

## **Energy Law**

Promulgated, SG No. 107/9.12.2003, amended, SG No. 18/5.03.2004, effective 5.03.2004, amended and supplemented, SG No. 18/25.02.2005, effective 20.01.2005, amended, SG No. 95/29.11.2005, effective 1.03.2006, SG No. 30/11.04.2006, effective 12.07.2006, amended and supplemented, SG No. 65/11.08.2006, effective 11.08.2006, No. 74/8.09.2006, effective 8.09.2006, amended, SG No. 49/19.06.2007, amended and supplemented, SG No. 55/6.07.2007, effective 6.07.2007, amended, SG No. 59/20.07.2007, effective 1.03.2008, SG No. 36/4.04.2008, amended and supplemented, SG No. 43/29.04.2008

### *Chapter One*

#### **GENERAL PROVISIONS**

Article 1. (Supplemented, SG No. 74/2006, amended, SG No. 49/2007) This Act regulates the social relations associated with the activities of generation, import and export, transmission, transit transmission, distribution of electricity, heat and natural gas, oil and oil product transmission through pipelines, trade in electricity, heat and natural gas, as well as the powers of state bodies in formulating energy policy, regulation and control.

Article 2. (1) The principal purposes of this Act are to create conditions for:

1. high-quality and secure supply of electricity, heat and natural gas to the general public;
2. energy development and the energy security of the country through efficient use of energy and energy resources;
3. creation and development of a competitive and financially stable energy market;
4. energy deliveries at minimum costs;
5. (repealed, SG No. 49/2007);
6. promotion of the combined generation of electricity and heat.
7. (new, SG No. 74/2006) development of electricity, natural gas, oil or oil product transmission infrastructures on the territory of the country, and through it.

(2) (Amended and supplemented, SG No. 74/2006) The generation, import, export, transmission, transit transmission, distribution and trade in electricity, heat, natural gas, oil and oil products shall be carried out under the guaranteed protection of the life and health of citizens, the property, the environment, the interests of consumers, and the national interests.

### *Chapter Two*

#### **ENERGY POLICY**

##### Section I

##### State Governance of the Energy Sector

Article 3. (1) The Council of Ministers shall define the state policy in the energy sector.

(2) The Council of Ministers shall adopt the Energy Strategy of the Republic of Bulgaria on a motion by the Minister of Economy and Energy that shall state basic objectives, stages, means and methods for the development of the energy sector.

Article 4. (1) (Amended, SG No. 74/2006) The national energy policy shall be implemented by the Minister of Economy and Energy.

(2) (Amended, SG No. 74/2006) The Minister of Economy and Energy shall perform the following functions:

1. elaborate the Energy Strategy of the Republic of Bulgaria and lay the said energy before the Council of Ministers for adoption;
2. adopt the short-term, medium-term and long-term overall national forecast energy balances in accordance with the strategy as adopted;
3. (supplemented, SG No. 74/2006) lay a list of energy works of strategic national importance, including ones extracting local hard fuel, before the Council of Ministers for endorsement;
4. (supplemented, SG No. 74/2006) define, by an order, the mandatory parameters of the level of reliability of electricity supply, as well as minimum safety standards for natural gas supply;
5. approve an inventory of the required new electricity generating capacities solely in cases where the security of electricity supply cannot be guaranteed through the effective licensing system under this Act, and promulgate the said inventory in the State Gazette;
6. lay before the Council of Ministers for endorsement an inventory of new self-contained areas for natural gas distribution and for modification of existing self-contained areas for natural gas distribution for which no licence has been issued, and promulgate the said inventory in the State Gazette;
7. approve restructuring programmes and strategies for the energy sector;
8. determine an overall annual quota for mandatory acquisition of electricity from producers utilizing primary local energy sources (of fuel), of up to 15 per cent of the combined primary energy required for the generation of

- electricity that is consumed in the country during each calendar year, for reasons of security of supply;
9. (repealed, SG No. 49/2007);
  10. (supplemented, SG No. 74/2006, repealed, SG No. 49/2007);
  11. (amended, SG No. 74/2006) based on adopted criteria, prepare analysis of the national potential for high efficiency combined production and evaluates the progress made on increasing the share of high efficiency combined production in the gross consumption of electric power every 4 years and publish it on Ministry of Economy and Energy web site;
  12. make proposals for establishment and maintenance of national energy reserves and wartime energy reserves;
  13. approve standard levels for the stocks of fuels necessary for secure energy supply;
  14. (effective until 31.12.2005) lay before the Council of Ministers a proposal for grant of state aids to certain entities and/or activities in the energy sector;
  15. exercises control in the cases provided for by this Act;
  16. issue permits for prospecting and exploration of energy resources and organize procedures for the award of concessions for extraction of energy resources and for construction of hydro power works;
  17. publish an annual bulletin on the status and development of the energy sector;
  18. formulate and implement a state policy related to the activities comprehended in the transmission of oil and petroleum products through pipelines within and through the national territory;
  - 18a. (new, SG No. 74/2006) represent the government in its relationships with other countries, as well as with commercial companies in all matters, related to the application of the Agreement to the Energy Charter and the implementation of transnational electricity, natural gas and oil transmission infrastructure building projects;
  - 18b. (new, SG No. 74/2006, effective as of the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) provide competent authorities in the European communities with all information under the law of the European communities;
  - 18c. (new, SG No. 74/2006, effective as of the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) according to its authority, send requests and notices to the competent authorities of the European communities for granting temporary relief from the application of provisions in the law of the European communities and transitional periods in the field of energy in all cases under the law of the European communities.
  19. issue the statutory instruments of secondary legislation provided for in this Act according to the competence vested therein;
  20. represent the Republic of Bulgaria in international organizations on energy matters;
  21. exercise other powers as well, conferred thereon by other statutory instruments.
- (3) The Energy Strategy adopted by the Council of Ministers under Item 1 of Article 4 (2) herein shall be promulgated in the State Gazette.

Article 5. (1) The list of energy works of strategic national importance, referred to in Item 3 of Article 4 (2) herein, shall be prepared on an annual basis by the Ministry of Economy and Energy and shall be laid by the Minister of Economy and Energy before the Council of Ministers for endorsement.

(2) Any persons performing activities under this Act by means of works included in the list referred to in Paragraph (1) shall enjoy protection which includes:

1. (supplemented, SG No. 74/2006) organization and control of physical protection (security) of works, implemented by the authorities of the Ministry of Interior or by persons conducting activities under the Private Security Business Act ;
2. information security, implemented through administrative, organizational and technical measures.

(3) The protection covered under Paragraph (2) shall be for the account of the persons performing the activities under this Act by means of works included in the list referred to in Paragraph (1).

(4) (New, SG No. 74/2006) Any persons carrying out activities under this act through sites, included in the list under Paragraph 1, shall carry out activities and work during military and non-military crises, as assigned to them by the Minister of Economy and Energy.

Article 6. (1) Municipality mayors shall require from energy companies operating on the territory of the municipalities thereof to submit forecasts of the development of demand for electricity, heat and natural gas, programmes and plans for electricity, heat and natural-gas supply.

(2) Acting on a proposal by the energy companies, municipality mayors shall mandatorily project, in the master plans and detailed plans, spatial renewal works required for implementation of the programmes and plans referred to in Paragraph (1).

(3) (Amended, SG No. 74/2006) Municipality mayors shall ensure the construction, operation, maintenance and development of the outdoor lighting networks and facilities within the territory of the municipality in respect of corporeal immovables constituting municipal property.

