for relevant contractual relations with regard to connection to the distribution network (pursuant to standard contract on connection) and distribution of electricity or natural gas (pursuant to standard contract on distribution services);
 - 12) terms and conditions for the settlement of disputes arising from distribution contracts and from other relations with regard to access and connection to and use of the distribution network;
 - 13) method of publication of data and information possessed by the distribution system operator necessary for the operation and management of relevant systems and for organising relevant markets, including definition of all relevant points and time schedule of publications;
 - 14) methods of data and information exchange with other system operators of interconnected systems;
 - 15) requirements for the submission of data and information to the distribution system operator necessary for the operation and management of the distribution network in accordance with Article 86 [*Delivery of data and information to the DSO*] of this Law;
 - 16) measures aimed at energy efficiency and security of electricity or natural gas supply within the competence of the distribution system operator;
 - 17) other terms and conditions relevant for the operation and management of the distribution network.
4. The Distribution Network Code shall be adopted by the distribution system operator, subject to its prior approval by the Commission. In the process of adoption of the Distribution Network Code, the distribution system operator shall ensure appropriate participation of and consultations with all interested parties. The distribution system operator shall harmonise the Distribution Network Code with applicable Transmission Network Codes and the rules on the quality of electricity or natural gas supply adopted by the Commission.

5. The Distribution Network Code shall be published in the Legislative Herald of Georgia and on the website of the distribution system operator.
6. Without prejudice to paragraphs 1 and 2 of this Article, any item referred to in paragraph 3 of this Article, in cases where deemed necessary by the distribution system operator and subject to its justification, may be excluded from the Distribution Network Code and therefore elaborated and adopted as a separate act (rules or regulation). Requirements laid down in paragraphs 4 and 5 of this Article shall be fully applied to such a separate act.

Article 93 - Closed distribution systems

1. The Commission may classify a system which distributes electricity or natural gas within a geographically confined industrial, commercial or shared services site in Georgia and does not, without prejudice to provisions of paragraph 4 of this Article, supply household customers, as a closed distribution system if:
 - 1) for specific technical or safety reasons, the operations or the production process of the users of that network are integrated; or
 - 2) that system distributes electricity or natural gas primarily to the owner or operator of the system or their related undertakings.
2. The Commission may exempt the operator of a closed distribution system from:
 - 1) the requirement to procure electricity or natural gas it uses to cover losses in the network and the reserve capacity in its system according to transparent, non-discriminatory and market based procedures; and
 - 2) the requirement that tariffs and fees, or the methodologies underlying their calculation, are approved prior to their entry into force in accordance with the competence and jurisdictional powers of the Commission.
3. Where an exemption is granted under paragraph 2 of this Article, the applicable tariffs and fees, or the methodologies underlying their calculation, shall be reviewed and approved in accordance with the competence and jurisdictional powers of the Commission, upon request by a user of such a network.
4. Incidental use by a small number of households with employment or similar associations with the owner of the closed distribution system and located within an area served by a closed distribution system shall not preclude an exemption under paragraph 2 of this Article from being granted.

SECTION VII STORAGE OF NATURAL GAS

Chapter XIX - Designation and unbundling of the natural gas storage system operator

Article 94 - Designation of the natural gas storage system operator

1. Storage of natural gas shall be carried out by the natural gas storage system operator under the terms and conditions stipulated in this Law, as well as in line with other applicable laws and/or other legal acts regulating activities in the energy sector of Georgia.
2. A natural gas undertaking which owns a natural gas storage facility shall be designated by the Commission as a natural gas storage system operator by issuance of a license for the storage of natural gas under the terms and conditions stipulated in the Law of Georgia on

Licenses and Permits in accordance with Chapter V [*Authorisation of energy activities*] of this Law.

3. License for the storage of natural gas may be issued only to a duly unbundled natural gas storage system operator in accordance with Article 95 [*Unbundling of the natural gas SSO*] of this Law.
4. Considering the efficiency and economic balance, one or more natural gas storage system operators may be designated.

Article 95 - Unbundling of the natural gas storage system operator

1. The natural gas storage system operator which is part of a vertically integrated undertaking shall be independent at least in terms of its legal form, organisation and decision making from other activities not relating to transmission, distribution and storage.
2. In order to ensure independence of the natural gas storage system operator referred to in paragraph 1 of this Article, the following minimum criteria shall apply:
 - 1) persons responsible for the management of the natural gas storage system operator shall not participate in company structures of the integrated natural gas undertaking responsible, directly or indirectly, for the day-to-day operation of the production and supply of natural gas;
 - 2) appropriate measures shall be taken to ensure that the professional interests of persons responsible for the management of the natural gas storage system operator are taken into account in a manner that ensures that they are capable of acting independently;
 - 3) the natural gas storage system operator shall have effective decision-making rights independent from the integrated natural gas undertaking, with respect to assets necessary to operate, maintain or develop the storage facilities. This shall not preclude the existence of appropriate coordination mechanisms to ensure that the economic and management supervision rights of the parent company in respect of return on assets in the natural gas storage system operator are protected. In particular, this shall enable the parent company to approve the annual financial plan, or any equivalent instrument, of the natural gas storage system operator and to set global limits on the levels of its indebtedness. It shall not permit the parent company to give instructions regarding day-to-day operations, nor with respect to individual decisions concerning the construction or upgrading of natural gas storage facilities, that do not exceed the terms of the approved financial plan, or any equivalent instrument; and
 - 4) the natural gas storage system operator shall establish a compliance programme, which sets out measures taken to ensure that discriminatory conduct is excluded, and ensure that observance of it is adequately monitored. The compliance programme shall set out the specific obligations of employees to meet that objective. An annual report, setting out the measures taken, shall be submitted by the person or body responsible for monitoring the compliance programme to the Commission and shall be published.
3. This Article shall apply only to natural gas storage facilities that are technically and/or economically necessary for providing efficient access to the natural gas system for the supply of customers pursuant to Article 98 [*Organisation of access to natural gas storage facilities and linepack*] of this Law.

Chapter XX - Tasks and responsibilities of the natural gas storage system operator

Article 96 - Tasks of the natural gas storage system operator

1. Natural gas storage system operators shall operate, maintain and develop under economic conditions secure, reliable and efficient natural gas storage facilities to secure an open market, with due regard to the environment, ensure adequate means to meet service obligations.
2. Natural gas storage system operators shall provide reliable and efficient natural gas storage services in accordance with this Law, the applicable Natural Gas Storage Code, license conditions and applicable technical rules as referred to in Article 108 [*Interoperability of systems and technical rules*] of this Law.
3. Natural gas storage system operators shall:
 - 1) refrain from discriminating between system users or different categories of system users, particularly in favour of its related undertakings;
 - 2) provide any other natural gas system operator sufficient information to ensure that the transport and storage of natural gas may take place in a manner compatible with the secure and efficient operation of the interconnected system;
 - 3) provide system users with the information they need for efficient access to natural gas storage facilities;
 - 4) keep at the disposal of the national authorities, including the Commission and the Competition Agency, and of the Energy Community Secretariat all information referred to in Article 97 [*Transparency requirements concerning natural gas storage facilities*] of this Law for a period of five (5) years;
 - 5) take reasonable steps to allow capacity rights to be freely tradable and to facilitate such trade in a transparent and non-discriminatory manner; and
 - 6) develop harmonised natural gas storage facility contracts and procedures on the primary market to facilitate secondary trade of capacity and recognise the transfer of primary capacity rights where notified by system users. These harmonised contracts and procedures shall be notified to the Commission.

Article 97 - Transparency requirements concerning natural gas storage facilities

1. The natural gas storage system operator shall publish detailed information regarding the services it offers and the relevant conditions applied, together with the technical information necessary for system users to gain effective access to natural gas storage facilities.
2. For the services provided, the natural gas storage system operator shall publish information on contracted and available natural gas storage capacities on a numerical basis on a regular and rolling basis and in a user-friendly standardised manner.
3. The natural gas storage system operator shall always disclose the information required by this Law and other applicable legal acts in a meaningful, quantifiably clear and easily accessible way and on a non-discriminatory basis.
4. The natural gas storage system operator shall publish the amount of natural gas in each natural gas storage facility, or group of facilities, if that corresponds to the way in which the access is offered to system users, inflows and outflows, and available capacities, including for those facilities exempted from third-party access. That information shall also be communicated to the transmission system operator for natural gas, which shall publish it on

an aggregated level per system or subsystem defined by the relevant points. The information shall be updated at least on daily basis.

5. In cases in which a system user is the only user of a natural gas storage facility, such system user may submit to the Commission a reasoned request for confidential treatment of the data referred to in paragraph 4 of this Article. Where the Commission comes to the conclusion that such a request is justified, taking into account, in particular, the need to balance the interest of legitimate protection of business secrets, the disclosure of which would negatively affect the overall commercial strategy of the system user, with the objective of creating a competitive internal natural gas market, it may allow the natural gas storage system operator not to publish the data referred to in paragraph 4 of this Article, for a duration of up to one (1) year.

6. Paragraph 5 of this Article shall apply without prejudice to the obligations of communication to and publication by the transmission system operator for natural gas referred to in paragraph 4, unless the aggregated data are identical to the individual natural gas storage system data for which the Commission has approved non-publication.

7. In order to ensure transparent, objective and non-discriminatory tariffs and facilitate efficient utilisation of the infrastructures, the natural gas storage system operator shall publish sufficiently detailed information on tariff derivation, the methodologies and the structure of tariffs for infrastructure under regulated third-party access.

Chapter XXI - Operation and management of natural gas storage facilities

Article 98 - Organisation of access to natural gas storage facilities and linepack

1. For the organisation of access to natural gas storage facilities and linepack when technically and/or economically necessary for providing efficient access to the system for the supply of customers, as well as for the organisation of access to ancillary services, the procedure of negotiated and/or regulated access shall be applied.

2. The Commission shall define and publish criteria according to which the access procedure applicable to natural gas storage facilities and linepack may be determined. Those procedures shall be applied in accordance with objective, transparent and non-discriminatory criteria.

3. The natural gas storage system operator shall publish which natural gas storage facilities or which parts of natural gas storage facilities are offered, as well as the transmission system operator for natural gas shall publish which linepack is offered under the different access procedures.

4. In the case of negotiated access, the Commission shall take the necessary measures for natural gas undertakings and eligible customers either inside or outside the territory covered by the interconnected system to be able to negotiate access to natural gas storage facilities and linepack, when technically and/or economically necessary for providing efficient access to the system, as well as for the organisation of access to other ancillary services. The parties shall be obliged to negotiate access to natural gas storage, linepack and other ancillary services in good faith.

5. Contracts for access to natural gas storage, linepack and other ancillary services shall be negotiated with the relevant natural gas storage system operator or natural gas undertakings. The natural gas storage system operator and natural gas undertakings shall publish and continuously update, when necessary, but at least on annual basis, their main commercial conditions for the use of natural gas storage, linepack and other ancillary services. When developing their commercial conditions referred to hereinabove, the natural gas storage system operator and natural gas undertakings shall consult system users.

6. In the case of regulated access, the Commission shall take the necessary measures to give natural gas undertakings and eligible customers either inside or outside the territory covered by the interconnected system a right to access to natural gas storage, linepack and other ancillary services, on the basis of published tariffs and/or other terms and obligations for use of that natural gas storage and linepack, when technically and/or economically necessary for providing efficient access to the system, as well as for the organisation of access to other ancillary services. The Commission shall consult system users when calculating those tariffs or developing the methodologies used to calculate those tariffs. The right of access for eligible customers may be given by enabling them to enter into supply contracts with competing natural gas undertakings other than the owner and/or operator of the system or a related undertaking.

Article 99 - Third-party access services concerning natural gas storage facilities

1. The natural gas storage system operator shall:
 - 1) offer services on a non-discriminatory basis to all system users that accommodate market demand. In particular, where the natural gas storage system operator offers the same service to different customers, it shall do so under equivalent contractual terms and conditions;
 - 2) offer services that are compatible with the use of the interconnected natural gas transmission systems and facilitate access through cooperation with the transmission system operator for natural gas;
 - 3) publish relevant information, in particular data on the use and availability of services, in a time-frame compatible with reasonable commercial needs of system users, subject to the monitoring of such publication by the Commission;
 - 4) provide both firm and interruptible third-party access services. The price of interruptible capacity shall reflect the probability of interruption;
 - 5) offer to system users both long and short-term services; and
 - 6) offer to system users both bundled and unbundled services of natural gas storage space, injectability and deliverability.
2. Natural gas storage facility contracts shall not result in arbitrarily higher tariffs in cases in which they are signed:
 - 1) outside a natural gas year with non-standard start dates; or
 - 2) with a shorter duration than a standard natural gas storage facility contract on an annual basis.
3. Contractual limits on the required minimum size of natural gas storage capacity shall be justified on the basis of technical constraints and shall permit smaller system users to gain access to natural gas storage services.
4. Where appropriate, third-party access services may be granted subject to appropriate guarantees from system users with respect to the creditworthiness of such users. Such guarantees shall not constitute undue market-entry barriers and shall be non-discriminatory, transparent and proportionate.
5. The natural gas storage system operator may refuse access to natural gas storage facilities, *mutatis mutandis*, under the terms and conditions stipulated in Article 75 [*Refusal of access to the natural gas transmission system*] of this Law.

Article 100 - Natural Gas Storage Code

1. The operation and management of natural gas storage facilities shall be regulated by the Natural Gas Storage Code.
2. The Natural Gas Storage Code shall establish:
 - 1) technical parameters of the natural gas storage facility or facilities;
 - 2) technical and other prerequisites for safe operation of natural gas storage facilities aiming at secure and reliable provision of natural gas storage services in compliance with prescribed quality requirements;
 - 3) procedure, terms and conditions for granting third-party access to natural gas storage facilities, including third-party access services provided by the natural gas storage system operator, in accordance with Articles 98 [*Organisation of access to natural gas storage facilities and linepack*] and 99 [*TPA services concerning natural gas storage facilities*] of this Law;
 - 4) capacity-allocation mechanisms and congestion management procedures in accordance with Article 101 [*Principles of CA mechanisms and CM procedures concerning natural gas storage facilities*] of this Law;
 - 5) procedure, terms and conditions for measuring capacities of natural gas storage facilities and for measuring natural gas injected to and delivered from natural gas storage facilities;
 - 6) criteria for planning the operation and, where relevant, development of natural gas storage facilities and related natural gas infrastructure;
 - 7) rights and obligations of system users related to the use of natural gas storage facilities;
 - 8) general terms and conditions for the provision of natural gas storage services;
 - 9) terms and conditions for the settlement of disputes arising from natural gas storage contracts and from other relations with regard to access and use of natural gas storage facilities;
 - 10) method of publication of data and information possessed by the natural gas storage system operator necessary for the operation and management of the natural gas system and for organising the natural gas market, including definition of all relevant points and time schedule of publications;
 - 11) methods of data and information exchange with other system operators of interconnected systems;
 - 12) measures aimed at energy efficiency and security of natural gas supply within the competence of the natural gas storage system operator;
 - 13) other terms and conditions relevant for the operation and management of natural gas storage facilities.
3. The Natural Gas Storage Code shall be adopted by the natural gas storage system operator, subject to its prior approval by the Commission. In the process of adoption of the Natural Gas Storage Code, the natural gas storage system operator shall ensure appropriate participation of and consultations with all interested parties.
4. The Natural Gas Storage Code shall be published on the website of the natural gas storage system operator.
5. Without prejudice to paragraph 1 of this Article, any item referred to in paragraph 2 of this Article, in cases where deemed necessary by the natural gas storage system operator and subject to its justification, may be excluded from the Natural Gas Storage Code and

therefore elaborated and adopted as a separate act (rules or regulation). Requirements laid down in paragraphs 3 and 4 of this Article shall be fully applied to such a separate act.

Article 101 - Principles of capacity-allocation mechanisms and congestion management procedures concerning natural gas storage facilities

1. The maximum natural gas storage capacity shall be made available to natural gas market participants, taking into account system integrity and operation.
2. The natural gas storage system operator shall implement and publish non-discriminatory and transparent capacity-allocation mechanisms which shall:
 - 1) provide appropriate economic signals for the efficient and maximum use of capacity and facilitate investment in new infrastructure;
 - 2) be compatible with the market mechanism including spot markets and trading hubs, while being flexible and capable of adapting to evolving market circumstances; and
 - 3) be compatible with the terms and conditions for the access to the system to which the natural gas storage facility is connected.
3. Natural gas storage facility contracts shall include measures to prevent capacity-hoarding, by taking into account the following principles, which shall apply in cases of contractual congestion:
 - 1) the natural gas storage system operator must offer unused natural gas storage capacity on the primary market without delay;
 - 2) system users who wish to re-sell their contracted capacity on the secondary market must be entitled to do so.
4. For the purposes of subparagraph 1 of paragraph 3 of this Article, respective offer by the natural gas storage system operator shall be realised at least on a day-ahead and interruptible basis.

SECTION VIII LNG

Chapter XXII - Designation, tasks and responsibilities of the LNG system operator

Article 102 - Designation of the LNG system operator

1. LNG activities shall be carried out by the LNG system operator under the terms and conditions stipulated in this Law, as well as in line with other applicable laws and/or other legal acts regulating activities in the energy sector of Georgia.
2. A natural gas undertaking which owns an LNG facility shall be designated by the Commission as an LNG system operator by issuance of a license for the operation of LNG facilities under the terms and conditions stipulated in the Law of Georgia on Licenses and Permits in accordance with Chapter V [*Authorisation of energy activities*] of this Law.

Article 103 - Tasks of the LNG system operator

1. LNG system operators shall operate, maintain and develop under economic conditions secure, reliable and efficient LNG facilities to secure an open market, with due regard to the environment, ensure adequate means to meet service obligations.

2. LNG system operators shall provide reliable and efficient LNG facility services, which may include liquefaction of natural gas and/or the importation, offloading and re-gasification of LNG as well as related ancillary services and temporary storage necessary for the re-gasification process, in accordance with this Law, the applicable LNG Code, license conditions and applicable technical rules as referred to in Article 108 [*Interoperability of systems and technical rules*] of this Law.
3. LNG system operators shall:
 - 1) refrain from discriminating between system users or different categories of system users, particularly in favour of its related undertakings;
 - 2) provide any other natural gas system operator sufficient information to ensure that the transport and storage of natural gas may take place in a manner compatible with the secure and efficient operation of the interconnected system;
 - 3) provide system users with the information they need for efficient access to LNG facilities;
 - 4) keep at the disposal of the national authorities, including the Commission and the Competition Agency, and of the Energy Community Secretariat all information referred to in Article 104 [*Transparency requirements concerning LNG facilities*] of this Law for a period of five (5) years;
 - 5) take reasonable steps to allow capacity rights to be freely tradable and to facilitate such trade in a transparent and non-discriminatory manner; and
 - 6) develop harmonised LNG facility contracts and procedures on the primary market to facilitate secondary trade of capacity and recognise the transfer of primary capacity rights where notified by system users. These harmonised contracts and procedures shall be notified to the Commission.

Article 104 - Transparency requirements concerning LNG facilities

1. The LNG system operator shall publish detailed information regarding the services it offers and the relevant conditions applied, together with the technical information necessary for system users to gain effective access to LNG facilities.
2. For the services provided, the LNG system operator shall publish information on contracted and available LNG facility capacities on a numerical basis on a regular and rolling basis and in a user-friendly standardised manner.
3. The LNG system operator shall always disclose the information required by this Law and other applicable legal acts in a meaningful, quantifiably clear and easily accessible way and on a non-discriminatory basis.
4. The LNG system operator shall publish the amount of natural gas in each LNG facility, or group of facilities, if that corresponds to the way in which the access is offered to system users, inflows and outflows, and available capacities, including for those facilities exempted from third-party access. That information shall also be communicated to the transmission system operator for natural gas, which shall publish it on an aggregated level per system or subsystem defined by the relevant points. The information shall be updated at least daily.
5. In order to ensure transparent, objective and non-discriminatory tariffs and facilitate efficient utilisation of the infrastructures, the LNG system operator shall publish sufficiently detailed information on tariff derivation, the methodologies and the structure of tariffs for infrastructure under regulated third-party access.

Chapter XXIII - Operation and management of LNG facilities

Article 105 - Third-party access services concerning LNG facilities

1. The LNG system operator shall:
 - 1) offer services on a non-discriminatory basis to all system users that accommodate market demand. In particular, where the LNG system operator offers the same service to different customers, it shall do so under equivalent contractual terms and conditions;
 - 2) offer services that are compatible with the use of the interconnected natural gas transmission systems and facilitate access through cooperation with the transmission system operator for natural gas; and
 - 3) publish relevant information, in particular data on the use and availability of services, in a time-frame compatible with reasonable commercial needs of system users, subject to the monitoring of such publication by the Commission.
2. LNG facility contracts shall not result in arbitrarily higher tariffs in cases in which they are signed:
 - 1) outside a natural gas year with non-standard start dates; or
 - 2) with a shorter duration than a standard LNG facility contract on an annual basis.
3. Contractual limits on the required minimum size of LNG facility capacity shall be justified on the basis of technical constraints and shall permit smaller system users to gain access to LNG services.
4. Where appropriate, third-party access services may be granted subject to appropriate guarantees from system users with respect to the creditworthiness of such users. Such guarantees shall not constitute undue market-entry barriers and shall be non-discriminatory, transparent and proportionate.
5. The LNG system operator may refuse access to LNG facilities, *mutatis mutandis*, under the terms and conditions stipulated in Article 75 [*Refusal of access to the natural gas transmission system*] of this Law.

