

The draft Law does not contain provisions on:

- energy efficiency (separate law will be developed on a basis of a draft in preparation by ECS),
- cogeneration (that will also be included in the EE law),
- biofuels (a separate draft Law was developed and will be updated by ECS).

All procedures + list of documents (licensing and other rules content; authorization procedure/application..) is advisable to go in secondary legislation – the draft Law is very much burdened with details.

Misdemeanor provisions and cross-referencing is not checked and changed (this shall be done at the final version)

Final and transitional provisions are to be discussed and developed by the Macedonian stakeholders in cooperation with the Secretariat – for now, only non-compliances are checked and removed.

## **LAW ON ENERGY**

### **I GENERAL PROVISIONS**

#### **Article 1**

(1) The present Law shall govern:

- 1) the objectives of the energy policy and their enforcement;
- 2) energy activities and the manner of regulation of energy activities;
- 3) the construction of energy facilities and the criteria and procedures applicable to calls for tenders and the granting of authorisations for the construction of such facilities;
- 4) the status and competences of the Energy Regulatory Commission of the Republic of Macedonia;
- 5) the generation, transmission, distribution, supply of, and trade in, electricity, as well as the organisation and operation of the electricity market, especially the rules relating to open access to the electricity market and to the operation of the electricity systems;
- 6) the transmission, distribution, supply of, and trade in, natural gas, as well as the organisation and operation of the natural gas market, especially the rules relating to open access to the natural gas market and to the operation of the natural gas systems;
- 7) the imposition of public service obligations in the electricity and natural gas markets, the rights of energy consumers and competition requirements in the energy sector;
- 8) the organisation and operation of the crude oil, oil derivatives and fuels for transport market;
- 9) the organisation and operation of the heating energy market;
- 10) the promotion of the use of energy from renewable sources; and
- 11) other issues of importance in the energy field.

#### **Article 2**

(1) The present Law shall aim at:

- 1) securing reliable, safe and quality energy and energy fuel supply to final customers in conformity with the long-term energy planning of the Republic of Macedonia;
- 2) establishing an efficient, competitive and financially sustainable energy sector;
- 3) encouraging competition on, and creating conditions for the full liberalisation of, the energy markets based on the principles of non-discrimination, objectivity and transparency and in accordance with the commitments assumed by the Republic of Macedonia under ratified international treaties;
- 4) ensuring secure, reliable and efficient operation, maintenance and development of the electricity and natural gas transmission and distribution systems and the provision of electricity and natural gas transmission and distribution services to system users;
- 5) promoting a well-functioning and transparent wholesale market with a high level of security of supply in electricity and natural gas;
- 6) providing mechanisms to harmonize the network access rules for cross-border exchanges in electricity and natural gas, including the setting of harmonized principles for tariffs, the provision of third party access services and harmonized principles for capacity allocation and congestion management;
- 7) ensuring effective unbundling of the electricity and natural gas transmission and distribution system operators and guaranteeing their independence from their and their owners' interests in the electricity and natural gas generation and/or supply activities;
- 8) laying down the rights and obligations, including conditions for imposing public service obligations on the electricity and gas undertakings respectively, natural gas and heating markets and of the Energy Regulatory Commission, as well as the legal background for their mutual relations;
- 9) ensuring effective protection of the interests of electricity, natural gas and heating system users;
- 10) establishing the appropriate legal background for regional and international cooperation of the electricity and gas transmission system operators and of the Energy Regulatory Commission, as well as for mutual cooperation among competent authorities, institutions and other public bodies in the Republic of Macedonia;
- 11) integrating the national energy markets into the regional and international energy markets, pursuant to the commitments assumed by the Republic of Macedonia under ratified international treaties;
- 12) ensuring and promoting the use of energy from renewable sources, including the provision of appropriate and financially effective measures for producers of electricity generated from renewable energy sources and at high-efficient co-generation plants, provided that the implementation of such measures will ensure reaching the renewable energy policy objectives and the security of energy supply of the Republic of Macedonia;
- 13) safeguarding the rights of energy consumers, and especially of vulnerable customers; and
- 14) promoting environmental protection from the adverse effects of particular activities in the energy field.

### Article 3

- (1) For the purpose of the present Law, the terms used therein shall have the following meaning:
  - 1) **“safety”** shall be the ability to secure protection of human health and life, protection of the environment and property by taking technical and other safeguard measures in energy or energy fuel generation, transmission, distribution, trade and supply;

- 2) **“Balancing”** shall be all actions and processes through which the electricity or the natural gas transmission system operator, as the case may be, maintains the relevant system’s balance within a predefined stability range;
- 3) **“Balancing market”** shall be market-based management of the function of balancing of the electricity or natural gas system, as the case may be, which is respectively operated by the electricity or the natural gas transmission system operator;
- 4) **“Balancing service provider”** shall be an electricity or natural gas market participant, which is providing balancing services to the electricity or the natural gas transmission system operator, as the case may be, based on a contract for participation in the balancing market, in accordance with the rules on the organisation of the balancing of the electricity system or the rules on the organisation of the balancing of the natural gas system;
- 5) **“Balancing responsibility”** shall be an obligation imposed on market participants to balance generation, consumption and/or transactions of electricity or consumption and/or transactions of natural gas, in accordance with the accepted schedules and to be financially responsible towards the electricity or the natural gas transmission system operator for any deviation and, as the case may be, for the settlement of any imbalances;
- 6) **“Balancing Services”** shall be either or both contracted reserve capacity and balancing energy used by the electricity or the natural gas transmission system operator, as the case may be, to perform balancing;
- 7) **“Balance responsible party”** shall be an electricity or a natural gas market participant, or its chosen representative, who is responsible for imbalances towards the electricity or the natural gas transmission system operator, as the case may be;
- 8) **"security"** shall be both security of energy supply and provision of energy and technical safety;
- 9) **"security of energy supply"** shall be the ability of an energy system to supply final customers with energy, as provided for under the present Law;
- 10) **"electricity customer"** shall be a wholesale or final customer of electricity;
- 11) **"natural gas customer"** shall be a wholesale or final customer of natural gas or a natural gas undertaking, which purchases natural gas;
- 12) **"electricity wholesale customer"** shall be an entity, other than a transmission system operator or a distribution system operator, purchasing electricity for the purpose of resale inside or outside the electricity system in which it is established;
- 13) **"natural gas wholesale customer"** shall be an entity, other than a transmission system operator or a distribution system operator, who purchases natural gas for the purpose of resale inside or outside the natural gas system in which it is established;
- 14) **"final customer"** shall be a customer purchasing electricity or natural gas, as the case may be, for his own use, including the electricity and natural gas transmission and distribution system operators - in any case where they purchase electricity or natural gas, as the case may be, to cover the losses in the relevant system(s);
- 15) **“vulnerable customer”** shall be a household customer who - due to its social status and/or health condition and in accordance with the present Law, and any relevant applicable Laws and bylaws - is recognised by the competent authorities as being a vulnerable customer to whom the right to network use and/or electricity or natural gas supply is granted under special conditions in accordance with the provisions of the present Law and other relevant Macedonian legislation;
- 16) **“final energy consumption”** shall be the energy and energy fuel consumed by all final customers (including household customers, industry, agriculture, transport, fishing,

services - including public services -, but excluding traders and energy which is used by the energy sector itself;

- 17) **Gross inland energy consumption** shall be the sum of final energy consumption, consumption by the energy sector itself, distribution and transformation losses, including the output of the transformation sector;
- 18) **“gross final energy consumption”** shall be the energy and energy fuel delivered for energy purposes to household customers, industry, agriculture, transport, fishing, services (including public services), including own energy consumption of energy branch for electricity and heat production and electricity and heat losses in the transmission and distribution systems;
- 19) **“vertically integrated electricity undertaking”** shall be 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 the undertaking or group of undertakings perform at least one of the activities of electricity transmission or distribution, and at least one of the activities of electricity generation, supply of, or trade in, electricity;
- 20) **“vertically integrated natural gas undertaking”** shall be 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 the undertaking or group of undertakings perform at least one of the activities of transmission, distribution, LNG or storage, and at least one of the activities of production, supply of, or trade in, natural gas.
- 21) **“horizontally integrated electricity undertaking”** shall be an electricity undertaking performing at least one of the functions of generation for sale, or transmission, or distribution, or supply of electricity, and another non-electricity activity;
- 22) **“horizontally integrated natural gas undertaking”** shall be a natural gas undertaking performing at least one of the functions of production, transmission, distribution, supply or storage of natural gas, and a non-gas activity;
- 23) **“electricity undertaking”** shall be any entity carrying out at least one of the following functions: generation, transmission, distribution, supply, or trade of electricity, which is responsible for the commercial, technical or maintenance tasks related to those functions, but does not include final customers;
- 24) **“natural gas undertaking”** shall be any entity carrying out at least one of the following functions: production, transmission, distribution, supply, trade or storage of natural gas, including LNG, which is responsible for the commercial, technical and/or maintenance tasks related to those functions, but shall not include final customers;
- 25) **“guarantee of origin”** shall be the document in electronic form issued by the Energy Agency of the Republic of Macedonia (hereinafter: Energy Agency), for the sole purpose of securing evidence for the final customers that a particular portion or a particular energy quantity has been generated from renewable sources or at high-efficiency cogeneration plants;
- 26) **“fuels for transport”** shall be fuels intended for transport, and can be oil derivatives intended for use in transport, biofuels or biofuel blends and oil derivatives intended for transport;
- 27) **“electricity direct line”** shall be either an electricity line linking an isolated generation site with an isolated customer or an electricity line linking an electricity producer and an electricity supply undertaking to supply directly their own premises, subsidiaries and eligible customers;

- 28) **“natural gas direct line”** shall be the natural gas pipeline that complements the natural gas interconnected system;
- 29) **“electricity distribution grid”** shall be the electricity grid of inter-connected electricity lines, power transformers and other equipment and plants that are an integral part of the electricity distribution system and by means of which electricity is supplied under low, medium and high voltage;
- 30) **“electricity distribution”** shall be the transport of electricity through high, medium and low voltage distribution grid and distribution system operation in the service area, for the purpose of electricity delivery to customers, excluding electricity supply;
- 31) **“new electricity interconnector”** shall be electricity infrastructure, which was not completed by 1 July 2007;
- 32) **distributed generation** shall be the generation plants connected to the distribution system;
- 33) **“natural gas distribution”** shall be the transport of natural gas through local or regional pipeline networks, for the purpose of natural gas delivery to customers, excluding natural gas supply;
- 34) **“natural gas congestion management”** shall be the management of the capacity portfolio of the natural gas transmission system operator with a view to optimal and maximum use of the technical capacity and the timely detection of future congestion and saturation points;
- 35) **“district heating”** or **“district cooling”** shall be the distribution of thermal energy in the form of steam, hot water or chilled liquids, from a central source of production through a network to multiple buildings or sites, for the use of space or process heating or cooling;
- 36) **“heating energy distribution”** shall be hot water or steam transport through the distribution grid and heating energy distribution system operation in a service area, for the purpose of heating energy delivery to customers, excluding heating energy supply;
- 37) **“integrity of the natural gas transmission system”** shall be any situation in respect of a natural gas transmission network, including necessary transmission facilities, in which the pressure and the quality of the natural gas remain within the minimum and maximum limits laid down by the natural gas transmission system operator, so that the transmission of natural gas is guaranteed from a technical standpoint;
- 38) **“contracted capacity in the natural gas transmission system”** shall be the capacity of the natural gas transmission system, which the system operator has allocated to a system user by means of a natural gas transport contract;
- 39) **“contractual congestion in the natural gas transmission system”** shall be the situation where the level of firm capacity demand exceeds the technical capacity of the natural gas transmission system;
- 40) **“natural gas nomination”** shall be the prior reporting by a system user to the natural gas transmission system operator of the actual flow that the system user in question wishes to inject into or withdraw from the natural gas system;
- 41) **“natural gas re-nomination”** shall be the subsequent reporting of a corrected natural gas nomination;
- 42) **“natural gas transport contract”** shall be a contract, which the natural gas transmission system operator has concluded with a system user with a view to carrying out natural gas transmission;
- 43) **“primary market in natural gas capacity”** shall be the market of the capacity traded directly by the natural gas transmission system operator;

- 44) "**secondary market in natural gas capacity**" shall be the market of the capacity traded otherwise than on the primary market;
- 45) "**natural gas capacity**" shall be the maximum flow, expressed in normal 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 relevant natural gas transport contract;
- 46) "**unused capacity in natural gas**" shall be the firm capacity, which a system user has acquired under a natural gas transport contract, but which that user has not nominated by the deadline specified in the relevant contract;
- 47) "**firm capacity in natural gas**" shall be the natural gas transmission capacity contractually guaranteed as uninterruptible by the natural gas transmission system operator;
- 48) "**firm services in natural gas**" shall be the services offered by a natural gas transmission system operator in relation to firm capacity in natural gas;
- 49) "**interruptible services in natural gas**" shall be the services offered by a natural gas transmission system operator in relation to interruptible capacity;
- 50) "**long-term services in natural gas**" shall be the services offered by a natural gas transmission system operator with a duration of one (1) year or more;
- 51) "**short-term services in natural gas**" shall be the services offered by a natural gas transmission system operator with a duration of less than one (1) year;
- 52) "**available capacity in the natural gas transmission system**" shall be the part of the technical capacity of the natural gas transmission system that is not allocated and is still available to the system at that moment;
- 53) "**interruptible capacity in natural gas**" shall be the natural gas transmission capacity that may be interrupted by a natural gas transmission system operator in accordance with the conditions stipulated in the relevant transport contract;
- 54) "**long-term planning in electricity**" shall be planning of the need for investment in electricity generation, transmission and distribution capacities on a long-term basis with the view to meeting the demand of the system for electricity and to securing electricity supplies to customers;
- 55) "**long-term planning in natural gas**" shall be the planning of supply and transport capacity of natural gas undertakings on a long-term basis with the view to meeting the demand for natural gas of the system, to ensuring diversification of energy supply sources and to securing natural gas supplies to customers;
- 56) "**household customer**" shall be the final customer purchasing electricity or natural gas to address household demand, but excluding any commercial or professional activity;
- 57) "**local self-government unit**" shall be a municipality or the City of Skopje;
- 58) "**electricity system**" shall be the system comprised of electricity generation facilities, the electricity transmission grid, one or more electricity distribution grids and electricity final customers;
- 59) "**energy source or fuel**" shall be the material substance whose combustion results in heating and/or mechanical energy;
- 60) "**energy facility**" shall be the energy system or part thereof or energy or energy fuel generation or storage facility;
- 61) "**energy sector**" shall be the economy sector that includes the energy activities stipulated under the present Law;

- 62) **“energy system”** shall be the system of inter-connected energy or energy fuel transmission or distribution facilities, devices and plants that represents an integrated technical, technological and functional whole and which serves the purpose of supplying energy or energy fuels from the producers, i.e. sources to final customers;
- 63) **"electricity derivative"** shall be a financial instrument, such as options, futures, swaps, forward and other derivative contracts that may be settled in cash, physically or through recognised clearing houses, aimed to protect electricity market participants from possible fluctuations of the price of electricity in the market, where that instrument relates to electricity;
- 64) **"natural gas derivative"** shall be a financial instrument, such as options, futures, swaps, forward and other derivative contracts that may be settled in cash, physically or through recognised clearing houses, aimed to protect natural gas market participants from possible fluctuations of the price of natural gas in the market, where that instrument relates to natural gas;
- 65) **"control"** shall be rights, contracts or any other means which, either separately or in combination and having regard to the considerations of fact or law involved, confer the possibility of exercising decisive influence on an electricity or gas undertaking, as the case may be, in particular by:
- a. ownership or the right to use all or part of the assets of the undertaking in question;
  - b. rights or contracts, which confer decisive influence on the composition, voting or decisions of the organs of the undertaking in question;
- 66) **“electricity transmission congestion”** shall be the status when an electricity interconnector cannot accommodate all physical flows requested by the electricity market participants for the realization of international electricity trading due to the lack of capacity at the electricity interconnector and/or lack of capacity in the electricity transmission system of the Republic of Macedonia;
- 67) **"tendering procedure"** shall be the procedure through which planned additional requirements and replacement capacity are covered by supplies from new or existing generating capacity;
- 68) **"integrated natural gas undertaking"** shall be a vertically or horizontally integrated natural gas undertaking;
- 69) **"integrated electricity undertaking"** shall be a vertically or horizontally integrated electricity undertaking;
- 70) **“electricity interconnector”** shall be equipment used to link electricity systems;
- 71) **“natural gas interconnector”** shall be a natural gas transmission line, which crosses or spans a border between the Republic of Macedonia and any other State for the sole purpose of connecting the national transmission systems of those States;
- 72) **"interconnected system"** shall be a number of electricity or natural gas transmission and distribution systems, as the case may be, linked together by means of one or more electricity or gas interconnectors;
- 73) **“system user”** shall be any entity or any person, who is not an entity, supplying to, or being supplied by, an electricity or natural gas transmission or distribution system; **“non-household customer”** shall be any customer that purchases electricity or natural gas, which is not for his own household use, including producers and wholesale customers;
- 74) **"linepack"** shall be the storage of gas by compression in gas transmission and distribution systems, but not including facilities reserved for transmission system operators carrying out their functions;

- 75) **“energy undertaking”** shall be any natural person or legal entity that performs an energy activity;
- 76) **“license”** shall be the permit issued by the Energy Regulatory Commission on the basis of which the entity, to which the license in question has been issued, can perform an energy activity in the Republic of Macedonia;
- 77) **“small final electricity customers”** shall be enterprises with less than 50 employees and total annual income of less than ten (10) million EUR in MKD counter value, excluding the energy producers and transmission and distribution system operators;
- 78) **“small natural gas customers”** are final customers whose annual natural gas consumption does not exceed 50,000 m<sup>3</sup>, and whose all facilities are connected to the natural gas distribution system
- 79) **“natural gas transmission network”** shall be the existing network of gas pipelines, which is anticipated to operate under nominal pressure of at least 12 bar, and any new natural gas infrastructure, which is anticipated to operate under nominal pressure of at least 16 bar and in accordance with the relevant international standards that will be adopted by the Republic of Macedonia, as well as the related metering-regulation equipment, which is, and/or shall be considered, and integral part of the natural gas transmission system;
- 80) **“oil pipeline”** shall be the pipeline with relevant devices and plants intended for crude oil transport;
- 81) **“obligation on public service provision”** shall be clearly defined, transparent and verifiable obligations imposed upon entities performing energy activities of general economic interest that have been entrusted pursuant to the present Law or by an act of the Government or the Energy Regulatory Commission and may relate to 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 change protection) and which is non-discriminatory and does not distort competition beyond what is strictly necessary in order to achieve the public service in question;
- 82) **“energy from renewable sources”** shall be energy from non-fossil energy sources, i.e. hydropower, wind, solar, aerothermal, hydrothermal or geothermal energy and wave and tidal energy, biomass, landfill gas, sewage treatment plant gas and biogases;
- 83) **“aerothermal energy”** shall be energy stored in the form of heat in the ambient air;
- 84) **“geothermal energy”** shall be energy stored in the form of heat beneath the surface of solid earth;
- 85) **“hydrothermal energy”** means energy stored in the form of heat in surface water;
- 86) **“support scheme”** shall be any instrument, scheme or mechanism that promotes the use of energy from renewable sources by reducing the cost of that energy, increasing the price at which it can be sold, or increasing, by means of a renewable energy obligation or otherwise, the volume of such energy purchased;
- 87) **“renewable energy obligation”** shall be a support scheme requiring:
- a) energy producers to include a given proportion of energy from renewable sources in their production,
  - b) energy suppliers to include a given proportion of energy from renewable sources in their supply, or



c) energy consumers to include a given proportion of energy from renewable sources in their consumption. This may include schemes under which such requirements may be fulfilled by using green certificates;

- 88) “**reliability of operation**” shall be the uninterrupted operation of the transmission system and, when necessary, of the distribution systems, under foreseeable circumstances;
- 89) “**electricity distribution system operator**” shall be the natural person or legal entity that performs electricity distribution activity, including electricity distribution system operation, in the Republic of Macedonia and which is responsible for the system operation, maintenance, development and connection to the electricity transmission system and for securing the relevant system’s long-term ability to address the reasonable electricity distribution demand;
- 90) “**electricity transmission system operator**” shall be the natural person or legal entity, which performs electricity transmission activity, in the Republic of Macedonia and is responsible for the system operation, maintenance, development and interconnection with other electricity systems and for securing long-term system ability to address the reasonable electricity transmission demand;
- 91) “**electricity market operator**” shall be the legal entity that organises and operates the electricity market in the Republic of Macedonia;
- 92) “**natural gas market operator**” shall be the legal entity that organises and operates the natural gas market in the Republic of Macedonia;
- 93) “**natural gas distribution system operator**” shall be the legal entity performing natural gas distribution activities and natural gas distribution system operation, which shall be responsible for the system operation, maintenance, development and connection to other natural gas systems and for securing the relevant distribution system’s long-term ability to address the reasonable natural gas distribution demand;
- 94) “**natural gas transmission system operator**” shall be the legal entity that operates the natural gas transmission system and is responsible for natural gas transmission system operation, maintenance, development and connection to other natural gas systems and for securing the system’s long-term ability to address the reasonable natural gas transmission demand;
- 95) “**heating energy distribution system operator**” shall be the legal entity, which performs heating energy distribution activities, including heating energy distribution system operation in the Republic of Macedonia, and which is responsible for the distribution system operation, maintenance, development and for securing the relevant distribution system’s long-term ability to address the reasonable heating energy distribution demand, excluding heating energy supply;
- 96) “**certification of the transmission system operator**” shall be the procedure for establishing the conformity with the rules governing the unbundling and independence of the electricity or natural gas transmission system operator, as the case may be, pursuant to the provisions of the present Law and in accordance with the commitments assumed by the Republic of Macedonia under ratified international treaties;
- 97) “**certificate**” shall be a document/decision issued by the Energy Regulatory Commission in the procedure for certification of the electricity or natural gas transmission system operator, as the case may be, which confirms that the electricity or natural gas transmission system operator fulfils the conditions in relation to its unbundling and independence, in particular conditions related to financial, material, technical and human resources as well as other conditions prescribed by the present Law;

- 98) **“energy or energy fuel market (energy market)”** shall be the system of energy or energy fuel purchase and sale, whose operation is based on supply and demand and on the application of the terms, conditions and procedures that are stipulated in the present Law;
- 99) **“preferential electricity producer”** shall be the producer of electricity from renewable energy sources that is generated from renewable energy sources or at high-efficiency cogeneration plants on which certain obligations according to this law are imposed;
- 100) **“Contract for difference”** ~~“shall be an agreement between the renewable energy operator and the producer of energy from renewable sources, who was declared the successful bidder in the auctions-competitive bidding process to profit from the support scheme, based on a difference between the reference market price and an agreed the strike price;~~
- ~~100)~~101) **“Competitive bidding process”** shall mean a non-discriminatory bidding process that provides for the participation of a sufficient number of producers and where the aid is 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 aid.
- ~~104)~~102) **“related undertaking”** shall be any legally affiliated electricity or natural gas undertakings and/or associated undertakings, within the meaning prescribed by the Laws and bylaws governing the activities of business companies, and/or undertakings, which belong to the same shareholder;
- ~~102)~~103) **“cross-border electricity flow”** shall be the physical electricity flow through the electricity transmission system of the Republic of Macedonia, which is the result of the activities performed by producers and/or customers outside the electricity transmission system of the Republic of Macedonia;
- ~~103)~~104) **“electricity transmission”** shall be the transport of electricity through the electricity transmission system, for the purpose of delivering electricity to final customers or electricity distributors, but it does not include electricity supply;
- ~~104)~~105) **“natural gas transmission”** shall be the transport of natural gas through the natural gas transmission network, which mainly contains high-pressure pipelines, other than pipelines in local area primarily used in the context of local distribution of natural gas, with the view to ensuring its delivery to final customers and distributors, but not including natural gas supply;
- ~~105)~~106) **“transmission capacity of the electricity transmission system”** shall be the capacity of the electricity transmission system or the electricity interconnector(s) to transport electricity without disturbing the normal operation parameters of the system, as defined in the relevant Transmission Grid Code;
- ~~106)~~107) **“electricity transmission grid”** shall be the electricity grid comprised of inter-connected high-voltage electricity lines, power transformers and other equipment and plants, which represents an integral part of the electricity transmission system and through which electricity is transported;
- ~~107)~~108) **“connection to the transmission or distribution system”** shall be the functional connection to lines (electricity lines or natural gas or oil/ oil products pipelines), equipment and devices by means of which the user’s facilities and installations are connected to the relevant transmission or distribution system;
- ~~108)~~109) **“third party access”** shall be the right of the system users to have access to the electricity or natural gas transmission or distribution system in an objective, transparent and non-discriminatory manner under regulated terms and conditions and under previously published tariffs;

- ~~409~~110) "**electricity supply**" shall be the sale, including resale, of electricity to customers;
- ~~410~~111) "**electricity supply contract**" shall be a contract for the supply of electricity, but does not include an electricity derivative;
- ~~414~~112) "**natural gas supply contract**" shall be a contract for the supply of natural gas, but does not include a natural gas derivative;
- ~~412~~113) "**generation**" shall be the production of electricity;
- ~~413~~114) "**product pipeline**" shall be the pipeline with relevant devices and plants intended for transport of oil derivatives or fuels for transport;
- ~~414~~115) "**electricity producer**" shall be any entity (including any physical or legal person) generating electricity;
- ~~415~~116) "**balance between energy demand and supply**" shall mean satisfaction of foreseeable demand of consumers to use energy or energy fuel consumption demand without introducing measures aimed to limit the consumption;
- ~~416~~117) "**Energy Regulatory Commission of the Republic of Macedonia (or Energy Regulatory Commission)**" shall be the single and independent national regulatory authority established pursuant to the present Law, for the purpose of regulating particular issues in the energy markets;
- ~~417~~118) "**regulated contract**" shall be the contract that is subject to approval by the Energy Regulatory Commission;
- ~~418~~119) "**regulated heating energy producer**" shall be the heating energy producer holding the obligation on heating energy provision to address final customer demand and ancillary services provision to address the needs of the heating energy distribution system to which the producer is connected, under regulated terms and conditions, prices and tariffs;
- ~~419~~120) "**regulated energy activity**" shall be the energy activity, which is performed under terms and conditions, manner, and if justified, prices and tariffs stipulated or approved by the Energy Regulatory Commission in accordance with the provisions on Public Service Obligation of this law;
- ~~420~~121) "**regulated service**" shall be the service provided by an entity performing regulated energy activities in accordance with the provisions of the present Law;
- ~~424~~122) "**reliability**" shall be the reliability of the supply and provision of energy or energy fuel and of the technical reliability of energy systems;
- ~~422~~123) "**electricity distribution system**" shall be the energy system for electricity distribution through high, medium and low voltage grids in a service area on the territory of the Republic of Macedonia and connected to the electricity transmission system;
- ~~423~~124) "**natural gas distribution system**" shall be any natural gas distribution network(s), owned and/or operated by a natural gas undertaking and those of related undertakings that are necessary for providing access to distribution;
- ~~424~~125) "**heating energy distribution system**" shall be the energy system for heating energy distribution in a service area or part thereof on the territory of the local self-government unit;
- ~~425~~126) "**electricity transmission system**" shall be the system for electricity transmission through the high voltage grid in the Republic of Macedonia;
- ~~426~~127) "**natural gas transmission system**" shall be any natural gas transmission network, which is owned and/or operated by a natural gas undertaking, including accumulation capacity (linepack) and its facilities that supply ancillary services, and those of related undertakings that are necessary for providing access to transmission;

- ~~427~~128) **“ancillary services”** shall be the services, which are necessary for the operation of the transmission or distribution energy systems, including - in the case of natural gas - load balancing, blending and injection of inert gases, for the purpose of securing the relevant system’s safe and reliable operation, and which shall be defined under the relevant Grid Code;
- ~~428~~129) **“economic precedence”** shall be the ranking of sources of electricity supply in accordance with economic criteria;
- ~~429~~130) **“storage of crude oil, oil derivatives, biofuels, bioliquids and fuels for transport”** shall be the storage of crude oil, oil derivatives, biofuels, bioliquids and fuels for transport in special oil tanks for a customer’s own consumption, for the needs of crude oil processing and production of oil derivatives and fuels for transport, as well as for trade in crude oil, oil derivatives, biofuels, bioliquids and/or fuels for transport;
- ~~430~~131) **“natural gas supply”** shall be the sale, including resale, of natural gas, including LNG, to customers;
- ~~434~~132) **“heating supply”** shall be the sale, including resale, of heating energy to customers;
- ~~432~~133) **“universal supply of electricity”** is the right of all household customers and small non-household customers to be supplied with electricity of a specified quality at reasonable, clearly comparable, transparent and non-discriminatory prices;
- ~~433~~134) **“public supply of natural gas”** is the right of household customers and small non-household customers to be supplied with natural gas of a specified quality at reasonable, clearly comparable, transparent and non-discriminatory prices;
- ~~434~~135) **“electricity supplier of last resort”** shall be the electricity supplier designated in accordance with the provisions of the present Law, which shall provide a public service by supplying electricity to final customers for a limited time period in the specified circumstances that are defined in the present Law;
- ~~435~~136) **“natural gas supplier of last resort”** shall be the natural gas supplier designated in accordance with the provisions of the present Law, which shall provide a public service by supplying natural gas to final customers for a limited time period in the specified circumstances that are defined in the present Law;
- ~~436~~137) **“energy or natural gas supplier”** shall be the relevant license holder that supplies final customers with energy or natural gas and can perform energy or natural gas trade;
- ~~437~~138) **“tariff”** shall be the price charged for the service provided by entities performing regulated energy activities on energy or natural gas transmission and distribution, which shall be set by the Energy Regulatory Commission pursuant to the price-setting and tariff system setting regulation in accordance with the relevant provisions of the present Law;
- ~~438~~139) **“tariff system”** shall be the regulation that establishes the elements for setting tariffs of separate regulated energy activities;
- ~~439~~140) **“technical capacity of the natural gas transmission system”** shall be the maximum firm capacity that the natural gas system operator can offer to the system users, after taking into consideration the integrity of the natural gas transmission system and the operational requirements of the transmission network;
- ~~440~~141) **“heating energy”** shall be the energy in the form of hot water or steam obtained at heating energy generation plants using fuels (fossil, biomass or biogas), geothermal sources or solar energy;
- ~~444~~142) **“electricity transit”** shall be the transport of electricity through the electricity transmission grid where the nominated path for the relevant transaction does not involve the dispatch nor the simultaneous corresponding take-up in the electricity system of the Republic of Macedonia;

- ~~142)~~143) **“natural gas transit”** shall be the transport of natural gas through the natural gas transmission grid where the nominated path for the relevant transaction does not involve the dispatch nor the simultaneous corresponding take-up in the natural gas system of the Republic of Macedonia;
- ~~143)~~144) **“natural gas transport”** shall be the transport of natural gas through gas pipelines or other forms of transport, such as road and rail tanks and other means of transport;
- ~~144)~~145) **“transport of crude oil, oil derivatives, biofuels and fuels for transport”** shall be the transport of crude oil, oil derivatives, biofuels or fuels for transport through the oil pipeline, product pipelines and other forms of transport, as well as road and rail tanks and other transportation means;
- ~~145)~~146) **“electricity or natural gas trader”** shall be an entity registered for trade activity that trades in, or resells, electricity or natural gas;
- ~~146)~~147) **“wholesale trader in fuels”** shall be any entity registered for trade activity that trades in crude oil, oil derivatives, biofuels, bioliquids and/or fuels for transport;
- ~~147)~~148) **“retail trader in fuels”** shall be any entity registered for trade activity and performing the activity on retail trade in oil derivatives and fuels for transport;
- ~~148)~~149) **“wholesale trade in crude oil, oil derivatives, biofuels, bioliquids and fuels for transport”** shall be the purchase of crude oil, oil derivatives, biofuels, bioliquids and fuels for transport within the Republic of Macedonia or from abroad, for the purpose of further sale to traders, processors or final customers within the Republic of Macedonia and abroad;
- ~~149)~~150) **“retail trade in crude oil, oil derivatives and fuels for transport”** shall be the purchase made by traders in the Republic of Macedonia of oil derivatives and fuels for transport from producers or wholesale traders in oil derivatives and fuels for transport, for the purpose of further sale to final customers in the Republic of Macedonia;
- ~~150)~~151) **“energy or energy fuel wholesale trade”** shall be the re-sale of energy (including electricity, natural gas, heat and biomass) or energy fuel;
- ~~151)~~152) **“electricity consumption management”** shall be the system on monitoring electricity consumption and undertaking measures aimed at better use of electricity, including measures on energy efficiency improvement and/or time of energy use;
- ~~152)~~153) **“natural gas transmission system operation”** shall be operation of the natural gas transmission system in the Republic of Macedonia, including real time balancing of deviations between planned and delivered natural gas quantities through the natural gas transmission networks, excluding natural gas supply;
- ~~153)~~154) **“physical congestion in natural gas transmission”** shall be the situation where the level of demand for actual deliveries in the natural gas transmission system exceeds the system’s technical capacity at some point in time;
- ~~154)~~155) **“fossil fuels”** shall be coal, crude oil, oil derivatives and natural gas.
- ~~155)~~156) **“strike price”** is the final price that the ~~priority-preferential~~ producer of electricity from renewable sources will benefit, as a result of being selected as beneficiary of a support scheme in a competitive process – it determines the maximum level of the reward that can be granted to each project of renewable energy.
- ~~156)~~157) **“reference price”** is the hourly day-ahead market price at the organised electricity market.
- ~~157)~~158) **“Energy Community Treaty”** means the Treaty establishing the Energy Community of 25 October 2005.



~~458)~~159) **“Energy Community Secretariat”** means the institution established under Title V, Chapter V of the Energy Community Treaty.“

~~459)~~160) **“Energy Community Regulatory Board”** means the institution established under Title V, Chapter III of the Energy Community Treaty

#### **Article 4**

- (1) For the purpose of the present Law, energy activities shall be:
- 1) electricity transmission;
  - 2) electricity market organisation and operation;
  - 3) electricity distribution;
  - 4) natural gas transmission;
  - 5) natural gas market organisation and operation;
  - 6) natural gas distribution;
  - 7) regulated heating energy production;
  - 8) heating energy distribution;
  - 9) heating energy supply;
  - 10) xxxelectricity generation;
  - 11) electricity supply;
  - 12) electricity trade;
  - 13) natural gas supply;
  - 14) natural gas trade;
  - 15) heating energy generation;
  - 16) heating energy supply;
  - 17) crude oil processing and production of oil derivatives;
  - 18) production of fuels for transport by blending fossil fuels and biofuels;
  - 19) transport of crude oil or oil derivatives through oil or product pipelines;
  - 20) storage of crude oil, oil derivatives, biofuels and fuels for transport; and
  - 21) wholesale trade in crude oil, oil derivatives, biofuels and fuels for transport.
- (2) The activities referred to in paragraph (1), items 1) to 9) of this Article shall be regulated energy activities.

#### **Article 5**

- (1) The activities referred to in Article 4 of the present Law can be performed by domestic and foreign entities on the basis of a license issued by the Energy Regulatory Commission for performing the energy activity in question. For the activity of trade (Article 4(1)(12), registration of the activity with ERC [MEPSO] is sufficient for traders licensed in a country party to the Energy Community Treaty.
- (2) The activities referred to in Article 4 of the present Law shall be performed pursuant to the present Law, other relevant applicable Laws and bylaws, the regulations and rules adopted or approved by the Energy Regulatory Commission as well as the terms of the licenses issued.

- (3) The legal entity performing one or more regulated energy activities can perform another energy activity or other activity, provided it maintains separate accounts for each regulated activity and separately for unregulated activities under the present Law, and complies with the rules on unbundling of the present Law.
- (4) In the cases where an entity is entitled to perform one or more regulated energy activities or one or more energy activities and another energy activity or another activity, it shall, regardless of its ownership and legal form:
  - 1) ensure it has separate books and accounts for each energy activity it performs in order to avoid discrimination, cross-subsidisation and distortion of competition;
  - 2) ensure it keeps separate accounts, for activities in which it is engaged and which are non-regulated activities, or other activities it performs; and
  - 3) compile and publish financial reports and other reports for the activities and obligations referred to in items 1) to 2) of this paragraph, in conformity with the applicable accounting and auditing regulations.
- (5) In cases where an entity performing one or more regulated energy activities or one or more energy activities and another energy activity or another activity is not legally obliged to publish their annual accounts, it shall keep a copy of these accounts at the disposal of the public in its head office.
- (6) In cases where an entity performs one or more regulated energy activities or one or more energy activities and another energy activity or another activity, its internal accounts shall include a balance sheet and a profit and loss account for each activity and, if applicable, any related energy activity that is performed under a public service obligation. In the case of natural gas undertakings, any such undertaking shall also:
  - 1) specify in its internal accounting the rules for the allocation of assets and liabilities, expenditure and income as well as for depreciation, without prejudice to nationally applicable accounting rules, which they follow in drawing up the separate accounts referred to in paragraph (4) of this Article; and
  - 2) indicate in notes of its annual accounts any transaction with related undertaking above the threshold defined by the Energy Regulatory Commission.
- (7) In addition to the accounting obligations referred to in paragraphs (4) to (6) of this Article, the legal entity performing a regulated energy activity shall be obliged:
  - 1) to submit to the Energy Regulatory Commission its audited annual financial reports for each of its regulated activities; and
  - 2) publish these reports on its website.
- (8) The financial reports referred to in paragraph (8) of this Article shall be submitted and published for each regulated energy activity separately, whereas for non-regulated energy and other activities, the financial report submitted to the Energy Regulatory Commission can be disclosed in a consolidated form.
- (9) In addition to the financial reports referred to in paragraph (8) of this Article, in accordance with effective International Accounting Standards and International Financial Reporting Standards, the Energy Regulatory Commission may impose obligations on regulated undertakings to establish, keep, prepare and submit other reports, accounts and registers, after having first specified the template and contents thereof.
- (10) Any legal entity performing electricity supply activities or natural gas supply activities may be obliged to perform electricity or natural gas supply of last resort activity, as the case may be, provided that the legal entity in question fully complies with the provisions referred to in paragraph (5) of this Article.

## **Article 6**

- (1) The Energy Regulatory Commission or the Government may impose public service obligation on electricity or gas undertakings, after having first defined the relevant general economic interest, which may relate to:
  - 1) security, including security of supply;
  - 2) regularity;
  - 3) quality and price of supplies;
  - 4) promotion of energy efficiency;
  - 5) promotion of energy from renewable sources; and/or
  - 6) environmental and climate protection.
- (2) Public service obligations shall be included in the respective license following the procedure defined in Articles 80, 80-b and 97-a and 98-a of this Law and published on the website of the Energy Regulatory Commission. The entities concerned shall be obliged to comply with the obligations on public service provision.
- (3) Any public service obligation must be clearly stipulated, easily verifiable and non-discriminatory, and shall guarantee equality of access to customers for energy undertakings in the Energy Community. Public service obligations shall not distort competition and impede the opening of the market beyond what is strictly necessary in order to achieve the provision of the public service in question. Any public service obligation must be limited in time.
- (4) The Energy Regulatory Commission shall review periodically and publish its assessment, at least annually, in relation to compliance of energy supply prices with the obligations on public service provision referred to in paragraph (1) of this Article, and shall submit these reports to the Commission for Protection of Competition and the Council for Consumer Protection. The report shall also include an assessment of the possible effect of such obligations on national and international competition.
- (5) Before the Energy Regulatory Commission or the Government impose or change public service obligations, they shall consult with the Energy Community Secretariat.
- (6) The license requiring an energy undertaking to perform a service under public service obligation shall indicate the scope and contents of services stipulated under the present Law, the service area where public services are provided, as well as the duration, and the necessary quality of service where relevant, of the obligation on the provision of the relevant public service.
- (7) When the entities performing energy activities under public service obligation are awarded financial compensation, other form of compensation and/or exclusive rights, for the purpose of implementing the obligations defined under the present Law, this shall be done in a transparent and non-discriminatory procedure defined in advance. Any compensation awarded must not exceed the actual costs incurred for the public service provision and a reasonable profit. Compensation and exclusive rights granted to license holders for the provision of a public service obligation shall be subject to evaluation under the rules on State aid pursuant to the State Aid Law.

## **Article 7**

- (1) The security of supply of the relevant energy type or energy fuel shall be provided, in particular, by means of:
  - 1) achieving balance of supply and demand on the relevant energy type market;
  - 2) forecasting the level of expected future demand for a particular energy type and the possibilities to address the forecast demand with the available energy sources and facilities;



- 3) ensuring adequate level of generation capacity, by implementing measures to construct new energy facilities or to increase the capacity of existing energy facilities;
  - 4) ensuring the quality and high level maintenance of the relevant energy type's transmission and distribution grids;
  - 5) improving the level of electricity and natural gas interconnections;
  - 6) implementing measures to address peak loads; and
  - 7) implementing contingency measures in the cases of failure to provide delivery of the relevant energy type.
- (2) State authorities and entities performing regulated energy activities, as part of their rights, obligations and competences stipulated under the present Law, shall be obliged to propose and undertake measures aimed to ensure security and reliability of energy supply, as stipulated in the present Law.
- (3) The Energy Regulatory Commission shall supervise the compliance of entities performing regulated energy activities with the obligations on security of supply and in the report referred to in Article 35 of the present Law, shall include a report on security of supply in particular related to:
- 1) reliability of the system operation;
  - 2) one-year energy balance of supply and demand on the energy markets;
  - 3) the levels of expected future demand and envisaged additional supply capacity under construction or being planned for the next five (5) years;
  - 4) measures to cover peak demand and deal with shortfalls of one or more suppliers;
  - 5) possibilities to secure reliable energy supply in the period between five (5) and fifteen (15) years after the year for which the report is prepared; and
  - 6) possible investments in interconnection capacities for the next five (5) years.
- (4) The report on security of supply included in the report referred to in Article 35 of the present Law shall contain inter alia a section relating to electricity , which shall take into account of:
- 1) the principles of congestion management, as these are set out in the present Law and any relevant by-laws;
  - 2) any existing and planned electricity transmission lines;
  - 3) the expected patterns of electricity generation, supply, cross-border exchanges and consumption, allowing for demand management measures, and
  - 4) national, regional and European sustainable development objectives in accordance with the commitments assumed by the Republic of Macedonia under ratified international treaties.
- (5) The report on security of supply included in the report referred to in Article 35 of the present Law shall also contain inter alia a section relating to natural gas, which shall take into account of:
- 1) the competitive impact of the measures taken to ensure security of natural gas supply, pursuant to the present Law;
  - 2) the duration of long-term natural gas supply contracts concluded by undertakings established and registered in the Republic of Macedonia, and in particular their remaining duration, based on information provided by the undertakings concerned, but excluding commercially sensitive information, and the degree of liquidity of the gas market;

- 3) the regulatory frameworks to provide adequate incentives for new investment in the transport of natural gas, after taking into account the provisions of the present Law.

#### **Article 7-a**

- (1) In order to safeguard a secure supply of electricity and natural gas in the relevant markets, especially in conditions of severe disruptions, State authorities and entities performing energy activities, within their rights, obligations and responsibilities, shall cooperate with the relevant State authorities and energy entities from other Parties to the Energy Community in order to promote regional solidarity, based on:
  - 1) the coordination and harmonisation of national emergency measures;
  - 2) the identification and, where necessary, the development or upgrading of electricity and natural gas interconnections; and
  - 3) the conditions and practical modalities for mutual assistance.
- (2) The Government of the Republic of Macedonia shall inform the Energy Community Secretariat on any type of regional co-operation referred to in paragraph (1) of this Article, including the relevant terms and conditions as well as any legal acts adopted for this purpose.

#### **Article 8**

- (1) To the extent required to ensure the provision of universal service of electricity supply or public service of gas supply, the Energy Regulatory Commission may designate, for a defined period of time, supplier to perform public service in accordance with Article 6 of this Law, to supply household customers and small final electricity customers under reasonable, easily and clearly comparable, transparent and non-discriminatory prices regulated pursuant to the regulation referred to in Article 24, paragraph (2) of the present Law.
- (2) The procedure designating the suppliers from paragraph 1 shall be transparent, non-discriminatory and based on the predefined selection criteria pursuant to Article 80 of the present Law. It shall not affect the eligibility of customers to freely choose or switch supplier.
- (3) The suppliers under public service obligation from paragraph 1 of this Article shall be obliged:
  - 1) to take appropriate measures to protect final customers in remote areas who are connected to the electricity or natural gas system, as the case may be; and
  - 2) to ensure that it has in place adequate safeguards to protect vulnerable customers in full compliance with the measures set in the annual programme on energy poverty reduction referred to in Article 14 of the present Law.
- (4) When the Energy Regulatory Commission regulates the end-users' price of electricity under public service obligation imposed to ensure the provision of universal service of electricity supply or public service of natural gas supply, it shall provide a detailed explanation and rationale linking such regulation with exceptional circumstances on the energy market that complies with the conditions of this Article. In the decision for end-users' price regulation, the Energy Regulatory Commission shall establish an end date for phasing-out the regulated end-users' prices.
- (5) The Energy Regulatory Commission shall ensure that different categories of customers shall not benefit from the same treatment and protection, and that end-users' price regulation is available only for ensuring the provision of universal service of electricity supply or public service of natural gas supply to household customers and small final customers.

- (6) The Energy Regulatory Commission shall ensure that any electricity or gas prices subject to price regulation for the purpose of ensuring universal service of electricity supply or public service of natural gas supply are cost-reflective. Cost-reflectivity must ensure that end user price reflects the costs of supply, including, in case of electricity, the costs of procured electricity, return at an appropriate rate, and appropriate provisions for bad debts.
- (7) The Energy Regulatory Commission shall carry out annual reviews of the methodologies and the end-user price level adopted, as well as of the continuing necessity of price regulation for the provision of universal service. These reviews shall be submitted to the Energy Community Secretariat, which - based on an analysis of the regional market - may propose further measures for phasing out regulated prices in certain categories of customers.

## **II ENERGY POLICY**

### **Article 9**

- (1) The energy policy shall be set forth in the Strategy on Energy Development.
- (2) The energy policy shall secure:
  - 1) the reliable, safe and quality supply to final customers with all types of energy and energy fuels;
  - 2) the setting-up of transparent and stable terms and conditions in order to ensure the establishment of a competitive and economically viable energy sector;
  - 3) the promotion of market competition in the provision of energy services, based on the principles of non-discrimination and transparency;
  - 4) the efficient provision of services to final customers;
  - 5) the integration of the Republic of Macedonia's energy markets into the regional and international energy markets;
  - 6) the use of energy sources in a manner that provides sustainable energy development;
  - 7) the promotion of energy efficiency;
  - 8) the promotion of the use of renewable energy sources;
  - 9) environmental protection from the adverse effects accruing from the performance of energy activities performance;
  - 10) the fulfillment of commitments assumed by the Republic of Macedonia under ratified international treaties and documents; and
  - 11) the introduction of effective measures aimed to protect citizens from energy poverty.

### **Article 10**

- (1) On the proposal from the Ministry competent for matters in the energy field (hereinafter: the Ministry), the Government of the Republic of Macedonia shall adopt the Strategy on Energy Development.
- (2) The Strategy on Energy Development shall stipulate:
  - 1) the long-term objectives on the development of particular energy activities, for the purpose of securing reliability of different energy types supply;
  - 2) the priorities for the development of the domestic energy sector;

- 3) the identification and use of energy resources and facilities of strategic importance for the State;
  - 4) the long-term forecasting of investment needs in generation, transmission and distribution energy facilities, for the purpose of addressing energy demand and ensuring security and reliability of supply;
  - 5) the sources and manner for securing the required energy quantities;
  - 6) the financial means required to implement anticipated investments and the manner of securing the funds needed;
  - 7) the incentives to invest in energy facilities that generate or use renewable energy sources;
  - 8) the incentives to increase energy efficiency;
  - 9) the terms and conditions and manners of securing environmental protection and the corresponding protection implementation measures;
  - 10) the fulfillment of any commitments assumed under international charters, agreements, treaties, conventions and other documents ratified and accessed to by the Republic of Macedonia;
  - 11) the encouragement of energy market competition, based on the principles of objectivity, transparency and unbiased treatment;
  - 12) the protection of final customers;
  - 13) the connection of the energy systems of the Republic of Macedonia to the energy systems of other States; and
  - 14) any other elements of importance for the development of the energy sector in the Republic of Macedonia and its integration with the energy sectors of the Parties to the Energy Community.
- (3) The Strategy on Energy Development shall be adopted every five (5) years and shall cover the period of the next twenty (20) years at least.
  - (4) The Energy Agency of the Republic of Macedonia (hereinafter: Energy Agency) shall provide support for the preparation of the Strategy on Energy Development and for the energy policy implementation.
  - (5) The Strategy on Energy Development shall be published in the "Official Gazette of the Republic of Macedonia".
  - (6) The funds required for the preparation of the Strategy on Energy Development shall be secured from the Budget of the Republic of Macedonia, grants or donations.

#### **Article 11**

- (1) On the proposal from the Ministry and within a period of four (4) months at the latest from the date of the adoption of the Strategy on Energy Development, the Government of the Republic of Macedonia shall adopt the Implementation Programme for the Strategy on Energy Development covering a period of five (5) years.
- (2) The programme referred to in paragraph (1) of this Article shall stipulate the measures for each year of its five-year cycle, as well as the terms and conditions, manner and dynamics of the Strategy's implementation, as well as the obligations of State authorities, of local self-government unit bodies, of the entities performing regulated energy activities and of the energy undertakings performing public service obligations. The programme shall determine the financial means required for its implementation, as well as the sources and manner of securing the funds needed.

- (3) By 31<sup>st</sup> July in the current year, the Ministry shall develop a report on the implementation of the programme referred to in paragraph (1) of this Article for the previous year and shall submit the report to the Government of the Republic of Macedonia.

#### **Article 12**

- (1) The Government of Republic of Macedonia – through the energy balance for period of one (1) year, which shall constitute an indicative plan document - shall determine the total energy needs and the need of certain types of energy, as well as the possibilities for their satisfaction from domestic generation and from imports.
- (2) On the proposal of the Ministry and upon previously obtaining the opinion of the Energy Regulatory Commission the Government of the Republic of Macedonia shall adopt the energy balance by the end of each calendar year.
- (3) The Ministry shall monitor the realisation of the energy balance for the current year, and, if necessary, shall propose adequate measures to the Government of the Republic of Macedonia.
- (4) The Minister that heads the Ministry (hereinafter: the Minister) shall adopt the Rulebook on Energy Balances and Energy Statistics, which shall stipulate:
  - 1) the content of the energy balance;
  - 2) the content, manner, and deadline for the submission of data required for the development and monitoring of the implementation of the energy balance;
  - 3) the content, manner and deadline for the submission of data required for the preparation of the Strategy on Energy Development and for the development and monitoring of the outcomes of the Strategy's Implementation Programme; and
  - 4) the bodies within the State administration and within the local self-government units, license holders performing energy activities, as well as energy and energy fuel final customers that will be obliged to submit any data, which are required for the development and monitoring of the implementation of the energy balance, as well as the deadlines on data submission.
- (5) On the request from the Ministry, the entities referred to in the Rulebook on Energy Balances and Energy Statistics shall be obliged to submit data for the development and monitoring of the energy balance and data required for the preparation of strategies, programmes and reports on implementation programmes, whose adoption has been stipulated under the present Law.

#### **Article 13**

- (1) On the proposal from the Ministry, by means of an ordinance, the Government of the Republic of Macedonia shall stipulate in detail the criteria and terms and conditions for declaring an emergency, the manner of supply of the relevant energy type under such circumstances, the safeguard measures to be taken in cases of such an emergency, as well as the rights and obligations of license holders performing some energy activity, pursuant to the Law on the Management of an Emergency Situation.
- (2) In order to protect energy systems and secure reliability of supply of the relevant energy type in the Republic of Macedonia, the relevant energy or energy fuel transmission and distribution system operators shall be obliged, pursuant to the ordinance referred to in paragraph (1) of this Article, to develop contingency plans and submit them to the Ministry for approval.

- (3) The measures necessary to eliminate the problems occurred and to protect the energy markets and the energy systems of the Republic of Macedonia in emergency situations should:
- 1) be of temporary nature;
  - 2) last until the end of the emergency;
  - 3) cause the least possible distortion to the energy markets operation in the Republic of Macedonia and in the Energy Community;
  - 4) not be wider in scope than is strictly necessary to remedy the particular emergency situation; and
  - 5) not distort competition or adversely affect trade in a manner, which is at variance with the common interest.
- (4) In the event of an emergency situation in natural gas supply, natural gas protected customers shall be the last ones to be deprived of natural gas supply.
- (5) For the purposes of paragraph (4) of this Article, natural gas protected customers shall be:
- 1) households;
  - 2) hospitals, clinics and special health institutions (first aid emergency stations, blood transfusion centres, dialysis centres and other health institutions);
  - 3) facilities of special interest to the economy, lives of people and defense of the Republic of Macedonia;
  - 4) care centres for elderly persons;
  - 5) kindergardens; and
  - 6) zoos.
- (6) In compliance with the commitments assumed by the Republic of Macedonia under the Energy Community Treaty, the Government of the Republic of Macedonia shall duly inform the other Parties to the Energy Community Treaty that are, or can be, affected by the measures undertaken pursuant to paragraph (3) of this Article, as well as the Energy Community Secretariat.
- (7) In addition to any safeguard measures referred to in this Article, the Energy Regulatory Commission may propose any additional measures or set of rules to be introduced with the aim to approximating the domestic legislation with the prerogatives of the commitments assumed by the Republic of Macedonia under ratified international treaties, provided that any such measures:
- 1) are proportionate, non-discriminatory and transparent and establish a level-playing field between the participants in the energy market, and
  - 2) are notified to the Energy Community Secretariat.
- (8) The measures referred to in this Article shall be put to an end or modified by the Government:
- 1) on the basis of the proposal by the Ministry; or
  - 2) on the basis of the proposal by the Energy Regulatory Commission; or
  - 3) following the making of a relevant request by the Energy Community Secretariat.

#### **Article 14**

- (1) For the purpose of providing energy poverty protection for the citizens, on the proposal from the Ministry prepared in cooperation with the Ministry responsible for social protection, and after the Energy Regulatory Commission's opinion is obtained on the

matter, the Government of the Republic of Macedonia shall adopt the annual programme on energy poverty reduction which, *inter alia*, shall lay down:

- 1) the definition of the criteria for determination of the consumers who belong to the category of vulnerable consumers to whom the measures for protection against energy poverty shall apply;
  - 2) the rights and obligations of vulnerable customers;
  - 3) the measures to be taken in order to reduce energy poverty, which could include the provision of subsidies for energy and energy fuel consumption that will only target household customers;
  - 4) the obligations imposed on the relevant electricity or natural gas transmission and distribution operators not to disconnect vulnerable customers in critical times;
  - 5) the manner of implementation of any such measures;
  - 6) the sources of State budget and other funds intended to finance any such measures; and
  - 7) the authorities responsible for their implementation.
- (2) The measures stipulated in the annual programme on energy poverty reduction referred to in paragraph (1) of this Article:
- 1) shall not impede the effective opening and operation of the electricity and natural gas markets;
  - 2) shall not amount to cross-subsidisation of certain categories of customers; and
  - 3) shall be notified to the Energy Community Secretariat.

### **III ENERGY REGULATORY COMMISSION OF THE REPUBLIC OF MACEDONIA**

#### **Article 15**

- (1) The regulation of issues pertaining to the performance of energy activities, which are stipulated in the present Law shall be performed by the Energy Regulatory Commission.
- (2) The Energy Regulatory Commission shall be independent in its operation and decision-taking within the competences stipulated under the present Law and shall exercise its powers as an independent regulatory authority:
  - 1) in accordance with the principles of objectivity, transparency and non-discrimination;
  - 2) in full conformity with the legal requirements for regulation of the energy activities in the Republic of Macedonia; and
  - 3) in line with the best relevant international practices.
- (3) The Energy Regulatory Commission shall be a legal entity, which shall:
  - 1) be legally distinct and independent in terms of its, organisation and decision-making from any other public or private entity; and
  - 2) be entitled to independently represent itself before any judicial or other proceedings whose subject-matter relates to any of its competences, acts or omissions.
- (4) The Energy Regulatory Commission shall adopt an amendment of its existing Statute, which shall:
  - 1) be in conformity with the provisions of the present Law;

- 2) address any matter relating to its functions and operations that is not specifically tackled in the present Law.

#### **Article 16**

- (1) The Energy Regulatory Commission shall be comprised of five (5) Members, one of which shall be the President.
- (2) On the proposal from the Government of the Republic of Macedonia, the Parliament of the Republic of Macedonia shall appoint and dismiss the Members and the President of the Energy Regulatory Commission, after taking into due consideration the appropriate and equitable representation of all ethnic communities.
- (3) One (1) Member of the Energy Regulatory Commission shall be an expert on legal matters and one (1) Member shall be an expert on economic matters in the energy field.
- (4) The Members of the Energy Regulatory Commission shall appoint one (1) Member as the Vice President, in a manner and pursuant to the procedure stipulated under the Statute of the Energy Regulatory Commission.
- (5) The Members of the Energy Regulatory Commission shall perform their public office on a full-time and exclusive basis and in a professional manner. Public office tenure as Member of the Energy Regulatory Commission shall be incompatible with the performance of another public office or political party office or job position. All public offices or political party offices or job positions held by the Member of the Energy Regulatory Commission shall cease to be in effect by the power of law on the day of his/her appointment as Member of the Energy Regulatory Commission. If any Member of the Energy Regulatory Commission was employed prior to his/her appointment to the said public office, the previous employment shall be put on hold.

#### **Article 17**

- (1) For the purpose of appointing a Member or President of the Energy Regulatory Commission, a public announcement shall be published in three (3) daily newspapers, circulating on the whole territory of Republic of Macedonia. One of those newspapers shall be in an official language different than Macedonian, and spoken by at least twenty per cent (20%) of the citizens.
- (2) Any citizen of the Republic of Macedonia can be appointed a Member or President of the Energy Regulatory Commission, provided he/she fulfills the following requirements:
  - 1) he/she has attained at least 240 ECTS credits or has completed level VII/1 education in the field of electrical engineering, mechanical engineering, technology, economics or law;
  - 2) he/she has at least ten (10) years working experience in the energy field in the last fifteen (15) years prior to the appointment;
  - 3) at least two (2) years prior to the appointment as Member of the Energy Regulatory Commission, he/she should not have been a member of the supervisory or executive boards, or the board of directors at an entity performing regulated energy activities;
  - 4) he/she provides recommendations from three (3) individuals with at least ten (10) years working experience in the field of energy, economy or law, two (2) of which must hold PhD Degree;
  - 5) at the moment of appointment, there must not be any effective court verdict pronouncing against him/her a penalty or misdemeanour sanction that prohibits him/her from performing an occupation, activity or duty;



- 6) he/she has attained one of the following internationally recognised certificates for command of the English language, which is not older than five (5) years:
- TOEFL IBT - at least 74 points,
  - IELTS - at least 6 points,
  - ILEC (Cambridge English: Legal) - at least grade B2,
  - FCE (Cambridge English: First) - passing grade,
  - BULATS - at least 60 points, or
  - APTIS - at least grade B2, or
- 7) as alternative to the certificates listed in paragraph 2.6 above, at least five (5) years of work experience in English.
- (3) Ranking of the candidates for members of a Member or President of the Energy Regulatory Commission, based on the public advertisement, shall be carried out by a Commission appointed by the Government and composed of five members that shall be proposed by:
- two members - the Macedonian Academy for Science and Arts;
  - two members - the University of Macedonia; and
  - one member - the Chamber of Commerce.
- (4) A member of the Commission from the paragraph (3) shall not be:
- state official or Government appointee;
  - employees of any energy undertaking or a person with a piece-work agreement with an energy undertaking.
- (5) The Decision on nomination of the Commission shall be published in the Official Gazette of Macedonia.
- (6) Not later than thirty (30) days after the closing date for the advertisement, the Commission shall submit a proposed ranking list with the candidates to the Government with a rationale.
- (7) Not later than thirty (30) days after the Government receives from the Commission the proposed ranking list with a rationale, the Government shall submit to the Parliament a proposal for nomination of the candidate together with a ranking list.

### **Article 18**

- (1) The term of office for Members and the President of the Energy Regulatory Commission shall be five (5) years and not a single Member can hold that public office
- 1) for more than two (2) terms of office; and
  - 2) for more than ten (10) years.
- (2) A rotation scheme for the Members of the Energy Regulatory Commission shall be set up and specified in the Statute of the Energy Regulatory Commission in accordance with the following general requirements:
- 1) the initial appointments of the Members of the Energy Regulatory Commission shall be made for a variable term of office so as not more than one (1) active Member of the Energy Regulatory Commission is changed in a period of each calendar year;

- 2) no more than one (1) new Member of the Energy Regulatory Commission may be appointed (or re-appointed, as the case may be) in a period of each calendar year, except for specific cases provided in this Law or under any applicable regulations when more than one (1) Member of the Energy Regulatory Commission are being relieved from their office during the respective period;
  - 3) in cases provided in item 2) of this paragraph, new appointments of the Members of the Energy Regulatory Commission shall be made for the remaining period of the term of office of previous Members of the Energy Regulatory Commission.
- (3) Subject to Article 19 of the present Law, the public office of Members or the President of the Energy Regulatory Commission shall cease with the expiration of the term of office for which he/she has been appointed.
  - (4) The Government of the Republic of Macedonia shall submit to the Parliament of the Republic of Macedonia the proposal on appointment or re-appointment of a Member or the President of the Energy Regulatory Commission by the end of the ninety (90) days period at the latest from the date of the expiration of the term of office of the Member in question or the President of the Energy Regulatory Commission.
  - (5) The Member or the President of the Energy Regulatory Commission whose term of office has expired shall perform the public office until the appointment of the new Member or President.

#### **Article 19**

- (1) The public office of the Member or the President of the Energy Regulatory Commission shall be terminated prior to the expiration of the term of office when:
  - 1) he/she has submitted his/her resignation to the Parliament of the Republic of Macedonia;
  - 2) he/she suffers from permanent or temporary inability to duly perform the duties relating to his/her public office for a period longer than six (6) months or in cases of death; or
  - 3) has fulfilled the conditions for enjoying the right to pension.
- (2) Prior to the expiration of his/her term of office, the Member or the President of the Energy Regulatory Commission can be dismissed from the public office to which he/she has been appointed when:
  - 1) a final court judgment has been issued against him/her for a criminal offence for which a sanction of imprisonment has been imposed on him/her for at least five (5) years;
  - 2) he/she breaches its obligations of impartiality or independence;
  - 3) he/she misuses the public office; or
  - 4) he/she acts in violation of the law.
- (3) By means of conclusion, which has been voted for by at least three (3) Members of the Energy Regulatory Commission, the Energy Regulatory Commission shall determine that the terms and conditions for the termination of the public office prior to the expiration of the term of office pursuant to the conditions referred to in paragraph (2) of this Article have been fulfilled.
- (4) The Energy Regulatory Commission shall inform the Parliament of the Republic of Macedonia on the existence of the terms and conditions for the termination of the public office referred to in paragraph (1) of this Article or on the conclusion referred to in paragraph (3) of this Article.

- (5) Within a period of eight (8) days from the determination of the terms and conditions referred to in paragraph (1) of this Article or from the adoption of the conclusion referred to in paragraph (3) of this Article, the Energy Regulatory Commission shall forward to the Parliament of the Republic of Macedonia the notification referred to in paragraph (4) of this Article.
- (6) Upon the receipt of the notification referred to in paragraph (4) of this Article, the Parliament of the Republic of Macedonia shall establish that the terms and conditions referred to in paragraph (1) of this Article have been fulfilled and shall adopt a decision on the termination of the public office for the Member in question or for the President of the Energy Regulatory Commission.
- (7) Upon the receipt of the conclusion referred to in paragraph (3) of this Article, the Parliament of the Republic of Macedonia shall initiate the procedure on dismissal decision-taking.
- (8) Upon taking the decision on the termination of, or dismissal from, the public office, which is referred to in paragraphs (6) and (7) of this Article, the Parliament of the Republic of Macedonia shall request the Government of the Republic of Macedonia to submit a proposal for the appointment of a new Member to the Energy Regulatory Commission. The Government of the Republic of Macedonia shall submit the proposal within a period of thirty (30) days from the date of the receipt of such a request.

#### **Article 19-a**

- (1) The employees in the professional service of the Energy Regulatory Commission, who perform administrative tasks, shall have a status of public servants, whereas the matters pertaining to the labour relations, which are not governed by the present Law, or by a collective agreement, the provisions of the Law on Civil Servants and the general rules governing Labour Relations shall apply.
- (2) The salary of the President and the Members of the Energy Regulatory Commission for the period of their term in office shall:
  - 1) be set by the Parliament at a level comparable to similar independent public bodies; and
  - 2) be published in the "Official Gazette of the Republic of Macedonia" and on the website of the Energy Regulatory Commission.
- (3) The Members of the Energy Regulatory Commission shall have full autonomy in defining the salaries of the administrative staff of the Energy Regulatory Commission. The salaries referred to in this paragraph shall be set at a level comparable with wages and compensations in enterprises regulated by the Energy Regulatory Commission. For the assistance-technical personnel in the Energy Regulatory Commission the general ordinances on working relations shall be applied.

#### **Article 20**

- (1) When performing their working duties and/or when taking decisions, the President, the Members of the Energy Regulatory Commission and its employees, who perform professional service, shall be obliged:
  - 1) to act in professional, unbiased and objective manner and not to seek or take direct instructions from any government or other public or private entity when carrying out their regulatory tasks;
  - 2) not to be guided by their personal, business and financial interests;
  - 3) not to misuse the authorisation and their status at the Energy Regulatory Commission or as employees performing professional service of the Energy Regulatory Commission; and

- 4) to protect the good reputation of the Energy Regulatory Commission.
- (2) The Energy Regulatory Commission shall adopt an amendment of its existing Code of Conduct, which shall stipulate in detail the rights and liabilities of Members and employees performing professional service of the Energy Regulatory Commission as regards the duties stipulated under paragraph (1) of this Article.

#### **Article 21**

- (1) The President, the Members of the Energy Regulatory Commission or the employees performing professional service of the Energy Regulatory Commission, as well as their spouses or relatives shall not be allowed to hold or apply for licenses for the performance of energy activities, to be shareholder or co-founder, or to be member of executive and management bodies of entities holding or applying for licenses for the performance of energy activities.
- (2) In cases of any violation of paragraph (1) of this Article, the persons referred to in paragraph (1) of this Article shall be obliged to terminate their interests in the entities holding or applying for licenses for the performance of energy activities, by means of share sales or by means of withdrawing from the office and performance of activities referred to in paragraph (1) of this Article.
- (3) The Members and the President of the Energy Regulatory Commission shall not be allowed, for a period of two (2) years from the day their term of office has expired, to acquire shares or seek employment at entities that have obtained licenses for the performance of energy activities during their term of office as Members of the Energy Regulatory Commission.
- (4) For a period of one (1) year from the day on which their term of office has expired, the Member and the President of the Energy Regulatory Commission who discontinued the performance of the public office due to the expiration of his/her term of office or due to the reasons referred to in Article 19, paragraph (1), items 1) and 2) of the present Law shall be entitled to severance payment in compliance with the law that sets out the rights to severance payment for people appointed by the Parliament of the Republic of Macedonia.