Article 7. (1) (Amended and supplemented, SG No. 74/2006) Upon conduct of the state policy in the energy sector, the Minister of Economy and Energy may be assisted by industrial branch chambers and organizations of energy and energy resource extraction sector workers.

(2) (Supplemented, SG No. 74/2006) Employers in the energy sector may establish and participate in industrial branch chambers and organizations of energy and energy resource extraction sector workers.

(3) (Supplemented, SG No. 74/2006) The industrial branch chambers and organizations of energy and energy resource extraction sector workers shall be registered under the terms and according to the procedure established by the Non-profit Legal Persons Act .

(4) (Supplemented, SG No. 74/2006) The industrial branch chambers and organizations of energy and energy resource extraction sector workers shall:

1. have as an objective to represent and protect the common interests of the members thereof;
2. may negotiate with trade unions on issues of common interest and be parties in signing an industry-wide collective agreement;
3. (supplemented, SG No. 74/2006) elaborate rules for good manufacturing practices, models of systems for risk analysis of energy generation and/or energy resource extraction, as well as other professional criteria;
4. participate in the elaboration of strategies, analyses, programmes and opinions on the development of the sector and facilitate the implementation thereof;
5. (supplemented, SG No. 74/2006) create data bases on professionals in the sector available to assist energy producers and energy resource extractors, as well as the state bodies;
6. (supplemented, SG No. 74/2006) elaborate a Code of Ethics regulating professional ethics in the sector and prevention of unfair competition between energy producers and energy resource extractors;
7. (supplemented, SG No. 74/2006) notify the competent authorities of violations committed in the production of and trade in energy and/or energy resource and natural gas extraction;
8. give opinions on any amendments to statutory instruments for the respective industrial branch;
9. organize and deliver vocational training;
10. perform other functions as well assigned thereto by a law.

(5) (Supplemented, SG No. 74/2006) The state bodies and the management bodies of the industrial branch chambers and organizations of energy sector workers shall collaborate and inform each other of violations detected in the production of and/or trade in energy and/or energy resource and natural gas extraction.

(6) (Supplemented, SG No. 74/2006) The state bodies, institutions and central-government departments, the bodies of local self-government and local administration work shall assist and provide the industrial branch chambers and organizations of energy and energy resource extraction sector workers with information the said chambers and organizations need to perform the functions thereof provided for under this Act.

## Section II

### Energy Forecasting and Planning

Article 8. (1) (Amended, SG No. 74/2006) The Minister of Economy and Energy shall elaborate the Energy Strategy of the Republic of Bulgaria.

(2) (Amended, SG No. 74/2006) On the basis of the Energy Strategy of the Republic of Bulgaria, the Ministry of Economy and Energy shall prepare programmes and strategies for restructuring of the energy sector that shall be approved by the Minister of Economy and Energy. Commercial corporations in the energy sector shall be privatized in accordance with the programmes and strategies for restructuring of the energy sector, as approved by the Minister of Economy and Energy.

(3) There shall be short-term, medium-term and long-term overall national forecast energy balances. The said balances shall be prepared on the basis of:

1. (amended, SG No. 74/2006) forecasts, studies and plans of enterprises engaged in the activities comprehended in extraction, processing, conversion, transmission and distribution of energy resources and energy;
2. information from the overall indicative energy balances;
3. information provided by the National Statistical Institute.

(4) (Amended, SG No. 74/2006) The Minister of Economy and Energy shall determine the need of construction of new generating capacities and shall approve the inventory referred to in Item 5 of Article 4 (2) herein on the basis of:

1. the overall forecast energy balances;
2. the mandatory parameters of the level of reliability of electricity supply;
3. (amended, SG No. 74/2006) the development plan at minimum public expenses for new generation capacity, prepared by the electric power grid operator.

(5) (Amended and supplemented, SG No. 74/2006) The Minister of Economy and Energy shall implement an energy policy targeting national energy development with efficient utilization of energy and energy resources and meeting the demand of the public for electricity, heat and natural gas, oil products, and solid fuels on the

basis of the overall forecast energy balances and in accordance with the Energy Strategy as adopted by the Council of Ministers.

(6) (Amended, SG No. 74/2006) The Minister of Economy and Energy shall perform oversight on the security of supply and shall publish all measures planned and taken, the results from the oversight, as well as the energy policy guidelines in the bulletin under Article 4, Paragraph 2, Item 17, as well as on Ministry of Economy and Energy's web site.

Article 9. (1) (Supplemented, SG No. 74/2006) Companies engaged in activities comprehended in energy resource extraction, processing and trade in fuels, conversion, transmission, distribution and trade in energy and natural gas shall:

1. (supplemented, SG No. 74/2006) conduct studies and analyses, elaborate short-term, medium term and long-term forecasts of the energy resource extraction, processing and trade in fuels and energy, and adopt the relevant plans ensuring the said activities;

2. (amended, SG No. 74/2006) prepare, at least once every two years, and submit to the Minister of Economy and Energy plans for rehabilitation, for measures to improve the efficiency of existing generating capacities and networks, and for the construction of new capacities and networks at minimum costs. The said plans shall be accompanied by a feasibility study, a financial analysis and an environmental impact analysis, and alternatives for energy saving.

(2) (Supplemented, SG No. 74/2006) The forecasts referred to in Paragraph (1), including the respective reporting information and the preliminary studies and a list of required new generating capacities and networks, and natural gas storage facilities, shall be submitted as follows:

1. (amended, SG No. 74/2006) to the Minister of Economy and Energy;

2. (supplemented, SG No. 18/2005) to the State Energy and Water Regulatory Commission;

3. to the mayors of the municipalities concerned for fulfillment of the obligations under Paragraph (6);

4. (supplemented, SG No. 74/2006) to the transmission companies and the electric power grid operator;

5. to the relevant distribution companies.

(3) (Amended and supplemented, SG No. 74/2006) The content, structure, terms and procedure for submission of the information covered under Paragraphs (1) and (2) shall be established in an ordinance of the Minister of Economy and Energy.

(4) (New, SG No. 74/2006) The content, structure, and procedure to present all information under Article 4, Paragraph 2, Item 18b, as well as under Article 21, Paragraph 1, Item 19a, shall be defined by a Council of Ministers ordinance, after a proposal by the Minister of Economy and Energy, and of the State Energy and Water Regulatory Commission.

### *Chapter Three*

## **REGULATION OF ENERGY SECTOR ACTIVITIES**

### Section I

State Energy and Water Regulatory Commission

(Title amended, SG No. 18/2005)

Article 10. (1) (Amended, SG No. 18/2005) The State Energy and Water Regulatory Commission, hereinafter referred to as the "Commission", shall regulate energy-sector and water-supply and sewerage activities.

(2) The Commission shall be an independent specialized state body, a legal person with a head office in Sofia.

Article 11. (1) (Amended, SG No. 18/2005) The Commission shall be a collegial authority and shall consist of thirteen members, including a Chairperson and two Deputy Chairpersons, of whom one shall have experience in the energy sector, and the other shall have experience in water-supply and sewerage.

(2) (Amended, SG No. 18/2005) The Chairperson, the Deputy Chairpersons and the members of the Commission shall be elected and removed from office by a decision of the Council of Ministers and shall be appointed by an order of the Prime Minister.

(3) The term of office of the members of the Commission shall be five years.