Article 106 - LNG Code

1. The operation and management of LNG facilities shall be regulated by the LNG Code.
2. The LNG Code shall establish:
 - 1) technical parameters of the LNG facility or facilities;
 - 2) technical and other prerequisites for safe operation of LNG facilities aiming at secure and reliable provision of LNG services in compliance with prescribed quality requirements;
 - 3) procedure, terms and conditions for granting third-party access to LNG facilities, including third-party access services provided by the LNG system operator, in accordance with Article 105 [*TPA services concerning LNG facilities*] of this Law;
 - 4) capacity-allocation mechanisms and congestion management procedures in accordance with Article 107 [*Principles of CA mechanisms and CM procedures concerning LNG facilities*] of this Law;

- 5) procedure, terms and conditions for measuring capacities of LNG facilities and for measuring natural gas delivered/loaded to and delivered/unloaded from LNG facilities;
 - 6) criteria for planning the operation and, where relevant, development of LNG facilities and related natural gas infrastructure;
 - 7) rights and obligations of system users related to the use of LNG facilities;
 - 8) general terms and conditions for the provision of LNG services;
 - 9) terms and conditions for the settlement of disputes arising from LNG facility contracts and from other relations with regard to access and use of LNG facilities;
 - 10) method of publication of data and information possessed by the LNG system operator necessary for the operation and management of the natural gas system and for organising the natural gas market, including definition of all relevant points and time schedule of publications;
 - 11) methods of data and information exchange with other system operators of interconnected systems;
 - 12) measures aimed at energy efficiency and security of natural gas supply within the competence of the LNG system operator;
 - 13) other terms and conditions relevant for the operation and management of LNG facilities.
3. The LNG Code shall be adopted by the LNG system operator, subject to its prior approval by the Commission. In the process of adoption of the LNG Code, the LNG system operator shall ensure appropriate participation of and consultations with all interested parties.
4. The LNG Code shall be published on the website of the LNG system operator.
5. Without prejudice to paragraph 1 of this Article, any item referred to in paragraph 2 of this Article, in cases where deemed necessary by the LNG system operator and subject to its justification, may be excluded from the LNG Code and therefore elaborated and adopted as a separate act (rules or regulation). Requirements laid down in paragraphs 3 and 4 of this Article shall be fully applied to such a separate act.

Article 107 - Principles of capacity-allocation mechanisms and congestion management procedures concerning LNG facilities

1. The maximum LNG facility capacity shall be made available to natural gas market participants, taking into account system integrity and operation.
2. The LNG system operator shall implement and publish non-discriminatory and transparent capacity-allocation mechanisms which shall:
 - 1) provide appropriate economic signals for the efficient and maximum use of capacity and facilitate investment in new infrastructure;
 - 2) be compatible with the market mechanism including spot markets and trading hubs, while being flexible and capable of adapting to evolving market circumstances; and
 - 3) be compatible with the terms and conditions for the access to the system to which the LNG facility is connected.
3. LNG facility contracts shall include measures to prevent capacity-hoarding, by taking into account the following principles, which shall apply in cases of contractual congestion:
 - 1) the LNG system operator must offer unused LNG facility capacity on the primary market without delay;

- 2) system users who wish to re-sell their contracted capacity on the secondary market must be entitled to do so.
4. For the purposes of subparagraph 1 of paragraph 3 of this Article, respective offer by the LNG system operator shall be realised at least on a day-ahead and interruptible basis.

SECTION IX SYSTEM INTEROPERABILITY AND NEW INFRASTRUCTURE

Chapter XXIV - System interoperability

Article 108 - Interoperability of systems and technical rules

1. Rules establishing technical requirements for energy facilities and equipment shall, in accordance with the criteria of objectivity and non-discrimination, lay down harmonised terms and conditions for construction, operation and safety of respective facilities and equipment used for the generation, transmission and distribution of electricity and for the production, transmission, distribution and storage of natural gas and LNG operations, including required technical standards, minimum technical design and operational requirements.
2. Energy facilities and equipment referred to in paragraph 1 of this Article as well as interconnectors and direct lines shall comply with respective technical rules so as to ensure the compatibility and interoperability of systems.
3. For the purpose of this Article, respective technical rules for energy facilities and equipment shall be adopted by the Ministry. The Ministry shall endeavour to apply the technical safety standards and regulations of the European Union.

Article 109 - Direct lines

1. Direct lines, subject to a prior authorisation by the Commission, may be constructed in the following cases:
 - 1) direct electricity line – where an electricity producer holding a license for the generation of electricity and a customer plan to conclude an electricity supply contract, but cannot gain access to the electricity transmission or distribution network; or
 - 2) direct natural gas line – where a natural gas undertaking and a customer plan to conclude a natural gas supply contract, but cannot gain access to the natural gas transmission or distribution network.
2. The Commission shall establish objective and non-discriminatory criteria for issuance of the authorisation for construction and operation of direct lines. Energy undertakings referred to in paragraph 1 of this Article shall by using a direct line be able to supply with electricity their own business premises, subsidiaries and customers.
3. The possibility of supplying electricity or natural gas through a direct line shall not affect the possibility of contracting electricity or natural gas on the basis of bilateral contracts or on the organised electricity or natural gas market of Georgia under the terms and conditions stipulated in this Law.
4. The Commission may issue an authorisation to construct a direct line subject either to the prior refusal of access to the transmission system pursuant to Articles 66 [*Refusal of access to the electricity transmission system*] or 75 [*Refusal of access to the natural gas transmission system*] of this Law, or refusal of access to the distribution system pursuant to

Article 89 [*Refusal of access to the distribution system*] of this Law, or the opening of a dispute settlement procedure under Article 173 [*Dispute settlement*] of this Law.

5. The Commission shall be authorised to refuse granting an authorisation to construct a direct line if such an authorisation would obstruct implementation of the provisions on public service obligations, including protection of final customers. Duly substantiated reasons shall be given in writing by the Commission for such refusal.

Article 110 - Access to upstream pipeline networks

1. Apart from other requirements for third-party access to natural gas systems stipulated in this Law, necessary measures shall be ensured that natural gas undertakings and eligible customers, wherever they are located, are able to obtain access to upstream pipeline networks, including facilities supplying technical services incidental to such access, except for the parts of such networks and facilities which are used for local production operations at the site of a field where the gas is produced. These measures shall be notified to the Energy Community Secretariat.

2. The access referred to in paragraph 1 shall be provided in a manner determined by the Commission in accordance with the requirements stipulated in this Law. Objectives of fair and open access shall be applied, achieving a competitive natural gas market and avoiding any abuse of a dominant position, taking into account security and regularity of natural gas supplies, capacity which is or can reasonably be made available, and environmental protection. The following matters may be taken into account:

- 1) the need to refuse access where there is an incompatibility of technical specifications which cannot reasonably be overcome;
- 2) the need to avoid difficulties which cannot reasonably be overcome and could prejudice the efficient, current and planned future production of hydrocarbons, including that from fields of marginal economic viability;
- 3) the need to respect the duly substantiated reasonable needs of the owner or operator of the upstream pipeline network for the transport and processing of gas and the interests of all other users of the upstream pipeline network or relevant processing or handling facilities who may be affected; and
- 4) the need to apply their laws and administrative procedures, in conformity with Energy Community law, for the grant of authorisation for production or upstream development.

3. Disputes relating to access to upstream pipeline networks shall be settled expeditiously, as referred to in Article 73 [*Dispute settlement*] of this Law, taking into account the criteria in paragraph 2 and the number of parties which may be involved in negotiating access to such networks.

4. In the event of cross-border disputes, the dispute settlement arrangements of the Energy Community Party having jurisdiction over the upstream pipeline network which refuses access shall be applied. Where, in cross-border disputes, more than one Energy Community Party covers the network concerned, the Energy Community Parties concerned shall consult each other with a view to ensuring their consistent regulatory practices.

5. Any terms and conditions regulating the access to and the use of upstream pipeline networks as well as their operation and management in accordance with other applicable laws of Georgia, as the case may be, shall be applied only to the extent and in the manner which does not contradict the requirements laid down in this Article, including respective competences of the Commission. Any restrictions imposed on access to upstream pipeline networks, if not justified in compliance with this Article, shall be deemed unlawful.

Chapter XXV - New infrastructure

Article 111 - Exemptions for new electricity interconnectors

1. New direct current interconnectors may, upon request of the electricity undertakings concerned, be exempted for their entire capacity or for a part of the respective capacity, for a limited period of time, from the provisions of paragraph 2 of Article 29 [*Duties of the Commission*], subparagraphs 2 and 3 of paragraph 1 of Article 30, Article 44 [*Unbundling models*], Article 65 [*TPA to the electricity transmission network*] and paragraphs 9 and 10 of Article 71 [*Congestion management in the electricity transmission network*] of this Law under the following conditions:

- 1) the investment must enhance competition in electricity supply;
- 2) the level of risk attached to the investment is such that the investment would not take place unless an exemption is granted;
- 3) the interconnector must be owned by a natural or legal person which is separate at least in terms of its legal form from the transmission system operator and the system operator of the system with which the interconnector will be built;
- 4) charges are levied on users of that interconnector;
- 5) no part of the capital or operating costs of the interconnector has been recovered from any component of charges made for the use of electricity transmission or distribution systems linked by the interconnector; and
- 6) the exemption must not be to the detriment of competition or the effective functioning of the electricity market in Georgia and in one or more regions, or the efficient functioning of the regulated system to which the interconnector is linked.

2. Paragraph 1 of this Article shall also apply, in exceptional cases, to alternating current interconnectors provided that the costs and risks of the investment in question are particularly high when compared with the costs and risks normally incurred when connecting two neighbouring transmission systems by an alternating current interconnector.

3. Paragraph 1 of this Article shall also apply to significant increases of capacity in existing interconnectors.

4. The decision on the exemption under paragraphs 1, 2 and 3 of this Article shall be taken on a case-by-case basis by the Commission and the competent regulatory authority of the neighbouring country concerned. An exemption may cover all or part of the capacity of new interconnector, or of the existing interconnector with significantly increased capacity. Without any delay, the Commission shall inform the Energy Community Regulatory Board on the request for exemption which has been received.

5. Within two (2) months from the date on which the request for exemption was received by the Commission, the Energy Community Regulatory Board may submit an advisory opinion to the Commission which could provide a basis for its decision.

6. In deciding to grant an exemption, consideration shall be given, on a case-by-case basis, to the need to impose conditions regarding the duration of the exemption and non-discriminatory access to the interconnector. When deciding those conditions, account shall, in particular, be taken of additional capacity to be built or the modification of existing capacity, the time-frame of the project and national circumstances.

7. Before granting an exemption, the Commission shall decide upon the rules and mechanisms for management and allocation of capacity. Congestion management rules shall include the obligation to offer unused capacity on the market and users of the facility shall be entitled to trade their contracted capacities on the secondary market. In the assessment of

the criteria referred to in subparagraphs 1, 2 and 6 of paragraph 1 of this Article, the results of the capacity allocation procedure shall be taken into account.

8. Where the Commission and the regulatory authority of the neighbouring country concerned have reached agreement on the exemption decision within six (6) months, the Commission shall inform the Energy Community Regulatory Board of that decision. The exemption decision, including any conditions referred to in the paragraph 6 of this Article, shall be duly reasoned and published.

9. The decision referred to in paragraphs 4 to 8 of this Article shall be taken by the Energy Community Regulatory Board:

- 1) where the Commission and the regulatory authority concerned have not been able to reach an agreement within six (6) months from the date the exemption was requested before the last of those regulatory authorities; or
- 2) upon a request from the Commission or the regulatory authority concerned.

10. Before the Energy Community Regulatory Board takes a decision referred to in paragraph 9 of this Article, the Energy Community Regulatory Board shall consult the regulatory authorities concerned and the applicants.

11. Notwithstanding paragraphs 4 to 10 of this Article, the Commission may consult, where relevant, other competent national authorities of Georgia under Article 24 [*Public consultations and cooperation*] of this Law with regard to the request for an exemption. Opinions received by the Commission shall be published together with the decision.

12. A copy of every request for exemption shall be transmitted for information without delay by the Commission to the Energy Community Regulatory Board and to the Energy Community Secretariat on receipt. The decision shall be notified, without delay, by the Commission or by the Energy Community Regulatory Board, to the Energy Community Secretariat, together with all the relevant information with respect to the decision.

13. Information referred to in paragraph 12 of this Article may be submitted to the Energy Community Secretariat in aggregate form, enabling the Energy Community Secretariat to reach a well-founded decision. In particular, the information shall contain:

- 1) the detailed reasons on the basis of which the exemption was granted or refused, including the financial information justifying the need for the exemption;
- 2) the analysis undertaken of the effect on competition and the effective functioning of the electricity market resulting from the grant of the exemption;
- 3) the reasons for the time period and the share of the total capacity of the interconnector in question for which the exemption is granted; and
- 4) the result of the consultation of the regulatory authorities concerned.

14. Within a period of two (2) months from the day following receipt of notification under paragraph 12 of this Article, the Energy Community Secretariat may take a decision requesting the notifying bodies to amend or withdraw the decision to grant an exemption. That period of two (2) months may be extended by an additional period of two (2) months where further information is sought by the Energy Community Secretariat. That additional period shall begin on the day following receipt of the complete information. The initial period of two (2) months may also be extended by consent of both the Energy Community Secretariat and the notifying bodies.

15. When the requested information is not provided within the period set out in the request, the notification shall be deemed to be withdrawn unless, before the expiry of that period, either the period is extended by consent of both the Energy Community Secretariat and the notifying bodies, or the notifying bodies, in a duly reasoned statement, inform the Energy Community Secretariat that they consider the notification to be complete.

16. The notifying bodies shall comply with a decision of the Energy Community Secretariat to amend or withdraw the exemption decision within one (1) month and shall inform the Energy Community Secretariat accordingly.

17. The approval of an exemption decision issued by the Energy Community Secretariat shall expire two (2) years after the date of its adoption in the event that construction of the interconnector has not yet started by that date, and five (5) years after the date of its adoption if the interconnector has not become operational by that date, unless the Energy Community Secretariat decides that any delay is due to major obstacles beyond the control of the person to whom the exemption has been granted.

Article 112 - Exemptions for new natural gas infrastructure

1. Major new natural gas infrastructures, such as interconnectors, natural gas storage facilities and LNG facilities, may, upon request of natural gas undertakings concerned, be exempted for a limited period of time from the provisions of paragraph 2 of Article 29 [*Duties and tasks of the Commission*], subparagraphs 2 and 3 of paragraph 1 of Article 30 [*Regulatory powers of the Commission*], and Articles 44 [*Unbundling models*], 74 [*TPA to the natural gas transmission system*], 88 [*TPA to the distribution system*], 98 [*Organisation of access to natural gas storage facilities and linepack*] and 110 [*Access to upstream pipeline networks*] of this Law under the following conditions:

- 1) the investment must enhance competition in gas supply and enhance security of supply;
- 2) the level of risk attached to the investment is such that the investment would not take place unless an exemption was granted;
- 3) the infrastructure must be owned by a natural or legal person which is separate at least in terms of its legal form from the system operators in whose systems that infrastructure will be built;
- 4) charges are levied on users of that infrastructure; and
- 5) the exemption is not detrimental to competition or the effective functioning of the internal gas market, or the efficient functioning of the regulated system to which the infrastructure is connected.

2. Paragraph 1 of this Article shall apply also to significant increases of capacity in existing infrastructures and to modifications of such infrastructures which enable the development of new sources of gas supply.

3. The Commission may, on a case by case basis, decide on the exemption referred to in paragraphs 1 and 2 of this Article subject to the criteria established in this Article.

4. Where the infrastructure in question is located in the territory of more than one Energy Community Party, *i.e.* is crossing the border between Georgia and another Energy Community Party, the Energy Community Regulatory Board may submit an advisory opinion to the Commission and the regulatory authority of another Energy Community Party concerned, which may be used as a basis for their decision on exemption, within two (2) months from the date on which the request for exemption was received by the last of those regulatory authorities.

5. Where all the regulatory authorities concerned agree on the request for exemption within six (6) months of the date on which it was received by the last of the regulatory authorities, they shall inform the Energy Community Regulatory Board of their decision.

6. The Energy Community Regulatory Board shall exercise the tasks conferred on the regulatory authorities of the Energy Community Parties concerned by the present article:

- 1) where all regulatory authorities concerned have not been able to reach an agreement within a period of six (6) months from the date on which the request for exemption was received by the last of those regulatory authorities; or
 - 2) upon a joint request from the regulatory authorities concerned.
7. All regulatory authorities concerned may, jointly, request that the period referred to in subparagraph 1 of paragraph 6 of this Article is extended by up to three (3) months.
8. Before taking a decision, the Commission will consult the relevant regulatory authorities and the applicants.
9. The exemption may cover all or part of the capacity of the new infrastructure, or of the existing infrastructure with significantly increased.
10. In deciding to grant an exemption, consideration shall be given, on a case by case basis, to the need to impose conditions regarding the duration of the exemption and non-discriminatory access to the infrastructure. When deciding on those conditions, account shall, in particular, be taken of the additional capacity to be built or the modification of existing capacity, the time horizon of the project and national circumstances.
11. When granting an exemption, the Commission shall decide upon the rules and mechanisms for management and allocation of capacity. The rules shall require that all potential users of the infrastructure are invited to indicate their interest in contracting capacity before capacity allocation in the new infrastructure, including for own use, takes place. The Commission shall require congestion management rules to include the obligation to offer unused capacity on the market, and shall require users of the infrastructure to be entitled to trade their contracted capacities on the secondary market. In its assessment of the criteria referred to in subparagraphs 1, 2 and 5 of paragraph 1 of this Article, the Commission shall take into account the results of that capacity allocation procedure.
12. The exemption decision, including any conditions referred to in paragraph 11 of this Article, shall be duly reasoned and published in the Legislative Herald of Georgia. Without revealing commercially sensitive information, the decision shall contain:
- 1) the detailed reasons on the basis of which the Commission granted or refused the exemption together with a reference to paragraph 1 of this Article including the relevant provisions on which such decision is based, including the financial information justifying the need for the exemption;
 - 2) the analysis undertaken of the effect on competition and the effective functioning of the internal gas market resulting from the grant of the exemption;
 - 3) the reasons for the time period and the share of the total capacity of the gas infrastructure in question for which the exemption is granted;
 - 4) in case the exemption relates to an interconnector, the result of the consultation with the countries or regulatory authorities concerned; and
 - 5) the contribution of the infrastructure to the diversification of gas supply.
13. Notwithstanding paragraph 3 of this Law, the Commission may apply to the Energy Community Regulatory Board to submit, for the purposes of the formal decision, its opinion on the request for an exemption. That opinion shall be published together with the decision.
14. The Commission shall transmit to the Energy Community Secretariat, without delay, a copy of every request for exemption as of its receipt. The decision shall be notified, without delay, by the Commission to the Energy Community Secretariat, together with all the relevant information with respect to the decision. That information may be submitted to the Energy Community Secretariat in aggregate form, enabling the Energy Community Secretariat to reach a well-founded decision.

15. Within a period of two (2) months from the day following the receipt of a notification, the Energy Community Secretariat may issue an opinion inviting the Commission to amend or withdraw the decision to grant an exemption. That two-month period may be extended by an additional period of two (2) months where further information is sought by the Energy Community Secretariat. That additional period shall begin on the day following the receipt of the complete information. The initial two-month period may also be extended with the consent of both the Energy Community Secretariat and the Commission.

16. Where the requested information is not provided within the period set out in the request, the notification shall be deemed to be withdrawn unless, before the expiry of that period, either the period has been extended with the consent of both the Energy Community Secretariat and the Commission, or the Commission, in a duly reasoned statement, has informed the Energy Community Secretariat that it considers the notification to be complete.

17. The Commission shall take the utmost account of an opinion of the Energy Community Secretariat that recommends amending or withdrawing the exemption decision. Where the final decision diverges from the opinion of the Energy Community Secretariat, the Commission shall provide and publish, together with that decision, the reasoning underlying such decision.

18. Opinion of the Energy Community Secretariat regarding the exemption decision shall lose its effect two (2) years from its adoption in the event that construction of the infrastructure has not yet started, and five (5) years from its adoption in the event that the infrastructure has not become operational unless the Energy Community Secretariat decides that any delay is due to major obstacles beyond control of the person to whom the exemption has been granted.

SECTION X SUPPLY

Chapter XXVI - Organisation of supply

Article 113 - Supply activities

1. All customers in Georgia shall be supplied with electricity and natural gas under the terms and conditions stipulated in this Law and its implementing regulations.