#### **Article 22**

- (1) For the purpose of securing efficient, competitive and uninterrupted operation of energy markets, the Energy Regulatory Commission shall have the following duties and competences:
  - 1) to monitor the operation of energy markets, including the level and effectiveness of market opening, for the purpose of securing reliable energy and energy fuel supply;
  - 2) to monitor the compliance of licensed undertakings performing regulated and non-regulated energy activities;
  - 3) to adopt regulations and tariff systems and to adopt tariff-setting methodologies for regulated energy activities;
  - 4) ;to draft criteria for selection of universal supplier in a competitive and transparent procedure to be initiated and designated by the government;
  - 5) to adopt decisions on prices and tariffs, based on relevant regulations, methodologies and tariff systems when empowered by the present Law;
  - 6) to adopt regulations on the price-setting methodology for oil derivatives and fuels for transport and price-setting decisions for the maximum price of oil derivatives and fuels for transport referred to in Article 24, paragraph (3), pursuant to the commitments assumed by the Republic of Macedonia contractual agreements and/or under ratified international treaties;

- 7) to approve the Transmission and Distribution Codes, which have been adopted by the energy system operators, after taking into due consideration their compliance with the commitments assumed by the Republic of Macedonia under the international treaties and/or the commitments assumed by energy system operators as a result of their membership in international associations;
- 8) to approve, on the proposal from the relevant energy system operators, the terms and conditions for connection, including the connection charges for the relevant transmission and distribution systems;
- 9) to approve the terms and conditions for access to cross-border infrastructure, including the procedures for the allocation of capacity and congestion management;
- 10) to ensure that the connection and access charges referred to in item 9) of paragraph (1) of this Article allow the necessary investments in the networks to be carried out in a manner allowing those investments to ensure the viability of the relevant networks;
- 11) to adopt the Electricity Supply Rules, the Heating Energy Supply Rules and the Natural Gas Supply Rules in accordance with the provisions of the present Law;
- 12) to adopt the Rules on Electricity Supply of Last Resort and the Rules on Natural Gas Supply of Last Resort in accordance with the provisions of the present Law;
- 13) to adopt the Electricity Market Rules and the Natural Gas Market Rules in accordance with the provisions of the present Law;
- 14) to request the relevant energy system operators or the electricity or natural gas market operators to change the terms and conditions, tariffs, rules, mechanisms and methodologies governing the connection to, access to, balancing or use of the relevant systems or market;
- 15) to establish the terms and conditions for the provision of electricity and natural gas balancing services and to ensure that such services:
  - 1) are performed in the most economic manner possible;
  - 2) give appropriate incentives for system users to balance their input and off-takes;
  - 3) are provided in a fair and non-discriminatory manner; and
  - 4) are based on objective criteria;
- 16) to recommend to, and request or incentivize electricity and natural gas undertakings to optimise the use of electricity or natural gas, in particular by providing energy management services, by developing innovative pricing formulas or by introducing intelligent metering systems or smart grids, where appropriate;
- 17) to take decisions upon applications submitted for exemptions for new electricity interconnectors or gas interconnectors;
- 18) to keep the Registry of Preferential Electricity Producers and to adopt decisions on awarding the status of preferential electricity producer;
- 19) to take due care for the protection and promotion of rights of final customers and of the system users, by monitoring in particular the level and effectiveness of prices for household customers, including the existence of prepayment systems, disconnection rates, charges for and the execution of maintenance services, and the handling of complaints by household customers;
- 20) to ensure that customers have access to their consumption data;
- 21) to cooperate with electricity and natural gas suppliers and distribution system operators in order to ensure that the aforementioned energy undertaking take the necessary steps in promptly providing consumers with copies of check lists with practical information on their rights;

- 22) to monitor and propose measures to the Commission for the Protection of Competition and other competent authorities with the aim to encouraging competition at wholesale and retail levels on energy markets and to identifying and tackling any distortion or restriction of competition, including promptly providing any relevant information and bringing any relevant cases to the Commission for the Protection of Competition;
- 23) to carry out inquiries and investigations into the functioning of the energy markets and to decide upon and impose any necessary and proportionate measures to promote effective competition and to ensure the proper functioning of the market. In conducting such investigations, the Energy Regulatory Commission shall have the power to cooperate with the Commission for the Protection of Competition and any other national authority as well as with the Energy Community Secretariat;
- 24) to stipulate the terms and conditions, manner and procedure and to adopt decisions on the issue, amendment, transfer, suspension, revocation and termination of licenses for the performance of energy activities and to monitor the implementation of obligations stipulated in any such license, which has been duly issued;
- 25) to initiate and assist the development of secure and reliable energy systems that are adequately tailored to meet the needs and goals of energy efficiency and to encourage the development of electricity and gas production from renewable sources and the delivery of all such production to consumers;
- 26) to help in facilitating and removing barriers for access to the electricity and gas networks, including the access of electricity and gas produced from renewable sources;
- 27) to propose measures that stimulate the efficient use of energy systems and the integration of the energy markets within the Energy Community and with the integrated European market;
- 28) to eliminate restrictions on trade in electricity and natural gas in the Energy Community, including developing appropriate cross-border transmission capacities to meet demand and enhancing the integration of national markets in the Energy Community;
- 29) to approve transmission and distribution grid development and construction plans and to monitor their timely adoption and implementation;
- 30) to monitor compliance with, and to review the past performance of, network security and reliability rules and to approve standards and requirements for quality of service that are proposed by entities performing energy activities;
- 31) to review the plans prepared by the electricity and natural gas transmission and distribution system operators relating to the reduction of the losses in the relevant energy system;
- 32) to approve the rules on the organisation of the balancing of the electricity system and the rules on the organisation of the balancing of the natural gas system, which shall be respectively prepared by the electricity and natural gas transmission system operator;
- 33) to approve and monitor the implementation of compliance programmes that are adopted by the relevant energy system operators, by means of which they secure full legal, financial, management and operational independence of operation from the vertically integrated undertakings to which they belong, as well as from related energy undertakings;
- 34) to review the accounts of any entity performing one or more regulated energy activities or one or more energy activities and another energy activity or another activity;

- 35) Review if interruptible electricity and natural gas supply contracts and electricity and natural gas long-term contracts are fully compatible with the commitments assumed by the Republic of Macedonia under ratified international treaties, with due respect to contractual freedom ;
  - 36) to resolve disputes between entities performing energy activities related to regulated activities, as well as between entities performing energy activities and their customers in a second instance;
  - 37) to cooperate with competent State authorities, local self-government unit bodies, entities performing energy activities, energy users and other organisations and institutions;
  - 38) to submit proposals to the competent authorities on the taking of measures pursuant to their competences and in accordance with the procedures stipulated by law, against any entity, which performs its energy activities in violation of the present Law and any relevant applicable bylaws;
  - 39) to take measures, including administrative action or criminal proceedings, for any breach of confidentiality rules imposed under the present Law as well as under the national legislation;
  - 40) to initiate and propose to the competent authorities the adoption of new, and the amendment of existing, Laws and other regulations in the energy field;
  - 41) to participate in relevant regional and international organisations and closely consult and cooperate with other regulatory bodies as well as with the Energy Community Regulatory Board and the Energy Community Secretariat, for the purpose of integrating the national energy market at one or more regional levels;
  - 42) to cooperate with other regulatory bodies for the purpose of promoting and facilitating the cooperation of transmission system operators and market operators within the Energy Community, including on cross-border issues, with the aim to creating a competitive internal market in electricity and natural gas and to fostering the consistency of their legal, regulatory and technical framework;
  - 43) to enter, where appropriate, into cooperative arrangements with other regulatory bodies in order to foster regulatory cooperation;
  - 44) to adopt its the Code of conduct and other internal acts related to its operation;
  - 45) to contribute to the compatibility of data exchange processes for the most important energy market processes within the Energy Community;
  - 46) to enter into contracts for the provision of works, services, studies or supplies that are directly related to the performance of its competences and functions, provided that the making of any such contract is in full conformity with the relevant laws and bylaws of the Republic of Macedonia and with the commitments assumed by the Republic of Macedonia under ratified international treaties;
  - 47) to perform the procedure for certification of the electricity and natural gas transmission system operators and
  - 48) to perform other matters pursuant to the present Law.
- (2) In addition to the competences and duties referred to in paragraph (1), items 41) to 43) of this Article, the Energy Regulatory Commission - in cooperation with the Energy Community Regulatory Board, the national energy regulatory authorities of the Contracting Parties to the Energy Community and the Energy Community Secretariat - shall:
- 1) foster the creation of operational arrangements in order to enable an optimal management of the electricity and natural gas networks,

- 2) promote joint electricity and natural gas exchanges and the allocation of cross-border capacity,
  - 3) enable an adequate level of interconnection capacity, including through new interconnectors, within the Energy Community and between the Energy Community and other regions with the aim to strengthening effective competition and improving security of supply, without discriminating between supply undertakings;
  - 4) coordinate the development of all network codes for the relevant transmission system operators and other market actors; and
  - 5) coordinate the development of the rules governing the management of congestion.
- (3) The measures of cooperation referred to in paragraph (2) of this Article shall
- 1) be in full conformity with the requirements set out in Articles 65-c and 84-c; and
  - 2) be carried out, as appropriate, in close consultation with other relevant national authorities and without prejudice to their respective competencies.

### **Article 23**

- (1) For the purpose of securing the efficient performance of its competences and duties regarding the operation of the energy markets, the Energy Regulatory Commission shall monitor in particular:
- 1) the implementation of legally stipulated obligations of all entities performing regulated energy activities, which are related to ensuring the security and reliability of electricity, natural gas and heating energy supply;
  - 2) the operation of energy markets, for the purpose of securing their promotion, as well as for the purpose of ensuring security of energy supply and ensuring non-discrimination, effective competition, transparency and efficient operation of the energy markets;
  - 3) the implementation of rules relating to the roles and responsibilities of transmission system operators, market operators, distribution system operators, suppliers, traders and customers and other market participants pursuant to the commitments assumed by the Republic of Macedonia under ratified international treaties;
  - 4) the application of the rules governing interconnection allocation and congestion management in the electricity and natural gas transmission systems, including interconnectors, based on the commitments assumed by the Republic of Macedonia under the ratified international treaties;
  - 5) the access to networks for new generation capacity, in particular the removal of barriers that could prevent access for new market entrants and of electricity and gas produced from renewable energy sources;
  - 6) the access conditions to accumulation capacity into the natural gas transmission system (linepack) and other natural gas ancillary services;
  - 7) the use of income generated from congestion management in the electricity and natural gas transmission systems;
  - 8) the time needed by transmission and distribution system operators to perform connections and repairs;
  - 9) the timely announcement of all relevant information held by transmission and distribution system operators related to interconnections, grid use and capacity allocation to interested parties, after taking into due consideration the need for individual information to be treated as commercially confidential;



- 10) the level of transparency of wholesale prices of electricity and natural gas;
  - 11) the changes in the ownership structure of entities performing energy activities, and especially of the undertaking performing activities of electricity and natural gas transmission and distribution system operation;
  - 12) the application of tariff systems and stipulated tariffs;
  - 13) the application of the terms and conditions for network connection of new generation facilities, after taking into due consideration the costs and benefits related to different technologies on renewable energy sources as well as to embedded generation and cogeneration of heating energy and electricity;
  - 14) the operation of license holders as regards their obligations stipulated in the licenses issued, including matters relating to cross-border issues;
  - 15) the occurrence of restrictive contractual practices, including exclusivity clauses, which may – in accordance with the provisions of the present Law -prevent final customers from contracting simultaneously with more than one energy supplier, or which may restrict their choice to do so;
  - 16) the development and implementation of incentives vis-a-vis the system operators and system users, in both the short- and the long-term, in order to increase efficiencies in system performance and to foster market integration;
  - 17) the benefits to the customers resulting from the efficient functioning of the energy markets, the promotion of effective competition and from the measures taken to ensure customer protection;
  - 18) the quality of services provided by entities performing energy activities, including the way in which any complaints of final customers are handled pursuant to the provisions of the present Law;
  - 19) the implementation of the accounting obligations imposed on the legal entities performing one or more regulated energy activities or one or more energy activities and another energy activity or another activity;
  - 20) the obligations relating to record keeping and publishing of the accounts by the legal entities performing one or more regulated energy activities or one or more energy activities and another energy activity or another activity;
  - 21) the effective unbundling of accounting records pursuant to the present Law, for the purpose of avoiding cross-subsidies between electricity, heating or natural gas generation, transmission, market organisation and operation, distribution, supply and trade activities and for the purpose of eliminating cross-subsidies between categories of final customers;
  - 22) the implementation of the compliance programmes adopted by the relevant energy system operators, and related reports, by means of which they should secure full legal, financial, management and operational independence from the vertically integrated undertakings to which they belong, as well as from related undertakings, for the purpose of securing non-discrimination, transparency and objectivity in the operation of the energy markets;
  - 23) the investment in electricity generation capacities in relation to security of energy supply;
  - 24) the implementation of safeguard measures as referred to in Article 13 of the present Law; and
  - 25) the technical cooperation between the Energy Community and the transmission system operators and/or market operators of other States.
- (2) The Energy Regulatory Commission shall aim to achieve:

- 1) the development of secure, reliable and efficient non-discriminatory energy systems that are customer oriented;
  - 2) the promotion of system adequacy and - in line with the general energy policy objectives of the Government of the Republic of Macedonia - of energy efficiency as well as of the integration of large- and small-scale production of electricity, heat and gas from renewable energy sources and distributed generation in both transmission and distribution networks;
  - 3) high standards of universal (service?) in electricity supply;
  - 4) high standards of public service in natural gas supply;
  - 5) the enhancement of the protection of vulnerable customers; and
  - 6) compatibility of necessary data exchange processes for customer switching.
- (3) Should the Energy Regulatory Commission, in the course of performing the monitoring of the situation at, and the operation of, the energy markets - in compliance with paragraph (1) of this Article - discover any irregularities, it shall adopt a binding decision by means of which it shall prohibit particular behaviour of the entity performing energy activity or shall impose relevant binding measures, for the purpose of securing the reliable supply and the efficient, competitive and non-discriminatory operation of the energy markets, as well as for the purpose of protecting the rights of final customers and energy system users. The decision in question shall contain the measures to be taken by the relevant entity performing any energy activity, as well as the deadlines thereof and the obligation to submit reports on measures taken.
- (4) When performing the monitoring functions referred to in paragraph (1) of this Article, the Energy Regulatory Commission shall cooperate with any other competent State authorities and institutions, as well as, where appropriate, with the energy regulatory authorities of the Contracting Parties to the Energy Community and with the Energy Community Regulatory Board and the Energy Community Secretariat.
- (5) Should the license holders fail to act pursuant to the decision referred to in paragraph (3) of this Article, the Energy Regulatory Commission shall:
- 1) commence itself a misdemeanour procedure pursuant to the provisions of the present Law;
  - 2) motion a misdemeanour or other procedure before any competent State authority; and
  - 3) may ultimately initiate the procedure for revoking the relevant license from its holder.
- (6) In order to perform its monitoring functions referred to in paragraph (1) of this Article, the Energy Regulatory Commission shall adopt an amendment of the existing Rulebook on the manner and procedure governing the monitoring of energy market operation.
- (7) Should the Energy Regulatory Commission, in the course of monitoring electricity, natural gas and heating energy markets operations, determine that there is no efficient competition, it can - in cooperation with the Commission for the Protection of Competition and with the Energy Community Secretariat - carry our additional inquiries and may decide to take necessary and appropriate measures that would secure improved competition and secure the efficient operation of the energy markets. These measures can also contain the imposition of obligations on energy producers for the mandatory sale of energy or for provision of the right to access for interested suppliers to the generation capacities for a designated period of time.

## Article 24

- (1) By means of tariff-setting regulations and methodologies for services provided as regulated energy activities, the Energy Regulatory Commission shall stipulate the manner of calculation, approval and control of revenue generation from the performance of regulated energy activities.
- (2) By means of electricity and natural gas price-setting regulations for final customers supplied under a public service obligation to ensure universal service of electricity supply or public service of natural gas supply, the Energy Regulatory Commission shall stipulate the manner of setting, approving and monitoring electricity and natural gas end prices to be paid by final customers, which shall include the costs of electricity or natural gas purchase price, the relevant tariff on the use of energy systems and markets, the balancing costs, the supply charge(s), as well as financial and other forms of reimbursements awarded for the purpose of implementing the obligations on public service provision.
- (3) By means of price-setting regulation and methodology for oil derivatives and fuels for transport, the Energy Regulatory Commission shall stipulate the manner of setting, approving and controlling refinery and maximum retail prices for petrol, diesel fuels, light fuel oil and mazut, as well as the maximum retail prices for blends of fossil fuels and biofuels for transport.
- (4) The regulations referred to in paragraphs (1), (2), and (3) of this Article shall be based on the principles of objectivity, transparency and non-discrimination and shall:
  - 1) ensure the balancing of the interests of entities performing energy activities and of the final customers;
  - 2) protect final customers and system users from any abuse of dominant market power;
  - 3) establish measures aimed to encourage efficient operation by the entities performing regulated energy activities;
  - 4) provide for the recovery of reasonable costs incurred by entities performing regulated energy activities, as well as for an appropriate return on capital investment;
  - 5) facilitate, especially in the case of the transmission and distribution tariffs and the relevant methodologies, any necessary investments in the relevant systems so that such system will operate in a sustainable manner; and
  - 6) eliminate cross-subsidies between categories of final customers and any cross-subsidies between entities performing regulated and/or non-regulated energy activities.
- (5) The regulations referred to in paragraphs (1), (2) and (3) of this Article shall set out objective and non-discriminatory criteria for the assessment of actual costs to be recognized as necessary to perform the relevant regulated energy activity, after taking into due consideration the improved efficiency in the operation of entities performing the relevant regulated energy activities.
- (6) The tariff-setting regulations for electricity and natural gas transmission and distribution shall determine and acknowledge costs incurred for electricity or natural gas purchase to cover losses in the relevant energy system, after taking into due consideration the dynamics on loss reduction pursuant to the plans submitted for approval to the Energy Regulatory Commission by the relevant system operator(s).
- (7) The regulations referred to in paragraph (1) and (2) of this Article shall take into consideration:

- 1) the revenue and costs generated/incurred by transmission system operators on the basis of balancing services; and
  - 2) the costs incurred for the purchase of ancillary services, the costs incurred for covering acknowledged energy or natural gas losses as well as any other costs stipulated in compliance with the relevant methodologies.
- (8) By means of the regulations referred to in paragraph (1) of this Article and related to the use of electricity transmission and distribution systems, the Energy Regulatory Commission can set a combined tariff for each voltage level to be levied to final customers, who are connected to the electricity distribution systems, which shall contain the tariff on the use of the relevant electricity transmission system. When setting the combined tariff for the use of the electricity transmission and distribution system, due care shall be taken of electricity generated by embedded electricity producers.

#### **Article 25**

- (1) The tariff systems for electricity, heating energy or natural gas transmission or distribution, electricity market operator services and natural gas transmission operator services shall stipulate the tariff-setting method for the regulation of each of such services based on cap revenue in compliance with the relevant methodologies referred to in Article 24, paragraph (1) of the present Law. In the case of electricity and natural gas transmission services, the relevant tariff-setting method shall also be respectively in compliance with the requirements of Articles 67-b and 85-a of the present Law.
- (2) Only in cases when price regulation is allowed by the present Law, the tariff systems on electricity and natural gas sale to final customers, who are supplied by the electricity supplier of last resort or the natural gas supplier of last resort shall stipulate the price-setting methodology for electricity or natural gas supplied. In addition to the principles referred to in paragraph (4) of Article 24, the price-setting methodology referred to in this Article shall be in full compliance with the provisions of Articles 80-b , 80-c 98, and 98-a of the present Law.
- (3) The tariff systems referred to in this Article shall be adopted by the Energy Regulatory Commission.

#### **Article 26**

- (1) When prices could be regulated under the present Law, the decisions on electricity supply for universal service, public supply of natural gas, heating energy prices and on the tariffs for regulated energy activities shall establish the prices of electricity and heating energy or the regulated energy services, pursuant to the relevant price-setting methodologies.
- (2) The price-setting or tariff-setting decisions referred to in paragraph (1) of this Article shall be adopted by the Energy Regulatory Commission in a manner stipulated under the tariff-setting methodologies for regulated energy activities.
- (3) The decisions referred to in paragraph (1) of this Article shall be published in the “Official Gazette of the Republic of Macedonia” and on the website of the Energy Regulatory Commission.

#### **Article 28**

- (1) The Supply Rules shall stipulate in detail the general terms and conditions of supply, as well as the mutual rights, liabilities and obligations of the relevant energy type or natural gas supplier and final customer, as well the relevant system operator, and in particular:

- 1) the terms and conditions, manner and deadline for signing the relevant energy type or natural gas supply contract;
  - 2) the metering, billing and collection method for energy or natural gas supplied;
  - 3) the terms and conditions for reimbursing final customers in cases of decreased or interrupted supply;
  - 4) the final customers, whose energy supply cannot be discontinued and the manner of securing guarantees on covering costs incurred by energy or natural gas consumed by these users;
  - 5) the manner and procedure on switching supplier by final customers and the exercise by a final customer of its right to change supplier free-of-charge;
  - 6) the quality of energy or natural gas supplied and the services provided by the relevant operators, as stipulated under the relevant Grid Code;
  - 7) the quality of services provided by the energy or natural gas suppliers;
  - 8) the minimum requirements and manner of organisational set-up and technical equipment used by energy and natural gas suppliers to secure communication with final customers, for the purpose of securing the stipulated quality of services provided by the supplier;
  - 9) the manner and procedures on communication and information exchange between the energy or natural gas suppliers and the relevant system operator(s), for the purpose of securing the stipulated quality of energy or natural gas and the services provided by the operators;
  - 10) the terms and conditions as well as the procedure for disconnecting final customers from transmission or distribution systems, in cases where the final customers fail to fulfill their obligations that are stipulated in the present Law, any relevant applicable Laws and bylaws, any relevant applicable regulation and/or by contract;
  - 11) the manner, form and deadline for submission of reports, which the energy or natural gas suppliers and the relevant operator(s) are obliged to submit to the Energy Regulatory Commission;
  - 12) the necessary information that suppliers are obliged to promptly provide to final customers as part of their bills, as well as the information to be made publicly available and which will be of interest for all final customers; and
  - 13) the specific measures on protection of final customers.
- (2) In addition to the provisions referred to in paragraph (2) of this Article:
- 1) the Rules on Electricity Supply of Last Resort shall also contain provisions on detailed stipulation of the manner and procedure under which final customers can obtain the right to be supplied by the electricity supplier of last resort for a limited period of time; and
  - 2) the Rules on Natural Gas Supply of Last Resort shall also contain provisions on detailed stipulation of the manner and procedure under which final customers can obtain the right to be supplied by the natural gas supplier of last resort.
- (3) The Energy Regulatory Commission shall cooperate with any other competent bodies or authorities in order to ensure that the measures for the protection of final customer, which are set forth in the present Law and in regulations that have been adopted in compliance with the present Law, are effective and enforced.

## **Article 29**

- (1) For the purpose of performing the tasks falling under the competences of the Energy Regulatory Commission, the State authorities, local self-government unit bodies, as well as public enterprises and undertakings performing energy activities shall be obliged to promptly provide the Energy Regulatory Commission with any documents, data and information, on request and within a set deadline, which will be specified by the Energy Regulatory Commission.
- (2) The Energy Regulatory Commission shall use and keep documents, data and information of confidential character in a manner stipulated by an act, in compliance with the personal data protection regulations.
- (3) The license holders on energy activities shall be obliged to submit to the Energy Regulatory Commission monthly, quarterly, annual and other reports related to the performance of their energy activities in a manner and under the terms and conditions stipulated in their respective license.
- (4) The reports referred to in paragraph (3) of this Article shall be submitted within the deadline stipulated in the relevant license.

### **Article 30**

- (1) For the purpose of performing the tasks falling under its competences, the Energy Regulatory Commission shall adopt:
  - 1) rulebooks and rules stipulating the matters whose regulation falls under its competences, pursuant to the present Law;
  - 2) decisions on individual matters, pursuant to the present Law and the regulations adopted in compliance with the present Law, including decisions by means of which entities performing energy activities are ordered to adopt, or to refrain from, certain behaviour, or are ordered to pay penalties for the purpose of ensuring security and reliability of energy or energy fuel supply and/or efficient competition in the relevant energy markets;
  - 3) instructions, by means of which entities performing energy activities are referred to the best practices as regards the performance of their legally stipulated rights and obligations, in particular related to the public service provision, security of supply, protection of final customers and public service users, as well as increased efficiency of their operations; and
  - 4) decisions on other issues falling under its competences and matters related to its internal proceedings.
- (2) In its decision-taking procedure, the Energy Regulatory Commission shall apply the Law on General Administrative Procedure, unless the present Law stipulates another procedure.
- (3) All entities performing any energy activities shall be obliged to comply with the rulebooks, rules and decisions adopted by the Energy Regulatory Commission.
- (4) The Energy Regulatory Commission shall motion a misdemeanour procedure in compliance with the provisions contained in the present Law against any license holders and other energy market participants that have failed to comply with the rules, rulebooks or decisions adopted by the Energy Regulatory Commission.
- (5) Acts of the Energy Regulatory Commission referred to in paragraph (1), item 2) of this Article shall:
  - 1) be fully reasoned and justified;
  - 2) be immediately binding, as elaborated in Article 36, paragraph (7); and

- 3) not be subject to veto or review of any other body, except for the bodies stipulated in the present Law.
- (6) Acts of the Energy Regulatory Commission referred to in paragraph (1), items 1) and 2) of this Article shall be published in the “Official Gazette of the Republic of Macedonia”, provided that in the case of the acts referred to in paragraph (1), item 2) the confidentiality of commercially sensitive information will be preserved.
- (7) Acts of the Energy Regulatory Commission referred to in paragraph (1), items 1) to 4) of this Article shall be published on the website of the Energy Regulatory Commission, provided that in the case of the acts referred to in paragraph (1), item 2) the confidentiality of commercially sensitive information will be preserved.

#### **Article 30-a**

- (1) In addition to the competences conferred upon the Energy Regulatory Commission under Articles 22-30 of the present Law, when an independent system operator has been designated under either Article 83-b or Article 100-b of the present Law, the Energy Regulatory Commission shall:
  - 1) monitor the transmission system owner’s and the independent system operator’s compliance with their obligations under Article 83-b or Article 100-b of the present Law, as the case may be, and issue penalties for non-compliance in accordance with the provisions of the present Law;
  - 2) monitor the relations and communications 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 pursuant to the provisions of the present Law;
  - 3) without prejudice to the requirement set out, as the case may be, in Article 83-b, paragraph (3), item 3) or in Article 100-b, paragraph (3), item 3) of the present Law, for the first ten-year network development plan, approve the investments planning and the multi-annual network development plan presented annually by the independent system operator;
  - 4) ensure that network access tariffs collected by the independent system operator include remuneration for the network owner or network owners, which provides for adequate remuneration of the network assets and of any new investments made therein, provided they are economically and efficiently incurred;
  - 5) have the powers to carry out inspections, including unannounced inspections, at the premises of transmission system owner and independent system operator; and
  - 6) monitor the use of congestion charges collected by the independent system operator in accordance with the provisions of the present Law.

#### **Article 30-b**

- (1) In addition to the competences conferred upon the Energy Regulatory Commission under Articles 22-30 of the present Law, when an independent transmission operator has been designated in accordance with Articles 83-e to 83-i or Articles 100-e to 100-i of the present Law, the Energy Regulatory Commission shall:
  - 1) issue penalties for discriminatory behaviour in favour of the relevant vertically integrated electricity or natural gas undertaking in accordance with the provisions of the present Law;

- 2) monitor communications between the independent transmission system operator and the relevant vertically integrated electricity or natural gas undertaking in order to ensure compliance of the independent transmission operator in question with its obligations;
- 3) act as dispute settlement authority between the relevant vertically integrated electricity or natural gas undertaking and the independent transmission operator in respect of any complaint submitted pursuant to the provisions of the present Law;
- 4) monitor commercial and financial relations, including loans, between the relevant vertically integrated electricity or natural gas undertaking and the independent transmission operator;
- 5) approve all commercial and financial agreements between the relevant vertically integrated electricity or natural gas undertaking and the independent transmission operator on the condition that they comply with market conditions;
- 6) request justification from the relevant vertically integrated electricity or natural gas undertaking when notified by the compliance officer in accordance with Article 83-i or Article 100-i, as the case may be, of the present Law. Such justification shall, in particular, include evidence to the effect that no discriminatory behaviour to the advantage of the relevant vertically integrated electricity or natural gas undertaking has occurred;
- 7) carry out inspections, including unannounced ones, on the premises of the relevant vertically integrated electricity or natural gas undertaking, as the case may be, and the independent transmission operator; and
- 8) assign all or specific tasks of the relevant electricity or natural gas independent transmission operator to an independent system operator appointed in accordance with Article 83-b or Article 100-b, as the case may be, of the present Law in any event of a persistent breach by the independent transmission operator in question of its obligations under the present Law, in particular in case of repeated discriminatory behaviour to the benefit of the relevant vertically integrated electricity or natural gas undertaking.

### **Article 31**

- (1) Appeals against individual acts of the Energy Regulatory Commission can be lodged in front of the Commission for Resolution of Complaints in the Energy Sector (hereinafter: Complaints' Commission), within a period of fifteen (15) days from the publication of the Energy Regulatory Commission's act. The appeal shall not postpone the execution of the decision taken by the Energy Regulatory Commission.
- (2) The Complaints' Commission shall be comprised of three (3) members and their substitutes. The President of the Complaints' Commission shall be selected from the line of the Complaints' Commission members.
- (3) On the proposal from the Committee on Election and Appointment Issues at the Parliament of the Republic of Macedonia, the Parliament of the Republic of Macedonia shall appoint and dismiss the President and Members of the Complaints' Commission.
- (4) For the purpose of appointing a president and members of the Complaints' Commission in the energy sector, and their deputies, a public announcement shall be published in three (3) daily newspapers, circulating on the whole territory of Republic of Macedonia, one of those newspapers being in an official language different than Macedonian, and spoken by at least twenty per cent (20%) of the citizens.
- (5) A person may be appointed a president, member or deputy thereof in the Complaints' Commission for the energy sector, if she/he satisfies the following requirements:



- (1) he/she is a citizen of the Republic of Macedonia;
- (2) at the moment of appointment, there is no final court verdict against him/her pronouncing a penalty or misdemeanour sanction that prohibits him/her from performing any occupation, activity or duty;
- (3) he/she has attained at least 240 ECTS credits or has completed level VII/1 education;
- (4) he/she has at least ten (10) years experience of working in the energy sector;
- (5) he/she has attained one of the following internationally recognised certificates for command of the English language, which is not older than five years:
  - (6) TOEFL IBT - at least 74 points,
  - (7) IELTS - at least 6 points,
  - (8) ILEC (Cambridge English: Legal) - at least grade B2,
  - (9) FCE (Cambridge English: First) - passing grade,
  - (10) BULATS - at least 60 points, or
  - (11) APTIS - at least grade B2, and
- (6) The term of office for a member or substitute member of the Complaints' Commission shall be five (5) years and members cannot hold the said public office for more than two (2) terms of office.
- (7) When the membership of a member or substitute member of the Complaints' Commission is terminated prior to the expiration of his/her term of office, on the proposal from the competent body at the Parliament, the Parliament of the Republic of Macedonia shall appoint a new member or substitute member for the remaining period of the term of office.
- (8) The public office termination for a member or substitute member of the Complaints' Commission prior to the expiration of his/her term of office shall occur under the same terms and conditions and in the same manner as for the public office of a Member of the Energy Regulatory Commission, as stipulated under Article 19 of the present Law.
- (9) The Complaints' Commission shall take its decisions by means of majority vote from the total number of its members. When taking decisions, the member of the Complaints' Commission holding some personal interest(s) thereto shall be exempted and replaced with the substitute member. A member or its substitute member shall be considered to hold some personal interest(s) if he/she or his/her spouse or relative once removed is a shareholder, co-founder or employee at the entity, which is involved in the subject-matter for which the appeal procedure is motioned.
- (10) The Complaints' Commission shall take its decisions within a period of sixty (60) days from the day on which the appeal was lodged. That period may be extended by two (2) months where additional information is sought. That extended period may be further extended with the agreement of the complainant.
- (11) Members and substitute members of the Complaints' Commission shall be entitled to monthly reimbursement for the work performed, which shall be paid from the total income of the Energy Regulatory Commission.
- (12) The monthly reimbursement referred to in paragraph (11) of this Article shall be determined by the Committee on Election and Appointments at the Parliament of the Republic of Macedonia and cannot exceed fifty per cent (50%) of the average salary in the Republic of Macedonia calculated for the previous calendar year.
- (13) Administrative matters related to the Complaints' Commission shall be performed by the Ministry.

### **Article 32**

- (1) The sessions of the Energy Regulatory Commission shall be public.
- (2) In cases where confidential information and business secrets are discussed as part of a session of the Energy Regulatory Commission, the Energy Regulatory Commission can decide to hold the session in question in private.
- (3) The Energy Regulatory Commission shall adopt the rulebooks, rules and decisions by means of majority vote from the total number of Members, except in cases where the Book of Operations has stipulated the need of different majority vote in regard to individual rulebooks, rules or decisions.
- (4) All Members of the Energy Regulatory Commission shall be entitled to provide written explanation of his/her vote in the adoption of a particular rulebook, rule or decision and to request his/her explanation to be published on the website of the Energy Regulatory Commission.
- (5) The Energy Regulatory Commission shall stipulate the manner and procedure on providing public information related to its operation and the rulebooks, rules and decisions adopted.

### **Article 33**

- (1) The participation of interested parties and the public at large in the decision-taking procedure of the Energy Regulatory Commission shall be effected by means of participation in the preliminary sessions and in any other manner stipulated by the Energy Regulatory Commission pursuant to the provisions of the present Law, the Statute of the Energy Regulatory Commission and the Book of Operations of the Energy Regulatory Commission.
- (2) The Energy Regulatory Commission shall be obliged to invite interested parties to the preliminary sessions, in particular to sessions concerning the following:
  - 1) adopting the relevant energy type or energy fuel price-setting regulations and the tariff-setting regulations for services as regards the performance of certain energy activities;
  - 2) approving the rules and codes, which have been developed by license holders;
  - 3) adopting tariff systems for electricity and natural gas;
  - 4) adopting price- and tariff-setting decisions on relevant energy types or energy fuels, pursuant to the price-setting regulations and tariff systems on relevant energy types and services related to the performance of the relevant regulated energy activities; and
  - 5) adopting decisions on the issue, amendment, transfer, termination, suspension and revocation of licenses for the performance of energy activities.
- (3) The Energy Regulatory Commission, by means of its Book of Operations, shall stipulate in detail the procedure and manner of organization of the preliminary sessions referred to in paragraph (1) of this Article, as well as other manners of participation of interested parties and of the public at large in the decision-taking procedure.

### **Article 34**

- (1) The operations of the Energy Regulatory Commission shall be financed by its own funding sources, which shall be secured by means of charges collected from the issue of licenses and from the collection of an annual charge that shall be levied on the license holders for

performing energy activities. In the event that a license holder performs both energy and non-energy activities, the annual charge referred to in this paragraph shall be only levied on the relevant energy activities, provided that the license holder in question has separate books and accounts for each of the energy and non-energy activities it is engaged in accordance with the requirements of Article 5 of the present Law.

- (2) By 31<sup>st</sup> October in the current year at the latest, the Energy Regulatory Commission shall submit to the Parliament of the Republic of Macedonia the proposed financial plan of the Energy Regulatory Commission for the next calendar year. The proposed financial plan shall contain the planned revenue and expenditures of the Energy Regulatory Commission, including the salaries of Energy Regulatory Commission's Members and employees, as well as the reimbursement for the members and substitute members of the Complaints' Commission.
- (3) The Parliament of the Republic of Macedonia shall adopt the proposed financial plan and by means of a decision shall set the catchment share from the total annual revenue relating to the performance by the license holder in question of the relevant energy activity. The catchment share from the total revenue cannot exceed zero point one per cent (0.1%).
- (4) The annual charge referred to in paragraph (1) of this Article shall be calculated on the basis of the catchment share referred to in paragraph (3) of this Article, as this is determined by the Parliament of the Republic of Macedonia and on the total revenue generated by license holders according to the data from the Central Register of the Republic of Macedonia in the year preceding the year for which the proposed financial plan is submitted.
- (5) License holders shall make the payment of the charge referred to in paragraph (1) of this Article on the account of the Energy Regulatory Commission in two equal installment, with the first installment being disbursed by 30<sup>th</sup> April at the latest, and the second by 30<sup>th</sup> September at the latest in the year for which the proposed financial plan referred to in paragraph (3) of this Article is submitted.
- (6) Should the revenue collected by the Energy Regulatory Commission in a given calendar year exceeds the expenditures thereof, the revenue planned for the following proposed financial plan shall be reduced by the difference in this amount.
- (7) For the purpose of this article, traders shall be treated as license holders.

### **Article 35**

- (1) By 31<sup>st</sup> March in the current year at the latest, the Energy Regulatory Commission shall submit to the Parliament of the Republic of Macedonia the annual report on its operation for the previous year for adoption. The annual report shall contain detailed information on
  - 1) The matters on security of supply included in the report referred to in Article 7, paragraphs (3) to (5) of the present Law;
  - 2) the measures taken pursuant to Articles 22 and 23 of the present Law; and
  - 3) the material and financial operations of the Energy Regulatory Commission.
- (2) The annual report referred to in paragraph (1) of this Article shall:
  - 1) be published on the website of the Energy Regulatory Commission, while the summary thereof shall be published in one public media, and
  - 2) be notified to the Energy Community Secretariat.

- (3) The Energy Regulatory Commission shall submit the annual report referred to in paragraph (1) of this Article to the Government of the Republic of Macedonia and to the Ministry for information purposes.
- (4) Following a relevant request by the Government of the Republic of Macedonia or by the Minister, the Energy Regulatory Commission shall promptly submit other reports and information that pertains to the field of operations of the Energy Regulatory Commission and which is relevant for the performance of matters falling under the Government and the Ministry, as stipulated by the present Law.

### **Article 36**

- (1) As regards the settlement of disputes, the Energy Regulatory Commission shall issue decisions:
  - 1) on disputes motioned by system users or market participants against the relevant license holders and related to the performance of energy activities; and
  - 2) on disputes motioned in relation to the application of stipulated terms and conditions, methodologies or tariffs for connection to, access to, balancing and use of the relevant systems and markets and the allocation for the relevant interconnection capacities, when the application on interconnection capacity allocation was rejected by the competent energy or natural gas transmission system operator in the Republic of Macedonia.
- (2) Any party having a complaint against an electricity or natural gas transmission or distribution system operator in relation to that operator's obligations under the present Law may refer the complaint in question to the Energy Regulatory Commission.
- (3) Any party, who is affected and who has a right to complain concerning a decision on methodologies taken by the Energy Regulatory Commission pursuant to the present Law, or where the Energy Regulatory Commission has a duty to consult concerning the proposed tariffs or methodologies, may, at the latest within two (2) months following publication of the decision or proposal for a decision, submit a complaint to the Energy Regulatory Commission for review. Such a complaint shall not have suspensive effect.
- (4) Complaints referred to in paragraphs (2) and (3) of this Article shall be without prejudice to the exercise of rights of appeal under national law and/or pursuant to any relevant commitments assumed by the Republic of Macedonia under ratified international treaties.
- (5) The Energy Regulatory Commission shall be obliged to adopt the decision in the procedure referred to in paragraph (1) and on complaints referred to in paragraphs (2) and (3) of this Article within the shortest period possible, but no later than the expiration of two (2) months from the day on which the relevant dispute was motioned or the relevant complaint was received.
- (6) On the request from the Energy Regulatory Commission, the deadline referred to in paragraph (2) of this Article can be extended for maximum two (2) months, for the purpose of collecting additional information related to the decision-taking process or for any other period when agreed upon by the parties concerned or by the complainant.
- (7) A decision taken by the Energy Regulatory Commission shall be final and have binding effect, unless and until it is overruled on appeal pursuant to the appeal procedure set out in Article 31 of the present Law.
- (8) The Energy Regulatory Commission shall adopt an amendment of the Rulebook on the manner, terms and conditions as well as the procedure on decision-taking in respect of disputes and complaints referred to in this Article and on the amount of justifiable charges for the costs incurred in the relevant procedure, after taking into consideration that the said charges do not present excessive burden to household customers and small final

customers of energy or natural gas. The Rulebook referred to in this paragraph shall be in full conformity with the provisions of the present Law and shall further set up appropriate mechanisms to ensure efficient treatment of complaints and out-of-court settlements.

- (9) The Energy Regulatory Commission shall be obliged to reason its decisions on tariffs and/or fees, both for what it relates to methodologies and the tariffs adopted on their basis, in order to allow for the judicial review of its decisions. Complaints against decisions of the Energy Regulatory Commission as regard methodologies as well as tariffs shall be introduced in accordance with the procedure set out in this Article.

## **IV LICENSES**

### **Article 37**

- (1) Subject to paragraph (2) of this Article, the entities performing the activities referred to in Article 4 of the present Law cannot initiate the performance of the relevant energy activity without first obtaining the relevant license from the Energy Regulatory Commission.
- (2) The performance of the following energy activities shall not require a license:
- 1) electricity or heating energy generation for an entity's own use, provided that the relevant energy system is not used;
  - 2) electricity or natural gas transmission and distribution through direct lines;
  - 3) storage of oil derivatives, biofuels and/or fuels for transport for an entity's own use;
  - 4) storage of oil derivatives and fuels for transport at facilities intended for retail trade;
  - 5) retail trade in oil derivatives and fuels for transport;
  - 6) trade in liquefied petroleum gas in pressure vessels; and
  - 7) wholesale trade in electricity and natural gas under the conditions set out in Article 4.
- (3) Licenses shall be issued for a period of three (3) to thirty-five (35) years depending on the type of the energy activity sought to be performed, the type and scope of the obligation on public service provision in the performance of the energy activity in question, the volume of assets needed to perform the said energy activity, the duration of the right to use the relevant energy source, as well as the application submitted by the entity performing the energy activity in question.
- (4) The license shall cease to be valid either upon the expiration of the period for which it was issued, or upon its revocation in accordance with the provisions of the present Law, or upon the making of a relevant request by the license holder. The Energy Regulatory Commission shall adopt a decision on the termination of a license when the license in question ceases to be valid following the making of a relevant request by the license holder.
- (5) The same entity can be issued one license for performing two or more energy activities in the following cases:
- 1) heating energy and electricity generation at co-generation plants for heating energy and electricity; and
  - 2) generation, distribution and supply of heating energy generated from geothermal sources.
- (6) On its request, and without prejudice to the provisions on the unbundling and certification of the relevant transmission system operator, the same entity can be issued more than one license for performing the same energy activity when the activity in question is performed by means of energy facilities that represent separate technical and technological units.

- (7) The State authorities, as part of their competences stipulated by law, shall perform inspection supervision over the performance of energy activities, which require the holding of some relevant license, and, following the making of a relevant request by the Energy Regulatory Commission, shall be obliged to promptly submit to the Energy Regulatory Commission any information related to the issue or revocation of a license, including any information on the relevant license holder's current operations.

#### **Article 38**

- (1) Subject to paragraph (2) of this Article, the licenses for performing energy activities cannot be transferred to another entity.
- (2) As an exception from paragraph (1) of this Article, a license can be transferred to another entity in cases where:
  - 1) the energy activity for which the license was issued is performed on the basis of concession rights to natural resources or on the basis of a contract for establishing a public-private partnership for the construction of an energy facility, where the concession grantor has taken a decision to transfer the concession rights, in compliance with the present Law or other relevant applicable laws; or
  - 2) the electricity or heating energy generation plant is part of a non-energy facility and the same cannot be separated therefrom, while the non-energy facility ownership has changed.
- (3) Attached to an application for the transfer of the license, the new entity performing the energy activity in question shall be obliged to submit the relevant decision taken by the concession grantor referred to in paragraph (2), item 1) of this Article, or the purchase and sale contract for the facility referred to in paragraph (2), item 2) of this Article.

#### **Article 39**

- (1) The Energy Regulatory Commission shall adopt the Rulebook on Licenses, which shall stipulate in detail:
  - 1) the terms and conditions, manner and procedure on the issue, amendment, extension, transfer, suspension, revocation or termination of validity of licenses for the performance of a licensed energy activity and of temporary licenses issued for the operation of an energy facility;
  - 2) the duration of a license or of a temporary license;
  - 3) the forms and templates thereof used in the procedure on the issue, amendment, extension, transfer, suspension or revocation of a license;
  - 4) the template and contents of a license and of a temporary license;
  - 5) the monitoring and control of the fulfillment of obligations set forth in the relevant license and of any other obligations stipulated under the present Law and any related applicable by-laws, and
  - 6) the amount of costs incurred in the procedure on the issue, transfer, suspension, amendment, extension or revocation of a license.

#### **Article 40**

- (1) The investor can request that the license is issued prior to obtaining the approval for use of the energy facility or prior to obtaining the report from the technical inspection, which is performed by the supervising inspector for the facilities that do not require approval for use, or prior to obtaining the decision for putting into operation the energy facility in question, provided that:

- 1) the construction authorisation was issued for the concerned energy facility or system, pursuant to the present Law; or
  - 2) the construction permit for the facility was issued, in cases where the facility construction does not require construction authorisation for the energy facility; or
  - 3) the investor has acquired the right to construction based on the implemented tendering procedure by means of an open call for the construction of electricity or heating energy generation facilities or electricity and heating energy cogeneration; or
  - 4) the investor has acquired the right to construct the facility or system on the basis of the concession granted for goods of general interest, i.e. construction of a facility or system or performance of an energy activity based on a contract for establishing a public-private partnership.
- (2) The Energy Regulatory Commission shall adopt the decision on the entry into effect of the license issued pursuant to paragraph (1) of this Article only after the investor has submitted the approval for use of the energy facility or the report from the technical inspection, which has been performed by the supervising inspector for the facilities that do not require approval for use or the decision for putting into operation the equipment installed at the existing facility, which has been constructed in compliance with the present Law and any relevant applicable Laws and bylaws.

#### **Article 41**

- (1) Following the making of a relevant request by the energy facility investor, within a period of seven (7) days from the application's receipt, the Energy Regulatory Commission shall issue to the investor a temporary operation license for the energy facility for which the license was issued in compliance with Article 39 of the present Law.
- (2) Attached to the application referred to in paragraph (1) of this Article, the investor shall submit the following documents:
  - 1) a notary-certified declaration from the manufacturers of the basic equipment used for the performance of the relevant energy activity confirming that the basic equipment has been installed in compliance with the manufacturer's guidelines and with the relevant technical regulations and standards for the equipment in question;
  - 2) a notary-certified declaration from the investor allowing the initiation of testing of the equipment installed at the energy facility;
  - 3) a notary-certified declaration from the investor confirming that during the validity of the temporary license the investor assumes full responsibility for all possible problems that might be inflicted on the operators of relevant energy systems and/or third parties connected to the same energy system in the course of testing the energy facility for which the temporary license has been issued; and
  - 4) the temporary connection contracts for the energy facility signed with the relevant energy system operator(s), as well as the manner of connection and the energy facility's operation during the validity of the temporary license.
- (3) The manner, terms and conditions as well as the procedure for the temporary connection to the transmission or distribution grid, as well as the operation of energy facilities with temporary licenses shall be stipulated under the relevant Grid Code.
- (4) The temporary license for an energy facility shall be issued only once and shall be valid for a period of up to nine (9) months with a possibility for extension of up to six (6) months.
- (5) The holder of the temporary license, for the duration thereof, shall enjoy all rights and obligations as the ones held by a license holder.

#### **Article 40-a**

#### **licenselicense**

#### **Article 42**

- (1) The license or temporary license, depending on the energy activity in question, shall contain in particular:
  - 1) data on the entity to which the license is issued;
  - 2) the energy activity to be performed, the area on which the activity in question will be performed, as well as the facility/facilities at which the said activity will be performed, accompanied with technical characteristics of the relevant facilities and/or plants;
  - 3) the date of initiation of the performance of the relevant energy activity and the duration of the license's validity;
  - 4) the terms and conditions and the manner of implementing the stipulated obligations in the course of performing the relevant energy activity;
  - 5) the terms and conditions, manner and procedure for submitting reports and any other data on financial and business operations, status changes, as well as the manner of performing the relevant energy activity;
  - 6) the terms and conditions, manner and procedure relating to the license's amendment, extension, suspension and revocation; and
  - 7) the terms and conditions for performing the relevant regulated energy activity and for implementing the obligation on public service provision in cases where a procedure has been initiated to terminate the license's validity following the making of a relevant request by the license holder or when the procedure for the license's revocation has been initiated.

#### **Article 43**

- (1) A license cannot be amended on the request of the license holder when any amendments thereto are contrary to the present Law and/or any other Laws.
- (2) The Energy Regulatory Commission shall initiate an *ex officio* procedure for a license's amendment in cases where any relevant Laws and other regulations governing the performance of the energy activity, for which the license was issued, have been amended.

#### **Article 44**

- (1) The duration of a license can be extended on the written request submitted by its holder, which should be submitted to the Energy Regulatory Commission at least sixty (60) days prior to the date of the expiration of the said license's validity.
- (2) The license holder, who performs a regulated energy activity, shall be obliged to report to the Energy Regulatory Commission on its intentions to apply for its license's extension at least one (1) year prior to the date of expiration of the license's validity.

#### **Article 45**

- (1) The license holder, who performs a regulated energy activity, cannot discontinue the implementation of the obligation on public service provision towards individual public service users, except in cases where the public service user in question:



- 1) fails to fulfill its obligations, which are stipulated under the present Law or any other relevant applicable regulations, as well as the obligations contained in the contracts signed for the use of the relevant energy or energy fuel system(s) and/or supply; or
- 2) by means of its public service use, can adversely affect human life, health, the environment and/or property or prevents the provision of the relevant public service to other users.

#### **Article 46**

- (1) Subject to paragraph (2) of this Article, the license holder, who performs a regulated energy activity, cannot, without the prior approval of the Energy Regulatory Commission, temporarily discontinue the performance of an energy activity for which the license was issued.
- (2) As an exception from paragraph (1) of this Article, the license holder, who performs a regulated energy activity, can temporarily discontinue the performance of the relevant energy activity without the previous approval from the Energy Regulatory Commission, provided that:
  - 1) the activity's performance can result, or has resulted, in danger to human life, health, the environment and/or property, or in danger to the operation of energy facilities or systems; or
  - 2) the activity cannot be performed due to some force majeure event.
- (3) In the cases referred to in item 1) of paragraph (2) of this Article, any temporary discontinuance shall last no more than three (3) days.
- (4) In the cases referred to in item 2) of paragraph (2) of this Article, any temporary discontinuance shall last no more than the duration of the relevant force majeure event.
- (5) In the cases referred to in paragraph (2) of this Article:
  - 1) within a period of eight (8) hours from the occurrence of the temporary discontinuance of the regulated activity's performance, the license holder shall be obliged to request the Energy Regulatory Commission's approval for the temporary discontinuance of the performance of the energy activity in question;
  - 2) any such discontinuance shall be carried out following an adopted schedule, which shall have been previously approved by the Energy Regulatory Commission.
- (6) In the event that an entity performing a regulated energy activity temporarily discontinues the performance of the relevant energy activity for the purpose of maintaining, extending or constructing transmission and distribution networks and/or facilities, the relevant entity shall carry out any such discontinuance following an adopted schedule, which shall:
  - 1) be approved in advance by the Energy Regulatory Commission; and
  - 2) be publicly announced.
- (7) If the discontinuance referred to in paragraph (6) of this Article relates to the operation of the electricity transmission or distribution system, the relevant electricity transmission system operator or distribution system operator, as the case may be, shall also send the public announcement referred to in item 2) of paragraph (6) of this Article to its large electricity non-household customers at least ten (10) days before the intended start of any such discontinuance.

#### **Article 47**

- (1) The Energy Regulatory Commission can adopt a decision on the suspension of a license when, by means of a decision taken by the competent inspection or other state authority, the license holder has been issued a sanction that prohibits it from performing the relevant energy activity for a specific period of time.
- (2) The decision referred to in paragraph (1) of this Article shall indicate the measures that are to be taken by the license holder and which are deemed necessary in order to provide the required level of public service obligation in the period for which the license has been suspended.
- (3) A license's suspension shall be valid for the period for which the relevant prohibition sanction was issued as regards the performance of the relevant energy activity.
- (4) The license holder shall be entitled to appeal the decision on its license's suspension, which is referred to in paragraph (1) of this Article, before the Complaints' Commission. The initiation of the appeal procedure shall not postpone the enforcement of the Energy Regulatory Commission's decision.
- (5) In order to ensure security of supply and uninterrupted functioning of the energy system, the Energy Regulatory Commission may impose a PSO to another energy undertaking for performing the activity of the license holder the license of whom has been suspended.

#### **Article 48**

- (1) The license can be revoked when the license holder:
  - 1) has not initiated the performance of the energy activity, for which the license was issued, within the deadline stipulated in the license;
  - 2) has not performed the activity for which the license was issued in a manner and under the terms and conditions stipulated in the present Law and any other relevant applicable Laws and bylaws;
  - 3) in its operations, has not complied with the decisions, and/or has failed to execute the individual acts, adopted by the Energy Regulatory Commission;
  - 4) within the stipulated deadline, has not proceeded in compliance with the request from the competent authorities on eliminating shortcomings in its operations that had resulted, or could result, in the termination of public service provision in a manner stipulated by law, or in the decrease of quality, continuity, safety and reliability of the public service provision; or
  - 5) has ceased to fulfill the terms and conditions on the performance of the energy activity for which the license was issued.
- (2) The license shall be revoked by means of a decision taken by the Energy Regulatory Commission and shall include the reasons for the license's revocation and the license holder's rights with regard to the decision adopted.
- (3) Within a period of eight (8) days after obtaining information on the existence of a reason referred to in paragraph (1) of this Article, the Energy Regulatory Commission shall inform the license holder in writing on the existence of the reasons to initiate the procedure for its license's revocation and shall request the license holder to provide its explanation on the reasons for the license's revocation within a period of fifteen (15) days from the notification's receipt.
- (4) Upon the expiration of the deadline referred to in paragraph (3) of this Article, the Energy Regulatory Commission can adopt a decision under which the procedure for the license's

revocation shall be initiated, after taking into due consideration any explanations provided by the license holder. If the license holder has not provided any explanation on the reasons within the given deadline, the Energy Regulatory Commission shall adopt a decision on the initiation of the procedure for the revocation of the license in question.

- (5) The decision referred to in paragraph (4) of this Article shall, *inter alia*, determine the procedures, measures and activities, which the license holder will be obliged to undertake in order to eliminate the reasons for initiating the procedure for its license's revocation, the individual deadlines thereof, as well as the final deadline to eliminate the reasons in question, which cannot be longer than six (6) months.
- (6) The decision referred to in paragraph (4) of this Article shall stipulate the license holder's obligation to regularly inform the Energy Regulatory Commission on the manner in which it has implemented the procedures, measures and activities aimed to eliminate the reasons for initiating the procedure for its license's revocation, within the deadlines stipulated in the decision.
- (7) The Energy Regulatory Commission shall publish the decision referred to in paragraph (4) of this Article in the public media and on its website.
- (8) Upon the receipt of the decision referred to in paragraph (4) of this Article, the license holder shall initiate the implementation of procedures, measures and activities aimed to eliminate the reasons for initiating the procedure for the revocation of its license, within the deadlines stipulated in the decision, including the final deadline of six (6) months.
- (9) The license holder shall be entitled to appeal the decision on the initiation of the procedure for the revocation of its license before the Complaints' Commission.
- (10) Should the license holder fail to fulfill the obligations within the final deadline stipulated in the decision on the initiation of the procedure for the revocation of its license, the Energy Regulatory Commission shall adopt a decision on the license's revocation within a period of thirty (30) days from the expiration of the final deadline.
- (11) The license holder shall be entitled to appeal the decision of the Energy Regulatory Commission referred to in paragraph (10) of this Article before the Complaints' Commission.

## **V CONSTRUCTION OF NEW ENERGY FACILITIES**

### **V.1 Authorisation and tendering for the construction of new energy generation facilities**

#### **Article 49**

- (1) New electricity and heating energy generation facilities and electricity and heating energy cogeneration facilities can be constructed on the basis of an authorisation for the construction of new, or the expansion of existing, electricity and/or heating energy generation facilities, which shall be issued pursuant to the present Law.
- (2) The authorisation referred to in paragraph (1) of this Article shall be deemed necessary also in cases of increasing installed capacity of existing energy facilities.
- (3) The authorisation referred to in paragraph (1) of this Article shall not be necessary provided that:
  - 1) the new energy generation facility has total installed electricity and/or heating energy capacity equal to or less than 10 MW; or
  - 2) the expansion of the energy generation facility results in total installed electricity and/or heating energy capacity increase by up to 10 MW; or
  - 3) the energy generated by the energy facility will be used only for its own use.

- (4) The authorisation referred to in paragraph (1) of this Article shall not be necessary when the performance of the relevant energy generation activity is conditioned with the need to obtain concession rights for natural resources. The terms and conditions for the construction of the any such energy facility shall be stipulated under the relevant concession agreement.
- (5) The construction of new, or the expansion of existing electricity, and/or heating energy generation facilities shall be performed in compliance with the laws and other regulations governing the field of construction works.
- (6) The decision on the authorisation for the construction of new, or the expansion of existing, electricity generation and electricity and heating energy cogeneration facilities shall be adopted by the Government of the Republic of Macedonia.
- (7) The decision on the authorisation for the construction of new, or the expansion of existing, heating energy generation facilities shall be adopted by the Municipal Council of the local self-government unit.

#### **Article 50**

- (1) The procedure governing the issue of the authorisation for the construction of new, or the expansion of existing, electricity and heating energy generation facilities and electricity and heating energy cogeneration facilities shall be based on the principles of objectivity, transparency and non-discrimination.
- (2) The authorisation referred to in Article 49, paragraph (1) shall be issued pursuant to criteria, which refer to:
  - 1) the reliability of supply of the relevant energy type;
  - 2) the safety and reliability of the energy system, of the energy facilities and of the relevant equipment;
  - 3) the protection of public health and safety;
  - 4) environmental protection;
  - 5) the use of land and sites;
  - 6) the use of public land;
  - 7) the energy efficiency;
  - 8) the primary energy type;
  - 9) the specific characteristics of the applicant as regards its technical, financial and economic ability;
  - 10) compliance with measures adopted pursuant to public service obligations and final customer protection, notably in terms of quality and regularity of electricity supply;
  - 11) the contribution of the relevant generation facility to the reduction of emissions,
  - 12) the contribution of the relevant generation facility to meeting the share of energy from renewable energy sources in accordance with the commitments assumed by the Republic of Macedonia under ratified international treaties, and
  - 13) the possibility for the relevant generation facility to participate in the performance of ancillary services.

## **Article 51**

- (1) For the purpose of obtaining the authorisation for the construction of new, or the expansion of existing, generation facilities referred to in Article 49, paragraph (6) of the present Law, interested domestic and foreign investors shall submit to the Government of the Republic of Macedonia an application, whereas for the purpose of obtaining the authorisation for the construction of new, or the expansion of, existing generation facilities referred to in Article 49, paragraph (7) of the present Law, they shall submit the said application to the local self-government unit.
- (2) The Government of the Republic of Macedonia, within a period of eight (8) days from the application's receipt, shall publish it in the "Official Gazette of the Republic of Macedonia" and shall forward it to the Ministry.
- (3) The Mayor of the local self-government unit, within a period of eight (8) days from the application's receipt, shall publish it in the official bulletin of the local self-government unit.
- (4) The Minister shall stipulate in detail the template and contents of the application for authorisation for the construction of, or expansion of existing, energy facilities referred to in Article 49, paragraph (6), Article 61, paragraph (1) and Article 64, paragraph (1) of the present Law.
- (5) The rules on the issuance of the authorisation referred to in Article 49, paragraph (1), when adopted, shall be published in the Official Gazette of the Republic of Macedonia and on the website of the Ministry and, where appropriate, the Local Self-Government Unit.

## **Article 52**

- (1) Attached to the authorisation application, the applicant shall be obliged to submit the following documents:
  - 1) project design and, where appropriate, infrastructure design and economic analysis;
  - 2) consent for the connection to the electricity transmission or distribution system, pursuant to the relevant Grid Code, and/or consent for the connection to the natural gas transmission or distribution system in the cases when natural gas is used as fuel;
  - 3) decision that approves the project implementation, i.e. decision that approves the environmental study or environmental impact assessment study, when needed for the project in question in compliance with the law;
  - 4) excerpt from the existing urban planning documents, i.e. excerpt from the state urban planning documents or excerpt from the local urban planning documents;
  - 5) financial plan for the planned energy facility;
  - 6) a statement from a renown financial institution or bank indicating its intention to grant the entity in question credit for the project implementation, when the project implementation implies the use of loan funds;
  - 7) proof of the applicant's financial status, as regards its financial contribution in the project implementation;
  - 8) the applicant's and possible partners' references related to the implementation of projects of this type;
  - 9) the applicant's registration documents;
  - 10) any documents issued by a competent authority confirming that the applicant is not undergoing bankruptcy or liquidation procedure;

- 11) any documents issued by a competent authority confirming that the applicant is not undergoing a misdemeanor or felony procedure as concerns its professional activity; and
- 12) the applicant's statement confirming the accuracy of data provided.

### **Article 53**

- (1) The procedure on issuing the authorisation for the construction of new, or the expansion of existing, energy facilities shall be implemented by the Commission on awarding construction authorisation for the facilities referred to in Article 49, paragraph (6) of the present Law, which shall be established by the Minister, after taking into account the appropriate and equitable representation of the members of all communities.
- (2) The Commission referred to in paragraph (1) of this Article shall be comprised of nine (9) members, two (2) of which from the Ministry and of one (1) representative from the Ministries that are respectively competent in the field of construction works, finance, environmental protection and agriculture, the Energy Agency and the electricity or natural gas transmission system operator, as the case may be, and one (1) member from other institutions or independent experts. One of the representatives from the Ministry shall be appointed President of the Commission. The term of office for the Commission's members shall be four (4) years. The Commission's members shall be entitled to monthly reimbursement for the work performed as determined by the Government of the Republic of Macedonia and shall be disbursed from the Budget of the Republic of Macedonia.
- (3) The Commission's members referred to paragraph (1) of this Article shall fulfil the following criteria:
  - 1) hold a university degree in the area of the competence of the respective authority, i.e. the institution referred to in paragraph (2) of this Article; and
  - 2) have at least three (3) years working experience in tasks related to the activities of the Commission referred to in paragraph (1) of this Article.
- (4) The procedure on issuing the authorisation for the construction of a generation facility referred to in Article 49, paragraph (7) of the present Law shall be performed by a five-member Commission, which shall be established by the Mayor of the local self-government unit and shall be comprised of experts in the field of energy, economy and law. The term of office for the Commission's members shall be four (4) years. The Commission's members shall be entitled to monthly reimbursement for the work performed as determined by the Municipal Council and shall be disbursed from the Budget of the local self-government unit.
- (5) The President and members of the Commissions referred to in paragraphs (1) and (4) of this Article shall be obliged to adhere to the procedure and the deadlines for the procedure's implementation, as stipulated in the present Law and any other relevant applicable Laws and bylaws.
- (6) The Commissions referred to in paragraphs (1) and (4) of this Article shall adopt a Book of Operations for their work.
- (7) The monthly reimbursement referred to in paragraphs (2) and (4) of this Article cannot exceed fifty per cent (50%) of the average salary in the Republic of Macedonia calculated for the previous calendar year.

### **Article 54**

- (1) Should the Commissions referred to in Article 53, paragraph (1) and paragraph (4) of the present Law determine that the authorisation application is incomplete, within a period of

fifteen (15) days from the day the application was published in the "Official Gazette of the Republic of Macedonia or the official bulletin of the local self-government unit, they shall propose the Minister or the Mayor, to task the applicant with the completion of the required documents pursuant to Article 52 of the present Law.

- (2) By means of a conclusion and within a period of seven (7) days, the Minister or the Mayor shall task the applicant to complete the documents within a deadline of at least fifteen (15) days from conclusion's receipt.
- (3) Should the applicant fail to complete the documents within the deadline stipulated in the conclusion referred to in paragraph (2) of this Article, the Government of the Republic of Macedonia, on the proposal from the Minister or the Municipal Council on the proposal from the Mayor, shall adopt a decision on the procedure's termination.
- (4) The applicant shall be entitled to motion an administrative dispute against the decision referred to in paragraph (3) of this Article.

#### **Article 55**

- (1) On the proposal from the Minister and within a period of sixty (60) days from the date of the application's receipt, the Government of the Republic of Macedonia shall adopt a decision on issuing or rejecting the authorisation application concerning the construction of new, or the expansion of existing, electricity and heating energy generation facilities and electricity and heating energy cogeneration facilities. Prior to taking its decision, the Government of the Republic of Macedonia shall seek the opinion of the Energy Regulatory Commission.
- (2) By means of a decision, the Government of the Republic of Macedonia shall issue or reject the authorisation application and provide reasons thereof. In the case of rejection, the decision referred to in this Article shall be based on the fulfillment of following conditions:
  - 1) a decision in effect has been adopted, by means of which the project implementation is rejected, or a decision by means of which the environmental study is not approved;
  - 2) the existing urban planning documents did not anticipate the construction of any energy generation facilities, while the application in question concerns the construction of new electricity and/or heating energy generation facility;
  - 3) the applicant failed to prove that it can provide the requisite financing for the facility's construction.
- (3) The decision on issuing the authorisation referred to in paragraph (1) of this Article shall be published in the "Official Gazette of the Republic of Macedonia".
- (4) Within a period of sixty (60) days from the application's receipt, the Municipal Council of the local self-government unit shall adopt a decision on issuing or rejecting the authorisation application concerning the construction of new, or the expansion of existing, heating energy generation facilities.
- (5) By means of a decision, the Municipal Council shall issue or reject the authorization application and provide reasons thereof. In the case of rejection, the decision referred to in this Article shall be based on the fulfilment of the conditions referred to in paragraph (2) of this Article.
- (6) The decision on issuing the authorisation referred to in paragraph (4) of this Article shall be published in the official bulletin of the local self-government unit.
- (7) The applicant shall be entitled to motion an administrative dispute against the decisions referred to in paragraphs (1) and (4) of this Article.

#### **Article 56**

- (1) The authorisation, which has been issued for the construction of new, or the expansion of existing, electricity or heating energy generation facilities and electricity and heating energy cogeneration facilities, shall stipulate in detail:
  - 1) the type, features, installed capacity and expected annual energy output, fuel type and necessary quantity;
  - 2) the facility's location, in compliance with the relevant urban planning documents;
  - 3) the authorisation's validity period;
  - 4) the treatment of the facility upon the termination of its operation;
  - 5) the manner of public infrastructure use;
  - 6) the environmental protection requirements to be fulfilled pursuant to the law;
  - 7) the efficiency requirements concerning the facility's operation; and
  - 8) any other terms and conditions related to the facility's construction.

#### **Article 57**

- (1) The validity period of the authorisation referred to in Article 56 of the present Law shall be three (3) years from the day on which the authorisation entered into force.
- (2) The authorisation for the construction of new, or the expansion of existing, electricity or heating energy generation facilities and electricity and heating energy cogeneration facilities shall cease to be valid when the holder of the authorisation failed to provide construction permit for the facility in question within the deadline set forth in paragraph (1) of this Article.

#### **Article 58**

- (1) On the request from the holder of the authorisation, the authorisation can be transferred to another subject upon previously obtained the approval of the Government of the Republic of Macedonia or of the Municipal Council of the local self-government unit.
- (2) Documents concerning the entity to which the authorisation is transferred and related to stipulations under Article 52, paragraph (1), items 5) to 12) of the present Law shall be attached to the application for the transfer of the authorisation. The procedure on the transfer of the authorisation shall be implemented by the Commission referred to in Article 53, paragraph (1) or paragraph (4) of the present Law, in a manner and procedure that shall be the same as the one applied for the issue of the authorisation.

#### **Article 59**

- (1) Should, based on the number of the issued authorisations for the construction of new, and the expansion of existing, electricity or heating energy generation facilities and electricity and heating energy cogeneration facilities, in compliance with the Strategy on Energy Development of the Republic of Macedonia, the forecasts on electricity consumption, after taking into account the measures on energy efficiency improvement and consumption management and the possibilities for addressing the said demand, it has been assessed that the reliability of energy supply is jeopardised, the Government of the Republic of Macedonia, on the proposal from the Ministry, can adopt a decision and announce a tendering procedure by means of an open call on the basis of published criteria referred to in Article 50, paragraph (2) of the present Law, for the construction of electricity generation facilities and electricity and heating energy cogeneration facilities.