Article 12. (1) Eligibility for membership of the Commission shall be limited to capable Bulgarian citizens who have graduated from a higher educational establishment, attaining an educational qualification degree of Master, and at least one of which shall be a qualified lawyer and one economist:

1. (supplemented, SG No. 18/2005) with length of employment and/or civil-service seniority of at least ten years, of which at least three years in the energy sector, applicable to five of the members, and in water supply and sewerage, applicable to the remaining five members;

2. who has not been sentenced to deprivation of liberty for a premeditated offence at public law.

(2) The following shall be ineligible for members of the Commission:

1. (supplemented, SG No. 18/2005) sole traders, shareholders, partners, managing directors, managerial agents or members of management or supervisory bodies, as well as liquidators and consultants of commercial corporations engaged in activities subject to licensing under this Act or to regulation under the Supply and Sewerage Services Regulation Act;

2. occupants of another salaried position with the exception of academic research or teaching.

(3) Members of the Commission shall be removed prior to the expiry of the term of office thereof solely:

1. upon resignation in writing;

2. upon ascertainment of incompatibility with the qualifications for occupation of the office under this Act;

3. upon actual inability to discharge the duties thereof for more than 6 months;

4. when sentenced to deprivation of liberty for a premeditated offence at public law by an effective sentence.

(4) In the cases referred to in Paragraph (3), the Council of Ministers shall elect a new member to serve the remainder of the original term.

(5) The remuneration of the members of the Commission shall be fixed as follows:

1. (amended, SG No. 18/2005) for the Chairperson: 93 per cent of three average monthly wages of persons hired under an employment or under a civil-service relationship in the Electricity, Gas and Water Supply Sector as reported by the National Statistical Institute;

2. (amended, SG No. 18/2005) for the Deputy Chairpersons: 90 per cent of three average monthly wages of persons hired under an employment or under a civil-service relationship in the Electricity, Gas and Water Supply Sector as reported by the National Statistical Institute;

3. (amended, SG No. 18/2005) for the rest of the members of the Commission: 85 per cent of three average monthly wages of persons hired under an employment or under a civil-service relationship in the Electricity, Gas and Water Supply Sector as reported by the National Statistical Institute.

Article 13. (1) (Amended, SG No. 18/2005) The Commission shall be a standing body and shall meet if not fewer than seven of the members thereof are present, and shall exercise the powers thereof as follows:

1. under this Act: in the presence of not fewer than five of the members with experience in the sphere of the energy sector;

2. under the Supply and Sewerage Services Regulation Act : in the presence of not fewer than five of the members with experience in the sphere of water supply and sewerage.

(2) (Amended, SG No. 18/2005) The Commission shall rule by reasoned decisions, which shall be individual or general administrative acts and shall be adopted by a majority of not fewer than seven votes, of which five shall belong to members of the Commission with experience in the relevant sphere in respect of which the decision is adopted.

(3) Commission meetings shall be open to the public when considering applications or requests related to:

1. the issuance, modification, supplementation, withdrawal and termination of a licence;

2. (amended, SG No. 18/2005) endorsement of prices proposed by the energy companies and by the water and sewerage utilities.

(4) In certain cases, the Commission may decide that the meetings referred to in Paragraph (3) be held behind closed doors, attendance thereat being limited to members of the Commission and the parties to the relevant proceeding.

(5) (Amended, SG No. 18/2005, supplemented, SG No. 74/2006) The decisions of the Commission under Paragraphs (3) and (4) shall be made in a meeting behind closed doors and shall be announced according to a procedure established in the Rules referred to in Article 16 (2) herein.

(6) In performance of the powers thereof, the Commission shall apply the rules of procedure provided for in this Act, and in cases unregulated thereby, the rules of the Administrative Procedure Code .

(7) Any decisions of the Commission, including a tacit refusal, shall be appealable before the Supreme Administrative Court. An appeal shall not stay the execution of a decision.

(8) The general administrative acts of the Commission that establish rules under this Act shall be promulgated in the State Gazette.

Article 14. (1) (Supplemented, SG No. 18/2005) The Commission shall conduct a procedure for public discussions with interested parties when drafting general administrative acts provided for in this Act and in the Supply and Sewerage Services Regulation Act , as well as on other matters of public relevance for development of the energy sector and of the water and sewerage sector.

(2) (Supplemented, SG No. 18/2005, amended, SG No. 74/2006) Interested parties under Paragraph (1) shall be the state bodies, the industrial branch organizations, the energy companies, the water and sewerage utilities, the eligible consumers, directly related to the draft prepared, as well as consumer organizations.

(3) The Commission shall discuss with the interested parties the basic principles set in the draft and shall allow not less than 14 days for preparation of opinions on the said draft.

(4) The Commission shall consider all opinions submitted by interested parties and shall reason its own opinion,

posting the reasoning on the Internet site thereof.

Article 15. (1) The Commission shall make public the policies pursued and the practice established in the implementation of its acts and reasoning for revision of the said acts in the bulletin published by the Commission or in another appropriate manner.

(2) The bulletin of the Commission shall be published once every six months and shall be posted on the Internet site of the Commission.

Article 16. (1) In its activities, the Commission shall be assisted by an administration.

(2) The activities of the Commission, the structure and organization of the administration thereof shall be determined in Rules of Organization adopted by the Council of Ministers.

(3) The ineligibilities referred to in Items 1 and 2 of Article 12 (2) shall apply to the employees of the specialized administration.

Article 17. The members of the Commission, as well as the employees of the administration thereof, shall be obligated to comply with the professional ethics rules adopted by the Commission.

Article 18. (Amended, SG No. 74/2006) (1) The Commission's Chairperson, its members and administrative officials shall not disclose any classified information they have created and stored, and which has become known to them in the course of their duties under this Act and under the Supply and Sewerage Services Regulation Act , contained in list of facts, data, and subjects, constituting an official secret.

(2) The Commission, after coordination with the State Commission on Information Security, issues a decision to endorse, amend and supplement the list under Paragraph 1.

(3) The list under Paragraph 1 may include information, declared to be commercial secret by the applicants and licensees, only if its publication would not lead to unfair competition between companies or threaten commercial interests of third parties. This category of information the Commission shall include in the list after coordination with the Protection of Competition Commission.

(4) Any information constituting an official secret may be disclosed only to judicial authorities or other public authorities according to the procedure established by the law.

Article 19. (1) State bodies, energy companies and public officials shall assist the Commission in the performance of the functions thereof.

(2) In the performance of the functions thereof, the Commission may collaborate with persons representing and protecting consumer interests.

Article 20. The Chairperson of the Commission shall perform the following functions:

1. organize and direct the activities of the Commission and of the administration thereof according to this Act and the decisions of the Commission;
2. represent the Commission in dealing with third parties;
3. appoint and dismisses the employees of the administration;
4. submit annually a report on the performance of the Commission to the Council of Ministers;
5. organize the preparation of the budget and lay it before the Commission for consideration and adoption;
6. be responsible for the implementation, balancing off and reporting of the budget of the Commission;
7. lay the annual report and the periodic financial statements before the Commission for adoption.