2. Supply of electricity and natural gas shall be provided at non-regulated market prices subject to a respective supply contract negotiated between the supplier and the customer, except for in cases expressly referred to in this Law.

3. Household customers and small enterprises shall have a right to be supplied with electricity pursuant to Article 120 [*Universal service supply*] of this Law and with natural gas pursuant to Article 121 [*Supply of natural gas under public service obligation*] of this Law.

4. Suppliers shall purchase electricity and natural gas whether under bilateral agreements or on the organised energy markets. Trade in electricity shall be pursued under the terms and conditions stipulated in Chapter XXX [*Electricity market*] of this Law and trade in natural gas shall be pursued under the terms and conditions stipulated in Chapter XXXI [*Natural gas market*] of this Law.

5. Suppliers to whom public service obligations are imposed, as regulated under Chapter XXVII [*Public service supply*] of this Law, shall be entitled for trade in electricity or natural gas pursuant to paragraph 4 of this Article without any limitations whatsoever, provided that they have separate accounts for public service supply and other supply and/or trading activities.

6. In accordance with the international commitments of Georgia, the Commission shall ensure that regulation of supply activities under this Law and other applicable legal acts do not discriminate against energy undertakings coming from any Energy Community Party.

Article 114 - Notification on supply activities

1. Energy undertaking which is engaged in supply activities or which intends to perform such activities shall notify the Commission in accordance with this Article.

2. A written notification on supply activities shall be submitted to the Commission not later than in five (5) business days after the energy undertaking starts its supply activities, *i.e.* begins the supply of electricity or natural gas under the supply contract concluded with the customer, together with the supporting information, including data on legal establishment and registration of an undertaking, its registered office and contact details, information on supply activities performed or to be performed, estimated annual turnover of supply and other information required under the rules on provision of information adopted by the Commission.

3. Notifications on supply activities shall be submitted to the Commission only for information purposes. The Commission shall not be entitled to prohibit supply activities of any energy undertaking.

4. Condition established in paragraph 3 of this Law shall be without prejudice to the right of the Commission to monitor activities of suppliers, to apply to competent national authorities of Georgia should the legitimacy of any activities of a supplier be at stake or, as the case may be, to impose financial penalties on suppliers in accordance with Article 171 [*Penalty provisions*] of this Law.

5. Should the supplier intends to cease its activities, it shall notify the Commission in written not later than in five (5) business days after it ceases respective activities.

6. The Commission shall maintain a register of suppliers active in Georgia. List of suppliers in an alphabetical order and their contact details shall be published on the website of the Commission and shall be regularly updated.

7. In cases referred to in paragraph 4 of Article 11 [*Mandatory authorisation of energy activities*] of this Law, this Article shall apply, *mutatis mutandis*, to undertakings performing the trade in electricity or natural gas.

Article 115 - General Supply Conditions

1. Rights and obligations of the supplier and final customer shall be regulated under the supply contract.

2. The conclusion and contents of the supply contract shall be further determined by the General Supply Conditions, as adopted by the Commission in line with the provisions of this Law and to be mandatory applied by all suppliers. Where relevant, separate General Supply Conditions may be issued for the supply of electricity and supply of natural gas.

3. The General Supply Conditions, with respect to supply contracts, shall particularly contain the following:

- 1) the method for changing contracted terms of supply;
- 2) the right of the final customer to terminate the contract;
- 3) the method for the notification of a price increase before its application;
- 4) the method for the notification of valid prices, standard deadlines and conditions, in particular those related to the access and use of services; and
- 5) the ban for a final customer to keep any data from that contract, calculations and bills (especially prices, ways to change prices and metering data) as confidential data.

4. Each supplier shall ensure that the conditions from the supply contract which the supplier offers to its final customers are in line with the General Supply Conditions. The conditions from the supply contract shall be written clearly and comprehensibly and shall not include non-contractual barriers to exercise the rights of customers, such as excessive contractual documentation or excessive administrative burdens. Each supplier shall ensure that final customers are protected from unfair and misleading sales methods.
5. Each supplier shall prepare and in an appropriate manner publish standard conditions for the conclusion of the supply contract containing conditions established in advance. Each supplier shall also appropriately publish applicable prices or regulated tariffs, as applied.
6. Based on the General Supply Conditions it shall be ensured that all final customers:
 - 1) are afforded a right to a contract with their suppliers that specifies:
 - a) the identity and address of the supplier;
 - b) the services provided, the service quality levels offered, as well as the time for the initial connection;
 - c) if offered, the types of maintenance service offered;
 - d) the means by which up-to-date information on all applicable tariffs and maintenance charges may be obtained;
 - e) the duration of the contract, the conditions for renewal and termination of services and of the contract, the existence of any right of withdrawal;
 - f) any compensation and the refund arrangements which apply if contracted service levels are not met; and
 - g) the method of initiating procedures for settlement of disputes in accordance with Article 173 [*Dispute settlement*] of this Law.
 - 2) are given adequate notice of any intention to modify contractual conditions and are informed about their right of withdrawal when the notice is given. Suppliers shall be required to notify their customers directly of any increase in charges, not later than one (1) standard billing period before the increase comes into effect;
 - 3) receive transparent information on applicable prices and tariffs, and on standard terms and conditions, specifically with respect to access to and use of services in the electricity or natural gas sector;
 - 4) benefit from transparent, simple and free of charge procedures for dealing with their complaints. Such procedures shall enable disputes to be settled fairly and promptly with provision, where warranted, for a system of reimbursement and/or compensation as referred to in subparagraph 4 of paragraph 1 of Article 117 [*Obligations of suppliers*] of this Law;
 - 5) are informed about their rights to be supplied, under this Law, with electricity or natural gas of a specified quality at published prices or regulated tariffs.
7. Provisions of the supply contract shall be fair and shall, clearly and unambiguously, encompass the rights and obligations of both the supplier and final customer. Where contracts are concluded through intermediaries, the notification pursuant to paragraphs 5 and 6 of this Article must also be provided to final customers prior to the conclusion of the supply contract.
8. The supply contract shall not deprive or aggravate the right of the final customer to terminate or cancel the said contract for the purpose of using its supplier switching right, nor shall it impose additional financial obligations for that matter, except for in cases where it is expressly otherwise agreed between the supplier and non-household customer.

Article 116 - Standard supply contracts

1. The Commission shall approve a standard supply contract, which shall stipulate the provisions for a continuous and reliable supply of electricity or natural gas to household customers and small enterprises.
2. Each supplier serving household customers and/or small enterprises shall be obliged to conclude with such customers a standard supply contract approved by the Commission.
3. The supplier on whom a public service obligation is imposed, as regulated under Chapter XXVII [*Public service supply*] of this Law, may refuse to start the supply of electricity or natural gas to a customer or may interrupt the supply which has already started only if:
 - 1) the connection installations or facilities of the customer endanger human life or health, or the environment, or the security of property;
 - 2) in the event of *force majeure* as defined by applicable legal acts; and/or
 - 3) the customer has not met its obligations specified in the supply contract in spite of the notice of the supplier for these obligations.
4. The supply of electricity or natural gas to a household customer or a small enterprise may only be refused as long as the circumstances serving as a basis of the refusal according to paragraph 3 of this Article prevail.

Article 117 - Obligations of suppliers

1. Each supplier shall ensure a single contact point from which its final customers shall be provided with all the necessary information and notifications concerning their rights, current regulations and the existing and available means of dispute settlement. The single contact point shall also allow final customers to:
 - 1) receive transparent notification on applicable prices or regulated tariffs and on standard terms and conditions, in respect of access to and use of services;
 - 2) be offered a wide choice of payment methods, which do not unduly discriminate between final customers. Prepayment systems shall be fair and adequately reflect likely consumption. Any difference in terms and conditions shall reflect the costs to the supplier of the different payment systems;
 - 3) receive available information as regards the possibility to change their supplier on a free basis;
 - 4) receive instructions for the implementation of transparent, simple and economic procedures for dealing with their complaints – in particular, each supplier shall ensure that its final customers have the right to a good standard of service and that their complaints are handled properly and in such a way that enables disputes to be settled fairly and promptly, preferably within two (2) weeks, with provision, where warranted, for a system of reimbursement and/or compensation;
 - 5) receive frequent and accurate notifications on actual electricity or natural gas consumption and costs to enable them to regulate their own consumption – that information shall be provided by using a sufficient time frame, which takes account of the capability of the metering equipment of the final customer, with due account taken of the cost-efficiency of such measures and without additional costs charged to the final customer for that service; and
 - 6) receive a final closure account following any change of supplier not later than six (6) weeks after the change of supplier has taken place.

2. In relation to a single contact point, in addition to requirements specified in paragraph 1 of this Article, each supplier serving household customers and small enterprises shall:
 - 1) establish customer centres which shall provide information, handle inquiries by final customers, requests and complaints, by telephone, e-mail and in person;
 - 2) establish a commission for complaints in order to protect final customers in accordance with the provisions of the laws regulating the customer protection;
 - 3) adjust office hours of the customer centre to final customer needs, ensuring that at least one day per week the customer centre remains open until 8 p.m. It shall be possible for the final customers to make appointments with the customer centre by phone or e-mail; and
 - 4) mediate with the transmission and/or distribution system operator in relation to complaints and/or information which relate to matters which are regulated by the contract for transmission and/or distribution related services.
3. Suppliers shall take the necessary steps to provide their final customers with a copy of the energy customer checklist which contains practical information relating to energy customer rights and ensure that it is timely published.
4. Each supplier shall notify the final customer on changes to applicable prices or regulated tariffs and other supply conditions, at least fifteen (15) days before the implementation of such changes, including the information on the right of the final customer to terminate the contract. Final customers are free to terminate their contracts if they do not accept the new conditions notified to them.
5. Each supplier may supply the final customer only if the transmission or distribution system operator to whose network facilities of the final customer are connected establishes and confirms to the supplier that said customer complies with the conditions for secure supply of electricity or natural gas.
6. Each supplier shall prepare and publish its action programme for:
 - 1) providing assistance to final customers in relation to their fulfilment of due contractual obligations in order to prevent the suspension of supply;
 - 2) supporting the supply of final customers in places remote areas;
 - 3) supporting the system for incentivised production from renewable energy sources and/or other promoted sources of production; and
 - 4) promoting energy efficiency.
7. Each supplier shall regularly notify its final customers on measures for the improvement of energy efficiency in final energy consumption.
8. Each supplier pursuant to concluded supply contracts shall propose to its final customers that said supplier issues an invoice and collects payments for:
 - 1) use of the transmission and/or distribution system;
 - 2) provision of system services; and
 - 3) other fees prescribed by applicable legal acts.
9. Each supplier shall charge for electricity or natural gas supplied and related services provided on the basis of an invoice which shall be clear and comprehensible as well as formed and issued in compliance with the requirements prescribed by the Commission.
10. Each supplier shall regularly inform its final customers about the supply of electricity or natural gas, including environmental issues. Information that each supplier shall provide to its final customers shall be in line with the requirements prescribed by the Commission. Each

supplier shall specify in the invoice sent to the final customer or in the annexes to such invoice as well as in promotional materials available to the final customer:

- 1) the share of each energy source within the overall portfolio of supply invoked by the supplier to meet the electricity or natural gas demand of its final customers;
- 2) at least a reference to existing reference sources, such as websites, where information is publicly available on environmental impact of production from energy sources invoked by the supplier in the preceding year; and
- 3) inform final customers concerning their rights as regards available means of dispute settlement and handling of complaints.

11. The Commission shall take the necessary steps to ensure that the notifications provided by suppliers to their final customers are presented in a reliable, clear and comparable manner. The Commission may decide to make elements of those notifications available to all market participants, providing that commercially sensitive information on certain participants or transactions are not published.

12. Each supplier shall undertake necessary steps aimed at protecting the interests of its final customers as well as handling the complaints of its final customers, including out-of-court dispute settlements, in an efficient way and free of charge. The Commission shall supervise the way in which complaints are handled pursuant to the provisions of this Law and applicable rules adopted by the Commission.

13. Each supplier shall report, on a periodical basis, to the Commission regarding its supply activities and, in particular, fulfilment of requirements established in this Law and in the General Supply Conditions under the terms and conditions stipulated in the rules on provision of information adopted by the Commission.

Article 118 - Supplier Switching Rules

1. The Commission shall ensure the implementation of an efficient procedure which enables an eligible customer to switch to another supplier as simply as possible, within a period of less than three (3) weeks after having notified its former supplier of its intention to switch to another supplier.

2. The Commission shall adopt the Supplier Switching Rules, which shall lay down the conditions and the procedure for a change of supplier. These rules shall contain in particular:

- 1) the procedure for supplier switching;
- 2) the conditions that have to be fulfilled by a new supplier, particularly those related to balancing;
- 3) the duties of a supplier whose supply contract is undergoing a termination procedure;
- 4) the duties of system operator in charge to whose facilities of the eligible customer are connected;
- 5) the rights of the new supplier in relation to the access to and the use of transmission and distribution systems for the purpose of supplying a new eligible customer; and
- 6) the settlement of previous financial obligations of eligible customers.

3. A change of supplier in accordance with the Supplier Switching Rules shall be free of charge for the eligible customer. Supplier switching shall be carried out upon a request submitted by the eligible customer.

4. A supplier whose supply contract is being terminated by the eligible customer, *i.e.* a former supplier, cannot set additional conditions for the termination of the contract and shall supply the eligible customer until the contract is terminated.
5. The Commission shall monitor the implementation of the Supplier Switching Rules. If so decided by the Commission, the Supplier Switching Rules may be adopted as an integral part of the General Supply Conditions.
6. Any dispute shall not postpone the supplier switching procedure and implementation of a new gas supply contract.

Article 119 - Record keeping by suppliers

1. Suppliers shall keep at the disposal of the national authorities, including the Commission and the Competition Agency, and of the Energy Community Secretariat, for at least five (5) years, the relevant data relating to all transactions under supply contracts and in electricity or natural gas derivatives with wholesale customers and transmission system operators and, as the case may be, with natural gas storage system operators and LNG system operators.
2. The data referred to in paragraph 1 of this Article shall include details on the characteristics of the relevant transactions such as duration, delivery and settlement rules, the quantity, the dates and times of execution and the transaction prices and means of identifying the wholesale customer concerned, as well as specified details of all unsettled supply contracts and derivatives.
3. The Commission may decide to make available to all market participants the elements of this information provided that commercially sensitive information on individual market participants or individual transactions is not released.
4. With respect to transactions in electricity or natural gas derivatives with wholesale customers and transmission system operators and, as the case may be, with natural gas storage system operators and LNG system operators, this Article shall apply only once the Permanent High Level Group of the Energy Community has adopted the relevant Guidelines.

Chapter XXVII - Public service supply

Article 120 - Universal service supply

1. Household customers and small enterprises shall be entitled to be supplied with electricity by the universal service supplier under the terms and conditions stipulated in this Article.
2. The universal service supply to customers referred to in paragraph 1 of this Article, on the territory of one distribution service area, may be performed by one or more suppliers to whom a public supply obligation has been imposed pursuant to Article 9 [*Public services*] of this Law.
3. The Commission shall determine and adopt the operational rules for universal service suppliers. These rules shall further regulate the activities of such suppliers including, *inter alia*, their rights and obligations, termination of their responsibilities, and other matters considered relevant by the Commission. By 1st of March each year, universal service suppliers shall issue, upon prior approval of the Commission, an annual report regarding their activities with respect to the universal service supply over the previous year. This report shall be made available to the Competition Agency and the Energy Community Secretariat.

4. Universal service supply shall be provided at fair, comparable and market-based prices set and applied by universal service suppliers in a transparent and non-discriminatory manner pursuant to the methodology adopted by the Commission.
5. In case the objectives of the universal service supply cannot be achieved otherwise under market conditions, the Commission may deviate from paragraph 4 of this Article and may set the end-user price for electricity supplied by universal service suppliers pursuant to the methodology adopted by the Commission. The Commission shall ensure that regulation of the end-user price is limited only for the purposes of the universal service supply to household customers and small enterprises and only to the extent necessary.
6. In cases where the Commission invokes the regulation of the end-user price for electricity supplied by universal service suppliers under paragraph 5 of this Article, it shall provide a detailed explanation and rationale linking such regulation with exceptional circumstances on the electricity market and offering a justification of the necessity for maintaining regulation of the end-user price as a public service obligation that complies with the conditions of this Article and with Article 9 [*Public services*] of this Law. Such explanation shall be made available to the Competition Agency and the Energy Community Secretariat.
7. The Commission, in cases referred to in paragraph 6 of this Article, shall establish the end date for phasing-out the regulation of the end-user price, as well as a roadmap for doing so, showing clearly the temporary character of such price regulation.
8. The Commission shall ensure that electricity prices, whether market-based or regulated, are cost-reflective. Cost-reflectivity must extend to the actual costs of supply, including necessary investments and an appropriate rate of return, the costs of imports, the costs of supply services and bad debts.
9. Each universal service supplier shall:
 - 1) provide supply of electricity as a public service to all those final customers who are eligible for that type of supply under this Law;
 - 2) perform the universal service supply exclusively in accordance with the requirements laid down in this Article;
 - 3) undertake measures to achieve secure, reliable and prescribed quality of the supply of electricity to final customers whom it provides the universal service supply; and
 - 4) undertake measures to achieve the most acceptable prices for final customers provided with the universal service supply.
10. The Commission shall ensure that different categories of customers to whom the universal service supply is provided do not benefit from the same treatment and protection.

Article 121 - Supply of natural gas under public service obligation

1. Household customers and small enterprises shall be entitled to be supplied with natural gas by the public service supplier under the terms and conditions stipulated in this Article.
2. The supply of customers referred to in paragraph 1 of this Article, on the territory of one distribution service area, may be performed within the framework of supply by one or more suppliers to which a public supply obligation has been imposed pursuant to Article 9 [*Public services*] of this Law.
3. The Commission shall determine and adopt the operational rules for public service suppliers which carry out the supply of natural gas as a public service obligation. These rules shall further regulate the activities of such suppliers including, *inter alia*, their rights and obligations, termination of their responsibilities, and other matters considered relevant by the Commission. By 1st of March each year, public service suppliers shall issue, upon prior

approval of the Commission, an annual report regarding its activities with respect to public supply service over the previous year. This report shall be made available to the Competition Agency and the Energy Community Secretariat.

4. Supply of natural gas under public service obligation shall be provided at fair, comparable and market-based prices set and applied by public service suppliers in a transparent and non-discriminatory manner pursuant to the methodology adopted by the Commission.

5. In case the objectives of the supply of natural gas under public service obligations cannot be achieved otherwise under market conditions, the Commission may deviate from paragraph 4 of this Article and may set the end-user price for natural gas supplied by public service suppliers pursuant to the methodology adopted by the Commission. The Commission shall ensure that regulation of the end-user price is limited only for the purposes of the supply of natural gas under public service obligation to household customers and small enterprises and only to the extent necessary.

6. In cases where the Commission invokes the regulation of the end-user price for natural gas supplied by public service suppliers under paragraph 5 of this Article, it shall provide a detailed explanation and rationale linking such regulation with exceptional circumstances on the natural gas market and offering a justification of the necessity for maintaining regulation of the end-user price as a public service obligation that complies with the conditions of this Article and with Article 9 [*Public services*] of this Law. Such explanation shall be made available to the Competition Agency and the Energy Community Secretariat.

7. The Commission, in cases referred to in paragraph 6 of this Article, shall establish the end date for phasing-out the regulation of the end-user price, as well as a roadmap for doing so, showing clearly the temporary character of such price regulation.

8. The Commission shall ensure that natural gas prices, whether market-based or regulated, are cost-reflective. Cost-reflectivity must extend to the actual costs of supply, including necessary investments and an appropriate rate of return, the costs of imports, the costs of supply services and bad debts.

9. Each public service supplier shall:

- 1) provide supply of natural gas as a public service to all those final customers who are eligible for that type of supply under this Law;
- 2) perform the supply of natural gas under public service obligation exclusively in accordance with the requirements laid down in this Article;
- 3) undertake measures to achieve secure, reliable and prescribed quality of the supply of natural gas to final customers whom it supplies with natural gas under public service obligation; and
- 4) undertake measures to achieve the most acceptable natural gas prices for final customers provide with the supply of natural gas under public service obligation.

10. The Commission shall ensure that different categories of customers to whom the supply of natural gas under public service obligation is provided do not benefit from the same treatment and protection.

Article 122 - Supply of last resort

1. Based on an open tender procedure, the Government shall designate a supplier of last resort for electricity and a supplier of last resort for natural gas.

2. The decision on opening of tender procedure under paragraph 1 of this Article shall contain the criteria for selection of the supplier of last resort, terms and conditions for the supply of last resort, information about the electricity or natural gas price formation and its

changes, contractual terms and conditions, as well as the duration of the term for which the supplier of last resort shall be appointed.