- (2) The tendering procedure by means of open call referred to in paragraph (1) of this Article can be published also for the construction of facilities that might obtain the status of preferential electricity producer, in compliance with the Strategy on Energy Development in the Republic of Macedonia, due to the need to reduce adverse effects on the environment and promote the use of renewable energy sources, as well as to introduce new technologies and electricity and heating energy cogeneration.
- (3) The decision referred to in paragraph (1) of this Article shall determine the manner and funds needed to prepare the tender documents.
- (4) The Ministry shall be responsible for developing the tender documents referred to in paragraph (3) of this Article, as well as for implementing the tendering procedure by means of an open call, as referred to in paragraph (1) of this Article.
- (5) Prior to the submission of the proposal to adopt the decision referred to in paragraph (1) of this Article, the Ministry shall be obliged to determine whether the reliability of electricity supply can be secured by means of measures on efficient energy end-use and demand side management.
- (6) When taking the decision to announce a tendering procedure by means of an open call, consideration shall be made of the offers on electricity supply with guarantees for long-term supply from existing generation facilities.
- (7) Should, based on the number of issued authorisations for the construction of new heating energy generation facilities and the forecasts on heating energy demand, after taking into account the measures on energy efficiency improvement and load management and the possibilities to address this demand, it has been assessed that the reliability of supply has not been secured, the local self-government unit can adopt a decision and announce a tendering procedure by means of an open call for the construction of heating energy generation facilities.
- (8) The decision referred to in paragraph (7) of this Article shall determine the manner of preparation, funds required and the authority or institution that is to develop the tender documents.
- (9) The tendering procedure by means of an open call referred to in paragraph (7) of this Article shall be implemented by the Mayor of the local self-government unit.

#### **Article 60**

- (1) The authority, which is responsible for implementing the tendering procedure referred to in Article 59 of the present Law, shall announce the open call in:
  - 1) at least two (2) public media,
  - 2) the "Official Gazette of the Republic of Macedonia", or the official bulletin of the local self-government unit, and
  - 3) any other publication required under the commitments assumed by the Republic of Macedonia under ratified international treaties.
- (2) The open call referred to in paragraph (1) of this Article shall contain in particular:
  - 1) the type of energy facility for which the open call is announced;
  - 2) the planned capacity;
  - 3) the deadline for the initiation of the facility's construction works;
  - 4) the location where the facility is to be constructed, as determined on the basis of the excerpt from the existing urban planning documents, the state urban planning documents or the local urban planning documents;

- 5) the required economic, technical and operational ability of bidders;
  - 6) the possible incentives offered; and
  - 7) the manner and deadline for bid submission.
- (3) The tender documents shall be made available on request to any interested party.
  - (4) The deadline for bid submission cannot be less than six (6) months from the day when the open call was announced. Tender documents should contain in particular:
    - 1) the type of energy facility for which the open call is announced;
    - 2) the planned capacity;
    - 3) the detailed description of the technical specifications of the relevant facility;
    - 4) the deadline for the initiation of the facility's construction works;
    - 5) the location where the facility is to be constructed;
    - 6) the required economic, technical and operation ability of bidders;
    - 7) the manner and deadline for bid submission;
    - 8) the exhaustive list of criteria on the selection of the most favorable bidder;
    - 9) the manner and terms and conditions for the generation process and the connection to the relevant grid(s);
    - 10) the contract on awarding the right to construction, which is to stipulate the mutual rights and liabilities related to the facility's construction;
    - 11) the possible incentives offered;
    - 12) the treatment of the facility upon the termination of its operation;
    - 13) the manner of public infrastructure use;
    - 14) the environmental protection requirements to be fulfilled, pursuant to the law;
    - 15) the requirements concerning the effective operation of the facility; and
    - 16) any other necessary data.
  - (5) For any tendering procedure by means of an open call referred to in Article 59 of the present Law, the institution, which is responsible for the relevant tendering procedure's implementation, shall establish a commission for its implementation.
  - (6) On the proposal from the authority, which is responsible to implement the tendering procedure by means of an open call, the Government of the Republic of Macedonia, or the Municipal Council of the local self-government, shall approve the relevant tender documents.
  - (7) On the proposal from the authority, which is responsible to implement the tendering procedure by means of an open call, the Government of the Republic of Macedonia, or the Municipal Council of the local self-government unit, shall adopt the decision on the selection of the most favourable bidder to which the right to construct the relevant energy facility will be awarded.
  - (8) The process of the implementation of the tendering procedure by means of an open call and the eligibility and selection criteria shall be based on the principles of transparency, objectivity, competition and non-discrimination.
  - (9) The process of the implementation of the tendering procedure by means of an open call referred to in Article 59 of the present Law shall appropriately apply the provisions contained in the present Law and in the Law on Concessions and Public-Private Partnerships.

## **V.2 Construction of New Transmission and Distribution Systems and Direct Lines**

### **Article 61**

- (1) The construction of new electricity transmission and distribution systems, new natural gas transmission networks and new crude oil and oil derivatives transport facilities shall be performed by legal entities on the basis of an issued authorisation.
- (2) On the proposal from the Minister, the Government of the Republic of Macedonia shall adopt the decision on the authorisation for construction for the new systems, networks or facilities referred to in paragraph (1) of this Article.
- (3) The procedure on issuing the authorisations referred to in paragraph (1) of this Article shall apply the provisions contained in Articles 50 to 58 of the present Law.

### **Article 62**

- (1) The construction of new natural gas distribution systems for a service area on the territory of the Republic of Macedonia shall be performed by legal entities and on the basis of a contract for establishing a public-private partnership, which will be awarded by the Government of the Republic of Macedonia.
- (2) The making of the contract referred to in paragraph (1) of this Article shall be a prerequisite for the award by the Energy Regulatory Commission - in accordance with the provisions of the present Law - of the license to perform the regulated energy activity on natural gas distribution.
- (3) The period for which the contract has been awarded for the establishment of a public-private partnership shall not be longer than thirty-five (35) years. The private partner shall have the right to transfer the contract for establishing the public-private partnership to another entity upon obtaining the prior written consent by the public partner pursuant to the conditions under the existing Contract for establishing the public-private partnership, without jeopardising the continued operation, quality performance of the service and the price.
- (4) The Government of the Republic of Macedonia, upon the proposal from the Minister, the State administration bodies or the local self-government unit, shall adopt a Decision for the enactment of the procedure for awarding a contract for establishing a public-private partnership for the construction of a new system for natural gas distribution. This procedure shall be based on the principles of non-discrimination and transparency and award the contract to the bidder with the best economic offer.
- (5) Prior to taking the decision referred to in paragraph (4) of this Article, the Government of the Republic of Macedonia can, in compliance with the Law on Local Self-Government, sign a cooperation agreement with the local self-government unit(s) on whose territory the natural gas distribution system should be constructed.
- (6) The contract awarding procedure shall be prepared, organised and implemented by a commission established by the Minister.
- (7) The provisions of the Law on Concessions and Public-Private Partnership shall apply to the procedure for awarding a contract for establishing a public-private partnership and to the contract for establishing a public-private partnership.
- (8) The Government of the Republic of Macedonia shall authorise the Minister to sign the contract establishing a public-private partnership on behalf of the Government.

### **Article 63**

- (1) The construction of new heating energy distribution system on the territory of a local self-government unit shall be performed on the basis of a contract for establishing a public-private partnership that is awarded by the Municipal Council of the local self-government unit.
- (2) The making of the contract referred to in paragraph (1) of this Article shall be a prerequisite for the award by the Energy Regulatory Commission - in accordance with the provisions of the present Law - of the license to perform the regulated energy activity of heating energy distribution.
- (3) The period for which the contract has been awarded for the establishment of a public-private partnership shall not be longer than thirty-five (35) years. The private partner shall not have the right to transfer the contract for establishing the public-private partnership to another legal entity without the prior written consent of the public partner.
- (4) The Council of the Local Self-Government Unit, upon the proposal of the mayor, shall adopt a Decision for the enactment of the procedure for awarding a contract for establishing a public-private partnership for the construction of a new system for heating energy distribution.
- (5) The procedure for awarding the contract for establishing a public-private partnership for the construction of a new system for heating energy distribution shall be prepared, organised and implemented by a commission established by the Mayor. The Commission shall prepare the tender documents. On the proposal from the Mayor, the Municipal Council of the local self-government unit shall adopt the tender documents by means of a decision.
- (6) The provisions of the Law on Concessions and Public-Private Partnership shall apply to the procedure for awarding a contract for establishing a public-private partnership for the construction of a new system for heating energy distribution and to the Contract for establishing a public-private partnership.
- (7) The Municipal Council of the local self-government unit shall authorise the Mayor to sign the contract establishing a public-private partnership for the construction of a new system for heating energy distribution on behalf of the Municipal Council.

### **Article 64**

- (1) Electricity transmission and distribution or natural gas transmission and distribution direct lines shall be constructed based on an individual construction authorisation that will be provided by the Government of the Republic of Macedonia and which will define the rights and obligations of its holder.
- (2) The procedure on issuing the authorisations referred to in paragraph (1) of this Article shall appropriately apply the provisions contained in Articles 50 to 58 of the present Law.
- (3) The Government of the Republic of Macedonia, upon the proposal from the Minister and the Local Self-Government, may decline to award the contract for the establishment of public-private partnership for the construction of new natural gas distribution systems in a particular area, once such pipeline systems have been, or are proposed to be, built in that area and if existing or proposed capacity is not saturated.
- (4) Any refusal to grant an authorisation referred to in paragraph (1) of this Article shall be objective, transparent and non-discriminatory and shall be fully substantiated. The reasons for any such refusal shall:
  - 1) be given to the applicant(s); and

2) be notified to the Energy Community Secretariat.

#### **Article 64-a**

- (1) All electricity and natural gas customers, as the case may be, may be supplied through a direct line by an electricity or natural gas producer or supplier.
- (2) All electricity producers and electricity supply undertakings established in the Republic of Macedonia may supply their own premises, subsidiaries and eligible customers through a direct line.
- (3) Direct lines can be constructed only in cases when:
  - 1) an final electricity or natural gas customer or an electricity producer was unable to obtain the right to connection or access to the existing electricity or natural gas transmission or distribution system, or
  - 2) a dispute settlement procedure pursuant to Article 36 of the present Law has been opened.
- (4) On the proposal of the Ministry, the Government of the Republic of Macedonia by means of a decision shall set up the procedure for the granting of authorisation for the construction of a direct line on the territory of the Republic of Macedonia in accordance with the provisions of the present Law, which shall be based on objective, transparent and non-discriminatory criteria.
- (5) The criteria referred to in paragraph (4) of this Article shall be published on the Official Gazette of the Republic of Macedonia and on the websites of the Ministry of Economy and of the Energy Regulatory Commission.
- (6) The application on direct line construction shall be submitted to the Government of the Republic of Macedonia. Attached to the application on direct line construction, the applicant should submit the documents referred to in Article 52 of the present Law, except for the consent referred to in Article 52, paragraph (1), item 2) of the present Law, and the decision by means of which the Energy Regulatory Commission confirms the decision taken by the relevant transmission or distribution system operator on rejecting the application for connection or access.
- (7) The procedure on issuing the authorisations referred to in paragraph (4) of this Article shall appropriately apply the provisions contained in Articles 50 to 58 of the present Law. The possibility of supplying electricity or natural gas through a direct line shall not affect the possibility of contracting electricity or natural gas in accordance with the provisions of Chapter X.
- (8) Provided that duly substantiated reasons are given for any such refusal, the Government of the Republic of Macedonia may refuse to authorise a direct line if the granting of such an authorisation would adversely affect the performance of public service obligations referred to in the present Law.
- (9) The direct line shall not be considered an integral part of the electricity or natural gas transmission or distribution systems, as the case may be.

## **VI ELECTRICITY MARKET**

### **VI. 1. ORGANISATION OF THE ELECTRICITY MARKET**

#### **Article 65-a**

- (1) The electricity market shall include the retail and wholesale electricity market.

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

#### **Article 65-b**

- (1) Electricity undertakings and other entities shall be allowed to participate in the electricity market for sale and/or purchase of electricity pursuant to the provisions of the present Law, the Electricity Market Rules, the rules on the organisation of the balancing of the electricity system and the terms and conditions stipulated in the license, which each of them holds.
- (2) The electricity market participants are:
  - 1) electricity producers;
  - 2) electricity traders;
  - 3) electricity suppliers;
  - 4) final customers;
  - 5) the electricity transmission system operator;
  - 6) the electricity distribution system operator;
  - 7) the operator of the closed distribution system; and
  - 8) the electricity market operator.
- (3) Each electricity market participant, including electricity producers, traders, suppliers - including electricity supplier(s) of last resort - and final customers, shall trade in electricity on the organised electricity market of the Republic of Macedonia under the terms and conditions stipulated in the present Law and the relevant applicable bylaws and rules.
- (4) The electricity market participants shall regulate their mutual rights and obligations by contracts in line with the rules stipulated in the present Law and the relevant applicable bylaws and rules.

#### **Article 65-c**

- (1) The Government of the Republic of Macedonia and the Energy Regulatory Commission shall cooperate with the governments of the neighbouring countries and other Contracting Parties to the Energy Community and their respective regulatory authorities for the purpose of integrating their national electricity markets at regional level.
- (2) In particular, the Energy Regulatory Commission shall promote and facilitate the cooperation of the transmission system operator of the Republic of Macedonia with the transmission system operators of the neighbouring countries and other Contracting Parties to the Energy Community, including on cross-border issues, with the aim of creating a competitive regional market in electricity and foster the consistency of their legal, regulatory and technical framework.

- (3) Such regional cooperation shall take place at least in the geographical area defined under Title III of the Energy Community Treaty and the multilateral cooperation mechanisms established under the Treaty. It may also cover other geographical areas.
- (4) The Energy Regulatory Commission shall ensure, through the implementation of the present Law, that the electricity transmission system operator of the Republic of Macedonia has ensured its participation into one or more integrated system(s) at regional level covering two or more Parties to the Energy Community for capacity allocation and for ensuring the security and reliability of the electricity transmission system operation and electricity supply.
- (5) The regional cooperation of the electricity transmission system operator shall participate in the development and operation of electricity exchanges, the coordinated allocation of cross-border capacity through non-discriminatory market-based solutions, such as implicit auctions for short-term allocations, and the regional integration of balancing and reserve power mechanisms.
- (6) The transmission system operator while providing services or performing activities in the organized electricity market within the same corporate structure shall establish and implement a compliance programme, which sets out the measures to be taken to ensure that discriminatory and anticompetitive conduct is excluded. That compliance programme shall set out the specific obligations of employees to meet the objective of excluding discriminatory and anticompetitive conduct, inside trading or possible abuse of inside information and shall be notified to the Energy Community Regulatory Board. Compliance with the programme shall be independently monitored by the compliance officer of the transmission system operator and reported to the Energy Regulatory Commission.

#### **Article 65**

- (1) The electricity producer can sell electricity and/or ancillary services to domestic and foreign entities including traders, electricity suppliers, direct customers, the electricity transmission system operator and the electricity distribution system operators.
- (2) The electricity producer shall be obliged:
  - 1) to secure availability of contracted electricity quantities and/or ancillary services at the point in the electricity transmission or distribution system, pursuant to the terms and conditions of its license and connection contract;
  - 2) to offer for sale electricity produced in its available capacity in a transparent, non-discriminatory and market-based way to all customers on the wholesale and retail electricity markets, including to electricity undertakings that are subject to public service obligation;
  - 3) to offer ancillary services to the electricity transmission system operator, in line with the technical capacities and requirements stipulated in the Electricity Transmission Grid Code;
  - 4) to offer all unused production capacities to the transmission system operator for balancing purposes, in line with the technical capacities and requirements stipulated in the Electricity Transmission Grid Code and the rules on the organisation of the balancing of the electricity system;
  - 5) to be equipped with all requisite technical resources and to operate in compliance with the laws, safety and other regulations, as well as the Electricity Transmission Grid Code or Electricity Distribution Grid Code, the Electricity Market Rules and the terms and conditions stipulated in its license;
  - 6) to promptly submit reports, data and information to the Energy Regulatory Commission, pursuant to the terms and conditions stipulated in its license;
  - 7) to submit reports, data and information to the electricity transmission system operator or distribution system operator, pursuant to the deadlines stipulated in the Electricity Transmission or Distribution Grid Code;

- 8) to submit to the electricity market operator and the electricity transmission system operator data and information on electricity purchase and sale contracts, the availability of generation capacity and/or ancillary services, except for commercial and financial data, pursuant to the deadlines stipulated in the Electricity Market Rules; and
  - 9) to secure electricity for its own consumption from its facilities or on the open market.
- (3) For the purpose of securing reliability of electricity supply, electricity producers, who use mazut as fuel, shall be obliged to hold at all times operation reserves of mazut in an quantity equal to at least fifteen (15) days' operation demand under maximum operation capacity.

#### **Article 66**

- (1) The electricity transmission system operator shall maintain, upgrade and expand the transmission grid, operate the electricity transmission system of the Republic of Macedonia and secure connection of the transmission system to the transmission systems in other States.
- (2) The electricity transmission system operator shall be obliged:
  - 1) to secure the reliable and safe operation of the electricity transmission system of the Republic of Macedonia and to promote operational arrangements in order to ensure the optimum management of the network, pursuant to the applicable regulations that stipulate the technical rules and in accordance with the commitments assumed by the Republic of Macedonia under ratified international treaties;
  - 2) to secure safe, reliable and quality electricity transmission through the transmission grid of the Republic of Macedonia, in a non-discriminatory and transparent manner and under stipulated quality;
  - 3) to be equipped with adequate financial, material, technical and human resources, which are needed to meet all its service obligations;
  - 4) to contribute to security of electricity supply through adequate transmission capacity and system reliability;
  - 5) to connect producers, final customers and distribution system operators to the transmission grid, as well as to allow third party access for electricity transmission system use, pursuant to the present Law and the Transmission Grid Code, and based on the principles of objectivity, transparency and non-discrimination;
  - 6) to promptly provide to electricity system users with the information they need for efficient access to, including use of, the electricity transmission system in accordance with the provisions of the present Law and of the Electricity Transmission Grid Code;
  - 7) to publish on its website the list of all charges for each category of customers, which have been previously approved by the Energy Regulatory Commission;
  - 8) to construct new interconnection capacities with other States, after taking into due consideration the efficient use of existing interconnection capacities and the balance between investment costs and benefits for the final customers;
  - 9) to provide cross-border electricity flow through the transmission grid of the Republic of Macedonia within the available transmission capacity;
- 10) to develop, upgrade and maintain the transmission system, for the purpose of ensuring the safe and efficient system operation, pursuant to the applicable regulations that stipulate the technical rules and to secure the system's long-term ability to address the reasonable electricity transmission demand;



- 11) to prepare the grid maintenance plan pursuant to the Electricity Transmission Grid Code, submit it for adoption to the Energy Regulatory Commission and publish it on its website;
- 12) to provide daily dispatch and real-time management of electricity flows, after taking into due consideration all declared electricity generation in the Republic of Macedonia, declared internal transactions, declared import, declared export and declared transit through the transmission system of the Republic of Macedonia, based on the nominations submitted by the electricity market participants to the transmission system operator, pursuant to the Electricity Market Rules;
- 13) to provide concurrent operation of the electricity system of the Republic of Macedonia and the neighbouring electricity systems, as well as exchange of data with the operators of other electricity transmission systems pursuant to the commitments assumed by the Republic of Macedonia under ratified international treaties and/or the commitments assumed by the transmission system operator as a result of its membership of international associations;
- 14) to promote electricity exchanges, paying due attention to the specific merits of implicit auctions for short-term allocations and the integration of balancing and reserve power mechanisms;
- 15) to publish data, and to promptly provide information to other electricity transmission system operators, on available transmission capacities at interconnectors with the neighbouring systems, for the purpose of securing non-discriminatory, objective and transparent access to, and use of, the electricity transmission system;
- 16) to install and maintain metering devices at all metering points on the receipt and delivery points in the transmission system;
- 17) to meter electricity at the receipt and delivery points in the transmission system and submit metered data to relevant transmission system users and to the electricity market operator;
- 18) to procure energy for balancing of the electricity transmission system pursuant to the rules on the organisation of balancing of the electricity system;
- 19) to purchase electricity to cover network losses needed for the secure and reliable operation of the electricity transmission system, under market terms and conditions and in a transparent, non-discriminatory and competitive manner, pursuant to the Electricity Market Rules;
- 20) to purchase ancillary services and relevant operation reserve, under market terms and conditions and in a transparent, non-discriminatory and competitive manner, pursuant to the Electricity Market Rules;
- 21) to address peak loads in the transmission system, pursuant to the Electricity Transmission Grid Code;
- 22) to provide market-based, transparent and non-discriminatory application of balancing procedures and settlement of balancing services and imbalances, including billing and collection, in full conformity with the provisions of the present Law and the rules on the organisation of balancing of the electricity system;
- 23) to establish the required changes to the schedule and time of engagement of generation facilities and electricity purchase in cases of risks to the security of electricity supply, outages or major deviations in electricity consumption from the anticipated quantities;
- 24) to allow users access to metering devices, which are owned by the electricity transmission system operator, pursuant to the provisions of the present Law and the Electricity Transmission Grid Code;

- 25) to secure the confidentiality of commercial and business data of system users; and
  - 26) to cooperate with electricity transmission system operators and electricity market operators of other States, and any relevant regional and international associations, pursuant to the commitments assumed by the Republic of Macedonia under the ratified international treaties and/or the commitments assumed by the transmission system operator as a result of its membership of international associations.
- (3) The electricity transmission system operator shall be obliged to keep dispatch logs and records on the electricity transmission system's reliability, data on the system's supervision and operation as well as metered data and to keep all such data, logs and records for at least ten (10) years.
  - (4) The electricity transmission system operator shall be obliged to keep records on electricity transmission system operation and to inform the Energy Regulatory Commission thereof, on request.
  - (5) Subject to Article 46, paragraphs (5) and (6) of the present Law, the electricity transmission system operator can temporarily discontinue the electricity delivery from the transmission system in the course of planned inspections, testing, control metering, maintenance, reconstruction, expansion of grids, devices and installations, connection of new users to the transmission system, as well as in case of need for the purpose of preventing risks from electricity system outages. The manner, procedure and notifications concerning the interruptions shall be based on the principles of objectivity, transparency and non-discrimination, and shall be stipulated in detail in the Electricity Transmission Grid Code.

#### **Article 66-a**

- (1) The electricity transmission system operator shall procure balancing services from the balancing service providers in the balancing market in line with the rules on the organisation of the balancing of the electricity system, which shall be prepared and adopted by the electricity transmission system operator, subject to their prior approval by the Energy Regulatory Commission.
- (2) The rules on the organisation of the balancing of the electricity system referred to in paragraph (1) of this Article shall be objective, transparent, non-discriminatory and market-based and shall define the terms and conditions related to balancing, including the rules for:
  - 1) the balancing service providers;
  - 2) the procurement of balancing services;
  - 3) the price-setting methodology for calculating and charging for balancing services, service billing and collection, which shall be non-discriminatory, cost-reflective and cost-effective;
  - 4) the determination of activated volumes to be settled with balancing service providers;
  - 5) the financial settlement with balance service providers, including the financial guarantees required from service providers in relation to the settlement of balancing services;
  - 6) the balance responsible parties, including the conclusion of the balance responsibility contracts and/or collaterals;
  - 7) the procedure on calculating imbalances between nominated and realised transactions, based on the metering performed by the electricity transmission system operator and distribution system operators; and

- 8) the financial settlement with balance group responsible parties.
- (3) The electricity transmission system operator shall settle:
    - 1) all determined activated volumes with each balancing service provider; and
    - 2) all determined imbalances with each balance responsible party.
  - (4) The electricity transmission system operator shall notify the Energy Regulatory Commission on a monthly basis on the contracts that it has concluded with balancing service providers in relation to the provision of balancing services.
  - (5) The electricity transmission system operator shall cooperate with other transmission system operators with the view to facilitating the development of a balancing market within the Energy Community in order to ensure operational security and efficient functioning of the regional balancing market based on the effective competition, non-discrimination and transparency.

#### **Article 67**

- (1) Any of the electricity market participants referred to in paragraph (2), items 1) to 7) of Article 65-b shall have balance responsibility.
- (2) An electricity market participant may arrange its balance responsibility by concluding balance responsibility contract(s) with the electricity transmission system operator, thus acquiring the status of balance responsible party.
- (3) An electricity market participant may arrange its balance responsibility by transferring balance responsibility on its chosen representative who is a balance responsible party, thus becoming the member of the balance group of the balance responsible party.
- (4) The rules on the organisation of the balancing of the electricity system referred to in Article 66-a shall specify procedures and requirements for establishing balance responsibility of electricity market participants, balance responsibility contracts and responsibility for keeping a register of balance responsible parties.

#### **Article 67-a**

- (1) The electricity transmission system operator shall be responsible for collecting congestion rents and payments under the inter-transmission system operator compensation mechanism.
- (2) The electricity transmission system operator shall receive compensation for costs incurred as a result of hosting cross-border flows of electricity on its network.
- (3) The compensation referred to in paragraph (2) of this Article shall be paid by the operators of national transmission systems from which cross-border flows originate and the systems where those flows end.
- (4) 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.
- (5) The magnitude of cross-border flows hosted and the magnitude of cross-border flows designated as originating and/or ending in national transmission systems shall be determined on the basis of the physical flows of electricity actually measured during a given period of time.
- (6) The costs incurred as a result of hosting cross-border flows 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, in particular after taking into account the need to guarantee security of

supply. When establishing the costs incurred, recognised standard-costing methodologies shall be used. Any benefits that a network incurs as a result of hosting cross-border flows shall be taken into account to reduce the compensation received.

#### **Article 67-b**

- (1) In addition to the general requirements imposed on the electricity transmission system operator under Articles 24 and 25 of the present Law, the charges applied by the electricity transmission system operator for access to networks shall be transparent, take into account the need for network security and reflect actual costs incurred insofar as they correspond to those of an efficient and structurally comparable transmission system operator and are applied in a non-discriminatory manner. Those charges shall not be distance-related.
- (2) Where appropriate, the level of the tariffs applied to producers and/or consumers shall provide locational signals within the Energy Community, and take into account the amount of network losses and congestion caused, and investment costs for infrastructure.
- (3) When setting the charges for access to the electricity transmission system, the following shall be taken into account:
  - 1) payments and receipts resulting from the inter-transmission system operator compensation mechanism, and
  - 2) actual payments made and received, as well as payments expected for future periods of time, estimated on the basis of past periods.
- (4) The charge for the use of the electricity transmission system shall be borne by final electricity customers in the Republic of Macedonia, pursuant to the published tariff. The electricity transmission system operator shall invoice the system use charge to:
  - 1) final customers directly connected to the electricity transmission system who act independently on the electricity market;
  - 2) suppliers or traders, for the final customers directly connected to the electricity transmission system, who do not act independently on the electricity market; and
  - 3) electricity distribution system operators or electricity suppliers, for the final customers connected to the electricity distribution systems.
- (5) The electricity transmission system operator shall invoice the electricity market participants for any deviations occurred from announced physical transactions, under prices that will be calculated pursuant to the price-setting methodology for balancing services, which shall be specified in the rules on the organisation for the balancing of the electricity system referred to in Article 66-a, paragraph (1) of the present Law.
- (6) There shall be no specific network charge on individual transactions for declared transits of electricity.

#### **Article 67-c**

- (1) The electricity transmission system operator shall prepare and adopt, subject to the requirement set forth in paragraph (3) of this Article, coordination and information exchange mechanisms to ensure the security of the network in the context of congestion management.
- (2) The electricity transmission system operator shall be responsible for the development of a general scheme for the calculation of the total capacity for transfer of electricity through the electricity transmission network (“the transfer capacity”) and the electricity

transmission reliability margin based upon the electrical and physical features of the network.

- (3) The electricity transmission system operator shall submit the document, referred to in paragraph (1) of this Article to the Energy Regulatory Commission for its prior approval and publish it on its website.
- (4) The electricity transmission system operator shall publish estimates of available transfer capacity for each day, indicating any available 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 transmission capacity.
- (5) The electricity transmission system operator shall publish relevant data on aggregated forecast and actual demand of electricity, on availability and actual use of generation and load assets, on availability and use of the networks and interconnections, and on balancing power and reserve capacity. For availability and actual use of small generation and load units, aggregated estimate data may be used.
- (6) The electricity transmission system operator shall be entitled to request all data from any electricity market participant, which are related to the performance of its duties.
- (7) Producers, which own or operate the electricity generation facilities, where at least one generation unit has an installed capacity of at least 250 MW, shall keep at the disposal of the Energy Regulatory Commission, the Commission for the Protection of Competition and the Energy Community Secretariat for five (5) years all hourly data per plant that is necessary to verify all operational dispatching decisions and the bidding behaviour at power exchanges, interconnection auctions, reserve markets and over-the-counter markets. The per-plant and per-hour information to be stored shall include, but shall not be limited to, data on available generation capacity and committed reserves, including allocation of those committed reserves on a per-plant level, at the times the bidding is carried out and when production takes place.

#### **Article 67-d**

- (1) The electricity transmission system operator shall coordinate the allocation of cross-border capacity through non-discriminatory and market-based solutions and shall resolve network congestion problems with non-transaction based methods, i.e. methods that do not involve a selection between the contracts of individual electricity market participants;
- (2) The electricity transmission system operator shall apply transaction curtailment procedures only in emergency situations, where:
  - 1) the transmission system operator must act in an expeditious manner, and
  - 2) 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 who have been allocated transmission capacity shall be compensated for any curtailment.
- (3) The electricity transmission system operator shall make available to the electricity market participants the maximum capacity of the interconnections and/or the transmission networks affecting cross-border flows in compliance with the safety standards of the electricity system's operation in the Republic of Macedonia and of neighbouring transmission systems.
- (4) The electricity market participants shall inform the electricity 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.

- (5) The transmission system operator shall, as far as technically possible, net the capacity requirements of any power flows in opposite direction over the congested interconnector in order to use that line to its maximum capacity.
- (6) Having full regard to security of operation of the transmission system, the electricity transmission system operator shall make sure that transactions, which relieve congestions, shall never be denied. In any case where 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.
- (7) Any revenues that the electricity transmission system operator receives in relation to the use of cross-border transmission lines shall be utilised for the following purposes:
  - 1) to guarantee the actual availability of the allocated transmission capacity; and/or
  - 2) to maintain or increase interconnection capacities through investments in the transmission network, in particular in new interconnectors.

If the revenues received by the electricity transmission system operator cannot be efficiently utilised for the purposes set out in items 1) and 2) of this paragraph, the Energy Regulatory Commission shall include this unused revenue in the methodology for calculating the price for the use of transmission network with the view to decreasing the tariff for the transmission network use. The rest of the revenues shall be placed on a separate internal account until such time as they can be spent for the purposes set out in items 1) and 2) of this paragraph. The Energy Regulatory Commission shall inform the Energy Community Secretariat of any revenues that have not been used for the purposes set out in items 1) and 2) of this paragraph.

- (8) The electricity transmission system operator shall participate in a regional mechanism with the aim to ensuring the application of a common coordinated congestion-management method and procedure for the allocation of capacity to the market at least annually, monthly and day-ahead within the Energy Community.

#### **Article 68**

- (1) The electricity transmission system operator shall be responsible for the long-term electricity transmission system development planning.
- (2) The electricity transmission system operator shall be obliged to prepare an annual plan on the development of the electricity transmission system covering the period of the next ten (10) years. By 31<sup>st</sup> October in the calendar year at the latest, the electricity transmission system operator shall submit the plan to the Energy Regulatory Commission and - upon its approval from the Energy Regulatory Commission - shall adopt and publish it on its website. The plan should contain the necessary information related to the system expansion and upgrade, while the contents thereof shall be stipulated in the Electricity Transmission Grid Code.
- (3) By 31<sup>st</sup> October in the calendar year at the latest, the electricity transmission system operator shall prepare and submit to the Ministry and the Energy Regulatory Commission the annual, five-year and ten-year electricity demand forecasts in the Republic of Macedonia.
- (4) For each regulatory period, the electricity transmission system operator shall prepare and submit the Energy Regulatory Commission the transmission system investment plans, which shall in particular indicate the expected efficiency increase related to the operation of the electricity transmission system by reducing electricity losses and by improving the

quality of electricity delivered by the transmission system as a result of any anticipated investments.

- (5) The electricity transmission system operator shall be obliged to submit to the Energy Regulatory Commission reports on the financial and actual volume of planned and realised services in a manner, under terms and conditions and within the deadlines stipulated in the license it holds.

#### **Article 69**

- (1) The electricity transmission system operator shall be obliged, upon previously obtaining the approval of the Energy Regulatory Commission, to adopt and to publish on its website the Electricity Transmission Grid Code. The Electricity Transmission Grid Code, which shall also be published in the "Official Gazette of the Republic of Macedonia", shall stipulate in particular:
  - 1) the technical and other terms and conditions on the safe and reliable operation of the electricity transmission system;
  - 2) the technical and technological terms and conditions and the manner of connecting users to the electricity transmission system, based on the principles of transparency and non-discrimination;
  - 3) the terms and conditions, manner and methodology on setting the electricity transmission grid connection charge, based on the principles of transparency and non-discrimination;
  - 4) the terms and conditions and manner of third party access to the electricity transmission system, based on the principles of transparency and non-discrimination;
  - 5) objective, no-discriminatory and transparent procedures on addressing peak loads in the electricity transmission system;
  - 6) the technical and technological operation conditions for electricity generation facilities holding temporary operation license;
  - 7) the maintenance and development planning of the electricity transmission system;
  - 8) the contents of the electricity transmission system development plans, as well as the manner and procedure under which system users shall submit data required for the preparation of such development plans;
  - 9) the manner and procedure on electricity demand forecasting, as well as the obligations of the electricity transmission system users (electricity suppliers, producers and final customers directly connected to the electricity transmission system) related to the submission of data required for the preparation of demand forecasts;
  - 10) the measures to secure the required operation reliability of the electricity transmission system;
  - 11) the measures, activities and procedures in cases of outages and emergencies;
  - 12) the operational requirements and accuracy class of metering devices, as well as the electricity and power metering method;
  - 13) the procedure for covering losses in the electricity transmission grid;
  - 14) the criteria on the provision of ancillary services;
  - 15) the electricity dispatch;
  - 16) the quality of electricity delivered through the transmission system;

- 17) the quality of services provided by the transmission system operator for the system users;
- 18) the communication protocols for the electricity transmission system's supervision and operation;
- 19) the work of operation management system;
- 20) the manner of publishing information, which it is obliged to publish pursuant to the present Law; and
- 21) the manner and procedure on information provision for system users.

#### **Article 70**

- (1) The electricity transmission system operator shall be obliged, upon previously obtaining the approval of the Energy Regulatory Commission, to adopt and publish on its website the Rules on Interconnection Transmission Capacity Allocation.
- (2) The rules referred to in paragraph (1) of this Article, which shall also be published in the "Official Gazette of the Republic of Macedonia", shall:
  - 1) be based on the principles of market-based procedures, transparency and non-discrimination of system users;
  - 2) be fully compliant with the provisions of the present Law, particularly the provisions of the Articles 67-a to 67-d;
  - 3) be in conformity with the commitments assumed by the Republic of Macedonia under ratified international treaties; and
  - 4) be consonant with the technical possibilities of the electricity transmission system.
- (3) The rules referred to in paragraph (1) of this Article shall stipulate in particular:
  - 1) the manner of calculating available interconnection capacity;
  - 2) the manner of awarding interconnection transmission capacity, after taking into consideration any electricity transmission system congestions;
  - 3) the manner of payment for the use of interconnection transmission capacities in cases of congestions of the electricity transmission system and/or interconnector(s); and
  - 4) the manner of data publishing.

#### **Article 71**

- (1) The legal entity holding a license for electricity transmission cannot hold licenses for, and shall not be engaged in, electricity generation, organisation and operation of the electricity market, electricity distribution, electricity trade or electricity supply activities.
- (2) In the event that the electricity transmission system operator is part of a vertically integrated electricity undertaking and/or controlled by a public body, the electricity transmission system operator shall be obliged to adopt – after previously obtaining the approval of the Energy Regulatory Commission - a compliance programme that shall anticipate measures aimed to prevent discriminatory behaviour and shall stipulate relevant responsibilities for the electricity transmission system operator's employees, pursuant to provisions of the present Law.



## Article 72

- (1) The electricity market operator shall be responsible for the organisation, efficient operation and development of the electricity market on the whole territory of the Republic of Macedonia.
- (2) The electricity market operator shall be obliged to provide the services falling under its competences, pursuant to the present Law, the Electricity Market Rules, the rules on the balancing of the organisation of the electricity system and the terms and conditions stipulated in the license it holds. Its main competences shall be:
  - 1) to organise the day-ahead electricity market;
  - 2) to organise the intra-day electricity market;
  - 3) to support the electricity transmission system operator in organising the balancing of the electricity system as well as in securing the balancing of the electricity system on the basis of the rules on the organisation of the balancing of the electricity system;
  - 4) to support the electricity transmission system operator in the quantitative settlement of the balancing of the electricity transmission system based on the data delivered by the electricity transmission system operator and the electricity distribution system operators;
  - 5) to support the electricity transmission system operator in financial settlement and control over financial coverage of the recognised imbalances on the basis of quantitative settlement of the balancing of energy;
  - 6) to support the electricity transmission system operator in the preparation of daily dispatching schedules for the purchase and sale of electricity within and across the borders of the Republic of Macedonia pursuant to the Electricity Transmission Grid Code and the Electricity Market Rules;
  - 7) to ensure the timely delivery to the electricity transmission system operator of any information required for the development of daily dispatching schedules referred to in item 6) of paragraph (1) of this Article;
  - 8) to provide the required services to the electricity supplier of last resort so that the latter can adequately address the demand of its final customers;
  - 9) to keep records on contracts and contractual obligations concluded between electricity market participants on the electricity market in accordance with the provisions of the present Law and the electricity Market Rules;
  - 10) to keep records on the electricity market participants;
  - 11) to keep records on suppliers and customers and their contractual obligations; and
  - 12) to publish any necessary information required for the unhindered organisation and operation of the electricity market and the performance of electricity activities.
- (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) The electricity market operator, the electricity transmission system operator and the electricity distribution system operator shall keep the records on electricity physical transactions, based on the information on electricity purchase/sale and transit transactions that is submitted by electricity market participants, including 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 electricity supply contracts and electricity derivatives.

- (5) The Energy Regulatory Commission may decide to make available to the electricity market participants any elements of the information referred to in paragraph (4) of this Article, provided that commercially sensitive information on individual market players or individual transactions is not released.
- (6) In the event that the electricity market operator is an entity owned by the electricity transmission system operator, the electricity transmission system operator shall ensure that it is independent from the electricity market operator in terms of its legal form, organisation and decision-making. For this purpose, the electricity transmission system operator shall adopt and submit for approval to the Energy Regulatory Commission a compliance programme, which shall specify detailed measures aimed at preventing any discriminatory conduct on the part of the market operator as referred to in Article 65.
- (7) The electricity market use charge shall be cleared by suppliers or traders, on behalf of final customers in the Republic of Macedonia with whom they have signed electricity supply contracts and shall be included in the cost of supply. The electricity market use charge shall also be settled by the electricity transmission and distribution system operators, when purchasing electricity to cover electricity losses and shall be included in the transmission and distribution network use charges respectively.
- (8) The electricity market operator shall calculate the electricity market use charge based on announced transactions and by applying the published tariff, which shall have been previously approved by the Energy Regulatory Commission.
- (9) The electricity market operator shall be obliged to secure the confidentiality of any commercial and business data which electricity market participants are obliged to submit to the electricity market operator.
- (10) Subject to paragraph (3) of this Article, the legal entity holding a license for the organisation and operation of the electricity market cannot hold licenses for, and shall not be engaged in, electricity generation, electricity transmission, electricity distribution, electricity trade and electricity supply activities.

### **Article 73**

- (1) The Electricity Market Rules, which shall be adopted by the Energy Regulatory Commission, as stipulated in Article 28, paragraph (1) of the present Law, shall be based on the principles on publicity, transparency, non-discrimination and competitiveness and be fully consistent with the provisions of the present Law. The Electricity Market Rules shall stipulate in particular:
  - 1) the procedures, principles and standards for organisation and operation of the electricity market;
  - 2) the terms and conditions to be met by electricity market participants;
  - 3) the establishment, organisation and supervision of electricity and ancillary services trade, including cross-border trading;
  - 4) the terms and conditions, manner and procedure for the purchase of electricity and of ancillary services by entities performing regulated electricity activities, for the purpose of implementing such purchase procedures in a market-based, transparent and non-discriminatory manner and of securing equal access to all interested domestic and foreign bidders;
  - 5) the electricity purchase from preferential electricity producers and sales thereof to suppliers or traders, as well as manner of stipulating the rights and obligations of the electricity market operator, electricity transmission and distribution system operators and preferential electricity producers;

- 6) the manner and procedure on data collection and submission to the Energy Regulatory Commission related to the status of, and events occurred in, the electricity market.
- (2) The Electricity Market Rules shall stipulate equitable contractual rights and obligations for preferential electricity producers, depending on the type of power plant they operate, with whom the electricity market operator is to sign contracts, pursuant to the provisions in Article 139 of the present Law, as well as the contract elements, pursuant to the decisions on the application of feed-in tariffs adopted by the Energy Regulatory Commission.
- (3) The electricity market operator and the electricity transmission system operator shall be obliged to cooperate with the Energy Regulatory Commission in the development of the Electricity Market Rules.

#### **Article 74**

- (1) The electricity distribution system operator shall be responsible for the maintenance, upgrade and expansion of the electricity distribution grid, as well as for the operation of the electricity distribution system that is used to perform its activity, and shall be obliged to secure its connection to the electricity transmission system.
- (2) The electricity distribution system operator shall be obliged:
  - 1) to secure safe and reliable operation of the distribution system it operates, pursuant to the applicable regulations that stipulate the technical rules;
  - 2) to secure reliable, safe and quality electricity distribution and delivery through the distribution system it operates, in a non-discriminatory and transparent manner and under stipulated quality;
  - 3) to connect producers and final customers to the distribution system it operates, as well as to allow third party access for the use of the distribution system in question, pursuant to the present Law and the Electricity Distribution Grid Code and on the basis of the principles of objectivity, transparency and non-discrimination;
  - 4) to promptly provide electricity system users with the information they need for efficient access to, including use of, the electricity distribution system it operates in accordance with the provisions of the present Law;
  - 5) to publish on its website the list of all charges for each category of customers, which have been previously approved by the Energy Regulatory Commission;
  - 6) to develop, upgrade and maintain the distribution system it operates, pursuant to the applicable regulations that stipulate the technical rules, and to ensure the system's long-term ability to address the reasonable electricity distribution demand;
  - 7) to develop the grid maintenance plan pursuant to the Electricity Distribution Grid Code, submit it for approval to the Energy Regulatory Commission, and publish it on its website;
  - 8) to harmonise operations in the distribution system it operates with the electricity transmission system operator;
  - 9) to purchase electricity and ancillary services to cover losses in the distribution system it operates, under market terms and conditions and in a transparent, non-discriminatory and competitive manner, pursuant to the Electricity Market Rules;
  - 10) to meter electricity received from producers and the electricity transmission system and energy delivered to final customers connected to the distribution system it operates, as well as to submit metered data to the producers, suppliers or traders, and the electricity transmission system operator and any other party as may be requested in accordance with Market rules;

- 11) to allow users access to metering devices owned by the distribution system operator, pursuant to the present Law and the Electricity Distribution Grid Code;
  - 12) to prepare reports on the financial and actual volume of planned and realized transactions and to submit them to the Energy Regulatory Commission in a manner and under terms and conditions and within the deadlines stipulated in the license it holds;
  - 13) to keep the dispatch logs and records on the communication systems' reliability, data on the system's supervision and operation, metered data and to keep such data, logs and records for at least ten (10) years; and
  - 14) to secure the confidentiality of commercial and business data of distribution system users and to prevent information about its own activities, which may be commercially advantageous, from being disclosed in a discriminatory manner.
- (3) The distribution system use charge shall be settled by electricity final customers connected to the distribution grid. The electricity distribution system operator shall invoice the electricity distribution system use charge to final customers connected to the electricity distribution system, as well as the electricity transmission system use charge, pursuant to the published tariffs.
  - (4) The final customers shall be offered a possibility to have a single invoice, containing distribution system use charge issued by their suppliers. In such a case, the electricity distribution system operator shall sign contracts with electricity suppliers by means of which it shall authorise them to collect the charges referred to in paragraph (3) of this Article.
  - (5) Subject to Article 46, paragraphs (5) and (6) of the present Law, the electricity distribution system operator can temporarily discontinue the electricity delivery from the distribution grid in the course of planned inspections, testing, control metering, maintenance, reconstruction, expansion of grids, devices and installations, as well as in case of need for the purpose of preventing risks from electricity system outage. The manner, procedures and notifications on such interruptions shall be performed by the electricity distribution system operator, pursuant to the Electricity Distribution Grid Code.

#### **Article 75**

- (1) The electricity distribution system operator shall be responsible for the long-term development planning of the electricity distribution system in the area within which it performs the activity of electricity distribution.
- (2) The electricity distribution system operator shall be obliged to prepare an annual plan on the development of the distribution system covering the period of the next ten (10) years. By 31<sup>st</sup> October in the calendar year at the latest, the electricity distribution system operator shall submit the plan to the Energy Regulatory Commission and upon its approval from the Energy Regulatory Commission shall adopt and publish it on its website. The plan shall contain all necessary information related to the system expansion and upgrade, while the contents thereof shall be stipulated under the Electricity Distribution Grid Code. The plan shall be in line with the ten-year electricity transmission network development plan.
- (3) By 31<sup>st</sup> October in the calendar year at the latest, the electricity distribution system operator shall develop and submit to the Ministry and the Energy Regulatory Commission the annual five-year and ten-year electricity demand forecasts for the distribution system it operates.
- (4) For each regulatory period, the electricity distribution system operator shall develop and submit for approval to the Energy Regulatory Commission the distribution system

investment plans, which shall in particular indicate the expected efficiency increase related to the operation of the distribution system by reducing electricity losses and by improving the quality of electricity delivered by the distribution grid as a result of any anticipated investments.

#### **Article 76**

- (1) The electricity distribution system operator shall be obliged to meter the electricity received and delivered to users connected to the distribution grid by means of metering devices, pursuant to the present Law and the Electricity Distribution Grid Code.
- (2) The metering devices at newly constructed connections shall be owned by the electricity distribution system operator.
- (3) The electricity distribution system operator shall be obliged to replace the existing metering devices owned by users connected to the distribution grid within the deadlines stipulated in the Electricity Distribution Grid Code. The newly installed metering devices, which replace the existing ones, shall be owned by the electricity distribution system operator. The electricity distribution system operator shall bear the costs for the replacement of metering devices and shall recover such costs through the electricity distribution tariff.
- (4) The location of metering devices shall be determined by the electricity distribution system operator, depending on the technical possibilities at the site and any such device can be located on or outside the property of users connected to the distribution grid. When in the course of replacing any existing metering device, which is owned by a system user, the electricity distribution system operator has determined the need to remove the metering point, it shall be obliged to remove it at its own costs with minimum disturbance to service provision for the user. The electricity distribution system operator shall be obliged to reimburse any damages caused to the user's property as result of the metering point's removal.
- (5) When the metering device is located on a system's user's property, the system user in question shall be obliged to allow access for the person authorised by the electricity distribution system operator to any property or facility where the metering device is located, for the purpose of:
  - 1) reading metering devices;
  - 2) inspection, installation, supervision, replacement and maintenance of metering point equipment;
  - 3) disconnecting the system user, when it has acted contrary to the terms and conditions governing the use of the distribution system, as stipulated in the Electricity Distribution Grid Code; and
  - 4) disconnecting a system user, on the relevant request made by the user's electricity supplier, pursuant to the provisions contained in the Electricity Supply Rules.

#### **Article 77**

- (1) The electricity distribution system operator shall be obliged to prepare the Electricity Distribution Grid Code and, upon obtaining the prior approval of the Energy Regulatory Commission, it shall adopt and publish it on its website. The Electricity Distribution Grid Code, which shall also be published in the "Official Gazette of the Republic of Macedonia", shall be in full conformity with the provisions of the present Law and shall stipulate in particular:

- 1) the technical and technological terms and conditions and manner of connecting electricity facilities, based on the principles of transparency and non-discrimination;
  - 2) the terms and conditions and manner of third parties access to, and use of, the distribution system it operates, based on the principles of transparency and non-discrimination;
  - 3) the technical and other terms and conditions on the safe and reliable operation of its distribution system and on the provision of quality services;
  - 4) the technical and technological operation conditions for electricity generation facilities holding temporary operation license;
  - 5) the distribution system's planning, maintenance and development;
  - 6) the measures, activities and procedures in cases of outages and emergencies;
  - 7) the methodology on setting the distribution grid connection charge, based on the principles of transparency and non-discrimination;
  - 8) the confidentiality of commercial and business data of distribution system service users;
  - 9) the operational requirements and accuracy class of metering devices, as well as the electricity and power metering method;
  - 10) the quality of electricity delivered through the distribution system;
  - 11) the quality of services provided by the distribution system operator to its system users;
  - 12) the content of the distribution system's development plans, as well as the manner and procedure under which system users shall submit data required for the preparation of the development plans;
  - 13) the submission of data on long-term electricity demand forecasting to the electricity transmission system operator;
  - 14) the communication protocols for the distribution system's supervision, operation and control system; and
  - 15) the manner and procedure on the provision of information to system users.
- (2) In any case where there are several electricity distribution system operators, the Energy Regulatory Commission shall ensure the harmonization of the provisions of the separate Electricity Distribution Grid Codes.

#### **Article 78**

- (1) Subject to paragraph (10) of this Article and Article 78-b, the legal entity holding a license for electricity distribution cannot hold licenses for, and shall not be engaged in, electricity generation, electricity transmission, organisation and operation of the electricity market, electricity trade or electricity supply activities.
- (2) In any case where an electricity distribution system operator is part of a vertically integrated electricity undertaking, it shall, at least, in terms of its legal personality, organisation, and decision-making, be independent of - and act independently from - other activities not related to distribution of electricity.
- (3) The independence of the electricity distribution system operator, such as provided for in paragraph (2) of this Article, shall not include the obligation to separate ownership of distribution system assets from the vertically integrated electricity undertaking.
- (4) For the purpose of securing independence in the performance of the activity of electricity distribution and, where relevant, for the purpose of implementing any obligation on the

provision of public service in a non-discriminatory, objective and transparent manner, the electricity distribution system operator shall ensure that:

- 1) persons responsible for management and operation at the electricity distribution system operator cannot participate in the management and executive bodies at entities holding electricity generation, transmission, trade or supply and supply of last resort licenses;
  - 2) persons responsible for management and operation at the electricity distribution system operator must be independent in their work and decision-taking;
  - 3) any decision taken by the electricity distribution system operator, which is related to assets required for the system operation, maintenance and development, must be made independently from the interests of the vertically integrated electricity undertaking to which the electricity distribution system operator belongs or from the interests of any related undertaking.
- (5) In order to fulfill its tasks and to comply with the requirements stipulated in paragraph (4) of this Article, the electricity distribution system operator shall have at its disposal the necessary resources, including human, technical, financial and physical resources.
- (6) In any case where an electricity distribution system operator is part of a vertically integrated electricity undertaking:
- 1) its independence shall not preclude the right of the vertically integrated electricity undertaking to approve the annual financial plan of the concerned distribution system operator and to determine global debt limits for the said distribution system operator;
  - 2) the vertically integrated electricity undertaking shall not have the right to give instructions to the electricity distribution system operator in question regarding its day-to-day operations, nor with respect to its individual decisions concerning the construction or upgrading of distribution lines, which are within the terms of the approved financial plan, or any equivalent instrument; and
  - 3) the electricity distribution system operator cannot take advantage of its vertical integration to distort competition. In particular, the electricity 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 electricity undertaking.
- (7) The electricity distribution system operator shall be obliged to appoint a Compliance Officer and adopt and submit for approval to the Energy Regulatory Commission a compliance programme, which shall set out measures aimed at preventing discriminatory conduct and at ensuring that the observance of this programme is sufficiently monitored. The compliance programme shall also lay down the specific obligations of the employees of the electricity distribution system operator to meet this objective.
- (8) The Compliance Officer of the electricity distribution system operator in question shall submit to the Energy Regulatory Commission an annual report, which shall set out the measures taken over the previous year under the compliance programme referred to in paragraph (7) of this Article. The report referred to in this paragraph shall be published on the website of the distribution system operator in question.
- (9) The Compliance Officer of each electricity distribution system operator shall be fully independent and shall have access to all the necessary information of the electricity distribution system operator in question, as well as of any affiliated undertaking of the electricity distribution system operator in question in order to fulfill its tasks.
- (10) As an exception from paragraph (1) of this Article, the legal entity performing electricity distribution activity can also perform electricity supply, universal service of electricity

supply, and electricity supply of last resort provided there are less than 100.000 final customers connected to its distribution system.

#### **Article 78-a**

- (1) The Energy Regulatory Commission may classify a system, which distributes electricity within a geographically confined industrial, commercial or shared services site and does not – without prejudice to provisions of paragraph (4) of this Article – supply electricity 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 primarily to the owner or operator of the system or its related undertakings.
- (2) The Energy Regulatory Commission may exempt the operator of a closed distribution system from:
  - 1) the requirement to procure the electricity it uses to cover electricity losses and the reserve capacity in its system according to transparent, non-discriminatory and market based procedures; and/or
  - 2) the requirement that tariffs, or the methodologies underlying their calculation, are approved prior to their entry into force in accordance with the obligations and duties of the Energy Regulatory Commission.
- (3) Where an exemption is granted under paragraph (2) of this Article, the applicable tariffs, or the methodologies underlying their calculation, shall be reviewed and approved in accordance with the obligations and duties of the Energy Regulatory Commission, upon request by a user of such a network.
- (4) Incidental use by a small number of household customers, who have employment or similar relations with the owner of the closed distribution system and who are located within an area served by a closed distribution system, shall not preclude an exemption under paragraph (2) of this Article from being granted.

#### **Article 78-b**

- (1) As an exception to Article 71, paragraph (1) and Article 78, paragraph (1), a legal entity may act as combined operator of electricity transmission and distribution systems. Any such combined operator can be issued electricity transmission and distribution licenses.
- (2) The combined operator referred to in paragraph (1) of this Article shall hold the same rights and obligations as the ones held by the electricity transmission system and distribution system operator, as stipulated in the present Law.
- (3) The combined operator referred to in paragraph (1) of this Article cannot be issued license for, and/ shall not be engaged in, electricity generation, electricity organisation and operation, electricity trading or electricity supply activities.

#### **Article 79**

- (1) Each electricity supplier shall purchase electricity in the Republic of Macedonia and/or from abroad, for the purpose of selling it to final customers, the electricity transmission system operator or the electricity distribution system operators, as well as to customers abroad.



- (2) For the electricity it has committed to supply to its final customers, each electricity supplier shall secure the necessary transmission and/or distribution capacity from the relevant operators, pursuant to the provisions of the present Law, the applicable tariffs, the Electricity Market Rules and the Electricity Transmission and Distribution Grid Codes.
- (3) Each electricity supplier shall invoice the final customers for the electricity delivered under the agreed price and include the electricity market use charge. When a supplier has signed a contract with the electricity distribution system operator pursuant to Article 74, paragraph (4) of the present Law, the electricity supplier shall also invoice the final customers the transmission and/or distribution system use charges. The invoices shall clearly disclose all tariff elements as metered by the relevant system operator in accordance with the supply contract.
- (4) Each electricity supplier shall be obliged:
  - 1) to operate in compliance with the Electricity Supply Rules and the Electricity Market Rules as regards the reliability and volume of supply, for the purpose of fulfilling its obligations towards its customers;
  - 2) to submit to the electricity transmission system operator data on transactions and electricity consumption plans for its final customers, which are necessary for the calculation of imbalances, pursuant to the rules on the organisation of the balancing of the electricity system and the Electricity Transmission and Distribution Grid Codes;
  - 3) to meet the financial guarantee requirements stipulated in the rules on the organisation of the balancing of the electricity system;
  - 4) to settle the electricity quantity purchased, as well as the reserved capacity and relevant regulated services from the electricity transmission system operator and/or electricity distribution system operators in accordance with the rules on the organisation of the balancing of the electricity system;
  - 5) to provide information to all its customers in an uncomplicated manner and on a free-of-charge basis about the rights of the customers:
    - a. to switch electricity supplier;
    - b. to be included in the category of vulnerable customers;
    - c. to get access to the services of the electricity supplier of last resort; and
    - d. to submit complaints and settle disputes out of court in accordance with the provisions of the present Law;
  - 6) to set up and implement specific procedures for the provision of information to its customers and for the submission and handling of customers' complaints;
  - 7) to take appropriate measures to ensure protection of all customers living in remote areas in accordance with this Law
  - 8) to publish on its website the general terms and conditions for supply of small customers and households;
  - 9) to operate on the basis of objectivity, transparency and non-discrimination and to publish general statistical data relating to its customers as well as of its activities, taking due account of confidentiality protection; and
  - 10) to submit to the Energy Regulatory Commission, on request and within a given deadline, reliable information and reports on its transactions and business activities originating from, terminating, in or transiting through, the territory of the Republic of Macedonia.
- (5) Each electricity supplier shall make all data related to all its transactions contracted for at least the past five (5) years for the purchase and sale of electricity and its derivatives with

wholesale customers, as well as with the electricity transmission system operator, electricity distribution system operator(s) or the electricity market operator, available to the Energy Regulatory Commission, the Commission for the Protection of Competition and the Energy Community Secretariat.

- (6) The data referred to in paragraph (5) 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 electricity supply contracts and electricity derivatives.

#### **Article 80**

- (1) Electricity supplier(s) under public service obligation to ensure universal service of electricity supply, who shall be selected in accordance with paragraphs (3) to (5) of the present Article, shall be obliged:
- 1) to inform the customers about their rights and the conditions for being supplied electricity under universal service;
  - 2) to notify the customers on the terms and conditions of supply and price of the electricity, and inform them that they have the right to switch to another supplier;
  - 3) to purchase electricity at market-based conditions and to select the best offer allowing it to ensure the most cost-efficient provision of universal service;
  - 4) to supply electricity as a universal service to household customers and small final electricity customers, who are located within the territory for which it is licensed to perform its public service obligation to ensure universal service of electricity supply and who choose to be supplied by the supplier(s) under public service obligation to ensure universal service of electricity supply;
  - 5) if universal service is provided at regulated prices, to charge the prices that have been approved by the Energy Regulatory Commission according to the methodology developed by the Energy Regulatory Commission pursuant to paragraph (2) of Articles 24 of the present Law;
  - 6) to publish the supply prices under universal service of electricity supply on its website.
- (2) In case the prices charged by the electricity supplier(s) under public service obligation to ensure universal service of electricity supply are regulated pursuant to the methodology referred to in paragraph (2) of Article 24 of the present Law, they shall:
- 1) be objective and transparent;
  - 2) specify the cost of each activity in the electricity supply chain;
  - 3) be cost-reflective in respect of the charges relating to electricity production and supply;
  - 4) be readily comparable with the prices of the other electricity suppliers; and
  - 5) not discriminate between the same category of customers.
- (3) The Government of the Republic of Macedonia, on the proposal of the Ministry and with respect to criteria defined by the Energy Regulatory Commission, shall adopt a decision for initiating a tendering procedure by means of an open call.
- (4) The decision referred to in paragraph (3) of this Article shall:
- 1) lay down the criteria for selection of the electricity supplier(s) under public service obligations to ensure universal service of electricity supply;
  - 2) set out in detail the terms and conditions governing the provision of universal supply of electricity;
  - 3) contain contractual terms and conditions; and

- 4) specify the duration of the term for which the electricity supplier(s) under public service obligations to ensure universal service of electricity supply shall be appointed, as well as any compensation and/or special or exclusive rights.
- (5) Supplier with market share of 20% or more in the previous year are obliged to submit an offer to the tender from paragraph 1 of this Article
- (6) In the event that no electricity supplier under public service obligations to ensure universal service of electricity supply is selected within the period stipulated in the present Law, the Government of the Republic of Macedonia, on the proposal of the Ministry, shall within the next six (6) months launch a new tendering procedure by means of an open call for the selection of the electricity supplier under public service obligations to ensure universal supply of electricity supply.
- (7) In the event that the second tendering procedure fails for a second time, the Government of the Republic of Macedonia, on the proposal of the Ministry and after obtaining an opinion from the Energy Regulatory Commission, shall appoint an electricity supplier under public service obligation to ensure universal service of electricity supply by a separate decision, which shall define all terms and conditions for the imposition of a public service obligation in compliance with Articles 6 and 8 of the present Law.
- (8) The electricity supplier under public service obligation to ensure universal service of electricity supply shall make all data related to all its transactions contracted for at least the past five (5) years for the purchase and sale of electricity and its derivatives with wholesale customers, as well as with the electricity transmission system operator, electricity distribution system operator(s) or the electricity market operator, available to the Energy Regulatory Commission, the Commission for the Protection of Competition, the Council for Consumer Protection and to the Energy Community Secretariat.
- (9) The data referred to in paragraph (6) 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 electricity supply contracts and electricity derivatives.

#### **Article 80-a**

- (1) The electricity supplier of last resort, who shall be selected in accordance with Article 80-b of the present Law, shall be obliged to supply customers, which remain without an electricity supplier (including supplier(s) under public service obligation to ensure universal service of electricity supply), in any case where:
  - 1) the previous supplier has discontinued the implementation of its supply obligations under existing electricity supply contracts for more than \_\_\_\_ (\_\_\_\_) days;
  - 2) the previous supplier has requested the initiation of receivership procedure with voluntary administration, or has been subject to involuntary receivership procedure on a creditor's request or has gone into bankruptcy or liquidation; or
  - 3) the license of the previous supplier was temporarily or permanently revoked or ceased to be valid.
- (2) The electricity supplier, who is not capable of supplying electricity to its final customers, in the cases referred to in items 1) and 2) of paragraph (1) of this Article, shall be obliged to notify in a timely manner the electricity supplier of last resort, its final customers, the Energy Regulatory Commission and the transmission and distribution system operators on the date of suspension of electricity supply. In such a case, the final customer shall be automatically supplied by the electricity supplier of last resort.
- (3) In the event that an electricity supplier is not capable of supplying electricity to its final customer in the cases referred to in item 3), paragraph (1) of this Article, the Energy Regulatory Commission shall inform the electricity supplier of last resort, the supplier's

final customers and the electricity transmission and distribution system operators about the suspension of electricity supply:

- 1) no later than fifteen (15) days from the date on which the license in question ceases to be valid; or
  - 2) no later than three (3) days from the date of the entry into force of the Energy Regulatory Commission's decision about the temporary or permanent revocation of the said electricity supplier's license.
- (4) The contract on the electricity supply of last resort of final customers shall be considered to have been concluded on the date at which the conditions for exercising the right to the supply of last resort referred to in items 1) 2) and 3) of paragraph (1) of this Article have been met.
- (5) The electricity supply of last resort in the cases referred to in items 1), 2) and 3) of paragraph (1) of this Article shall commence with:
- 1) with the termination of the contract with the previous supplier; or
  - 2) when supply is initiated by the electricity supplier of last resort to a customer, but the customer in question has not concluded any supply contract with another supplier.
- (6) The electricity supplier of last resort shall sell electricity at market prices, which shall be published and updated no shorter than monthly on its web page. The supplier of last resort is entitled to request collateral to secure payment from customers not entitled to universal service.
- (7) The electricity supply of last resort shall be a temporary measure in order to allow the affected final customer to negotiate a supply agreement with a new electricity supplier and may not last for more than ninety (90) days.
- (8) In any case where the final customer, who is supplied by an electricity supplier of last resort, fails to conclude a supply agreement with a new electricity supplier in the period prescribed in paragraph (7) of this Article, the electricity transmission or distribution system operator shall terminate electricity supply to the final customer in question.
- (9) The electricity transmission system operator and the electricity distribution system operator shall submit information to the electricity supplier of last resort about the customers who are transferred to supply of last resort within five (5) days from the notice referred to in paragraphs (2) and (3) of this Article.
- (1) The electricity supplier of last resort shall make all data related to all its transactions contracted for at least the past five (5) years for the purchase and sale of electricity and its derivatives with wholesale customers, as well as with the electricity transmission system operator, the electricity distribution system operator(s) and/or the electricity market operator, available to the Energy Regulatory Commission, the Commission for the Protection of Competition and the Energy Community Secretariat.
- (2) The data referred to in paragraph (9) 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 electricity supply contracts and electricity derivatives.

#### **Article 80-c**

- (1) Each electricity supplier shall set up an adequately staffed single contact point from which its final customers shall be promptly provided with all the necessary information and

notifications concerning their rights, current regulations and the existing and available mechanisms of dispute settlement. The supplier shall also allow final customers to:

- 1) receive transparent notification on applicable electricity 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 customers. Prepayment systems shall be fair and adequately reflect likely consumption. Any difference in terms and conditions shall reflect the costs to the relevant electricity supplier of the different payment systems;
  - 3) receive available information as regards the possibility to change their electricity supplier on a free-of-charge basis;
  - 4) receive instructions for the implementation of transparent, simple and economic procedures for dealing with their complaints. In particular, each electricity supplier shall ensure that:
    - a. its final customers are provided with a good standard of service in accordance with the Electricity Supply Rules and the Consumer Protection Law; and
    - b. the complaints of its final customers are handled properly and in such a way that enables disputes to be settled fairly and promptly, within two (2) months, with provision, where warranted, for a system of reimbursement and/or compensation;
  - 5) receive frequent and accurate notifications on actual electricity consumption and costs to enable them to regulate their own electricity consumption. Any such information shall be provided by using a sufficient time frame, which takes account of the capability of customer's metering equipment and the electricity product in question, with due account taken of the cost-efficiency of such measures and without additional costs being charged to the consumer for that service; and
  - 6) receive a final closure account following any change of electricity supplier no later than six (6) weeks after the change of supplier has taken place.
- (2) In relation to a single contact point, the electricity supplier shall also:
- 1) establish customer centres, which shall promptly provide information, handle users' inquiries, requests and complaints, by telephone, e-mail and in person; and
  - 2) adjust office hours of the customer centre to final customer needs, ensuring that at least one (1) day per week the customer centre remains open until 8 p.m. It shall be possible for final customers to make appointments with the customer centre by phone or e-mail.
- (3) Each electricity supplier shall, after first obtaining the consent of the Energy Regulatory Commission, provide its final customers with a copy of the energy consumer checklist, which shall contain practical information relating to rights of energy customers, and ensure that it is timely published.
- (4) Each electricity supplier shall undertake any necessary steps required to:
- 1) set up its own internal procedures for handling any complaints of its final customers, which shall be made known to the customers upon request; and
  - 2) handle any such complaint in an efficient way, including through the making of out-of-court dispute settlements.

The Energy Regulatory Commission shall monitor the way in which any complaints made by final customers to electricity suppliers are handled pursuant to the provisions of the present Law and other rules adopted by the Energy Regulatory Commission.

- (5) The Electricity Supply Rules may further specify the obligations of electricity suppliers depending on the various categories of their customers and the particularity of each such category with regard to consumption and its respective financial and negotiating power.

#### **Article 81**

- (1) The electricity trader shall purchase electricity in the Republic of Macedonia and from abroad, for the purpose of selling it to other traders, suppliers (including supplier(s) under public service obligation to ensure universal service of electricity supply and supplier(s) of last resort), the electricity transmission system operator and the electricity distribution system operators, and non-household customers as well as for the purpose of selling it abroad.
- (2) The electricity trader shall be obliged to promptly submit to the electricity transmission system operator information on the electricity quantities and relevant time schedules related to all electricity purchase/sale contracts, as well as related to contracts on cross-border transactions through the transmission grid, pursuant to the Electricity Market Rules.
- (3) When performing cross-border electricity transactions the electricity trader shall be obliged to secure sufficient cross-border transmission capacity and/or distribution capacity and related services, pursuant to the Electricity Market Rules and the Electricity Transmission and/or Distribution Grid Code, as well as the Rules on Interconnection Transmission Capacity Allocation.
- (4) The electricity trader shall be obliged:
  - 1) to operate in compliance with the Electricity Market Rules, the rules on the organisation of the balancing of the electricity system, the Electricity Transmission and Distribution Grid Codes, as well as the regulations adopted by the Energy Regulatory Commission and all other relevant applicable laws and bylaws of the Republic of Macedonia;
  - 2) to fulfill the financial guarantee requirements stipulated in the Rules on the balancing of the electricity system;
  - 3) to accurately invoice its customers for the electricity supplied, as well as for the transmission and/or distribution capacity secured;
  - 4) on the request from the Energy Regulatory Commission, to promptly submit information and reports on any electricity transactions and business activities originating from, terminating in, or transiting through, the territory of the Republic of Macedonia; and
  - 5) to operate in compliance with the Electricity Supply Rules as regards the confidentiality of data and electricity quantities supplied to its customers.
- (5) The trader shall make all data related to all its transactions contracted for at least the past five (5) years for the purchase and sale of electricity and its derivatives with wholesale customers, as well as with the electricity transmission system operator, the electricity distribution system operator(s) and/or the electricity market operator, available to the Energy Regulatory Commission, the Commission for the Protection of Competition and to the Energy Community Secretariat.
- (6) The data referred to in paragraph (6) 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 electricity supply contracts and electricity derivatives.