## Section II

### Powers of the Commission

Article 21. (1) (Previous Article 21, SG No. 18/2005) For regulation of the activities comprehended in electricity generation, transmission and distribution, natural gas transmission and distribution, trade in electricity and natural gas, heat generation and transmission, the Commission shall exercise the following powers:

1. issue, modify, supplement, suspend, terminate and withdraw licences in the cases provided for in this Act;
2. adopt and publish guidelines for the activities thereof;
3. draft the statutory instruments of secondary legislation provided for in this Act;
4. approve the general conditions of the contracts provided for in this Act;
5. exercise control in the cases provided for in this Act;
6. perform price regulation in the cases provided for in this Act;
7. (amended, SG No. 74/2006) adopt the rules for trade in electricity and natural gas (Market Rules) and the technical rules for the networks (Grid Code), proposed by energy companies, and control compliance with the said rules;

- 7a. (new, SG No. 74/2006, effective 1.07.2007) adopts rules on electricity and natural gas supply from end suppliers as part of the electricity and natural gas trade rules under Item 7;
  8. adopt and control the implementation of a methodology for setting of prices for balancing electricity as part of the rules for trade in electricity under Item 7;
  9. set the rules for access to the electricity and natural gas transmission networks, respectively to the electricity and natural gas distribution networks (Rules on Network Access);
  10. acting on a proposal by the relevant transmission or distribution company, decide on the classification of the electric power lines, heating mains, natural gas pipelines and the facilities appurtenant thereto within the transmission or distribution networks and issue mandatory directions for their purchase and/or provision of access thereto;
  11. conduct the tendering procedures under Article 46 herein;
  12. develop and control compliance with the conditions and rules for supply of electricity, heat and natural gas to consumers, including the quality of service standards;
  13. (amended, SG No. 74/2006) review energy companies' requests for the reimbursement of any non-recoverable costs or any costs resulting from public obligations imposed on them under Articles 34 and 35, endorse the reasonable size and the terms of such reimbursement;
  14. issue certificates to electricity producers on the origin of the electricity commodity that is generated from renewable energy sources and upon combined generation of electricity and heat;
  15. (repealed, SG No. 74/2006) ;
  16. (amended and supplemented, SG No. 74/2006) set, according to a methodology or instructions adopted by the Commission, the permissible allowances for technological losses of electricity in the process of its generation, transmission and distribution, in the process of generation and transmission of heat, and in the process of natural gas transmission, distribution and storage;
  17. (repealed, SG No. 74/2006, effective 1.07.2007) ;
  - 17a. (new, SG No. 74/2006, effective 1.07.2007) set the electric power availability for generation, according to which each producer shall make agreements with end suppliers and/or the public provider with regard to the implementation of principles under Article 24, Paragraph 1;
  18. grant consent to the division by the formation of new companies, division by acquisition, merger by acquisition, or merger by the formation of a new company in respect of any energy companies which are holders of licences under this Act;
  19. approve the transactions in property used in the performance of licensed activities (Capital Improvements and Lending Operations) in the cases provided for in this Act, as well as in other transactions that will or may affect the security of supply as a result of indebtedness of the energy company;
  - 19a. (new, SG No. 74/2006, effective as of the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) provide the competent authorities of the European Communities all information under the law of the European Communities;
  - 19b. (new, SG No. 74/2006, effective as of the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) according to its authority, send requests and notices to the competent authorities of the European communities for granting temporary relief from the application of provisions in the law of the European communities and transitional periods in the field of energy in all cases under the law of the European communities;
  - 19c. (new, SG No. 74/2006) publish an annual report on its activity, including results from the control to avoid restriction and violation of energy market competition and efficient functioning.
  20. adopt the draft annual budget and the financial report of the Commission, as submitted by the Chairperson, and the report referred to in Item 4 of Article 20 herein;
  21. exercise other powers provided for by a law.
- (2) (New, SG No. 18/2005) The powers of the Commission to regulate activities in the sphere of water supply and sewerage shall be determined in the Supply and Sewerage Services Regulation Act .

Article 22. (1) (Amended, SG No. 18/2005) The Commission shall consider complaints:

1. by consumers against licensees or by licensees against other licensees, related to performance of the licensed activity;
  2. by consumers against water and sewerage utilities, or by water and sewerage utilities against water and sewerage utilities, related to the subject matter regulated under the Supply and Sewerage Services Regulation Act .
- (2) Upon receipt of a complaint, the Chairperson of the Commission shall order an inquiry according to the procedure established by Chapter Eight herein.
- (3) The Commission may facilitate an amicable settlement of the dispute within two months after receipt of a complaint under Paragraph (1). The Commission may extend this period by an additional two months if the subject of dispute requires collection of additional data and information by the Commission.

(4) Where the dispute has been settled amicably by means of reaching a written agreement between the parties and any of the parties has failed to comply with the obligations thereof under the said agreement, the other party may refer the dispute subject of the agreement to a court of law for settlement.

(5) The procedure for the submission of complaints, the consideration thereof and the procedure for amicable settlement of disputes shall be regulated in the ordinance referred to in Article 60 herein.

Article 23. (1) In exercising the regulatory powers thereof, the Commission shall be guided by the following general principles:

1. prevention and preclusion of limitation or distortion of competition on the energy market;
2. balancing the interests of energy companies and consumers;
3. ensuring non-discrimination between the various categories of energy companies and between groups of consumers;
4. providing incentives for efficient operation of regulated energy companies;
5. providing incentives for development of a competitive market for energy sector activities, where conditions so permit.

(2) In implementation of the principle under Item 1 of Paragraph (1), the Commission may notify the Commission for the Protection of Competition for initiation of proceedings according to the procedure established by the Protection of Competition Act .

Article 24. (1) (Amended, SG No. 74/2006) Implementing the power thereof referred to in Paragraph 1, Item 7a, 17a of Article 21 (1) and § 135 herein, the Commission shall adhere to the following principles:

1. (amended and supplemented, SG No. 74/2006) fair allocation of the economic consequences of market liberalisation between all parties to transactions in electricity and natural gas;
2. (supplemented, SG No. 74/2006) ensuring equal terms for conclusion of transactions at freely negotiated prices, compared to the transactions concluded with the public provider or the public suppliers of electricity and natural gas;
3. (supplemented, SG No. 74/2006) ensuring a balanced adjustment of end-user prices, taking into account the public service obligations, public obligations, and non-recoverable costs of the public provider or the public suppliers.
4. (new, SG No. 74/2006) ensuring all measures required to supply consumers with electricity and natural gas of certain quality at fully comparable, transparent, and objectively set prices, applied on equal-treatment conditions.

(2) The eligibility requirements for the persons entitled to conclude transactions under Article 100 (1) herein, as well as the conditions for granting network access, shall be established by rules adopted by the Commission.

Article 25. (1) The Commission shall keep public registers of:

1. any licences as issued, recording therein all licensees, licences issued and other particulars;
2. any certificates of origin as issued, recording therein the holder and the generating capacity, the quantities of electricity for which the certificate was issued, and the period of generation;
3. (repealed, SG No. 74/2006) ;
4. (repealed, SG No. 74/2006) ;
5. any permits as issued by the Commission under this Act.

(2) (Amended, SG No. 74/2006) The particulars recordable under Items 1 and 5 of Paragraph (1), the procedure for recording in the registers and for obtaining information shall be determined in the ordinance referred to in Article 60 herein. The particulars recordable under Items 2, of Paragraph (1), the procedure for recording in the register and for obtaining information shall be determined by the ordinance referred to in Article 159 (3) herein.

(3) Any decisions of the Commission to issue, modify, supplement, withdraw and terminate licences, as well as any decisions to endorse prices, shall be published in the bulletin of the Commission.

### Section III

#### Financing of the Commission. Fees

Article 26. (1) (Supplemented, SG No. 18/2005) The activities of the Commission and of the administration thereof shall be financed from the revenue specified under Article 27 (1) herein and in the Supply and Sewerage Services Regulation Act .

(2) The Commission shall be a first-level spending unit.