3. The supplier of last resort shall be appointed for a period of three (3) years.
4. The supplier of last resort shall supply a final customer with electricity or natural gas without a specific application having to be submitted by the final customer if its electricity or natural gas supplier has exited the market and that said customer loses electricity or natural gas supply without any form of protection, regardless whether the concerned customer is faced with unplanned or planned exit of the supplier or a severe violation by the supplier of its obligations.
5. The supplier that is not capable of supplying electricity or natural gas to its final customers, in cases referred to in paragraph 4 of this Article, shall be obliged to notify its final customers, the supplier of last resort, the Commission, and transmission and distribution system operators in charge on the date of the suspension of supply in a timely manner and, in any case, not later than thirty (30) days before the date of the suspension of supply or not later than the next business day after the supplier became aware of such a date. In such a case the customer shall be automatically supplied by the supplier of last resort.
6. The Commission shall inform final customers, the supplier of last resort, and transmission and distribution system operators in charge about the supplier referred to in paragraph 5 of this Article, not later than in five (5) business days from the date the Commission became aware of the circumstances causing incapability by the supplier to supply electricity or natural gas to its final customers.
7. Transmission and the distribution system operators in charge shall submit information to the supplier of last resort about the customers who are transferred for the supply of last resort within five (5) business days after receipt of the notice under paragraphs 5 and/or 6 of this Article.
8. The procedure regarding the market exit by the supplier from the electricity or natural gas market shall be prescribed by the Electricity Market Rules and the Natural Gas Market Rules respectively.
9. The supplier of last resort may supply final customers for a time period the maximum duration of which is three (3) calendar months. In case that the final customer fails to conclude a supply contract with a new supplier in the above-referred time period, the system operator in charge shall terminate the delivery of electricity or natural gas.
10. The Commission shall adopt operational rules for the supplier of last resort which shall further regulate its activities with respect to its obligations as of a supplier of last resort.
11. Supply of last resort shall be provided at fair, comparable and market-based prices set and applied by suppliers of last resort in a transparent and non-discriminatory manner pursuant to the methodology adopted by the Commission.
12. The Commission shall ensure that prices for electricity and natural gas supplied by suppliers of last resort are cost-reflective. Cost-reflectivity must extend to the actual costs of supply, including necessary investments and an appropriate rate of return, the costs of imports, the costs of supply services and bad debts.
13. Prices for electricity and natural gas supplied by suppliers of last resort must be higher than the average market price for electricity and natural gas supplied to the same category of customers under regular supply conditions. This requirement shall be implemented by increasing the cost-reflective price with a supply of last resort margin calculated and set pursuant to the methodology adopted by the Commission.
14. The supplier of last resort shall unbundle, keep separate financial records and prepare financial reports as regards the performance of the supply of last resort.

15. Supply contract between the supplier of last resort and final customer shall be considered concluded as from the day on which the supply is physically established and provided to the customer, whether requested or not by said customer, in accordance with applicable rules and conditions provided for in the Supplier Switching Rules and/or applicable operational rules.
16. The supplier of last resort shall deliver to its customers a written supply contract within eight (8) days after the commencement of the supply of last resort.
17. The supplier of last resort may request suspension of delivery of electricity or natural gas to the customer due to unsettled liabilities by submitting a request for the suspension of delivery to the system operator in charge.
18. The supplier of last resort shall prepare and publish at least once a year a report which contains the number of supplied customers, the total amount of delivered electricity or natural gas and the average duration of the supply of last resort. This report shall be made available to the Energy Community Secretariat.

SECTION XI FINAL CUSTOMERS

Chapter XXVIII - Status and protection of final customers

Article 123 - Rights and obligations of final customers

1. Final customers shall be protected in accordance with this Law and regulations passed on the basis thereof, as well as other laws regulating the customer protection in Georgia and/or their implementing regulations.
2. Final customers shall pay for electricity and natural gas in accordance with the General Supply Conditions and other applicable contractual conditions. Terms and procedures for invoicing, settlement and collections of payments shall be defined in the General Supply Conditions.
3. In accordance with Articles 113 [*Supply activities*] and 118 [*Supplier Switching Rules*] of this Law, each eligible customer is entitled to a free choice of supplier and change of supplier. Each final customer is entitled to possess all relevant data in relation to its electricity and natural gas consumption and shall be able to, by explicit agreement and free of charge, give any registered supplier access to its metering data. The party responsible for data management shall be obliged to give those data to energy undertakings in charge. The General Supply Conditions shall define a format for the data and a procedure for suppliers and final customers to have access to the data. No additional costs shall be charged to the final customer for that service.
4. Large customers shall have the right to contract simultaneously with several suppliers. The Commission shall elaborate in the General Supply Conditions the rules and procedure enabling large customers to exercise this right.
5. In the event of technical or other disturbances in the delivery of electricity or natural gas, which are not caused by facilities of the final customers, the final customer shall have the right to demand the removal of those disturbances within the shortest possible period of time under the terms and conditions stipulated in the applicable Transmission Network Code or Distribution Network Code.
6. Disruptions due to the implementation of measures for suspended deliveries which are undertaken in the event of distortions on the electricity or natural gas market shall not be

considered as disturbances in the delivery of electricity or natural gas referred to in paragraph 5 of this Article, provided that such disruptions are justified under terms and conditions stipulated in this Law and/or other applicable legal acts.

7. Final customers shall use electricity and natural gas under the conditions, in the manner and for the purposes established by this Law, the applicable Transmission Network Code and Distribution Network Code, other applicable acts and in line with respective contractual obligations.

Article 124 - Protection of vulnerable customers

1. The Ministry of Labour, Health and Social Affairs of Georgia shall develop, in cooperation with the Ministry and the Ministry of Finance of Georgia and in consultations with the Commission and other stakeholders of the energy sector, a detailed program for establishing the status of socially vulnerable customers, the scope of their rights, and measures aimed at protecting socially vulnerable customers in order to meet their electricity and natural gas demand.

2. The program of treatment of socially vulnerable customers referred to in paragraph 1 of this Article shall be approved by the Government and shall include at least the following elements:

- 1) definition of vulnerable customers benefiting from the above established program which shall:
 - a) not include more than a minority of customers in Georgia; and
 - b) be limited to customers with lowest income using electricity and/or natural gas for supplying his or her permanent housing where for the definition of low income, besides the income, all available assets shall be taken into account;
- 2) make reference to a maximum level of electricity and natural gas consumption per person reflecting seasonality;
- 3) manner of direct support by the Government to vulnerable customers from revenue sources other than tariff charges by energy undertakings to avoid cross subsidies and price distortion; and
- 4) funding the support to vulnerable customers should be accomplished in a non-discriminatory manner, and in particular should not be funded from other electricity and/or natural gas customers.

3. Household customers benefiting from a financial support covering, fully or partially, payments for electricity and/or natural gas supply services shall not be allowed to use such financial support for other purposes.

4. Household customers that are entitled to public service supply, *i.e.* universal service supply of electricity and/or supply of natural gas under public service obligations, and who have obtained the decision on their socially vulnerable customer status shall secure both the right for the public service supply of electricity and/or natural gas and the right to a special protection in accordance with this Law.

5. Socially vulnerable customers are entitled to a supply service pursuant to this Article as long as the conditions from paragraph 1 of this Article are fulfilled, which shall be verified at least every six (6) months by the authority responsible for the social welfare. If, due to a change of circumstances a customer loses the socially vulnerable customer status he or she shall be deleted from the relevant register, but his or her data shall remain available for a period of five (5) years after his or her registration in the said register. The distribution system operator in charge shall, in writing and within eight (8) days, notify the socially vulnerable customer and his or her supplier regarding the deletion of said socially vulnerable customer from the concerned register.

6. The difference between costs and revenues from the activity of a supplier serving socially vulnerable customers shall be compensated by the Government or its authorised public body.
7. Each supplier serving vulnerable customers shall be obliged to activate the supply conditions in compliance with this Article not later than from the next business day after the vulnerable customer submits a request accompanied with the evidence on meeting requirements from the paragraph 1 of this Article.
8. Distribution system operators shall establish and keep a register of socially vulnerable customers. The registers shall contain first and last name of the socially vulnerable customer, personal identification number, address at which he or she is supplied with electricity and/or natural gas, the number under which he or she is listed in the register, the type of special treatment to which he or she is entitled, and the benefits that are granted to him or her under the status of socially vulnerable customer. Data from the register may be presented only to the socially vulnerable customer who has applied for registration in the relevant register and to his or her supplier.
9. Rights and obligations linked to vulnerable customers, as legally established based on paragraphs 1 and 2 of this Article, shall be duly applied and implemented by the distribution system operator in charge. In particular, the distribution system operator shall take appropriate measures to protect final customers in remote areas who are connected to the electricity or natural gas system.
10. Each supplier serving vulnerable customers shall set up mechanisms for providing assistance to vulnerable customers aimed at avoiding the termination of electricity and/or natural gas supplies due to unpaid bills.
11. Based on applicable legal acts, appropriate measures, such as formulating national energy plans, shall be taken in providing social security benefits to ensure the necessary supply of electricity and natural gas to vulnerable customers, or providing for support for energy efficiency improvements, to address energy poverty where identified, including in the broader context of poverty. Such measures shall not impede the effective opening of energy markets and their functioning, as regulated by this Law, and shall be notified to the Energy Community Secretariat. Such notifications shall not include measures taken within the general social security system.

Article 125 - Suspension of deliveries to final customers

1. According to the supply contract, each supplier may request the transmission or distribution system operator in charge to suspend deliveries of electricity or natural gas to a final customer due to unfulfilled obligations of the final customer arising from the respective supply contract.
2. If a final customer does not fulfil the obligations established by the supply contract, each supplier shall initially warn the final customer and demand to settle due liabilities within a period of at least fifteen (15) days after the delivery of the warning or reach an agreement on the fulfilment by the final customer of its obligations.
3. If the final customer fails to fulfil its obligations in the given period, each supplier may submit a written request for the suspension of deliveries to the transmission or distribution system operator in charge.
4. The transmission or distribution system operator in charge shall, as requested by the supplier and unless dealing with a vulnerable customer to whom delivery of electricity or natural gas may not be suspended according to other special regulations, suspend deliveries of electricity or natural gas. Suspension of electricity or natural gas may not be initiated on Friday, Saturday or Sunday or on a national holiday or the day before a national holiday.

5. The transmission or distribution system operator in charge may suspend deliveries of electricity or natural gas to a final customer due to its unsettled liabilities under transmission and/or distribution service contracts.
6. Deliveries and supply of electricity or natural gas to the final customer shall be re-established pursuant to conditions and within the time frame established in the applicable Network Code and General Supply Conditions.
7. Detailed conditions and procedure for the suspension of deliveries, as well as the rights and obligations of transmission and distribution system operators in charge, of suppliers and final customers shall be regulated by the applicable Transmission Network Code, Distribution Network Code, General Supply Conditions and, where applicable, quality standards.
8. Each supplier shall determine and publish at least once a year the number of final customers that were subject to the suspension of deliveries of electricity or natural gas at its request as well as the reasons for the suspension of deliveries and other data in line with the General Supply Conditions.

SECTION XII ENERGY MARKETS

Chapter XXIX - Opening and functioning of energy markets

Article 126 - Market opening and reciprocity

1. Each eligible customer in Georgia shall be entitled to a free choice of the supplier and its change.
2. All customers residing or operating in Georgia shall become eligible in accordance with paragraph 2 of Article 186 [*Transitory provisions concerning final customers*] of this Law.
3. To avoid imbalance in the opening of energy markets, supply contracts with an eligible customer in the system of another Energy Community Party shall not be prohibited if the customer is eligible in both systems involved.

Article 127 - Measures to promote market opening

1. The Commission, in cooperation with the Competition Agency, shall conduct inquiry of the functioning of energy markets at least every two (2) years starting from the first year after the entry into force of this Law.
2. If necessary, the Commission shall, within the scope of its competence and regulatory powers, establish all required and proportionate measures for the promotion of efficient market competition and thus ensure regular functioning of energy markets. The Commission, upon its own initiative or following the request of the Energy Community Secretariat, shall take such measures wherever deemed necessary.
3. The measures referred to in paragraph 2 of this Article shall be proportionate, non-discriminatory and transparent. Those measures may be put into effect only following the notification to the Energy Community Secretariat based on its respective opinion.
4. The Energy Community Secretariat shall act on the notification referred to in paragraph 3 of this Article within 2 (two) months of the receipt of the notification. That period begins on the day following receipt of the complete information. In the event that the Energy Community Secretariat does not act within that two-month period, it is deemed not to have raised objections to the notified measures.

Article 128 - Monitoring and supervision of energy markets

1. The Commission shall carry out the monitoring and supervision of energy markets under the terms and conditions stipulated in this Law and in the rules on the monitoring of energy markets adopted by the Commission.
2. By the 31st of March each year the Commission shall prepare and publish the report on energy markets which at least shall include a detailed review of the opening, functioning and organisation of energy markets, analysis of the activities of market participants, analysis of market-based pricing and application of regulated tariffs and end-user prices, as well as indicated trends of any developments in energy markets. Where relevant, the Commission may issue separate reports on electricity and natural gas markets.
3. The market operator in charge while carrying out its tasks defined in Articles 133 [*Tasks of the electricity market operator*] and 139 [*Tasks of the natural gas market operator*] of this Law shall:
 - 1) analyse the organisation of a respective energy market and propose to the Commission measures for its improvement;
 - 2) provide the Commission and transmission system operators in charge with an opinion on the rules on the system balancing as elaborated in the applicable Transmission Network Code;
 - 3) provide the Commission and transmission system operators in charge with an opinion on the rules on the allocation and use of cross-border capacities and the congestion management as elaborated in the applicable Transmission Network Code; and
 - 4) perform other functions with regard to the observation of the trade in electricity or natural gas within the entire territory of Georgia, as assigned to by this Law and/or by the rules on the monitoring of energy markets adopted by the Commission.
4. Market operators and transmission system operators in charge, within their respective competences, shall inform the Commission on any indicated or potential infringements of requirements for activities in energy markets.

Article 129 - Competition in energy markets

1. The Commission shall pursue that conditions for effective competition in energy markets and its development are established, and possibilities for market abuse are timely intercepted and controlled.
2. For the purposes of paragraph 1 of this Article, the Commission shall carry out the monitoring of energy markets and, when necessary, shall therefore proceed with the market survey:
 - 1) upon request of competent national authorities of Georgia;
 - 2) upon request of the market participants or other parties concerned;
 - 3) on its own initiative.
3. The market survey shall constitute the following:
 - 1) definition of the market (scope of services and geographical territory);
 - 2) analysis of the effectiveness of competition in the market and quantitative assessment of the concentration in the market (including the Herfindahl-Hirschman Index (HHI), used as a measure to assess the share of the market possessed by each energy undertaking and the amount of competition among several undertakings);

- 3) indication of persons having significant influence upon the market, as referred to in Article 130 [*Significant influence upon energy markets*] of this Law; and
 - 4) conclusions of the market survey, which shall include decisions on or proposals for regulatory measures referred to in paragraph 8 of this Article.
4. The market survey shall be carried out under the terms and conditions established by the rules on the monitoring of energy markets adopted by the Commission and following respective decision of the Commission.
 5. The market survey shall be processed in line with the laws of Georgia, respective regulations and/or recommendations of the Energy Community, and taking into account recommendations of competent national authorities of Georgia and best international practices in the field.
 6. For the purposes of the market survey, the Commission shall proceed with public consultations in accordance with Article 24 [*Public consultations and cooperation*] of this Law. Comments and proposal received during public consultations shall be analysed by the Commission and their consolidated review, including explanations provided by the Commission, shall be published on the website of the Commission.
 7. The market survey shall be finished in four (4) months from the date of the respective decision of the Commission to start such market survey. If reasonably required and duly justified, such term may be extended under decision of the Commission, but in any case not longer than for additional four (4) months. The Commission shall pursue that the market survey is finished in the most effective and timely manner.
 8. The market survey shall be finished by adoption of the decision of the Commission, which shall demonstrate the outcomes of questions referred to in paragraph 3 of this Article. Decisions on or proposals for regulatory measures may include the following:
 - 1) decision on revocation of a license for energy activities under the terms and conditions stipulated in the Law of Georgia on Licences and Permits;
 - 2) decision on application of financial penalties, as referred to in Article 171 [*Penalty provisions*] of this Law;
 - 3) decision on application of measures to promote market opening according to Article 127 [*Measures to promote market opening*] of this Law; and/or
 - 4) decision to apply to a competent national authority of Georgia should the legitimacy of any activities of a market participant be at stake.
 9. Results of the market survey and respective decisions of the Commission shall be submitted to the Government, the Ministry, other competent national authorities of Georgia, and shall be published on the website of the Commission.
 10. For the purposes of this Article, the Commission shall closely cooperate and exchange the information with the Competition Agency, but without prejudice to their respective competences and regulatory powers as stipulated in this Law and in the Law of Georgia on Competition.

Article 130 - Significant influence upon energy markets

1. An undertaking shall be deemed as having a significant influence upon the energy market in cases where it, individually or in collaboration with another undertaking (or undertakings), covers a share of the respective market which may be considered as dominant, *i.e.* rendering such economic power which allows to undertake commercial activities enough independently from competitors, clients and/or customers.
2. In case an undertaking is deemed as having significant influence upon one particular market, it may be also considered as such in another closely interrelated market, in case

such interrelation between those two markets allows using the influence in one market for increase of respective influence in another market.

3. An undertaking, which is acknowledged as having a significant influence upon the energy market under the decision of the Commission, shall be deemed as such until the Commission adopts another decision stating the absence of such influence.

4. Acknowledging the significant influence upon energy markets, pursuant to a respective decision of the Commission, may result in a decision on application of measures to promote market opening according to Article 127 [*Measures to promote market opening*] of this Law as referred to in subparagraph 3 of paragraph 8 of Article 129 [*Competition in energy markets*] of this Law.

Chapter XXX - Organisation of the electricity market

Article 131 - Scope of the electricity market

1. The electricity market shall include the retail and wholesale electricity market.
2. Electricity supply transactions between final customers and their suppliers shall take place on the retail electricity market.
3. The wholesale electricity market shall include:
 - a) bilateral electricity market;
 - b) day-ahead electricity market; and
 - c) intra-day electricity market.
4. Purchase and sale of electricity on the wholesale electricity market shall be contracted under bilateral agreements and/or on organised electricity market, *i.e.* day-ahead and intra-day electricity market.
5. The transmission system operator for electricity shall procure balancing and ancillary services from electricity market participants capable of providing such services under the terms and conditions stipulated in the Electricity Transmission Network Code which shall define, *inter alia*, requirements for providers of balancing and ancillary services, terms and conditions for the procurement of balancing and ancillary services, prerequisites for a respective trading platform organised and managed by the transmission system operator, methods used to determine the quantities to be settled with service providers, and rules on financial settlements with service providers.
6. Electricity balancing and ancillary services, as referred to in paragraph 5 of this Article, shall be provided in the most feasible economic manner and under objective, transparent and non-discriminatory criteria, and shall reflect adequate price signals in the electricity market of Georgia.
7. The transmission system operator shall cooperate with other transmission system operators on facilitating electricity balancing market at a regional level in order to ensure operational security of electricity networks and efficient functioning of the electricity balancing market based on the effective competition, non-discrimination and transparency.
8. The Commission may, subject to the level and effectiveness of the competition in the electricity market as revealed by the market survey conducted pursuant to Article 129 [*Competition in energy markets*] of this Law, decide on the establishment of organised electricity balancing and ancillary services markets. Terms and conditions concerning organised electricity balancing and ancillary services markets shall be therefore stipulated in the Electricity Market Rules adopted by the Commission.

Article 132 - Organisation of the electricity market

1. The electricity market operator shall be responsible for the organisation of the day-ahead and intra-day electricity market in Georgia for trade in electricity, as well as for its connection and integration with other organised electricity markets. Organisation of the electricity market shall be regulated by the Electricity Market Rules.
2. The possibility of establishing the stock exchange of electricity derivatives shall not be limited only to the electricity market operator.
3. The electricity market operator may be a company owned by the transmission system operator for electricity. In this regard, the transmission system operator shall ensure its legal and functional independence from the electricity market operator and shall include respective measures preventing the discriminatory conduct in its compliance programme.
4. The electricity market operator shall perform its activities on the basis of a license issued by the Commission under the terms and conditions stipulated in the Law of Georgia on Licenses and Permits in accordance with Chapter V [*Authorisation of energy activities*] of this Law.
5. The electricity market operator shall perform its duties respecting the principles of transparency, objectivity and non-discrimination, under the supervision of the Commission.
6. The electricity market operator shall apply the fees for its services as set by the Commission taking into account the annual operational plan and financial plan of the electricity market operator.
7. The electricity market operator shall keep a separate account for the transactions involving purchase and sale of electricity.