## **Article 82**

- (1) All electricity customers shall be deemed eligible electricity customers.
- (2) Final electricity customers shall be entitled to purchase electricity from the electricity suppliers, subject to a supplier's agreement, pursuant to the present Law and the terms and conditions stipulated in the Electricity Supply Rules.
- (3) Provided that they undertake balance responsibility, large electricity non-household customers can purchase electricity also from electricity traders or generators.
- (4) Final electricity customers may purchase electricity from an electricity supplier who is registered in another State, which has acceded to any relevant international treaty in the field of electricity, which the Republic of Macedonia has also ratified, provided that any such electricity supplier follows the applicable trading and balancing rules set forth in the Electricity Market Rules and the rules on the organisation of the balancing of the electricity system.
- (5) The relevant system operator shall discontinue the electricity supply to final customers who have not signed electricity supply contracts or have not arranged their balance responsibility in line with the requirements of the present Law and the rules on the organisation of the balancing of the electricity system.
- (6) As an exception from paragraph (5) of this Article, the relevant system operator shall not discontinue the electricity delivery to final customers falling under the categories of household customers and small electricity final customers. These final customer categories shall be supplied by the electricity supplier of last resort for the time stipulated in the decision of the Government of the Republic of Macedonia referred to in paragraph (1) of Article 80-b.
- (7) The procedure for switching supplier shall be effected in no more than three (3) weeks free of charge from the date at which the final electricity customer in question has submitted a notice to that effect to the relevant electricity supplier.
- (8) Final electricity customers will be entitled to receive all relevant consumption data from their respective electricity suppliers. The specific content of the data referred to in this paragraph shall be further elaborated in the Electricity Supply Rules.
- (9) The rights vested in electricity customers under paragraphs (6) and (8) of this Article will be effected in a non-discriminatory manner as regards cost, effort or time.

## **VI. 2. UNBUNDLING OF THE ELECTRICITY TRANSMISSION SYSTEM OPERATOR**

### **Article 83-a**

- (1) The electricity transmission system operator in the Republic of Macedonia shall be organised as an independent legal entity, which:
  - 1) owns the transmission system assets;
  - 2) is not part of a vertically integrated undertaking;
  - 3) is separate and independent from other activities in the electricity sector, as stipulated in the present Law;
  - 4) is certified and designated by the Energy Regulatory Commission; and
  - 5) performs its tasks in accordance with the principles and requirements prescribed in the present Law.

- (2) The owner of the electricity transmission network shall act as the electricity transmission system operator.
- (3) In order to ensure the independence of the electricity transmission system operator, the same person or persons shall not be entitled in the same time to:
  - 1) directly or indirectly exercise control over an undertaking performing any of the functions of generation and/or supply, and directly or indirectly exercise control over, or exercise any right in, transmission system operator or over a transmission network;
  - 2) directly or indirectly exercise control over a transmission system operator or over a transmission network, and directly or indirectly exercise control over, or exercise any right in, an undertaking performing any of the activity of generation and/or supply;
  - 3) appoint members of the supervisory board, the management board or bodies representing the undertaking, of a transmission system operator or a transmission network, and directly or indirectly exercise control over, or exercise any right in, an undertaking performing any of the activities of generation or supply; and
  - 4) be a member of the supervisory board, the management board or bodies representing the undertaking, of both an undertaking performing any of the activities of generation and/or supply and a transmission system operator or a transmission network.
- (4) The prohibitions 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.
- (5) The obligation set out in paragraph (2) of this Article shall be deemed to be fulfilled in a situation where two or more electricity undertakings, which own electricity transmission networks, have created a joint venture, which acts as an electricity transmission system operator in two or more Contracting Parties to the Energy Community for the transmission system concerned. No other undertaking may be part of the joint venture, unless it has been certified under Article 83-b of the present Law as an independent system operator or under Article 83-e of the present Law as an independent transmission operator.
- (6) Where the person or persons referred to in paragraph (3) of this Article is the Republic of Macedonia or some other public body, two separate public bodies that exercise control over an electricity transmission system operator or over a transmission network, on the one hand, and over the electricity undertaking that performs any of the activities of electricity generation and/or supply, on the other, shall be deemed not to be the same person or persons and a third entity or public authority may not directly or indirectly exercise control over both transmission, on the one hand, and production and supply, on the other hand.
- (7) The certification of an ownership unbundled electricity transmission system operator shall be carried out by the Energy Regulatory Commission under the conditions, and in the manner, prescribed in the present Law.
- (8) Any commercially sensitive information held by an electricity transmission system operator, which was part of a vertically integrated electricity undertaking, or the staff of such an electricity transmission system operator, shall not be transferred to electricity undertakings performing any of the activities of electricity generation and/or supply.
- (9) The Energy Regulatory Commission shall impose the corresponding obligations stemming from this Article in the license of the electricity transmission system operator and develop, adopt and apply the necessary rules and measures required to assure effective monitoring and imposition of penalties upon infringement of the provisions of this Article.



- (10) The electricity transmission system operator shall adopt, with the prior approval of the Energy Regulatory Commission, a programme of measures aimed at ensuring that:
- 1) the principles and conditions guaranteeing its independence are implemented, and
  - 2) data confidentiality and other obligations are fully applicable to itself and to its staff.
    - 1) For the purpose of paragraph (3) of this Article, the concept of an "*undertaking performing any of the functions of generation or supply*" shall include - in addition to any electricity undertaking performing any of the functions of electricity generation and supply - any undertaking performing any of the functions of natural gas production and supply or trade; and
- (11) The concept of an "*undertaking performing any of the functions of generation or supply or trade*" shall not include final customers who perform any of the functions of electricity generation and/or supply, either directly or via undertakings over which they exercise control, either individually or jointly, provided that:
- 1) the final customers in question, including their shares of the electricity generated in controlled undertakings are, on an annual average, net consumers of electricity; and
  - 2) the economic value of the electricity they sell to third parties is insignificant in proportion to their other business operations.

#### **Article 83-i**

- (1) Regardless of its organisational form, the electricity transmission system operator shall establish a compliance programme, which shall set out the measures to be taken in order to make sure that discriminatory conduct is excluded and which shall lay down a method for monitoring compliance with that programme. The compliance programme, which shall be subject to approval by the Energy Regulatory Commission, shall also set out the specific obligations of employees to meet those objectives. Compliance with the programme shall be independently monitored by a Compliance Officer.
- (2) The Compliance Officer referred to in paragraph (1) of this Article shall be appointed by the supervisory board, subject to the Energy Regulatory Commission's approval. The Energy Regulatory 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. The conditions set forth in Article 83-g, paragraphs (1) to (3) of the present Law shall apply to the compliance officer.
- (3) The Compliance Officer shall be in charge of:
- 1) monitoring the implementation of the compliance programme;
  - 2) elaborating an annual report, which shall set out the measures taken in order to implement the compliance programme and which shall be submitted by the Compliance Officer to the Energy Regulatory Commission;
  - 3) reporting to the supervisory board and issuing recommendations on the compliance programme and its implementation;
  - 4) notifying the Energy Regulatory Commission on any substantial breaches with regard to the implementation of the compliance programme; and
  - 5) reporting to the Energy Regulatory Commission on any commercial and financial relations between the vertically integrated electricity undertaking and the electricity transmission system operator.
- (4) The Compliance Officer shall submit the proposed decisions on the investment plan or on individual investments in the electricity network to the Energy Regulatory Commission, at

the latest by the moment when the management board of the electricity transmission system operator submits them to the supervisory board.

- (5) Where the vertically integrated electricity undertaking, in the general assembly or through the vote of the members of the supervisory board whom it has appointed, has prevented the adoption of a decision with the effect of preventing or delaying investments, which under the ten-year network development plan was to be executed in the following three (3) years, the Compliance Officer shall report this to the Energy Regulatory Commission, which then shall act in accordance with the provisions of the present Law governing the development of the transmission network and the authorities for adoption of investment decisions.
- (6) The conditions governing the mandate or the employment conditions of the Compliance Officer, including the duration of his/her mandate or employment, shall be subject to approval by the Energy Regulatory Commission. Those conditions shall ensure the independence of the Compliance Officer, including by providing him/her with all the resources necessary for fulfilling his/her duties. During his/her 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 electricity undertaking or with its controlling shareholders.
- (7) The Compliance Officer shall report to the Energy Regulatory Commission regularly, in writing, and shall have the right to report regularly, to the supervisory board of the electricity transmission system operator.
- (8) The Compliance Officer may attend all meetings of the managing staff or management board of the electricity transmission system operator, and those of the supervisory board and of the general assembly. All the aforementioned bodies shall be under the obligation to inform the Compliance Officer of scheduled meetings and to provide him with all necessary materials. The Compliance Officer shall attend all meetings that address the following matters:
  - 1) conditions for electricity network access and transmission network use, in particular regarding prices for network use, services related to network access and transmission network use, transmission capacity allocation and congestion management, transparency, balancing and secondary markets;
  - 2) projects undertaken in order to manage the electricity system and to maintain and develop the transmission network, including investments in interconnectors and the connections; and
  - 3) energy purchases or sales necessary for the operation of the electricity system and the transmission system, including ancillary services and balancing service.
- (9) The Compliance Officer shall monitor the compliance of the electricity transmission system operator with the provisions of the present Law and all relevant applicable bylaws, which regulate the confidentiality obligations imposed on the electricity transmission system operator and on the owner of the electricity transmission network.
- (10) The Compliance Officer shall have access to all relevant data and to the offices of the electricity transmission system operator and to all the information necessary for the fulfilment of his/her tasks. The Compliance Officer shall have access to the offices of the electricity transmission system operator without prior announcement.
- (11) With the prior approval of the Energy Regulatory Commission, the supervisory board may dismiss the Compliance Officer. The supervisory board shall dismiss the Compliance Officer for reasons of lack of independence or professional capacity upon request of the Energy Regulatory Commission.

- (12) To the safety of the employment position of the Compliance Officer, if employed at the electricity transmission system operator, the provisions of the labour legislation regulating protection of union representatives shall apply.

#### **Article 83-j**

- (1) Before the designation of an electricity undertaking as the electricity transmission system operator, the undertaking in question shall be certified according to the procedure established in the present Law.
- (2) The Energy Regulatory Commission shall continuously monitor the fulfilment of the conditions regarding the unbundling of the electricity transmission system operators, which are prescribed in the present Law. The Energy Regulatory Commission shall carry out the procedure for the certification of the electricity transmission system operator. The Energy Regulatory Commission shall issue a certificate to the electricity transmission system operator as
- 1) an ownership unbundled electricity transmission system operator pursuant to Article 83-a of the present Law to the undertaking fulfilling the criteria from Article 83-a of the present Law.
- (3) The certification procedure of the electricity transmission system operator shall be implemented:
- 1) at the request of the electricity transmission system operator in accordance with paragraph (4), item 1) of this Article, or
  - 2) at the initiative of the Energy Regulatory Commission when:
    - a. the electricity transmission system operator does not submit a certification request pursuant to paragraph (3), item 1) of this Article; or
    - b. the Energy Regulatory Commission receives information that certain changes are planned to be introduced which necessitate re-certification of the electricity transmission system operator or which may lead - or have already led - to an infringement of the unbundling provisions of the present Law;
    - c. upon a reasoned request from the Energy Community Secretariat.
- (4) The electricity transmission system operator shall:
- 1) submit without delay a request for certification, if not already certified; and
  - 2) without delay, notify the Energy Regulatory Commission of all planned transactions which might necessitate its re-certification.
- The application shall be accompanied by all documents required under the Certification Rules to be adopted by the Energy Regulatory Commission.
- (5) The procedure for the certification of the electricity transmission system operator shall be conducted in accordance with the commitments assumed by the Republic of Macedonia under ratified international treaties, in accordance with the Certification Rules to be adopted by the Energy Regulatory Commission.
- (6) Within four (4) months from the date of notification by the transmission system operator of its request for certification or from the date on which the Energy Community Secretariat submits a reasoned request, as the case may be, the Energy Regulatory Commission shall adopt a preliminary decision on the certification of the transmission system operator. The Energy Regulatory Commission shall without delay notify the Energy Community Secretariat on its decision on the certification of the electricity transmission system operator together with all the relevant information with respect to that decision. The decision of the

Energy Regulatory Commission shall become effective only after conclusion of the procedure laid out in this Article.

- (7) Upon receipt of the opinion of the Energy Community Secretariat, within two (2) months the Energy Regulatory Commission shall issue a final decision on the certification request. The decision of the Energy Regulatory Commission and the opinion issued by the Energy Community Secretariat shall be published together. The Energy Regulatory Commission shall take the utmost account of the opinion given by the Energy Community Secretariat. The Energy Regulatory Commission shall provide and publish the reasoning for possible diverging from the Energy Community Secretariat's opinion.
- (8) The Energy Regulatory Commission shall keep official records on all contacts realised with the Energy Community Secretariat within the framework of the procedure for certification of the electricity transmission system operator. The official records shall be placed at the disposal of the undertaking requesting certification and at the disposal of the public bodies concerned. The Energy Regulatory Commission shall be obligated to keep commercially sensitive data confidential.
- (9) At any time during the certification procedure the electricity transmission system operator and the electricity producers or electricity suppliers or electricity traders shall - upon the request of the Energy Regulatory Commission and/or the Energy Community Secretariat - immediately submit all relevant data and information for fulfilling their tasks in compliance with the provisions of this Article.
- (10) The Energy Regulatory Commission shall adopt Certification Rules to further regulate the procedure for the certification of the electricity transmission system operator.
- (11) After the implementation of the certification procedure in accordance with paragraph (2) of this Article, the Government of the Republic of Macedonia shall, upon the proposal of the Ministry, designate a electricity transmission system operator and inform, without delay, the Energy Community Secretariat. If during its supervision the Energy Regulatory Commission establishes that due to violation of the unbundling provisions the certification requirements are no longer fulfilled and withdraws it, the Government of the Republic of Macedonia, at the proposal of the Ministry, shall issue a decision on recall of the electricity transmission system operator. The decision shall be promptly notified to the Energy Community Secretariat.
- (12) The decision on the designation or recall of the electricity transmission system operator shall be published in the Official Gazette of the Republic of Macedonia, on the website of the Energy Regulatory Commission and in the dedicated section of the website of the Energy Community.

#### **Article 83-k**

- (1) Where the certification procedure is initiated upon a certification request submitted by a transmission network owner or an electricity transmission system operator, which is controlled by a person or persons from a third State or third States, the provisions and timing of Article 83-j shall apply, subject to the derogations that are set out in this Article.
- (2) The electricity transmission system operator shall without delay notify the Energy Regulatory Commission of any circumstances that would result in a person or persons from a third State or third States acquiring control of the electricity transmission system or the electricity transmission system operator.
- (3) The Energy Regulatory Commission shall, along with delivering its decision for certification, also notify without delay the Ministry and the Energy Community Secretariat of:
  - 1) the certification request submitted by an electricity transmission network owner or an electricity transmission system operator, which is controlled by a person or persons from a third State or third States; and

- 2) any circumstances that would result in a person or persons from a third State or third States acquiring control of a transmission network or an electricity transmission system operator in the Republic of Macedonia. .
- (4) The Energy Regulatory Commission shall take –utmost account of the opinion given by the Energy Community Secretariat. If the Energy Community Secretariat does not deliver its opinion within the prescribed deadlines, it shall be deemed that the Energy Community Secretariat has no objections to the preliminary decision of the Energy Regulatory Commission.
- (5) Within sixty (60) days from the day of reception of the notification the Ministry shall clearly establish whether the granting of the certification by the Energy Regulatory Commission will put at risk the security of energy supply of the Republic of Macedonia or of any other Contracting Party to the Energy Community and shall deliver its opinion to the Energy Regulatory Commission. In considering that question, the Ministry shall take into account:
  - 1) the rights and obligations of the Energy Community with respect to that third State, which arise under international law, including any agreement concluded with one or more third States to which the Energy Community is a party and which addresses the issues of security of energy supply, in accordance with commitments assumed by the Republic of Macedonia under the Energy Community Secretariat Treaty,
  - 2) the rights and obligations of the Republic of Macedonia with respect to that third State arising under agreements concluded with it, insofar as they are in compliance with the Energy Community Law commitments assumed by the Republic of Macedonia under the Energy Community Treaty;
  - 3) the rights and obligations resulting from association or trade agreement between the Republic of Macedonia and the Energy Community; and
  - 4) other specific facts and circumstances of the case and of the third State concerned.
- (6) The Energy Regulatory Commission shall take the opinion of the Ministry into account when issuing the certificate and shall refuse the certification if the conditions of paragraph (5) have not been demonstrated.
- (7) Provided that all conditions referred to in this Article have been met, the Energy Regulatory Commission shall issue the certificate to the electricity transmission system operator in relation to third States within the period of sixty (60) days after the request referred to in paragraph (1) of this Article has been submitted.

## **VII NATURAL GAS MARKET**

### **VII. 1. ORGANISATION OF THE NATURAL GAS MARKET**

#### **Article 84-a**

- (1) The natural gas market shall include the retail and wholesale natural gas market.
- (2) Transactions between final customers and their natural gas suppliers, as the case may be, shall take place on the retail natural gas market.
- (3) The wholesale natural gas market shall include:
  - 1) the bilateral natural gas market;
  - 2) the day-ahead natural gas market;
  - 3) the intra-day natural gas market; and
  - 4) the balancing natural gas market.

- (4) The purchase and sale on the wholesale natural gas market shall be contracted under bilateral agreements, as well as on the organised natural gas markets, *i.e.* day-ahead natural gas market, intra-day natural gas market and balancing natural gas market.

#### **Article 84-b**

- (1) Natural gas undertakings and other entities shall be allowed to participate in the natural gas market for sale and/or purchase of natural gas pursuant to the provisions of the present Law and the Natural Gas Market Rules, the rules on the organisation of the balancing of the natural gas system and the terms and conditions stipulated in the license each of them holds.
- (2) The natural gas market participants are:
- 1) natural gas suppliers;
  - 2) natural gas traders;
  - 3) final customers;
  - 4) the natural gas transmission system operator;
  - 5) the natural gas distribution system operator(s);
  - 6) if relevant, the operator of the closed natural gas distribution system; and
  - 7) the natural gas market operator.
- (3) Each natural gas market participant, including traders, suppliers, and wholesale customers, shall be entitled to trade in natural gas on the organised natural gas market of the Republic of Macedonia under the terms and conditions stipulated in the present Law and the relevant applicable bylaws and rules.
- (4) The natural gas market participants shall regulate their mutual rights and obligations by contracts in line with the rules stipulated in the present Law and the relevant applicable bylaws and rules.

#### **Article 84-c**

- (1) In order to safeguard a secure supply on the Energy Community market in natural gas, the Government of the Republic of Macedonia shall cooperate with the Parties to the Energy Community in order to promote regional and bilateral solidarity.
- (2) Such cooperation shall cover situations resulting or likely to result in the short term in a severe disruption of supply affecting a Party to the Energy Community and shall include:
- 1) coordination of national emergency measures in accordance with the requirements set in the Energy Community Treaty;
  - 2) identification and, where necessary, development or upgrading of natural gas interconnections; and
  - 3) conditions and practical modalities for mutual assistance.
- (3) The Government of the Republic of Macedonia shall inform the Energy Community Secretariat and the other Contracting Parties to the Energy Community of any such cooperation.

#### **Article 84**

- (1) The natural gas market operator shall be responsible for the organisation, efficient operation and development of the natural gas market on the whole territory of the Republic of Macedonia.

- (2) The natural gas market operator shall be obliged to provide the services falling under its competences, pursuant to the present Law, the Natural Gas Market Rules, the rules on the organisation of the balancing of the natural gas system and the terms and conditions stipulated in the license it holds. Its main competence shall be:
- 1) to organise the day-ahead natural gas market;
  - 2) to organise the intra-day natural gas market;
  - 3) to support the natural gas transmission system operator in organise the balancing of the natural gas market;
  - 4) to support the natural gas transmission system operator in performing quantitative settlement of the balancing of energy based on the data delivered by the natural gas transmission system operator and the natural gas distribution system operator(s);, and suppliers;
  - 5) to support the natural gas transmission system operator in performing financial settlement and control over financial coverage of the recognised imbalances on the basis of quantitative settlement of the balancing of the natural gas system;
  - 6) to support the natural gas transmission system operator in the preparation of daily dispatching schedules for the purchase and sale of natural gas within and across the borders of the Republic of Macedonia pursuant to the Natural Gas Transmission Grid Code and the Natural Gas Market Rules;
  - 7) to ensure the timely delivery to the natural gas transmission system operator of any information required for the development of daily dispatching schedules referred to in item 6) of paragraph (1) of this Article;
  - 8) to provide the requisite services to the natural gas supplier of last resort so that the latter can adequately address the demand of its final customers;
  - 9) to keep records on contracts and contractual obligations concluded between natural gas market participants on the natural gas market in accordance with the provisions of the present Law and the Natural Gas Market Rules;
  - 10) to keep records on the natural gas market participants;
  - 11) to keep records on natural gas suppliers and customers and their contractual obligations; and
  - 12) to publish any necessary information required for the unhindered organisation and operation of the natural gas market and the performance of natural gas activities.
- (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 and intra-day natural gas market where the natural gas market operator represents a contractual party.
- (4) In the event that the natural gas market operator is an entity owned by the natural gas transmission system operator, the natural gas transmission system operator shall ensure it is independent from the natural gas market operator at least in terms of its legal form, organisation and decision-making. For this purpose, the natural gas transmission system operator shall adopt - after obtaining the prior approval to the Energy Regulatory Commission - a compliance programme, which shall specify detailed measures aimed at preventing any discriminatory conduct on the part of the natural gas market operator.
- (5) The applicable tariffs by the natural gas market operator for the organisation of the natural gas market shall be approved by the Energy Regulatory Commission.
- (6) The natural gas market operator shall be obliged to secure the confidentiality of commercial and business data which of the natural gas market participants are obliged to submit.

- (10) Subject to paragraph (3) of this Article, the legal entity holding a license for the organisation and operation of the natural gas market, cannot hold licenses for, and shall not be engaged in, natural gas production, natural gas transmission, natural gas distribution, natural gas trade or natural gas supply activities.

#### **Article xx**

- (7) The natural gas market operator, the natural gas transmission system operator and the natural gas distribution system operators, supply undertakings shall keep at the disposal of national authorities, including the Energy Regulatory Commission and completion authority, the records on natural gas physical transactions, based on the information on natural gas purchase/sale and transit transactions that is submitted by natural gas participants, including 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 natural gas supply contracts and natural gas derivatives.
- (8) The Energy Regulatory Commission may decide to make available to the natural gas market participants any elements of the information referred to in paragraph (4) of this Article, provided that commercially sensitive information on individual market participants or individual transactions is not released.

#### **Article 85**

- (1) The natural gas transmission system operator shall be organised in a legal form under laws of the Republic of Macedonia and shall:
- 1) maintain, upgrade and expand the natural gas transmission grid;
  - 2) operate the natural gas transmission system; and
  - 3) secure the system's connection with the natural gas transmission systems of other States.
- (2) The natural gas transmission system operator shall be obliged:
- 1) to secure reliable, safe, cost-effective and quality natural gas transmission and delivery through the transmission system it operates in a non-discriminatory and transparent manner and under stipulated quality;
  - 2) to secure the reliable and safe operation of the natural gas transmission system it operates, and to promote operational arrangements in order to ensure the optimum management of its network pursuant to the applicable regulations that stipulate the technical rules and in accordance with the commitments assumed by the Republic of Macedonia under ratified international treaties;
  - 3) to provide access to final customers and to the natural gas distribution system operators based on the principles of objectivity, transparency and non-discrimination and pursuant to the provisions of the present Law and of the Natural Gas Transmission Grid Code;
  - 4) to promptly provide natural gas system users with the information they need for efficient access to, including use of, the natural gas transmission system in accordance with the provisions of the present Law and of the Natural Gas Transmission Grid Code;
  - 5) to publish on its website the transmission tariffs, which shall have been previously approved by the Energy Regulatory Commission;



- 6) to be equipped with adequate financial, material, technical and human resources, which are needed to meet its service obligations;
- 7) to plan the development of the natural gas transmission system it operates under cost-effective terms and conditions, for the purpose of ensuring the reliable and efficient operation of the transmission system in conformity with the relevant applicable environmental legislation and pursuant to the applicable regulations that stipulate the technical rules and of ensuring the system's long-term ability to meet the reasonable natural gas transmission demand;
- 8) to plan the construction of new interconnection capacities with transmission systems abroad, after taking into due consideration the efficient use of existing interconnection capacities and the balance between investment costs and benefits for the final customers;
- 9) to prepare its transmission system ten year network development plan pursuant to the Natural Gas Transmission Grid Code, submit it to the Energy Regulatory Commission for approval, and – following its adoption – to publish the plan on its website;
- 10) to provide cross-border natural gas flow through its transmission grid within the available transmission capacity;
- 11) to prepare the natural gas transmission system maintenance plan pursuant to the Natural Gas Transmission Grid Code, submit it to the Energy Regulatory Commission for approval, and – following its adoption – to publish the maintenance plan on its website;
- 12) to approve system users' applications for connection to the transmission system it operates pursuant to the present Law and the Natural Gas Transmission Grid Code;
- 13) to allow third party access for the use of the transmission system it operates, pursuant to the present Law and the Natural Gas Transmission Grid Code, and based on the principles of objectivity, transparency and non-discrimination and to refrain from discriminating between system users or categories of system users, particularly in favour of its related undertakings;
- 14) to award available transmission capacities and to address peak loads in the natural gas transmission system it operates pursuant to the Natural Gas Transmission Grid Code and the Natural Gas Market Rules;
- 15) to harmonise operations in the natural gas transmission system it operates with the transmission systems to which it is directly connected to, as well as to cooperate and exchange data with operators of other natural gas transmission systems, pursuant to the commitments assumed by the Republic of Macedonia under ratified international treaties and/or the commitments assumed by the transmission system operator as a result of its membership of international associations;
- 16) to promote the development of natural gas exchanges, the coordinated allocation of cross-border capacity through non-discriminatory market-based solutions, after paying due attention to the specific merits of implicit auctions for short-term allocations, and the integration of balancing and reserve power mechanisms;
- 17) to publish data, and to promptly provide information to other natural gas transmission system operators, on available transmission capacities at interconnectors with the neighbouring natural gas transmission systems or transnational gas pipelines, for the purpose of securing efficient, non-discriminatory, objective and transparent access to and use of the natural gas transmission system it operates and of the relevant natural gas interconnection system;
- 18) to install and maintain metering devices at all metering points on the receipt and delivery points in the transmission system it operates;

- 19) to meter natural gas at the receipt and delivery points in the transmission system it operates and to submit metered data to relevant system users and to the natural gas market operator;
- 20) to provide daily dispatch and real-time management of natural gas flows, after taking into consideration all declared import and export transactions and transit transactions through the natural gas transmission system it operates, based on the nominations submitted by natural gas market participants, and to update the dispatch schedule at regular time intervals, pursuant to the Natural Gas Transmission Grid Code;
- 21) to procure balancing services of the natural gas system needed for the secure and reliable operation of the transmission system pursuant to the rules on the organisation of the balancing of the natural gas system;
- 22) to provide market-based, transparent and non-discriminatory application of balancing procedures and settlement of balancing services and imbalances, including service billing and collection, in full conformity with the rules on the organisation of the balancing of the natural gas system;
- 23) to purchase natural gas to cover network losses under market terms and conditions and in a transparent, non-discriminatory and competitive manner, pursuant to the Natural Gas Market Rules;
- 24) to purchase ancillary services needed for the secure and reliable operation of the natural gas transmission system under market terms and conditions and in a transparent, non-discriminatory and competitive manner, pursuant to the Natural Gas Market Rules;
- 25) to keep records and physical transaction schedules pursuant to paragraph (3) of this Article and to calculate deviations from announced transactions and charge the users for any imbalances occurred;
- 26) to establish the required changes to the natural gas dispatching schedule in cases of risks to the security of natural gas supply, outages and major deviations in natural gas consumption from the determined quantities;
- 27) to allow users access to metering devices owned by the natural gas transmission system operator, pursuant to the present Law and the Natural Gas Transmission Grid Code;
- 28) to secure the confidentiality of commercial and business data of system service users;
- 29) to promptly provide timely information to the natural gas transmission and distribution system operators to which it is connected, for the purpose of securing reliable and efficient operation of the systems and interconnectors;
- 30) to prepare reports on the financial and actual volume of planned and realized services and to submit them to the Energy Regulatory Commission, in a manner, under terms and conditions and within the deadlines stipulated in the license it holds;
- 31) to keep dispatch logs and records on the transmission system's reliability, data on the system's supervision and operation as well as metered data and to keep all such data, logs and records for at least ten (10) years;
- 32) to keep records on the operation of the transmission system it operates and report thereof to the Energy Regulatory Commission and to any other competent State authority, on request;
- 33) to cooperate with natural gas transmission system operators and with the natural gas market operators of other States, and with any relevant regional and international associations, pursuant to the commitments assumed by the Republic of Macedonia under ratified international treaties and/or the commitments assumed by the natural

gas transmission system operator as a result of its membership of international associations.

#### **Article 85-a**

- (1) In addition to the general requirements imposed on the natural gas transmission system operator under Articles 24 and 25 of the present Law, the charges applied by the natural gas transmission system operator for access to the natural gas transmission system it operates shall:
  - 1) be transparent;
  - 2) be applied in a non-discriminatory manner;
  - 3) take into account the need for integrity of the relevant natural gas transmission system and its improvement; and
  - 4) reflect the actual costs incurred, insofar as such costs correspond to those of an efficient and structurally comparable transmission system operator and are transparent, whilst including an appropriate return on investments.
- (2) Where appropriate, the charges applied by the natural gas transmission system operator for access to the natural gas system it operates shall take account of the benchmarking of tariffs by the Energy Regulatory Commission.
- (3) The Energy Regulatory Commission may decide that charges for access to the natural gas transmission system(s) may also be determined through market-based arrangements, such as auctions, provided that such arrangements and the revenues arising there from are approved by the Energy Regulatory Commission.
- (4) The natural gas transmission system operator shall apply charges for access to the natural gas system it operates, which shall:
  - 1) facilitate efficient gas trade and competition;
  - 2) avoid cross-subsidies between natural gas system users; and
  - 3) provide incentives for investment and for maintaining or creating interoperability for natural gas transmission systems.
- (5) The charges applied by the natural gas transmission system operator for natural gas system users shall be non-discriminatory and set separately for every entry point or exit point of the transmission system. The relevant cost-allocation mechanisms and rate setting methodology regarding entry points and exit points shall be approved by the Energy Regulatory Commission. Charges for the use of the transmission system shall not be calculated on the basis of contract paths.
- (6) The natural gas transmission system operator shall apply charges for access to the natural gas system it operates, which shall neither restrict market liquidity nor distort trade across borders of different transmission systems. Where differences in tariff structures or balancing mechanisms would hamper trade across natural gas transmission systems, the relevant natural gas transmission system operators shall, in close cooperation with the relevant competent national authorities, actively pursue convergence of tariff structures and charging principles, including in relation to balancing.
- (7) The charges for access to the natural gas transmission system shall be settled by all final customers in the Republic of Macedonia, who are supplied with natural gas through the transmission system. The transmission system operator shall invoice the charge for the system's use pursuant to the tariff previously approved and published by the Energy Regulatory Commission, to the following:

- 1) final customers, which are directly connected to the transmission system and providing booked transmission capacity on their own and concluded transmission contract; and
  - 2) suppliers for final customers, which are connected to the relevant natural gas transmission system or to natural gas distribution systems that are connected to the transmission system and supplied by the supplier in question.
- (8) The Energy Regulatory Commission, by means of relevant regulations and methodologies referred to in Article 24, paragraph (1) and Article 25, paragraph (1) of the present Law shall stipulate the method by means of which the transmission system operator shall distribute the income generated on the basis of charges for access to, and use of, the natural gas transmission network it operates. The Energy Regulatory Commission may task the natural gas transmission system operator and the natural gas suppliers to separately present portions concerning the charges relating to access to, and use of, the transmission system in the invoices referred to in paragraph (7) of this Article.
- (9) The natural gas transmission system operator shall invoice the natural gas market participants for the deviations occurred from the announced physical transactions, under prices calculated pursuant to the price-setting methodology for balancing services, which shall be specified in the rules on the organisation of the balancing of the natural gas system.

#### **Article 85-b**

- (1) The natural gas transmission system operator shall:
- 1) ensure that it offers network access services on a non-discriminatory basis to all natural gas system users;
  - 2) provide both firm and interruptible third-party access services and make sure that the price of interruptible capacity shall reflect the probability of interruption;
  - 3) offer to system users both long and short-term services.

In regard to item 1) of this paragraph, where the natural gas transmission system operator offers the same service to different customers, it shall do so under equivalent contractual terms and conditions, by using harmonised natural gas transport contracts. The terms of all such contracts shall:

- 1) be prepared by the natural gas transmission system operator;
  - 2) be submitted for approval to the Energy Regulatory Commission;
  - 3) following their approval by the Energy Regulatory Commission – be published on the website of the natural gas transmission system operator.
- (2) Any natural gas transport contract entered into by the natural gas transmission system operator with non-standard start dates or with a shorter duration than a standard annual natural gas transport contract shall not result in arbitrarily higher or lower tariffs that do not reflect the market value of the service provided.
- (3) Where appropriate, the natural gas transmission system operator may grant third-party access services subject to the provision by system users of appropriate guarantees 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.

#### **Article 85-c**

- (1) The natural gas transmission system operator shall, after taking into account the integrity of the natural gas transmission system it operates and the efficient network operation, make available to market participants the maximum capacity of the natural gas

- interconnections and/or the natural gas transmission networks affecting cross-border flows.
- (2) The natural gas transmission system operator shall be obliged, upon previously obtaining the approval of the Energy Regulatory Commission, to adopt and publish on its website the Rules on the Allocation of Natural Gas Interconnection Transmission Capacity, which shall stipulate:
    - 1) the manner of calculating available natural gas interconnection capacity;
    - 2) the manner of the allocation of interconnection transmission capacity, after taking into due consideration any congestion of the natural gas transmission system;
    - 3) the payment manner for the use of interconnection transmission capacities in cases of any congestion of the natural gas transmission system and/or of interconnectors; and
    - 4) the manner of data publishing.
  - (3) The rules referred to in paragraph (2) of this Article, which shall also be published in the "Official Gazette of the Republic of Macedonia", shall, in particular:
    - 1) establish capacity allocation mechanisms that will facilitate cross-border exchanges in natural gas based on the principles of market-based procedures, transparency and non-discrimination of system users;
    - 2) be fully compliant with the provisions of the present Law, particularly the provisions of the Articles 85-a to 85-g;
    - 3) provide appropriate economic signals for the efficient and maximum use of technical capacity, facilitate investment in new infrastructure for natural gas and facilitate cross-border exchanges in natural gas;
    - 4) be compatible with the market mechanisms, including spot markets and trading hubs, while being flexible and capable of adapting to evolving market circumstances;
    - 5) be compatible with the technical specifications of the natural gas transmission system of the Republic of Macedonia and the natural gas transmission systems of neighbouring States and of the Parties to the Energy Community; and
    - 6) be in conformity with the commitments assumed by the Republic of Macedonia under ratified international treaties.
  - (4) The capacity-allocation mechanisms referred to in item 1), paragraph (3) of this Article shall be based on the following principles:
    - 1) in the event of contractual congestion in the natural gas transmission system it operates, the transmission system operator shall offer unused capacity on the primary market at least on a day-ahead and interruptible basis;
    - 2) natural gas system users, who wish to re-sell or sublet their unused contracted capacity in the system of the natural gas transmission system operator in question on the secondary market, shall be entitled to do so, provided that they notify in advance the natural gas transmission operator; and
    - 3) in the event that there exists physical congestion in the natural gas transmission system it operates, the natural gas transmission system operator shall apply non-discriminatory and transparent capacity-allocation mechanisms.
  - (5) The natural gas transmission system operator shall regularly assess market demand for new investment. When planning new investments, the natural gas transmission system operator shall assess market demand and take into account the security of natural gas supply.

#### **Article 85-d**

- (1) The natural gas transmission system operator shall be obliged to continuously publish and update on its website detailed information regarding the services it offers and the relevant conditions applied, together with the technical information necessary for system users to gain effective network access.
- (2) In order to ensure transparent, objective and non-discriminatory tariffs and facilitate efficient utilisation of the natural gas network it operates, the natural gas transmission system operator shall publish reasonably and sufficiently detailed information on tariff derivation, methodology and structure.
- (3) For the services it provides, the natural gas transmission system operator shall be obliged to continuously publish and update on its website information on technical, contracted and available 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. The Energy Regulatory Commission, after consultation with the system users, shall approve the relevant points on which such information will be made public by the natural gas transmission system operator.
- (4) The natural gas transmission system operator shall always disclose the information required by the present Law in a meaningful, quantifiably clear and easily accessible manner and on a non-discriminatory basis.
- (5) The natural gas transmission system operator shall make public ex-ante and ex-post supply and demand information, based on natural gas nominations, forecasts and realised flows in and out of the natural gas transmission system. The Energy Regulatory Commission shall ensure that all such information is made public in a prompt and timely manner. The level of detail of the information that is made public shall reflect the information available to the transmission system operator in question.
- (6) The natural gas transmission system operator shall make any public measures taken as well as the costs incurred and revenue generated to balance the natural gas transmission system it operates.

#### **Article 85-e**

- (1) The natural gas transmission system operator shall procure balancing services from the balancing service providers in the balancing market in line with the rules on the organisation of the balancing of the natural gas system, which shall be prepared and adopted by the natural gas transmission system operator, subject to their prior approval by the Energy Regulatory Commission.
- (2) The rules on the organisation of the balancing of the natural gas system referred to in paragraph (1) of this Article shall:
  - 1) be transparent, non-discriminatory and market-based;
  - 2) be based on objective criteria;
  - 3) reflect genuine system needs, after taking into account the resources available to the transmission system operator;
  - 4) define the terms and conditions related to balancing, including the rules for:
    - a) the balancing service providers;
    - b) the procurement of balancing services;
    - c) the methodology for calculating and charging the balancing services, including service billing and collection, which shall be non-discriminatory, cost-reflective and cost-effective;

- d) the determination of activated volumes to be settled with balancing service providers;
  - e) the financial settlement with balance service providers;
  - f) the balance responsible parties, including the conclusion of the balance responsibility contracts and/or collaterals;
  - g) the determination of imbalance volumes to be settled; and
  - h) the financial settlement with balance group responsible parties.
- (3) In order to enable system users to take timely corrective action, the natural gas transmission system operator shall provide sufficient, well-timed and reliable on-line based information on the balancing status of system users. The information provided shall:
- 1) reflect the level of information available to the transmission system operator in question and the settlement period for which imbalance charges are calculated; and
  - 2) be made available free of any charge or payment.
- (4) The natural gas transmission system operator shall settle:
- 1) all determined activated volumes with each balancing service provider; and
  - 2) all determined imbalances with each balance responsible party.
- (5) The natural gas transmission system operator shall notify the Energy Regulatory Commission on a monthly basis on the contracts that it has concluded with balancing service providers in relation to the provision of balancing services.
- (6) The natural gas transmission system operator shall apply imbalance charges, which shall:
- 1) be cost-reflective to the extent possible, whilst providing appropriate incentives on system users to balance their input and off-take of natural gas;
  - 2) avoid cross-subsidisation between system users; and
  - 3) not hamper the entry of new market entrants.
- (7) The natural gas transmission system operator shall:
- 1) endeavour to harmonise the balancing regime of the Republic of Macedonia with the corresponding regimes of the other Contracting Parties to the Energy Community and of neighbouring States and to streamline the relevant balancing structures and levels of balancing charges in order to facilitate gas trade; and
  - 2) cooperate with other natural gas transmission system operators on facilitating the development of a balancing market at a regional level in order to ensure operational security and efficient functioning of the regional balancing market within the Energy Community based on effective competition, non-discrimination and transparency.

#### **Article 85-f**

- (1) Any of the natural gas market participants referred to in paragraph (2), items 1) and 2) and 4) to 7) of Article 84-b except the natural gas market operator shall have balance responsibility.
- (2) A natural gas market participant may arrange its balance responsibility by concluding balance responsibility contract(s) with the natural gas transmission system operator, thus acquiring the status of balance responsible party.
- (3) A natural gas market participant may arrange its balance responsibility by transferring balance responsibility on its chosen representative who is a balance responsible party, thus becoming the member of the balance group of the balance responsible party.

- (4) The rules on the organisation of the balancing of the natural gas system referred to in Article 85-e shall specify the procedures and requirements for establishing balance responsibility of natural gas market participants, balance responsibility contracts and responsibility for keeping a register of balance responsible parties.

#### **Article 85-g**

- (1) The natural gas transmission system operator shall take appropriate measures to allow natural gas capacity rights to be freely tradable and to facilitate such trade in a transparent and non-discriminatory manner.
- (2) The natural gas transmission system operator shall develop harmonised natural gas transport contracts and procedures on the primary market to facilitate secondary trade of natural gas capacity and shall recognise the transfer of primary capacity rights, where so notified by system users.
- (3) A natural gas transmission system operator shall notify the harmonised natural gas transport contracts and procedures referred to in paragraph (2) of this Article to the Energy Regulatory Commission.

#### **Article 86**

- (1) The natural gas transmission system operator shall be responsible for the long-term development planning of the natural gas transmission system it operates.
- (2) The natural gas transmission system operator shall be obliged to prepare an annual plan on the development of the natural gas transmission system it operates covering the period of the next ten (10) years. By 31<sup>st</sup> October in the calendar year the latest, the natural gas transmission system operator shall submit the plan to the Energy Regulatory Commission and upon its approval by the Energy Regulatory Commission shall adopt and publish the plan on its website. The plan should contain the necessary information related to the natural gas transmission system's expansion and upgrade, while the content thereof shall be stipulated in the Natural Gas Transmission Grid Code.
- (3) For each regulatory period, the natural gas transmission system operator shall prepare and submit for approval to the Energy Regulatory Commission the investment plans for the transmission system it operates, which shall in particular indicate the expected efficiency increase in system operation as a result of any anticipated investments.
- (4) By 31<sup>st</sup> October in the current year the latest, the natural gas transmission system operator shall be obliged to prepare and submit to the Ministry and the Energy Regulatory Commission annual, five-year and ten-year natural gas demand forecasts for the system it operates.
- (5) The natural gas transmission system operator shall be obliged to submit to the Energy Regulatory Commission reports on the financial and actual volume of planned and realized services in a manner, under terms and conditions and within the deadlines stipulated in the license it holds.

#### **Article 87**

- (1) Subject to Article 46, paragraphs (5) and (6) of the present Law, the natural gas transmission system operator can temporarily discontinue the natural gas delivery from the transmission network it operates in the course of planned inspections, testing and control metering, overhauls, maintenance, reconstruction and expansion of facilities, devices and installations, as well as in cases of need for the purpose of preventing risks from transmission network outages. The manner, procedure and notifications on such interruptions shall be performed by the relevant transmission system operator pursuant to the Natural Gas Transmission Grid Code.



- (2) The natural gas transmission system shall perform the temporary interruptions referred to in paragraph (1) of this Article at times when they can cause the least damage to users, pursuant to the maintenance programme for the facilities, devices and installations and the annual energy balance, and the transmission system operator shall be obliged to inform in writing the users, the Energy Regulatory Commission and the Ministry as regards the date, hour and expected duration thereof at least seven (7) days prior to the interruption in question.
- (3) For the purpose of supervision, control and maintenance, the natural gas transmission system operator shall be entitled to access installations and metering-regulation stations, which are an integral part of the transmission network it operates and are located on the property of final customers or users, who are directly connected to the natural gas transmission system it operates, in a manner and under terms and conditions stipulated in the Natural Gas Transmission Grid Code.

### **Article 88**

- (1) For the system it operates, the natural gas transmission system operator shall be obliged, upon previously obtaining the approval of the Energy Regulatory Commission, to adopt and to publish on its website the Natural Gas Transmission Grid Code. The Natural Gas Transmission Grid Code, which shall also be published in the "Official Gazette of the Republic of Macedonia", shall stipulate in particular:
  - 1) the technical and other terms and conditions on the safe and reliable operation of the natural gas transmission system it operates;
  - 2) the technical and technological terms and conditions on connecting facilities, devices and plants to the natural gas transmission system;
  - 3) the terms and conditions, manner and methodology on setting the transmission grid connection charge, based on the principles of transparency and non-discrimination;
  - 4) the procedure on approving system users' applications for connection to the transmission system, as well as the cooperation and obligations of the transmission system operator;
  - 5) the terms and conditions and manner of third party access to the natural gas transmission system it operates, which shall be in full conformity with the provisions of the present Law and be compatible with the natural gas network access systems in the Energy Community;
  - 6) the technical and other terms and conditions for the reliable and safe operation of the transmission system it operates;
  - 7) the maintenance and development planning of the transmission system it operates;
  - 8) the contents of the development and maintenance plans of the transmission system it operates, as well as the manner and procedure under which system users shall submit data required for the preparation of these plans;
  - 9) the manner and procedure on natural gas demand forecasting, as well as the obligations imposed on the natural gas transmission system users (natural gas suppliers and final customers directly connected to the transmission system, which the natural gas transmission system operator operates) regarding the submission of data that are required for preparing the demand forecasts;
  - 10) the measures, activities and procedures in cases of outages and emergencies;
  - 11) the operational requirements and accuracy class of metering devices, as well as the natural gas metering method;
  - 12) the criteria on the provision of ancillary services;

- 13) the manner and procedure on announcing the allocation of available transmission capacity and on addressing peak loads in the transmission system it operates;
- 14) the manner and procedure on access to installations and metering-regulation stations that are an integral part of the transmission system and which are owned by final customers or users;
- 15) the quality of services provided by the natural gas transmission system operator for its system users;
- 16) the work of the management systems;
- 17) the manner of publishing information, which the natural gas transmission system operator is obliged to publish pursuant to the provisions of the present Law;
- 18) the manner and procedure on providing information to its system users; and
- 19) the manner of cooperation between natural gas transmission system operators and the manner of cooperation with distribution system operators.

#### **Article 89**

- (1) Subject to Article 96, a legal entity holding a license for natural gas transmission cannot hold licenses for, and shall not be engaged in, organisation and operation of the natural gas market, natural gas trade and natural gas supply activities.

#### **Article 90**

- (1) The Natural Gas Market Rules, which shall be adopted by the Energy Regulatory Commission, shall be based on the principles on publicity, transparency, non-discrimination and competitiveness and be fully consistent with the provisions of the present Law. The Natural Gas Market Rules shall stipulate in particular:
  - 1) the procedures, principles and standards for the organisation and operation of the natural gas market;
  - 2) the terms and conditions to be met by natural gas market participants;
  - 3) the establishment, organisation and control over natural gas and ancillary services trading, including cross-border trading;
  - 4) the terms and conditions, manner and procedure for the purchase of natural gas and ancillary services made by entities performing regulated natural gas activities, for the purpose of implementing such purchase procedures in a transparent and non-discriminatory manner, and of securing equal access to all interested domestic and foreign bidders; and
  - 5) the procedure and manner of data collection and submission to the Energy Regulatory Commission as regards the status of, and events occurred in, the natural gas market.

#### **Article 91**

- (1) For the service area on the territory of the Republic of Macedonia where it performs natural gas distribution activity, the natural gas distribution system operator shall be responsible for the maintenance and, when deemed cost-effective, the upgrade and expansion of the distribution system it operates, as well as for the operation of the distribution system in question and shall be obliged to secure its connection to the natural gas transmission system.
- (2) The natural gas distribution system operator shall be obliged:

- 1) to secure reliable, safe, cost-effective and secure operation of the distribution system it operates, pursuant to the applicable regulations that stipulate the technical rules;
- 2) to secure reliable, safe and quality natural gas distribution through the distribution system it operates, in a transparent and non-discriminatory manner;
- 3) to connect final customers to the distribution grid it operates, as well as to allow third party access for the use of the distribution system in question, pursuant to the provisions of the present Law and of the relevant Natural Gas Distribution Grid Code, and based on the principles of objectivity, transparency and non-discrimination;
- 4) to timely provide any other natural gas distribution and transmission system operator with sufficient information to ensure that the transport of natural gas in the distribution system it operates takes place in a manner compatible with the secure and efficient operation of any interconnected system;
- 5) to timely promptly provide natural gas system users with the information they need for efficient access to, including use of, the natural gas distribution system it operates in accordance with the provisions of the present Law and of the relevant Natural Gas Distribution Grid Code;
- 6) to publish on its website the distribution tariffs which have been previously approved by the Energy Regulatory Commission;
- 7) to develop, upgrade and maintain the distribution system it operates, pursuant to the applicable regulations that stipulate the technical rules and to provide long-term system ability to address the reasonable natural gas distribution demand;
- 8) to harmonise operations in the natural gas distribution system with the natural gas transmission system operator, with whose transmission network is connected;
- 9) to prepare the grid maintenance plan for the distribution system it operates pursuant to the Natural Gas Distribution Grid Code, and – following its approval from the Energy Regulatory Commission – to adopt it and publish it on its website;
- 10) to purchase the necessary natural gas quantities and any ancillary services required to perform its activities, under transparent, non-discriminatory and market-oriented procedures, pursuant to the Natural Gas Market Rules;
- 11) to meter natural gas quantities delivered to final customers and submit the relevant metered data to natural gas suppliers;
- 12) to allow users access to metering devices, which are owned by the distribution system operator, pursuant to the provisions of the present Law and of the relevant Natural Gas Distribution Grid Code;
- 13) to prepare reports on the financial and actual volume of planned and realized services and to submit them to the Energy Regulatory Commission, in a manner, under terms and conditions and within deadlines stipulated in the license it holds;
- 14) to keep dispatch logs and records on the reliability of communication systems, data on the system's supervision and operation as well as metered data, and to keep all such data for at least ten (10) years;
- 15) to secure the confidentiality of commercial and business data of its system users and to prevent information about its own activities, which may be commercially advantageous, from being disclosed in a discriminatory manner; and
- 16) not to abuse - in the case of the same entity being involved in sales or purchases of natural gas pursuant to Article 95(10) of the present Law - any commercially sensitive information obtained from third parties in the context of providing access to the natural gas distribution system it operates.

- (3) Subject to Article 46, paragraphs (5) and (6) of the present Law, the natural gas distribution system operator can temporarily discontinue the natural gas delivery from the distribution grid it operates in the course of planned inspections, testing, control metering, maintenance, reconstruction and expansion of grids, devices and installations. The temporary interruption can be performed at times when it shall cause the least damage to system users, pursuant to the Natural Gas Distribution Grid Code.
- (4) The natural gas distribution system operator shall be obliged to prepare and submit for approval to the Energy Regulatory Commission the natural gas purchase rules pursuant to the guidelines on electricity and natural gas purchase and sale and ancillary services purchase by entities performing regulated energy activities, which shall be adopted by the Energy Regulatory Commission.
- (5) As an exemption from paragraph (1) of this Article, when the distribution system, which a distribution system operator operates, is not connected to the natural gas transmission system and is supplied with compressed natural gas transported by means of road or rails tanks or other forms of transport, the distribution system operator in question shall be obliged to stipulate the purchase of ancillary services and real time balancing of deviations between the actual and planned natural gas consumption as part of the Natural Gas Distribution Grid, which shall be adopted pursuant to Article 94 of the present Law.

#### **Article 92**

- (1) The natural gas distribution system operator shall be responsible for the long-term distribution system development planning in the service area where it performs the activity of natural gas distribution.
- (2) The natural gas distribution system operator shall be obliged to prepare an annual plan on the development of the distribution system it operates covering the period of the next ten (10) years. By 31<sup>st</sup> October in the current year the latest, the natural gas distribution system operator shall submit the plan to the Energy Regulatory Commission and upon its approval from the Energy Regulatory Commission shall adopt and publish it on its website. The plan should contain the necessary information related to the system expansion and upgrade, while the contents thereof shall be stipulated under the Natural Gas Distribution Grid Code. The plan shall be in line with the ten-year natural gas transmission network development plan.
- (3) By 31<sup>st</sup> October in the current year the latest, the natural gas distribution system operator shall prepare and submit to the Ministry and the Energy Regulatory Commission annual, five-year and ten-year natural gas demand forecasts for the distribution system it operates.
- (4) For each regulatory period, the natural gas distribution system operator shall prepare and submit for approval to the Energy Regulatory Commission the distribution system investment plan, which shall in particular indicate the expected efficiency increase in the operation of the natural gas distribution system as a result of any anticipated investments.

#### **Article 93**

- (1) The distribution system operator shall be obliged to meter the natural gas quantities it delivers to its customers by means of metering devices, pursuant to the present Law and the Natural Gas Distribution Grid Code.
- (2) The metering devices referred to in paragraph (1) of this Article shall be owned by the natural gas distribution system operator.

- (3) The location of metering devices shall be determined by the natural gas distribution system operator, depending on the technical possibilities at the site and they can be located on or outside a system user's property.
- (4) When the metering device is located on a system user's property, the system user in question shall be obliged to allow the person authorised by the distribution system operator access to any property or facility where the metering device is located, for the purpose of:
  - 1) reading metering devices;
  - 2) inspection, installation, supervision replacement or maintenance of metering devices;
  - 3) disconnecting the system user, when it has acted contrary to the terms and conditions governing the use of the distribution system, as stipulated in the Natural Gas Distribution Grid Code; and
  - 4) disconnecting a system user, on the request made by the natural gas supplier of the system user in question, pursuant to the provisions contained in the Natural Gas Supply Rules.

#### **Article 94**

- (1) The natural gas distribution system operator shall be obliged to prepare and - after previously obtaining the approval of the Energy Regulatory Commission, adopt and publish and on its website the Natural Gas Distribution Grid Code for the distribution system it operates. The Natural Gas Distribution Grid Code, which shall also be published in the "Official Gazette of the Republic of Macedonia", shall be in full conformity with the provisions of the present Law and shall stipulate in particular:
  - 1) the technical terms and conditions for connecting natural gas final customers to its natural gas distribution system, based on the principles of transparency and non-discrimination;
  - 2) the methodology on setting the distribution grid connection charge, based on the principles of transparency and non-discrimination;
  - 3) the terms and conditions and manner of third party access to, and use of, the distribution system it operates, based on the principles of transparency and non-discrimination;
  - 4) the technical and other terms and conditions on the reliable and safe operation of the distribution system and on the provision of quality services to its system users;
  - 5) the measures, activities and procedures in cases of outages and emergencies;
  - 6) the manner and procedure on the supervision and testing of the natural gas distribution grid;
  - 7) the manner and procedure on regulating natural gas flow and pressure through the distribution grid;
  - 8) the manner and procedure on harmonising the operations of the natural gas distribution system with the operations of the natural gas transmission system;
  - 9) the operational requirements and accuracy class of metering devices, as well as natural gas metering method;
  - 10) the distribution system's maintenance and development planning;
  - 11) the contents of the distribution system's development plans, as well as the manner and procedure under which system users shall submit information required for the preparation of the development plans;

- 12) the quality of service of natural gas delivery, pursuant to the Natural Gas Supply Rules;
  - 13) the natural gas demand forecasting, based on data obtained from suppliers and final customers' development plans;
  - 14) the manner and procedure on the provision of information to its system users; and
  - 15) the manner of cooperation with transmission system operator and other natural gas distribution system operators.
- (2) In any case where there are several natural gas distribution system operators, the Energy Regulatory Commission shall ensure the harmonisation of the provisions of the separate Natural Gas Distribution Grid Codes.

### **Article 95**

- (1) Subject to paragraph (10) of this Article and to Article 96, the legal entity holding a license for natural gas distribution cannot hold licenses for, and shall not be engaged in, natural gas production, natural gas transmission, organisation and operation of the natural gas market, natural gas trading or natural gas supply activities.
- (2) In any case where a natural gas distribution system operator is part of a vertically integrated natural gas undertaking, it shall, at least, in terms of its legal personality, organisation, and decision-making, be independent of - and act independently from - other activities not related to distribution of natural gas.
- (3) The independence of the natural gas distribution system operator, such as provided for in paragraph (2) of this Article, shall not include the obligation to separate ownership of distribution system assets from the vertically integrated natural gas undertaking.
- (4) For the purpose of securing independence in the performance of natural gas distribution activity and, where relevant, for the purpose of implementing the obligation on public service provision in a non-discriminatory, objective and transparent manner, the natural gas distribution system operator shall ensure that:
  - 1) persons responsible for management and operation at the natural gas distribution system operator cannot participate in the management and executive bodies at holders of natural gas transmission, natural gas market organization and operation, natural gas trade, natural gas supply and natural gas supply of last resort licenses;
  - 2) persons responsible for management and operation at the natural gas distribution system operator must be independent in their work and decision-taking; and
  - 3) any decision taken by the natural gas distribution system operator, which is related to assets required for the system operation, maintenance and development, must be made independently from the interests of the vertically integrated natural gas undertaking to which the natural gas distribution system operator belongs or from the interests of any related undertaking.
- (5) In order to fulfill its tasks and to comply with the requirements stipulated in paragraph (4) of this Article, the distribution system operator shall have at its disposal the necessary resources, including human, technical, financial and physical resources.
- (6) In any case where a natural gas distribution system operator is part of a vertically integrated natural gas undertaking:
  - 1) its independence shall not preclude the right of the vertically integrated natural gas undertaking to approve the annual financial plan of the concerned distribution system operator and to determine global debt limits for the said distribution system operator;
  - 2) the vertically integrated natural gas undertaking shall not have the right to give instructions to the natural gas distribution system operator in question regarding its

day-to-day operations, nor with respect to its individual decisions concerning the construction or upgrading of distribution lines, which are within the terms of the approved financial plan, or any equivalent instrument;

- 3) the natural gas distribution system operator cannot take advantage of its vertical integration to distort competition. In particular, the natural gas 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 natural gas undertaking.
- (7) The natural gas distribution system operator shall be obliged to appoint a Compliance Officer and to adopt and submit for approval to the Energy Regulatory Commission a compliance programme, which shall set out measures aimed at preventing discriminatory conduct and at ensuring that the observance of this programme is sufficiently monitored. The compliance programme shall also lay down the specific obligations of the employees of the natural gas distribution system operator in question to meet this objective.
- (8) The Compliance Officer of the natural gas distribution system operator in question shall submit for approval to the Energy Regulatory Commission an annual report, which shall set out the measures taken over the previous year under the compliance programme referred to in paragraph (7) of this Article. The report referred to in this paragraph shall be published on the website of the natural gas distribution system operator in question.
- (9) The Compliance Officer of each natural gas distribution system operator shall be fully independent and shall have access to all the necessary information of the natural gas distribution system operator in question as well as of any affiliated undertaking of the natural gas distribution system operator in question in order to fulfill its tasks.
- (10) As an exception from paragraph (1) of this Article, the legal entity performing natural gas distribution activity can also perform natural gas supply and natural gas supply of last resort activities, provided there are less than 100.000 users connected to the distribution system it operates.

#### **Article 95-a**

- (1) The Energy Regulatory Commission may classify a system, which distributes natural gas within a geographically confined industrial, commercial or shared services site and does not - without prejudice to provisions of paragraph (4) of this Article - supply natural gas 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 natural gas primarily to the owner or operator of the system or their related undertakings.
- (2) The Energy Regulatory Commission may exempt the operator of a closed distribution system from the requirement that tariffs, or the methodologies underlying their calculation, are approved prior to their entry into force in accordance with the obligations and duties of the Energy Regulatory Commission.
- (3) Where an exemption is granted under paragraph (2) of this Article, the applicable tariffs, or the methodologies underlying their calculation, shall be reviewed and approved in accordance with the obligations and duties of the Energy Regulatory Commission, upon request by a user of such a network.
- (4) Incidental use by a small number of household customers with employment or similar relations 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.

#### **Article 96**

- (1) As an exception to Article 89, paragraph (1) and to Article 95, paragraph (1), a legal entity may act as combined operator of natural gas transmission and distribution systems. Any such combined operator can be issued natural gas transmission and distribution licenses.
- (2) The combined operator referred to in paragraph (1) of this Article shall hold the same rights and obligations as the ones held by the natural gas transmission system and distribution system operator, as stipulated in the present Law.
- (3) The combined operator referred to in paragraph (1) of this Article cannot be issued license for, and shall not be engaged in, natural gas production, natural gas organisation and operation, natural gas trading or natural gas supply activities.

#### **Article 97**

- (1) Each natural gas supplier shall be entitled to purchase natural gas in the Republic of Macedonia and/or from abroad for the purpose of selling it to final customers, including electricity and/or heating energy producers, natural gas traders, other natural gas suppliers, including natural gas suppliers who are subject to public service obligations, natural gas transmission or distribution system operators, as well as to customers abroad.
- (2) For the natural gas demand of final customers with whom it has signed supply contracts, the natural gas supplier shall purchase and/or supply natural gas on the natural gas market of the Republic of Macedonia and/or in other natural gas markets.
- (3) For the natural gas it has committed to supply to its final customers, the natural gas supplier shall secure the relevant transmission and/or distribution capacity and regulated services pursuant to the applicable tariffs, the Natural Gas Transmission Grid Code and the Natural Gas Distribution Grid Code, if such an obligation has been transferred by the customer under the terms and conditions stipulated in the natural gas supply contract..
- (4) The natural gas supplier, based on metering performed by the relevant grid operator, shall invoice the final customers with whom it has signed supply contracts for the natural gas supplied, under the agreed price and the transmission and/or distribution system use charges.
- (5) The natural gas supplier shall be obliged:
  - 1) to operate in compliance with the Natural Gas Supply Rules and the Natural Gas Market Rules as regards the confidentiality of data and reliability of natural gas quantities supplied to its customers;
  - 2) to submit to the natural gas transmission system operator data on transactions and natural gas consumption plans for its final customers, which are necessary for the calculation of imbalances, pursuant to the rules on the organisation of the balancing of the natural gas system and the Natural Gas Transmission and Distribution Grid Codes;
  - 3) to meet the financial guarantee requirements stipulated by the natural gas transmission system operator and related to the balancing between anticipated and realized transactions;
  - 4) to settle the natural gas quantities purchased, as well as the reserved capacity and relevant regulated services from the natural gas transmission system operator and/or



- the natural gas distribution system operators in accordance with the rules on the organisation of the balancing of the natural gas system;
- 5) to provide information to all its customers in a simple manner and on a free-of-charge basis about the potential exercise by a customer of its right:
    - a. to switch natural gas supplier;
    - b. to get access to the services of the natural gas supplier of last resort; and
    - c. to submit complaints and settle dispute out of court in accordance with the provisions of the present Law;
  - 6) to set up and implement specific procedures for the provision of information to its customers and for the submission and handling of customers' complaints;
  - 7) if appropriate, to take appropriate measures for ensuring the equal treatment of all customers living in remote areas;
  - 8) to publish on its website all terms and conditions of its natural gas supply agreements for each category of customers;
  - 9) to operate on the basis of objectivity, transparency and non-discrimination and to publish general statistical data relating to its customers as well as of its activities;
  - 10) to submit the Energy Regulatory Commission, on request and within a given deadline, reliable information and reports of its transactions and business activities originating from, terminating in or transiting the territory of the Republic of Macedonia;
  - 11) to accurately invoice its customers the natural gas supplied, as well as the transmission and/or distribution capacity secured;
  - 12) to operate in compliance with the laws and other regulations in the Republic of Macedonia, the regulations adopted or approved by the Energy Regulatory Commission, and the Natural Gas Transmission and Distribution Grid Codes.
- (6) Each natural gas supplier shall make all data related to all its transactions contracted for at least the past five (5) years for the purchase and sale of natural gas and its derivatives with wholesale customers, as well as with the natural gas transmission system operator, the natural gas distribution system operator(s) or the natural gas market operator, available to the Energy Regulatory Commission, the Commission for the Protection of Competition and to the Energy Community Secretariat.
- (7) The data referred to in paragraph (6) 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 natural gas supply contracts and natural gas derivatives.

#### **Article 97-a**

- (1) Natural gas supplier(s) under public service obligation to ensure public service of natural gas supply, who shall be selected in accordance with paragraphs (3) to (5) of this Article, shall be obliged:
- 1) to inform the customers about their rights and the conditions for being supplied natural gas under public service;
  - 2) to notify the customers on the terms and conditions of supply and price of the natural gas, and inform them that they have the right to switch to another natural gas supplier;
  - 3) to supply natural gas as a public service to household customers and small non-household customers within the territory for which it is licensed to perform its public service obligation to ensure public service of natural gas supply;

- 4) to purchase electricity at market-based conditions and to select the best offer allowing it to ensure efficient provision of universal service;
  - 5) If public supply of natural gas is provided at regulated prices, to charge the prices approved by the Energy Regulatory Commission in accordance with to the methodology developed by the Energy Regulatory Commission pursuant to paragraph (2) of Articles 24 of the present Law, provided that the regulated prices do not cover the costs, to get compensated in accordance with the terms of Article 6 of the present Law;
  - 6) to publish the supply prices under public service of natural gas supply on its website.
- (2) If the prices charged by the natural gas supplier(s) under public service obligation to ensure public service of natural gas supply are regulated pursuant to the methodology referred to in paragraph (2) of Article 24 of the present Law, they shall:
    - 1) be objective and transparent;
    - 2) specify the cost of each activity in the natural gas supply chain;
    - 3) be cost-reflective in respect of the charges relating to natural gas supply;
    - 4) be readily comparable with the prices of the other natural gas suppliers; and
    - 5) not discriminate between the same category of customers.
  - (3) The Government of the Republic of Macedonia, on the proposal of the Ministry after obtaining an opinion from the Energy Regulatory Commission, shall adopt a decision for initiating a tendering procedure by means of an open call.
  - (4) Supplier with market share of 20% or more in the previous year are obliged to submit an offer to the tender from paragraph 1 of this Article.
  - (5) The decision referred to in paragraph (3) of this Article shall:
    - 1) lay down the criteria for selection of the natural gas supplier(s) under public service obligation to ensure public service of natural gas supply;
    - 2) set out in detail the terms and conditions governing the provision of public supply of natural gas supply;
    - 3) contain contractual terms and conditions; and
    - 4) specify the duration of the term for which the natural gas supplier(s) under public service obligation to ensure public service of natural gas supply shall be appointed.
  - (6) In the event that no natural gas supplier under public service obligation to ensure public service of natural gas supply is selected within the period stipulated in the present Law, the Government of the Republic of Macedonia, on the proposal of the Ministry after obtaining an opinion from the Energy Regulatory Commission, shall within the next six (6) months launch a new tendering procedure by means of an open call for the selection of the natural gas supplier under public service obligation to ensure public service of natural gas supply.
  - (7) In the event that the second tendering procedure fails as well, the Government of the Republic of Macedonia, on the proposal of the Ministry after obtaining an opinion from the Energy Regulatory Commission, shall appoint a natural gas supplier under public service obligation to ensure public service of natural gas supply by a separate decision, which shall define all terms and conditions for the imposition of a public service obligation in compliance with Articles 6 and 8 of the present Law.
  - (8) The natural gas supplier under public service obligation to ensure public service of natural gas supply shall make all data related to all its transactions contracted for at least the past five (5) years for the purchase and sale of natural gas and its derivatives with wholesale customers, as well as with the natural gas transmission system operator, natural gas distribution system operator(s) or the natural gas market operator, available to the Energy Regulatory Commission, the Commission for the Protection of Competition, the Council for Consumer Protection and to the Energy Community Secretariat.

- (9) The data referred to in paragraph (6) 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 natural gas supply contracts and natural gas derivatives.