Article 27. (1) The revenues on the budget of the Commission shall be raised from:

1. (amended, SG No. 18/2005) the fees collected by the Commission under Article 28 herein and under Items 1 and 3 of Article 8 (1) of the Supply and Sewerage Services Regulation Act , and any interest thereon;
2. (supplemented, SG No. 18/2005) twenty per cent of the fines and pecuniary penalties provided for in this Act



and in the Supply and Sewerage Services Regulation Act;

3. donations from persons not subject to licensing under this Act or from persons connected therewith within the meaning given by the Commerce Act .

(2) (Supplemented, SG No. 18/2005) No donation may be accepted from any persons subject to licensing under this Act or subject to regulation under the Supply and Sewerage Services Regulation Act from any persons connected therewith within the meaning given by the Commerce Act.

(3) The resources referred to in Paragraph (1) shall be expended on:

1. (supplemented, SG No. 18/2005) financing the activities of the Commission and of the administration thereof, including the conduct of studies, analyses and expert assessments associated with the regulatory activities under this Act and under the Supply and Sewerage Services Regulation Act ;

2. capital expenditure on development of facilities;

3. upgrading the qualifications of the employees in the administration;

4. incentive pay according to a procedure established in the Rules of Organization.

(4) The resources referred to in Item 4 of Paragraph (3) shall be fixed at up to 25 per cent of the annual wage bill and shall be incorporated into the budget of the Commission for the respective year.

(5) If the annual revenues from fees under this Act exceed or are insufficient to cover the necessary expenditures on the budget of the Commission for the succeeding calendar year, the Chairperson of the Commission may propose a review of the amount of the fees.

Article 28. (1) (Amended, SG No. 18/2005) For exercise of the regulatory powers thereof under this Act and under the Supply and Sewerage Services Regulation Act, the Commission shall charge fees for consideration of applications, for issuance of certificates, for sale of tender documents, licensing fees, and experts registration fees.

(2) The amount of the fees covered under Paragraph (1), the procedure and time limits for payment thereof shall be established by a rate schedule approved by the Council of Ministers on a motion by the Commission.

(3) (New, SG No. 74/2006) Any fees collected under the procedure of this Act and the Supply and Sewerage Services Regulation Act , shall be public state receivables.

Article 29. (1) The fee for consideration of an application shall be paid upon submission of the application.

(2) Any persons who have obtained a licence shall pay licensing fees for each licence issued, as well as for any modification of the licence in the cases specified in the rate schedule.

(3) There shall be the following licensing fees:

1. initial: for issuance or modification of a licence, covering the expenses on preparation and expenses on the regulatory activity under the licence until the end of the current year;

2. annual: covering the expenses on the regulatory activity under the licence for the respective year;

(4) Annual fees for the term of validity of the licence, as well as for the term of any extension thereof, shall be paid by the licensee for every year succeeding the year of its issuance.

(5) Licensing fees shall be fixed depending on the type of licensed activity performed and shall be differentiated on the basis of criteria determined by the rate schedule referred to in Article 28 (2) herein.

#### Section IV

##### Price Regulation

Article 30. (1) The following prices shall be subject to regulation by the Commission:

1. at which producers sell electricity to the public provider and/or to public suppliers;

1a. (new, SG No. 74/2006, effective 1.07.2007) at which producers, within the availability set by the Commission under Article 21, Paragraph 1, Item 17a, sell electricity to the end supplier or the public provider;

2. (supplemented, SG No. 74/2006) at which producers sell heat to the heat transmission company and to directly connected consumers;

3. at which the heat transmission company sells heat to consumers;

4. (amended, SG No. 74/2006) at which the public provider sells electricity to public suppliers, to consumers connected to the transmission network, and to the distribution company, in order to cover the technological costs of transmission;

4a. (new, SG No. 74/2006, effective 1.07.2007) at which the public provider sells to end suppliers any electricity purchased under Article 21, Paragraph 1, Item 17a;

5. at which the public provider sells natural gas to public suppliers of natural gas and to consumers connected to the natural gas transmission network;

5a. (new, SG No. 74/2006, effective 1.07.2007) at which the public provider sells any natural gas to end

suppliers of natural gas;6. at which public providers sell electricity and natural gas to consumers connected to the

respective distribution networks or to public suppliers;6a. (new, SG No. 74/2006, effective 1.07.2007) at which

end suppliers sell electricity and natural gas to home consumers and companies with less than 50 employees and less than 19.5 mil. BGN annual turnover;

7. for transmission of electricity and natural gas to consumers through the respective transmission and/or distribution networks, except for the prices of transit transmission;

8. for connection to the networks;

9. for storage of natural gas.

10. (new, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) for access to the electricity transmission and electricity distribution networks.

(2) The prices of electricity referred to in Items 1, 4 and 6 of Paragraph (1) shall be subject to regulation until all consumers acquire the status of eligible consumers.

(3) The prices of natural gas referred to in Items 5 and 6 of Paragraph (1) shall be subject to regulation until all consumers acquire the status of eligible consumers.

(4) Prices of energy, natural gas and services provided by the energy companies shall not be subject to regulation by the Commission when the latter establishes the existence of competition creating prerequisites for free negotiation of the prices on market terms for the respective energy sector activity.

Article 31. (Supplemented, SG No. 74/2006) In exercising its price regulation powers, in addition to the principles under Articles 23 and 24 herein, the Commission shall be guided by the following principles as well:

1. prices shall be non-discriminatory, based on objective criteria and determined in a transparent manner;

2. prices of energy companies shall cover the economically justified operating costs, including the costs of:

(a) management, operation and maintenance of energy works;

(b) maintenance of stand-by and regulating capacities required for reliable supply to consumers;

(c) delivery and maintenance of the stocks of fuels;

(d) repairs;

(e) depreciation;

(f) storage and processing of spent nuclear fuel and radioactive waste, decommissioning of nuclear facilities, and nuclear safety;

3. apart from the costs covered under Item 2, prices shall include non-recoverable costs related to the transition to a competitive energy market, as well as costs resulting from fulfilment of public obligations related to security of supply;

4. prices must ensure an economically justified rate of capital return;

5. prices for the individual groups of consumers shall conform to the costs of delivery of energy and natural gas to the said consumers;

6. avoidance of cross subsidization through the prices:

(a) between individual groups of consumers;

(b) for integrated energy companies: between individual activities subject to licensing under this Act, and/or

between activities subject to licensing under this Act and other activities.

7. (new, SG No. 74/2006) fair passing of any renewable energy source and combined electricity and heat

generation preferential pricing costs to electricity end consumers;

8. (new, SG No. 74/2006) fair passing of any system service, incl. ancillary services, cold reserve, and

technology, costs to transmission network, respectively distribution network, users.

Article 32. (1) The Commission may regulate prices by setting an upper limit for prices or income, by setting efficiency parameters for energy companies, parameters of comparability between such companies, achievement of basis criteria.

(2) The Commission may determine:

1. price components reflecting the cost structure;

2. time-of-the-day, seasonal and other tariff structures of prices in accordance with costs.

(3) (New, SG No. 74/2006) The Commission shall endorse a price of heat for end consumers as a single-component price.

Article 33. (Amended, SG No. 74/2006) (1) (Amended, SG No. 49/2007) The Commission shall set preferential prices for sale of electricity generated from co-generation by combined heat and power plants under Article 162 (2) herein.

(2) (Repealed, SG No. 49/2007).

(3) The preferential price of any electricity produced using a combined method by plants for combined electricity and heat production under Paragraph 1 shall be set based on individual production costs plus surcharge set by the Commission on producer groups and criteria according to the ordinance under Article 35, Paragraph 3.