Article 133 - Tasks of the electricity market operator

1. The electricity market operator shall be particularly responsible for the following:
 - 1) organising the day-ahead and intra-day electricity market;
 - 2) keeping records on contracts and contractual obligations concluded between undertakings on the organised electricity market in accordance with the Electricity Market Rules;
 - 3) preparation of daily schedules for purchase and sale of electricity within and across the borders of Georgia pursuant to contractual obligations arising from purchasing and selling on the day-ahead electricity market;
 - 4) timely delivery of daily schedules for purchase and sale of electricity referred to in subparagraph 3 to the transmission system operator in charge;
 - 5) registering and keeping records on electricity market participants;
 - 6) keeping records on suppliers and customers and their contractual obligations; and
 - 7) appropriate publishing of information required for unhindered organisation of the electricity market and performance of the electricity activities.
2. The electricity market operator may be assigned with other tasks and responsibilities under this Law and the Electricity Market Rules, including those additional tasks and responsibilities which may be conferred upon establishment of the organised electricity balancing and ancillary services markets as referred to in paragraph 8 of Article 131 [*Scope of the electricity market*] of this Law.

3. The electricity market operator shall not trade in electricity, except for the purpose of trading on the day-ahead electricity market and intra-day electricity market where the electricity market operator represents a contractual party.

4. Electricity undertakings shall provide the electricity market operator with continuous and unlimited access to data that the electricity market operator needs for the organisation of the electricity market in line with the Electricity Market Rules.

Article 134 - Electricity Market Rules

1. The Electricity Market Rules shall define the manner of organisation and operation of the electricity market.

2. The Electricity Market Rules shall *inter alia* define:

- 1) design of the electricity market;
- 2) procedures, principles and standards for organisation and operation of the electricity market in line with the applied electricity market model;
- 3) method for identification and registration of electricity market participants;
- 4) types and templates of contracts concluded on the electricity market;
- 5) products for trading in the electricity market;
- 6) day-ahead electricity market;
- 7) intra-day electricity market;
- 8) standards and procedures for keeping records of transactions conducted on the electricity market;
- 9) standards and procedures for establishing and keeping a database for the needs of the electricity market;
- 10) standards and procedures for the application, preparation, verification and change of daily schedules for purchasing and selling of electricity;
- 11) standards and procedures for the procurement of electricity to cover losses in electricity transmission and distribution networks;
- 12) responsibility for and calculation of imbalances;
- 13) calculation of quantitative imbalances of balancing groups and financial settlement of the imbalances on the electricity market by the balancing group responsible parties; and
- 14) other issues necessary for the organisation and operation of the electricity market.

3. The Electricity Market Rules, when adopted by the Commission, shall be published in the Legislative Herald of Georgia.

Article 135 - Electricity market participants

1. Electricity undertakings and other legal and natural persons shall be allowed to participate in the electricity market for sale and/or purchase of electricity under the terms and conditions stipulated in this Law and the Electricity Market Rules.

2. Each electricity market participant, including producers, traders, suppliers, including those performing the supply of electricity as a public service, and final customers, shall be entitled for trade in electricity on the organised electricity market of Georgia under the terms and conditions stipulated in this Law and the Electricity Market Rules.

3. Electricity market participants shall fulfil their mutual rights and obligations by contracts in line with the Electricity Market Rules.
4. In relation to the obligation of procuring electricity to cover the losses in the transmission and distribution network, transmission and distribution system operators are specific electricity market participants whose special characteristics are further regulated by the Electricity Market Rules.
5. In relation to the trade on the day-ahead electricity market and intra-day electricity market, where the electricity market operator represents a contractual party as referred to in paragraph 3 of Article 133 [*Tasks of the electricity market operator*] of this Law, the electricity market operator is a specific electricity market participant whose special characteristics are further regulated by the Electricity Market Rules.

Article 136 - Liability of electricity market participants in relation to imbalances

- (1) Liability for the imbalance is established for all electricity market participants based on the balancing group model, for the purpose of unobstructed performance of purchase and sale transactions on the electricity market and their fair settlement, achieving a balance between generation and consumption in the electricity system of the Georgia and separation of financial transactions from physical delivery.
- (2) The conditions related to details of the balancing group model, including rights and obligations of the balancing group responsible parties *vis-à-vis* the balancing group, on one hand, and the electricity market operator, on the other hand, shall be prescribed in the Electricity Market Rules, which shall include the definition of the balancing group responsible parties, as well as the liability for the imbalance of those undertakings.
- (3) The transmission and/or distribution system operator in charge shall be responsible for the establishment and calculation of the balancing electricity required due to imbalances of balancing group responsible parties and for keeping a register of the balancing group responsible parties.
- (4) The register of accounting metering points of one balancing group for delivery points in the transmission system shall be kept by the transmission system operator and for delivery points in the distribution system – by the distribution system operator. Transmission and distribution system operators shall use data from the register as required for the establishment and calculation referred to in paragraph 3 of this Article.

Chapter XXXI - Organisation of the natural gas market

Article 137 - Scope of the natural gas market

1. The natural gas market shall include the retail and wholesale natural gas market.
2. Transactions between final customers and their suppliers shall take place on the retail natural gas market.
3. The wholesale natural gas market shall include:
 - 1) bilateral natural gas market; and
 - 2) day-ahead natural gas market.
4. Purchase and sale on the wholesale natural gas market shall be contracted under bilateral agreements, as well as on organised natural gas markets, *i.e.* day-ahead natural gas market.

5. The transmission system operator for natural gas shall procure balancing and ancillary services from natural gas market participants capable of providing such services under the terms and conditions stipulated in the Natural Gas Transmission Network Code which shall define, *inter alia*, requirements for providers of balancing and ancillary services, terms and conditions for the procurement of balancing and ancillary services, prerequisites for a respective trading platform organised and managed by the transmission system operator, methods used to determine the quantities to be settled with service providers, and rules on financial settlements with service providers.
6. Natural gas balancing and ancillary services, as referred to in paragraph 5 of this Article, shall be provided in the most feasible economic manner and under objective, transparent and non-discriminatory criteria, and shall reflect adequate price signals in the natural gas market of Georgia.
7. The transmission system operator shall cooperate with other transmission system operators on facilitating balancing market at a regional level in order to ensure operational security of natural gas networks and efficient functioning of balancing market based on the effective competition, non-discrimination and transparency.
8. The Commission may, subject to the level and effectiveness of the competition in the natural gas market as revealed by the market survey conducted pursuant to Article 129 [*Competition in energy markets*] of this Law, decide on the establishment of organised natural gas balancing and ancillary services markets. Terms and conditions concerning organised natural gas balancing and ancillary services markets shall be therefore stipulated in the Natural Gas Market Rules adopted by the Commission.

Article 138 - Organisation of the natural gas market

1. The natural gas market operator shall be responsible for the organisation of the day-ahead natural gas market in Georgia for trade in natural gas, as well as for its connection and integration with other organised natural gas markets. Organisation of the natural gas market shall be regulated by the Natural Gas Market Rules.
2. The possibility of establishing the stock exchange of natural gas derivatives shall not be limited only to the natural gas market operator.
3. The natural gas market operator may be a company owned by the transmission system operator for natural gas. In this regard, the transmission system operator shall ensure its legal and functional independence from the natural gas market operator and shall include respective measures preventing the discriminatory conduct in its compliance programme.
4. The natural gas market operator shall perform its activities on the basis of a license issued by the Commission under the terms and conditions stipulated in the Law of Georgia on Licenses and Permits in accordance with Chapter V [*Authorisation of energy activities*] of this Law.
5. The natural gas market operator shall perform its duties respecting the principles of transparency, objectivity and non-discrimination, under the supervision of the Commission.
6. The natural gas market operator shall apply the fees for its services as set by the Commission taking into account the annual operational plan and financial plan of the natural gas market operator.
7. The natural gas market operator shall keep a separate account for the transactions involving purchase and sale of natural gas.

Article 139 - Tasks of the natural gas market operator

1. The natural gas market operator shall be particularly responsible for the following:
 - 1) organising the day-ahead natural gas market;
 - 2) keeping records on contracts and contractual obligations concluded between undertakings on the natural gas market in accordance with the Natural Gas Market Rules;
 - 3) registering and keeping records on natural gas market participants;
 - 4) keeping records on suppliers and customers and their contractual obligations; and
 - 5) appropriate publishing of information required for unhindered organisation of the natural gas market and performance of natural gas activities.
2. The natural gas market operator may be assigned with other tasks and responsibilities under this Law and the Natural Gas Market Rules, including those additional tasks and responsibilities which may be conferred upon establishment of the organised natural gas balancing and ancillary services markets as referred to in paragraph 8 of Article 137 [*Scope of the natural gas market*] of this Law.
3. The natural gas market operator shall not trade in natural gas, except for the purpose of trading on the day-ahead natural gas market where the natural gas market operator represents a contractual party.
4. Natural gas undertakings shall provide the natural gas market operator with continuous and unlimited access to data that the natural gas market operator needs for the organisation of the natural gas market in line with the Natural Gas Market Rules.

Article 140 - Natural Gas Market Rules

1. The Natural Gas Market Rules shall define the manner of organisation and operation of the natural gas market.
2. The Natural Gas Market Rules shall *inter alia* define:
 - 1) design of the natural gas market;
 - 2) procedures, principles and standards for organisation and operation of the natural gas market in line with the applied natural gas market model;
 - 3) method for identification and registration of natural gas market participants;
 - 4) types and templates of contracts concluded on the natural gas market;
 - 5) products for trading in the natural gas market;
 - 6) standards and procedures for keeping records of transactions conducted on the natural gas market;
 - 7) standards and procedures for establishing and keeping a database for the needs of the natural gas market;
 - 8) standards and procedures for the application, preparation, verification and change of daily schedules for purchasing and selling of natural gas;
 - 9) standards and procedures for the procurement of natural gas to cover losses in the natural gas transmission and distribution network in order to ensure continuous, safe and reliable supply of customers with natural gas;
 - 10) day-ahead natural gas market;

- 11) other issues necessary for the organisation and operation of the natural gas market.
3. The Natural Gas Market Rules, when adopted by the Commission, shall be published in the Legislative Herald of Georgia.

Article 141 - Natural gas market participants

1. Natural gas undertakings and other legal and natural persons shall be allowed to participate in the natural gas market for sale and/or purchase of natural gas under the terms and conditions stipulated in this Law and the Natural Gas Market Rules.
2. Each natural gas market participant, including producers, traders, suppliers, including those performing the supply of natural gas as a public service, and final customers, shall be entitled for trade in natural gas on the organised natural gas market of Georgia under the terms and conditions stipulated in this Law and the Natural Gas Market Rules.
3. Natural gas market participants shall fulfil their mutual rights and obligations by contracts in line with the Natural Gas Market Rules.
4. In relation to the obligation of procuring natural gas to cover the losses in the transmission and distribution network, transmission and distribution system operators are specific natural gas market participants whose special characteristics are further regulated by the Natural Gas Market Rules.
5. In relation to the trade on the day-ahead natural gas market, where the natural gas market operator represents a contractual party as referred to in paragraph 3 of Article 139 [*Tasks of the natural gas market operator*] of this Law, the natural gas market operator is a specific natural gas market participant whose special characteristics are further regulated by the Natural Gas Market Rules.

Article 142 - Derogations in relation to take-or-pay commitments

1. If a natural gas undertaking encounters, or considers it would encounter, serious economic and financial difficulties because of its take-or-pay commitments accepted in one or more natural gas purchase contracts, the natural gas undertaking may apply to the Commission for a temporary derogation from the duty to provide access to natural gas systems under the terms and conditions stipulated in this Law. Applications shall be presented on a case-by-case basis, either before or after refusal of access to the system, at the choice of the natural gas undertaking. Where a natural gas undertaking has refused access, the application shall be presented without delay. The application shall be accompanied by all relevant information on the nature and extent of the problem and on the efforts undertaken by the natural gas undertaking to solve the problem.
2. With respect to the situation described in paragraph 1 of this Article, if alternative solutions are not reasonably available, the Commission may decide to grant derogation. The Commission shall notify the Energy Community Secretariat without delay of its decision to grant derogation, together with all the relevant information with respect to the derogation. That information may be submitted to the Energy Community Secretariat in an aggregated form, enabling the Energy Community Secretariat to reach a well-founded decision. Within eight (8) weeks of receipt of that notification, the Energy Community Secretariat shall issue an opinion, inviting, as the case may be, the Commission to amend or withdraw the decision to grant derogation.
3. When deciding on derogation, the Commission shall take into account, in particular, the following criteria:
 - 1) the objective of achieving a non discriminatory, transparent competitive gas market;

- 2) the need to fulfil public service obligations and to ensure security of supply;
 - 3) the position of the natural gas undertaking in the gas market and the actual state of competition in the market;
 - 4) the seriousness of the economic and financial difficulties encountered by natural gas undertakings, the transmission system operator or eligible customers;
 - 5) the dates of signature and terms of the contract or contracts in question, including the extent to which they allow for market changes;
 - 6) the efforts made to find a solution to the problem;
 - 7) the extent to which, when accepting the take-or-pay commitments in question, the undertaking could reasonably have foreseen, having regard to the provisions of this Law, that serious difficulties were likely to arise;
 - 8) the level of connection of the system with other systems and the degree of interoperability of these systems; and
 - 9) the effects the granting of a derogation would have on the correct application of this Law as regards the smooth functioning of the internal gas market.
4. A decision on a request for a derogation concerning take-or-pay contracts concluded before 1 July 2006 should not lead to a situation in which it is impossible to find economically viable alternative outlets. Serious difficulties shall in any case be deemed not to exist when the sales of natural gas do not fall below the level of minimum off-take guarantees contained in gas-purchase take-or-pay contracts or in so far as the relevant gas-purchase take-or-pay contract can be adapted or the natural gas undertaking is able to find alternative outlets.
5. Natural gas undertakings which have not been granted a derogation as referred to in paragraph 1 of this Article shall not refuse, or shall no longer refuse, access to the system because of take-or-pay commitments accepted in a gas purchase contract. In this regard, the Commission shall ensure that relevant provisions of this Law regulating the third-party access and gas supply contracts are fully applied and properly implemented.
6. Any derogation granted by the Commission shall be published and duly substantiated and notified to the Energy Community Secretariat.

SECTION XIII SECURITY OF SUPPLY

Chapter XXXII - Safeguarding the security of supply

Article 143 - Competences regarding security of supply

1. The Ministry shall be a competent authority for safeguarding the security of electricity and natural gas supply in Georgia.
2. The Ministry shall adopt regulations on the security of electricity supply and the security of natural gas supply which shall define the roles and responsibilities of different energy undertakings, market participants, system users and customers in achieving adequate minimum security of supply standards and levels of the security of electricity and natural gas supply.
3. Regulations referred to in paragraph 2 of this Article shall be based primarily on market measures, and shall take into account the economic impact, effectiveness and efficiency of the measures, the effects on the functioning of energy markets and the impact on the

environment and on customers, and shall not put an undue burden on energy undertakings, nor negatively impact on the functioning of the energy markets.

4. The Commission and other competent national authorities of Georgia shall contribute to the security of supply under the terms and conditions stipulated in this Law and regulations adopted by the Ministry and within their specific scope of competences in the energy sector.

Article 144 - Regional solidarity

1. In order to safeguard the security of supply on internal energy markets, competent national authorities of Georgia shall cooperate with respective competent authorities of other Energy Community Parties so as to promote regional and bilateral solidarity.

2. The cooperation referred to in paragraph 1 of this Article shall cover situations resulting or likely to result in the short term in a severe disruption of supply of electricity or natural gas affecting Georgia and another Energy Community Party. It shall include:

- a) coordination of measures related to the security of electricity supply referred to in Articles 145 [*Measures concerning security of electricity supply*] and 147 [*Emergency situation in electricity*] of this Law;
- b) coordination of measures related to the security of natural gas supply referred to in Articles 150 [*Measures concerning security of natural gas supply*] and 152 [*Emergency situation in natural gas*] of this Law;
- c) identification and, where necessary, development and upgrading, of electricity and/or natural gas interconnectors, including enabling bi-directional capacities in natural gas interconnectors; and
- d) conditions and practical modalities for mutual assistance.

3. The Energy Community Secretariat and the other Energy Community Parties shall be kept informed of such cooperation.

Chapter XXXIII - Security of electricity supply

Article 145 - Measures concerning security of electricity supply

1. The Ministry, in cooperation with the Commission and other competent national authorities of Georgia, while developing and implementing the security of supply regulations for electricity, as referred to in Article 143 [*Competences regarding security of supply*] of this Law, and monitoring the security of electricity supply in accordance with Article 149 [*Monitoring the security of electricity supply*] of this Law shall aim at ensuring:

- 1) continuity of secure and reliable supply of electricity to final customers in Georgia;
- 2) transparent and stable regulatory framework for the electricity activities, taking into account clearly defined roles and responsibilities of the electricity market participants, and harmonised regulatory practices in Georgia;
- 3) effective functioning, development and integration of a single electricity market in Georgia, including liquidity of the internal trading in electricity, both wholesale and retail, as well as unrestricted access for cross-border exchanges in electricity;
- 4) regular maintenance and, where necessary, renewal of electricity transmission and/or distribution networks to maintain the performance of respective networks;

- 5) unrestricted and justified investments in electricity transmission and/or distribution networks in order to meet a foreseeable demand from the electricity market, including commercial investments in development of the cross-border interconnection capacities;
 - 6) promotion of electricity produced from renewable energy sources and in combined generation of electricity and heat;
 - 7) sufficient transmission and generation reserve capacities for stable operation of the electricity system;
 - 8) maintaining a balance between the demand for electricity and the availability of generation capacities;
 - 9) reduction of long-term effects of the growth of electricity demand;
 - 10) promotion, of the energy efficiency and the adoption of new technologies, in particular demand management technologies, renewable energy technologies, distributed generation of electricity, as well as smart metering technologies, in order to adopt a real-time electricity demand management;
 - 11) encouragement of the energy conservation measures;
 - 12) removal of administrative barriers and minimised administrative burden to investments in the electricity infrastructure for the access of new electricity generation capacities; and
 - 13) removal of barriers that prevent the use of interruptible contracts and conclusion of contracts of varying lengths for both producers and customers.
2. Any regulatory measures undertaken or adopted for the purpose of paragraph 1 of this Article shall be non-discriminatory, shall not distort conditions for competition and price signals on the electricity market to the extent higher than the minimum level necessary, and shall not place an unreasonable burden on electricity market participants, including new entrants and undertakings with small market shares. Such measures shall be also justified on their economic and social effect to the final customers in Georgia, including their possible impact on electricity prices.
3. In cases where building of new electricity interconnectors or maintenance of existing interconnectors is considered by the transmission system operator in order to increase cross-border exchange capacities, any regulatory measures referred to in paragraph 1 of this Article shall be considered taking into account at least the following criteria:
- a) specific geographic situation of Georgia and its neighbouring countries concerned;
 - b) maintaining a reasonable balance between the costs of building new electricity interconnectors and the benefit to final customers; and
 - c) ensuring that existing electricity interconnectors are used as efficiently as possible.
4. In cases where the guaranteed electricity generation capacity is needed in order to ensure the stability, safety and reliability of the electricity system, including balance between supply and demand, the Government, subject to the proposal by the Ministry, may impose an obligation on an electricity producer or several electricity producers to maintain the guaranteed electricity generation capacity which may be effectively allocated for the system balancing needs in case of emergency or other defined extraordinary circumstances in the electricity system. Such obligation shall in all cases comply with the criteria for public service obligations in accordance with Article 9 [*Public services*] of this Law and shall be therefore justified, including the screening in accordance with competition and/or State aid rules, and consulted pursuant to requirements stipulated therein. Terms and conditions for the maintenance of the guaranteed electricity generation capacity shall be established by the Government. Dispatching of the guaranteed electricity generation capacity shall be performed by the transmission system operator to whose network respective electricity

generation facilities are connected under the terms and conditions stipulated in the Electricity Transmission Network Code. Electricity produced following allocation of the guaranteed electricity generation capacity shall be considered as balancing electricity and shall be traded under the terms and conditions stipulated in this Law.

5. Technical and safety provisions relevant for the security of electricity supply and therefore mandatorily applicable to electricity facilities and their associated equipment as well as requirements for technical inspections thereto shall be regulated by the technical rules adopted by the Ministry in accordance with Article 108 [*Interoperability and technical rules*] of this Law.

Article 146 - Operational security of electricity networks

1. The transmission system operator shall set the minimum operational rules and obligations of the security of the electricity transmission network. Such rules and obligations shall be established in the Electricity Transmission Network Code.

2. Operational rules and obligations of the security of the electricity transmission network shall be adopted following prior consultations with system users in Georgia and, where relevant, with transmission system operators of the neighbouring countries, and shall be approved by the Commission.

3. The Commission shall ensure that transmission and, where relevant, distribution system operators comply with the minimum operational requirements, and maintain an appropriate level of the operational security of electricity networks.

4. The transmission system operator shall maintain an appropriate level of technical transmission reserve capacity for operational security of electricity networks and cooperate with system operators of interconnected systems and of the neighbouring and/or other countries concerned. The level of foreseeable circumstance in which security shall be maintained shall be defined in the Electricity Transmission Network Code.

5. The transmission system operator shall exchange information with the relevant system operators in interconnected systems relating to the operation of network in a timely and effective manner in line with the minimum operational requirements.

6. The transmission system operator shall meet network security performance objectives and, where relevant, the quality of the supply of electricity, as adopted or approved by the Commission respectively.