#### **Article 98**

- (1) The Government may decide that the supplier providing the public supply of natural gas pursuant to Article 97 shall perform the function of supplier of last resort, in any case where:
- 1) the previous natural gas supplier has discontinued the implementation of its supply obligations under existing supply contracts for more than \_\_\_\_ (\_\_\_\_) days;
  - 2) the previous natural gas supplier has requested the initiation of receivership procedure with voluntary administration, or has been subject to involuntary receivership procedure on a creditor's request or has gone into bankruptcy or liquidation;
  - 3) the license of the previous natural gas supplier was temporarily or permanently revoked or ceased to be valid.
- (2) The natural gas supplier, who is not capable of supplying natural gas to its final customer, in the cases referred to in item 1) of paragraph (1) of this Article, shall be obliged to notify in a timely manner the natural gas supplier of last resort, its final customers, the Energy Regulatory Commission and the natural gas transmission and distribution system operators on the date of suspension of natural gas supply. In such a case, the final customer shall be automatically supplied by the natural gas supplier of last resort.
- (3) In the event that an natural gas supplier is not capable of supplying natural gas to its final customer in the cases referred to in item 2), paragraph (1) of this Article, the Energy Regulatory Commission shall inform the natural gas supplier of last resort, the supplier's final customers and the natural gas transmission and distribution system operators about the suspension of natural gas supply:
- 1) no later than fifteen (15) days from the date on which the license in question ceases to be valid; or
  - 2) no later than three (3) days from the entry into force of the Energy Regulatory Commission's decision about the temporary or permanent revocation of the said natural gas supplier's license.
- (4) The contract on the natural gas supply of last resort of final customers shall be considered to have been concluded on the date at which the conditions for exercising the right to the supply of last resort referred to in items 1), 2) of paragraph (1) of this Article have been met.
- (5) The natural gas supply of last resort in the cases referred to in items 1) 2), of paragraph (1) of this Article shall commence with:
- 1) the termination of the contract with the previous supplier; or
  - 2) when natural gas supply is initiated to the new customer but no supply contract has been concluded with another natural gas supplier.
- (6) The natural gas supplier of last resort shall purchase natural gas at the market and under market prices.
- (7) For the purpose of meeting the demand of its final customers, the natural gas supplier of last resort shall secure the necessary transmission and/or distribution capacity and other services from the transmission and distribution system operators, under tariffs approved

and previously published by the Energy Regulatory Commission. if such an obligation has been transferred by the customer under the terms and conditions stipulated in the natural gas supply contract.

- (8) The natural gas supply of last resort shall be a temporary measure in order to allow the affected final customer to negotiate a supply contract with a new natural gas supplier and may not last for more than ninety (90) days.
- (9) In case that the final customer, who is supplied by a natural gas supplier of last resort, fails to conclude a supply contract with a new natural gas supplier in the period prescribed in paragraph (8) of this Article, the natural gas transmission or distribution system operator shall terminate natural gas supply to the final customer in question.
- (10) The supplier of last resort shall sell natural gas at market prices, which shall be published and updated no shorter than monthly on its web page. The supplier of last resort is entitled to request collateral to secure payment from customers not entitled to universal service.
- (11) The natural gas supplier of last resort shall be obliged to develop demand balances for its final customers and submit them to the transmission and/or distribution system operators, pursuant to the Natural Gas Transmission and/or Distribution Grid Code.
- (12) The natural gas transmission system operator and the natural gas distribution system operator shall submit information to the natural gas supplier of last resort about the customers who are transferred to supply of last resort within five (5) days from the notice referred to in paragraphs (2) and (3) of this Article.

#### **Article 98-a**

- (10) The natural gas supplier of last resort shall make all data related to all its transactions contracted for at least the past five (5) years for the purchase and sale of natural gas and its derivatives with wholesale customers, as well as with the natural gas transmission system operator, natural gas distribution system operator(s) or the natural gas market operator, available to the Energy Regulatory Commission, the Commission for the Protection of Competition and to the Energy Community Secretariat.
- (11) The data referred to in paragraph (9) 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 natural gas supply contracts and natural gas derivatives.

#### **Article 98-b**

- (1) Each natural gas supplier shall set up an adequately staffed single contact point from which its final customers shall be promptly provided with all the necessary information and notifications concerning their rights, current regulations and the existing and available mechanisms of dispute settlement.
- (2) The supplier shall also allow be obliged to enable final customers to:
  - 1) receive transparent notification on applicable natural gas 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 customers. Prepayment systems shall be fair and adequately reflect likely consumption. Any difference in terms and conditions shall reflect the costs to the relevant natural gas of the different payment systems;
  - 3) receive available information as regards the possibility to change their natural gas supplier on a free basis;

- 4) receive guidelines instructions for the implementation of transparent, simple and economic procedures for dealing with their complaints. In particular, each natural gas supplier shall ensure that:
    - a. its final customers are provided with a good standard of service in accordance with the Natural Gas Supply Rules and the Consumer Protection Law; and
    - b. the complaints of its final customers are handled properly and in such a way that enables disputes to be settled fairly and promptly, preferably within two (2) months, with provision, where warranted, for a system of reimbursement and/or compensation;
  - 5) receive frequent and accurate notifications on actual natural gas consumption and costs to enable them to regulate their own natural gas consumption. Any such information shall be provided by using a sufficient time frame, which takes account of the capability of customer's metering equipment and the natural gas product in question, with due account taken of the cost-efficiency of such measures and without additional costs being charged to the consumer for that service; and
  - 6) receive a final closure account following any change of natural gas supplier no later than six (6) weeks after the change of supplier has taken place.
- (3) In relation to a single contact point, each natural gas supplier shall also:
- 1) establish customer centres, which shall promptly provide information, handle users' inquiries, requests and complaints, by telephone, e-mail and in person; and
  - 2) establish a commission for complaints in order to protect final customers in accordance with the provisions of the Consumer Protection Law;
  - 3) adjust office hours of the customer centre to customer needs, ensuring that at least one (1) day per week the customer centre remains open until 8 p.m. It shall be possible for customers to make appointments with the customer centre by phone or e-mail,
  - 4) mediate with the natural gas transmission system operator or the relevant natural gas distribution system operator in relation to complaints and/or information that relate to matters, which are regulated by the contract on the use of the natural gas transmission and distribution networks.
- (4) Each natural gas supplier shall, after first obtaining the consent of the Energy Regulatory Commission, provide its final customers with a copy of the energy consumer checklist, which shall contain practical information relating to the rights of natural gas customers and ensure that it is timely published.
- (5) Each natural gas supplier shall undertake any necessary steps required to:
- 1) set up its own internal procedures for handling any complaints of its final customers, which shall be made known to the customers upon request; and
  - 2) handle any such complaint in an efficient way, including through the making of out-of-court dispute settlements.
- The Energy Regulatory Commission shall monitor the way in which any complaints made by final customers to natural gas suppliers are handled pursuant to the provisions of the present Law and other rules adopted by the Energy Regulatory Commission.
- (6) The Natural Gas Supply Rules may further specify the obligations of natural gas suppliers depending on the various categories of their customers and the particularity of each such category with regard to consumption and its respective financial and negotiating power.

## **Article 99**

- (1) The natural gas trader shall purchase natural gas on the natural gas market of the Republic of Macedonia and/or in other natural gas markets, for the purpose of selling it to other natural gas traders, suppliers, electricity and/or heating energy producers, the natural gas transmission and distribution system operators. , as well as to customers abroad.
- (2) The natural gas trader shall be obliged to promptly timely submit to the natural gas transmission system operator information on the natural gas quantities and relevant time schedules related to all natural gas purchase/sale contracts, which it has committed to deliver to its customers, as well as contracts related to cross-border transactions through the transmission system pursuant to the Natural Gas Market Rules and the Rules on the Allocation of Natural Gas Interconnection Transmission Capacity.
- (3) When performing natural gas export or transit, the natural gas trader shall be obliged to secure sufficient transmission, including cross-border transmission, capacity and/or distribution capacity and related services, pursuant to the applicable tariffs and the Natural Gas Transmission Grid Code.
- (4) The natural gas trader shall be obliged:
  - 1) to fulfill the financial guarantee requirements stipulated by the natural gas transmission system operator and related to the obligations on balancing between anticipated and realized natural gas transactions;
  - 2) to submit the Energy Regulatory Commission, on request and within a given deadline, information and reports on the natural gas transactions and business activities originating from, terminating in, or transiting through, the territory of the Republic of Macedonia;
  - 3) to invoice its customers the natural gas delivered, as well as transmission and/or distribution capacity secured, provided it was authorized to secure the capacity in question by the customer;
  - 4) to operate in compliance with the Laws and other regulations in the Republic of Macedonia, the acts adopted by the Energy Regulatory Commission and the Natural Gas Transmission and Distribution Grid Codes; and
  - 5) to operate in compliance with the Natural Gas Supply Rules as regards the confidentiality of data and natural gas quantities delivered to customers.
- (5) A natural gas trader shall make all data related to all its transactions contracted for at least the past five (5) years for the purchase and sale of natural gas and its derivatives with wholesale customers, as well as with the natural gas transmission system operator, the natural gas distribution system operator(s) and/or the natural gas market operator, available to the Energy Regulatory Commission, the Commission for the Protection of Competition and to the Energy Community Secretariat.
- (6) The data referred to in paragraph (6) 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 natural gas supply contracts and natural gas derivatives.

## **Article 100**

- (1) All natural gas customers shall be deemed eligible natural gas customers.

- (2) Final natural gas customers shall be entitled to purchase natural gas from natural gas suppliers or traders, subject to the supplier's agreement, pursuant to the terms and conditions stipulated in the present Law and the Natural Gas Supply Rules.
- (3) Final natural gas customers may purchase natural gas from a supplier who is registered in another State, which has acceded to any relevant international treaty in the field of natural gas, which the Republic of Macedonia has also ratified, provided that any such supplier follows the applicable trading and balancing rules set forth in the Natural Gas Market Rules and the rules on the organisation of the balancing of the natural gas system.
- (4) For the purpose of meeting their own demand, the natural gas customers shall secure relevant transmission and/or distribution capacity or shall transfer this obligation to their suppliers.
- (5) All natural gas customers shall be entitled to switch to a new natural gas supplier under the terms and conditions stipulated in this Law and the Supplier Switching Rules adopted by the Energy Regulatory Commission, provided that the customer in question has respected the contractual conditions of the relevant supplier's agreement.
- (6) The procedure for switching natural gas supplier shall be effected in no more than three (3) weeks from the date at which the natural gas customer in question has served notice to that effect to the relevant natural gas supplier.
- (7) Natural gas customers will be entitled to receive all relevant consumption data from their respective natural gas suppliers. The specific content of the data referred to in this paragraph shall be further elaborated in the Natural Gas Supply Rules
- (8) The rights vested in natural gas customers under paragraphs (2), (6) and (7) of this Article will be effected in a non-discriminatory manner as regards cost, effort or time.

## **VII. 2. UNBUNDLING OF THE NATURAL GASTRANSMISSION SYSTEM OPERATOR**

### **Article 100-a**

- (1) The natural gas transmission system operator in the Republic of Macedonia shall be organised as an independent legal entity, which:
  - 1) owns the transmission system assets;
  - 2) is not part of a vertically integrated undertaking;
  - 3) is separate and independent from other activities in the natural gas sector, as stipulated in the present Law;
  - 4) is certified and designated by the Energy Regulatory Commission; and
  - 5) performs its tasks in accordance with the principles and requirements prescribed in the present Law.
- (2) The owner of the natural gas transmission network shall act as the natural gas transmission system operator.
- (3) In order to ensure the independence of the natural gas transmission system operator, the same person or persons shall not be entitled in the same time to:
  - 1) directly or indirectly exercise control over an undertaking performing any of the functions of production or supply, and directly or indirectly exercise control over, or exercise any right in, a transmission system operator or over a transmission network;
  - 2) directly or indirectly exercise control over a transmission system operator or over a transmission network, and directly or indirectly exercise control over, or exercise any right in, an undertaking performing any of the activity of production or supply;

- 3) appoint members of the supervisory board, the management board or bodies representing the undertaking, of a transmission system operator or a transmission network, and directly or indirectly exercise control over, or exercise any right in, an undertaking performing any of the activities of production or supply; and
  - 4) be a member of the supervisory board, the management board or bodies representing the undertaking, of both an undertaking performing any of the activities of production and/or supply and a transmission system operator or a transmission network.
- (4) The prohibitions 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.
  - (5) The obligation set out in paragraph (2) of this Article shall be deemed to be fulfilled in a situation where two or more natural gas undertakings, which own natural gas transmission networks, have created a joint venture, which acts as a natural gas transmission system operator in two or more Parties to the Energy Community for the transmission system concerned. No other undertaking may be part of the joint venture, unless it has been certified under Article 100-b of the present Law as an independent system operator or under Article 100-e of the present Law as an independent transmission operator.
  - (6) Where the person or persons referred to in paragraph (3) of this Article is the Republic of Macedonia or some other public body, two separate public bodies that exercise control over a natural gas transmission system operator or over a transmission network, on the one hand, and over the natural gas undertaking that performs any of the activities of natural gas production and/or supply, on the other, shall be deemed not to be the same person or persons and a third entity or public authority may not directly or indirectly exercise control over both transmission, on the one hand, and production and supply, on the other hand.
  - (7) The certification of an ownership unbundled natural gas transmission system operator shall be carried out by the Energy Regulatory Commission under the conditions, and in the manner, prescribed in the present Law and the Certification Rules to be adopted by the Energy Regulatory Commission.
  - (8) Any commercially sensitive information held by a natural gas transmission system operator, which was part of a vertically integrated natural gas undertaking, or by the staff of such a natural gas transmission system operator, shall not be transferred to natural gas undertakings performing any of the activities of natural gas production and/or supply.
  - (9) The Energy Regulatory Commission shall impose the corresponding obligations stemming from this Article in the license of the natural gas transmission system operator and develop, adopt and apply the necessary rules and measures required to assure effective monitoring and imposition of penalties upon infringement of the provisions of this Article.
  - (10) The natural gas transmission system operator shall adopt, with the prior approval of the Energy Regulatory Commission, a programme of measures aimed at ensuring that:
    - 1) the principles and conditions guaranteeing its independence are implemented; and
    - 2) data confidentiality and other obligations are fully applicable to itself and to its staff.
      - 1) For the purpose of paragraph (3) of this Article the concept of an "*undertaking performing any of the functions of production or supply*" shall include - in addition to any natural gas undertaking performing any of the functions of natural gas production and/or supply - any undertaking performing any of the functions of electricity generation and/or supply; and



### **Article 100-b**

- (1) By way of exception from the provisions of Article 100-a of the present Law, in the event that on 6 October 2011 the transmission system belonged to a vertically integrated undertaking, at the proposal of the owner of the natural gas transmission network or of the Energy Regulatory Commission, pursuant to the provisions of the present Law, the Government of the Republic of Macedonia may, under the conditions and in the manner stipulated in the present Law, designate an independent system operator.
- (2) The certification of an independent system operator shall be performed pursuant to the conditions and in the manner prescribed in the present Law and shall be carried out by the Energy Regulatory Commission.
- (3) The independent system operator may be designated only if the following requirements have been met:
  - 1) the candidate operator fulfils the requirements referred to in Article 100-a, paragraph (3) of the present Law;
  - 2) the candidate operator is equipped with all requisite financial, material, technical and human resources needed for the performance of its duties;
  - 3) the candidate operator has undertaken to harmonise its activities with the ten-year transmission network development plan, which is supervised by the Energy Regulatory Commission;
  - 4) the candidate operator has provided evidence of its ability to meet the obligations of a natural gas transmission operator, which are set out in the present Law and any relevant applicable bylaws and rules, and of its ability to cooperate with other natural gas transmission system operators on a regional and European level; and
  - 5) the owner of the natural gas transmission network has provided evidence of its ability to meet the obligations set out in Article 100-c, paragraph (2) of the present Law. To that end, all the draft contractual arrangements with the candidate operator and any other relevant undertaking shall be delivered to the Energy Regulatory Commission.

### **Article 100-c**

- (1) The independent system operator shall be responsible for:
  - 1) granting and managing network access and transmission network use, including the collection of access charges, congestion charges, and payments under the inter-transmission system operator compensation mechanism in compliance with the provisions of the present Law, the Natural Gas Transmission Code and any other relevant applicable bylaws and rules;
  - 2) operating and maintaining the natural gas transmission system and developing the transmission network;
  - 3) ensuring the long-term ability of the natural gas transmission network to meet reasonable demand through investment planning; and
  - 4) planning (including authorisation procedure), construction and commissioning of the new transmission network facilities. For this purpose, the independent system operator shall act as the natural gas transmission system operator in accordance with the provisions of the present Law.
- (2) The owner of the natural gas transmission network 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 network investments, which have been decided by the independent system operator and approved by the Energy Regulatory Commission, or give its agreement to financing investments by any interested party including the independent system operator. Such financing arrangements shall be subject to approval by the Energy Regulatory Commission. Prior to giving such an approval, the Energy Regulatory Commission shall consult with the owner of the natural gas transmission network as well as with the other interested parties. If the approval is not granted by the Energy Regulatory Commission, such financing arrangement shall not be realised;
  - 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 the financing of any network expansions with the exception of those investments where, pursuant to item 2) of this paragraph, it has given its approval to financing by any interested party, including the independent system operator.
- (3) The owner of the natural gas transmission network shall not be responsible for approving and managing network access and transmission network use, nor for investment planning.
- (4) For effective monitoring of the compliance of the natural gas transmission system owner with its obligation under this Article the Energy Regulatory Authority shall cooperate with the Commission for the Protection of Competition

#### **Article 100-d**

- (1) Where an independent system operator has been appointed, the owner of the natural gas transmission network owner, which is a structural part of a vertically integrated natural gas undertaking, shall be independent, at least in terms of its legal form, organisation and decision-making, from other activities not relating to natural gas transmission.
- (2) In order to ensure the independence of the owner of the natural gas transmission network referred to in paragraph (1) of this Article, the following shall apply:
  - 1) any persons, who are responsible for the management of the owner of the natural gas transmission network, shall not participate in corporate or other structures of the vertically integrated natural gas undertaking, which are involved, directly or indirectly, in the day-to-day operation of the production, distribution and supply of natural gas;
  - 2) appropriate measures shall be taken to ensure that the professional interests of any persons, who are responsible for the management of the owner of the natural gas transmission network, are taken into account in manner that ensures that they are capable of acting independently;
  - 3) the owner of the natural gas transmission network shall adopt a compliance programme and monitor and supervise its implementation. This programme shall set out the measures taken to ensure that discriminatory conduct is excluded and shall also lay down 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, which is responsible for monitoring the compliance programme in the capacity of compliance officer, to the Energy Regulatory Commission, which the Energy Regulatory Commission and the owner of the natural gas transmission network shall publish in an appropriate form; and
  - 4) to the safety of the employment position of the compliance officer employed at the owner of the natural gas transmission network, the provisions of the labour legislation governing the protection of union representatives shall apply.

### Article 100-e

- (1) By way of exception from the provisions of Article 100-a of the present Law, in case where on 6 October 2011 the transmission system belonged to a vertically integrated undertaking, at the proposal of the owner of the natural gas transmission network, the Government of the Republic of Macedonia may, under the conditions and in the manner stipulated in the present Law, designate an independent transmission operator.
- (2) The certification of an independent transmission operator shall be performed under the conditions and in the manner prescribed in the present Law and shall be carried out by the Energy Regulatory Commission.
- (3) The independent transmission operator shall be equipped with all financial, technical, material and human resources, which are necessary for dully meeting its obligations and shall carry out the activity of natural gas transmission, provided that it fulfills the following specific requirements:
  - 1) the independent transmission operator shall be the owner of any assets that are necessary for the activity of natural gas transmission, that is, the owner of the relevant natural gas transmission network and accompanying assets, which are required for the management, operation, maintenance and development planning of the natural gas system as well as for network construction;
  - 2) the independent transmission operator shall employ all personnel, which is necessary for the activity of natural gas transmission, including the performance of all corporate tasks;
  - 3) the leasing of personnel and the rendering of services, to and from any other part of the structure of the vertically integrated natural gas undertaking, shall be prohibited. The independent transmission operator may, however, render services to the vertically integrated natural gas undertaking as long as:
    - a. the provision of those services does not discriminate between system users, it is available to all system users under the same terms and conditions and it does not restrict, distort or prevent competition in natural gas production and/or supply; and
    - b. if the terms and conditions of the provision of those services are approved by the Energy Regulatory Commission;
  - 4) without prejudice to the decisions of the supervisory board referred to in Article 100-h of the present Law, appropriate financial resources for future investment projects and/or for the replacement of existing assets, which are necessary in order to carry out the natural gas transmission activity, shall be made available to the independent transmission operator in due time by the vertically integrated natural gas undertaking following an appropriate request from the independent transmission operator.
- (4) Any affiliates within the structure of the vertically integrated natural gas undertaking, which perform activities of natural gas production and/or supply, shall not have any direct or indirect shareholding in the independent transmission operator. The independent transmission operator shall neither have any direct or indirect shareholding in any affiliate within the structure of the vertically integrated natural gas undertaking, which perform activities of natural gas production and/or supply, nor receive dividends or any other financial benefit from that affiliate.
- (5) The overall management structure and the internal by-laws of the independent transmission operator shall ensure its full and effective independence from the vertically integrated natural gas undertaking. The vertically integrated natural gas undertaking shall not determine, directly or indirectly, the activities of the independent transmission operator, which are necessary for the preparation of the ten-year network development plan pursuant

to the provisions of the present Law, or the competitive behaviour of the independent transmission operator in relation to the day-to-day activities of natural gas transmission and to the management of the network or in preparation of the ten-year natural gas transmission network development plan pursuant to the present Law.

- (6) The independent transmission operator shall, in its specific corporate identity, communication, branding and premises, be clearly separate from the parent company in the vertically integrated natural gas undertaking and shall not create confusion in respect of the separate identity of the vertically integrated natural gas undertaking or any part thereof. The independent transmission operator shall only be allowed to use those symbols, images, names, letters, numbers, shapes and representations, which appropriately set apart the activities or services provided by the independent transmission operator from those provided by the vertically integrated undertaking.
- (7) The independent transmission operator shall not share IT systems or equipment, physical premises and security access systems with any part of the vertically integrated natural gas undertaking nor use the same consultants or external contractors for IT systems or equipment, and security access systems.
- (8) The independent transmission operator shall provide a guarantee that in terms of IT systems and security access systems it does not jointly use the same consultants and external contractors as the vertically integrated natural gas undertaking.
- (9) The accounts of the independent transmission operator shall be audited by an auditor other than the one auditing the vertically integrated natural gas undertaking or any part thereof. In performing consolidation of accounts of the vertically integrated natural gas undertaking or for other crucial reasons of which the Energy Regulatory Commission must be notified in advance, the auditor may be given access to parts of the accounting books of the independent transmission operator, under the condition that the Energy Regulatory Commission has no objections thereto from the point of view of safeguarding the independence of the natural gas transmission operator. Such an auditor must treat commercially sensitive data and information as confidential, and in particular must not share such information with the vertically integrated natural gas undertaking.
- (10) In addition to the tasks listed specifically in the present Law, the activity of natural gas transmission shall include at least the following:
  - 1) the representation of the natural gas transmission system operator and contacts to third parties and to national regulatory authorities;
  - 2) the representation of the natural gas transmission system operator in international associations and institutions in the natural gas transmission sector;
  - 3) the granting and managing of natural gas network access and natural gas transmission network use on a non-discriminatory basis between system users or categories of system users;
  - 4) the collection of all the natural gas transmission system related charges and prices, including network access fees, system services fees, charges for coverage of natural gas losses in the transmission network, and balancing energy charges;
  - 5) the operation of the natural gas system and the maintenance, development and construction of a secure, efficient and economic natural gas transmission network;
  - 6) investment planning, which shall aim at ensuring the long-term ability of the natural gas transmission network to meet reasonable demand and at guaranteeing security of natural gas supply;
  - 7) the setting-up of appropriate joint ventures, including with one or more natural gas transmission system operators, natural gas market operators, power exchanges, and other relevant actors pursuing the objectives to develop the creation of regional natural

gas markets within the Energy Community and/or to facilitate the liberalisation process, and

- 8) all corporate services, including legal services, accountancy and IT services.

#### **Article 100-f**

- (1) Without prejudice to the decisions of the supervisory board under Article 100-h of the present Law, the independent transmission operator shall have effective decision-making rights, independent from the vertically integrated natural gas undertaking, with respect to assets that are necessary to manage the natural gas system and to maintain, develop and construct the natural gas transmission network as well as the power to raise money on the capital market, in particular through borrowing and capital increase.
- (2) The independent transmission operator shall, at all time, act so as to ensure that it has at its disposal the resources it needs in order to carry out the activity of natural gas transmission properly and efficiently and to develop and maintain an efficient, secure and economically sustainable natural gas transmission network.
- (3) Any commercial and financial relations between the vertically integrated natural gas undertaking, or the entities controlling in any way the vertically integrated natural gas undertaking and the independent transmission operator, including loans from the independent transmission operator to the vertically integrated natural gas undertaking, shall comply with market conditions. The independent transmission operator shall keep detailed records of such commercial and financial relations and make them available to the Energy Regulatory Commission upon request.
- (4) The independent transmission operator shall submit for approval to the Energy Regulatory Commission all commercial and financial agreements with the vertically integrated natural gas undertaking or the entities, which in any way control the vertically integrated natural gas undertaking. Upon verification of compliance with market-oriented and non-discriminatory requirements, within four (4) weeks from the day of receipt of the agreement, the Energy Regulatory Commission shall issue a decision under which the said approval will be granted or refused. If the Energy Regulatory Commission does not notify the independent transmission operator on its decision within the aforementioned period, the agreement shall be deemed to have been approved. The granting of such an approval by the Energy Regulatory Commission shall not be subject to any administrative procedure.
- (5) The independent transmission operator shall inform the Energy Regulatory Commission of the financial resources referred to in paragraph (2) of this Article, which will be available for future investment projects and/or for the replacement of existing assets.
- (6) The vertically integrated natural gas undertaking shall refrain from any action impeding or prejudicing the independent transmission operator from complying with its obligations prescribed by the present Law and shall not require the independent transmission operator to seek permission from the vertically integrated natural gas undertaking in fulfilling those obligations.

#### **Article 100-g**

- (1) The supervisory board of the independent transmission operator referred to in Article 100-h of the present Law shall decide on the appointment, termination and renewal of the term of office, working conditions, including remuneration and other substantive rights, of the members of the management board of the independent transmission operator.
- (2) The member of the management board referred to in paragraph (1) of this Article, whose term of office has been prematurely terminated by virtue of a decision of the supervisory board referred to in Article 100-h of the present Law, may file a complaint with the Energy

Regulatory Commission pursuant to the procedure laid down in Article 36 of the present Law.

- (3) Persons responsible for the management of the independent transmission operator shall be independent in their work and actions. Their independence shall be ensured in the following manner:
  - 1) they shall have no other professional position or responsibility, interest or business relationship, directly or indirectly, with any other part of the vertically integrated natural gas undertaking or with its controlling shareholders;
  - 2) they shall exercise no professional position or responsibility, interest or business relationship, directly or indirectly, with the vertically integrated natural gas undertaking, or any part of it, or with its controlling shareholders other than the natural gas transmission system operator for a period of three (3) years before the appointment. This term shall apply to appointments made after the date on which the present Law enters into force;
  - 3) upon the termination of their contractual relation with the natural gas transmission system operator, they shall have no professional position or responsibility, interest or business relationship with any part of the vertically integrated natural gas undertaking or with its controlling shareholders for a period of not less than four (4) years; and
  - 4) they shall hold no interest in, or receive any financial benefit - directly or indirectly - from, any part of the vertically integrated natural gas undertaking. Their remuneration shall not depend on activities or results of the vertically integrated natural gas undertaking.
- (4) The independent transmission operator shall, without delay, deliver to the Energy Regulatory Commission all proposals for the appointment of board members, who are proposed by the supervisory board referred to in Article 100-h of the present Law and the terms of their agreement with the independent transmission operator, especially the terms relating to commencement, duration and termination of their employment as well as their 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 Energy Regulatory Commission may object to the proposed appointment decision or to the terms of the agreement concluded with the board members where:
  - 1) doubts arise as to the professional independence of a nominated board member within the meaning of paragraph (3) of this Article and the employment terms, including their 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 in any case where it is indicated that the termination circumstances are not in conformity with the provisions of the present Law on the requirements of independence from the vertically integrated natural gas undertaking.
- (6) The provisions set out in paragraph (3) and paragraph (5), item 2) of this Article shall also appropriately apply to persons, who hold managing positions connected with the management of the natural gas system and the maintenance, construction and development of the natural gas transmission network.

#### **Article 100-h**

- (1) The independent transmission operator shall have a supervisory board appointed in line with the provisions of the Companies Law. In addition to competences that a supervisory board has pursuant to the Companies Law, the supervisory board shall also be in charge of taking decisions, which may have a significant impact on the value of the assets of the shareholders of the independent transmission operator, in particular decisions regarding the approval of the annual and longer-term financial plans, the level of indebtedness of

the independent transmission operator and the amount of dividends distributed to the shareholders. Decisions regarding the appointment, renewal, working conditions, including remuneration and other substantive rights, and the termination of agreements with the management board members shall be taken by the supervisory board. The decisions falling under the remit of the supervisory board shall exclude those that are related to the day-to-day activities of the natural gas transmission system operator and to the management of the natural gas transmission network, and to activities necessary for the preparation of the ten-year network development plan.

- (2) The supervisory board shall be composed of members representing the vertically integrated natural gas undertaking, members representing third party shareholders and/or company members and members representing other interested parties, such as employees of the independent transmission operator.
- (3) The provisions of Article 100-g, paragraphs (3) to (5) of the present Law shall apply to at least half of the members of the supervisory board minus one. The provisions of Article 100-g, paragraph (5), item 2) of the present Law shall apply to all members of the supervisory board.

#### **Article 100-i**

- (1) Regardless of its organisational form, the natural gas transmission system operator shall establish a compliance programme, which shall set out the measures to be taken in order to make sure that discriminatory conduct is excluded, and which shall lay down a method for monitoring compliance with that programme. The compliance programme, which shall be subject to approval by the Energy Regulatory Commission, shall also set out the specific obligations of employees to meet those objectives. Compliance with the programme shall be independently monitored by a Compliance Officer.
- (2) The Compliance Officer referred to in paragraph (1) of this Article shall be appointed by the supervisory board, subject to the Energy Regulatory Commission's approval. The Energy Regulatory 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. The conditions set forth in Article 100-g, paragraphs (1) to (3) of the present Law shall apply to the Compliance Officer.
- (3) The Compliance Officer shall be in charge of:
  - 1) monitoring the implementation of the compliance programme;
  - 2) elaborating an annual report, which shall set out the measures taken in order to implement the compliance programme and which shall be submitted by the Compliance Officer to the Energy Regulatory Commission;
  - 3) reporting to the supervisory board and issuing recommendations on the compliance programme and its implementation;
  - 4) notifying the Energy Regulatory Commission on any substantial breaches with regard to the implementation of the compliance programme; and
  - 5) reporting to the Energy Regulatory Commission on any commercial and financial relations between the vertically integrated natural gas undertaking and the natural gas transmission system operator.
- (4) The Compliance Officer shall submit the proposed decisions on the investment plan or on individual investments in the natural gas network to the Energy Regulatory Commission, at the latest by the moment when the management board of the natural gas transmission system operator submits them to the supervisory board.
- (5) Where the vertically integrated natural gas undertaking, in the general assembly or through the vote of the members of the supervisory board whom it has appointed, has prevented

the adoption of a decision with the effect of preventing or delaying investments, which under the ten-year network development plan was to be executed in the following three (3) years, the Compliance Officer shall report this to the Energy Regulatory Commission, which shall then act in accordance with the provisions of the present Law that regulate the development of the transmission network and the authorities for adoption of investment decisions.

- (6) The conditions governing the mandate or the employment conditions of the Compliance Officer, including the duration of his/her mandate or employment, shall be subject to approval by the Energy Regulatory Commission. Those conditions shall ensure the independence of the Compliance Officer, including by providing him/her with all the resources necessary for fulfilling his/her duties. During his/her 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 natural gas undertaking or with its controlling shareholders.
- (7) The Compliance Officer shall report to the Energy Regulatory Commission regularly, either orally or in writing, and shall have the right to report regularly, either orally or in writing, to the supervisory board of the natural gas transmission system operator.
- (8) The Compliance Officer may attend all meetings of the managing staff or management board of the natural gas transmission system operator, and those of the supervisory board and of the general assembly. All the aforementioned bodies shall be under the obligation to inform the Compliance Officer of any scheduled meetings and to provide him/her with all necessary materials. The Compliance Officer shall attend all meetings that address the following matters:
  - 1) conditions for natural gas network access and transmission network use, in particular regarding prices for network use, services related to network access and transmission network use, transmission capacity allocation and congestion management, transparency, balancing and secondary markets;
  - 2) projects undertaken in order to manage the natural gas system and to maintain and develop the transmission network, including investments in natural gas interconnectors and the connections; and
  - 3) energy purchases or sales necessary for the operation of the natural gas system and the transmission system, including ancillary services and balancing service.
- (9) The Compliance Officer shall monitor the compliance of the natural gas transmission system operator with the provisions of the present Law and all relevant applicable laws, bylaws and rules, which regulate the confidentiality obligations imposed on the natural gas transmission system operator and on the owner of the natural gas transmission network.
- (10) The Compliance Officer shall have access to all relevant data and to the offices of the natural gas transmission system operator and to all the information necessary for the fulfilment of his/her tasks. The Compliance Officer shall have access to the offices of the natural gas transmission system operator without prior announcement.
- (11) With the prior approval of the Energy Regulatory Commission, the supervisory board may dismiss the Compliance Officer. The supervisory board shall dismiss the Compliance Officer for reasons of lack of independence or professional capacity upon request of the Energy Regulatory Commission.
- (12) To the safety of the employment position of the Compliance Officer, if employed at the natural gas transmission system operator, the provisions of the labour legislation regulating the protection of union representatives shall apply.



## **Article 100-j**

- (1) Before the designation of a natural gas undertaking as the natural gas transmission system operator, the undertaking in question shall be certified according to the procedure established in the present Law provided that it complies with the criteria for independence pursuant to Articles [depending on the model chosen] above.
- (2) The Energy Regulatory Commission shall continuously monitor the fulfilment of the conditions regarding the unbundling of the natural gas transmission system operators, which are prescribed in the present Law. The Energy Regulatory Commission shall carry out the procedure for the certification of the natural gas transmission system operator. The Energy Regulatory Commission shall issue a certificate to the natural gas transmission system operator as:
  - 1) an ownership unbundled natural gas transmission system operator pursuant to Article 100-a of the present Law; or
  - 2) an independent system operator pursuant to Articles 100-b to 100-d of the present Law; or
  - 3) an independent transmission operator pursuant to Articles 100-e to 100-i of the present Law.
- (3) The certification procedure of the natural gas transmission system operator shall be implemented:
  - 1) at the request of the natural gas transmission system operator in accordance with paragraph (4), item 1) of this Article, or
  - 2) at the initiative of the Energy Regulatory Commission when:
    - a. the natural gas transmission system operator does not submit a certification request pursuant to paragraph (3), item 1) of this Article; or
    - b. the Energy Regulatory Commission receives information that certain changes are planned to be introduced which necessitate the re-certification of the natural gas transmission system operator, or which may lead - or have already led - to an infringement of the unbundling provisions of the present Law;
  - 3) upon a reasoned request from the Energy Community Secretariat.

The procedure for the certification of the natural gas transmission system operator shall be conducted in accordance with the commitments assumed by the Republic of Macedonia under ratified international treaties.

- (4) The natural gas transmission system operator shall:
  - 1) submit without delay a request for certification, if not already certified; and
  - 2) without delay, notify the Energy Regulatory Commission of all planned transactions which might necessitate its re-certification.

The application for certification shall be accompanied by all documents required for the certification, as requested by the Certification Rules to be adopted by the Energy Regulatory Commission.

- (5) Within four (4) months from the date of notification by the transmission system operator of its request for certification or from the date on which the Energy Community Secretariat submits a reasoned request, as the case may be, the Energy Regulatory Commission shall adopt a preliminary decision on the certification of the transmission system operator. The Energy Regulatory Commission shall without delay notify the Energy Community Secretariat on the decision on the certification of the natural gas transmission system operator together with all the relevant information with respect to that decision. The

decision of the Energy Regulatory Commission shall become effective only after conclusion of the procedure laid out in this Article.

- (6) Upon receipt of the opinion of the Energy Community Secretariat, within two (2) months the Energy Regulatory Commission shall issue a final decision on the certification request.
- (7) The decision of the Energy Regulatory Commission and the opinion issued by the Energy Community Secretariat shall be published together. In the certification procedure pursuant to item 1) and 3) of paragraph (2) of this Article, the Energy Regulatory Commission shall take utmost account of the opinion given by the Energy Community Secretariat. The Energy Regulatory Commission shall provide and publish reasoning for possible diverging from the Energy Community Secretariat's opinion.
- (8) By way of derogation from the provisions of paragraph (6) of this Article, when the certification procedure is being conducted in accordance with the provisions of item 2) of paragraph (2), of this Article, the Energy Regulatory Commission shall be obligated to accept the opinion of the Energy Community Secretariat.
- (9) The Energy Regulatory Commission shall keep official records on all contacts realised with the Energy Community Secretariat within the framework of the procedure for certification of the natural gas transmission system operator. The official records shall be placed at the disposal of the undertaking requesting certification and at the disposal of the Ministry. The issued certificate and its reasoning referred to in paragraph (7) of this Article, shall be published in the Official Gazette and on the website of the Energy Regulatory Commission and on the designated section of the website of the Energy Community Secretariat. The Energy Regulatory Commission shall be obligated to keep commercially sensitive data confidential.
- (10) At any time during the certification procedure the natural gas transmission system operator and the natural gas suppliers or natural gas traders shall - upon the request of the Energy Regulatory Commission and/or the Energy Community Secretariat - immediately submit all data and information relevant for fulfilling their tasks in compliance with the provisions of this Article.
- (11) The Energy Regulatory Commission shall adopt Certification Rules.
- (12) After the implementation of the certification procedure in accordance with paragraph (1) of this Article, the Government of the Republic of Macedonia shall, upon the proposal of the Ministry, designate a natural gas transmission system operator and inform, without delay, the Energy Community Secretariat. The designation of the independent system operator pursuant to the provisions of paragraph (1), item 2) of this Article shall also be subject to prior approval from the Energy Community Secretariat.
- (13) If during its supervision the Energy Regulatory Commission establishes that due to violation of the unbundling provisions the certification requirements are no longer fulfilled and withdraws it, the Government of the Republic of Macedonia, at the proposal of the Ministry, shall issue a decision on recall of the natural gas transmission system operator. The decision shall be promptly notified to the Energy Community Secretariat.
- (14) The decision on the designation or recall of the natural gas transmission system operator shall be published in the Official Gazette of the Republic of Macedonia and in the dedicated section of the website of the Energy Community.

#### **Article 100-k**

- (1) Where the certification procedure is initiated upon a certification request submitted by a transmission network owner or a natural gas transmission system operator, which is controlled by a person or persons from a third State or third States, the provisions and timing of Article 100-j shall apply, subject to the derogations that are set out in this Article.
- (2) The natural gas transmission system operator shall without delay notify the Energy Regulatory Commission of any circumstances that would result in a person or persons from

a third State or third States acquiring control of the natural gas transmission system or the natural gas transmission system operator.

- (3) The Energy Regulatory Commission shall, along with delivering its explicit or tacit decision for certification, also notify without delay the Ministry and the Energy Community Secretariat, of:
  - 1) the certification request submitted by a natural gas transmission network owner or a natural gas transmission system operator which is controlled by a person or persons from a third State or third States; and
  - 2) any circumstances that would result in a person or persons from a third State or third States acquiring control of a transmission network or a natural gas transmission system operator in the Republic of Macedonia.
- (4) The Energy Regulatory Commission shall take into consideration - to the greatest possible extent - the opinion given by the Energy Community Secretariat. If the Energy Community Secretariat does not deliver its opinion within the prescribed deadlines, it shall be deemed that the Energy Community Secretariat has no objections to the preliminary decision of the Energy Regulatory Commission.
- (5) The Energy Regulatory Commission shall refuse the certification if it was not demonstrated that
  - a) the entity concerned complies with the requirements of article 100a;
  - b) that it has not been demonstrated that granting certification will not put at risk the security of supply of Macedonia and the Energy Community. In considering that question, the Ministry shall deliver its opinion to the Energy Regulatory Commission therein.
- (6) Within sixty (60) days from the day of reception of the notification the Ministry shall clearly establish that the granting of the certification by the Energy Regulatory Commission will not put at risk the security of energy supply of the Republic of Macedonia or of any other Contracting Party to the Energy Community and shall deliver its opinion to the Energy Regulatory Commission. In considering that question, the Ministry shall take into account:
  - 1) the rights and obligations of the Energy Community with respect to that third State, which arise under international law, including any agreement concluded with one or more third States to which the Energy Community is a party and which addresses the issues of security of energy supply, ,
  - 2) the rights and obligations of the Republic of Macedonia with respect to that third State arising under agreements concluded with it, insofar as they are in compliance with the Energy Community law;
  - 3) the rights and obligations resulting from association or trade agreement between the Republic of Macedonia and the European Union; and
  - 4) other specific facts and circumstances of the case and of the third State concerned.
- (7) The Energy Regulatory Commission shall take the opinion of the Ministry into account when issuing the certificate and shall refuse the certification if the conditions referred to in paragraph (5) have not been demonstrated.
- (8) Provided that all conditions referred to in this Article have been met, the Energy Regulatory Commission shall issue the certificate to the natural gas transmission system operator in relation to third States within the procedure as stipulated in Article 100-j.

## VIII CRUDE OIL, OIL DERIVATIVES AND FUELS FOR TRANSPORT MARKET

### Article 101

- (1) The entities performing energy activities on:
- 1) crude oil processing and oil derivatives production;
  - 2) biofuels' and bioliquids' production;
  - 3) production of fuels for transport by blending fossil fuels and biofuels;
  - 4) transport of crude oil or oil derivatives through oil pipelines or product pipelines;
  - 5) storage of crude oil, oil derivatives, biofuels, bioliquids and fuels for transport;
  - 6) trading in crude oil, oil derivatives, fuels for transport, biofuels and bioliquids,
- shall be obliged to use and maintain the facilities, devices and plants intended for the performance of the relevant energy activity, pursuant to the technical regulations and standards and any other regulations on reliable and safe operation and environmental protection.
- (2) The technical regulations referred to in paragraph (1) of this Article shall be adopted by the Minister, upon previously obtained consent from the Minister competent for matters in the transport and communications field, the Minister competent for matters in the environmental protection field and the Minister competent for matters in the internal affairs field.

### Article 102

- (1) The entity performing crude oil and/or oil derivatives transport activities through an oil pipeline and/or product pipeline shall be obliged to adopt an the rules governing the operation of the oil pipeline or product pipeline and publish them on its website. These rules shall stipulate in particular:
- 1) the technical terms and conditions on crude oil or oil derivatives transport;
  - 2) the technical terms and conditions on safe operation of the oil pipeline or product pipeline;
  - 3) the measures and procedures to be implemented in cases of outages;
  - 4) the manner, terms and conditions as well as the procedure regulating third party access to the crude oil or oil derivatives transport system;
  - 5) the operational requirements and accuracy class of metering devices, as well as the metering method for crude oil or oil derivatives transported quantities; and
  - 6) any other terms and conditions required for safe and reliable transport.
- (2) The entity performing crude oil and/or oil derivatives transport activities through an oil pipeline or product pipeline shall be obliged to develop the rules referred to in paragraph (1) of this Article pursuant to the technical regulations referred to in Article 101 of the present Law and submit them for approval to the Ministry, upon previously obtained opinions from the Ministers referred to in Article 101, paragraph (2) of the present Law. The Ministries shall be obliged to submit their opinions to the Ministry within a period of maximum sixty (60) days.

### **Article 103**

- (1) Any wholesale trader in fuels shall purchase crude oil, oil derivatives, biofuels, bioliquids and/or fuels for transport from the producers, trade with other wholesale traders in fuels and supply the retail traders in fuels and final customers.
- (2) Any wholesale trader in fuels should own or have the right to use the storage premises for crude oil, oil derivatives, biofuels, bioliquids and/or fuels for transport.
- (3) Any wholesale trader in fuels shall be obliged to hold operational reserves in oil derivatives and fuels for transport at all times in the quantity sufficient to cover at least five-day average volume of trade, calculated on the basis of actual trade in each oil derivative separately for the previous year.
- (4) Consumers can purchase oil derivatives, biofuels, bioliquids and fuels for transport also from abroad, provided that the oil derivatives or fuels for transport are used for their own use, and this activity shall not require a license on wholesale trade in crude oil, oil derivatives, biofuels, bioliquids or fuels for transport.

### **Article 104**

- (1) The wholesale trader in crude oil, oil derivatives and fuels for transport can fill and distribute pressure vessels with liquefied petroleum gas (LPG) for single or multiple use provided it has already constructed or obtained the right to use the LPG filling facilities which fulfill the stipulated requirements and standards related to construction, maintenance and safe operation.
- (2) The trader's logo must be placed on each individual pressure vessel for LPG.

### **Article 105**

- (1) The retail trader in fuels shall perform its activity at petrol stations or appropriate facilities that meet the requirements stipulated by law or other regulation.
- (2) The retail trader in fuels can display or otherwise use the logo of fuel producers or of the wholesale trader in fuels pursuant to a mutual agreement, for the purpose of indicating the origin of the oil derivative or fuel for transport, thus guaranteeing to the final customers reliable and uninterrupted supply in oil derivatives and fuels for transport under the quality guaranteed by the relevant producer of wholesale trader.

### **Article 106**

- (1) Storage facilities or reservoirs for crude oil, oil derivatives, biofuels, bioliquids or fuels for transport should be constructed and used pursuant to the stipulated requirements related to their construction, maintenance and safe operation.
- (2) Storage facilities for crude oil, oil derivatives, biofuels, bioliquids or fuels for transport shall be technical, technological and operational storage unit, comprised of reservoirs and amenities.
- (3) Owners or leasers of storage facilities for crude oil, oil derivatives or fuels for transport that are not used for their own needs or are not an integral part of petrol stations, shall be obliged to obtain a license on storage of crude oil, oil derivatives, biofuels and/or fuels for transport activity.

#### **Article 107**

- (1) Matters relating to the promotion of the use of biofuels and bioliquids in the Republic of Macedonia will be specifically dealt with in the Law on Biofuels.

#### **Article 108**

- (1) The Government of the Republic of Macedonia, on the proposal from the Ministry, shall adopt an Act on Liquid Fuels Quality.
- (2) The act referred to in paragraph (1) of this Article, shall contain in particular:
  - 1) type of liquid fuels that can be marketed, as well as their characteristics;
  - 2) manner of determining the liquid fuel quality;
  - 3) energy content of transport fuels so that any such content will be compliant with the commitments assumed by the Republic of Macedonia under ratified international treaties;
  - 4) manner and procedure on monitoring the liquid fuel quality;
  - 5) rights and obligations of the crude oil, oil derivatives and fuels for transport market participants referred to in Article 110 of the present Law;
  - 6) rights and obligations of market participants and state authorities in the transitional period required for replacing the reserves of blends of fossil fuels and biofuels for transport.
- (3) The liquid fuels market participants shall be obliged to comply with the obligations stipulated in the act referred to in paragraph (1) of this Article.

#### **Article 109**

- (1) The maximum refinery and retail prices for oil derivatives and the maximum retail prices for blends of fossil fuels and biofuels shall be set pursuant to the price-setting regulation for oil derivatives and fuels for transport referred to in Article 24, paragraph (2) of the present Law.
- (2) When setting the maximum retail prices for blends of fossil fuels and biofuels, the maximum refinery price for the relevant derivative, the stock market price of biofuels and the blending costs should be taken into consideration, pursuant to the regulation referred to in Article 24, paragraph (2) of the present Law.
- (3) The decision on the maximum refinery and retail prices for oil derivatives shall be adopted by the Energy Regulatory Commission, on the request for setting the maximum refinery prices for oil derivatives submitted from the company for crude oil processing and oil derivatives production, pursuant to the regulation referred to in Article 24, paragraph (2) of the present Law.
- (4) The decision on the maximum retail prices for blends of fossil fuels and biofuels shall be adopted by the Energy Regulatory Commission after the decision referred to in paragraph (3) of this Article has entered into force, pursuant to the regulation referred to in Article 24, paragraph (2) of the present Law.

#### **Article 110**

- (1) The producers, wholesale traders in fuels and retail traders in fuels shall be responsible for the quality of oil derivatives and fuels for transport, pursuant to the act that regulates the quality of liquid fuels referred to in Article 108 of the present Law.

- (2) The quality of oil derivatives and fuels for transport shall be confirmed by a compliance statement issued by an accredited laboratory to the producers or wholesale traders of oil derivatives or fuels for transport.

## **IX HEATING ENERGY MARKET**

### **Article 111**

- (1) For the purpose of reliable, safe, uninterrupted and quality heating energy supply to the final customers on their territories, the local self-government units shall be obliged to enable the performance of the following energy activities:
  - 1) heating energy generation;
  - 2) heating energy distribution; and
  - 3) heating energy supply.

### **Article 112**

- (1) The heating energy producer shall:
  - 1) own and operate the heating energy generation plant pursuant to the present Law, all relevant laws and bylaws, the Heating Energy Distribution Grid Code and the terms, conditions and criteria stipulated in the license; and
  - 2) sell the heating energy to the heating energy distribution system operator it is connected to, under the terms and conditions stipulated in the present Law.
- (2) The heating energy producer can also sell heating energy to final customers, which are not connected to the heating energy distribution system, but which are directly connected to its generation plant.
- (3) The heating energy producer shall be obliged to submit to the Energy Regulatory Commission and the Mayor of the local self-government unit annual reports on the equipment, facilities, maintenance plans, as well as the planned capacity, pursuant to the license issued.
- (4) For the purpose of securing reliability of heating energy supply, the heating energy producers using mazut as fuel shall be obliged to secure operational stocks of mazut at all times in quantity equal to at least fifteen-day demand under maximum capacity operation.

### **Article 113**

- (1) The regulated heating energy producer shall be obliged to provide the public service heating energy generation to address the final customers demand and provide energy to cover system losses, ancillary reserves and services for the purpose of maintaining the required operational parameters (temperature and pressure) within the heating energy system to which it is connected.
- (2) The regulated heating energy generation activity shall be performed on the basis of license issued upon the open call announcement by the Energy Regulatory Commission. The open call should indicate the terms and conditions to be met by the entities performing the activity, and in particular:
  - 1) to own, or hold the right to use facilities intended for heating energy generation, not smaller than two thirds of the total installed capacity of connected final customers in the year preceding the year when the open call was announced;

- 2) to be able to maintain the stipulated temperature mode of its heating energy generation plants and required pressure of the heat carrier as stipulated under the Heating Energy Distribution Grid Code;
  - 3) to present proof of financial ability to purchase the fuel required for heating energy generation;
  - 4) to dispose with organisational structure and professionals that would enable reliable, safe and uninterrupted heating energy generation under the stipulated quality.
- (3) As an exception from paragraph (2) of this Article, the heating energy producer, which is the sole producer in the heating energy distribution system shall be issued a license on regulated heating energy generation.
  - (4) On the request from the regulated producer, the Energy Regulatory Commission shall set the charge to be paid to the regulated producer for the services provided in the heating energy system. When setting the charge, due consideration shall be taken of the fixed and variable costs of the regulated producer, as well as the reasonable return of capital. The charge shall be comprised of two portions: charge on the provision of ancillary services and system reserve and regulated price for the heating energy generated.
  - (5) The Energy Regulatory Commission shall adopt the Price-Setting Rulebook for Heating Energy and Ancillary Services, based on the principles referred to in Article 24, paragraph (3) of the present Law, by means of which it shall stipulate the manner, procedure and price-setting methodology for ancillary services and system reserve charges, the regulatory price for the heating energy generated referred to in paragraph (4) of this Article, as well as the manner of calculating and the regulatory period for which the average price for heating energy is calculated referred to in Article 116, paragraph (7) of the present Law.

#### **Article 114**

- (1) Heating energy distribution shall be performed by legal entities that own heating energy distribution systems or based on contract for establishing a public-private partnership on new system construction or Contract for establishing a public-private partnership on the public service management, use, maintenance and expansion / upgrading of the existing heating energy distribution system, or by public enterprises established by the local self-government units.
- (2) Based on the license issued, the heating energy distribution system operator shall perform the heating energy distribution activity and shall operate the heating energy distribution system.
- (3) Heating energy system users shall be the heating energy producers, suppliers and final customers.
- (4) The heating energy distribution system operator can temporarily discontinue the energy delivery from the heating energy system in the course of planned inspections, testing and control metering, overhauls and reconstruction and expansion of facilities, devices and installations.
- (5) The temporary interruptions referred to in paragraph (4) of this Article can be performed by the heating energy distribution system operator at times when it causes the least damage to users, pursuant to the Heating Energy Distribution Grid Code.

#### **Article 114-a**

- (1) The Local Self-Government Units shall enact the procedure for awarding a contract for establishing a public-private partnership on the public service management, use,



maintenance and expansion/upgrading of the existing heating energy distribution system and energy distribution.”

- (2) The period for which the Contract has been awarded for the establishment of a public-private partnership referred to in Paragraph (1) of this Article shall not be longer than thirty five (35) years.
- (3) The private partner shall not have the right to transfer the Contract for establishing the public-private partnership to another legal entity without a prior written consent by the public partner.”
- (4) The Council of the Local Self-Government Unit, upon the proposal of the Mayor, shall adopt a Decision for enactment of the procedure for awarding a contract for establishing a public-private partnership on management, use, maintenance and expansion/upgrading of the existing heating energy distribution system.
- (5) The provisions of the Law on Concessions and Public-Private Partnership and its provisions shall apply to the procedure for awarding a contract for establishing a public-private partnership and to the Contract for establishing a public-private partnership.

#### **Article 115**

- (1) The heating energy distribution system operator shall be obliged to maintain, upgrade and expand the heating energy distribution grid in the system and shall be obliged:
  - 1) to secure safe and reliable heating energy distribution system operation, pursuant to the Heating Energy Distribution Grid Code and under terms and conditions stipulated in the license;
  - 2) to maintain, develop and, when deemed cost-effective, expand the distribution system, pursuant to the Heating Energy Distribution Grid Code, as well as by means of system development plans, harmonized with the energy development plans and programs of the local self-government units where the heating system is located;
  - 3) to allow users access and/or connection to the distribution system, in compliance with the Heating Energy Distribution Grid Code, under prices and tariffs previously approved and published by the Energy Regulatory Commission;
  - 4) to secure the heating energy required to cover losses occurred in the distribution grid and ancillary systems from the regulated producer;
  - 5) to purchase, install and maintain metering devices on the exit points of generation plants and at heating substations connected to final customers’ facilities and to meter the heating energy received from or delivered to the heating system, pursuant to the Heating Energy Distribution Grid Code;
  - 6) to take all stipulated safeguard measures in the course of heating energy distribution system use, as well as environmental protection measures;
  - 7) to deliver heating energy from the connection point with the generation facilities to the connection points with final customers connected to the system (heating substation), pursuant to the Heating Energy Distribution Grid Code and the terms and conditions stipulated in the license;
  - 8) to secure quality heating energy delivery through the distribution system;
  - 9) to harmonize the operations in the system with the producers, for the purpose of uninterrupted heating energy distribution;
  - 10) to supervise and test the heating energy distribution system;
  - 11) to monitor the technical and operational status at the heating energy distribution facilities; and
  - 12) to develop long-term heating energy demand forecasts.

### **Article 116**

- (1) The heating energy distribution system operator shall purchase the heating energy generated by the producers connected to the distribution system it operates.
- (2) The share of energy generated by the regulated producer in the total energy delivered through the distribution system shall be determined on the basis of the technical possibilities of the regulated producer and the parameters of the heating energy delivered by other producers.
- (3) The heating energy distribution system operator shall be obliged, upon previously obtained approval from the Energy Regulatory Commission, to sign contract with the regulated heating energy producer for a period not shorter than one (1) year and concerning:
  - 1) the provision of ancillary reserve;
  - 2) the provision of ancillary services required to secure the distribution system's operational parameters;
  - 3) the provision of heating energy to cover distribution system losses; and
  - 4) the provision of heating energy to address final customers demand.
- (4) The contract referred to in paragraph (3) shall stipulate in particular:
  - 1) the manner and procedure on ancillary reserve and services provision, pursuant to the Heating Energy Distribution Grid Code; and
  - 2) the payment manner for services and heating energy provided by the regulated producer in the distribution system.
- (5) The heating energy distribution system operator shall be obliged to purchase the heating energy delivered by the heating energy producers to the distribution system, provided that the heating energy price offered by the producer is lower than the regulated price for the heating energy generated by the regulated producer.
- (6) The heating energy distribution system operator shall be obliged, upon previously obtained approval from the Energy Regulatory Commission, to sign contracts with heating energy suppliers on heating energy sale intended to address the final customers demand.
- (7) The price under which the heating energy distribution system operator sells heating energy to suppliers shall be calculated as an average price of the regulated producer's price and the procurement prices applied by other producers and shall include the charge for the ancillary services provided by the regulated producer.
- (8) The heating energy distribution system operator shall be obliged to submit the Energy Regulatory Commission all documents related to the implementation of contracts signed with heating energy producers and suppliers, as well as the financial reports and audited financial reports developed by a certified auditor, operation reports and other data, pursuant to the terms and conditions stipulated in the license issued by the Energy Regulatory Commission.

### **Article 117**

- (1) The heating energy distribution system operator shall be obliged, upon previously obtaining the approval of the Energy Regulatory Commission, to adopt and publish in the "Official Gazette of the Republic of Macedonia" and on its website the Heating Energy Distribution Grid Code, which shall stipulate in particular:

- 1) the technical and technological terms and conditions for connecting final customers and heating energy producers to the heating energy distribution system, based on the principles of non-discrimination, objectivity and transparency;
- 2) the technical and other terms and conditions that should be secured by the heating energy distribution system users;
- 3) the measures, activities and procedures in cases of outages;
- 4) the terms and conditions and manner of third party access to the heating energy distribution system, based on the principles of non-discrimination, objectivity and transparency;
- 5) the operational requirements and accuracy class of metering devices, as well as the metering and billing method for the heating energy delivered; and
- 6) the contents of distribution system development plans, as well as the manner and procedure under which the system users shall submit data required for the development plans;
- 7) the manner and procedure on ancillary reserve and services provision by the regulated producer;
- 8) the manner and procedure on data exchange between the distribution system operator, regulated producer, producers and suppliers; and
- 9) the manner and procedure on the provision of information to system users.

#### **Article 118**

- (1) The heating energy supplier shall be obliged to supply the final customers with whom it has signed supply contracts reliable, uninterrupted and quality heating energy supply, pursuant to the Heating Energy Supply Rules, the supply contracts signed and the license issued.
- (2) For all heating energy systems where it supplies the final customers, the heating energy supplier shall be obliged to sign annual contracts with the heating energy distribution system operator as regards the heating energy purchase intended to address the final customers demand, as well as a contract on distribution system use, under prices and tariffs previously approved and published by the Energy Regulatory Commission.
- (3) The contracts referred to in paragraph (2) of this Article shall be approved by the Energy Regulatory Commission and shall stipulate in detail the mutual rights and obligations of suppliers and distribution system operators, based on the Heating Energy Distribution Grid Code and the Heating Energy Supply Rules.
- (4) The heating energy supplier shall be obliged to submit to the Energy Regulatory Commission annual reports on heating energy sold, pursuant to the terms and conditions stipulated in the license.
- (5) The heating energy supplier shall be obliged to submit the annual reports referred to in paragraph (4) of this Article to the Ministry and Mayor of the local self-government unit on the territory of which it performs the activity.

#### **Article 119**

- (1) Metering devices located at the exit points of the generation plant and metering devices located at the heating substations by means of which final customers' facilities are connected to the distribution grid shall be owned by the heating energy distribution system operator.

- (2) The location of metering devices shall be determined by the distribution system operator, depending on the technical possibilities at the site and they can be located on or outside the final customer's property.
- (3) When the metering device is located on the user's property, the user shall be obliged to allow the authorized person from the heating energy distribution system operator access to metering devices or connection on any property or facility, for the purpose of:
  - 1) reading metering devices;
  - 2) control, installation, supervision, change and maintenance of metering equipment;
  - 3) disconnecting the user in cases when it has acted in violation to terms and conditions for distribution grid use as stipulated in the Heating Energy Distribution Grid Code;
  - 4) disconnecting the final customer, on the request from the supplier, pursuant to the provisions of the Heating Energy Supply Rules.
- (4) Devices by means of which heating energy is locally allocated among different final customers at one building covered by one metering device shall be an integral part of the system for metering heating energy consumed at the building and shall be owned by the distribution system operator.
- (5) The installation of devices referred to in paragraph (4) of this Article, as well as the allocation and calculation methodology for heating energy consumed shall be stipulated under the Heating Energy Distribution Grid Code.
- (6) The method for reading the devices referred to in paragraph (4) of this Article shall be stipulated in the supply contract signed between the supplier and the final customer, pursuant to the Heating Energy Supply Rules.

#### **Article 120**

- (1) The heating energy final customers connected to the distribution system on the territory where the heating energy system is already established shall be entitled to choose their supplier at own preference.
- (2) The heating energy supplier, based on data from reading metering devices and local allocation devices referred to in Article 119, paragraph (4) of the present Law, shall invoice and collect the heating energy delivered to final customers under the price calculated comprised of the average price for heating energy referred to in Article 116, paragraph (7) of the present Law for the regulatory period set pursuant to Article 113, paragraph (5) of the present Law, the tariff on distribution system use and the heating energy supply charge.
- (3) The threshold of the supply charge referred to in paragraph (2) of this Article shall be determined by the Energy Regulatory Commission, by means of a decision adopted prior to the beginning of any calendar year.

#### **Article 121**

- (1) The license holder on regulated heating energy generation cannot hold license on heating energy distribution and supply activities.
- (2) The license holder on heating energy distribution cannot hold licenses on heating energy generation and supply activities.
- (3) As an exception from paragraphs (1) and (2) of this Article, when the total installed capacity of final customers within a heating energy system is lower than 80 MW, the licenses on heating energy generation or regulated heating energy generation, heating

energy distribution system operator and heating energy supply can be issued to one entity.

## **X THIRD PARTY ACCESS AND CONNECTION TO GRIDS**

### **Article 122**

- (1) The electricity and natural gas transmission and/or distribution system operators shall be obliged, on the basis of the tariffs published in advance, to allow access to the relevant system for all system users, including eligible customers, in a transparent and objective manner that prevents discrimination between system users.
- (2) The electricity and natural gas transmission and/or distribution system operators shall be obliged to allow connection to the relevant system, pursuant to the relevant Grid Code:
  - 1) for all final electricity customers and other users of the electricity transmission and distribution systems on the territory of the Republic of Macedonia;
  - 2) for all final natural gas or heating energy customers and users of the natural gas or heating energy transmission and distribution systems on the territory where the service is provided, .
- (3) Transmission and distribution of electricity from renewable sources is guaranteed.
- (4) The electricity transmission and/or distribution system operators shall provide priority access to the grid and priority dispatch for the electricity generated from renewable energy sources or for the high efficiency co-generation plants in an objective, transparent and non-discriminatory manner, after taking due consideration of limits stemming from the possibilities in the electricity system.
- (5) For reasons of the security of supply, the electricity transmission and/or distribution system operators may give priority for the dispatch of generating installations using indigenous primary fuel sources to an extent not exceeding, in any calendar year, 15% of the overall primary energy necessary to produce the electricity consumed in the Republic of Macedonia.
- (6) The electricity transmission and distribution system operators shall prescribe in their respective Electricity Transmission and Distribution Grid Codes the methods, conditions and limitations of giving the priority access to the grid and/or priority dispatch defined in paragraphs (3) and (4) of this Article. For the purpose of monitoring the fulfillment of the limitation in priority dispatching the transmission and/or distribution system operators shall regularly report all of their priority dispatched quantities to the Energy Regulatory Commission.
- (7) The Energy Regulatory Commission shall ensure that:
  - 1) appropriate grid and market-related operational measures are taken in order to minimise the curtailment of electricity that is generated from renewable energy sources and/or at high efficiency co-generation plants; and
  - 2) the conditions and limitations of giving priority dispatch are observed.
- (8) If the electricity transmission and distribution system operator takes significant measures to curtail electricity generated from renewable energy sources and/or at high efficiency co-generation plants in order to guarantee the security of the electricity system and security of energy supply, the electricity transmission and distribution system operator in question shall be obliged to report to the Energy Regulatory Commission on those measures and indicate which corrective measures it intends to take in order to prevent inappropriate curtailments.

### Article 123

- (1) The electricity and natural gas transmission and/or distribution system operator shall be obliged to allow existing and new system users access to the relevant transmission or distribution grid, pursuant to the relevant Grid Code and Supply Rules:
  - 1) in an objective, transparent and non-discriminatory manner;
  - 2) based on the principles of regulated third party access; and
  - 3) under prices and tariffs previously approved and published by the Energy Regulatory Commission.
- (1) The electricity transmission and/or distribution system operator shall not be entitled:
  - 1) to refuse the connection of a new system user on the grounds of possible future limitations to available network capacities, such as congestion in parts of the transmission and/or distribution system;
  - 2) to refuse a new connection point, on the ground that it will lead to additional costs linked with necessary capacity increase of system elements in the close-up range to the connection point.
- (3) The natural gas transmission and/or distribution system operator shall not be entitled to refuse the connection of a new industrial customer on the grounds of possible future limitations to available network capacities or additional costs linked with necessary capacity increase. The natural gas transmission and/or distribution system operator shall ensure sufficient entry and exit capacity for the new connection.
- (4) The electricity transmission and/or distribution system operator may refuse access to the relevant transmission or distribution system only where:
  - 1) it lacks the necessary transmission or distribution capacity;
  - 2) the provision of access to some network user would put at risk the reliability of electricity supply in the Republic of Macedonia.
- (5) In any case where a refusal of access takes place, the electricity transmission and/or distribution system operator shall:
  - 1) provide in writing duly substantiated reasons for any such refusal, which must be based on objective and technically and economically justified criteria;
  - 2) specify the criteria on the basis of which access to the electricity transmission or distribution system will be refused for a limited period of time.
- (6) Prior to applying the criteria of paragraph (5) of this Article, the Energy Regulatory Commission shall:
  - 1) approve the criteria referred to in paragraph (5) of this Article;
  - 2) ensure that they are published on its website and/or the website of the corresponding transmission or distribution system operator together with an advice on how any system user, who has been refused access, can make use of a dispute settlement procedure; and
  - 3) ensure that they are consistently applied.
- (7) The natural gas transmission and/or distribution system operator may refuse access to the relevant transmission or distribution system only where:
  - 1) it lacks the necessary transmission and/or distribution capacity;
  - 2) the provision of access to the relevant system would prevent the relevant system operator from carrying out its public service obligation; and/or

- 3) the provision of access to the relevant system would cause to the system operator in question serious economic and financial difficulties with take-or-pay contracts.
- (8) The natural gas transmission and/or distribution system operator, who has refused access under paragraph (7) of this Article, shall provide in writing duly substantiated reasons for any such refusal.
- (9) The system user, whose access to the electricity or natural gas transmission or distribution system has been refused under paragraph (4) or under paragraph (7) of this Article, or who is dissatisfied with the terms and conditions on system access can lodge a complaint before the Energy Regulatory Commission in accordance with the procedure laid down in Article 36 of the present Law.
- (10) The Energy Regulatory Commission shall ensure, where appropriate and when refusal of access takes place under paragraphs (4) and (5) of this Article, that the electricity transmission and/or distribution system operator provides relevant information on measures that would be necessary to reinforce the network. The party requesting such information may be charged a reasonable fee, which shall be approved by the Energy Regulatory Commission, reflecting the cost of providing such information.
- (11) The natural gas transmission and/or distribution system operator, who has refused access to the relevant 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 them.

#### **Article 123-a**

- (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 gas-purchase contracts, it may send an application to the Energy Regulatory Commission requesting a temporary derogation from the provisions of the present Law that regulate third party access to the natural gas system. Any such application may be presented on a case-by-case basis either before or after any refusal of access to the system.
- (2) Where a natural gas undertaking has refused access, the application referred to in paragraph (1) of this Article shall be presented without delay. The applications 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. If alternative solutions are not reasonably available, and taking into account the criteria referred to in paragraph (3) of this Article, the Energy Regulatory Commission may decide to grant a derogation, which must be duly substantiated.
- (3) When deciding on the derogation referred to in paragraph (1) of this Article, the Energy Regulatory Commission shall take into account, in particular, the following criteria:
  - 1) the objective of achieving a competitive gas market;
  - 2) the need to fulfill the provision of public service obligations and to ensure the security of natural gas supply;
  - 3) the position of the natural gas undertaking in the gas market and the actual state of competition in that market;
  - 4) the seriousness of the economic and financial difficulties encountered by the natural gas undertaking and natural gas transmission undertakings 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 natural gas undertaking could reasonably have foreseen, having regard to the provisions of the present Law, that serious difficulties were likely to arise;

- 8) the level of connection of the natural gas system with other natural gas systems and the degree of interoperability of those systems; and
  - 9) the effects the granting of a derogation would have on the correct application of the provisions of the present Law as regards the smooth functioning of the domestic market in natural gas.
- (4) The Energy Regulatory Commission shall notify without delay the Energy Community Secretariat of its decision to grant the derogation referred to in paragraph (1) of this Article together with all the relevant information with respect to the derogation. The information referred to in this paragraph may be submitted in an aggregated form. Within eight (8) weeks from the date on which the decision on the derogation was notified by the Energy Regulatory Commission, an advisory opinion may be submitted to the Energy Regulatory Commission by the Energy Community Secretariat, which may invite the Energy Regulatory Commission to amend or withdraw its decision to grant the derogation.
- (5) A decision made by the Energy Regulatory Commission on a request for a derogation concerning take-or-pay contracts, which have been 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:
- 1) the sales of natural gas do not fall below the level of minimum offtake guarantees contained in gas-purchase take-or-pay contracts; or
  - 2) in so far as the relevant gas-purchase take-or-pay contract can be adapted; or
  - 3) the natural gas undertaking in question is able to find alternative outlets.
- (6) Natural gas undertakings, which have not been granted a derogation pursuant to the provisions of this Article, shall not refuse, or shall no longer refuse, access to the natural gas system because of take-or-pay commitments accepted in a gas purchase contract.