(4) Acting on a proposal by the respective heat transmission company, the Commission shall determine a preferential price for heat for the association referred to in Article 151 (1) herein and for the supplier under Article 149a.

Article 34. (1) Energy companies shall have the right to lodge requests for allowance and compensation of non-recoverable costs.

(2) Non-recoverable costs shall be the costs resulting from investments made and/or transactions concluded prior to the entry of this Act into force by energy companies, which cannot be recovered as a result of the establishment of a competitive electricity market.

(3) Energy companies under Paragraph (1) shall submit applications to the Commission for allowance of costs as non recoverable and establishment of the amount thereof. Any such applications shall be accompanied by evidence of the grounds for incurrence of such non-recoverable costs and the amount thereof.

(4) The Commission shall determine the maximum total amount and period of compensation of allowed non-recoverable costs for each individual company.

(5) The Commission, guided by the principles under Article 23 herein and taking into account the changes in competitive conditions, shall:

1. recalculate annually the maximum total amount of the compensation related to non-recoverable costs;
2. determine the recoverable volume for the respective period;
3. allocate them among the respective energy companies.

(6) The manner of compensation of non-recoverable costs will be determined in the ordinances referred in Article 36 (3) herein.

(7) Compensation of non-recoverable costs shall be effected by all consumers in a non-discriminatory and transparent manner.

Article 35. (1) Energy companies shall have the right to request compensation of expenses resulting from public obligations imposed thereon, including such related to security of supply, environmental protection, and energy efficiency.

(2) The following shall be treated as expenses under Paragraph (1):

1. resulting from obligations to purchase electricity from producers, winners of tendering procedures under Article 46 herein;
2. resulting from obligations to generate electricity using local primary energy sources under Item 8 of Article 4 (2) herein;
3. (amended, SG No. 49/2007) resulting from obligations to purchase electricity at preferential prices under Article 162 and under Article 15 of the Renewable and Alternative Energy Sources and Biofuels Act herein;
4. other additional obligations.

(3) Energy companies under Paragraph (1) shall submit periodically to the Commission applications for compensation of such costs. The application shall be accompanied by evidence of the legal grounds and the amount of the said costs.

(4) The Commission shall determine the volume of compensation for each individual company and the overall volume for compensation for the respective period.

(5) The manner of compensation for costs resulting from public obligations shall be determined in the ordinances referred to in Article 36 (3) herein.

(6) Costs resulting from public obligations shall be compensated by all consumers in a non-discriminatory and transparent manner.

Article 36. (1) Prices that are subject to regulation shall be formed by the energy companies in compliance with the requirements of this Act and the ordinances referred to in Paragraph (3). The instructions adopted by the Commission shall be mandatory for the energy companies.

(2) (Repealed, SG No. 74/2006) .

(3) The methods of price regulation, the rules for price formation or setting and modification, the procedure for provision of information, for submission of proposals on prices and for endorsement of prices shall be established by ordinances on electricity, heat and natural gas adopted by the Council of Ministers on a motion by the Commission.

Article 36a. (New, SG No. 74/2006) (1) The public electricity and natural gas provider, the public electricity or natural gas suppliers, and the end electricity or natural gas suppliers, as well as the heat transmission companies, within one month prior to submitting the request for new price endorsement or current price modification shall publish in the media their proposal for endorsing new or modifying current prices.

(2) The Commission shall endorse prices under Paragraph 1 as price limits for each licensee by a decision, which shall be an individual administrative act.

(3) Within 7 days after receiving the decision under Paragraph 2, the licensee shall publish in the media the price limits endorsed and the consumer agreement prices.

## Section V Separate Accounting

Article 37. (1) Energy companies shall keep separate accounts of:

1. each activity subject to licensing under this Act;
2. activities subject to licensing under this Act and other activities;
3. each branch or company;
4. activities in the cases of regulated and freely negotiated prices.

(2) The rules for keeping separate accounts by energy companies, including assets for the purposes of pricing by groups of consumers, as well as the form and content of the financial statements for regulatory purposes, shall be established by a decision of the Commission according to a procedure established in the ordinances referred to in Article 36 (3) herein.

Article 38. (1) Energy companies shall be obligated to submit the following to the Commission on an annual basis:

1. their annual financial statements, including the notes thereto, according to the Accountancy Act , and the annual audit reports;
2. reports by types of activity.

(2) Energy companies shall be obligated, when so requested by the Commission for the purposes of price regulation, to submit to the Commission the entire accounting documentation and technical and economic information, including contracts concluded.

## *Chapter Four*

### **LICENCES**

#### Section I

#### Issuance of Licences

Article 39. (1) The following activities shall be subject to licensing under this Act:

1. generation of electricity and/or heat;
2. transmission of electricity, heat and natural gas;
3. distribution of electricity or natural gas;
4. storage of natural gas;
5. trade in electricity;
6. organizing an electricity market;
7. public delivery of electricity or natural gas;
8. (repealed, SG No. 74/2006, effective 1.07.2007) ;
9. transit transmission of natural gas.
10. (new, SG No. 74/2006, effective 1.07.2007) electricity or natural gas supply from end suppliers;
11. (new, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) electric power grid management;
12. (new, SG No. 74/2006) pulling power electricity distribution over the railroad transportation distribution networks.

(2) A licence shall authorize performance of any of the activities covered under Paragraph (1) subject to the conditions stated therein and shall constitute an integral part of the decision on the issuance thereof.

(3) Where a licence is issued for performance of any of the activities covered under Paragraph (1) before construction of the energy work required for implementation of the said activity, the licence shall state the conditions for construction of the said work and a time limit for commencement of the licensed activity.

(4) (Amended, SG No. 74/2006) Issuance of a licence shall not be required for:

1. electricity generation by person, having a plant with a total installed electric power up to 5 MW;
2. heat generation by person, having a plant with a total installed heat generating capacity up to 5 MW;
3. heat transmission by person, having a heat transmission network, connecting plants with a total installed power up to 5 MW;
4. generation of heat for own consumption only.

(5) (New, SG No. 74/2006) When the person, applying for licence for any activity under Paragraph 1, Items 1-3, 5-8, 10, or 11, or having such licence, meets the requirements for a balancing group coordinator, the respective licence shall also contain all rights and obligations, related to the balancing group coordinator activities.

Article 40. (1) A licence shall be issued to a legal person registered under the Commerce Act which:

1. possesses the technical and financial capabilities, material and human resources and organizational structure required to meet the regulatory requirements for performance of the licensed activity;
2. (amended and supplemented, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) holds real rights to the energy works whereby the activity is to be performed, if the said facilities are constructed, with the exception of the licensees referred to in Items 5, 6, 7, 8, and 11 of Article 39 (1) herein;
3. furnishes evidence that the energy works whereby the licensed activity s to be performed meet the regulatory requirements for safe operation and environmental protection.

(2) The terms established by Items 1 to 3 of Paragraph (1) must be fulfilled at the time of commencement of the licensed activity in case of issuance of a licence under Article 39 (3) herein.

(3) (New, SG No. 65/2006) A licence referred to in Article 39, Paragraph (1), Item 4 shall be issued in compliance with the provisions of Articles 118a (3) - (6) of the Water Act .

(4) (Renumbered from Paragraph 3, SG No. 65/2006) A licence shall not be issued to any person which:

1. is subject to instituted bankruptcy proceedings or has been adjudicated bankrupt;
2. is placed in liquidation;
3. has had a licence for the same activity withdrawn or the issuance of a such licence has been refused thereto, and the period referred to in Article 59 (3) herein or under Article 41 (4) herein has not yet expired.