7. For the purposes of the cross-border exchanges in electricity and the operational security of electricity networks thereto, the transmission system operator, the electricity market operator and/or any other electricity undertaking in charge shall not discriminate between the cross-border contracts and national contracts.

Article 147 - Emergency situation in electricity

1. Emergency situation in electricity may be caused and announced in case generation, transmission, distribution, supply of electricity and/or trade in electricity is interfered by unexpected circumstances or those beyond the reasonable control of the electricity undertakings in charge, and which threatens the overall security and reliability of the electricity system or supply to the final customers in order to meet their daily demand for electricity.

2. Emergency situation in electricity shall be announced under the decision of the Government following its adopted rules and regulations.

3. Any safeguard measures applied in case of the emergency situation in electricity shall be duly consulted and closely coordinated with the Commission, the transmission system

operator and distribution system operators, as well as competent authorities and operators of the Energy Community Parties and/or other countries concerned.

4. All such measures referred to in paragraph 4 of this Article shall be applied temporarily and shall cause least possible disturbance in the functioning of the electricity market, and shall not be wider in scope than is strictly necessary to remedy the threat to the physical safety or security of persons, electricity facilities and/or equipment.

5. The Government shall without delay notify the safeguard measures to the Energy Community Secretariat and shall provide all relevant data and information.

6. This Article shall apply without prejudice to the general terms and conditions for dealing with emergency situation in the country pursuant to the Law of Georgia on the State of Emergency subject to, however, a proper implementation of sector specific requirements for dealing with emergencies in electricity in accordance with this Article.

Article 148 - Curtailment of the supply of electricity

1. Supply of electricity to the final customers in Georgia may be temporarily interrupted only when such interruption is justified by necessity to secure the public interest, including the emergency situation in electricity, as referred to in Article 148 [*Emergency situation in electricity*] of this Law, or in case when such interruption is technically required for maintenance of the network or connection of new customers.

2. Supply of electricity may be interrupted or restricted without prior notice to the customers only in cases when it is required to avoid accidents or breakdowns in the electricity system, or to eliminate such accidents or breakdowns, including conditions referred to in paragraph 1 of this Article. In these cases the customers shall be informed without any delay on such interruptions or restrictions, their effect towards supply of electricity and intended continuance.

3. Curtailments of supply due to the planned maintenance of electricity transmission and/or distribution networks shall be carried out following the adopted schedule, which shall be published, and respective separate announcements shall be sent to the customers at least two (2) business days before the intended start of the maintenance works.

4. Without prejudice to paragraphs 1 and 2 of this Article, transmission and distribution system operators may interrupt the supply of electricity for those customers which do cause disturbances in the network and/or negative impact towards the quality of electricity supply, in case such infringements are not eliminated in five (5) days following a written notice from the respective operator, and their continuance may cause the risk of accident or breakdown in the electricity system or otherwise negatively effects security, safety and/or reliability of the electricity system.

5. Transmission and distribution system operators may, upon prior written notice provided in terms referred to in paragraph 4 of this Article, interrupt supply of electricity to the customers which do not allow for authorised representatives of respective operators to enter the territory of the customer for installation, maintenance or verification of the electricity metering devices.

6. Terms and conditions for the implementation of procedures for interruptions of electricity deliveries, and thus interruption of supply, through electricity transmission and distribution networks shall be established in the applicable Electricity Transmission Network Code and the Electricity Distribution Network Code.

7. This Article shall apply without prejudice to possible suspension of electricity deliveries to final customers due to their failure to comply with contractual obligations for the transmission and/or distribution or supply of electricity in accordance with Article 125 [*Suspension of deliveries to final customers*] of this Law.

Article 149 - Monitoring the security of electricity supply

1. The Ministry shall monitor, in cooperation with the Commission and, where relevant, with other competent national authorities of Georgia as well as with transmission system operators for electricity, the security of electricity supply in Georgia. Such monitoring shall, in particular, cover:

- 1) the balance of supply and demand in the electricity market of Georgia;
- 2) the level of expected future demand and envisaged additional capacity being planned or under construction; and
- 3) the quality and level of maintenance of the networks, as well as measures to cover peak demand and to deal with shortfalls of one or more suppliers.

2. By the 31st of July each second year the Ministry shall prepare and publish a common single security of electricity supply report for Georgia, incorporating the information collected and compiled by the Commission and, where relevant, by other competent national authorities of Georgia and the transmission system operator. This report shall outline the findings resulting from the monitoring of those issues referred to in paragraph 1 of this Article, as well as any measures taken or envisaged to address them. Report prepared by the Ministry shall be submitted to the Energy Community Secretariat forthwith.

3. Report referred to in paragraph 2 of this Article, shall *inter alia* cover the overall adequacy of the electricity system of Georgia to supply current and projected demands for electricity, comprising:

- 1) operational security of electricity networks;
- 2) the projected balance of supply and demand for the period of next five (5) years;
- 3) the prospects for security of supply for the period between five (5) and fifteen (15) years from the date of the report; and
- 4) the investment intentions, for the next five (5) or more calendar years, of transmission system operators and those of any other party of which it is known, as regards the provision of cross-border interconnection capacity.

4. The section of the report relating to interconnection investment intentions, referred to in subparagraph 4 of paragraph 3 of this Article, shall take account of:

- 1) the principles of congestion management as set out in Article 71 [*Congestion management in the electricity transmission network*] of this Law;
- 2) existing and planned electricity transmission lines;
- 3) expected patterns of generation, supply, trade, cross-border exchanges and consumption of electricity, allowing for energy efficiency/demand-side management measures; and
- 4) regional, national and pan-European sustainable development objectives, including the Energy Community priority electricity infrastructure projects.

5. For the purpose of carrying out its monitoring and reporting duties stipulated in this Article, the Ministry shall closely cooperate with other competent national authorities of Georgia, including the Commission, as well as with transmission system operators and in this regard:

- 1) all data and information possessed by the Commission, collected in course of carrying its regulatory functions, as well as any other relevant information possessed by other competent national authorities of Georgia shall be transferred to the Ministry without any delay upon receipt of respective written request;

- 2) transmission system operators shall provide the Ministry with information on its investment intentions or those of any other party of which it is aware as regards the provision of cross-border interconnection capacity;
 - 3) transmission system operators shall provide the Ministry with information on investments related to the building of internal electricity transmission lines that materially affect the provision of cross-border interconnection capacity; and
 - 4) transmission system operators, where relevant, shall consult with transmission system operators of neighbouring and/or other countries concerned, and shall provide the Ministry with respective information on cross-border cooperation.
6. While carrying out its monitoring and reporting duties stipulated in this Article, the Ministry shall ensure non-disclosure of the commercially sensitive information, as required under Article 163 [*Confidentiality obligations*] of this Law.

Chapter XXXIV - Security of natural gas supply

Article 150 - Measures concerning security of natural gas supply

1. The Ministry, in cooperation with the Commission and other competent national authorities of Georgia, while developing and implementing the security of supply regulations for natural gas, as referred to in Article 143 [*Competences regarding security of supply*] of this Law, and monitoring the security of natural gas supply in accordance with Article 154 [*Monitoring the security of natural gas supply*] of this Law shall *inter alia* contain the following:

- 1) identification of protected customers;
 - 2) instruments and measures performed by the natural gas undertakings, to endeavour to ensure the supply of natural gas to protected customers in the following cases at least in the event of:
 - a) extreme temperatures during a 7-day peak period occurring with a statistical probability of once in twenty (20) years;
 - b) any period of at least thirty (30) days of exceptionally high gas demand, occurring with a statistical probability of once in twenty (20) years; and
 - c) for a period of at least thirty (30) days in case of the disruption of the single largest gas infrastructure under average winter conditions.
 - 3) identification of the natural gas undertakings referred to in subparagraph 2;
 - 4) identification of various groups of major risks to security of natural gas supply (risk assessment);
 - 5) measures to mitigate the risks identified, as referred to in subparagraph 4, but in particular of disruption scenarios modelling the loss of a major infrastructure or natural gas supply route/source in case of exceptional high natural gas demand;
 - 6) contents of the report by a natural gas undertakings on the security of natural gas supply;
 - 7) obligations imposed on natural gas undertakings and other relevant bodies, including for the safe operation of the natural gas system.
2. Any regulatory measures undertaken or adopted for the purpose of paragraph 1 of this Article shall be non-discriminatory, shall not distort conditions for competition and price signals on the natural gas market to the extent higher than the minimum level necessary, and shall not place an unreasonable burden on natural gas market participants, including new

entrants and undertakings with small market shares. Such measures shall be also justified on their economic and social effect to the final customers in Georgia, including their possible impact on natural gas prices.

3. Technical and safety provisions relevant for the security of natural gas supply and therefore mandatorily applicable to natural gas facilities and their associated equipment as well as requirements for technical inspections thereto shall be regulated by the technical rules adopted by the Ministry in accordance with Article 108 [*Interoperability and technical rules*] of this Law.

Article 151 - National Natural Gas Emergency Plan

1. The Ministry, after consulting natural gas undertakings, relevant organisations representing the interests of household and industrial natural gas customers, and the Commission, shall, without prejudice to Article 150 [*Measures concerning security of natural gas supply*] of this Law, establish the National Natural Gas Emergency Plan containing the measures to be taken to remove or mitigate the impact of disruptions in supply of natural gas.

2. The National Natural Gas Emergency Plan shall:

- 1) define the crisis levels;
- 2) define the role and responsibilities of natural gas undertakings and of industrial natural gas customers including relevant electricity producers, taking account of the different extents to which they are affected in the event of disruptions of natural gas supply, and their interaction with the Ministry at each of the crisis levels defined thereto;
- 3) define the role and responsibilities of the Ministry and of the other bodies to which tasks have been delegated at each of the crisis levels;
- 4) ensure that natural gas undertakings and industrial natural gas customers are given sufficient opportunity to respond at each crisis level;
- 5) identify, if appropriate, the measures and actions to be taken to mitigate the potential impact of disruptions in supply of natural gas on district heating and on the supply of electricity produced from natural gas;
- 6) establish detailed procedures and measures to be followed for each crisis level, including the corresponding schemes on information flows;
- 7) designate a crisis manager or team and define its role;
- 8) identify the contribution of market-based measures, for coping with the situation at defined levels of the emergency situation;
- 9) identify the contribution of non-market based measures planned or to be implemented for the emergency level, and assess the degree to which the use of such non-market based measures is necessary to cope with a crisis, assess their effects and define the procedures to implement them, taking into account the fact that non-market based measures are to be used only when market-based mechanisms alone can no longer ensure supplies, in particular to protected customers;
- 10) describe the mechanisms used to cooperate with other Energy Community Parties for each crisis level;
- 11) detail the reporting obligations imposed on natural gas undertakings at alert and emergency levels; and
- 12) establish a list of predefined actions to make natural gas available in the event of an emergency, including commercial agreements between the parties involved in such actions and the compensation mechanisms for natural gas undertakings where appropriate, taking due account of the confidentiality of sensitive data. Such actions

may involve cross-border agreements between Energy Community Parties and/or natural gas undertakings.

Article 152 - Emergency situation in natural gas

1. Emergency situation in natural gas may be caused and announced in the event of a sudden crisis in the natural gas market, where the production, transmission, distribution, supply of natural gas and/or trade in natural gas is interfered by unexpected circumstances or those beyond the reasonable control of natural gas undertakings in charge thus threatening the overall security and reliability of the national system or supply to the final customers in order to meet their daily demand for natural gas, or where the physical safety or security of persons, apparatus or installations or system integrity is threatened.
2. Emergency situation in natural gas shall be announced under the decision of the Government following its adopted rules and regulations.
3. Based on the Governmental decision referred to in paragraph 2 of this Article and following actions predefined in the National Natural Gas Emergency Plan, the Ministry may take the necessary safeguard measures remedying the emergency situation.
4. The Ministry shall ensure that:
 - 1) no measures are introduced which unduly restrict the flow of gas within the internal market at any time;
 - 2) no measures are introduced that are likely to endanger seriously the gas supply situation in another Energy Community Party; and
 - 3) cross-border access to infrastructure is maintained as far as technically and safely possible, in accordance with the National Natural Gas Emergency Plan.
5. Any safeguard measures applied in case of the emergency situation in natural gas shall be duly consulted and closely coordinated with the Commission, the transmission system operator and distribution system operators, as well as competent authorities and operators of the Energy Community Parties and/or other countries concerned.
6. Any safeguard measures shall be applied temporarily and shall cause least possible disturbance in the functioning of the natural gas market, and shall not be wider in scope than is strictly necessary to remedy the threat to the physical safety or security of persons, natural gas facilities and/or equipment.
7. The Ministry shall without delay notify the safeguard measures to the Energy Community Secretariat and shall provide all relevant data and information.
8. In cases where the emergency situation in the natural gas sector cannot be adequately managed with national measures, the Ministry shall notify the Chair of the Security of Supply Coordination Group of the Energy Community, which shall forthwith convene an *ad hoc* meeting of the Security of Supply Coordination Group for examination and, where appropriate, assisting Georgia and/or other Energy Community Parties concerned in coordinating the measures taken at national level to deal with the emergency situation in the natural gas sector.
9. This Article shall apply without prejudice to the general terms and conditions for dealing with emergency situation in the country pursuant to the Law of Georgia on the State of Emergency subject to, however, a proper implementation of sector specific requirements for dealing with emergencies in natural gas in accordance with this Article.

Article 153 - Curtailment of the supply of natural gas

1. Supply of natural gas to the final customers in Georgia may be temporarily interrupted only when such interruption is justified by necessity to secure the public interest, including the emergency situation in natural gas, as referred to in Article 152 [*Emergency situation in natural gas*] of this Law, or in case when such interruption is technically required for maintenance of the network or connection of new customers.
2. Supply of natural gas may be interrupted or restricted without prior notice to the customers only in cases when it is required to avoid accidents in the natural gas system or to eliminate such accidents, including conditions referred to in paragraph 1 of this Article. In these cases the customers shall be informed without any delay on such interruptions or restrictions, their effect towards supply of natural gas and intended continuance.
3. Curtailments of supply due to the planned maintenance of natural gas transmission and/or distribution networks shall be carried out following the adopted schedule, which shall be published, and respective separate announcements shall be sent to the customers at least two (2) business days before the intended start of the maintenance works.
4. Without prejudice to paragraphs 1 and 2 of this Article, transmission and distribution system operators may interrupt the supply of natural gas for those customers which do cause disturbances in the network and/or negative impact towards the quality of natural gas supply, in case such infringements are not eliminated in five (5) days following a written notice from the respective operator, and their continuance may cause the risk of accident in the natural gas system or otherwise negatively effects security, safety and/or reliability of the natural gas system.
5. Transmission and distribution system operators may, upon prior written notice provided in terms referred to in paragraph 4 of this Article, interrupt supply of natural gas to the customers which do not allow for authorised representatives of respective operators to enter the territory of the customer for installation, maintenance or verification of the natural gas metering devices.
6. Terms and conditions for the implementation of procedures for interruptions of natural gas deliveries, and thus interruption of supply, through natural gas transmission and distribution networks shall be established in the applicable Natural Gas Transmission Network Code and the Natural Gas Distribution Network Code.
7. This Article shall apply without prejudice to possible suspension of natural gas deliveries to final customers due to their failure to comply with contractual obligations for the transmission and/or distribution or supply of natural gas in accordance with Article 125 [*Suspension of deliveries to final customers*] of this Law.

Article 154 - Monitoring the security of natural gas supply

1. The Ministry shall monitor, in cooperation with the Commission and, where relevant, with other competent national authorities of Georgia as well as with transmission system operators for natural gas, the security of natural gas supply in Georgia. Such monitoring shall, in particular, cover:
 - 1) proper implementation of the security of supply standards, as stipulated in Article 150 [*Measures concerning security of natural gas supply*] of this Law, including measures undertaken and instruments applied thereto;
 - 2) the balance of supply and demand on the natural gas market of Georgia;
 - 3) the degree of new long-term gas supply import contracts from third countries;
 - 4) the existence of adequate liquidity of natural gas supplies;
 - 5) the level of working gas and of the withdrawal capacity of natural gas storage;

- 6) the level of interconnectors of the natural gas system of Georgia with the systems of its neighbouring Energy Community Parties;
 - 7) the level of expected future demand and available supplies and, consequently, the foreseeable gas supply situation in function of demand, supply autonomy and available supply sources;
 - 8) envisaged additional capacity being planned or under construction;
 - 9) the quality and level of maintenance of the networks; and
 - 10) measures to cover peak demand and to deal with shortfalls of one or more suppliers.
2. By the 31st of July each second year the Ministry shall prepare and publish a common single security of natural gas supply report for Georgia, incorporating the information collected and compiled by the Commission and, where relevant, by other competent national authorities of Georgia and the transmission system operator. This report shall outline the findings resulting from the monitoring of those issues referred to in paragraph 1 of this Article, as well as any measures taken or envisaged to address them. Report prepared by the Ministry shall be submitted to the Energy Community Secretariat forthwith.
3. The report referred to in paragraph 2 of this Article shall *inter alia* cover the following:
- 1) the competitive impact of the measures taken pursuant to Article 152 [*Emergency situation in natural gas*] of this Law on all natural gas market participants;
 - 2) the levels of natural gas storage capacity;
 - 3) the extent of long-term natural gas supply contracts concluded by companies established and registered in Georgia, and in particular their remaining duration, based on information provided by the companies concerned, but excluding commercially sensitive information, and the degree of liquidity of the natural gas market; and
 - 4) the regulatory frameworks to provide adequate incentives for new investment in exploration and production, transport and storage of natural gas.
4. For the purpose of carrying out its monitoring and reporting duties stipulated in this Article, the Ministry shall closely cooperate with other competent national authorities of Georgia, including the Commission, as well as with transmission system operators and in this regard:
- 1) all data and information possessed by the Commission, collected in course of carrying its regulatory functions, as well as any other relevant information possessed by other competent national authorities of Georgia shall be transferred to the Ministry without any delay upon receipt of respective written request;
 - 2) transmission system operators shall provide the Ministry with information on its investment intentions or those of any other party of which it is aware as regards the provision of cross-border interconnection capacity;
 - 3) transmission system operators shall provide the Ministry with information on investments related to the building of internal natural gas transmission pipelines that materially affect the provision of cross-border interconnection capacity; and
 - 4) transmission system operators, where relevant, shall consult with transmission system operators of neighbouring and/or other countries concerned, and shall provide the Ministry with respective information on cross-border cooperation.
5. The report prepared by the Ministry shall be submitted to the Government and the Energy Community Secretariat, as well as published on the official website of the Ministry.

SECTION XIV DRINKING WATER SUPPLY

Chapter XXXV - Regulation and organisation of the drinking water supply

Article 155 - Drinking water supply activities

1. All drinking water customers in Georgia shall be supplied with drinking water under the terms and conditions stipulated in this Law and the Drinking Water Supply and Consumption Rules adopted by the Commission.
2. Drinking water supply activities shall encompass the operation of the drinking water supply system, drinking water supply to drinking water customers and/or drinking water withdrawal within the particular drinking water supply system.
3. Drinking water supplier shall perform their activities on the basis of a license for drinking water supply issued by the Commission under the terms and conditions stipulated in the Law of Georgia on Licenses and Permits in accordance with Article 156 [*Issuance of licenses for drinking water supply*] of this Article.
4. Quality requirements for drinking water and drinking water consumption norm for each particular drinking water supplier shall be established by the Commission.

Article 156 - Issuance of licenses for drinking water supply

1. Licenses for drinking water supply shall be issued in a transparent, objective, legally justified and non-discriminatory manner in accordance with the procedures established or referred to by the Law of Georgia on Licenses and Permits.
2. In addition to the requirements established by the Law of Georgia on Licenses and Permits, license applicant for the drinking water supply shall submit to the Commission the following documents together with the license application:
 - 1) documents proving the ownership or other form of legal possession of a drinking water supply system;
 - 2) documents proving the compliance of the technical status of a drinking water supply system referred to in subparagraph 1 with applicable technical standards; and
 - 3) list of fixed assets and the audit report of a license applicant
3. A complete list of documents to be submitted by license applicants pursuant to the Law of Georgia on Licenses and Permits and this Law, including relevant references to governing legal acts, public bodies in charge, standard forms and/or examples, shall be published and constantly updated by the Commission on its website.
4. Issuance of the license for drinking water supply shall be evidenced by a license certificate issued by the Commission under the terms and conditions stipulated in the Law of Georgia on Licenses and Permits. A license certificate shall *inter alia* specify a license holder, a licensed activity, services provided by a license holder, location of service assets, and the service territory to which the license shall apply, and the date of issuance of the license. A standard form of the license certificate shall be adopted by the Commission.
5. Applications for issuance of the license for drinking water supply may be refused only on grounds specified in the Law of Georgia on Licenses and Permits. Decision on such a refusal shall be taken on a legally justified basis in an objective, transparent and non-discriminatory manner, and shall be well substantiated and explained to a license applicant

who shall be allowed to appeal against such a refusal under the terms and conditions stipulated in the Law of Georgia on Licenses and Permits and in this Law.