#### **Article 124**

- (1) Electricity undertakings may request that new direct current interconnectors are exempted for their entire capacity or for a part of the respective capacity, for a limited period of time, from the application of the provisions of Article 22, paragraph (1), items 8) and 13), of Article 23, paragraph (1), item 4), of Article 83-a and of Article 67-d, paragraph (7), as well as from the application of the provisions of Part X of the present Law, which regulate third-party access to the electricity transmission system. Such an exemption may be granted under the following conditions:
- 1) the investment in question results in increased competition in, and reliability of, electricity supply;
  - 2) the level of risks attached to the investment in question are such so that the investment cannot be realized unless the exemption is provided;
  - 3) the interconnector must be owned by an entity which, at least in its legal form, is separate from the electricity transmission system operator of the Republic of Macedonia and the transmission system operator of the electricity system with which the interconnector is to be constructed;
  - 4) charges are levied on users of that interconnector;
  - 5) since 1 July 2007 not a single part of the capital or of the 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 detrimental to competition or adversely affect the effective functioning of the electricity market in the Energy Community, as well as the efficient operation of the regulated transmission system to which the interconnector is linked.
- (2) Paragraph (1) of this Article shall also apply:



- 1) in exceptional cases, to alternating current interconnectors provided that the costs and risks attached to the relevant investment are particularly high when compared with the costs and risks normally incurred when connecting two transmission systems by an alternating current interconnector; and
  - 2) to significant increases of capacity in existing interconnectors.
- (3) The decision on the exemption under paragraphs (1)-(2) of this Article shall be taken on a case-by-case basis by the Energy Regulatory Commission and the regulatory authority of the other State(s) concerned. An exemption may cover all or part of the capacity of the new interconnector, or of the existing interconnector with significantly increased capacity.
  - (4) Without any delay, the Energy Regulatory Commission shall inform about the request for exemption, which has been received, the Energy Community Regulatory Board. Subsequently, the Energy Regulatory Commission shall communicate the request to the regulatory authority of the other State(s) concerned seeking mutual agreement on the exemption decision in a period, which shall last no longer than six (6) months.
  - (5) Within two (2) months from the date on which the request for exemption was received by the Energy Regulatory Commission, an advisory opinion may be submitted to the Energy Regulatory Commission by the Energy Community Regulatory Board. This advisory opinion could provide a basis for the Energy Regulatory Commission's decision.
  - (6) In deciding to grant an exemption, the Energy Regulatory Commission shall give consideration, 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 in question. When deciding those conditions, account shall, in particular, be taken of any 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 Energy Regulatory Commission shall issue a decision which shall specify the rules and mechanisms for the management and allocation of capacity. The relevant congestion management rules, which shall be set out in the aforementioned decision, 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 paragraph (1), items 1), 2) and 6) of this Article, the results of the capacity allocation procedure shall be taken into account.
  - (8) Where the Energy Regulatory Commission and the regulatory authority of the other State(s) concerned have reached agreement on the exemption decision within six (6) months, the Energy Regulatory Commission shall inform about that decision the Energy Community Regulatory Board. 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)-(8) of this Article shall be taken by the Energy Community Regulatory Board in any case where:
    - 1) the Energy Regulatory Commission and the regulatory authority of the other State(s) 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 joint request from the Energy Regulatory Commission and the regulatory authority of the other State(s) concerned.
  - (10) Before taking such a decision the Energy Community Regulatory Board takes a decision in accordance with paragraph (9) of this Article, the Energy Community Regulatory Board shall consult the Energy Regulatory Commission and the regulatory authority of the other State(s) concerned as well as the applicants.
  - (11) Notwithstanding paragraphs (4)-(9) of this Article, the Energy Regulatory Commission may consult, where relevant, the Commission for Protection of Competition and other

competent authorities of the Republic of Macedonia, with regard to the request for an exemption. Subsequently the Energy Regulatory Commission may be provided directly, or submitted through the Energy Community Regulatory Board, as the case may be, for the formal decision, opinion(s) from the corresponding State(s) on the request for exemption. Opinions received by the Energy Regulatory 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 Energy Regulatory Commission to the Energy Community Regulatory Board and the Energy Community Secretariat. The decision and all the relevant information relating to it shall be notified, without delay, by the Energy Regulatory Commission to the Energy Community Secretariat. That relevant information may be submitted to the Energy Community Secretariat in aggregate form so as to enable the Energy Community Secretariat to reach a well-founded decision, and shall at least 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, for which the exemption is granted; and
  - 4) the result of the consultation of the Energy Regulatory Commission with the regulatory authority of the State(s) concerned.
- (13) Within a period of two (2) months from the day following receipt of notification under paragraph (11) of this Article, the Energy Community Secretariat may issue an opinion inviting the Energy Regulatory Commission, the Energy Community Regulatory Board and the regulatory authority of the State(s) concerned 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 the Energy Community Regulatory Board as well as of the Energy Regulatory Commission, and of the regulatory authority of the State(s) concerned.
- (14) 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:
- 1) the period is extended by consent of both the Energy Community Secretariat and the Energy Regulatory Commission as well as the regulatory authority of the State(s) concerned; or
  - 2) the Energy Regulatory Commission, Energy Community Regulatory Board and the regulatory authority of the State(s) concerned, in a duly reasoned statement, inform the Energy Community Secretariat that they consider the notification to be complete.
- (15) The Energy Regulatory Commission shall take the utmost account of the 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 Energy Regulatory Commission shall provide and publish, together with that decision, the reasoning underlying such decision.
- (16) The opinion of the Energy Community Secretariat on an exemption decision shall expire two (2) years after the date of its adoption in the event that the 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 124-a**

- (1) Natural gas undertakings may request that major new natural gas infrastructure, such as interconnectors, is exempted, for a defined period of time, from the application of the provisions of Article 22, paragraph (1), items 8) and 13), of Article 23, paragraph (1), item 4), of Article 100-a and of Articles 85-a to 85-100b, as well as from the application of the provisions of Part X of the present Law, which regulate third-party access to the natural gas transmission system. Any such exemption may be granted under the following conditions:
  - 1) the investment in question must enhance competition in natural gas supply and enhance security of supply;
  - 2) the level of risk attached to the investment in question must be such that the investment would not take place unless an exemption was granted;
  - 3) the infrastructure must be owned by an entity, which is separate - at least in terms of its legal form - from the natural gas system operators in whose systems that infrastructure will be built;
  - 4) charges must be levied on users of that infrastructure; and
  - 5) the exemption must not be detrimental to competition or the effective functioning of the internal market in natural gas, or the efficient functioning of the regulated system to which the infrastructure is connected.
- (2) Paragraph (1) of this Article shall also apply to significant increases of capacity in existing natural gas infrastructure and to modifications of such infrastructure, which enable the development of new sources of gas supply.
- (3) The decision on the exemption under paragraphs (1) and (2) of this Article shall be taken on a case-by-case basis by the Energy Regulatory Commission. Where the natural gas infrastructure in question is located in the territory of the Republic of Macedonia and some other State(s), the decision on the exemption under paragraphs (1) and (2) of this Article shall be taken on a case-by-case basis by the Energy Regulatory Commission and the regulatory authority of the State(s) concerned. An exemption may cover all or part of the capacity of the new infrastructure for natural gas, or of the existing infrastructure with significantly increased capacity. Without any delay, the Energy Regulatory Commission shall inform about the request for exemption, which has received, the Energy Community Secretariat.
- (4) Where the infrastructure in question is located in, and/or crosses, the territory of the Republic of Macedonia and of one or more Contracting Parties to the Energy Community, the Energy Community Regulatory Board may submit an advisory opinion to the Energy Regulatory Commission and the regulatory authority of the Contracting Party(-ies) to the Energy Community in question, 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 Contracting Party(-ies) to the Energy Community concerned:
  - 1) where all regulatory authorities in question 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 item 1) of paragraph (6) of this Article is extended by up to three (3) months. Before the Energy Community Regulatory Board takes a decision in accordance with paragraph (6) of this Article, the Energy Community Regulatory Board shall consult the Energy Regulatory Commission and the regulatory authority of the State concerned as well as the applicants.
- (8) In deciding to grant an exemption, the Energy Regulatory Commission shall give consideration, on a case-by-case basis, to the need to impose conditions regarding the duration of the exemption and non-discriminatory access to the natural gas infrastructure in question. 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.
- (9) Before granting an exemption, the Energy Regulatory Commission shall decide upon the rules and mechanisms for the 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 for natural gas, including for own use, takes place. The Energy Regulatory 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 items 1), 2) and 5) of paragraph (1) of this Article, the Energy Regulatory Commission shall take into account the results of that capacity allocation procedure.
- (10) The Energy Regulatory 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 Energy Regulatory 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, thereby enabling the Energy Community Secretariat to reach a well-founded decision.
- (11) The information referred to in paragraph (10) of this Article shall at least 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 natural gas market resulting from the granting of the exemption;
  - 3) the reasons for the time period and the share of the total capacity of the gas infrastructure, for which the exemption is granted;
  - 4) in case the exemption relates to a natural gas interconnector, the result of the consultation with the regulatory authorities concerned; and
  - 5) the contribution of the infrastructure to the diversification of gas supply.
- (12) 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 Energy Regulatory 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 Energy Regulatory Commission.
- (13) 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:

- 1) the period has been extended with the consent of both the Energy Community Secretariat and the Energy Regulatory Commission; or
  - 2) the Energy Regulatory Commission, in a duly reasoned statement, has informed the Energy Community Secretariat that it considers the notification to be complete.
- (14) The Energy Regulatory 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 Energy Regulatory Commission shall provide and publish, together with that decision, the reasoning underlying such decision.
- (15) The opinion of the Energy Community Secretariat on an 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. Notwithstanding paragraphs (4)-(9) of this Article, the Energy Regulatory Commission may consult, where relevant, the Commission for Protection of Competition and other competent authorities of the Republic of Macedonia, with regard to the request for an exemption. Opinions received by the Energy Regulatory Commission shall be published on its website together with the decision.

#### **Article 125**

- 1) The electricity and natural gas transmission and/or distribution system operator, as part of the relevant Grid Code, shall be obliged to stipulate the connection rules for the relevant grid and the connection charge-setting methodology. The connection rules shall take due consideration of the consequences caused by the connection and affecting other grid users, the connection points at plants, facilities and devices and type of installation required for grid connection.
- 2) The grid connection charge and the charge for altering energy parameters as defined in the connection approval for existing users shall be settled by the user and shall be comprised of the connection construction charge or existing connection upgrade charge, as well as users' share in the costs incurred for the provision of technical conditions in the system to which new users are to be connected or increasing the capacity of existing connections. The charge shall:
  - 1) be calculated pursuant to the methodology stipulated in the relevant Grid Code;
  - 2) be approved by the Energy Regulatory Commission; and
  - 3) be published on the website of the corresponding transmission or distribution system operator.
- 3) The relevant electricity and natural gas transmission and/or distribution system operator shall be obliged to provide the entities applying for grid connection with detailed cost assessment as regards the connection and the provision of technical conditions in the grid. The Energy Regulatory Commission shall oblige the relevant electricity system operator to cover the grid connection costs of preferential electricity producers and recover the costs incurred as part of the regulated services price, when needed for the purpose of:
  - 1) providing incentives for electricity generated from renewable energy sources or at high-efficiency cogeneration plants; or
  - 2) attaining the national mandatory and the indicative trajectory targets referred to in Article 129, paragraph (1) of the present Law.
- 4) The Energy Regulatory Commission shall stipulate the period for the duration of which the relevant system operators shall perform the obligation referred to in paragraph (4) of this

Article, as well as the requirements to be met by preferential electricity producers in order to be connected to the relevant system pursuant to paragraph (4) of this Article.

#### **Article 126**

- (1) The entities applying for electricity and natural gas system connection or users applying for existing connection alteration shall be obliged to submit to the relevant electricity or natural gas transmission and/or distribution system operator the grid connection application, pursuant to the conditions stipulated in the relevant Grid Code.
- (2) The entities applying for grid connection can be connected to the grid only on the basis of obtained connection approval decision issued by the relevant transmission and/or distribution system operator, pursuant to the relevant Grid Code.
- (3) The decision referred to in paragraph (2) of this Article shall stipulate in particular:
  - 1) technical terms and conditions for the connection;
  - 2) connection charge to be settled by the user;
  - 3) connection deadline; and
  - 4) obligations of electricity transmission system operator or natural gas transmission system operator as regards the connection.
- (4) The decision on connection approval shall cease to be valid when the connection construction has not been initiated within the deadline set in the decision on connection construction approval.

#### **Article 127**

- (1) The relevant electricity and natural gas transmission and/or distribution system operator, as part of the relevant Grid Code, shall stipulate the deadlines for decision-taking on the connection approval application, as well as the deadlines for the grid connection implementation.
- (2) Should the relevant system operator do not issue the connection approval decision, or the issued connection approval decision is not in compliance with the relevant Grid Code, the entity applying for connection can lodge an appeal in front of the Energy Regulatory Commission.

#### **Article 128**

- (1) The new facilities planned for expanding the existing electricity and natural gas systems, including the construction of new and upgrade of existing connections owned by the natural gas system operator or, if relevant, the network owner and anticipated by the present Law shall be constructed and owned by the relevant system operator or, if relevant, the network owner.
- (2) As an exception from paragraph (1) of this Article, in cases when the connection is intended for one user (final customer, electricity or heating energy system or generation plant), upon previously obtained approval from the operator, the connection in question can be constructed and owned by the user, pursuant to the relevant Grid Code.
- (3) As part of the approval referred to in paragraph (2) of this Article and based on the relevant Grid Code, the relevant system operator shall determine the terms and conditions and the manner of connection construction.
- (4) The user can lodge a complaint against the relevant system operator's decision on rejecting the application for grid connection approval referred to in paragraph (2) of this

Article before the Energy Regulatory Commission in accordance with the procedure set forth in Article 36 of the present Law.

- (5) Should the user construct the connection at own costs, it shall be obliged to cover the portion of the connection charge concerning the provision of technical conditions in the relevant system for connecting new users or increasing the capacity of existing connections.
- (6) The user who has constructed the connection can transfer the tenure thereof to the system or where, if relevant, the network owner, without being entitled to reimbursement of costs incurred.
- (7) The user who has kept the tenure over the connection shall be obliged:
  - 1) to enable the relevant system operator connection operation in the manner and procedure as stipulated in the relevant Grid Code,
  - 2) to secure connection maintenance pursuant to the criteria stipulated in the relevant Grid Code.
- (8) Connection construction costs referred to in Article 125, paragraph (2) of the present Law settled by the relevant system operator or, if relevant the natural gas transmission owner; the connection construction costs referred to in paragraph (5) of this Article settled by the users, as well as the connections and other parts of the network the users transfer under tenure of the relevant system operator should be taken into account when setting the relevant system operator's regulated income. The Energy Regulatory Commission, as part of the regulations referred to in Article 24, paragraph (1) of the present Law, shall stipulate in detail the manner and procedure on record keeping for the connection charges and assets the users transfer under operator's tenure without reimbursement.
- (9) For the electricity facilities that are not part of the electricity system, and have been constructed and owned by the system users, but are not an integral part of the connection used exclusively by the electricity facility, the relevant system operator and the owner of the facility in question shall sign a contract by means of which they shall regulate the mutual rights and obligations stemming from the facility use by the relevant system operator, in a manner and under terms and conditions stipulated in the relevant Grid Code.
- (10) For the purpose of performing any obligation on public service provision in accordance with the provisions of the present Law, the relevant electricity and natural gas transmission and/or distribution system operator shall be obliged to maintain the electricity and natural gas facilities that are an integral part of the relevant system and whose owner is unknown, under the conditions stipulated in Article 6 of the present Law.

## **XI RENEWABLE ENERGY SOURCES**

### **Article 129**

- (1) On the proposal of the Ministry, the Government of the Republic of Macedonia by means of a decision shall set:
  - 1) national mandatory targets for the share of energy generated from renewable sources and at high-efficiency cogeneration plants in gross final consumption of energy to be met in line with the commitments assumed by the Republic of Macedonia under international agreements;
  - 2) national mandatory targets for the share of energy generated from renewable sources in final energy consumption in all forms of transport to be met in line with the commitments assumed by the Republic of Macedonia under international agreements; and

- 3) indicative trajectory targets, which shall trace the path towards the achievement of the mandatory targets referred to in item 1) and 2) of this paragraph.
- (2) The mandatory targets referred to in paragraph (1), items 1) and 2) of this Article are set pursuant to the commitment assumed by the Republic of Macedonia under international ratified treaties and shall be calculated in accordance with the provisions of the present Law.
- (3) In order to reach the mandatory targets referred to in paragraph (1) of this Article, the Government of the Republic of Macedonia may, inter alia, apply the following measures:
  - 1) support schemes; and
  - 2) measures of cooperation of the Republic of Macedonia with other States, which have been undertaken in accordance with the provisions of the present Law and pursuant to commitments assumed by the Republic of Macedonia under ratified international treaties;
- (4) For the purposes of paragraph (1), item 1) of this Article, the Government of the Republic of Macedonia shall:
  - 1) introduce measures that are effectively designed to ensure that the share of energy generated from renewable sources and at high-efficiency cogeneration plants equals or exceeds:
    - a. the national mandatory target, which will be set in the Government decision referred to in paragraph (1) of this Article;
    - b. the trajectory targets, which are referred to paragraph (1), item 3) of this Article and which will be set in the Government decision referred to in paragraph (1) of this Article;
  - 2) have the right to decide, in accordance with the provisions of the present Law and subject to any commitments assumed by the Republic of Macedonia under ratified international treaties, to which extent it shall support energy generated from renewable sources and at high-efficiency cogeneration plants, which is generated in any other State.

The Minister by mean of a Rulebook shall prescribe the methodology for calculating the shares of energy generated from renewable sources and at high-efficiency cogeneration plants, which shall be taken into account in setting the indicative trajectory targets referred to in paragraph (1), item 3) of this Article. In order to achieve the targets referred to in the paragraph (1) of this Article, the Government of the Republic of Macedonia shall promote and encourage energy efficiency and energy saving. Transmission and distribution of electricity from renewable sources is guaranteed on transparent and non-discriminatory basis, and based on the approved and published tariffs by ERC.

### **Article 130**

- (1) In compliance with the energy policy objectives pursuant to the commitments undertaken by Republic of Macedonia under the international treaties, the policy on the use of renewable energy sources shall be stipulated under the Strategy on Renewable Energy Sources in the Republic of Macedonia.
- (2) On the proposal from the Ministry, every five (5) years the Government of the Republic of Macedonia shall adopt the Strategy on Renewable Energy Sources covering the period of the next ten (10) years.
- (3) The funds for the development of the Strategy on Renewable Energy Sources shall be secured from the Budget of the Republic of Macedonia, grants and donations.



### Article 131

- (1) The Strategy on Renewable Energy Sources in the Republic of Macedonia shall prescribe in detail the manners for attaining the national mandatory and trajectory targets referred to in paragraph (1) of Article 129, and in particular:
  - 1) the renewable energy sources' potential;
  - 2) the feasibility of the use of renewable energy sources;
  - 3) the target volume and dynamics for increasing the share of electricity generated from renewable sources and at high-efficiency cogeneration plants in the gross final energy consumption as well as the share of energy from renewable sources in the final consumption of energy in all form of transport; and
  - 4) support scheme for producers of energy from renewable sources and incentive fee charged to final customers for the promotion of the use of energy from renewable sources.
- (2) For the purpose of attaining the objectives set in the Strategy on Renewable Energy Sources, the incentives applied shall aim at:
  - 1) developing transmission and distribution grid infrastructure, intelligent networks, storage facilities and the electricity system, in order to allow the secure operation of the electricity system as it accommodates the further development of electricity generation from renewable energy sources, including interconnection between the Republic of Macedonia and other States;
  - 2) enabling public and other administrative bodies to process in expeditious way requests for authorisation, promptly conducting authorisation procedures for the relevant grid infrastructure, and coordinate issuance of their approvals;
  - 3) extending the existing gas network infrastructure to facilitate the integration of gas from renewable energy sources;
  - 4) reducing the costs of electricity generated from renewable sources and for production of biofuels and bioliquids;
  - 5) and
  - 6) introducing public service obligations for promotion of electricity from renewable sources and at high-efficiency cogeneration plants and the obligations relating to the promotion of the use of biofuels and bioliquids.
- (3) The incentives referred to in paragraph (2) of this Article are given in the form of a premium, 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).
  - 1) issuing guarantees of origin for electricity generated from renewable sources and at high-efficiency cogeneration plants;
- (4) The funds required to implement the incentives referred to in paragraph (3) of this Article can be provided, *inter alia*, from:
  - 1) the Budget of the Republic of Macedonia;
  - 2) grants, donations and sponsorships;
  - 3) loans; and/or

- 4) state aid pursuant to the law and in accordance with the commitments assumed by the Republic of Macedonia under ratified international treaties.

### **Article 132**

- (1) For the purpose of reaching the mandatory targets described in Article 129, the Government of the Republic of Macedonia on the proposal from the Ministry, shall adopt a Renewable Energy Sources Action Plan covering a the period of ten (10) years.
- (2) The Renewable Energy Sources Action Plan shall define measures aimed to promote the use of renewable energy sources, and shall contain in particular:
  - 1) the expected gross final consumption of electricity, fuels for transport, heating and cooling energy in 2020, pursuant to the Strategy on Energy Development and the Strategy on Renewable Energy Sources, while taking due consideration of measures on energy efficiency improvement;
  - 2) the targets set and annual dynamics for the increased share of energy generated from renewable sources and at high-efficiency cogeneration plants in the gross final energy consumption according with Article 143a;
  - 3) the measures aimed at achieving the national mandatory targets referred to in Article 129, paragraph (1) items 1) and 2), including the measures on energy efficiency on final consumption of energy;
  - 4) the overview of relevant policies and measures on the promotion of the use of renewable energy sources;
  - 5) the specific measures aimed at addressing administrative barriers, information and training measures and appropriate transmission and distribution systems development and upgrade;
  - 6) the support schemes referred to in Article 131 of the present Law related to electricity generation, heating and cooling energy, biomass transport and use;
  - 7) the estimated shares of relevant renewable energy sources, in the light of attaining the national mandatory and the indicative trajectory targets referred to in Article 129, paragraph (1) of the present Law;
  - 8) the assessment of the necessity to build new infrastructure for district heating and cooling generated from renewable energy sources in order to achieve the targets referred to in Article 129, paragraph (1) of the present Law;
  - 9) potential measures for developing a district heating infrastructure to accommodate the development of heating and cooling production from large biomass, solar and geothermal facilities;
  - 10) the cooperation between local and national authorities, any planned statistical transfers and/or joint projects with other States, in the light of attaining the targets referred to in Article 129, paragraph (1) of the present Law;
  - 11) the measures to develop existing biomass resources and mobilise any new such resources for different uses;
  - 12) the cooperation between local and national authorities in respect of any planned statistical transfers and/or joint projects with other States, in the light of attaining the targets referred to in Article 129, paragraph (1) of the present Law;
  - 13) the funding sources for the promotion of the use of energy from renewable sources; and
  - 14) performers of activities and deadlines for the implementation of anticipated activities.
- (3) The National Renewable Energy Action Plan and any related document shall be prepared and adopted in the form of a template that will be consistent with the commitments

assumed by the Republic of Macedonia under ratified international treaties. The Minister by means of a Rulebook shall specify the template referred to in paragraph (3) of this Article, as well as the content of the National Renewable Energy Action Plan.

- (4) The National Renewable Energy Action Plan shall be published in the Official Gazette and shall be submitted to the Energy Community Secretariat.
- (5) In the event that the share of energy from renewable sources falls below the indicative trajectory in the immediately preceding two-year period as set out in the Government decision referred to in Article 129, paragraph (1) of the present Law, the Government of the Republic of Macedonia shall submit by 30 June of the following year an amended national renewable energy action plan to the Energy Community Secretariat. This amended national renewable energy action plan shall set out adequate and proportionate measures to rejoin, within a reasonable timetable, the indicative trajectory, which will be set in the Government decision referred to in Article 129, paragraph (1) of the present Law.
- (6) In cases where, due to force majeure, it is impossible to meet the share of energy from renewable sources in gross final consumption of energy in 2020, as set out in the Government decision referred to in Article 129, paragraph (1) of the present Law, the Government of the Republic of Macedonia shall as soon as possible inform the Energy Community Secretariat.
- (7) The Energy Agency shall provide support to the Ministry in the development of the Strategy on Renewable Energy Sources and the Renewable Energy Action Plan.

#### **Article 132-a**

- (1) The Minister by means of a Rulebook shall prescribe the methodology for the calculation of the gross final consumption of energy from renewable sources.
- (2) The methodology referred to in paragraph (1) of this Article and the definitions used in the calculation of the share of energy from renewable sources shall be compliant with the rules contained in international treaties ratified by the Republic of Macedonia.

#### **Article 132-b**

- (1) Pursuant to, and in accordance with the commitments assumed by the Republic of Macedonia under ratified international treaties, agreements may be entered into with other Parties to the Energy Community Treaty regarding the statistical transfer of a specified amount of energy from renewable sources. Any such statistical transfer shall be proposed by the Minister.
- (2) Any quantity transferred or received under a statistical transfer agreement referred to in paragraph (1) of this Article, shall be deducted from or added to the amount of energy from renewable sources that is taken into account in measuring the achievement of the national mandatory and indicative trajectory targets, which are to be set in the Government decision referred to in Article 129, paragraph (1) of the present Law.
- (3) In the event that the Government of the Republic of Macedonia makes a statistical transfer under an agreement referred to in paragraph (1) of this Article, the transferred quantity shall be deducted from or added to the amount of energy from renewable sources that is taken into account in measuring compliance with the national mandatory targets, which are to be set in the Government decision referred to in Article 129, paragraph (1) of the present Law. Any such transfer shall not affect the achievement of the aforementioned national targets.
- (4) The agreements for statistical transfer, which are referred to in paragraph (1) of this Article, may have duration of one (1) or more years.

- (5) The Government of the Republic of Macedonia shall notify any statistical transfer, referred to in paragraph (1) of this Article, to the Energy Community Secretariat no later than 3 months after the end of each year in which it have effect.. Any such notification shall include the quantity and price of the energy involved.
- (6) The Government of the Republic of Macedonia, as a party to a statistical transfer agreement, may agree - with the consent of the other party of the said agreement - to more stringent requirements than those that are laid down in the provisions of this Article.

#### **Article 132-c**

- (1) The Government of the Republic of Macedonia may cooperate with one or more Member-States of the European Union or Contracting Parties to the Energy Community on joint projects relating to the production of electricity, heating or cooling from renewable energy sources. That cooperation may involve private operators.
- (2) In case of a joint project referred to in paragraph (1) of this Article, the Government of the Republic of Macedonia shall notify the Energy Community Secretariat. The notification shall include information on the proportion or amount of electricity, heating or cooling from renewable energy sources generated by any joint project in the territory of the Republic of Macedonia that became operational after 18 December 2012, or by the increased capacity of an installation that was refurbished after that date. This proportion or amount of electricity, heating or cooling from renewable energy sources is to be regarded as counting towards the national overall target of any other State that participates in the joint project in question.
- (3) The notification referred to in paragraph (2) of this Article shall:
  - 1) describe the proposed installation or identify the refurbished installation;
  - 2) specify the proportion or amount of electricity or heating or cooling generated from the installation, which is to be regarded as counting towards the national overall target of any other State that participates in the relevant joint project;
  - 3) identify the State in whose favour the notification is being made; and
  - 4) specify the period, in whole calendar years, during which the electricity or heating or cooling generated by the installation from renewable energy sources is to be regarded as counting towards the national overall target of any other State that participates in the relevant joint project.
- (4) The duration of a joint project may extend beyond 2020. The period specified under paragraph (3), item 4) of this Article shall not extend beyond 2020.
- (5) A notification made under this Article shall not be varied or withdrawn without the joint agreement of the State making the notification and the State identified in accordance paragraph 3, item 3 of this Article.

#### **Article 132-d**

- (1) Within three (3) months of the end of each year falling within the period specified under Article 132-c, paragraph (3), item 4), the Government of the Republic of Macedonia shall issue a letter of notification stating:
  - 1) the total amount of electricity or heating or cooling generated during the year from renewable energy sources by the installation, which was the subject of the notification under Article 132-f; and
  - 2) the amount of electricity or heating or cooling generated during the year from renewable energy sources by that installation, which is to count towards the national

overall target of any other State that participates in the relevant joint project in accordance with the terms of the notification.

- (2) The State making the notification under Article 132-c shall send the letter of notification to the State in whose favour the notification was made, as well as to the Energy Community Secretariat.
- (3) For the purposes of measuring the compliance with the national mandatory targets, which are to be set in the Government decision referred to in Article 129, paragraph (1) of the present Law, the amount of electricity or heating or cooling from renewable energy sources notified in accordance with paragraph (1), item 2) of this Article shall be:
  - 1) deducted from the amount of electricity or heating or cooling from renewable energy sources that is taken into account, in measuring compliance by the State issuing the letter of notification under paragraph (1) of this Article; and
  - 2) added to the amount of electricity or heating or cooling from renewable energy sources that is taken into account, in measuring compliance by the State receiving the letter of notification in accordance with paragraph (2) of this Article.

#### **Article 132-e**

- (1) In addition to the joint projects referred to in Article 132-c, the Government of the Republic of Macedonia may cooperate with one or more Member-States of the European Union on joint projects regarding the production of electricity from renewable energy sources. Such cooperation may involve private operators.
- (2) Electricity from renewable energy sources generated in Republic of Macedonia shall be taken into account only for the purposes of measuring the compliance with the national mandatory targets of an EU Member State, 129if the following conditions have been met:
  - 1) the electricity is consumed in the European Union, a requirement that will be deemed to have been met where:
    - a) an equivalent amount of electricity to the electricity accounted for has been firmly nominated to the allocated interconnection capacity by all responsible transmission system operators in Republic of Macedonia, the State of destination and, if relevant, each third State of transit;
    - b) an equivalent amount of electricity to the electricity accounted for has been firmly registered in the schedule of balance by the responsible transmission system operator on the regional side of an interconnector; and
    - c) the nominated capacity and the production of electricity from renewable energy sources by the installation referred to in paragraph (2), item 2) of this Article refer to the same period of time;
  - 2) the electricity is generated by a newly constructed installation that became operational after 18 December 2012 or by the increased capacity of an installation that was refurbished after that date, under a joint project as referred to in paragraph (1) of this Article; and
  - 3) the amount of electricity generated and exported has not received support from a support scheme of a third State other than investment aid granted to the installation.
- (3) In accordance with the commitments assumed by the Republic of Macedonia under ratified international treaties, the Government of the Republic of Macedonia may apply, for the purposes of Article 132-a, for account to be taken of electricity from renewable energy sources generated and consumed in a third State, in the context of the construction of an interconnector with a very long lead-time between the Republic of Macedonia and a third State if the following conditions are met:

- 1) construction of the interconnector started by 31 December 2016;
  - 2) it is not possible for the interconnector to become operational by 31 December 2020;
  - 3) it is possible for the interconnector to become operational by 31 December 2022;
  - 4) after it becomes operational, the interconnector will be used for the export to the Energy Community, in accordance with paragraph (2) of this Article, of electricity generated from renewable energy sources;
  - 5) the application relates to a joint project that fulfils the criteria in items (b) and (c) of paragraph (2) of this Article, and that will use the interconnector after it becomes operational, and to a quantity of electricity that is no greater than the quantity that will be exported to the Energy Community after the interconnector becomes operational.
- (4) In accordance with the commitments assumed by the Republic of Macedonia under ratified international treaties, the Government of the Republic of Macedonia shall notify the Energy Community Secretariat about the proportion or amount of electricity generated by any installation in the territory of a third State, which is to be regarded as counting towards the national targets, which are to be set in the Government decision referred to in Article 129, paragraph (1) of the present Law, or towards the national overall targets of any other State participating in the joint project referred to in Article 132-c.
- (5) The distribution of this proportion or amount referred to in paragraph (4) of this Article between the Republic of Macedonia and any third State shall be notified to the Energy Community Secretariat. This proportion or amount shall not exceed the proportion or amount actually exported to, and consumed in, the Energy Community, corresponding to the amount referred to in paragraph (2), item 1), sub-items a and b of this Article and meeting the conditions as set out in paragraph (2), item 1) of this Article.
- (6) The notification referred to in paragraphs (4) and (5) of this Article shall:
- 1) describe the proposed installation or identify the refurbished installation;
  - 2) specify the proportion or amount of electricity generated from the installation which is to be regarded as counting towards the overall national targets, which are to be set in the Government decision referred to in Article 129, paragraph (1) of the present Law, as well as, subject to confidentiality requirements, the corresponding financial arrangements;
  - 3) specify the period, in whole calendar years, during which the electricity is to be regarded as counting towards the national overall targets, s, which are to be set in the Government decision referred to in Article 129, paragraph (1) of the present Law; and
  - 4) include a written acknowledgement of items 2) and 3) of this paragraph by the third State in whose territory the installation is to become operational and the proportion or amount of electricity generated by the installation, which will be used domestically by that third State.
- (7) The period specified under paragraph (6), item 3) of this Article shall not extend beyond 2020. The duration of a joint project may extend beyond 2020.
- (8) A notification made under this Article may not be varied or withdrawn without the joint agreement of the Republic of Macedonia and the third State that has acknowledged the joint project in accordance with paragraph (6), item 4) of this Article.

### **Article 132-f**

- (1) Within three (3) months of the end of each year falling within the period specified under Article 132-e, paragraph (6), item 3) of the present Law, the Government of the Republic of Macedonia shall issue a letter of notification under Article 132-e of the present Law stating:
  - 1) the total amount of electricity generated during that year from renewable energy sources by the installation, which was the subject of the notification under Article 132-e of the present Law;
  - 2) the amount of electricity generated during the year from renewable energy sources by that installation, which is to count towards the national overall targets, which are to be set in the Government decision referred to in Article 129, paragraph (1) of the present Law, in accordance with the terms of the notification under Article 132-e of the present Law; and
  - 3) proof of compliance with the conditions set out in Article 132-e, paragraph (2) of the present Law.
- (2) The Government of the Republic of Macedonia shall send the letter of notification to the third State, which has acknowledged the project in accordance with Article 132-e, paragraph (6), item 4) of the present Law, as well as to the Energy Community Secretariat.
- (3) The amount of electricity generated from renewable energy sources notified in accordance with paragraph 1, item 2) of this Article shall be added to the amount of energy from renewable sources that is taken into account for the purposes of measuring the compliance of the national overall targets, which are to be set in the Government decision referred to in Article 129, paragraph (1) of the present Law.

### **Article 132-g**

- (1) The Government of the Republic of Macedonia may decide, on a voluntary basis, to join or partly coordinate its national support schemes for the promotion of the use of renewable energy sources with one or more Member-States of the European Union and/or Contracting Parties to the Energy Community. In such cases, a certain amount of energy from renewable sources generated in the territory of one State participating in such a joint support scheme may count towards the national overall target of another participating State if the States concerned:
  - 1) make a statistical transfer of specified amounts of energy from renewable sources from one State to another State in accordance with Article 132-c of the present Law; or
  - 2) set up a distribution rule agreed by the participating States that allocates amounts of energy from renewable sources between them. Any such rule shall be notified to the Energy Community Secretariat, no later than three (3) months after the end of the first year in which it takes effect.
- (2) Within three (3) months of the end of each year, the Government of the Republic of Macedonia after having made a notification under paragraph (1), item 2) of this Article shall issue a letter of notification stating the total amount of electricity or heating or cooling from renewable energy sources generated during the year, which is to be the subject of the distribution rule.
- (3) For the purposes of measuring compliance with the national overall targets, which are to be set in the Government decision referred to in Article 129, paragraph (1) of the present Law, the amount of electricity or heating or cooling from renewable energy sources notified in accordance with paragraph (2) of this Article shall be reallocated between the concerned States in accordance with the notified distribution rule.

- (4) The provisions of this Article shall be without prejudice to more stringent requirements agreed by the States coordinating their national support schemes.
- (5) The implementation of Article 132-b and of this Article shall be subject to an external audit on a biennial basis of which the results shall be sent to the Energy Community Secretariat. Where the result of such an audit shows that the conditions laid down in Articles 132-c to 132-f were not met, the involved transfer shall be annulled.
- (6) The Government of the Republic of Macedonia shall arrange for the independent audit referred to in paragraph (5) of this Article. The auditor shall be accredited by a member of the International Accreditation Body and must have implemented the relevant international standards to ensure its competence.

#### **Article 132-h**

- (1) For the purpose of Article 132-c, paragraph (2) and Article 132-e, paragraph (2), item 2) of the present Law, units of energy from renewable sources imputable to an increase in the capacity of an installation shall be treated as if they were generated by a separate installation becoming operational at the moment at which the increase of capacity occurred.

#### **Article 132-i**

- (1) The rules concerning the authorisation, certification and licensing procedures that are applied to plants and associated transmission and distribution network infrastructures for the production of electricity, heating or cooling from renewable energy sources, and to the process of transformation of biomass into biofuels or other energy products shall be proportionate and necessary.
- (2) The Ministry shall prepare and publish comprehensive information on the processing of authorisation, certification and licensing applications for renewable energy installations and shall ensure that assistance to applicants is made available at the appropriate level.
- (3) The Minister shall clearly define in an Instruction the technical specifications, which must be met by renewable energy equipment and systems in order to benefit from support schemes. Where European standards exist, including eco-labels, energy labels and other technical reference systems established by the European standardisation bodies, such technical specifications shall be expressed in terms of those standards. Such technical specifications shall not prescribe where the equipment and systems are to be certified and should not impede the operation of the market.

#### **Article 132-j**

- (1) The Ministry shall recommend to all actors, in particular the state and local administrative bodies, to ensure equipment and systems are installed for the use of electricity, heating and cooling from renewable energy sources and for district heating and cooling when planning, designing, building and renovating industrial or residential areas. The Ministry shall, in particular, encourage local administrative bodies to include heating and cooling from renewable energy sources in the planning of city infrastructure, where appropriate.

#### **Article 132-k**

- (1) The Ministry shall prepare information on support measures for the promotion of the use of energy from renewable sources and shall ensure that such information is made available to all relevant actors, such as consumers, builders, installers, architects, and



suppliers of heating, cooling and electricity equipment and systems and of vehicles compatible with the use of energy from renewable sources.

- (2) The suppliers of equipment and systems for the use of heating, cooling and electricity from renewable energy sources shall make available to the general public any information on the net benefits, cost and energy efficiency of their equipment or systems.

#### **Article 132-I**

- (1) The Minister by means of a Rulebook shall establish certification schemes or equivalent qualification schemes for installers of small-scale biomass boilers and stoves, solar photovoltaic and solar thermal systems, shallow geothermal systems and heat pumps.
- (2) For the purposes of paragraph (1) of this Article, the Minister shall adopt a Rulebook specifying the criteria for the certification of any such installers in accordance with the commitments assumed by the Republic of Macedonia under ratified international treaties.
- (3) In accordance with the commitments assumed by the Republic of Macedonia under ratified international treaties, the Government of the Republic of Macedonia by means of a decision shall recognize any certification of the installers referred to in paragraph (1) of this Article which has been awarded by any other State.
- (4) The Ministry shall make available to the public information on certification schemes or equivalent qualification schemes as referred to in paragraph (1) of this Article.
- (5) The Ministry shall establish and maintain a register of installers, who have been qualified or certified in accordance with the provisions of this Article, and shall, upon request, make available the list of qualified or certified installers.

#### **Article 133**

- (1) The Energy Agency shall put in place an accurate, reliable and fraud resistant mechanism to issue, transfer and cancel electronically the guarantees of origin for electricity generated from renewable energy sources and shall keep the Registry of Issued Guarantees.
- (2) A guarantee of origin shall be of a standard size of 1 MWh and no more than one guarantee of origin shall be issued in respect of each unit of energy produced. The Energy Agency shall ensure that the same unit of energy from renewable sources is taken into account only once.
- (3) Any use of a guarantee of origin shall take place within 12 months of production of the corresponding energy unit. A guarantee of origin shall be cancelled once it has been used.
- (4) For the purpose of obtaining the guarantee of origin for electricity referred to in paragraphs (1) and (2) of this Article, the electricity producer shall be obliged to pay the fee on the account of the Energy Agency, pursuant to the Tariff Pricelist adopted by the Energy Agency, and previously approved by the Government of Republic of Macedonia.
- (5) The guarantee of origin for electricity generated from renewable energy sources shall specify at least the renewable source used for electricity generation, data on the producer and the location of the electricity power plant, date on which the installation became operational, date and country of issue and a unique identification number, whether and to what extent the installation has benefited from investment support, whether and to what extent the unit of energy has benefited in any other way from a national support scheme, and the type of support scheme, time of generation and any other data, as stipulated in the Rulebook on Renewable Energy Sources referred to in Article 134 of the present Law.

- (6) No support shall be granted to a producer when that producer receives a guarantee of origin for the same production of energy from renewable sources. The guarantees of origin for electricity generated from renewable energy sources issued by foreign States shall be recognized solely as proof of the elements referred to in paragraph (1) and (3) of this Article. A guarantee of origin might be refused if there are doubts about its accuracy, reliability and veracity. The Ministry shall notify the Energy Community Secretariat on such refusal and its justification.
- (7) The guarantee of origin shall have no function in terms of compliance with the national overall targets, set in Article 129, paragraph (1) of the present Law. Transfers of guarantees of origin, separately or together with the physical transfer of energy, shall have no effect on the Government decision to use statistical transfers, joint projects or joint support schemes for target compliance or on the calculation of the gross final consumption of energy from renewable sources in accordance with Article 132-a of the present Law.

#### **Article 134**

- (1) The Minister, by means of the Rulebook on Renewable Energy Sources, shall stipulate in detail:
  - 1) types of electricity generation plants using renewable energy sources;
  - 2) methodology on setting the shares for blending fossil fuels and biofuels for transport, for the purpose of attaining the targets set the Renewable Energy Sources Action Plan;
  - 3) metering method for wind potential, for the purpose of electricity generation;
  - 4) manner of issuing approvals for wind potential metering, for the purpose of electricity generation;
  - 5) contents, template and manner of keeping the Registry of Power Plants Using Renewable Energy Sources;
  - 6) manner of issuing, transfer and revoking the guarantees of origin for electricity generated from renewable energy sources by electronic means that should ensure accuracy, confidentiality thereof and prevent possible abuses;
  - 7) manner, procedure and terms and conditions for recognition of the guarantees of origin issued by foreign States; and
  - 8) contents, template and manner of keeping the Electronic Registry of Issued Guarantees of Origin for Electricity Generated from Renewable Energy Sources, by taking due care that same quantity of electricity generated from renewable sources is registered only once.
- (2) The Energy Agency shall issue the approval for wind potential metering for the purpose of electricity generation and shall keep the Registry of Plants Using Renewable Energy Sources.
- (3) The Energy Agency shall provide support to the Ministry in the development of the regulation referred to in paragraph (1) of this Article.

#### **Article 134-a**

- (1) Where an electricity supplier, and where relevant, electricity trader selling electricity to the final customers referred to in Article 82, paragraph (3) of the present Law, is required to prove the share or quantity of electricity from renewable sources in its energy, it may do so by using its guarantees of origin.
- (2) The amount of energy from renewable sources corresponding to guarantees of origin transferred by an electricity supplier, and where relevant, electricity trader referred to in

paragraph (1) of this Article to a third party shall be deducted from the share of energy from renewable sources in its energy mix.

- (3) Electricity suppliers, and where relevant, electricity traders referred to in paragraph (1) of this Article, who market electricity from renewable energy sources to final customers with a reference to environmental or other benefits of energy from renewable sources, shall make available, in summary form, information on the amount or share of energy from renewable sources that comes from installations or increased capacity that became operational after 18 December 2012.

## **XII PREFERENTIAL ELECTRICITY PRODUCERS**

### **Article 135**

- (1) For the purpose of stimulating construction of new power plants using renewable energy sources or high-efficiency cogeneration plants, the said generation facilities can obtain the status of preferential electricity producer, and thereby the right to support scheme through a transparent, objective and non-discriminatory competitive bidding procedure.
- (2) The obligations under paragraph 1 of this Article regarding a competitive bidding process do not apply 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
- (3) The [Ministry/Energy Agency/Energy Regulatory Commission] is assigned to manage the development and conducting the ~~tendering~~ competitive bidding procedure for granting the support to renewable energy producers.
- (4) The support scheme shall be notified to the Commission for Protection of Competition for compliance with the applicable legislation on State Aid. The schemes shall be authorized for a maximum period of 10 years.

### **Article 136**

- (1) The support referred to in Article 135 of the present Law can be granted to renewable energy producers which have obtained the status of preferential electricity producer in a manner and under procedure stipulated in the present Law and the by-laws adopted pursuant to the present Law.
- (2) By means of an Act on support for promotion of energy from renewable sources, the Government of the Republic of Macedonia upon proposal of the Minister shall stipulate, the following among others:
  - 1) the rules for the organization of the ~~tendering~~ competitive bidding process and the methods of awarding the winners in order to obtain the status of preferential electricity producer;
  - 2) the requirements for transparency related to the publication of the auction results of the competitive bidding process comprising the identity of the beneficiaries, the form and amount of the aid granted to each beneficiary, the period for their application, the region where the beneficiary is located and the principal sector in which the beneficiary operates.
- (3) Depending on the attainment of goals and implementation dynamics from the Strategy on Renewable Energy Sources, the Action Plan on Renewable Energy Sources, the Energy Efficiency Strategy and the Action Plan on Energy Efficiency, the Government of the Republic of Macedonia upon proposal of the Minister, shall assess the total installed capacity of preferential electricity producers for each renewable energy source separately, in the Republic of Macedonia that shall be reflected in the Act described in paragraph (2).

- (4) By 30 November, each year the Ministry, at the proposal of Energy Regulatory Commission shall approve the incentive fee applied to all final customers for the promotion of energy from renewable sources.

### Article 137

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

Contract for difference has a maximum duration of 15 years, but not longer than until the plant has been fully depreciated according to normal accounting rules.

The beneficiaries of the support scheme, under a contract for difference and the maximal level of the support, will be determined in a ~~tendering-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 ~~are~~ could be eligible ;
- b. a ~~tendering-competitive bidding process could~~ would lead to higher support levels; or
- c. a competitive bidding process would result in low project realisation rates.

The tendering process can be limited to ~~a-specific technologies~~, in cases when a process open to all producers would lead to a suboptimal result, which cannot be addressed in the process design, taking into consideration particularly:

- d. The longer-term potential of a new and innovative technology
- e. The need to achieve diversification
- f. Network constraints and grid stability
- g. System (integration) costs
- h. The need to avoid distortions on the raw material markets from biomass support.

The tendering terms and procedures, as well as cases of restriction of this process are proposed by the Minister and approved by a decision of the Government.

The Ministry in consultation with the Energy Regulatory Commission and the Energy Community Secretariat, prepares proposals regarding support measures.

The support shall be given in the form of a premium, 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 Renewable Energy Operator will prepare an application form for support according to the contract for difference. The application form 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 respective costs. In the application form, beneficiaries must have the opportunity to describe the chance of development of the project without the support scheme.

### Article 138

- (1) In addition to the obligations referred to in Article 66, paragraph (2) of the present Law, the preferential electricity producer shall be obliged:
  - a) to sell the electricity directly in the market and conclude a contract for difference with the Renewable Energy Operator as referred to in Article 139, paragraph (2) of the present Law;
  - b) shall sign a contract for balancing with the transmission system operator and take financial balance responsibility for the imbalance caused from notification of operation schedule to the electricity market operator, pursuant to the Electricity Market Rules, unless no liquid intra-day market exists;
  - c) to pay the difference between the reference price and the strike price to the Renewable energy operator in case when the reference price exceeds the strike price.
- (2) Installations with an installed electricity capacity of less than 500 kW or demonstration projects, or for wind capacities of less than 3 MW are exempted from ~~balance~~ the obligations under paragraph 1 ~~responsibility~~.

### Article 139

(1) The Renewable energy operator is responsible for invoicing and collecting from any supplier of electricity of payments for the renewable energy obligation for all categories of preferential energy producers, applied to all final clients, in accordance with the respective energy quantity measured and delivered to these clients. The Government defines the operator who will perform the functions of the Renewable energy operator, in accordance with the competencies set out in this law.

(2) The Renewable energy operator is responsible for signing and managing contracts for difference with the preferential electricity producers, including forecasting payments under the support scheme for priority producers

(3) The Renewable energy operator must maintain detailed records on all support measures. These records must be kept for the duration of the Contract for difference plus an additional ten years, including the all information relevant to demonstrate that the terms from the Contract for difference were fulfilled.

(1)

(2)

(3) The Renewable Energy operator shall be obliged:

- 1) to administer the balancing group to which renewable energy sources and high-efficiency co-generation plants belong to as their balance responsible party, and
- 2) to reimburse the electricity transmission system operator the costs incurred for balancing and required ancillary services related to the operation of preferential electricity producers and to receive revenues according to the settlement rules of the imbalance mechanisms

(4) The electricity market operator shall enter into contracts with suppliers and with traders to receive the incentive fee for the promotion of renewable energy applied to electricity final consumers.

- (5) The electricity suppliers and, where relevant, electricity traders referred to in paragraph (6) of this Article shall be obliged, as part of their bills, invoices or promotional materials made available to their final customers, to provide information on:
  - 1) the incentive fee referred to in Article 136 paragraph (6) and of average price referred to in paragraph (7) of this Article,
  - 2) the contribution of each energy source to the overall fuel mix of the supplier over the preceding year in a comprehensible and, at a national level, clearly comparable manner,
  - 3) at least the reference to existing reference sources, such as web pages, where information on the environmental impact, in terms of at least CO<sub>2</sub> emissions and the radioactive waste resulting from the electricity generated by the overall fuel mix of the supplier over the preceding year is publicly available,
  - 4) the rights of final customers as regards the means of dispute settlement available to them in the event of a dispute.
- (6) As regards items 2) and 3) of paragraph (9) of this Article, with respect to electricity obtained via an electricity exchange or imported from an undertaking situated outside the Energy Community, the electricity suppliers and, where relevant, electricity traders referred to in paragraph (6) of this Article may also provide information on aggregate figures provided by the exchange or the undertaking in question over the preceding year.
- (7) The Energy Regulatory Commission shall take the necessary steps to ensure that the information provided by electricity suppliers to their customers pursuant to this Article is reliable and is provided in a clearly comparable manner.

#### **Article 139-a**

- (1) The electricity transmission system operator and the electricity distribution system operator(s) shall set up and make public standard rules relating to the bearing and sharing of costs of technical adaptations, such as grid connections and grid reinforcements, improved operations of the grid and rules on the non-discriminatory implementation of the Electricity Transmission Grid Code and the Electricity Distribution Grid Code, which are necessary to integrate new producers of electricity generated from renewable energy sources and at high efficiency co-generation plants.
- (2) The standard rules referred to in paragraph (1) of this Article shall be based on objective, transparent and non-discriminatory criteria, particularly taking into account of:
  - 1) all costs and benefits associated with the connection of those producers to the relevant grid,
  - 2) the particular circumstances of producers of electricity generated from renewable energy sources and at high efficiency co-generation plants, who are located in peripheral regions and in regions of low population density, and
  - 3) the benefits, which initially and subsequently connected producers of electricity generated from renewable energy sources and at high efficiency co-generation plants, as well as the relevant transmission system operator(s), derive from the relevant connections.
- (3) The relevant system operator(s) may be required to bear in full or in part the costs referred to in paragraph (2), item 1) of this Article.
- (4) The electricity transmission system operator and the electricity distribution system operator(s) shall provide any new producer of electricity generated from renewable energy sources or at high efficiency co-generation plants with a comprehensive and necessary information required for the purpose of connecting to the relevant grid:

- 1) a comprehensive and detailed estimate of the costs associated with the connection in question;
  - 2) a reasonable and precise timetable for receiving and processing the relevant request for grid connection; and
  - 3) a reasonable indicative timetable for any proposed grid connection.
- (5) Transmission and distribution system operators upon the request of a producer of energy from renewable sources, and in accordance with approved codes and regulations, propose as connection point to their network the one which meets the most favourable conditions for the renewable energy producer from the point of view of costs and distance to the grid. In selecting the best and most convenient connection point, the transmission and distribution system operators must take into account the technical constraints and economic efficiency of the selected point of the grid.
  - (6) Producers of electricity generated from renewable energy sources and at high efficiency co-generation plants wishing to be connected to the relevant grid may issue a call for tender for the connection work, provided that the carrying-out of any such connection work is fully compliant with the relevant requirements that are set out in the Electricity Transmission or Distribution Grid Code.
  - (7) The charging of transmission and distribution tariffs by the relevant electricity transmission or distribution system operator shall not discriminate against electricity generated from renewable energy sources and at high efficiency co-generation plants, including in particular electricity from renewable energy sources and from high efficiency co-generation plants, which is generated in peripheral regions and in regions of low population density.
  - (8) The charging of transmission and distribution tariffs by the relevant electricity transmission or distribution system operator shall not discriminate against gas generated from renewable energy sources.
  - (9) The tariffs charged by the relevant energy transmission or distribution system operator for the transmission and distribution of electricity shall reflect realisable cost benefits resulting from the relevant renewable energy plant's connection to the system in question. Such cost benefits could arise from the direct use of the low-voltage grid.
  - (10) The relevant system operator shall publish technical rules, which shall establish the minimum technical design and operational requirements for the connection to the system of installation producing gas from renewable gas sources, particularly the network connection rules that include gas quality, gas odoration and gas pressure requirements.
  - (11) The relevant system operator shall publish the connection fees to connect installations producing gas from renewable gas sources based on transparent and non-discriminatory criteria.

### **XIII SPECIAL PROVISIONS**

#### **Article 140**

- (1) The energy system user shall be obliged:
  - 1) to use and/or operate the energy facilities, devices or installations in its ownership, pursuant to the present Law, other regulations and relevant Grid Code and not to endanger human life and health, and property;
  - 2) within the deadline set by the State Technical Inspectorate, to eliminate all shortcomings in the energy facilities, devices or installations in its ownership;
  - 3) without prior consent obtained from the relevant transmission or distribution system operator, not to connect the facilities, devices or installation to the relevant energy

system, or not to provide connection of other energy users through its facilities, devices or installations;

- 4) to enable proper record keeping on energy or natural gas consumed by its customers, and not to consume energy or natural gas without metering devices or with metering devices that are not installed by the relevant system operator;
  - 5) not to temper metering devices;
  - 6) not to prevent energy delivery to other users;
  - 7) in case of emergency, to adhere to the measures stipulated in compliance with Article 14 of the present Law.
- (2) Prior to putting into operation the equipment installed at the newly constructed energy facility or installed at the existing facility, the investor referred to in Article 39 of the present Law shall be obliged to have obtained a decision for putting into operation the equipment installed for the first time issued by the State Technical Inspectorate upon a previously implemented procedure on putting the equipment into operation for the first time pursuant to the Law on Technical Inspections.

#### **Article 140-a**

- (1) Each system operator shall keep data of the users of the system it operates (name and surname/name of the user, address/head office, personal identification number/tax number, document number for identification, telephone number, fax, e-mail).
- (2) The system operators, shall have the right to process, update and exchange the data referred to in paragraph (1) among them, subject to provisions of the legislation on the protection of personal data, for the purposes of fulfilling the obligations arising from the present Law and the regulations adopted on the basis of the present Law, submit them at the request of the state authorities and courts, and at the request of other authorities and organisations in a lawful procedure.
- (3) Users data referred to in paragraph (1) of this Article may be used for the purposes of:
  - 1) Regulation of contractual relations (connection to energy systems or natural gas systems, energy or natural gas delivery, etc.);
  - 2) Collection of receivables;
  - 3) Conducting judicial or administrative proceedings, and
  - 4) Communication with users for the purposes of fulfilment of obligations arising from the present Law and the regulations adopted on the basis of the present Law.
- (4) After the termination of the contractual relations, users data referred to in paragraph (1) of this Article shall be kept for a period of three (3) years starting from the date of issuance of the last bill to the users for the services provided pursuant to the present Law.
- (5) Users of the system shall, within not more than thirty (30) days, inform the relevant system operator(s) on the change of the data in paragraph (1) of this Article.

#### **Article 141**

- (1) The relevant energy or natural gas transmission or distribution system operator shall be entitled to indemnity for the damages caused as a result of unauthorized energy or natural gas consumption or non-registered energy or natural gas quantities due to unauthorized tempering with metering devices.
- (2) The procedure on determining the manner on quantifying damages inflicted and indemnity thereof, which the user is obliged to settle shall be stipulated under the relevant Grid Code.



- (3) Energy or natural gas final customers shall be entitled to indemnity for the damages caused due to reduced delivery or interruption in energy or natural gas delivery by the relevant transmission or distribution system operator, under terms and conditions and in a manner stipulated under the Energy or Natural Gas Supply Rules.
- (4) Energy producers shall be entitled to indemnity for the damages caused by the operator and occurred due to reduced delivery or interruption in energy delivery from the system, under terms and conditions and in a manner stipulated under the relevant Grid Code.

#### **Article 142**

- (1) On the request from the supplier, the transmission or distribution system operator can disconnect the final customer from the relevant system in the procedure stipulated in the Supply Rules.
- (2) The transmission or distribution system operator can disconnect a user from the system under terms and conditions and in a procedure stipulated in the relevant Grid Code.

#### **Article 143**

- (1) Persons operating energy devices and plants must pass technical qualification exam (hereinafter: exam).

#### **Article 143-a**

- (1) The operators of specific types of power devices and plants shall have the right to take an exam, provided they fulfil the following conditions for:
  - 1) Operation of steam turbines:
    - Above 10MW, four-year vocational education in the field of energy, electrical or mechanical engineering, and twelve-month work under supervised operation of turbine plants; and
    - Up to 10MW, four-year vocational education in the field of energy, electrical or mechanical engineering, and nine-month work under supervised operation of turbine plants;
  - 2) Operation of gas turbines used for generation of electricity, four-year vocational education in the field of energy, electrical or mechanical engineering, and twelve-month work under supervised operation of turbine plants;
  - 3) Operation of hydro turbines used for generation of electricity, four-year vocational education in the field of energy, electrical or mechanical engineering, and twelve-month work under supervised operation of turbine plants;
  - 4) Operation of boiler rooms with ATC (automatic thermal control) with installed power:
    - Above 20MW, four-year vocational education in the field of energy, electrical or mechanical engineering, and twelve-month work under supervised operation of boiler plants;
    - Up to 20MW, four-year vocational education in the field of energy, electrical or mechanical engineering, and twelve-month work under supervised operation of boiler plants; and
    - Up to 5MW, two-year vocational education in the field of energy, electrical or mechanical engineering, and twelve-month work under supervised operation of boiler plants;
  - 5) Operation of boilers:

- With mechanised ignition, four-year vocational education in the field of energy, electrical or mechanical engineering, and twelve-month work under supervised operation of boiler plants; and
  - With manual ignition, two-year vocational education in the field of energy, electrical or mechanical engineering, and six-month work under supervised operation of boiler plants;
- 6) Operation of piston steam engines, with two-year vocational education in the field of energy, electrical or mechanical engineering, and twelve-month work under supervised operation of piston steam engines;
- 7) Operation of internal combustion engines with a total power:
- Above 200kW, with four-year vocational education in the field of energy, electrical or mechanical engineering, and twelve-month work under supervised operation of engines; and
  - Up to 200kW, with two-year vocational education in the field of energy, electrical or mechanical engineering, and twelve-month work under supervised operation of engines;
- 8) Operation of compressors and cooling facilities:
- With total power above 200kW, four-year vocational training in the field of energy, electrical, mechanical or chemical-technological engineering, and twelve-month work under supervised operation of compressors and cooling facilities; and
  - With total power of up to 200kW, two-year vocational training in the field of energy, electrical, mechanical or chemical-technological engineering, and twelve-month work under supervised operation of compressors and cooling facilities;
- 9) Operation of pumping stations:
- With total power above 200kW, four-year vocational education in the field of energy, electrical or mechanical engineering, and twelve-month work under supervised operation of pumping stations; and
  - With total power of up to 100kW, two-year vocational training in the field of energy, electrical, mechanical or chemical-technological engineering, and twelve-month work under supervised operation of pumping stations;
- 10) Operation of gas producers, with two-year vocational education in the field of energy, electrical or mechanical engineering, and twelve-month work under supervised operation of gas producers;
- 11) Operation of central heating boilers:
- With installed power above 1 MW, operating pressure of 0,5 bar, temperature up to 110°C of the output water, four-year vocational education in the field of energy, electrical or mechanical engineering, and twelve-month work under supervised operation of boilers; and
  - With installed power between 0,2 and 1 MW, operating pressure of up to 0,5 bar, temperature of 110°C of the output water, two-year vocational training in the field of energy, electrical or mechanical engineering, twelve-month supervised work, of which six (6) months operating boilers or completed elementary education and eighteen-month work under supervision, of which six (6) months operating boilers;
- 12) Operation of air conditioning, with two-year vocational training in the field of energy, electrical or mechanical engineering, and six-month work under supervised operation of air conditioning;

- 13) Operation of devices for preparation of feed, boiler, and cooling water above 15m<sup>3</sup>/h, with two-year vocational training in the field of chemical-technological or mechanical engineering, and six-month work under supervised operation of devices for preparation of feed, boiler, and cooling water;
- 14) Operation of devices for feeding and manipulation of technical gases, with two-year vocational training in the field of electrical or mechanical engineering, and six-month supervised work or completed elementary education, and twelve-month supervised work;
- 15) Operation of class-1 and class-2 pressurised vessels, with two-year vocational training in the field of energy, electrical or mechanical engineering, and six-month work under supervised operation for workers in the field of energy, that is to say, twelve-month work for the workers in the field of electrical and mechanical engineering;
- 16) Operation of transformer stations and distribution power plants, with four-year vocational education in the field of electrical engineering or energy, and twelve-month work under supervised operation of transformer stations and distribution power plants;
- 17) Operation of dispatching centres and electrical commands, with four-year vocational education in the field of electrical engineering or energy, and twelve-month work under supervised operation of dispatching centre and electrical commands;
- 18) Operation of a power block for generation of electricity, with four-year vocational education in the field of energy, electrical or mechanical engineering, and twelve-month work under supervised operation of power blocks;
- 19) Operation of heat effect desiccators:
  - Above 500kW, four-year vocational education in the field of energy, electrical or mechanical engineering, and six-month work under supervised operation of desiccators; and
  - Up to 500kW, two-year vocational education in the field of energy, electrical or mechanical engineering, and six-month work under supervised operation of desiccators;
- 20) Operation of technology furnaces with effect above 0,5MW, ignited by liquid of gaseous fuel, with four-year vocational education in the field of energy, electrical or mechanical engineering, and twelve-month work under supervised operation of technology furnaces.

#### **Article 143-b**

- (1) The exam shall be composed of two parts, as follows:
  - First part (theoretical part), to test the theoretical knowledge of the candidates; and
  - Second part (practical part), to test the ability of the candidate to operate adequate power devices and plants for which the candidate has applied.
- (2) The exam referred to in paragraph (1) of this Article shall be taken in writing electronically, by answering a specific number of questions as a test presented electronically on a computer.
- (3) The first part of the exam shall be taken by answering the questions defined in accordance with the Exam Programme for Technical Qualification.
- (4) The second part of the exam shall be taken using the respective power devices and plants, either as a simulation or by direct operations performed by the candidates.

#### **Article 143-c**

- (1) The exam shall be carried out as per the Programme containing the materials, and fields of expertise, depending on the type of power devices and plants.
- (2) The exam Programme shall be adopted by the Minister.

#### **Article 143-d**

- (1) The trainers appointed by the Minister shall prepare the databases with the questions for the first and second part of the exam referred to in Article 143-p of the present Law.
- (2) The questions for the first part of the exam, and the questions for the second part of the exam shall be verified by a Commission comprising:
  - a representative from the Ministry, Energy Department,
  - a representative of the State Inspectorate for Technical Inspection,
  - a representative from AD EVN Macedonia,
  - a representative of AD ELEM,
  - an employee of AD Macedonian Energy Resources, and
  - an employee of AD TE-TO Balkan Energy Group.
- (3) The Commission shall be established and dissolved by the Minister in charge of energy affairs.
- (4) The Commission referred to in paragraph (2) of this Article shall also review and update the databases with the questions referred to in Article 143-p of the present Law at least once per year.
- (5) While performing the review, the Commission shall particularly take into consideration the amendments of the technical regulations used as grounds for the question, the number of candidates that have answered it, the success rate of the answers, as well as other criteria which may have an impact on the quality enhancement of the databases referred to in Article 143-p of the present Law.
- (6) Pursuant to the conducted review and update of the question databases, the Commission shall decide whether to change or completely remove them from the databases referred to in Article 143-p of the present Law.
- (7) The trainers and the members of the Commission referred to in paragraph (1) and (2) of this Article shall be entitled to monetary compensation set by the Minister.
- (8) The monetary compensation referred to in paragraph (7) of this Article shall be set on the basis of the number of candidates and the number of verified, revised and prepared questions.
- (9) The annual amount of the monetary compensation referred to in paragraph (7) of this Article shall not exceed three average monthly salaries paid in the Republic of Macedonia for the previous year as published by the State Statistical Office.
- (10) The payment of the fee to the members of the Commission from paragraph (2) of this Article and the Article 143-o, paragraph (3) of this law, is made from the account of own revenues of the Ministry from the charged fees of the candidates that pass the exam.

#### **Article 143-e**

- (1) The technical and administrative work for conducting the professional exam shall be performed by the Ministry of Economy, and the exam shall be technically carried out by a legal person registered in the Central Registry, selected by the Minister of Economy.

#### **Article 143-f**

- (1) The exam may be taken in the March, May, September, and December exam session.

#### **Article 143-g**

- (1) The candidate shall submit the application for taking the exam to the Ministry.
- (2) The candidate shall be obliged to enclose to the exam application, copy of the vocational education diploma, certificate from the birth registry, certificate for the work experience under supervision for the respective power devices and plants as per the present Law, and proof for paid fees for taking the professional exam.

#### **Article 143-h**

- (1) The Minister or a person authorised thereby, shall adopt a resolution establishing whether the candidate fulfils the conditions for taking the exam.
- (2) Administrative proceedings may be initiated before the competent court against the resolution rejecting the application for taking the exam, within thirty (30) days from the receipt of the resolution.

#### **Article 143-i**

- (1) The candidate whose application for taking the exam has been approved, shall be given the time and place for taking the exam not later than eight (8) days before taking the exam.
- (2) The candidate must be allowed to take the exam in the first following session after the date the candidate's application for taking the exam has been approved.
- (3) The candidate shall be obliged to report the participation in the exam session between the 1st and 15th of the month preceding the month of the exam session (February, April, August, and November).

#### **Article 143-j**

- (1) The exam shall be taken in an exam room, specially equipped for taking technical exams with the material, technical and IT equipment, internet connection, and equipment for recording the exam.
- (2) The public shall be informed of the date and time for taking the exam at least three (3) days prior to the exam.
- (3) The exam shall be recorded live and shall be broadcasted on the web-site of the Ministry, and if due to technical reasons the recording is interrupted, the recording of the whole Exam shall be placed on the web-site of the Ministry.
- (4) The legal person carrying out the exam should fulfil the criteria pertaining to the spatial conditions, and the material, technical and IT equipment in the premises for taking the exam, and the conditions shall be prescribed by the Minister.