(5) (Renumbered from Paragraph 4, SG No. 65/2006) A licence shall not be issued if there is a risk to the life and health of citizens, to property of third parties and to the interests of consumers, of disturbing the reliable supply of electricity, heat and natural gas.

(6) (Renumbered from Paragraph 5, SG No. 65/2006) In cases where one and the same person performs more than one of the activities subject to licensing, separate licences shall be issued for each of the said activities. The Commission shall ensure that there are no conflicts in the regime of performance of the individual licensed activities.

(\*) (7) (New, SG No. 74/2006, effective as of the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) A licence under Paragraph 1 shall also be issued to a legal person, registered under the law of any member country of the European Union, or any other country, which is party to the European Economic Area Agreement, under the terms of Paragraphs 1-5.

(\*) Editor's note: The Energy Act Amendment Act of SG No. 74/2006, in its Article 40, creates a new Paragraph 6, which is not brought in accordance with the order of Paragraphs in this Article. With the amendments of the Water Act Amendment Act of SG No. 65/2006, Paragraph 6 is already created.

Article 41. (1) The procedure for the issuance of a licence shall be initiated acting on a written application accompanied by all documents required for the issuance of a licence.

(2) Should the licensed activity be performed at prices subject to regulation under this Act, an application for endorsement of the said prices shall be submitted attached to the application referred to in Paragraph (1).

(3) Within three months after submission of any application referred to in Paragraphs (1) and (2), the Commission shall issue a licence or shall refuse to issue a licence by a reasoned decision and shall endorse or determine the relevant prices.

(4) In cases of refusal, the applicant may submit a new request for the issuance of a licence not earlier than three months after the decision on a refusal or, respectively, after the entry into effect of the judgment of court whereby any appeal is dismissed as unfounded.

Article 42. (1) Licences shall be issued for a term of validity not exceeding 35 years in accordance with the requirements of the ordinance referred to in Article 60 herein.

(2) The term of validity of a licence may be extended for a period not exceeding the term referred to in Paragraph, provided that the licensee satisfies the conditions established by the law and fulfils all obligations and requirements under the licence and has submitted a written request for an extension at least one year prior to the expiry of the term of the original licence.

(3) In a decision to extend the term of validity under Paragraph (2), the Commission shall also determine the conditions for performance of the activity for the new term of validity of the licence.

Article 43. (1) Only a single licence shall be issued within the national territory for:

1. transmission of electricity or of natural gas;
2. organizing an electricity market;
3. public delivery of electricity or of natural gas;
4. (new, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform

National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) electric power grid management.

(2) Only a single licence shall be issued for one self contained area for:

1. distribution of electricity or of natural gas;
2. (repealed, SG No. 74/2006, effective 1.07.2007) ;
- 2a. (new, SG No. 74/2006) electricity or natural gas supply by end suppliers;
3. transmission of heat.

(3) A self-contained area for distribution of electricity shall comprise not fewer than 150,000 consumers connected to the adjoining distribution network and shall be coextensive with at least one administrative region according to the territorial administration of Bulgaria.

(4) (New, SG No. 74/2006, effective 1.07.2007) For a self-contained area under Paragraph 3, a single licence on electricity supply from end suppliers shall be issued.

(5) (Renumbered from Paragraph 4, SG No. 74/2006) A self-contained areas for distribution of natural gas shall comprise not fewer than 50,000 consumers, which may be connected to the adjoining distribution network, and the boundaries thereof shall be determined by the inventory referred to in Item 6 of Article 4 (2) herein.

(6) (New, SG No. 74/2006, effective 1.07.2007) For a self-contained area under Paragraph 5, a single licence on natural gas supply from end suppliers shall be issued.

(7) (Renumbered from Paragraph 5, SG No. 74/2006) A self-contained area for transmission of heat shall be designated conforming to the projections of the approved spatial development schemes and plans of the nucleated settlement.

(8) (Renumbered from Paragraph 6, amended SG No. 74/2006) The provision made in Paragraph 6 shall not apply, where an interest has been expressed in natural gas supply of a particular area which is not included in the inventory referred to in Item 6 of Article 4 (2) herein. In this case, the area, subject to investment interest, shall be designated as a self-contained area for natural gas distribution. Licences on natural gas distribution, as well as on public supply or natural gas supply from end supplier in this area, shall be issued without a tender for the interested investor under the terms of Section I of this Chapter and according to the procedure in the ordinance under Article 60, after coordinating with the respective municipality.

(9) (Renumbered from Paragraph 7, amended, SG No. 74/2006) If there is more than one gas supply request for the area under Paragraph 8 submitted, the Commission shall announce a tender under the terms of Section II of this Chapter and according to procedure in the ordinance under Article 60.

(10) (Renumbered from Paragraph 8, amended, SG No. 74/2006) By Commission decision to amend the licence, the area of the municipality, which is outside the list under Article 4, Paragraph 2, may be joined to a self-contained area for natural gas distribution upon declared request by the respective municipality and consent of the titleholder of the natural gas distribution licence for the self-contained area.

(11) (New, SG No. 74/2006) Provisions of Paragraphs 8 and 9 shall not apply, when the consent under Paragraph 10 by the titleholder of the natural gas distribution licence for the self-contained area has been obtained.

(12) (New, SG No. 74/2006) For the territory of the country, a single pulling power electricity distribution licence shall be issued only for the railroad transportation distribution networks to the National Railroad Infrastructure Company.

Article 44. (1) (Amended, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) Any person whereto a licence for electricity system management has been issued may not be issued a licence for another activity subject to licensing under this Act, except a licence for organizing an electricity market.

(2) Any person whereto a licence for natural gas transmission has been issued may not be issued a licence for another activity subject to licensing under this Act, except a licence for storage of natural gas and a licence for transit transmission of natural gas. Any persons whereto a licence for transmission of natural gas has been issued may not engage in natural gas trade.

(3) (Amended, SG No. 74/2006) Any persons whereto licences for distribution of electricity have been issued may not be issued licences for other activities subject to licensing under this Act.

(4) (New, SG No. 74/2006) Any persons whereto licences for natural gas distribution have been issued may not be issued licences for other activities, subject to licensing under this Act, except licences for public natural gas supply or natural gas supply from an end supplier, if the consumers attached to the gas distribution network in the respective area are less than 100 000.

Article 45. A licence shall state:

1. the designation of the licensee;
2. the activity for which the licence is issued;
3. the works whereby the licensed activity is to be performed;

4. the territorial scope of the licence for the activities for which it is required;
5. the term of validity of the licence;
6. the types of insurance, the risks covered, and the amount of insurance cover which the licensee is obligated to maintain as long as it performs the licensed activity;
7. requirements for decommissioning of the energy works whereby the activity is to be performed;
8. any other special regulatory requirements related to performance of the licensed activity.

## Section II

### Tendering Procedure

Article 46. (1) Solely in the cases of a need of a new electricity generating capacity, ascertained and made public according to the procedure established by Item 5 of Article 4 (2), the holder of the licence stating an obligation to construct the said capacity shall be selected by a tendering procedure.

(2) The holders of licences for distribution of natural gas for self-contained areas designated by the inventory referred to in Item 6 of Article 4 (2) herein shall be selected by tendering procedures.

(3) The winner of a tendering procedure under Paragraph (1) or Paragraph (2) shall be issued a licence under Article 39 (3) herein.