6. Licenses for drinking water supply shall be issued for an indefinite period of time.

Article 157 - Rights and obligations of drinking water suppliers

1. Each drinking water supplier shall be entitled to the rights and shall fulfil the obligations, including a full-scope performance of assigned functions, duties and responsibilities, attributable to drinking water supply activities as established by this Law, the Drinking Water Supply and Consumption Rules and decisions of the Commission.

2. Drinking water suppliers shall:

- 1) render drinking water supply services within the territory prescribed in the license;
- 2) comply with the quality requirements for drinking water and drinking water consumption norm established by the Commission;
- 3) operate and manage the drinking water supply system;
- 4) ensure appropriate protection of the drinking water supply system and prevent adverse impact on the drinking water supply system and/or contamination of drinking water by any third persons;
- 5) develop emergency plans for drinking water supply and implement emergency measures under the terms and conditions stipulated in the Drinking Water Supply and Consumption Rules; and
- 6) provide wastewater disposal within the territory prescribed in the license in accordance with applicable legal acts.

3. Each drinking water supplier shall report its activities to the Commission and, where expressly provided by this Law, to other competent national authorities of Georgia under the terms and conditions stipulated in the Law of Georgia on Licenses and Permits, this Law, the Drinking Water Supply and Consumption Rules and the rules on provision of information adopted by the Commission.

4. Drinking water suppliers shall carry out other duties and perform tasks assigned to their competence under the terms and conditions stipulated in this Law, other applicable laws and their implementing regulations.

5. Failure by a drinking water supplier to fulfil its obligations may invoke its liability under the Law of Georgia on Licenses and Permits and this Law.

Article 158 - Drinking water supply contracts

1. Rights and obligations of a drinking water supplier and a drinking water customer shall be regulated under the drinking water supply contract.

2. The conclusion and contents of the drinking water supply contract shall be further determined by the Drinking Water Supply and Consumption Rules.

3. Each drinking water supplier shall ensure that conditions from the drinking water supply contract which the supplier offers to its customers are in line with the Drinking Water Supply and Consumption Rules. The conditions from the drinking water supply contract shall be written clearly and comprehensibly and shall not include non-contractual barriers to exercise the rights of drinking water customers, such as excessive contractual documentation or excessive administrative burdens. Each drinking water supplier shall ensure that drinking water customers are protected from unfair and misleading sales methods.

4. Each drinking water supplier shall prepare and in an appropriate manner publish standard conditions for the conclusion of the drinking water supply contract containing conditions established in advance. Each drinking water supplier shall also appropriately publish applicable tariffs for its services set in accordance with Article 159 [*Tariff-setting for drinking water supply*] of this Law.

Article 159 - Tariff-setting for drinking water supply

1. Drinking water supply and related services by the drinking water supplier shall be provided at tariffs set by the Commission.

2. Tariffs referred to in paragraph 1 of this Article shall be set on the basis of the methodology adopted by the Commission in accordance with and based on the tariff-setting principles, *mutatis mutandis*, stipulated in paragraph 2 of Article 29 [*Duties of the Commission*].

3. The Commission shall be authorised to set differentiated tariffs for drinking water supply subject to categories of drinking water customers and/or application of tariffs for drinking water supply in different self-governing territorial units.

SECTION XV TRANSPARENCY AND PROVISION OF INFORMATION

Chapter XXXVI - Access to and unbundling of accounts

Article 160 - Rights of access to accounts

1. The Commission and other competent national authorities of Georgia authorised by applicable laws shall, insofar as necessary to carry out their activities, have a right of access to the accounts of regulated undertakings, as regulated under Article 161 [*Unbundling of accounts*] of this Law.

2. The Commission and other competent national authorities of Georgia, as referred to in paragraph 1 of this Article, shall preserve the confidentiality of commercially sensitive information. Such information may be provided for the disclosure only under the terms and conditions provided by applicable laws.

Article 161 - Unbundling of accounts

1. Energy undertakings, whatever their system of ownership or legal form is, shall draw up, submit to audit and publish their annual accounts under the terms and conditions stipulated in applicable laws of Georgia and in compliance with international accounting standards.

2. Energy undertakings which are not legally obliged to publish their annual accounts shall keep a copy of these at the disposal of the public in their head office.

3. Transmission system operators and, where relevant, transmission system owners shall, in their internal accounting, keep separate accounts for their activities related to the transmission as they would be required to do if such activities were carried out by separate undertakings, with a view to avoiding discrimination, cross-subsidisation and distortion of competition. Revenues from ownership of the transmission system shall be specified in the accounts.

4. Without prejudice to paragraph 3 of this Article, all energy undertakings shall keep separate accounts, which may be consolidated, for the energy activities and, where relevant, those activities not related to energy.
5. Internal accounts of energy undertakings shall include a balance sheet and a profit and loss account for each activity.
6. The audit referred to in paragraph 1 of this Article shall, in particular, verify that the obligation to avoid discrimination and cross-subsidies referred to in paragraph 3 of this Article is respected.
7. Requirements laid down in this Article shall apply, *mutatis mutandis*, also to other regulated undertakings, including drinking water suppliers.

Chapter XXXVII - Provision of information and confidentiality

Article 162 - Provision of information

1. The Government, the Ministry, the Commission and other competent national authorities of Georgia shall, insofar as necessary to carry out their activities, have a right to request from regulated undertakings for any data and information related to their activities under this Law.
2. The Commission shall have a right to request from other competent national authorities of Georgia and regulated undertakings for any data and information necessary for due fulfilment of its tasks related to monitoring the activities covered by this Law, including such relevant data and information obtained from the Energy Community bodies and/or the Energy Community Parties or any other third countries.
3. Regulated undertakings shall provide the data and information referred to in paragraphs 1 and 2 of this Article under the terms and conditions established by applicable legal acts, including rules on provision of information adopted by the Commission.

Article 163 - Confidentiality obligations

1. The Commission and other competent national authorities of Georgia shall preserve the confidentiality of commercially sensitive information provide by regulated undertakings, and shall use the data and information obtained only for the purposes indicated in their request for information. The confidential information may be disclosed only under the terms and conditions established by applicable laws.
2. Without prejudice to Article 160 [*Right of access to accounts*] of this Law or any other legal duty to disclose information, each system operator and market operator shall preserve the confidentiality of commercially sensitive information obtained in the course of carrying out its activities, and shall prevent information about its own activities which may be commercially advantageous from being disclosed in a discriminatory manner. Such information may be disclosed only under the terms and conditions established by applicable laws or in cases where it is expressly required for carrying out a business transaction.
3. In order to ensure full respect of the rules on information, the transmission system owner including, in the case of a combined operator, the distribution system operator, and the remaining part of the undertaking shall not use joint services, such as joint legal services, apart from purely administrative or IT functions.
4. System operators shall not, in the context of sales or purchases of electricity or natural gas by related undertakings, misuse commercially sensitive information obtained from third

parties in the context of providing or, as the case may be, negotiating access to their respective systems.

5. Information necessary for effective competition and the efficient functioning of energy markets shall be published. Such obligation shall be implemented without prejudice to preserving the confidentiality of commercially sensitive information.

SECTION XVI LAND USE AND PROPERTY RIGHTS

Chapter XXXVIII - Land use and property rights

Article 164 - General principles of the land use

1. Transmission and distribution system operators, subject to the prior consent of the owner, under conditions established by applicable legal acts and for the period of construction, re-engineering, rehabilitation, operation and maintenance of electricity or natural gas networks, shall have following rights:

- 1) right to use the land plot for carrying out works necessary for the construction, re-engineering and rehabilitation of electricity or natural gas networks;
- 2) right to use land plots in order to assure a normal operation of electricity or natural gas networks by carrying out revisions, repair works and other necessary interventions;
- 3) servitude of the underground, terrestrial or aerial passing on land plots for carrying out works related to rehabilitation, repair, revision and removal of consequences of accidents and for access in the places where electricity or natural gas networks are located;
- 4) right to obtain restriction or suspension of certain activities which can be dangerous for people, goods or certain activities; and
- 5) right of access the land plot where electricity or natural gas networks are located.

2. Transmission and distribution system operators shall be obliged to notify in written the owner of the land plot, or any other property, which can be affected as a result of works related to electricity or natural gas networks, except for cases of accidents, situation when owners shall be informed within the shortest possible period of time.

3. When rights mentioned in paragraph 1 of this Article cease to be effective, the transmission or distribution system operator shall assure clearance of the land plot and its reinstate in initial situation.

4. Transmission and distribution system operators shall use in a fair and prudent manner rights established in paragraph 1 of this Article and pay owners of plots of land or of other goods of private property, compensation for produced damages while carrying out mentioned works, including in cases of removal of accidents consequences.

Article 165 - Right to use third party property

1. Right of the transmission and distribution system operator to use the land plot in order to carry out necessary works for construction, rehabilitation or re-engineering of electricity or natural gas networks, shall be established by a contract concluded with the owner of the land plot and shall be valid during the period for performing works. While this right is in effect, the

transmission and distribution system operator, subject to the prior consent of the owner of the land plot or other relevant property, shall have a right to:

- 1) store materials, equipments and installations, necessary to carry out works;
- 2) move away materials and captured water;
- 3) install equipment and work with them, locate offices and building sites; and
- 4) stop or limit activities of the owner of the land plot at the extent strictly necessary to carry out mentioned works.

2. The right referred to in paragraph 1 of this Article ceases to be effective at the date established for finishing works or before this period, on the date of anticipated finishing of works or on the date of their suspension. Any of these situations shall be notified immediately to the owner of the land plot.

3. The right to use the land plot for operation and maintenance of electricity and natural gas networks by carrying out revisions, repair works and other necessary interventions to assure their normal functioning shall be established by a contract concluded with the owner of the land plot, which shall be valid during the whole period of functioning of electricity and natural gas networks and may be extended as many times as it is necessary to assure normal functioning of electricity or natural gas networks.

4. While the right referred to in paragraph 3 of this Article is in effect, the transmission and distribution system operator, subject to the prior consent of the owner of the land plot, may:

- 1) store materials, equipment and installations for maintenance, revisions, repair works and other necessary interventions to assure normal functioning of electricity or natural gas networks;
- 2) install equipment and work with them;
- 3) affect crops, plantations, or other extended arrangements and limit activities of the owner of the land plot to the right degree and strictly for period necessary for accomplishment of maintenance, repair works, revisions or other intervention activities, necessary to assure normal functioning of electricity or natural gas networks.

Article 166 - Servitude of underground, terrestrial and aerial passing over the land plot of third party

1. Servitude of underground, terrestrial or aerial passing includes the right to install electricity or natural gas networks as well as to have access to them for interventions, repair works, revisions, rehabilitation, maintenance and operation in accordance with applicable legal acts.

2. Servitudes shall be granted under the terms and conditions stipulated in applicable laws of Georgia regulating the use of land and/or territorial planning.

Article 167 - Expropriation

1. Land plots necessary for construction, rehabilitation, re-engineering, maintenance and operation of electricity or natural gas networks, which are properties of third parties, may be expropriated for the cause of public utility by a competent national authority of Georgia under the terms and conditions stipulated in applicable laws and subject to a prior compensation to the owner of the land plot.

2. Expropriation of the land plot may be invoked only in case the transmission or distribution system operator have not succeeded to obtain right of use or servitude for the land plot which is provably necessary for the operation and management or construction of new electricity or natural gas networks.

3. After becoming public property of the state or of self-governing territorial units, the expropriated land plot shall be given for the free use to respective transmission or distribution system operator to carry out necessary works.
4. Any electricity or natural gas facilities, equipment or installations that are historically owned by persons other than transmission or distribution system operators and which are provably necessary for safe, reliable and efficient operation and management of the electricity or natural gas system of Georgia may be expropriated for the cause of public utility by a competent national authority of Georgia under the terms and conditions stipulated in applicable laws and subject to a prior compensation to the owner. Such expropriation may be invoked only in case the transmission or distribution system operator fails to agree on the buy-out of respective facilities, equipment or installations from their owner.

Chapter XXXIX - Restricted areas

Article 168 - Restriction or suspension of some activities and access on the land plot where electricity or natural gas networks are placed

1. In order to avoid endangerment of people, goods or some activities performed within the zone where works for construction, rehabilitation, re-engineering, maintenance and operation of electricity or natural gas networks are carried out, transmission and distribution system operators shall have the right to obtain, for the period of carrying out works, restriction or suspension of activities performed in the neighbourhood. In this case, affected persons shall be informed in written on the date of the beginning and of the end of works.
2. Right of access to the land plot where electricity or natural gas networks are placed shall be used by transmission and distribution system operators in a fair and prudent manner.
3. Prior to defining the terms and conditions for the landscaping of areas to be used for construction or reconstruction of buildings in the vicinity of electricity or natural gas facilities, the authority responsible for defining the terms and conditions for landscaping must obtain the approval of the energy undertaking owning, possessing and/or operating respective electricity or natural gas facility.

Article 169 - Protection zones

Protection zones of electricity and natural gas facilities, restrictions applicable within protection zones, conditions for the conduct of works or any other activities within protection zones, as well as other requirements for protection of safety and normal functioning of electricity and natural gas facilities shall be established by a competent national authority of Georgia as delegated by applicable laws.

SECTION XVII LIABILITY AND DISPUTE SETTLEMENT

Chapter XL - Liability and penalty provisions

Article 170 - Liability of regulated undertakings

1. Regulated undertakings shall be liable for carrying out their duties and fulfilling their tasks with regard to each particular activity in due compliance with requirements and obligations stipulated in this Law, other applicable Laws and their implementing regulations.
2. Regulated undertakings, or any other persons in charge, may become liable for their non-performance or misconduct under the terms and conditions stipulated in this Law or other applicable laws.

Article 171 - Penalty provisions

1. The Commission may impose a financial penalty of up to 10% of the annual turnover of the transmission system operator on the transmission system operator, or of up to 10% of the annual turnover of the vertically integrated undertaking on the vertically integrated undertaking for non-compliance with their respective obligations on the unbundling of activities and/or independence of the transmission system operator.
2. A financial penalty of a lump sum from GEL 25.000 to 75.000 may be also imposed on the responsible person (or persons) in the transmission system operator or vertically integrated undertaking for violations referred to in paragraph 1 of this Article.
3. The Commission may impose a financial penalty of a lump sum from GEL 25.000 to 75.000 on the regulated undertaking for each violation of requirements established by this Law in cases where such regulated undertaking:
 - 1) carries an economic activity covered by this Law without a license or, where relevant, without a final decision on granting of the certification, except otherwise expressly allowed by this Law;
 - 2) carries out more economic activities, and at least one or more of them is an energy activity, and fails to comply with the requirements for unbundling of accounts and their accessibility, as required under this Law;
 - 3) fails to notify the Commission or report its activities to the Commission as required under this Law;
 - 4) fails to provide the Commission, system operators and/or market operators with requested data and information;
 - 5) improperly refuses to grant access to its operated systems;
 - 6) does not comply with technical and safety rules and regulations; or
 - 7) fails to carry out its duties or fulfil its tasks pursuant to its respective license, as determined by this Law, other applicable laws and their implementing regulations.
4. A financial penalty of a lump sum from GEL 500 to 25.000 may be also imposed on the responsible person (or persons) in the regulated undertaking for violations referred to in paragraph 3 of this Article.
5. In addition to the financial penalties referred in to paragraph 3 of this Article, a regulated undertaking may be banned by a decision of the Commission from carrying out the

energy activities for up to one (1) year, and a responsible person in such an undertaking may be banned from carrying out the same activities for a period of one (1) year, if these violations are committed by two (2) or more times repeatedly.

6. The Commission may impose a financial penalty of a lump sum from GEL 5.000 to 30.000 on any legal person for each violation of requirements established by this Law in cases where such legal person:

- 1) wrongfully impedes access to energy facilities located on its land or another real estate for the purpose of maintenance or any other purpose defined by this Law and its implementing regulations; or
- 2) wrongfully plants vegetation in the soil that can endanger safety of energy facilities, human lives and property, or if that vegetation aggravates normal utilisation of said objects or facilities.

7. The Commission may impose a financial penalty of a lump sum up to GEL 3.000 on any natural person for each violation of requirements established by this Law in cases where such natural person:

- 1) without approval granted by the transmission or distribution system operator in charge connects to the electricity or natural gas network; or
- 2) wrongfully plants vegetation in the soil that can endanger safety of energy facilities, human lives and property, or if that vegetation aggravates normal utilisation of said objects or facilities.

8. Without prejudice to this Article, the Commission shall also have a right to impose on regulated undertakings financial penalties established by the Administrative Offences Code of Georgia.

Article 172 - Enforcement of penalty provisions

1. Enforcement of penalty provisions established in Article 171 [*Penalty provisions*] of this Law shall be regulated under the rules adopted by the Commission in accordance with the mandatory requirements and criteria specified in this Article.

2. Penalties imposed on regulated undertakings and other persons concerned shall be differentiated by the Commission based on the following criteria:

- 1) gravity and continuity of the infringement;
- 2) overall effect of the infringement;
- 3) palliating or aggravating circumstances.

3. Proactive behaviour of a regulated undertaking or other person concerned if aimed at minimising the overall negative effect of the infringement, immediate cease of the violating activities, and supporting the Commission in investigation of any effects related thereto shall be treated as palliating circumstances.

4. Behaviour of a regulated undertaking or other person concerned if impeding investigation of the violation of any requirement established by this Law, aimed to conceal such infringement or any effects thereto, continuity of the violating activities, or repeated infringements shall be considered as aggravating circumstances.

5. Other palliating or aggravating circumstances apart from those specified in paragraphs 3 and 4 of this Article shall also be taken into consideration by the Commission.

6. Decision to impose a penalty shall be adopted within six (6) months after the infringement was detected by the Commission. Payment provisions may not be enforced due to the infringement ceased more than five (5) years before its detection or disclosure of its effects. Only one penalty can be imposed for the same infringement or violation.

7. Penalties imposed by the Commission shall be paid within the time period indicated in the respective decision of the Commission. All penalties shall be made to the budget of the Commission.

8. In case a regulated undertaking, other natural or legal person refuses to implement or execute the decision on the imposition of the penalty, the Commission may seek for the legal enforcement assistance from other competent national authorities of Georgia for its execution. In its request for such assistance, the Commission shall indicate and justify required legal measures. In the application of the forcible measures, the competent national authorities of Georgia shall act in accordance with the request of the Commission fully abiding legal measures indicated by the Commission.

9. In case violation of any requirement established by this Law is also investigated by the Competition Agency, the Commission shall cooperate with the Competition Agency to solve any issues relevant thereto. For the same infringement only one penalty may be imposed, whether under the terms and conditions stipulated in this Law or in other laws regulating enforcement of penalties imposed by the Competition Agency.

10. This Article shall apply without prejudice to the general terms and conditions for enforcement of financial sanctions pursuant to the Administrative Offences Code of Georgia subject to, however, a proper implementation of sector specific requirements in accordance with this Article.

Chapter XLI - Dispute settlement and appeals

Article 173 - Dispute settlement

1. Complaints filed by market participants or any other parties concerned with regard to acts or omission of system operators, market operators, suppliers, traders or other regulated undertakings as well as disputes between such persons shall be settled by the Commission under the terms and conditions prescribed in this Article and in the dispute settlement rules adopted by the Commission.

2. The rules referred to in paragraph 1 of this Article shall establish, amongst others, a form for request to hear a complaint or settle a dispute, requirements for submission of such request, requirements for collection and submission of evidence, as well as a detailed procedure for hearing and dispute settlement.