- (5) One representative from the Ministry, one representative from the State Inspectorate for Technical Inspection, one representative from the Government of the Republic of Macedonia proposed by the Office of the President of the Government, and two representatives from the Ministry of Information Society and Administration (IT experts) shall be present in the exam room when the exam is taking place.

#### **Article 143-k**

- (1) Before commencing the exam, the representative of the Ministry shall verify the identity of the candidate from its ID card.
- (2) While taking the first part of the exam, the candidate shall not be allowed to use literature, mobile telephone, portable computer devices, and other technical and IT devices, previously prepared cases or similar.
- (3) While taking the second part of the exam, the candidate shall be allowed to use protective equipment during the operations.
- (4) While taking the first part of the exam, the candidate shall not be allowed to contact other candidates or persons, except the IT experts referred to in Article 143-j of the present Law, in case it is experiencing technical difficulties with the computer.
- (5) If the technical difficulties with the computer are resolved within five minutes the exam shall continue, but if they are not resolved within this timeframe, the exam for that candidate shall be adjourned and shall take place again within three (3) days from the adjournment of the exam.
- (6) If there are difficulties with more than five computers, and they are not resolved within five minutes, the exam shall be adjourned for all candidates taking the exam, and it shall take place within three (3) days from the adjournment of the exam.
- (7) If a candidate acts contrary to paragraphs (2), (3), and (4) of this Article while taking the first and second part of the exam, the candidate shall be precluded to continue taking the exam during that exam session.
- (8) In the cases referred to in paragraph (7) of this Article, it shall be deemed that the candidate has not passed the technical exam and this shall be stated in the Minutes on exam.
- (9) During the technical exam, the authorised representatives referred to in Article 143-j, paragraph (5), of the present Law, shall not be allowed to spend more than five seconds in the immediate vicinity of the candidates taking the exam, except in cases when technical difficulties are being resolved, and in such case they shall not be allowed to take more than five minutes.

#### **Article 143-l**

- (1) If during the exam there are justified reasons for the candidate not to continue taking the exam (illness, maternity leave, education abroad or similar), the exam shall be adjourned for a definite period of time that may not exceed six (6) months.
- (2) The resolution to resume the exam shall be adopted by the Minister, upon a request from the candidate. The request shall be submitted within eight (8) days from the cessation of the reasons for postponing the exam, however, not later than six (6) months.
- (3) If the candidate fails to submit a request for postponement of the exam within the deadline set in paragraph (2) of this Article, it shall be deemed that exam has not been passed.
- (4) The candidate may initiate administrative proceedings before the competent court against the resolution of the Minister referred to in paragraph (2) of this Article, within thirty (30) days from the receipt of said resolution.

- (5) When resuming the exam, the candidate shall not take the part of the exam it has already taken.

#### **Article 143-m**

- (1) The exam shall start by taking the first part (theoretical part) of the exam, and shall then proceed with the second part (practical part).
- (2) The second part shall be taken within fifteen (15) days after part 1 has been successfully passed.
- (3) The Minister shall prescribe the scoring methods for the first and second part by a Rulebook.

#### **Article 143-n**

- (1) The first part of the exam shall be taken by answering questions defined in accordance with the Exam Programme for Technical Qualification, and shall contain at least 30 questions with five choices for selection, of which one is correct, two are similar to the correct answer, one is incorrect to a lesser extent (smaller number of points are lost), and one is incorrect to a larger extent (higher number of points are lost).
- (2) The candidate must pass part 1 of the exam in order to be allowed to take part 2 of the exam.
- (3) If the candidate fails to pass the first part of the exam as per paragraph (2) of this Article, it shall be deemed that the candidate failed to pass the exam.

#### **Article 143-o**

- (1) The second part of the exam shall be composed of five questions in the relevant field of operation and work with the respective power device and plant, as per the Exam Programme for Technical Qualification, where the candidate randomly gets 50 of the prepared questions.
- (2) Aside from answering questions, the second part of the exam shall include practical operation of the respective plant.
- (3) Depending on the field for which the exam is taken, the practical part with the respective plant shall be evaluated by a Commission established by the Minister comprising:
  - a representative from the Ministry, Energy Department,
  - a representative of the State Inspectorate for Technical Inspection,
  - a representative from AD EVN Macedonia,
  - a representative of AD ELEM,
  - an employee of AD Macedonian Energy Resources, and
  - an employee of AD TE-TO Balkan Energy Group.
- (4) If the candidate fails to pass the second part of the exam, it shall be deemed that the candidate failed to pass the exam.

#### **Article 143-p**

- (1) The first Part of the technical exam shall be taken by answering a specific number of questions on an electronic test presented on a computer.

- (2) The test questions, depending on their difficulty, shall be scored as per the points allocated for the test.
- (3) The second part of the exam shall be taken via simulation or direct operation with the power device or plant for which the candidate has submitted its application.
- (4) The questions for the second part of the exam, depending on their difficulty, shall be scored accordingly by the members of the Commission.
- (5) The questions contained in the tests for the first part of the exam and their answers, as well as the questions for the practical part of the exam and their answers shall be stored in the single electronic system for the exam.
- (6) The electronic system referred to in paragraph (5) of this Article shall also include a publicly available database of at least 200 questions in the field for which the candidate has submitted an application for the first and second part of the exam, where part of the questions shall be of general nature, part shall be of professional nature, and part related to work safety.
- (7) The electronic system shall contain references to the Programme and literature containing the answers of the questions for the first and second part of the exam.
- (8) The number of questions for the second part of the exam shall increase by 10% each year, starting as of 2016.
- (9) The results from taking the first part of the exam shall be available to the candidate on the computer on which it has taken the exam, immediately after its completion.

#### **Article 143-q**

- (1) At the day of taking the first part of the exam, a representative of the Ministry shall give the candidate an access code, that is to say, a password allowing access to the electronic system referred to in Article 19 of the present Law.
- (2) Upon the access approval, the candidate is presented with the electronic test for the first part of the exam, computer-generated, with a content randomly selected by the software of the electronic system referred to in Article 143-p, paragraph (5), of the present Law from the databases referred to in Article 143-p, paragraph (6), of the present Law.
- (3) The second part of the exam shall contain a manual on how to take it, which will be clarified by the representative of the Ministry before the exam starts.
- (4) The electronic system for taking the exam may not allow the same content of the electronic test for the first part of the exam for more than one candidate at the same exam session.

#### **Article 143-r**

- (1) In case the exam is interrupted during the first of the second part of the exam, due to reasons that are making the electronic system or the plant supposed to be operated by the candidate technically defunct, the exam shall be terminated.
- (2) If the reasons referred to in paragraph (1) of this Article are removed within 60 minutes from the termination of the exam, the exam shall resume immediately after their removal.
- (3) If the reasons referred to in paragraph (1) of this Article are not removed within the timeframe referred to in paragraph (2) of this Article, the exam shall be rescheduled.

#### **Article 143-s**

- (1) The total duration allocated for answering the questions for the first part of the exam shall be 120 minutes.



- (2) It shall be deemed that a candidate has passed the exam if he/she has given correct answers to exam questions that resulted in scoring at least 60% of the total number of allocated points.

#### **Article 143-t**

- (1) The total duration allocated for answering the questions for the second part of the exam shall be 15 minutes.
- (2) It shall be deemed that a candidate has passed the exam if he/she has given correct answers to exam questions that resulted in scoring at least 70% of the total number of allocated points.

#### **Article 143-u**

- (1) The candidates, that have passed the exams, shall be issued certificates for passed technical exam within thirty (30) days from the date the exam for operation of a specific type of power devices and plants has ended.
- (2) The form and content of the certificate referred to in paragraph (1) of this Article shall be prescribed by the Minister.

#### **Article 143-v**

- (1) Upon request from the candidate, the Ministry shall inform him/her of the mistakes made when taking the exam, by providing a direct insight in the test.

#### **Article 143-w**

- (1) The tests and questions for the practical part of the exam shall be used and provided to the candidate only for the duration of the exam.
- (2) There shall be a permanent documentation for the conducted professional exam composed of the records of registered candidates and candidates, that have fulfilled the conditions to take the exam, files of the registered candidates with attached documentation, book of records for authorised representatives, book of minutes on the results of the exams, and records of issued certificates for passed professional exam, as well as the recordings of the conducted exams, all stored in the Ministry.
- (3) The Minister shall establish an Exam Review Commission, which shall use the materials referred to in paragraph (2) of this Article, and shall be composed by, besides from the other members, a representative of the Government of the Republic of Macedonia, and an IT expert from the Ministry of Information Society and Administration designated by the Government of the Republic of Macedonia.
- (4) The Commission referred to in paragraph (3) of this Article shall convene at least once per year and shall audit the manner of conducting at least two exam sessions in the current year.
- (5) The Commission shall be entitled to also review the manner of conducting the exams in the last five (5) years until the meeting of the Commission, however, not earlier than the date the present Law enters into force.
- (6) If the Commission identifies any irregularities committed by individuals during the exams, within the meaning of Article 15 in the present Law, it shall propose repealing of the authorisation referred to in Article 143-u of the present Law.

- (7) The Minister shall adopt a decision for repealing the certificate pursuant to a proposal of the Commission within ten (10) days from the receipt of the proposal.
- (8) Administrative proceedings may be initiated before the competent court against the decision referred to in paragraph (7) of this Article, within thirty (30) days from the receipt of the said resolution.

#### **Article 143-x**

- (1) The expenses for taking the exam shall be borne by the candidate, except when its employing institution decides to pay them.
- (2) The fee referred to in paragraph (1) of this Article shall be set by the Minister on the basis of actually incurred costs for taking the exam, necessary for carrying out the first and second part of the exam, preparing the question databases, conducting the electronic test, drafting the materials and invitations, and producing the certificates.
- (3) The expenses for taking the exam shall be paid on the account for proper revenues of the Ministry.
- (4) If the expenses are not paid on the respective account of the Ministry, at least fifteen (15) days before the beginning of the exam session, the candidate shall not be allowed to take the exam.
- (5) If the candidate fails to take the exam within one (1) year from the payment of the fee, the paid amount shall be reimbursed in accordance with the Law.

#### **Article 144**

- (1) The Minister, by means of the Rulebook on the Control of Electricity Quality, shall stipulate the manner and procedure on measuring the quality of electricity delivered through the electricity transmission system or electricity distribution systems.
- (2) On the request from the electricity transmission and/or distribution system user, the State Technical Inspectorate or any other inspection authority accredited in compliance with the Law on Accreditation shall measure the quality of electricity delivered from the electricity transmission system or electricity distribution system operators under normal operation mode in the relevant system.
- (3) When the user is electricity final customer, he/she shall request the State Technical Inspectorate to measure the electricity quality through the relevant supplier or trader, or shall sign a contract with a certified inspection authority.
- (4) On the proposal from the Minister, the Government of the Republic of Macedonia shall stipulate the charge on measuring the electricity quality performed by the State Technical Inspectorate, depending on the grid type and specific requirements related to quality measurement.
- (5) The charge on measuring the electricity performed by a certified inspection authority shall be stipulated in the contract referred to in paragraph (3) of this Article.
- (6) When the results of measurements performed are in compliance with the quality stipulated under the Electricity Supply Rules and Electricity Transmission or Distribution Grid Code, the charge on measurement performed shall be settled by the user.
- (7) When the results of measurements performed by the State Technical Inspectorate or by an accredited inspection authority are not in compliance with the quality stipulated under the Electricity Supply Rules and Electricity Transmission or Distribution Grid Code, the charge on measurement performed shall be settled by the system operator that failed to

deliver electricity under the stipulated quality, where the charge cannot be higher than the amount stipulated in the regulation referred to in paragraph (4) of this Article.

- (8) The electricity transmission system operator and distribution system operators shall control the electricity quality and check whether users of the relevant system use the system pursuant to the terms and conditions and criteria stipulated in the relevant Grid Code.
- (9) On the proposal from the State Technical Inspectorate, by 31<sup>st</sup> December in the calendar year the latest, the Minister shall adopt the plan on electricity quality measurement, including the metering points and implementation dynamics for the next calendar year.
- (10) By 15<sup>th</sup> March in the calendar year the latest, the State Technical Inspectorate shall submit the Ministry and the Energy Regulatory Commission the report on implementation of the plan referred to in paragraph (9) of this Article for the previous calendar year.

#### **Article 145**

- (1) After the construction and prior to the issuance of the approval for use for the relevant facility, the investor of the energy facility can submit the State Technical Inspectorate the application for the approval to put into operation the equipment installed at the energy facility for the first time in compliance with the Law on Technical Inspection.

#### **Article 146**

- (1) The entities performing energy activities shall be obliged to provide and guarantee confidentiality of business data and information obtained from the users in the course of performance of the relevant energy activity, pursuant to the provisions of the present Law.
- (2) The obligation on securing confidentiality of information referred to in paragraph (1) of this Article shall not apply to:
  - 1) information available for the public;
  - 2) information for which the entities concerned by the information have provided written consents;
  - 3) information which the license holder should provide pursuant to the obligations stipulated in the relevant license, the decision taken by a competent court or on the request from state authority; and
  - 4) information required for the implementation of obligations stipulated in the relevant license.
- (3) The entities performing energy activities shall not be allowed to misuse business secrets and information obtained when performing the activity, for the purpose of acquiring business benefits, as well as for undertaking discriminatory activities for the benefit of third parties.

#### **Article 147**

- (1) Construction and other works performance, tree planting on the land below, above and in the vicinity of energy and gas facilities, devices and plants adversely affecting the electricity generation, electricity and gas transmission and distribution processes and oil transport by pipeline and endangering the safety of people and property, except in cases stipulated in the present Law, shall be forbidden.
- (2) As an exception from paragraph (1) of this Article, when the performance of works is deemed necessary for the purpose of protecting certain public interest, on the request from the entity performing the works and within a period of fifteen (15) days from the

submission of the request, the entity performing energy activity shall be obliged to provide consent for the performance of said works, which shall define the required safeguard measures for the facilities, devices and plants.

- (3) The entity performing the works shall cover the costs incurred for the safeguard measures determined in the consent referred to paragraph (2) of this Article.

#### **Article 148**

- (1) The owner or user of the land shall be obliged to allow temporary trespass on the land in question for the purpose of surveying, design and performance of maintenance and reconstruction works on transmission and distribution energy and gas facilities, as well as inspection supervision on the land they are located.
- (2) The owner or user of the land shall be entitled to indemnity for possible damages caused by the works referred to in paragraph (1) of this Article.

#### **Article 149**

- (1) When the entity performing regulated energy activity has requested the initiation of receivership procedure with voluntary administration, prior to submitting the request on receivership procedure initiation, it shall be obliged to submit the voluntary administration plan to the Energy Regulatory Commission for opinion.
- (2) Within a period not longer than thirty (30) days from the receipt of the voluntary administration plan referred to in paragraph (1) of this Article, the Energy Regulatory shall be obliged to submit its opinion on the voluntary administration plan to the entity performing regulated energy activity. In its opinion, the Energy Regulatory Commission, in addition to the obligations stipulated in the license, can also stipulate other obligations for the entity performing regulated energy activity for the implementation of the voluntary administration plan.
- (3) The bankruptcy judge shall be obliged to submit the Energy Regulatory Commission the decision on initiating the receivership procedure with voluntary administration.
- (4) When the entity performing regulated energy activity has been subject to involuntary receivership procedure on creditor's request:
  - 1) the bankruptcy judge shall be obliged to submit the decision on the initiation of the receivership procedure to the Energy Regulatory Commission;
  - 2) the receiver shall be obliged, within a period not longer than three (3) days from the decision's adoption, to submit the Energy Regulatory Commission all decisions taken by the bankruptcy judge, the receiver, the Board and Assembly of Creditors;
  - 3) the Energy Regulatory Commission shall transfer the regulated energy activity license from the company subjected to the initiation of receivership procedure to the company under receivership;
  - 4) the receiver shall be obliged to provide uninterrupted energy activity performance by the company under receivership until a decision is taken by the Assembly of Creditors.
- (5) In the course of the receivership procedure, the Assembly of Creditors cannot take a decision for the company under receivership to be liquidated/dissolved.
- (6) If a decision on company reorganization has been taken in the receivership procedure, the bankruptcy judge shall be obliged to submit the reorganization plan to the Energy Regulatory Commission.

- (7) The Energy Regulatory Commission, within a period not longer than thirty (30) days from the receipt of the reorganization plan referred to in paragraph (6) of this Article, shall be obliged to submit the bankruptcy and the Assembly of Creditors an opinion on the company reorganization plan.
- (8) Provided that the reorganization plan is approved and the opinion on the reorganization plan issued by the Energy Regulatory Commission is positive, the Energy Regulatory Commission, within a period not longer than seven (7) days from the receipt of the receiver's notification on the adoption of the reorganization plan, shall adopt a decision on transferring the energy activity performance license to the company implementing the company reorganization plan.

#### **Article 150**

- (1) When the holder of regulated energy activity license has submitted the Energy Regulatory Commission an application on license termination or its license was revoked by means of a decision taken pursuant to Article 48 of the present Law, for the license whose validity has terminated or has been revoked, the Energy Regulatory Commission shall immediately inform the Government of the Republic of Macedonia thereof, and in cooperation with the Ministry, shall propose the Government of the Republic of Macedonia contingency measures required to secure quality, uninterrupted, safe, and reliable public service performance related to regulated energy activity.
- (2) In the cases referred to in paragraph (1) of this Article, the Energy Regulatory Commission shall announce an open call for the selection of a new license holder. The procedure on open call announcement shall be implemented in compliance with the provisions from the Law on Concessions and Other Public-Private Partnerships.
- (3) The Energy Regulatory Commission shall announce the open call referred to in paragraph (2) of this Article within a period not longer than ninety (90) days from the day the decision on license termination or revoking entered into effect.
- (4) Until the decision on the selection of the new license holder on relevant regulated energy activity enters in effect and until the initiation of energy activity performance by the new license holder, the previous license holder shall be obliged to act pursuant to the measures referred to in paragraph (1) of this Article, and shall continue to perform the energy activity under terms and conditions stipulated by the said measures, thereby generating income pursuant to applicable prices and tariffs.

#### **Article 152**

- (1) The Minister shall adopt the technical regulations on construction, maintenance and safe operation of energy facilities, devices and installations.

#### **Article 152-a**

- (1) The designing, construction, putting into operation, functioning and maintaining of plants and installations for natural gas shall be done on the basis of technical rules.
- (2) The Government of the Republic of Macedonia, at the proposal of the Ministry, shall adopt a Decree on the technical rules for the design, construction, operation, functioning and maintenance of plants and installations for natural gas.

#### **Article 152-b**

- (1) A Certificate on performance, i.e. welding of polyethylene and steel pipes for gas systems issued by a competent authority of another State may be recognised in the Republic of Macedonia at the request of the holder of the Certificate.
- (2) The recognition of the Certificate referred to in Paragraph (1) of this Article shall be performed by the Commission for Recognition of Performance Certificates - welding of polyethylene and steel pipes for gas systems issued by a competent authority of another State, established by the Minister, taking into account the appropriate and equitable representation of the members of all communities.
- (3) The Commission referred to in Paragraph (2) of this Article shall be comprised of five members, of which one representative from the Ministry, the Ministry responsible for the issues in the area of construction, the State Inspectorate for Technical Inspection, the Chamber of Authorised Engineers and an external expert in the field of gas technology. The term of service for the members of the Commission shall be four (4) years.
- (4) The Commission shall adopt Rules of Procedure for its work.
- (5) The Request for recognition of the Certificate referred to in Paragraph (1) of this Article shall be submitted to the Ministry. Along with the Request, the holder of the Certificate issued by the competent authority of another State shall also submit:
  - 1) Original copy of the Certificate and certified translation of the Certificate for performing-welding of polyethylene and steel pipes for gas systems in Macedonian language and
  - 2) Certified translation of a written document on the basis of which the competent authority may issue that type of Certificates.
- (6) If the Commission referred to in Paragraph (2) of this Article determine that the Request for Recognition referred to in Paragraph (1) of this Article is complete, it shall, within a period not longer than thirty (30) days from the date of receipt of the Request, propose that the Minister adopt a Decision for Recognition of the Certificate referred to in Paragraph (1) of this Article.
- (7) If the Commission referred to in Paragraph (2) of this Article determines that the Request for Recognition of the Certificate referred to in Paragraph (1) of this Article does not meet the requirements for Recognition of the Certificate referred to in Paragraph (1) of this Article, it shall, within a period not longer than thirty (30) days from the date of receipt of the Request, propose that the Minister adopts a Decision on rejecting the Request for Recognition of the Certificate referred to in Paragraph (1) of this Article. An administrative complaint may be lodged against the Decision on rejecting the Request for Recognition of the Certificate referred to in Paragraph (1) of this Article.

#### **XIV SUPERVISION**

##### **Article 153**

- (1) The Ministry shall be responsible to supervise the enforcement of the present Law and of the regulations adopted on the basis of the present Law, except for the regulations adopted by the Energy Regulatory Commission.
- (2) The Ministry shall supervise the operation of the Energy Agency and companies performing regulated energy activities in the implementation of obligations stipulated in the present Law, except the supervising duties falling within the competence of the Energy Regulatory Commission.
- (3) The Ministry shall supervise the legal proceeding in the operation of self-government units.

- (4) As part of the supervision referred to in paragraphs (2) and (3) of this Article, the Ministry shall also supervise the implementation of plans and programs whose adoption is stipulated in the present Law.
- (5) The supervision referred to in paragraphs (2), (3) and (4) of this Article shall be based on the principles of legal proceeding, accountability and independence in the implementation of competences stipulated in the present Law and any other Law.

#### **Article 154**

- (1) When performing the supervision referred to in Article 153, paragraph (2) of the present Law, the Ministry shall be obliged to inform entities subjected to the supervision on the irregularities and shortcomings identified and propose deadline for the elimination thereof.
- (2) Should the entities subjected to supervision fail to eliminate the irregularities and shortcomings identified within the stipulated deadline, the Ministry shall undertake measures for the elimination thereof.
- (3) In cases when irregularities and shortcomings identified can have adverse effects on the interests of citizens or the operation of the Ministry, the Ministry shall immediately inform the Government of the Republic of Macedonia and other authorities thereof, and, when needed, shall propose measures for their elimination.
- (4) In cases when irregularities and shortcomings referred to in paragraph (3) of this Article have been identified in the course of supervision of any entities performing regulated energy activities and have not been eliminated within the deadline stipulated, in addition to the information referred to in paragraph (1) of this Article, the Ministry shall inform the Energy Regulatory Commission with the view to initiating the procedure for the relevant license's suspension or revocation.

#### **Article 155**

- (1) In the course of the supervision referred to in Article 153, paragraph (4) of the present Law, the Ministry shall:
  - 1) monitor the legal proceeding of the Municipal Council and the Mayor of the self-government unit, undertake measures and activities and submit initiatives aimed at municipal competences enforcement pursuant to the law;
  - 2) assess whether local self-government unit bodies implement the matters falling under their competences pursuant to the standards and procedures stipulated in the present Law;
  - 3) indicate the Municipal Council and the Mayor of the local self-government unit when they have overstepped their competences stipulated by law and other regulations, and propose appropriate measures aimed to remedy such situations;
  - 4) point out the particular material and procedural shortcomings in the operation of the Municipal Council and the Mayor of the local self-government unit which might prevent the performance of public interest activities of local importance;
  - 5) on request, provide recommendations on adherent enforcement of competences of the Municipal Council and Mayor of the local self-government unit to be implemented pursuant to the law;
  - 6) monitor the timely adoption of acts by the Municipal Council and Mayor of the local self-government unit, as stipulated in the present Law;

- 7) submit initiatives and proposals to the Municipal Council and the Mayor of the local self-government unit when it has identified non-enforcement of the law as a result of conflict of competences between municipal bodies;
  - 8) monitor the legal effect of decisions adopted by the Mayor when resolving administrative matters as regards the rights, obligations and interests of legal and private entities based on the present Law or other Laws, and undertake measures, as authorized by law; and
  - 9) timely inform the Municipal Council bodies and the Mayor of local self-government unit on status identified in relation to their operation and on the measures undertaken as part of the supervision.
- (2) The Ministry shall inform the Municipal Council and the Mayor of the local self-government unit on the undertaken measures and activities referred to in paragraph (1) of this Article.
  - (3) Should, despite the notifications and measures and activities taken, the Municipal Council and the Mayor of local self-government unit fail to perform matters referred to in paragraph (1) of this Article, they shall be – by the effect of the law - deprived from or limited in the performance of the relevant competence.
  - (4) The revoked competences shall be performed by the Ministry, but only for a period of one (1) year from the day it has assumed the responsibility thereof.
  - (5) The Ministry shall perform the competences revoked from the Municipal Council and the Mayor of the local self-government on behalf and on the account of the local self-government unit.

#### **Article 156**

- (1) Inspection supervision on the enforcement of the present Law shall be performed by the State Technical Inspectorate and the State Market Inspectorate, except the supervising duties falling within the competence of the Energy Regulatory Commission and of the Ministry responsible for energy as defined by the present Law.
- (2) The inspection supervision shall include supervising the enforcement of provisions contained in the present Law, other regulations, rules, standards, technical specifications and quality norms related to the energy activities performance by entities performing energy activities, public sector entities, energy system users and energy and energy fuel final customers.
- (3) When performing the inspection supervision, the inspection authorities referred to in paragraph (1) of this Article can authorize professionals from other bodies and institutions or other legal entities to perform certain supervision-related matters should they requires specific expert skills or equipment.

#### **Article 157**

- (1) The Minister can order the inspection authorities referred to in Article 156, paragraph (1) of the present Law to perform joint inspection supervision in cases when:
  - 1) it is necessary to eliminate immediate danger to human health and life, or property of high value;
  - 2) it is necessary to take urgent measures that cannot be postponed;
  - 3) it is necessary due to the supervision complexity or the importance of shortcomings elimination;
  - 4) it is necessary to audit energy facilities of particular importance in the energy field;



- 5) it is considered that supervision can thereby be performed faster, under lower costs and time for both, the entity subjected to supervision and the inspectors;
- 6) it is necessary to reconsider the findings contained in an initiative raised or complaint lodged, while the matter in question falls under the competences of both inspection authorities.

#### **Article 158**

- (1) The entities performing energy activities, public sector entities, energy system users and energy and energy fuel final customers shall be obliged to act upon the request from or order issued by the inspection authorities referred to in Article 156 of the present Law, and in particular:
  - 1) to enable uninterrupted performance of the inspection supervision;
  - 2) to provide insight to documents and data required for the supervision;
  - 3) to provide conditions necessary for uninterrupted operation and determining the actual situation;
  - 4) to enable, within a stipulated deadline, access to premises, products, documents or any other means that are subjected to inspection supervision;
  - 5) upon a written request from the inspection authority, to discontinue the operation during the inspection supervision, when deemed necessary for the purpose of supervision performance and determining the actual situation;
  - 6) upon a written request and within a deadline stipulated in the request from the inspection authority, to submit the inspector or prepare accurate and complete data, reports, materials or other documents necessary for the purpose of inspection supervision performance.

#### **Article 159**

- (1) Should, in the course of inspection supervision performance, the inspector from the State Technical Inspectorate identify that provisions of the present Law, other regulations, rules, standards, technical specifications and quality norms have not been, or have been inappropriately applied, it shall adopt a decision by means of which:
  - 1) shall order the elimination of identified shortcomings that adversely affect the operation of plants and devices and shall determine the deadline thereof;
  - 2) shall prohibit the use of the facility, plant, device or installation when the entity failed to eliminate the identified irregularities within the deadline given; and
  - 3) shall prohibit the use or construction of the facility, plant, device or installation until the identified irregularities are eliminated.
- (2) The inspector shall be obliged to inform the Energy Regulatory Commission on the adopted decision referred to in paragraph (1) of this Article related to the license holder on energy activity performance and shall request energy activity license revoking or suspension.

#### **Article 160**

- (1) Should, in the course of the performance of inspection supervision, the state market inspector identify that:
  - 1) the rules governing energy or natural gas supply to final customers have not been or have been inappropriately applied, it shall adopt a decision, which shall determine the

deadline for the elimination of shortcomings and shall impose an inspection measure and immediately inform the Energy Regulatory Commission thereof;

- 2) the participants on the liquid fuels market have not complied with the obligations stipulated in the Rulebook on Liquid Fuels Quality, it shall adopt a decision on withdrawing from market and circulation the liquid fuels whose quality is not compliant to the stipulated quality and shall impose an inspection measure;
  - 3) the labeling of energy-using products was not in compliance with the Rulebook on Labeling the Energy and Other Resources Consumption of Products , it shall adopt a decision on withdrawing all inappropriately labeled procedures from the market and shall determine the deadline for the elimination of shortcomings and irregularities.
- (2) Should, in the course of the performance of inspection supervision, the state market inspector determine that the irregularity referred to in paragraph (1), item 4 of this Article has been made, it shall be obliged to develop the minutes whereby it shall identify the irregularity made and shall advise its elimination within a period of eight (8) days and shall also present the person or entity where the irregularity was identified in the course of the inspection supervision with an invitation to attend education courses.
  - (3) The form and contents of the invitation to education courses, as well as the manner of education delivery shall be stipulated by the Minister.
  - (4) The education courses shall be organised and delivered by the State Technical Inspectorate within a period no longer than eight (8) days from the day the inspection supervision was performed. The education courses can be delivered to more persons or entities for same or similar irregularities identified at one or more entities.
  - (5) If the person or entity that is to benefit from the education courses fails to attend the classes as scheduled, it shall be considered that the education course is not implemented.
  - (6) If the person or entity that is to benefit from the education courses duly attends the classes and completes them, it shall be considered that the person or entity in question is educated in relation to the irregularity identified.
  - (7) Should, in the course of the performance of inspection supervision, the state market inspector determine that the identified regularities from paragraph (1) of this Article had been eliminated, it shall adopt a conclusion by means of which it shall terminate the inspection supervision.
  - (8) Should, in the course of the performance of inspection supervision, the state market inspector determine that the identified irregularities from paragraph (1) of this Article had not been eliminated, it shall motion a misdemeanor procedure in front of the Misdemeanor Commission.
  - (9) The State Market Inspectorate shall keep records on the implemented education courses in a manner stipulated by the Minister.
  - (10) The Ministry – State Market Inspectorate shall prepare quarterly reports on the performed inspection supervisions and shall publish them on the Ministry's website.

#### **Article 160-a**

- (1) The Energy Agency shall perform supervision of issued certificates for energy performance of buildings and reports prepared on the energy audit findings for the building boiler-heating systems with effective rated output exceeding 20 kW; and building air-conditioning systems with effective rated output exceeding 12 kW;
- (2) The Energy Agency shall perform supervision over the fulfilment of the requirements of the issued Certificates for Energy Auditors.

## **XV MISDEMEANOUR PROVISIONS**

### **Article 161**

- (1) Misdemeanour procedures for misdemeanors stipulated under the present Law can be motioned by the authorities entitled to perform inspection supervision, the Energy Regulatory Commission and the Energy Agency.
- (2) Depending on the misdemeanours on which they are respectively responsible, the competent authorities referred to in paragraph (1) of this Article shall motion a misdemeanour procedure in front of the competent court in the case of misdemeanour acts referred to in Article 165, Article 166, Article 167, Article 168
- (3) , Article 168-a, Article 169, Article 170, Article 170-a, Article 171, Article 171-a, Article 172, Article 172-a, Article 172-b, Article 173, Article 174, Article 175, Article 176, Article 176-a and Article 176-b.
- (4) Provisions contained in the Law on Misdemeanour shall be applied to the procedures motioned in compliance with paragraph (2) of this Article.
- (5) Misdemeanour procedures cannot be motioned or implemented in the case of misdemeanor acts referred to in Article 165, Article 166, Article 167, Article 168, Article 168-a, Article 169, Article 170, Article 170-a, Article 171, Article 171-a, Article 172, Article 172-a, Article 172-b, Article 173, Article 174, Article 175, Article 176, Article 176-a and Article 176-b when a period of four (4) years has passed from the day the relevant misdemeanour occurred.
- (6) Should the misdemeanour acts referred to in Article 165, Article 166, Article 167, Article 168, Article 169, Article 170, Article 170-a, Article 171, Article 171-a, Article 172, Article 172-a, Article 172-b, Article 173, Article 174, Article 175, Article 176, Article 176-a and Article 176-b have been committed on the grounds of personal gains or have caused greater property damage, the competent court can impose a fine in the amount that is ten times the amount of the minimum fine set.

### **Article 162**

- (1) The Energy Regulatory Commission shall lead the misdemeanour procedure and shall impose sanctions for misdemeanour acts referred to in Article 167 paragraph (1), items 1) to 6) and item 8), Article 168 paragraph (1), items 2) to 5), 8)-10), 12\_-15), 18)-22) and 24), paragraph (2), items 1), 2), 4)-10\_ and 12)\_ and (4), Article 168-a, paragraph (1), items 3) to 6) and paragraph (2), items 2), 3) and 5), Article 169, paragraph (1), items 2), 3), 5), 7), 10), 12), 15), 19) and 20), paragraph (2), items 2), 3), 5) and 7) and paragraph (7) Article 170 paragraph (1), item 1) to 4), 10) to 12) and 15), paragraph (2), items 4) and 6), paragraph (3), item 6), paragraph (4), items 1), 2), 4) and 5), Article 171, paragraph (1), item 3) and paragraph (2), items 2), 3) and 5), Article 171-a, paragraph (1), items 2), 3), 5) to 18), 20) to 25), 27), 29) and 30\_ and paragraph (2), items 1) to 3), 5) to 9) and 11) to 18); Article 172, paragraph (1), items 2), 3), 6), 7), 10) to 14), 16, 20) and 21) and paragraph (2), items 1), 2) and 4), Article 172-a, paragraph (1), items 1) to 5), 11), 13) and 14), paragraph (2), items 4) and 6) and paragraph (4), items 1), 3), 4) and 6); Article 174, paragraph (1), item 1), Article 175 paragraph (1), items 1) to 10) of the present Law
- (2) The Ministry shall lead the misdemeanour procedure and shall impose sanctions for misdemeanor acts referred to in Article 167 paragraph (1), items 7 Article 168, paragraphs (1), items 1), 4\_, 6), 7), 11), 16) and 23)\_\_\_paragraph (2), items 3) and 11) and paragraphs (3) to (6)(4), Article 168-a, paragraph (1), items 1) and 2), paragraph (2), items 1), 4) and 6) and paragraphs (3) to (6), Article 169, paragraph (1), items 1), 4), 6), 8), 9), 11), 13), 14) and 16) to 18, paragraph (2), items 1), 4), 6) and 7), and paragraphs (3) to (6), Article 170, paragraphs (1), items 5) to 9), 13) and 14), paragraph (2), items 1) to 3) and 5), paragraph (3), items 1) to 5), paragraph (4), item 3) and paragraphs (5) to (8), Article 171

paragraph (1), items 1) and 2), paragraph(2), items 1), 4) and 6) and paragraphs (3( to (6), Article 171-a, paragraph (1), items 1), 4), 19), 26) and 28), paragraph (2), items 4), 10) and 19) and paragraphs (3) to (6), Article 172, paragraph (1), items 1), 4), 5), 8), 9), 15) and 17) to 19) and paragraph (2), items 3) and 5) to 7), and paragraphs (3) to (10), Article 172-a, paragraph (1), items 6) to 10), 12), 15) and 16), paragraph (2) items 1) to 3) and 5), paragraph (3), items 1) to 5), paragraph (4), items 2), 5) and 7) and paragraphs (5) to (7), Article 173, paragraphs (1) to (5), Article 174, paragraph (1), item 2) and paragraphs (2) to (4), Article 175, paragraph (1), items 1) to 10) and paragraphs (2) to (5), Article 176, paragraphs (1) to (14) and Article 176-a, paragraphs (1) to (4) of the present Law.

- (3) For the purposes of implementing the misdemeanour procedure and imposing misdemeanour sanctions for the misdemeanour acts stipulated in paragraph (2) of this Article, the Minister, by means of decision, shall establish the Misdemeanour Commission comprised of three members – employees at the Ministry, those being:
  - 1) one attorney-at-law, being admitted to the bar, with five (5) years working experience in the legal field, who shall be the President of the Misdemeanour Commission;
  - 2) one member holding a BSc Degree in the field of technical sciences, with five (5) years working experience in this profession; and
  - 3) one member holding a BSc Degree in the field of economy, with five (5) years working experience in this profession.
- (3) The Misdemeanour Commission shall be appointed for a period of three (3) years with the right to a second term of office.
- (4) On the proposal from the President of the Misdemeanour Commission, the Minister can adopt a decision on dismissing a member of the Misdemeanour Commission in the following cases:
  - 1) his/her term of office has expired;
  - 2) on his/her request;
  - 3) has fulfilled the conditions for enjoying the right to pension, pursuant to the law;
  - 4) has been convicted for a criminal offense by means of an enforceable ruling;
  - 5) he/she suffers from permanent inability for duly performance of work at the Misdemeanor Commission;
  - 6) has been determined to have acted in violation of the regulations governing the misdemeanour procedure implementation by means of an enforceable ruling;
  - 7) has failed to implement the obligations stemming from the work as member of the Misdemeanour Commission; and
  - 8) has not declared conflict of interests in a case pending decision by the Misdemeanour Commission.
- (5) The Members of the Misdemeanour Commission shall be entitled to reimbursement for their work performed in the Misdemeanour Commission, which shall be determined by the Minister and shall be reasonable and appropriate to the importance, scope of work and complexity of misdemeanours considered.
- (6) The Misdemeanour Commission shall adopt the Book of Operation upon previous approval from the Minister.
- (7) The Misdemeanour Commission shall operate as a council, and shall take decision by means of majority votes from the total number of members.

- (8) The Members of the Misdemeanour Commission shall take decisions independently and in an unbiased manner, pursuant to the law and based on their professional knowledge and personal persuasion.
- (9) An administrative dispute can be motioned against the decisions imposing misdemeanor sanctions taken by the Misdemeanour Commission.
- (10) The Minister shall stipulate the manner in which the Misdemeanour Commission is to keep the records on misdemeanors, sanctions imposed and decisions taken, as well as the manner of enabling access to information contained therein.

### **Article 163**

- (1) After determining that a misdemeanor has been committed, the competent inspector shall prepare the minutes and shall indicate the relevant elements related to the action, time, place and manner in which the misdemeanor was committed, description of the action and the persons present on the spot.
- (2) Prior to submitting the application for initiating the procedure on the misdemeanor acts referred to in Article 167, paragraph (1) item 3); Article 168, paragraph (1) items 1), 2) and 8); Article 169, paragraph (1), items 2) and 7); Article 170, paragraph (3); Article 171, paragraph (1), items 2) and 8); Article 172, paragraph (1), items 2) and 7) and paragraph (2), item 1); Article 173, paragraph (1), items 1) and 3); Article 174, paragraph (1), item 2); Article 175, paragraph (1), item 3) of the present Law, the competent inspector shall be obliged to propose a settlement procedure to the entity that committed the misdemeanor.
- (3) When the entity that committed the misdemeanor has agreed to initiate the settlement procedure, in the minutes referred to in paragraph (1) of this Article the competent inspector shall stipulate the manner in which the settlement procedure is to result in the elimination of adverse effects caused by the misdemeanor and the manner to overcome the consequences thereof.
- (4) As part of the settlement procedure, the competent inspector shall issue a payment order to the entity that committed the misdemeanor. The entity that committed the misdemeanor shall sign the payment order on its receipt.
- (5) When the entity that committed the misdemeanor is a legal entity, the minutes and the payment order shall be signed by the officer or the responsible person that was present during the performance of the inspection supervision or by any other officer or responsible person that has declared to have the right to sign the minutes or receive the payment order.
- (6) The submission of the payment order to the entity that committed the misdemeanor referred to in paragraph (4) of this Article and the declaration referred to in paragraph (5) of this Article shall be duly included in the minutes.
- (7) The competent inspector shall be obliged to keep records on settlement procedures initiated and the outcome thereof.

### **Article 164**

- (1) For the misdemeanors referred to in Article 168, paragraph (1), item 12); Article 169, paragraph (1), item 12); Article 171, paragraph (1), item 11); Article 172, paragraph (1), item 11); Article 173, paragraph (1), item 4); Article 175, paragraph (1), item 11) and Article 176, paragraph (1), item 8) of the present Law, the competent inspector can offer the entity that committed the misdemeanor mediation and settlement by means of which the entity that committed the misdemeanor shall settle the fine, other charges or shall eliminate the misdemeanor consequences.

- (2) In the cases referred to in paragraph (1) of this Article, the competent inspector shall prepare the minutes where it shall state the consent provided by both parties as regards the initiation of the mediation procedure. The minutes shall be signed by the entity that committed the misdemeanor.
- (3) The mediation procedure shall be initiated upon an application submitted by the competent inspector within a period of eight (8) days from the day the misdemeanor was determined.
- (4) The mediation settlement should be achieved within a period of eight (8) days from the day the mediation procedure was initiated.
- (5) The Minister shall establish the Mediation Commission tasked to implement mediation procedures and shall adopt the Book of Operations and determine the costs incurred for the Commission operation on the basis of actual costs incurred by the authority for the purpose of providing the commission work, as well as a reasonable reimbursement for the Commission Members.
- (6) The Commission referred to in paragraph (5) of this Article shall be comprised of three members, one of which shall be appointed the President. Commission members shall be selected from the line of civil servants employed at the Ministry, one of which shall be attorney-at-law.
- (7) The President shall be obliged to initiate the mediation procedure within a period of twenty four (24) hours from the receipt of the application referred to in paragraph (3) of this Article.
- (8) The Commission shall perform its work on a meeting where representatives from the entity that committed the misdemeanor and the competent inspector must be attending.
- (9) The mediation settlement reached shall be verified by means of an agreement stating the consent thereto provided by both parties and stipulating the liabilities of the entity that committed the misdemeanor, in particular:
  - 1) the fine's amount and payment manner;
  - 2) the amount and payment manner of other charges and costs; and
  - 3) measures to be taken by the entity that committed the misdemeanor, for the purpose of eliminating the consequences from the misdemeanor.
- (10) In cases when a mediation settlement has been reached, the entity that committed the misdemeanor shall be reduced the fine by maximum one half of the highest amount of fines as stipulated in the present Law for the misdemeanor in question.
- (11) The Mediation Commission shall be obliged to keep records on initiated mediation procedures and the outcome thereof.

#### **Article 165**

- (1) A legal entity shall be fined in the amount of 5,000 to \_\_\_\_\_,000 EUR in MKD counter value when it:
  - 1) performs one or more regulated energy activities, or one or more energy activities and another energy activity or another activity but has failed to comply with any of the accounting obligations referred to in paragraphs (5) to (7) of Article 5;
  - 2) performs regulated energy activity, but has not submitted the Energy Regulatory Commission its annual audited financial reports and has not published them on its website (Article 5, paragraph (8));
  - 3) is an energy or energy fuel transmission and distribution system operator, but has not developed the contingency plan and has not submitted it to the Ministry for approval (Article 13, paragraph (2));

- 4) has not applied the prices and tariff rates stipulated in the decisions taken by the Energy Regulatory Commission pursuant to Articles 24 to 26;
  - 5) is an entity performing energy activity, but has not submitted the Energy Regulatory Commission the necessary documents, data and information, on request and within a stipulated deadline (Article 29, paragraph (1));
  - 6) has initiated the performance of the relevant energy activity without being issued the relevant license (Article 37, paragraph (1));
  - 7) is a license holder for the performance of a regulated energy activity, but has temporarily discontinued the activity for which it was issued the license, without obtaining the previous approval from the Energy Regulatory Commission (Article 46, paragraph (1));
  - 8) is a license holder for the performance of a regulated energy activity, but has not requested the Energy Regulatory Commission to issue an approval for the temporary termination of the activity performance within a period of eight (8 hours from the activity termination (Article 46, paragraph (5), item 1));
  - 9) is a license holder for the performance of a regulated energy activity, but has not prepared and/or submitted for approval to the Energy Regulatory Commission a schedule dealing with the temporary discontinuance of the performance of the relevant energy activity (Article 46, paragraph (5), item 2) and paragraph (6)).
- (2) The responsible person at the legal entity shall be fined in the amount of 700 to \_\_\_\_\_,000 EUR in MKD counter value for the actions referred to in paragraph (1) of this Article.
  - (3) The officer at the legal entity shall be fined in the amount of 300 to \_\_\_\_\_,00 EUR in MKD counter value for the actions referred to in paragraph (1) of this Article.
  - (4) The natural person shall be fined in the amount of 700 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (1) of this Article.
  - (5) The fine referred to in paragraph (1), items 3) and 6) and paragraphs (2) to (4) of this Article shall be imposed by the Misdemeanour Commission.
  - (6) The fine referred to in paragraph (1), items 1) 2), 4), 5), 7), 8) and 9) of this Article shall be imposed by the Energy Regulatory Commission.

#### **Article 166**

- (1) A legal entity shall be fined in the amount of 5,000 to \_\_\_\_\_,000 EUR in MKD counter value when it:
  - 1) is a license holder for the performance of an energy activity or is energy or energy fuel final customer, but has not submitted data necessary for the development and monitoring of energy balances and data necessary for the preparation of strategies, programs and reports on program implementation whose adoption is stipulated in the present Law (Article 12, paragraph (5));
  - 2) is a license holder, but has not complied with any decision taken by the Energy Regulatory Commission pursuant to in Article 23, paragraph (3);
  - 3) is a license holder, but has not submitted the Energy Regulatory Commission monthly, quarterly, annual and other reports related to its activity performance in a manner, under terms and conditions and with the contents stipulated in the license (Article 29, paragraph (3)).
- (2) The responsible person at the legal entity shall be fined in the amount of 500 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (1) of this Article,

- (3) The officer at the legal entity shall be fined in the amount of 200 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (1) of this Article.
- (4) The natural person that is a license holder or final energy customer shall be fined in the amount of 700 to \_\_\_\_\_,000 EUR in MKD counter value for the actions referred to in paragraph (1) of this Article.
- (5) The fine referred to in paragraph (1), item 1) and paragraphs (2) to (4) of this Article shall be imposed by the Misdemeanour Commission.
- (6) The fine referred to in paragraph (1), items 2) and 3) of this Article shall be imposed by the Energy Regulatory Commission.

## **XV.1 Misdemeanour Provisions on the Electricity Market**

### **Article 167**

- (1) An electricity producer shall be fined in the amount of 3,000 to \_\_\_\_\_,000 EUR in MKD counter value when it:
  - 1) has not offered its capacity in a transparent, non-discriminatory and market-based way to all customers on the wholesale and retail electricity markets (Article 65, paragraph (2), item 2));
  - 2) has not offered ancillary services to the transmission system operator, in line with the technical capacities and requirements stipulated in the Electricity Transmission Grid Code (Article 65, paragraph (2), item 3));
  - 3) has not offered all unused production capacities to the transmission system operator for balancing purposes, in line with the technical capacities and requirements stipulated in the Electricity Transmission Grid Code and the rules on the organisation of the balancing of the electricity system (Article 65, paragraph (2), item 4));
  - 4) has not submitted to the Energy Regulatory Commission reports, data and information pursuant to the terms and conditions stipulated in its license (Article 65, paragraph (2), item 6));
  - 5) has not submitted to the electricity transmission system operator or the electricity distribution system operator reports, data and information pursuant to the Electricity Transmission Grid Code or Distribution Grid Code (Article 65, paragraph (2), item 7) and Article 67-c, paragraph (6));
  - 6) has not submitted the electricity transmission system operator and the electricity market operator data and information contained in the electricity and/or ancillary services sale contracts pursuant to the Electricity Market Rules (Article 65, paragraph (2), item (8) and Article 67-c, paragraph (6));
  - 7) uses mazut as primary fuel, but has not secured operational stock of mazut at all times in the quantity equal to at least fifteen-day demand under maximum capacity operation, (Article 65, paragraph (3));
  - 8) has not kept at the disposal of the Energy Regulatory Commission, the Commission for the Protection of Competition, for five (5) years all hourly data per plant that is necessary to verify all operational dispatching decisions and the bidding behaviour at power exchanges, interconnection auctions, reserve markets and over-the-counter-markets, provided that the electricity producer in question own or operate the electricity generation facilities, where at least one generation unit has an installed capacity of at least 250 MW (Article 67-c, paragraph (7)).
- (2) The responsible person at the electricity producer in question shall be fined in the amount of 700 to \_\_\_\_\_,000 EUR in MKD counter value for the actions referred to in paragraph (1) of this Article.



- (3) The officer at the electricity producer in question shall be fined in the amount of 300 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (1) of this Article.
- (4) If the electricity producer is a natural person, the natural person in question shall be fined in the amount of 700 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (1) of this Article.
- (5) The fine referred to in paragraph (1), item 7) and paragraphs (2) to (4) of this Article shall be imposed by the Misdemeanour Commission.
- (6) The fine referred to in paragraph (1), items 1) to 6) and item 8) of this Article shall be imposed by the Energy Regulatory Commission.

### **Article 168**

- (1) The legal entity that is the electricity transmission system operator shall be fined in the amount of 5,000 to \_\_\_\_\_,000 EUR in MKD counter value when it:
  - 1) has not secured reliable and safe operation of the electricity system in the Republic of Macedonia pursuant to the applicable regulations that stipulate the technical rules (Article 66, paragraph (2), item 1));
  - 2) has not connected the producers, final customers and distribution system operators to the transmission grid, and has not provided third party access to the electricity transmission system pursuant to the present Law and the Electricity Transmission Grid Code and based on the principles of objectivity, transparency and non-discrimination (Article 66, paragraph (2), item 5));
  - 3) has not published on its website the list of all charges for each category of customers (Article 66, paragraph (2), item 7));
  - 4) has not provided transmission system development, upgrade and maintenance, for the purpose of reliable and efficient system operation pursuant to the applicable regulations that stipulate the technical rules, and has not provided long-term system ability to address the reasonable electricity transmission demand (Article 66, paragraph (2), item 10));
  - 5) has not developed and submitted the Energy Regulatory Commission the grid maintenance plan pursuant to the Transmission Grid Code and has not published it on the operator's website (Article 66, paragraph (2), item 11));
  - 6) has not provided metering devices installation and maintenance at all metering points on the receipt and delivery points in the transmission system (Article 66, paragraph (2), item 16));
  - 7) has not metered electricity at transmission system receipt and delivery points and has not submitted metered data to the relevant transmission system users and the electricity market operator (Article 66, paragraph (2), items 16 and 17));
  - 8) has not balanced the deviations between the actual and planned electricity consumption pursuant to the rules on the organisation of the balancing of the electricity system (Article 66, paragraph 2, item 18));
  - 9) has not addressed peak loads in the transmission system, pursuant to the Electricity Transmission Grid Code (Article 66, paragraph (2), item 21));
  - 10) has not provided transparent and non-discriminatory application of the price-setting methodology for balancing services and collection, (Article 66, paragraph (2), item 22));

- 11) has not provided the users access to the metering devices owned by the operator pursuant to the present Law and the Electricity Transmission Grid Code (Article 66, paragraph (2), item 24));
  - 12) has not prepared and/or submitted to the Energy Regulatory Commission for approval the rules on the organisation of the balancing of electricity system (Article 66-a, paragraph (1));
  - 13) has not prepared and/or submitted to the Energy Regulatory Commission for approval the coordination and information exchange mechanisms to ensure the security of the network in the context of congestion management (Article 67-c, paragraph (1)) within the deadline stipulated in the present Law;
  - 14) has not prepared and/or submitted to the Energy Regulatory Commission for approval the general scheme for the calculation of the total capacity for transfer of electricity through the electricity transmission network and the electricity transmission reliability margin based upon the electrical and physical features of the network (Article 67-c, paragraph (2) and (3)) within the deadline stipulated in the present Law;
  - 15) has not prepared and/or submitted to Energy Regulatory Commission for approval the electricity transmission system development plan (Article 68, paragraph (2));
  - 16) has not prepared and submitted to the Ministry and the Energy Regulatory Commission annual, five-year and ten-year electricity demand forecasts in the Republic of Macedonia (Article 68, paragraph (3));
  - 17) has not prepared and submitted to the Energy Regulatory Commission the transmission system investment plans (Article 68, paragraph (4));
  - 18) has not prepared and/or submitted to the Energy Regulatory Commission for approval the amendment of the Electricity Transmission Grid Code (Article 69, paragraph (1)) within the deadline stipulated in the present Law;
  - 19) has not prepared and/or submitted the compliance programme to the Energy Regulatory Commission for approval (Article 71, paragraph (2));
  - 20) has not applied transaction curtailment procedures in a non-discriminatory manner (Article 67-d, paragraph (2));
  - 21) has not applied the congestion management rules in accordance with the requirements set in Article 67-d;
  - 22) has not prepared and submitted to the Energy Regulatory Commission for approval the Rules on Interconnection Transmission Capacity Allocation within the deadline stipulated in the present Law (Article 70, paragraph (1));
  - 23) has not acted independently from other activities not related to electricity transmission (Article 71, paragraph (1));
  - 24) has not cooperated with the Energy Regulatory Commission and the electricity market operator in the development of the Electricity Market Rules (Article 73, paragraph (3)).
- (2) The legal entity that is the electricity transmission system operator shall be fined in the amount of 3,000 to \_\_\_\_\_,000 EUR in MKD counter value when:
- 1) it has not provided to electricity system users with the information they need for efficient access to, including use of, the electricity transmission system (Article 66, paragraph (2), item 6));
  - 2) it has not published data on available transmission capacities of interconnectors with the neighboring systems, for the purpose of providing non-discriminatory, objective and transparent access to and use of the electricity transmission system (Article 66, paragraph (2), item 15));

- 3) it has not secured the confidentiality of commercial and business data of system service users (Article 66, paragraph (2), item 25));
  - 4) it has not kept dispatch logs, records on electricity transmission system reliability, data from the supervision and management system, metering data, and has not kept such data, logs and records for at least ten (10) years (Article 66, paragraph (3));
  - 5) it has not kept records on the electricity transmission system operation and has not informed the Energy Regulatory Commission thereof, on request (Article 66, paragraph (4));
  - 6) it has not notified the Energy Regulatory Commission on the contracts that it has concluded with balancing service providers in relation to the provision of balancing services (Article 66-a, paragraph (4));
  - 7) it has not published estimates of available transfer capacity for each day in accordance with paragraph (4) of Article 67-c;
  - 8) it has not published data on aggregated forecast and actual demand of electricity, on availability and actual use of generation and load assets, on availability and use of the networks and interconnections, and on balancing power and reserve capacity (Article 67-c, paragraph (5));
  - 9) it has not has not submitted to the Energy Regulatory Commission reports on the financial and actual volume of planned and realised services (Article 68, paragraph (5));
  - 10) it has not kept records on electricity physical transactions pursuant to paragraph (4) of Article 72;
  - 11) it has not submitted information to the supplier of last resort about the customers who are transferred to supply of last resort within the deadline stipulated in paragraph (9) of Article 80-a; or
  - 12) within the operational possibilities of the transmission system it operates, it has not provided priority access to the system and/or priority dispatch for the electricity generated from renewable sources or at high efficiency co-generation plants (Article 122, paragraph (3)).
- (3) The responsible person at the electricity transmission system operator shall be fined in the amount of 700 to \_\_\_\_\_,000 EUR in MKD counter value for the actions referred to in paragraph (1) of this Article.
  - (4) The responsible person at the electricity transmission system operator shall be fined in the amount of 500 to \_\_\_\_\_,000 EUR in MKD counter value for the actions referred to in paragraph (2) of this Article.
  - (5) The officer at the electricity transmission system shall be fined in the amount of 300 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (1) of this Article.
  - (6) The officer at the electricity transmission system operator shall be fined in the amount of 200 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (2) of this Article.
  - (7) The fine referred to in paragraph (1), items 1, 4), 6), 7), 11), 16 and 23), paragraph (2), items 3) and 11) and paragraphs (3) to (6) of this Article shall be imposed by the Misdemeanour Commission.
  - (8) The fine referred to in paragraph (1), items 2), 3), 4), 5), 8), 9), 10), 12), 13), 14), 15), 17), 18), 19), 20), 21), 22) and 24) and paragraph (2), items 1), 2), 4) to 10) and 12) of this Article shall be imposed by the Energy Regulatory Commission.

### Article 168-a

- (1) The legal entity that is the electricity market operator shall be fined in the amount of 5,000 to \_\_\_\_\_,000 EUR in MKD counter value when:
  - 1) it has not ensured it is independent from the transmission system operator in terms of its legal form, organisation and decision-making (Article 72, paragraph (6));
  - 2) it has not acted independently from other activities not related to electricity market operation (Article 71, paragraph (1));
  - 3) it has not cooperated with the Energy Regulatory Commission and the electricity transmission system operator in the development of the Electricity Market Rules (Article 73, paragraph (3));
  - 4) on the request from the preferential electricity producer, it has not signed electricity purchase contracts with preferential electricity producer in question (Article 139 paragraph (2));
  - 5) it has not administered the balancing group to which renewable energy sources and high-efficiency co-generation plants belong to as their balance responsible party (Article 139, paragraph (5), item 1)); or
  - 6) it has not reimbursed the electricity transmission system operator for the costs incurred for balancing and necessary ancillary services related to the operation of preferential electricity producers (Article 139, paragraph (5) , item 2)).
- (2) The legal entity that is the electricity market operator shall be fined in the amount of 3,000 to \_\_\_\_\_,000 EUR in MKD counter value when:
  - 1) it has not provided the requisite services to the electricity supplier of last resort so that the latter can adequately address the demand of its final customers; (Article 72, paragraph (2), item 8); or
  - 2) it has not prepared and submitted to the electricity transmission system operator information required to develop the dispatching schedule, for the purpose of addressing peak loads pursuant to the Electricity Market Rules (Article 72, paragraph (2) items 6) and 7));
  - 3) it has not prepared and submitted to the electricity transmission system operator information required to organise the balancing of the electricity system (Article 72, paragraph (2) items 3) to 5));
  - 4) it has not kept records on electricity physical transaction pursuant to paragraph (4) of Article 72;
  - 5) it has not prepared and/or submitted to the Energy Regulatory Commission for approval the compliance programme referred to in Article 72, paragraph (6);
  - 6) it has not secured the confidentiality of commercial and business data received by electricity market participants (Article 72, paragraph (9)).
- (3) The responsible person at the electricity market operator shall be fined in the amount of 700 to \_\_\_\_\_,00 EUR in MKD counter value for the actions referred to in paragraph (1) of this Article.
- (4) The responsible person at the electricity market operator shall be fined in the amount of 500 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (2) of this Article.
- (5) The officer at the electricity market operator shall be fined in the amount of 300 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (1) of this Article.
- (6) The officer at the electricity market operator shall be fined in the amount of 200 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (2) of this Article.

- (7) The fine referred to in paragraph (1), items 1 and 2), paragraph (2), items 1), 4) and 6) and paragraphs (3) to (6) of this Article shall be imposed by the Misdemeanour Commission.
- (8) The fine referred to in paragraph (1), items 3), 4), 5) and 6) and paragraph (2), items 2), 3) and 5) of this Article shall be imposed by the Energy Regulatory Commission.

#### **Article 169**

- (1) The legal entity that is the electricity distribution system operator shall be fined in the amount of 5,000 to \_\_\_\_\_,000 EUR in MKD counter value when:
  - 1) it has not secured safe and reliable operation of the distribution system it operates pursuant to with applicable regulations that stipulate the technical rules (Article 74, paragraph (2), item 1));
  - 2) it has not connected the electricity producers and final customers to the distribution grid it operates, and has not provided third party access to the distribution system in question pursuant to the present Law and the Electricity Distribution Grid Code and based on the principles of objectivity, transparency and non-discrimination (Article 74, paragraph (2), items 2 and 3));
  - 3) it has not published on its website the list of all charges for each category of customers (Article 74, paragraph (2), item 5));
  - 4) it has not provided distribution system development, upgrade and maintenance pursuant to the applicable regulations that stipulate the technical rules, and has not provided long-term system ability to address the reasonable electricity distribution demand (Article 74, paragraph (2), item 6));
  - 5) it has not prepared and/or submitted to the Energy Regulatory Commission for approval the grid maintenance plan pursuant to the Electricity Distribution Grid Code and has not published it on the operator's website (Article 74, paragraph (2), item 7));
  - 6) it has not harmonised operations in the distribution system with the electricity transmission system operator (Article 74, paragraph (2), item 8));
  - 7) it has not purchased electricity and ancillary services to cover the losses in the distribution grid it operates, under market terms and conditions and in a transparent, non-discriminatory and competitive manner (Article 74, paragraph (2), item 9));
  - 8) it has not metered electricity received from the producers and the electricity transmission system and has not metered electricity delivered to final customers connected to the distribution system and has not submitted metered data to producers or suppliers or traders, as well as to the electricity transmission system operator (Article 74, paragraph (2), item 10));
  - 9) it has not provided users access to the metering devices owned by the distribution system operator pursuant to the present Law and the Electricity Distribution Grid Code (Article 74, paragraph (2), item 11));
  - 10) it has not prepared and/or submitted to the Energy Regulatory Commission for approval the annual distribution system development plan covering the period of the next ten (10) years (Article 75, paragraph (2));
  - 11) it has not prepared and submitted the Ministry and the Energy Regulatory Commission annual, five-year and ten-year electricity demand forecasts for the distribution system it operates (Article 75, paragraph (3));
  - 12) it has not prepared and/or submitted to the Energy Regulatory Commission for approval the distribution system investment plans (Article 75, paragraph (4));

- 13) it has not metered the electricity received from or delivered to users connected to the distribution grid with metering devices pursuant to the present Law and the Electricity Distribution Grid Code (Article 76, paragraph (1));
  - 14) it has not replaced the existing metering devices owned by users connected to the distribution grid within the deadlines stipulated in the Electricity Distribution Grid Code (Article 76, paragraph (3));
  - 15) it has not prepared and/or submitted to the Energy Regulatory Commission for approval the Electricity Distribution Grid Code within the deadline stipulated in the present Law (Article 77, paragraph (1));
  - 16) it has not acted independently from other activities not related to distribution of electricity in accordance with the requirements set in Article 78 of the present Law;
  - 17) it has not appointed a compliance officer (Article 78, paragraph (7));
  - 18) it has appointed a compliance officer, who is not independent (Article 78, paragraph (7));
  - 19) it has not prepared and/or submitted to the Energy Regulatory Commission for approval the compliance programme referred to in Article 78, paragraph (7); or
  - 20) within the operational possibilities of the distribution system it operates, it has not provided priority access to the system and/or priority dispatch for the electricity generated from renewable sources or at high efficiency co-generation plants (Article 122, paragraph (3)).
- (2) The legal entity that is the electricity distribution system operator shall be fined in the amount of 3,000 to \_\_\_\_\_,000 EUR in MKD counter value when it:
- 1) it has not kept records on electricity physical transactions pursuant to paragraph (4) of Article 72;
  - 2) it has not provided electricity system users with the information they need for efficient access to, including use of, the electricity distribution system it operates (Article 74, paragraph (2), item 4));
  - 3) it has not submitted to the Energy Regulatory Commission reports on the financial and actual volume of planned and realised services (Article 74, paragraph (2), item 12));
  - 4) it has not kept dispatch logs, records on communication systems reliability, data from the supervision and operation system, metering data, and has not kept those logs, records and data for at least ten (10) years (Article 74, paragraph (2), item 13));
  - 5) it has not secured the confidentiality of commercial and business data of distribution system users (Article 74, paragraph (2), item 14)); or
  - 6) it has not prevented information about its own activities, which may be commercially advantageous, from being disclosed in a discriminatory manner (Article 74, paragraph (2), item 14)).
  - 7) it has not submitted information to the supplier of last resort about the customers who are transferred to supply of last resort within the deadline stipulated in paragraph (9) of Article 80-a.
- (3) The responsible person at the electricity distribution system operator shall be fined in the amount of 700 to \_\_\_\_\_,000 EUR in MKD counter value for the actions referred to in paragraph (1) of this Article.
- (4) The responsible person at the electricity distribution system operator shall be fined in the amount of 500 to \_\_\_\_\_,000 EUR in MKD counter value for the actions referred to in paragraph (2) of this Article.

- (5) The officer at the electricity distribution system operator shall be fined in the amount of 300 to \_\_\_\_\_EUR in MKD counter value for the actions referred to in paragraphs (1) of this Article.
- (6) The officer at the electricity distribution system operator shall be fined in the amount of 200 to \_\_\_\_\_EUR in MKD counter value for the actions referred to in paragraphs (2) of this Article.
- (7) The Compliance Officer of the electricity distribution system operator shall be fined in the amount of 300 to \_\_\_\_\_ EUR in MKD counter value for any failure to submit to the Energy Regulatory Commission the annual report referred to in paragraph (8) of Article 78.
- (8) The fines referred to in paragraph (1), items 1), 4), 6), 8), 9), 11), 13), 14), 16), 17) and 18), paragraph (2), items 1), 4), 6) and 7) and paragraphs (3) to (6) of this Article shall be imposed by the Misdemeanour Commission.
- (9) The fines referred to in paragraph (1), items 2), 3), 5), 7) 10), 12), 15), 19) and 20), and paragraph (2), items 2), 3) and 5) and paragraph (7) of this Article shall be imposed by the Energy Regulatory Commission.