3. The Commission shall refuse to hear a complaint or settle a dispute in the following cases:

- 1) the Commission is not competent to hear a particular complaint or settle a dispute;
- 2) the ruling on the same subject of the complaint or dispute is already issued by the other competent dispute settlement authority, or request to hear such complaint or to settle the dispute is accepted by another competent national authority of Georgia, as having legal effect to the same parties applying to the Commission;
- 3) the Commission has already heard a complaint or settled the dispute on the same subject and with legal effect to the same parties applying to the Commission;
- 4) the parties applying to the Commission have previously agreed to settle their dispute in the court of arbitration and the defendant refuses to present the dispute before the Commission and requires to comply with the agreement on arbitration, except for those disputes that are legally not allowed for arbitration; and/or

- 5) request was submitted to the Commission by a person who is not authorised to act on behalf of the claimant.
4. The Commission shall cease the hearing or dispute settlement procedure in case any of the circumstances referred to in subparagraphs 1 and 2 of paragraph 3 of this Article appear, as well as in the following cases:
- 1) the claimant withdraws its request to hear a complaint or to settle a dispute, and such withdrawal is approved by the Commission; or
 - 2) the parties entered into mutual settlement agreement, which was approved by the Commission.
5. The Commission shall leave the complaint unheard or the dispute unsettled in case any of the circumstances referred to in subparagraphs 4 and 5 of paragraph 3 of this Article appear, as well as in case the claimant fails to eliminate shortcomings in its submitted request, as indicated by the Commission, during the reasonable time period assigned by the Commission.
6. The Commission shall suspend the hearing or dispute settlement procedure in the following cases:
- 1) one of the parties ceased (terminated), for the period until the rights and obligations of such party will transferred to another party or such transfer would be justified as not feasible, in case the claim for the hearing or dispute settlement procedure may not be separated from the ceased (terminated) party; or
 - 2) the Commission or another competent dispute settlement authority started the hearing or dispute settlement procedure the final ruling of which may have an effect with regard to the claim or dispute submitted.
7. The parties involved in the hearing or dispute settlement procedure, as well as any other persons concerned shall have an access to the materials of the complaint or dispute, except for a commercially sensitive information and other data and information the disclosure of which may violate an individual right to privacy. Parties to the dispute shall always have an access to the request for a complaint or dispute, and any responses by the other party thereto.
8. The parties involved in the hearing or dispute settlement procedure shall have the right to present evidence, explanations, arguments and opinions, as well as to object to the claims, arguments and reasoning presented by the other party or other persons concerned. The claimant shall have the right to withdraw its request for a complaint or dispute, and the defendant shall have the right to accept or reject such withdrawal. The parties may complete the hearing or dispute settlement procedure by their mutual settlement agreement approved by the Commission. The parties involved in the hearing or dispute settlement procedure, as well as other persons concerned shall exercise their rights in good faith.
9. The Commission shall apply a written procedure for hearing of complaints or settlement of disputes, except for in case where oral proceedings are requested by any of the parties, other persons concerned or decided by the Commission. The Commission shall inform the parties and other persons concerned on the oral proceeding in due time, but their absence shall not a precondition to adjourn or otherwise restrict the proceedings. Oral proceedings in the Commission shall be open for public, except it is otherwise announced by the Commission in order to preserve the commercially sensitive information or individual right of privacy.
10. The Commission shall have a right to refuse acceptance of the evidence or any other materials submitted by the parties, if they had to be submitted before filing a complaint or a request to settle a dispute or during later proceedings, as requested by the Commission.

11. The Commission, acting as a dispute settlement authority, shall issue a ruling within a time period of two (2) months after receipt of the complaint or request to settle a dispute, including all the documentation and/or other information required to be enclosed to such a complaint or request. Such time period may be extended by two (2) months where additional information is sought by the Commission. The ruling of the Commission shall have a binding effect unless and until it is overruled on appeal, as referred to in Article 174 [*Appeal and judicial review*] of this Law.

12. The ruling of the Commission shall be published, except for its parts considered as a commercially sensitive information or important to preserve an individual right of privacy. Such information may be indicated by the parties, other persons concerned or decided by the Commission. Part of the ruling related to the interpretation of the law shall always be public. The Commission shall provide the parties with a detailed explanation and legal justification of its ruling.

13. If so agreed between the parties, the Commission may act as a mediator with regard to any complaint or dispute in questions under the terms and conditions stipulated in the rules on mediation adopted by the Commission.

14. The Commission shall be entitled to reimbursement of costs incurred during the procedures of hearing, dispute settlement and/or mediation.

15. Complaints and disputes related to the customer protection shall be respectively heard and settled under the terms and conditions established by applicable laws regulating the consumer protection in Georgia and/or other applicable laws.

16. Procedure, terms and conditions for the dispute settlement falling within the competence and regulatory powers of the Commission stipulated in other laws of Georgia, as the case may be, shall be applied only to the extent and in the manner which does not contradict the requirements laid down in this Article.

Article 174 - Appeal and judicial review

1. All rulings issued by the Commission shall be appealable to a competent court of Georgia.

2. The court may entertain appeals of decisions rendered by the Commission lodged with the court within sixty (60) days of the public notice of such decision. In its review of the appeal, the court shall consider only the following aspects of the case:

- 1) whether the Commission acted in violation of this Law, other applicable law and/or their implementing regulations;
- 2) whether the Commission wrongly applied applicable rules and regulations; or
- 3) whether there has appeared new facts in the case, which were not known at the time of the previous decision and which, if known, would have changed the outcome of that decision.

3. Laws applicable for administrative procedures and judicial review in Georgia shall be accordingly applied to the judicial review of the decisions of the Commission.

Article 175 - Preliminary references

1. Where a question concerning the interpretation or application of this Law is raised in proceedings before the Commission or any other administrative authority, such authority, upon request of a party to the procedure before it or on its own motion, shall request an opinion from the Energy Community Secretariat in writing at the earliest stage possible in the procedure.

2. Where a question concerning the interpretation or application of this Law is raised in proceedings before a court, such court, upon request of a party to the procedure before it or on its own motion, may request an opinion from the Energy Community Secretariat in writing at the earliest stage possible in the procedure.
3. In its final decision or judgment, the authority or court of shall take utmost account of the opinion submitted by the Energy Community Secretariat and shall reason any deviation.

SECTION XVIII TRANSITORY AND FINAL PROVISIONS

Chapter XLII - Transitory provisions

Article 176 - General transitory provisions concerning this Law

1. Provisions of this Law regulating electricity activities shall be implemented by and fully applicable from 1 January 2019 at the latest, except for the provisions regulating security of electricity supply as referred to in paragraph 1 of Article 188 [*Transitory provisions concerning security of supply*] of this Law, subject to specific earlier deadlines further on stipulated in this Chapter.
2. Provisions of this Law regulating natural gas activities shall be implemented by and fully applicable from 1 January 2021 at the latest, subject to specific earlier deadlines further on stipulated in this Chapter.
3. The South Caucasus Pipeline and the North South Gas Pipeline, as defined by the Protocol concerning the Accession of Georgia to the Treaty establishing the Energy Community, shall be exempted from the implementation of provisions of this Law regulating natural gas activities as well as operation and management of natural gas systems, including cross-border exchanges in natural gas, until 31 August 2026.
4. This Law shall not apply to relations deriving from the Intergovernmental Agreement between Georgia and the Republic of Azerbaijan concerning transit, transport and sale of natural gas in and beyond the territories of Georgia and the Republic of Azerbaijan through the South Caucasus Pipeline System.
5. Provisions of this Law referring to cross-border exchanges in electricity and natural gas shall be fully applicable from the date of interconnection of electricity and natural gas systems of Georgia respectively with such systems of any Energy Community Party. This transitory provision shall be applied without prejudice to a mandatory cross-border and/or regional cooperation of the Commission, other competent national authorities of Georgia and transmission system operators.

Article 177 - Transitory provisions concerning energy activities

1. All energy activities regulated by this Law shall be performed as market activities, unless defined and justified as public services in accordance with Article 9 [*Public services*] of this Law, not later than:
 - 1) electricity activities – from 1 January 2019; and
 - 2) natural gas activities – from 1 January 2021.
2. The Ministry, not later than three (3) months before the dates indicated in paragraph 1 of this Article, shall inform the Energy Community Secretariat on public services provided in the electricity and natural gas sector respectively as well as any obligations imposed on

energy undertakings thereto. Such information shall be rendered pursuant to paragraph 7 of Article 9 [*Public services*] of this Law.

3. Without prejudice to paragraphs 1 and 2 of this Article, any measures imposing new public service obligations in the electricity or natural gas sector proposed following the entry into force of this Law shall be justified and verified in full compliance with the requirements stipulated in Article 9 [*Public services*] of this Law.

Article 178 - Transitory provisions concerning authorisations

1. All regulated undertakings which were granted a license to perform an activity covered by this Law prior to the entry into force of this Law shall pursue such activities on the basis of the conditions imposed by such a license until a new license is issued by the Commission under the terms and conditions stipulated in this Law.

2. Any new request for a license received by the Commission following the entry into force of this Law shall be carried out under the terms and conditions stipulated herein.

3. Without prejudice to any other provisions of this Law, notifications on supply and, where applicable, trading activities to the Commission, as regulated under Article 114 [*Notifications on supply activities*] of this Law, shall be required immediately following the entry into force of this Law. All energy undertakings engaged in the supply of and, where applicable, trade in electricity or natural gas shall notify the Commission respectively not later than in two (2) months following the entry into force of this Law.

Article 179 - Transitory provisions concerning transmission system operators

1. Provisions of this Law regulating the independence and unbundling of transmission system operators shall be properly implemented:

- 1) for transmission system operators for electricity – by 31 December 2018; and
- 2) for transmission system operators for natural gas – by 31 December 2020.

2. For the purpose of paragraph 1 of this Article, the following measures shall be implemented:

- 1) not later than eighteen (18) months before the dates established in paragraph 1 of this Article, each transmission system operator or, as the case may be, a transmission system owner shall prepare and submit to the Commission the unbundling plan covering, *inter alia*, the proposed unbundling model for the unbundling, as well as detailed measures, actions and timeline for its practical implementation;
- 2) the Commission shall consult with the Ministry and the Energy Community Secretariat on the proposed unbundling model and may request the transmission system operator or, as the case may be, a transmission system owner to provide additional information or to correct the submitted unbundling plan;
- 3) the Commission shall confirm the compliance of the unbundling plan not later than in three (3) months after all the necessary information is received and shall submit it to the Government for its approval;
- 4) the transmission system operator or, as the case may be, a transmission system owner shall implement the unbundling plan approved by the Government and shall report to the Commission on the implementation status of the unbundling plan under the terms and conditions set by the Commission; and
- 5) the Commission shall monitor the unbundling status of the transmission system operator and shall proceed with the regulatory enforcement in cases where measures referred to in this subparagraphs 1-4 are not properly implemented.

3. Properly unbundled transmission system operator shall be certified under the terms and conditions stipulated in Articles 55 [*Certification of the TSO*] or, as the case may be, 56 [*Certification in relation to third countries*] of this Law. Final decision on certification of each transmission system operator shall be adopted by the Commission by the dates established in paragraph 1 of this Article at the latest.

4. License for the transmission and/or any other licenses authorising performance of transmission related activities issued prior to the entry into force of this Law shall be deemed as temporary authorising performance of the transmission and, where relevant, other transmission related activities until the transmission system operator will be duly designated following its certification and a new license for the transmission will be issued in compliance with this Law.

Article 180 - Transitory provisions concerning development of transmission networks and investment decisions

Ten-year transmission network development plans shall be prepared by each transmission system operator and submitted to the Commission for its approval pursuant to Article 59 [*Development of the transmission network and investment decisions*] of this Law not later than:

- 1) by transmission system operators for electricity – by 1 October 2018; and
- 2) by transmission system operators for natural gas – by 1 October 2020.

Article 181 - Transitory provisions concerning operation and management of transmission systems

1. Provisions of this Law regulating operation and management of transmission systems shall be implemented by and fully applicable from:

- 1) for operation and management of the electricity transmission system pursuant to Chapter XIV [*Operation and management of the electricity transmission system*] of this Law – 1 January 2019; and
- 2) for operation and management of the natural gas transmission system pursuant to Chapter XV [*Operation and management of the natural gas transmission system*] of this Law – 1 January 2021.

2. Each transmission system operator, not later than six (6) months before the dates indicated in paragraph 1 of this Article, shall prepare and, subject to the approval of the Commission, adopt a Transmission Network Code in compliance with this Law.

3. Each transmission system operator, not later than in twelve (12) months following the adoption of respective Transmission Network Code, shall ensure full adjustment of its transmission networks with the requirements stipulated in the Transmission Network Code, including adjustment of operational systems, metering points and interface with other interconnected systems and connecting points with facilities of final customers.

Article 182 - Transitory provisions concerning distribution system operators

1. Provisions of this Law regulating the independence and unbundling of distribution system operators shall be properly implemented:

- 1) for distribution system operators for electricity – by 31 December 2018; and
- 2) for distribution system operators for natural gas – by 31 December 2020.

2. For the purpose of paragraph 1 of this Article, the following measures shall be implemented:

- 1) not later than twelve (12) months before the dates established in paragraph 1 of this Article, each distribution system operator or, as the case may be, a vertically integrated undertaking shall prepare and submit to the Commission the unbundling plan with detailed measures, actions and timeline for its practical implementation; and
 - 2) the Commission shall monitor the unbundling status of the distribution system operator and shall proceed with the regulatory enforcement in cases where requirements under this Article are not properly implemented.
3. License for the distribution and/or any other licenses authorising performance of distribution related activities issued prior to the entry into force of this Law shall be deemed as temporary authorising performance of the distribution and, where relevant, other distribution related activities until the distribution system operator will be duly designated and a new license for the distribution will be issued in compliance with this Law.
4. Paragraphs 1 and 2 of this Article shall not be applied in case the exemption for unbundling of the distribution system operator is granted under paragraph 11 of Article 82 [*Unbundling of the DSO*] of this Law.

Article 183 - Transitory provisions concerning development of the distribution network and investment plan

1. Distribution network development and investment plans shall be prepared by each distribution system operator and submitted to the Commission for its approval pursuant to Article 85 [*Development of the distribution network and investment plan*] of this Law not later than:
 - 1) by distribution system operators for electricity – by 1 July 2018; and
 - 2) by transmission system operators for natural gas – by 1 July 2020.
2. Distribution network development and investment plans, following their approval by the Commission, shall be provided to transmission system operators in charge for their preparation of ten-year transmission network development plans pursuant to Article 180 [*Transitory provisions concerning development of transmission networks and investment decisions*] of this Law.

Article 184 - Transitory provisions concerning operation and management of distribution systems

1. Provisions of this Law regulating operation and management of distribution systems pursuant to Chapter XVIII [*Operation and management of distribution systems*] of this Law shall be implemented by and fully applicable from:
 - 1) for operation and management of the electricity distribution system – 1 January 2019; and
 - 2) for operation and management of the natural gas distribution system – 1 January 2021.
2. Each distribution system operator, not later than three (3) months before the dates indicated in paragraph 1 of this Article, shall prepare and, subject to the approval of the Commission, adopt a Distribution Network Code in compliance with this Law.
3. Each distribution system operator, not later than in nine (9) months following the adoption of respective Distribution Network Code, shall ensure full adjustment of its distribution networks with the requirements stipulated in the Distribution Network Code, including adjustment of operational systems, metering points and interface with other interconnected systems and connecting points with facilities of final customers.

Article 185 - Transitory provisions concerning supply

1. Provisions of this Law regulating supply pursuant to Section X [*Supply*] of this Law shall be implemented by and fully applicable from:
 - 1) for the supply of electricity – 1 January 2019; and
 - 2) for the supply of natural gas – 1 January 2021.
2. Universal service suppliers pursuant to Article 120 [*Universal service supply*] of this Law and supplier of last resort for electricity pursuant to Article 122 [*Supply of last resort*] of this Law shall be designated not later than three (3) months before the date indicated in subparagraph 1 of paragraph 1 of this Article.
3. Suppliers of natural gas under public service obligations, where applicable pursuant to Article 121 [*Supply of natural gas under public service obligation*] of this Law, and supplier of last resort for natural gas pursuant to Article 122 [*Supply of last resort*] of this Law shall be designated not later than three (3) months before the date indicated in subparagraph 2 of paragraph 1 of this Article.
4. Supply of electricity and natural gas in occupied territories of Georgia, irrespective of requirements under this Article, may be provided under special terms and conditions stipulated in the Electricity Market Rules and the Natural Gas Market Rules respectively.

Article 186 - Transitory provisions concerning final customers

1. Provisions of this Law regulating final customers pursuant to Section XI [*Final customers*] of this Law shall be implemented by and fully applicable from:
 - 1) in the electricity sector – 1 January 2019; and
 - 2) in the natural gas sector – 1 January 2021.
2. Without prejudice to paragraph 1 of this Article, eligible customers within the meaning of this Law shall be:
 - 1) all non-house customers of electricity and natural gas – from 1 January 2019; and
 - 2) all customers of electricity and natural gas, including household customers – from 1 January 2020.

Article 187 - Transitory provisions concerning energy markets

1. Provisions of this Law regulating organisation and functioning of the electricity market in Georgia pursuant to Chapter XXX [*Electricity market*] of this Law shall be implemented by and fully applicable from 1 January 2019.
2. Provisions of this Law regulating organisation and functioning of the natural gas market in Georgia pursuant to Chapter XXXI [*Natural gas market*] of this Law shall be implemented by and fully applicable from 1 January 2021.
3. Organised balancing and ancillary services markets shall be established based on the decision of the Commission, as referred to in paragraph 8 of Article 131 [*Scope of the electricity market*] and paragraph 8 of Article 137 [*Scope of the natural gas market*] of this Law, not later than by:
 - 1) electricity balancing and ancillary services markets – 1 January 2021; and
 - 2) natural gas balancing and ancillary services markets – 1 January 2025.

Article 188 - Transitory provisions concerning security of supply

1. Provisions of this Law regulating security of electricity supply pursuant to Chapter XXXIII [*Security of electricity supply*] of this Law shall be implemented by and fully applicable from 1 January 2020.
2. Provisions of this Law regulating security of natural gas supply pursuant to Chapter XXXIV [*Security of natural gas supply*] of this Law shall be implemented by and fully applicable from 1 January 2021.
3. First security of supply monitoring reports, as required under Articles 149 [*Monitoring the security of electricity supply*] and 154 [*Monitoring the security of natural gas supply*] of this Law, shall be prepared not later than in six (6) months following the dates indicated in paragraphs 1 and 2 of this Article.

Article 189 - Transitory provisions concerning drinking water supply

Provisions of this Law regulating drinking water supply pursuant to Section XIV [*Drinking water supply*] of this Law shall be fully implemented not later than in twelve (12) months following the entry into force of this Law.

Article 190 - Transitory provisions concerning unbundling of accounts

Provisions of this Law regulating the unbundling of accounts pursuant to Article 161 [*Unbundling of accounts*] shall be properly implemented:

- 1) by electricity undertakings – by 31 December 2018; and
- 2) by natural gas undertakings and other regulated undertakings – by 31 December 2020.

Chapter XLIII - Final provisions**Article 191 - Transposition of Energy Community law**

1. This Law creates the necessary legal framework for transposition and implementation of:
 - 1) Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC;
 - 2) Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003;
 - 3) Directive 2005/89/EC of the European Parliament and of the Council of 18 January 2006 concerning measures to safeguard security of electricity supply and infrastructure investment;
 - 4) Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC;
 - 5) Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005; and

- 6) Directive 2004/67/EC of 26 April 2004 concerning measures to safeguard security of natural gas supply.
2. Legal acts referred to in paragraph 1 of this Article are transposed and implemented in Georgia as adapted for the Energy Community pursuant to respective decisions of the Ministerial Council of the Energy Community and in accordance with Protocol concerning the Accession of Georgia to the Treaty establishing the Energy Community.

Article 192 - European Union Guidelines and Network Codes

1. Guidelines and Network Codes adopted within the legal and regulatory framework of the European Union, and subsequently adopted by the Energy Community, shall be transposed to the domestic legislation of Georgia without any amendments or changes thereto.
2. For the purposes of paragraph 1 of this Article, the Commission shall carry out the adoption of such Guidelines and Network Codes following respective notice on their adoption at the Energy Community, and shall monitor and enforce their proper application and implementation. All Guidelines and Network Codes shall be adopted by the decision of the Commission, which shall be made and published in accordance with the requirements stipulated in this Law.
3. The Commission shall notify the Energy Community Secretariat on the measures adopting the Guidelines and Network Codes, and of any subsequent changes, within two (2) weeks after the adoption of such measures.
4. For the purposes of this Article, the Commission shall cooperate with the Energy Community Secretariat, the Energy Community Regulatory Board and competent regulatory authorities of other Energy Community Parties.

Article 193 - Implementation of this Law

1. Competent national authorities of Georgia shall, within the scope of their competences, adopt the rules and regulations, and shall make other decisions on legislative and/or regulatory incentives required for due implementation of this Law.
2. Legal acts implementing this Law shall be prepared, consulted and adopted within twelve (12) months from the date of entry into force of this Law, unless other terms are expressly provided in this Law.
3. Until the entry into force of the rules and regulations under paragraph 2 of this Article as well as during the transitory period until their full implementation pursuant to Chapter XLII [*Transitory provisions*] of this Law, legal and regulatory regime established by legal acts applicable on the date of entry into force of this Law shall apply.
4. Proceedings initiated before the entry into force of this Law shall be completed by applying the provisions of the respective legal and regulatory requirements which have been in force at the date of the start of such proceedings.
5. Competent national authorities of Georgia shall cooperate within the framework of their competence and jurisdictional powers to address and resolve issues related to the implementation of this Law.

Article 194 - Relations with other laws

1. Law of Georgia on Electricity and Natural Gas of 27 June 1997 (Georgian Parliamentary Gazette, 1997, N 816-IIS), as further amended, shall cease to apply following the entry into force of this Law.

2. In case of any discrepancies or conflict between provisions of this Law and other laws regulating activities in the energy sector or any other related activities in Georgia, provisions of this Law shall apply.

3. The Ministry, in cooperation with the Commission and other competent national authorities of Georgia, shall review and evaluate necessary harmonisation of other laws with the provisions of this Law and shall submit to the Government proposed amendments to such laws not later than in three (3) months from the date of entry into force of this Law.

Article 195 - Entry into force

This Law shall be effective immediately upon its publication.

President of Georgia

Giorgi Margvelashvili