### **Article 170**

- (1) An entity that is electricity supplier shall be fined in the amount of 3,000 to \_\_\_\_\_,000 EUR in MKD counter value when:
  - 1) it has not accurately invoiced its customers for the electricity supplied and/or for the transmission and/or distribution capacity secured (Article 79, paragraph (3));
  - 2) it has not operated in compliance with the Electricity Supply Rules and the Electricity Market Rules as regards the reliability and volume of supply, for the purpose of fulfilling its obligations towards the customers (Article 79, paragraph (4), item 1));
  - 3) it has not submitted the electricity transmission system operator data on transactions, or contracts and electricity demand balances of its final customers, required for the calculation of imbalances pursuant to the rules on the organisation of the balancing of the electricity system and the Electricity Transmission and Distribution Grid Codes (Article 79, paragraph (4), item 2));
  - 4) it has not settled the electricity quantity purchased, as well as the reserved capacity and relevant regulated services from the electricity transmission system operator and/or electricity distribution system operators in accordance with the rules on the organisation of the balancing of the electricity system (Article 79, paragraph (4), item 4));
  - 5) it has not provided information about the potential exercise by any of its customers of the right referred to in item 5) of paragraph (4) of Article 79 of the present Law;
  - 6) it has not set up and implemented specific procedures for the provision of information to its customers and for the submission and handling of customers' complaints (Article 79, paragraph (4), item 6));
  - 7) it has not taken appropriate measures for the equal treatment of all customers living in remote areas (Article 79, paragraph (4), item 7));
  - 8) it has not published on its website the general terms and conditions of its electricity supply agreements for each category of customers (Article 79, paragraph (4), item 8));
  - 9) it has not published general statistical data relating to its customers as well as to its activities (Article 79, paragraph (4), item 9));
  - 10) on the request from the Energy Regulatory Commission and within a given deadline, it has not submitted information and reports on the transactions and business activities

originating from, terminating in or transiting the territory of the Republic of Macedonia (Article 79, paragraph (4), item 10));

- 11) it has not made all data related to all its transactions contracted for at least five (5) years for the purchase and sale of electricity and its derivatives with wholesale customers, as well as with the electricity transmission system operator, electricity distribution system operator(s) or the electricity market operator, available to the Energy Regulatory Commission, the Commission for the Protection of Competition and to the Energy Community Secretariat (Article 79, paragraph (5));
  - 12) it has not notified in a timely manner the electricity supplier of last resort, its final customers, the Energy Regulatory Commission and the transmission and distribution system operators on the date of suspension of electricity supply, in any case where the electricity supplier in question is not capable of supplying electricity to its final customers (Article 80-a, paragraphs (2) and (3));
  - 13) it has not set up an adequately staffed single contact point from which its final customers shall be promptly provided with all the necessary information and notifications concerning their rights, current regulations and the existing and available means of dispute settlement (Article 80-c, paragraphs (1) and (2));
  - 14) by 31<sup>st</sup> January in the calendar year at the latest, it has not submitted the Ministry and the Energy Agency data for the previous calendar year referred to in the Article 133 of the present Law; or
  - 15)
  - 16) it has not purchased the necessary electricity quantity generated by preferential electricity producers from the electricity market operator (Article 139, paragraph (7)).
- (2) An entity that is electricity supplier under public service obligation to ensure universal service shall be fined in the amount of 3,000 to \_\_\_\_\_ EUR in MKD counter value when:
- 1) it has not informed its customers about their rights and the conditions for being supplied under universal service (Article 80, paragraph (1), item 1);
  - 2) has not notified its customers on terms and conditions of supply and price of the electricity (Article 80, paragraph (1), item 2));
  - 3) it has not notified its customers of their right to choose another supplier (Article 80, paragraph (1), item 2));
  - 4) it has not charged its customers for the electricity delivered under universal service in accordance with prices approved by the Energy Regulatory Commission according to the methodology developed by the Energy Regulatory Commission pursuant to paragraph (2) of Articles 24 of the present Law (Article 80, paragraph (1), item 4));
  - 5) it has not published on its website the supply prices under universal service (Article 80, paragraph (1), item 5)); or
  - 6) it has not made all data related to all its transactions contracted for at least five (5) years for the purchase and sale of electricity and its derivatives with wholesale customers, as well as with the electricity transmission system operator, electricity distribution system operator(s) or the electricity market operator, available to the Energy Regulatory Commission, the Commission for the Protection of Competition, the Council for Consumer Protection and to the Energy Community Secretariat (Article 80, paragraph (6)).
- (3) An entity that is an electricity supplier of last resort shall be fined in the amount of 3,000 to \_\_\_\_\_ EUR in MKD counter value when:
- 1) it has not notified its customers on the terms and conditions of supply and the price of the electricity (Article 80-b, paragraph (4), item 1);
  - 2) it has not informed its customers of their right to choose an electricity supplier (Article 80-b, paragraph (4), item 2));



- 3) it has not published the terms and conditions of supply and the price of the electricity and any relevant information on its website (Article 80-b, paragraph (4), item 3));
  - 4) it has not segregated its activities relating to electricity supply of last resort from other electricity activities (Article 80-b, paragraph (7));
  - 5) it has not kept separate financial records and financial reports as regards the performance of the electricity supply of last resort (Article 80-b, paragraph (8));
  - 6) it has not made all data related to all its transactions contracted for at least five (5) years for the purchase and sale of electricity and its derivatives with wholesale customers, as well as with the electricity transmission system operator, electricity distribution system operator(s) or the electricity market operator, available to the Energy Regulatory Commission, the Commission for the Protection of Competition, the Council for Consumer Protection and to the Energy Community Secretariat (Article 80, paragraph (6)).
- (4) An entity that is electricity trader shall be fined in the amount of 3,000 to \_\_\_\_\_ EUR in MKD counter value when:
- 1) it has not accurately invoiced its customers for the electricity supplied and/or for the transmission and/or distribution capacity secured (Article 81, paragraph (5), item 3));
  - 2) on request and within a given deadline, it has not submitted the Energy Regulatory Commission information and reports on the transactions and business activities originating from, terminating in or transiting the territory of the Republic of Macedonia (Article 81, paragraph (5), item 4));
  - 3) it has not operated in compliance with the Electricity Supply Rules as regards the confidentiality of data and electricity quantities supplied to its customers (Article 81, paragraph (5), item 5));
  - 4) it has not made all data related to all its transactions contracted for at least five (5) years for the purchase and sale of electricity and its derivatives with wholesale customers, as well as with the electricity transmission system operator, electricity distribution system operator(s) or the electricity market operator, available to the Energy Regulatory Commission, the Commission for the Protection of Competition and to the Energy Community Secretariat (Article 81, paragraph (6)); or
  - 5) it has not purchased the necessary electricity quantity generated by preferential electricity producers from the electricity market operator (Article 139, paragraph (7)).
- (5) Any entity that is electricity distribution system user shall be fined in the amount of 3,000 to \_\_\_\_\_ EUR in MKD counter value when it has not allowed access to the authorized person from the distribution system operator, for the purpose of performing the matters referred to in Article 76, paragraph (5) of the present Law.
- (6) The responsible person at the entity, which is an electricity supplier, an electricity supplier under public service obligation to ensure universal service, an electricity supplier of last resort, an electricity trader or an electricity distribution system user, as the case may be, shall be fined in the amount of 500 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraphs (1), (2), (3), (4) and (5) of this Article.
- (7) The officer at the entity, which is an electricity supplier, an electricity supplier under public service obligation to ensure universal service, an electricity supplier of last resort, an electricity trader or an electricity distribution system user, as the case may be, shall be fined in the amount of 200 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraphs (1), (2), (3), (4) and (5) of this Article.
- (8) If the electricity supplier, electricity trader or electricity distribution system user is a natural person, the relevant electricity supplier, electricity trader or electricity distribution system user, as the case may be, shall be fined in the amount of 700 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraphs (1), (4) and (5) of this Article.

- (9) The fines referred to in paragraph (1), items 5) to 9), 13) and 14), paragraph (2), items 1), 2), 3) and 5), paragraph (3), items 1) to 5), paragraph (4), item 3) and paragraphs (5) to (8) of this Article shall be imposed by the Misdemeanour Commission.
- (10) The fines referred to in paragraph (1), items 1) to 4), 10) to 12 and 15), paragraph (2), items 4) and 6), paragraph (3), item 6) and paragraph (4), items 1), 2), 4) and 5) of this Article shall be imposed by the Energy Regulatory Commission.

#### **Article 170-a**

- (1) In addition to the competencies of the Energy Regulatory Commission set out in Articles 167 to 170, the Energy Regulatory Commission may impose other penalties on electricity undertaking(s) not complying with their obligations under the present Law and under any commitments assumed by the Republic of Macedonia pursuant to ratified international treaties, provided that:
  - 1) the relevant electricity undertaking(s) have beforehand expressed their views to the Energy Regulatory Commission on their non-compliance of the relevant obligation(s);
  - 2) the penalties imposed by the Energy Regulatory Commission are effective, proportionate and dissuasive and their imposition is in conformity with the relevant laws and bylaws of the Republic of Macedonia.
- (2) The competence referred to in paragraph (1) of this Article shall include the power of the Energy Regulatory Commission to impose penalties of up to 10% of the annual turnover of the electricity transmission system operator on the transmission system operator, or of up to 10% of the annual turnover of the vertically integrated electricity undertaking on the vertically integrated undertaking in question, as the case may be, for non-compliance with their respective obligations pursuant to the present Law.

### **XV.2 Misdemeanor Provisions on the Natural Gas Market**

#### **Article 171**

- (1) The legal entity that is the natural gas market operator shall be fined in the amount of 3,000 to \_\_\_\_\_ EUR in MKD counter value when:
  - 1) it has not ensured it is independent from the natural gas transmission system operator in terms of its legal form, organisation and decision-making (Article 84, paragraph (6));
  - 2) it has not acted independently from other activities not related to natural gas market operation (Article 84, paragraph (10));
  - 3) it has not cooperated with the Energy Regulatory Commission and the natural gas transmission system operator in the development of the Natural Gas Market Rules (Article 90, paragraph (2)).
- (2) The legal entity that is the natural gas market operator shall be fined in the amount of 3,000 to \_\_\_\_\_,000 EUR in MKD counter value when:
  - 1) it has not provided the requisite services to the natural gas supplier of last resort so that the latter can adequately address the demand of its final customers; (Article 84, paragraph (2), item 8);
  - 2) it has not prepared and submitted to the natural gas transmission system operator information required to develop the dispatching schedule, for the purpose of addressing peak loads pursuant to the Natural Gas Market Rules (Article 84, paragraph (2) items 6) and 7));

- 3) it has not prepared and submitted to the natural gas transmission system operator information required to organise the balancing of the electricity system (Article 84, paragraph (2) items 3) to 5));
  - 4) it has not kept records on natural gas physical transaction pursuant to paragraph (4) of Article 84;
  - 5) it has not prepared and/or submitted to the Energy Regulatory Commission for approval the compliance programme referred to in Article 84, paragraph (6); or
  - 6) it has not secured the confidentiality of commercial and business data received by natural gas market participants (Article 84, paragraph (9)).
- (3) The responsible person at the natural gas market operator shall be fined in the amount of 700 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (1) of this Article.
  - (4) The responsible person at the natural gas market operator shall be fined in the amount of 500 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (2) of this Article.
  - (5) The officer at the natural gas market operator shall be fined in the amount of 300 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (1) of this Article.
  - (6) The officer at the natural gas market operator shall be fined in the amount of 200 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (2) of this Article.
  - (7) The fines referred to in paragraph (1), items 1) and 2), paragraph (2), items 1), 4), and 6), and paragraphs (3) to (6) of this Article shall be imposed by the Misdemeanour Commission.
  - (8) The fines referred to in paragraph (1), item 3) and paragraph (2), items 2), 3) and 5) of this Article shall be imposed by the Energy Regulatory Commission.

#### **Article 171-a**

- (1) The legal entity that is a natural gas transmission system operator shall be fined in the amount of 5,000 to \_\_\_\_\_ EUR in MKD counter value when:
  - 1) it has not secured reliable, safe, cost-effective and quality operation and supply of natural gas through its transmission system in a non-discriminatory and transparent manner and under stipulated quality pursuant to the applicable regulations that stipulate the technical rules (Article 85, paragraph (2), items 1 and 2));
  - 2) it has not provided third party access to the transmission system pursuant to the present Law and the Natural Gas Transmission Grid Code and based on the principles of objectivity, transparency and non-discrimination (Article 85, paragraph (2), item 3));
  - 3) it has not published on its website the list of all charges for each category of customers (Article 85, paragraph (2), item 5));
  - 4) it has not planned the development of the natural gas transmission system it operates under cost-effective terms and conditions (Article 85, paragraph (2), item 7));
  - 5) it has not prepared its transmission system development plan pursuant to the Natural Gas Transmission Grid Code, and/or submit it to the Energy Regulatory Commission for approval (Article 85, paragraph (2), item 9));
  - 6) it has not provided cross-border natural gas flow through its transmission grid within the available transmission capacity (Article 85, paragraph (2), item 10));

- 7) it has not prepared the natural gas transmission system maintenance plan pursuant to the Natural Gas Transmission Grid Code, and/or submit it to the Energy Regulatory Commission for approval (Article 85, paragraph (2), item 11));
- 8) it has not approved system users' applications for connection to its transmission system pursuant to the present Law and the Natural Gas Transmission Grid Code (Article 85, paragraph (2), item 12));
- 9) it has not allowed third party access for the use of the natural gas transmission system it operates, pursuant to the present Law and the Natural Gas Transmission Grid Code (Article 85, paragraph (2), item 13));
- 10) it has not refrained from discriminating between system users or categories of system users (Article 85, paragraph (2), item 14));
- 11) it has not allocated available transmission capacities and has not addressed peak loads in the transmission grid pursuant to the Natural Gas Transmission Grid Code (Article 85, paragraph (2), item 15));
- 12) it has not harmonised operations in its natural gas transmission system with the transmission systems it is directly connected to (Article 85, paragraph (2), item 16));
- 13) it has not promoted the development of natural gas exchanges and the coordinated allocation of cross-border capacity through non-discriminatory market-based solutions (Article 85, paragraph (2), item 17));
- 14) it has not purchased natural gas to cover losses in its transmission system and the necessary ancillary services, under market terms and conditions and in a transparent and non-discriminatory manner (Article 85, paragraph (2), item 19));
- 15) it has not provided daily dispatch of declared import and export transactions and transit transactions through the natural gas transmission system it operates, based on the nominations submitted by natural gas market participants, and/or it has not updated the schedule of regular time intervals, pursuant to the Natural Gas Transmission Grid Code (Article 85, paragraph (2), item 20));
- 16) it has not procured balancing and ancillary services and natural gas for covering network losses needed for secure and reliable transmission system operation pursuant to the present Law and the rules on the organisation of the balancing of the natural gas system (Article 85, paragraph (2), item 21) and Article 85-e);
- 17) it has not provided market-based, transparent and non-discriminatory application of balancing procedures and settlement of balancing services in accordance with the rules on the organisation of the balancing of the natural gas system (Article 85, paragraph (2), item 22));
- 18) it has not established the required changes to the natural gas dispatching schedule in cases of risks to the security of natural gas supply, outages and major deviations in natural gas consumption from the determined quantities (Article 85, paragraph (2), item 24));
- 19) it has not allowed users access to metering devices owned by the natural gas transmission system operator (Article 85, paragraph (2), item 25));
- 20) it has not charged or invoiced system users for access to the natural gas network it operates in accordance with the requirements stipulated in Article 85-a);
- 21) it has not offered network access services to system user in accordance with the requirements stipulated in Article 85-b);
- 22) it has not made available to market participants the maximum capacity of the natural gas interconnections and/or the natural gas transmission networks affecting cross-border flows (Article 85-c, paragraph (1));

- 23) it has not prepared and/or submitted to the Energy Regulatory Commission for approval the amended Rules on the Allocation of Natural Gas Interconnection Transmission Capacity within the deadline stipulated in the present Law (Article 85-c, paragraph (2));
  - 24) it has not prepared and/or submitted to the Energy Regulatory Commission for approval the natural gas transmission system development plan (Article 86, paragraph (2));
  - 25) it has not prepared and/or submitted to the Energy Regulatory Commission for approval the investment plans for the natural gas transmission system it operates (Article 86, paragraph (3));
  - 26) it has not prepared and/or submitted to the Ministry and the Energy Regulatory Commission for approval annual, five-year and ten-year natural gas demand forecasts for the natural gas transmission system it operates (Article 86, paragraph (4));
  - 27) it has not prepared and/or submitted to the Energy Regulatory Commission for approval the amended Natural Gas Transmission Grid Code within the deadline stipulated in the present Law (Article 88, paragraph (1));
  - 28) it has not acted independently from other activities not related to natural gas transmission (Article 89, paragraph (1));
  - 29) it has not prepared and/or submitted to the Energy Regulatory Commission for approval the compliance programme referred to in Article 89, paragraph (2); or
  - 30) it has not cooperated with the Energy Regulatory Commission and the natural gas distribution system operator in the development of the Natural Gas Market Rules (Article 90, paragraph (2)).
- (2) The legal entity that is a natural gas transmission system operator shall be fined in the amount of 3,000 to \_\_\_\_\_ EUR in MKD counter value when:
- 1) it has not promptly provided natural gas system users with the information they need for efficient access to, including use of, the natural gas transmission system in accordance with the provisions of the present Law and of the Natural Gas Transmission Grid Code (Article 85, paragraph (2), item 4));
  - 2) it has not cooperated and exchanged data with operators of other natural gas transmission systems pursuant to the commitments the Republic of Macedonia has assumed under the international treaties or the commitments assumed by the transmission system operator as a result of its membership of international associations (Article 85, paragraph (2), item 16));
  - 3) it has not published data, and/or it has not promptly provided information to other natural gas transmission system operators, on available transmission capacities at interconnectors with the neighbouring natural gas transmission systems or transnational gas pipelines (Article 85, paragraph (2), item 18));
  - 4) it has not secured the confidentiality of commercial and business data of system service users (Article 85, paragraph (2), item 26));
  - 5) it has not provided information to the natural gas transmission and distribution system operators to which it is connected, for the purpose of securing reliable and efficient operation of the systems and interconnectors (Article 85, paragraph (2), item 27));
  - 6) it has not prepared reports on the financial and actual volume of planned and realised services and/or it has not submitted them to the Energy Regulatory Commission, in a manner, under terms and conditions and within the deadlines stipulated in its license (Article 85, paragraph (2), item 28));

- 7) it has not kept dispatch logs, records on transmission systems reliability, data from the supervision and operation system, metered data and to keep such data, logs and records for at least ten (10) years (Article 85, paragraph (2), item 29));
  - 8) it has not kept records on the operation of its transmission system and/or it has not reported thereof to the Energy Regulatory Commission and any other competent State authority, on request (Article 85, paragraph (2), item 30));
  - 9) it has not kept records on natural gas physical transactions, based on the information on natural gas purchase/sale and transit transactions (Article 85, paragraph (3));
  - 10) it has not regularly assessed market demand for new investment (Article 85-c, paragraph (3));
  - 11) it has not continuously published and/or updated on its website detailed information regarding the services it offers and the relevant conditions applied, together with the technical information necessary for system users to gain effective network access (Article 85-d, paragraph (1));
  - 12) it has not published reasonably and sufficiently detailed information on tariff derivation, methodology and structure (Article 85-d, paragraph (2));
  - 13) it has not published and/or update on its website information on technical, contracted and available 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 (Article 85-d, paragraph (3));
  - 14) it has not disclosed any of the information required by the present Law in a meaningful, quantifiably clear and easily accessible manner and on a non-discriminatory basis (Article 85-d, paragraph (4));
  - 15) it has not made public any measures taken as well as the costs incurred and revenue generated to balance the natural gas transmission system it operates (Article 85-d, paragraph (5));
  - 16) it has not provided sufficient, well-timed and reliable on-line based information on the balancing status of system users (Article 85-e, paragraph (3));
  - 17) it has not developed harmonised natural gas transport contracts and procedures on the primary market to facilitate secondary trade of natural gas capacity and/or it has not notified any such contracts and procedures to the Energy Regulatory Commission (Article 85-f, paragraphs (2) and (3));
  - 18) it has not submitted to the Energy Regulatory Commission reports on the financial and actual volume of planned and realized services in a manner, under terms and conditions and within the deadlines stipulated in its license (Article 86, paragraph (5));  
or
  - 19) it has not submitted information to the natural gas supplier of last resort about the customers who are transferred to natural gas supply of last resort (Article 98, paragraph (12)).
- (3) The responsible person at the concerned natural gas transmission system operator shall be fined in the amount of 700 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (1) of this Article.
  - (4) The responsible person at the concerned natural gas transmission system operator shall be fined in the amount of 500 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (2) of this Article.
  - (5) The officer at the concerned natural gas transmission system operator shall be fined in the amount of 300 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraphs (1) of this Article.

- (6) The officer at the concerned natural gas transmission system operator shall be fined in the amount of 200 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (2) of this Article.
- (7) The fines referred to in paragraph (1), items 1), 4), 19), 26) and 28), paragraph (2), items 4), 10), and 19), and paragraphs (3) to (6) of this Article shall be imposed by the Misdemeanour Commission.
- (8) The fines referred to in paragraph (1), items 2), 3), 5) to 18), 20) to 25), 27), 29) and 30) and paragraph (2), items 1), 2), 3), 5) to 9) and 11) to 18) of this Article shall be imposed by the Energy Regulatory Commission.

#### **Article 172**

- (1) The legal entity that is a natural gas distribution system operator shall be fined in the amount of 5,000 to \_\_\_\_\_ EUR in MKD counter value when:
  - 1) it has not secured reliable, safe, cost-effective and secure operation of the distribution system it operates in a transparent and non-discriminatory manner and pursuant to the applicable regulations that stipulate the technical rules (Article 91, paragraph (2), items 1) and 2));
  - 2) it has not connected final customers to the distribution system it operates, and has not allowed third party access to the distribution system in question pursuant to the present Law and the Natural Gas Distribution Grid Code and based on the principles of objectivity, transparency and non-discrimination (Article 91, paragraph (2), item 3));
  - 3) it has not published on its website the list of all charges for each category of its customers (Article 91, paragraph (2), item 6));
  - 4) it has not provided development, upgrade and maintenance of the distribution system it operates pursuant to the applicable regulations that stipulate the technical rules, and/or it has not provided long-term system ability to address the reasonable natural gas distribution demand (Article 91, paragraph (2), item 7));
  - 5) it has not harmonised operations in the natural gas distribution system with the natural gas transmission system operator, with whose transmission network is connected (Article 91, paragraph (2), item 8));
  - 6) it has not prepared and/or submitted for approval to the Energy Regulatory Commission the grid maintenance plan for the distribution system it operates (Article 91, paragraph (2), item 9));
  - 7) it has not purchased the necessary natural gas quantities and any ancillary services required to perform its activities, under transparent, non-discriminatory and market-oriented procedures (Article 91, paragraph (2), item 10));
  - 8) it has not metered natural gas quantities delivered to final customers (Article 91, paragraph (2), item 11));
  - 9) it has not provided users access to metering devices owned by the distribution system operator pursuant to the present Law and the Natural Gas Distribution Grid Code (Article 91, paragraph (2), item 12));
  - 10) it has not prepared and/or submitted to the Energy Regulatory Commission for approval the natural gas purchase rules pursuant to the guidelines on electricity and natural gas purchase and sale and ancillary services purchase by entities performing regulated energy activities (Article 91, paragraph (4));
  - 11) it has not stipulated the purchase of ancillary services and real time balancing of deviations between the actual and planned natural gas consumption in any case where the distribution system, which it operates, is not connected to the natural gas

- transmission system and is supplied with compressed natural gas transported by means of road or rails tanks or other forms of transport (Article 91, paragraph (4));
- 12) it has not prepared and/or submitted to the Energy Regulatory Commission for approval the distribution system development plan (Article 92, paragraph (2));
  - 13) it has not prepared and/or submitted the Energy Regulatory Commission and the Ministry for approval annual and five-year natural gas demand forecasts for the system it operates (Article 92, paragraph (3));
  - 14) it has not prepared and/or submitted the Energy Regulatory Commission for approval the natural gas distribution system investment plan (Article 92, paragraph (4));
  - 15) it has not metered the natural gas received from or delivered to users connected to the distribution grid it operates with metering devices pursuant to the present Law and the Natural Gas Distribution Grid Code (Article 93));
  - 16) it has not prepared and/or submitted to the Energy Regulatory Commission for approval the Natural Gas Distribution Grid Code within the deadline stipulated in the license (Article 94, paragraph (1)); ERC
  - 17) it has not acted independently from other activities not related to distribution of natural gas in accordance with the requirements set in Article 95 of the present Law;
  - 18) it has not appointed a compliance officer (Article 95, paragraph (7)); Ministry
  - 19) it has appointed a compliance officer, who is not independent (Article 95, paragraph (7));
  - 20) it has not prepared and/or submitted to the Energy Regulatory Commission for approval the compliance programme referred to in Article 95, paragraph (7); or
  - 21) it has not cooperated with the Energy Regulatory Commission and the natural gas transmission system operator in the development of the Natural Gas Market Rules (Article 90, paragraph (2)).
- (2) The legal entity that is a natural gas distribution system operator shall be fined in the amount of 3,000 to \_\_\_\_\_ EUR in MKD counter value when:
- 1) it has not provided the natural gas transmission system operator and any other natural gas distribution system operator with sufficient information to ensure that the transport of natural gas in the distribution system it operates takes place in a manner compatible with the secure and efficient operation of the interconnected system (Article 91, paragraph (2), item 4));
  - 2) it has not provided natural gas system users with the information they need for efficient access to, including use of, the natural gas distribution system it operates (Article 91, paragraph (2), item 5)); ERC
  - 3) it has not submitted to natural gas suppliers data relating to the metering of natural gas quantities delivered to final customers (Article 91, paragraph (2), item 11); Ministry
  - 4) it has not prepared reports on the financial and actual volume of planned and realized services and/or it has not submitted them to the Energy Regulatory Commission, in a manner and under terms and conditions and within deadlines stipulated in its license; (Article 91, paragraph (2), item 13);ERC
  - 5) it has not kept dispatch logs, records on communication systems reliability, data from the supervision and operation system, metering data, and has not kept such logs, records and data for at least ten (10) years (Article 91, paragraph (2), item 14)); Ministry
  - 6) it has not secured confidentiality of commercial and business data of the system users of the distribution system it operates and to prevent information about its own activities, which may be commercially advantageous, from being disclosed in a discriminatory manner (Article 91, paragraph (2), item 15)); or Ministry



- 7) it has abused - in the case of sales or purchases of natural gas - some commercially sensitive information obtained from third parties in the context of providing access to the natural gas distribution system it operates (Article 91, paragraph (2), item 16)).  
Ministry
- (3) The responsible person at the concerned natural gas distribution system operator shall be fined in the amount of 700 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (1) of this Article.
- (4) The responsible person at the concerned natural gas distribution system operator shall be fined in the amount of 500 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (2) of this Article.
- (5) The officer at the concerned natural gas distribution system operator shall be fined in the amount of 300 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraphs (1) of this Article.
- (6) The officer at the concerned natural gas distribution system operator shall be fined in the amount of 200 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (2) of this Article.
- (7) The Compliance Officer of the natural gas distribution system operator shall be fined in the amount of 300 to \_\_\_\_\_ EUR in MKD counter value for any failure to submit to the Energy Regulatory Commission the annual report referred to in paragraph (8) of Article 95.
- (8) Any entity shall be fined in the amount of 2,000 to \_\_\_\_\_ EUR in MKD counter value when the entity in question is natural gas distribution system user and has not allowed access for the authorised person from the distribution system operator to his/her property, for the purpose of performing the matters referred to in Article 93, paragraph (4) of the present Law.
- (9) The responsible person at the natural gas distribution system user shall be fined in the amount of 700 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (5) of this Article.
- (10) The officer at the natural gas distribution system user shall be fined in the amount of 300 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (5) of this Article.
- (11) If the natural gas distribution system user is a natural person, the relevant natural gas distribution system user shall be fined in the amount of 700 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (5) of this Article.
- (12) The fines referred to in paragraph (1), items 1), 4), 5), 8), 9), 15), 17), 18) and 19), paragraph (2), items 3), 5), 6) and 7), and paragraphs (3) to (10) of this Article shall be imposed by the Misdemeanour Commission.
- (13) The fines referred to in paragraph (1), items 2), 3), 6), 7), 10) 11), 12), 13), 14), 16), 20) and 21) and paragraph (2), items 1), 2) and 4) of this Article shall be imposed by the Energy Regulatory Commission.

#### **Article 172-a**

- (1) An entity that is natural gas supplier shall be fined in the amount of 3,000 to \_\_\_\_\_,000 EUR in MKD counter value when:
- 1) it has not secured the relevant transmission and/or distribution capacity and regulated services pursuant to the applicable tariffs, the Natural Gas Transmission Grid Code and the Natural Gas Distribution Grid Code (Article 97, paragraph (3));

- 2) it has not accurately invoiced the customers with whom it has signed supply contracts for the natural gas supplied and/or for the transmission and/or distribution capacity secured (Article 97, paragraph (4) and Article 97, paragraph (5), item 11);
- 3) it has not operated in compliance with the Natural Gas Supply Rules and the Natural Gas Market Rules as regards the confidentiality of data and reliability and natural gas quantities supplied to its customers (Article 97, paragraph (5), item 1));
- 4) it has not submitted the natural gas transmission system operator data on transactions and natural gas consumption plans for its final customers, which are necessary for the calculation of imbalances, pursuant to the rules on the organisation of the balancing of the natural gas system and the Natural Gas Transmission and Distribution Grid Codes (Article 97, paragraph (5), item 2));
- 5) it has not settled the natural gas quantities purchased, as well as the reserved capacity and relevant regulated services from the natural gas transmission system operator and/or the natural gas distribution system operators in accordance with the rules on the organisation of the balancing of the natural gas system (Article 97, paragraph (5), item 4));
- 6) it has not provided information about the potential exercise by any of its customers of the right referred to in item 5) of paragraph (5) of Article 97 of the present Law;
- 7) it has not set up and implemented specific procedures for the provision of information to its customers and for the submission and handling of customers' complaints (Article 97, paragraph (5), item 6));
- 8) it has not taken appropriate measures for the equal treatment of all customers living in remote areas (Article 97, paragraph (5), item 7));
- 9) it has not published on its website the general terms and conditions of its natural gas supply agreements for each category of customers (Article 97, paragraph (5), item 8));
- 10) it has not published general statistical data relating to its customers as well as to its activities (Article 97, paragraph (5), item 9));
- 11) on the request from the Energy Regulatory Commission and within a given deadline, it has not submitted information and reports on the transactions and business activities originating from, terminating in or transiting the territory of the Republic of Macedonia (Article 97, paragraph (5), item 10));
- 12) it has not operated in compliance with the laws and other regulations in the Republic of Macedonia, the regulations adopted or approved by the Energy Regulatory Commission, and the Natural Gas Transmission and Distribution Grid Codes (Article 97, paragraph (5), item 12));
- 13) it has not made all data related to all its transactions contracted for at least five (5) years for the purchase and sale of natural gas and its derivatives with wholesale customers, as well as with the natural gas transmission system operator, natural gas distribution system operator(s) or the natural gas market operator, available to the Energy Regulatory Commission, the Commission for the Protection of Competition and to the Energy Community Secretariat (Article 97, paragraph (6));
- 14) it has not notified in a timely manner the natural gas supplier of last resort, its final customers, the Energy Regulatory Commission and the transmission and distribution system operators on the date of suspension of natural gas supply, in any case where the natural gas supplier in question is not capable of supplying natural gas to its final customers (Article 98-a, paragraphs (2) and (3));
- 15) it has not set up an adequately staffed single contact point from which its final customers shall be promptly provided with all the necessary information and

notifications concerning their rights, current regulations and the existing and available means of dispute settlement (Article 98-b, paragraphs (1) and (2)); or

- 16) as part of the bills, it has not provided its final customers in a clear and unambiguous manner with data stipulated in Article 141, paragraph (4) of the present Law;
- (2) An entity that is natural gas supplier under public service obligation to ensure public service for the supply of natural gas shall be fined in the amount of 3,000 to \_\_\_\_\_ EUR in MKD counter value when it:
- 1) has not informed its customers about their rights and the conditions for being supplied with natural gas under public service (Article 97-a, paragraph (1), item 1);
  - 2) has not notified its customers on terms and conditions of supply and price of the natural gas under public service (Article 97-a, paragraph (1), item 2));
  - 3) has not notified its customers of their right to choose another natural gas supplier (Article 97-a, paragraph (1), item 2));
  - 4) has not charged its customers for the natural gas delivered under public service in accordance with prices approved by the Energy Regulatory Commission according to the methodology developed by the Energy Regulatory Commission pursuant to paragraph (2) of Articles 24 of the present Law (Article 97-a, paragraph (1), item 4));
  - 5) has not published on its website the prices for the supply of natural gas under public service (Article 97-a, paragraph (1), item 5)); or
  - 6) has not made all data related to all its transactions contracted for at least five (5) years for the purchase and sale of natural gas and its derivatives with wholesale customers, as well as with the natural gas transmission system operator, the natural gas distribution system operator(s) or the natural gas market operator, available to the Energy Regulatory Commission, the Commission for the Protection of Competition, the Council for Consumer Protection and to the Energy Community Secretariat (Article 97-a, paragraph (6)).
- (3) An entity that is a natural gas supplier of last resort shall be fined in the amount of 3,000 to \_\_\_\_\_ EUR in MKD counter value when:
- 1) it has not notified its customers on the terms and conditions of supply and the price of the natural gas (Article 98-a, paragraph (4), item 1);
  - 2) it has not informed its customers of their right to choose a natural gas supplier (Article 98-a, paragraph (4), item 2));
  - 3) it has not published the terms and conditions of supply and the price of the natural gas and any relevant information on its website (Article 98-a, paragraph (4), item 3));
  - 4) it has not segregated its activities relating to natural gas supply of last resort from other natural gas activities (Article 98, paragraph (7));
  - 5) it has not kept separate financial records and financial reports as regards the performance of the natural gas supply of last resort (Article 98, paragraph (7)); or
  - 6) it has not made all data related to all its transactions contracted for at least five (5) years for the purchase and sale of natural gas and its derivatives with wholesale customers, as well as with the natural gas transmission system operator, natural gas distribution system operator(s) or the natural gas market operator, available to the Energy Regulatory Commission, the Commission for the Protection of Competition and to the Energy Community Secretariat (Article 98, paragraph (9))
- (4) An entity that is natural gas trader shall be fined in the amount of 3,000 to \_\_\_\_\_ EUR in MKD counter value when:
- 1) it has not submitted to the natural gas transmission system operator information on the natural gas quantities and relevant time schedules related to all natural gas purchase/sale contracts, which it has committed to deliver to its customers, as well

- as on contracts related to cross-border transactions through the transmission system, when performing natural gas export or transit (Article 99, paragraph (3));
- 2) it has not secured sufficient transmission, including cross-border transmission, capacity and/or distribution capacity and related services (Article 99, paragraph (4));
  - 3) on request and within a given deadline, it has not submitted the Energy Regulatory Commission information and reports on the transactions and business activities originating from, terminating in or transiting the territory of the Republic of Macedonia (Article 99, paragraph (5), item 2)); ERC
  - 4) it has not accurately invoiced its customers for the natural gas supplied and/or for the transmission and/or distribution capacity secured (Article 99, paragraph (5), item 3)); ERC
  - 5) it has not operated in compliance with the Natural Gas Supply Rules as regards the confidentiality of data and natural gas quantities supplied to its customers (Article 99, paragraph (5), item 4));
  - 6) it has not made all data related to all its transactions contracted for at least five (5) years for the purchase and sale of natural gas and its derivatives with wholesale customers, as well as with the natural gas transmission system operator, the natural gas distribution system operator(s) or the natural gas market operator, available to the Energy Regulatory Commission, the Commission for the Protection of Competition and to the Energy Community Secretariat (Article 99, paragraph (6)).
  - 7) as part of the bills, it has not provided its final customers in a clear and unambiguous manner with the data stipulated in Article 141, paragraph (4) of the present Law;
- (5) The responsible person at the entity, which is a natural gas supplier, a natural gas supplier under public service obligation to ensure public service of natural gas supply, a natural gas supplier of last resort, or a natural gas trader, as the case may be, shall be fined in the amount of 500 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraphs (1), (2), (3) and (4) of this Article.
  - (6) The officer at the entity, which is a natural gas supplier, a natural gas supplier under public service obligation to ensure public service of natural gas supply, a natural gas supplier of last resort or a natural gas trader, as the case may be, shall be fined in the amount of 200 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraphs (1), (2), (3) and (4) of this Article.
  - (7) If the natural gas supplier or natural gas trader is a natural person, the relevant natural gas supplier or natural gas trader, as the case may be, shall be fined in the amount of 700 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraphs (1) and (4) of this Article.
  - (8) The fines referred to in paragraph (1), items 6) to 10), 12), 15) and 16), paragraph (2), items 1), 2), 3) and 5), paragraph (3), items 1) to 5), paragraph (4), items 2), 5) and 7) and paragraphs (5) to (7) of this Article shall be imposed by the Misdemeanour Commission.
  - (9) The fines referred to in paragraph (1), items 1) to 5), 11), 13) and 14), paragraph (2), items 4) and 6), and paragraph (4), items 1), 3), 4) and 6) of this Article shall be imposed by the Energy Regulatory Commission.

#### **Article 172-b**

- (1) In addition to the competencies of the Energy Regulatory Commission set out in Articles 171 to 172, the Energy Regulatory Commission may impose other penalties on natural gas undertaking(s) not complying with their obligations under the present Law and under any commitments assumed by the Republic of Macedonia pursuant to ratified international treaties, provided that:

- 1) the relevant natural gas undertaking(s) have beforehand expressed their views to the Energy Regulatory Commission on their non-compliance of the relevant obligation(s);
  - 2) the penalties imposed by the energy Regulatory Commission are effective, proportionate and dissuasive and their imposition is in conformity with the relevant laws and bylaws of the Republic of Macedonia.
- (2) The competence referred to in paragraph (1) of this Article shall include the power of the Energy Regulatory Commission to impose penalties of up to 10% of the annual turnover of the natural gas transmission system operator on the transmission system operator, or of up to 10% of the annual turnover of the vertically integrated natural gas undertaking on the vertically integrated undertaking in question, as the case may be, for non-compliance with their respective obligations pursuant to the present Law.

### **XV.3 Misdemeanour Provisions on the Crude Oil, Oil Derivatives and Fuels for Transport Market**

#### **Article 173**

- (1) Any entity shall be fined in the amount of 5,000 to \_\_\_\_\_ EUR in MKD counter value for a misdemeanour when performing the following activity:
  - 1) crude oil processing and oil derivatives production, biofuels production, production of fuels for transportation by blending fossil fuels and biofuels, transportation of crude oil or oil derivatives through oil pipelines or product pipelines, storage of crude oil, oil derivatives, biofuels and fuels for transport and/or trading with crude oil, oil derivatives, fuels for transport and biofuels, provided that it failed to use and maintain the facilities, devices and plants intended for the performance of the licensed activity, pursuant to the technical regulations and standards and other regulations on reliable and safe operation and environmental protection (Article 101, paragraph (1));
  - 2) crude oil and/or oil derivatives transport through oil pipeline and/or product pipeline provided that it has not adopted the Operational Rules for the oil pipeline or product pipeline or has not published them on its website (Article 102, paragraph (1));
  - 3) wholesale trading in oil derivatives and fuels for transport, provided that it has not secured the operational stocks of oil derivatives and fuels for transport at all times in the quantity equal to five-day average trade volume (Article 103, paragraph (3));
  - 4) wholesale trading in oil derivatives and fuels for transport provided that the entity in question fills and distributes pressure vessels with liquefied petrol gas for single or multiple use, and has not placed its logo on each pressure vessel separately (Article 104, paragraphs (1) and (2)).
- (2) Any entity that is participant on the liquid fuels market shall be fined in the amount of 5,000 to \_\_\_\_\_ EUR in MKD counter value when it has not complied with the obligations stipulated in the Act referred to in Article 108, paragraph (1) of the present Law.
- (3) The responsible person at the entity in question shall be fined in the amount of 700 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraphs (1) and (2) of this Article.
- (4) The officer at the entity in question shall be fined in the amount of 300 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraphs (1) and (2) of this Article.
- (5) Any natural person shall be fined in the amount of 700 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraphs (1) and (2) of this Article.
- (6) The fines referred to in paragraphs (1) to (5) of this Article shall be imposed by the Misdemeanour Commission.

## **XV.4 Misdemeanour Provisions on the Heating Energy Market**

### **Article 174**

- (1) The legal entity that is heating energy producer shall be fined in the amount of 5,000 to \_\_\_\_\_ EUR in MKD counter value when:
  - 1) it has not submitted the Energy Regulatory Commission and the Mayor of the local self-government unit annual reports on the equipment, facilities, maintenance plans, and planned availability (Article 112, paragraph (3)); ERC
  - 2) it has not provided the operational stock of mazut at all times in the quantity equal to at least fifteen-day demand under maximum capacity operation, at least (Article 112, paragraph (4)).
- (2) The responsible person at the heating energy producer in question shall be fined in the amount of 700 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (1) of this Article.
- (3) The officer at the heating energy producer in question shall be fined in the amount of 300 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (1) of this Article.
- (4) Any natural person shall be fined in the amount of 700 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (1) of this Article.
- (5) The fines referred to in paragraph (1), item 2) and paragraphs (2) to (4) of this Article shall be imposed by the Misdemeanour Commission.
- (6) The fine referred to in paragraph (1), item 1) of this Article shall be imposed by the Energy Regulatory Commission.

### **Article 175**

- (1) The legal entity that is heating energy distribution system operator shall be fined in the amount of 5,000 to \_\_\_\_\_ EUR in MKD counter value when it:
  - 1) has not secured safe and reliable operation of the heating energy distribution system pursuant to the Heating Energy Distribution Grid Code and the terms and conditions stipulated in the license (Article 115, paragraph (1), item 1));
  - 2) has not provided distribution system maintenance, development and, when cost-effective, expansion pursuant to the Heating Energy Distribution Grid Code and system development plans harmonized with energy development plans and programs developed by local self-government unit where the heating system is located (Article 115, paragraph (1), item 2));
  - 3) has not provided users access and/or connection to the distribution system in compliance with the distribution grid capacities and under prices and tariffs previously approved and published by the Energy Regulatory Commission (Article 115, paragraph (1), item 3));
  - 4) has not purchased, installed and maintained metering devices at the exit points of generation plants and heating substations connected where final customer facilities are connected and has not metered heating energy received from or delivered in the heating system, pursuant to the Heating Energy Distribution Grid Code (Article 115, paragraph (1), item 5));
  - 5) has not provided all stipulated safeguard measures in the use of the heating energy distribution system, as well as environmental protection measures (Article 115, paragraph (1), item 6));

- 6) has not harmonised the operations in the system plants with the producers, for the purpose of uninterrupted heating energy distribution (Article 115, paragraph (1), item 9));
  - 7) has not provided supervision and testing of the heating energy distribution system (Article 115, paragraph (1), item 10));
  - 8) has not provided monitoring of technical and functional preparedness of the heating energy distribution facilities (Article 115, paragraph (1), item 11));
  - 9) has not provided long-term heating energy demand forecasts (Article 115, paragraph (1), item 12));
  - 10) has not purchased heating energy from other producers when the price offered is lower than or equal to the regulated heating energy price set for the regulated producer (Article 116, paragraph (5));
  - 11) has not prepared and submitted for approval to the Energy Regulatory Commission the Heating Energy Distribution Grid Code within the deadline stipulated in the present Law (Article 117, paragraph (1)). ERC
- (2) The entity that is a heating energy distribution system user shall be fined in the amount of 2,000 to \_\_\_\_\_ EUR in MKD counter value when it has not allowed access for the authorized person of the distribution system operator, for the purpose of performing the matters referred to in Article 119 paragraph (3) of the present Law. Ministry
  - (3) The responsible person at the entity, which is a heating energy distribution system user, shall be fined in the amount of 700 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (1) of this Article.
  - (4) The officer at the entity, which is a heating energy distribution system user, shall be fined in the amount of 300 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (1) of this Article.
  - (5) If the a heating energy distribution system user is a natural person, the heating energy distribution system user in question shall be fined in the amount of 700 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (2) of this Article.
  - (6) The fines referred to in paragraph (1), items 1 to 10) and paragraphs (2) to (5) of this Article shall be imposed by the Misdemeanour Commission.
  - (7) The fines referred to in paragraph (1), item 11) of this Article shall be imposed by the Energy Regulatory Commission.

## **XV.5 Other Misdemeanor Provisions**

### **Article 176**

- (1) An entity shall be fined in the amount of 5,000 to \_\_\_\_\_,000 EUR in MKD counter value when the entity in question:
  - 1) is an energy system user and has acted in violation to the obligations stipulated in Article 140 of the present Law;
  - 2) is an entity performing energy activity and has not secured confidentiality of business data and information obtained from users in the course of the performance of the relevant energy activity, pursuant to the present Law (Article 146, paragraph (1));
  - 3) is a public sector entity and has not complied with the obligations referred to in Article 134, paragraph (2) of the present Law;
  - 4) is a public sector entity and has not submitted the energy audit report to the Energy Agency (Article 134, paragraph (4));

- 5) is public sector entity and has not specified energy efficiency of the goods or services purchased as the mandatory criterion for the selection of the most favorable bid in the public procurement procedure implementation (Article 134, paragraph (6));
  - 6) is a public sector entity that leases business premises at a building whose owner does not hold a certificate confirming the building's compliance with the building energy performance requirements (Article 134, paragraph (7));
  - 7) is a preferential electricity producer and has not submitted electricity generation plans to the electricity market operator pursuant to the Electricity Market Rules (Article 138 paragraph (1) item 2));
- (2) An entity shall be fined in the amount of 3,000 to \_\_\_\_\_ EUR in MKD counter value when it:
- 1) is a heating energy supplier and as part of the bills and in a clear and unambiguous manner has not provided the final customers with data stipulated in Article 141, paragraph (4) of the present Law;
  - 2) imports and/or puts into circulation on the market in the Republic of Macedonia products that are not labeled pursuant to Article 142 of the present Law;
  - 3) is an entity performing energy activity and has misused business secrets and information obtained during the activity performance, for the purpose of acquiring business advantage, as well as taking discriminatory actions for the benefit of third parties (Article 146, paragraph (3));
  - 4) performs construction or other works, plants trees and vegetation on the land under, over and in the vicinity of energy facilities, devices and plants that adversely affect the energy generation, transmission and distribution processes or endanger the safety of people and property, except in cases stipulated in the present Law (Article 147, paragraph (1));
  - 5) is the owner or user of land and has not allowed trespassing on the land in its tenure, for the purpose of surveying, designing and implementation of maintenance and reconstruction works on energy transmission and distribution facilities, as well as performing inspection supervision of the land on which they have been constructed (Article 148, paragraph (1)); and
  - 6) has not adhered to the obligations stipulated under the Act on the Eco-Design (Article 151, paragraph (4)).
- (3) A sole proprietor or an entity that owns a license for energy audit performance shall be fined for misdemeanour in the amount of 3.000 to \_\_\_\_\_ EUR in MKD counter value if it:
- 1) Performs energy audit contrary to the present Law and the Technical Regulations (Article 138, Paragraph (1));
  - 2) Does not keep records on energy audits performed and has not kept documents thereof for at least ten (10) years (Article 138, Paragraph (3));
  - 3) Does not submit a Report to the Energy Agency for the energy audits performed in the previous calendar year (Article 138, Paragraph (4)).
- (4) The responsible person at the entity in question shall be fined in the amount of 700 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (1) of this Article.
- (5) The responsible person at the entity in question shall be fined in the amount of 500 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (2) of this Article.



- (6) The person in charge in the sole proprietor or the entity in question shall be fined for the actions referred to in Paragraph (3) of this Article in the amount of 500 to \_\_\_\_\_ EUR in MKD counter value.
- (7) The officer at the entity in question shall be fined in the amount of 300 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (1) of this Article.
- (8) The officer at the entity in question shall be fined in the amount of 200 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (2) of this Article.
- (9) A natural person shall be fined in the amount of 700 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (1), items 1) and 2) of this Article.
- (10) A natural person shall be fined in the amount of 500 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (2) and paragraph (3) of this Article.
- (11) An entity shall be fined in the amount of 3,000 to \_\_\_\_\_ EUR in MKD counter value for the misdemeanor act on issuing building energy license without holding the certificate on energy audit performance (Article 136, paragraph (2)).
- (12) A fine amounting from 1.000 to \_\_\_\_\_ EUR in MKD counter value shall be imposed for misdemeanour to:
  - 1) the entity from the public sector, i.e. the legal entity for not appointing a staff member (Article 134-a, Paragraphs (5) and (7)); and
  - 2) The entity from the public sector, i.e. a legal entity for failing to keep records and enter data in the information system (Article 134-a, Paragraph (6), items 1) and 2) and Paragraph (8)).
- (13) The officer at the entity in question shall be fined in the amount of 200 to \_\_\_\_\_ EUR in MKD counter value for the actions referred to in paragraph (9) of this Article.
- (14) A fine amounting from \_\_\_\_\_ to \_\_\_\_\_ EUR in MK counter value shall be imposed on building owners, who have failed to arrange for their heating and air-conditioning systems to be inspected at prescribed intervals in accordance with the requirements of item 9 of paragraph (8) of Article 136.

#### **Article 176-a**

- (1) A fine in the amount between 4.000 and \_\_\_\_\_ EUR in MK counter value shall be pronounced against the authorised legal person, that is charge of the technical implementation of the exam referred to in Article 137-d of the present Law, if the said person fails to record, fails to broadcast live on the web-site of the Ministry, and fails to put the recording on the target exam on the web-site of the Ministry (Article 137-h, paragraph (3)).
- (2) A fine in the amount between 4.000 and \_\_\_\_\_ EUR in MK counter value shall be pronounced against the authorised institution conducting the exam referred to in Article 137-d of the present Law, if it does not adjourn the exam (Article 137-l, paragraphs (5) and (6)).
- (3) A fine in the amount between 500 and \_\_\_\_\_ EUR in MK counter value shall be levied against the authorised representative referred to in Article 137-h, paragraph (5), of the present Law, if said person acts contrary to Article 137-l, paragraph (9), of the present Law.
- (4) A fine in the amount between 1000 and \_\_\_\_\_ EUR in MK counter value shall be pronounced against the Minister, if it fails to adopt the resolution within the timeframe set in Article 137-p, paragraph (7), of the present Law.

#### **Article 176-b**

- (1) A fine in the amount between 4.000 and \_\_\_\_\_ EUR in MK counter value shall be pronounced against the authorised legal person, that is responsible for the technical implementation of the exam referred to in Article 143-e of the present Law, if the person fails to record, fails to broadcast live on the web-site of the Ministry, and fails to put the recording on the target exam on the web-site of the Ministry (Article 143-j, paragraph (3)).
- (2) A fine in the amount between 4000 and \_\_\_\_\_ EUR in MK counter value shall be pronounced against the authorised institution conducting the exam referred to in Article 143-e of the present Law, if it does not adjourn the exam (Article 143-k, paragraphs (5) and (6)).
- (3) A fine in the amount between 100 and \_\_\_\_\_ EUR in MK counter value shall be pronounced against the authorised representatives referred to in Article 143-j, paragraph (5), of the present Law, if said persons act contrary to Article 143-k, paragraph (9), of the present Law.
- (4) A fine in the amount between 1.000 and \_\_\_\_\_ EUR in MK counter value shall be pronounced against the Minister, if it fails to adopt the resolution within the timeframe set in Article 143-w, paragraph (7), of the present Law.

### **XVI TRANSITIONAL AND FINAL PROVISIONS**

#### **Article 177**

- (1) Members of the Energy Regulatory Commission and members and substitute members of the Complaints' Commission, who have been appointed prior to the entry into force of the present Law, shall continue to perform their public office until the expiration of the term of office for which they have been appointed.

#### **Article 178**

- (1) If a license on the performance of energy activities, which was issued prior to the entry into force with this Law, is not be compliant with the provisions contained in the present Law, the relevant license holder shall perform the energy activity in question pursuant to the provisions stipulated in the present Law until its license is amended by the Energy Regulatory Commission.
- (2) Within a period of one (1) year from the day the present Law enters into force, the Energy Regulatory Commission shall, *ex officio*, amend the provisions contained in the existing licenses that are contrary to the provisions of the present Law.
- (3) As an exception from paragraph (2) of this Article, the Energy Regulatory Commission shall amend the provisions contained in the existing licenses of the electricity and natural gas transmission system operators three (3) months after the process of certification of the relevant transmission system operator, which is referred to in Articles 83-j and 100-j of the present Law, is completed.
- (4) As an exception from paragraph (2) of this Article, the Energy Regulatory Commission shall amend the provisions contained in the existing licenses of the electricity and natural gas distribution system operators within a period of six (6) months from the day the present Law enters into force.
- (5) The Energy Regulatory Commission shall complete the procedures on license issuing initiated prior to the entry into force of the present Law in compliance with the present Law.
- (6) The energy undertaking which has been performing activity as an electricity or natural gas transmission system operator prior to the entry into force of the present Law shall continue

to perform such activity until an electricity or natural gas transmission system operator has been designated in accordance with the provisions from the present Law.

#### **Article 179**

- (1) The Government of the Republic of Macedonia shall within a period of three (3) months at the latest from the day the present Law enters into force,:
  - 1) adopt the decision referred to in Article 80, paragraph (3) of the present Law, which shall initiate the tendering procedure by means of an open call for designating the electricity supplier(s) under public service obligation to ensure universal service and the electricity supplier(s) of last resort;
  - 2) adopt the decision referred to in Article 98 of the present Law, which shall initiate the tendering procedure by means of an open call for designating the public supplier(s) of last resort;
  - 3) adopt the decision referred to in Article 98-a of the present Law, which shall initiate the tendering procedure by means of an open call for designating the natural gas supplier(s) of last resort;
- (2) The Government of the Republic of Macedonia shall within a period of nine (9) months at the latest from the day the present Law enters into force,:
  - 4) adopt the decision referred to in Article 64-a, paragraph (4) of the present Law, which shall set up the procedure for the granting of authorisation for the construction of a direct line;
  - 5) adopt the Act on Liquid Fuels Quality;
  - 6) adopt the decision referred to in Article 129, paragraph (1) of the present Law, which shall set the national mandatory and indicative trajectory targets for the share of energy generated from renewable sources in gross final consumption of energy and in all forms of transport in 2020;
  - 7) adopt the decision referred to in Article 132-I, paragraph (3) of the present Law, which shall recognize any certification of the installers of small-scale biomass boilers and stoves, solar photovoltaic and solar thermal systems, shallow geothermal systems and heat pumps, which has been awarded by any other State;
  - 1) adopt the Decree referred to Article 152-a, paragraph (2) on the technical rules for the design, construction, operation, functioning and maintenance of plants and installations for natural gas;
- (3) The Ministry shall adopt:
  - 1) within a period of nine (9) months at the latest from the day the present Law enters into force, adopt the Rulebook on Energy Balances and Energy Statistics referred to in Article 12, paragraph (4) of the present Law;
  - 2) within a period of six (6) months at the latest from the day the present Law enters into force, the technical regulations referred to in Article 101 of the present Law;
  - 3) within a period of nine (9) months at the latest from the day the present Law enters into force, the Rulebook referred to in Article 129, paragraph (5) of the present Law that shall prescribe the methodology for calculating the shares of energy generated from renewable sources and at high-efficiency cogeneration plants, which shall be taken into account in setting the indicative trajectory targets;
  - 4) within a period of three (3) months at the latest from the day the present Law enters into force, the Rulebook referred to in Article 132, paragraph (3) of the present Law,

which shall specify the template of the National Renewable Energy Action Plan and any related documents ;

- 5) within a period of six (6) months at the latest from the day the present Law enters into force, the Rulebook referred to in Article 132-a, paragraph (1) of the present Law, which shall prescribe the methodology for the calculation of the gross final consumption of energy from renewable sources;
  - 6) within a period of twelve (12) months at the latest from the day the present Law enters into force, the Instruction referred to in Article 132-i, paragraph (3) of the present Law, which shall define the technical specifications that must be met by renewable energy equipment and systems in order to benefit from support schemes;
  - 7) within a period of eighteen (18) months at the latest from the day the present Law enters into force, the Rulebook referred to in Article 132-l, paragraph (1) of the present Law on the establishment of certification schemes for installers of small-scale biomass boilers and stoves, solar photovoltaic and solar thermal systems, shallow geothermal systems and heat pumps;
  - 8) within a period of eighteen (18) months at the latest from the day the present Law enters into force, the Rulebook referred to in Article 132-l, paragraph (2) of the present Law, which shall prescribe the criteria for the certification of installers of small-scale biomass boilers and stoves, solar photovoltaic and solar thermal systems, shallow geothermal systems and heat pumps; and
  - 9) within a period of six (6) months at the latest from the day the present Law enters into force, the Rulebook referred to in Article 143-m, paragraph (3) of the present Law on scoring methods for the exams of candidate operators of specific types of power devices and plants;
- (4) The Energy Regulatory Commission within nine (9) months at the latest from the day the present Law enters into force shall adopt:
- 1) the amendment of the Statute of the Energy Regulatory Commission referred to in Article 15, paragraph (4) of the present Law. The rotation scheme referred to in Article 18, paragraph (2) of the present Law shall be implemented within one (1) month at the latest from the day at which the Statute of the Energy Regulatory Commission is adopted;
  - 2) the amendment of the Code of Conduct of the Energy Regulatory Commission referred to in Article 20, paragraph (2) of the present Law;
  - 3) , the amendment of the Book of Operations of the Energy Regulatory Commission referred to in Article 22, paragraph (1), item 44) of the present Law;
  - 4) the amendment of the Rulebook on the manner and procedure governing the monitoring of energy market operation referred to in Article 23 paragraph (6) of the present Law;
  - 5) the amendment of the Rulebook on the manner, terms and conditions and procedure on decision-taking in respect of disputes and complaints referred to in Article 36 paragraph (8) of the present Law;
  - 6) the amendment of the Rulebook on Tariff Setting for the Regulated Energy Activities referred to in Article 24, paragraph (1) of the present Law;
  - 7) the Price-Setting Rulebook for Oil Derivatives and Fuels for Transport referred to in Article 24, paragraph (2) of the present Law;
  - 8) the Price-Setting Rulebook for Heating Energy and Ancillary Services referred to in Article 113, paragraph (5) of the present Law;

- 9) the amendment of the Tariff Systems for energy or natural gas transmission/distribution and services provided by the electricity market operator referred to in Article, 25 paragraph (1) of the present Law;
  - 10) the amendment of the Electricity Market Rules referred to in Article 73 of the present Law;
  - 11) twelve 12th amendment of the Natural Gas Market Rules referred to in Article 90 of the present Law;
  - 12) the amendment of the Electricity Supply Rules referred to in Article 28, paragraph (1) of the present Law;
  - 13) twelve 12th amendment of the Natural Gas Supply Rules referred to in Article 28, paragraph (1) of the present Law;
  - 14) the Heating Energy Supply Rules referred to in Article 28 of the present Law;
  - 15) the amendment of the Rulebook on Licenses;
  - 16) the amendment of the Rulebook on Preferential Electricity Producers referred to in Article 137, paragraph (3) of the present law.
- (5) The Energy Regulatory Commission within three (3) months at the latest from the day the present Law enters into force shall adopt:
- 1) the special act referred to in Article 83-j, paragraph (9) and in Article 100-j, paragraph (9) on the Procedure for the Certification of Electricity and Natural Gas Transmission System Operators;
  - 2) the amendment of the Tariff System for electricity sale to final customers supplied by suppliers under the public service obligation to ensure universal service referred to in Article 25, paragraph (2) of the present Law;
  - 3) the amended Tariff System on natural gas sale to final customers supplied by the supplier of last resort referred to in Article 25, paragraph (2) of the present Law;
  - 4) the Rules on Electricity Supply of Last Resort referred to in Article 28 of the present Law;
  - 5) the Rules on Natural Gas Supply of Last Resort referred to in Article 28 of the present Law;
  - 6)
- (6) The electricity transmission system operator within nine (9) months at the latest from the day the present Law enters into force shall:
- 1) submit to the Energy Regulatory Commission for approval the rules on the organisation of the balancing of the electricity system (Article 66-a, paragraph (1));
  - 2) submit for approval to the Energy Regulatory Commission the coordination and information exchange mechanisms to ensure the security of the network in the context of congestion management (Article 67-c, paragraph (1))
  - 3) submit for approval to the Energy Regulatory Commission the general scheme for the calculation of the total capacity for transfer of electricity through the electricity transmission network and the electricity transmission reliability margin based upon the electrical and physical features of the network (Article 67-c, paragraph (2) and (3));
  - 4) submit to the Energy Regulatory Commission for approval the amendment of the Electricity Transmission Grid Code (Article 69, paragraph (1));

- 5) submit to the Energy Regulatory Commission for approval the amendment of the Rules on Interconnection Transmission Capacity Allocation pursuant to Article 70 of the present Law;
  - 6) submit for approval to the Energy Regulatory Commission the compliance programme referred to in Article 71, paragraph (2).
- (7) The electricity distribution system operator within nine (9) months at the latest from the day the present Law enters into force shall:
- 1) prepare and submit to the Energy Regulatory Commission for approval the amendment of the Electricity Distribution Grid Code, pursuant to Article 77 of the present Law;
  - 2) submit for approval to the Energy Regulatory Commission the compliance programme referred to in Article 77, paragraph (7).
- (8) The natural gas transmission system operator within nine (9) months at the latest from the day the present Law enters into force shall:
- 1) twelve 12submit for approval to the Energy Regulatory Commission the amendment of the Rules on the Allocation of Natural Gas Interconnection Transmission Capacity Allocation pursuant to Article 85-c of the present Law;
  - 2) submit to the Energy Regulatory Commission for approval the rules on the organisation of the balancing of the natural gas system (Article 85-e, paragraph (1));
  - 3) submit to the Energy Regulatory Commission for approval the amendment of the Natural Gas Transmission Grid Code, pursuant to Article 88 of the present Law;
  - 4) submit for approval to the Energy Regulatory Commission the compliance programme referred to in Article 89, paragraph (2).
- (9) The natural gas distribution system operator within nine (9) months at the latest from the day the present Law enters into force shall:
- 1) prepare and submit to the Energy Regulatory Commission for approval the amendment of the Natural Gas Distribution Grid Code, pursuant to Article 94 of the present Law;
  - 2) submit for approval to the Energy Regulatory Commission the compliance programme referred to in Article 95, paragraph (7).
- (10) Within a period of twelve (12) months at the latest from the day the present Law enters into force, the heating energy distribution system operators shall submit the Energy Regulatory Commission the Heating Energy Distribution Grid Code for approval, pursuant to Article 117 of the present Law.
- (11) Any codes, rules or programmes, which are submitted by an energy undertaking to the Energy Regulatory Commission for approval, shall be approved by the Energy Regulatory Commission, subject to any amendments, within a period of three (3) months at the latest from the day the relevant code, rules or programme has been submitted by the energy undertaking in question. The energy undertaking in question shall adopt the relevant code, rules or programme within a period of ten (10) days at the latest from the day of its approval by the Energy Regulatory Commission.
- (12) The regulations, rules and other general acts whose adoption has been stipulated under the present Law and for which an adoption deadline has not been determined under this Article shall be adopted within a period of twelve (12) months the latest from the day on which the present Law enters into force.

#### **Article 180**

- (1) Until the adoption of regulations and approval of the acts referred to in Article 179, paragraphs (1) to (10), the regulations, rules and acts adopted or approved in compliance with the Energy Law ("Official Gazette of the Republic of Macedonia" no. 136/2011, 79/2013, 164/2013, 41/2014, 137/2014 and 33/2015) shall be in effect.

#### **Article 181**

- (1) The procedures on issuing construction approvals, as well as on the adoption of decisions on approving the construction of energy generation, transmission and distribution facilities and system, which have been initiated prior to the day the present Law enters into force, shall be performed in compliance with the relevant provisions of the Energy Law ("Official Gazette of the Republic of Macedonia" no. 136/2011, 79/2013, 164/2013, 41/2014, 137/2014 and 33/2015).
- (2) The procedures on obtaining the status of electricity preferential electricity producer that have been initiated prior to the day the present Law enters into force shall be performed in compliance with the relevant provisions of the Energy Law ("Official Gazette of the Republic of Macedonia" no. 136/2011, 79/2013, 164/2013, 41/2014, 137/2014 and 33/2015).
- (3) The procedures for obtaining approval for construction or significant reconstruction of buildings or construction units until 1 of January 2015, which have already commenced, shall be performed in compliance with the relevant provisions of the Energy Law ("Official Gazette of Republic of Macedonia" No. 16/11, 136/11, 79/13, 164/13, 41/2014, 137/2014 and 33/2015).

#### **Article 182**

- (1)

### **XVI.1 Enforcement of the Chapter on Electricity Market**

#### **Article 183**

- 1) small electricity customers with consumption of electricity in 2015 over 1000 MWh until 30 of June 2016;
  - 2) small electricity customers with consumption of electricity in 2016 over 500 MWh until 30 of June 2017;
  - 3) small electricity customers with consumption of electricity in 2017 over 100 MWh until 30 of June 2018;
  - 4) small electricity customers with consumption of electricity in 2018 over 25 MWh until 30 of June 2019; and
  - 5) household customers and all the remaining small electricity customers until 30 of June 2020.
- (2) The final customers shall be obliged to sign contracts with the electricity supplier not later than thirty (30) days from the entry into force of the present Law.

**The electricity supply for ensuring universal service shall be performed at regulated prices and conditions until 31 December 2018. By that date, the Energy Regulatory Commission shall publish a report with its assessment of the need to maintain price regulation for certain categories benefiting from universal service.**

- (4) licenseUntil 30 June 2020, the Energy Regulatory Commission shall be obliged to approve a template of the contract between the universal service supplier and the final customers

that have the right to benefit from universal service supply under the conditions of Article 8 of the present Law.

#### **Article 185**

- (1) licenseThe universal service supplier shall have an obligation to procure and to provide to its customers the necessary transmission and/or distribution capacity, as well as the services from the electricity market operator, and shall invoice the electricity delivered and services provided to final customers pursuant to the Tariff System adopted by the Energy Regulatory Commission.
- (2) The universal service supplier shall have an obligation to purchase electricity on the open market and under market prices.
- (3) The universal service supplier shall be obliged to submit the electricity market operator data on transactions or contracts and balances on final customers electricity demand required for the calculation of imbalances, pursuant to the Rules on the organisation of the balancing of the electricity system and the Electricity Transmission and Distribution Grid Codes.

#### **Article 187**

- (1) Article 80-c, paragraph (3) will enter into force within three (3) months from the day any relevant international organisation has prescribed the energy consumer checklist, whose copy each electricity supplier will be obliged to provide to its final customers, and in any event no later than one (1) year at the latest from the entry into force of the present Law.
- (2) The electricity undertaking performing activities relating to electricity supply of last resort at the entry into force of the present Law shall continue to perform the said activities under the conditions and criteria for supplier of last resort under the present Law until the electricity supplier(s) of last resort is licensed and commences performing its tasks in accordance with the provisions of the present Law, but not longer than .....

#### **Article 188**

### **Enforcement of the Chapter on Natural Gas Market**

#### **Article 189**

- (1) The natural gas undertaking performing activities relating to the organisation and operation of the natural gas market at the entry into force of the present Law shall continue to perform the said activities until the Natural Gas Market Operator is licensed and commences performing its tasks.
- (2) The licensing of the Natural Gas Market Operator will be completed within one (1) year at the latest from the day the present Law enters into force.
- (3) Article 98-b, paragraph (3) will enter into force within three (3) months from the day any relevant international organisation has prescribed the energy consumer checklist, whose copy each natural gas supplier will be obliged to provide to its final customers, and in any event no later than one (1) year at the latest from the entry into force of the present Law.

### **XVI.2 Enforcement of the Chapter on Heating Energy Market**

#### **Article 190**

- (1) Until the licenses on regulated heating energy generation activity referred to in Article 113, paragraph (2) of the present Law are issued, the regulated heating energy generation



activity shall be performed by the existing license holders on heating energy generation in the relevant heating systems.

- (2) As an exception from Article 114, paragraph (1) of the present Law, the existing contracts on heating energy distribution system operation, use and maintenance shall be enforced until their expiration date.
- (3) Until the concession holder for the existing heating energy system is selected or the public enterprise is established as referred to in Article 114, paragraph (1) of the present Law, the heating energy distribution activity shall be performed by the existing license holder.

### **XVI.3 Enforcement of the Chapter on Preferential Electricity Producers**

#### **Article 191**

- (1) Article 139, paragraphs (6), (7), (8) and (9) of the present Law shall be enforced as of 1<sup>st</sup> January 2015.
- (2) By 31<sup>st</sup> December 2014:
  - 1) the electricity market operator shall sell the electricity referred to in Article 139, paragraph (1) of the present Law to the regulated producer under the price applied by the regulated producer for electricity sale to the suppliers for captive final customers;
  - 2) the costs incurred by the electricity market operator for electricity purchase from preferential electricity producers, balancing and ancillary services provided to preferential electricity producers, reduced by the income generated from the sale, shall be recovered through the tariff on electricity market use, pursuant to item 1) of this paragraph;
  - 3) the payment of liabilities referred to in item 1) of this paragraph shall be stipulated in detail under the Electricity Market Rules;
  - 4) prior to setting the tariff on electricity market use, the Energy Regulatory Commission shall separately calculate and publish the portion of the tariff covering the costs referred to in item 2) of this paragraph;
  - 5) the electricity suppliers and traders who sell electricity to final customers referred to in Article 82, paragraph (3) of the present Law shall be obliged as part of the bills or invoices submitted to their final customers to separately indicate the tariff on electricity market use referred to in item 4) of this paragraph.
- (3) The decisions on awarding the status of preferential electricity producer issued prior to the entry into force of the present Law shall continue to be valid until the expiration of the period for which they have been issued.

### **XVI.4 Final Provisions**

#### **Article 192**

- (1) Prior to the date of its entry into force, the present Law shall be notified to the Energy Community Secretariat.

#### **Article 193**

- (1) On the day the present Law enters into force, the Energy Law ("Official Gazette of the Republic of Macedonia "No. 136/2011, 79/2013, 164/2013, 41/2014, 137/2014 and 33/2015) shall cease to exist.

#### **Article 194**

- (1) The Guidelines and network codes adopted within the legal framework of the European Union, and subsequently adopted by the Energy Community, shall be transposed to the domestic legislation of the Republic of Macedonia without any amendments or changes thereto.
- (2) For the purposes of paragraph 1 of this Article, the Energy Regulatory 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 Energy Regulatory Commission, which shall be made and publicly announced in accordance with the requirements stipulated in this Law.
- (3) The Energy Regulatory Commission shall notify the Energy Community Secretariat on the measures adopting the Guidelines and Network Codes, and of any subsequent changes, within 2 (two) weeks after the adoption of such measures.
- (4) For the purposes of this Article, the Energy Regulatory Commission shall cooperate with the Energy Community Secretariat, the Energy Community Regulatory Board and competent regulatory authorities of other Energy Community Parties.

#### **Article 195**

- (1) The present Law shall enter into force on the eighth day from its publication in the "Official Gazette of the Republic of Macedonia".

## Annex 1

1. Overall target of energy from renewable sources in gross final consumption of energy is 28% in 2020;
2. Renewable energy share in transport shall be 10% in 2020
3. Indicative trajectory referred to in Article xx shall consist of the following share of energy from renewable sources:

Renewable energy share in 2009	Average for 2011-2012	Average for 2013-2014	Average for 2015-2016	Average for 2017-2018	Renewable energy target in 2020
<b>21,9%</b>	<b>23,1%</b>	<b>23,7%</b>	<b>24,6%</b>	<b>25,9%</b>	<b>28%</b>