(4) (Supplemented, SG No. 74/2006, effective as of the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) Where the winner in a tendering procedure is a non-resident person, not registered in a member country of the European Union, or another country party to the European Economic Area Agreement, the licence shall be issued to a corporation registered under the Commerce Act wherein the non-resident person holds at least 67 per cent of the corporate capital. Any such person shall have no right to transfer the participating interest thereof in the licensee corporation to a third party until the date of commencement of the licensed activity.

(5) The public provider shall conclude a contract for purchase of electricity with the winner of the tendering procedure under Paragraph (1).

Article 47. (1) A tendering procedure shall be announced by the Commission in accordance with the inventory referred to in Item 5 or 6 of Article 4 (2) herein and shall be held under terms and according to a procedure established by the ordinance referred to in Article 60 herein.

(2) The tender documents shall be prepared in accordance with the ordinance referred to in Article 60 herein and shall be endorsed by the Commission. The tender documents shall include a draft licence and, in the case under Article 46 (1) herein, also a draft contract for purchase of electricity.

(3) The tendering procedure shall be announced by a decision of the Commission which shall be promulgated in the State Gazette not later than six months before the time limit for submission of applications for participation in the tendering procedure. The decision of the Commission announcing the tendering procedure shall be appealable solely together with the decision declaring the winner of the tendering procedure.

Article 48. Where no application is received by the time limit for submission of applications for participation in the tendering procedure, or where only a single such application is received, the said time limit may be extended by not more than 60 days reckoned from the date of promulgation of the notice of extension of the time limit in the State Gazette. In such a case, the date of conduct of the tendering procedure shall be changed as well.

Article 49. (1) The Commission shall adopt a decision appointing a tender board for conduct of the tendering procedure, chaired by a member of the Commission. The said board shall include employees of the administration of the Commission and, depending of the subject of the tendering procedure, also representatives of the municipalities concerned and interested central- government departments and organizations as well.

(2) The tender board shall consider and evaluate the bids of the candidates and shall propose to the Commission to make a decision designating the winner of the tendering procedure.

(3) (Amended, SG No. 74/2006) Within 14 days after receipt of the proposal of the tender board, the Commission shall rank the candidates, shall adopt a reasoned decision designating the winner of the tendering procedure and shall issue the respective license thereto.

(4) (Amended, SG No. 74/2006) The Commission shall notify the candidates on its decision referred to in Paragraph 3.

Article 50. (1) The Commission shall cancel the tendering procedure and shall announce a new tendering procedure where:

1. only a single candidate has appeared, or

2. the proposals of the candidates are not responsive to the tendering procedure requirements.

(2) Should after the tendering procedure is re-announced only a single candidate has appeared, the Commission shall declare the said candidate the winner of the tendering procedure, provided that the said candidate is

responsive to the tendering procedure requirements.

### Section III

#### Modifications, Supplementations, Termination and Withdrawal of Licences

Article 51. (1) A licence may be modified and/or supplemented by a decision of the Commission:

1. at the request of the licensee;
  2. on the Commission's own initiative.
- (2) The Commission shall have the right to initiate a modification and/or supplementation of a licence as issued in the following cases:
1. in order to ensure reliability or uninterrupted and high quality supply of electricity, heat and natural gas to consumers;
  2. upon change in the relevant legislation;
  3. to safeguard national security and public order in coordination with the relevant competent state bodies;
  4. in case of risk to the life and health of citizens, of damage to the environment or to the property of third parties, when this does not necessitate withdrawal of the licence, and/or on a motion by specialized state bodies in pursuance of the powers vested therein;
  5. should corporate transformation of a licensee or a capital improvement transaction is authorized, where this does not lead to termination of the licence.
- (3) The Commission shall inform the licensee in writing of the initiation of a proceeding for modification and/or supplementation of the licence under Paragraph (2). Within fourteen days, the licensee may submit a written opinion regarding the grounds for the modification and/or supplementation of the licence.
- (4) The Commission shall modify and/or amend the licence after expiry of the time limit referred to in Paragraph (3).
- (5) The licensee may request modification and/or supplementation of the licence in respect of the utilized primary energy sources and/or the technology of energy conversion.
- (6) The holder of a licence under Article 39 (3) herein, issued after a tendering procedure, may request modification and/or supplementation of the said licence before commencement of the licensed activity solely by reason of occurrence of circumstances beyond the control of the holder.

Article 52. (1) The Commission shall authorize the corporate transformation of a licensee through merger by acquisition, merger by the formation of a new company, division by the formation of new companies, division by acquisition, and division by the formation of a wholly owned commercial corporation or through change of the legal form of business organization if the person that will perform the licensed activity after the corporate transformation is responsive to the eligibility requirements for issuance of a licence for the activity.

- (2) In the cases under Paragraph (1), the Commission shall modify or terminate the existing licence and/or shall issue a new licence depending on the particular case within one month after submission of the application. The termination, modification or issuance of a licence shall become effective as from the date of recording of the corporate transformation in the commercial register.
- (3) (New, SG No. 74/2006, effective as of the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) The termination, modification or issuance of a licence in the Republic of Bulgaria upon any transformation of a legal person, having a licence issued under Article 40, Paragraph 6, shall become effective on the date when said transformation of the legal person under the law of country, where it is registered, becomes effective.

Article 53. (1) Capital improvement transactions in any construction works in progress or in any property whereby the licensed activity is performed may be effected solely in their entirety, subject to advance authorization by the Commission, including when the licensee is adjudicated bankrupt.

- (2) In the cases under Paragraph (1), where the licence is issued for generation of electricity and/or heat and the activity is performed by means of generating capacities (units) which can technologically be operated independently of one other, an individual unit may be the subject of a transaction. In such a case, the original licence shall be modified or supplemented.
- (3) Where termination or modification of a licence under Paragraph (1) or (2) could lead to disturbance of the security of supply of electricity, heat or natural gas, the Commission shall authorize conduct of the capital improvement transaction provided the transferee under the said transaction has submitted an application and is responsive to the conditions for issuance of a licence for the respective activity. The licence issued to the transferee shall become effective as from the date of the transfer transaction.
- (4) Where termination or modification of a licence under Paragraph (1) or (2) does not lead to disturbance of the security of supply, the Commission may authorize conduct of the capital improvement transaction regardless of whether the transferee has submitted an application for issuance of a licence.



- (5) The Commission shall also authorize conduct of the capital improvement transaction in the cases of pledge or mortgage on the property whereby the licensed activity is performed.
- (6) No authorization shall be required in cases of replacement or modernization, or where such disposition does not lead to change of the terms under which the licensed activity is performed.
- (7) Any transactions concluded in violation of the foregoing paragraphs shall be declared null and void by the court on a petition by the Commission, the prosecutor, or any interested party.
- (8) The Commission shall consider the requests covered under Paragraphs (1) to (4) within three months after submission of the application, and the requests referred to in Paragraph (5) within one month.

Article 54. (1) No authorization under Article 53 herein shall be required upon privatization of a self-contained part of an energy company.

(2) The Commission shall issue a licence to the transferee in a privatization transaction referred to in Paragraph (1) if the said transferee has requested issuance of a licence and is responsive to requirements for issuance of such a licence.

Article 55. (1) A licence shall be terminated by a decision of the Commission:

1. at the request of the licensee, including upon transfer of the property whereby the licensed activity is performed, under the terms established by Article 53 herein;
  2. in the event of a total loss of the energy work whereby the licensee performs the activity thereof;
  3. upon corporate transformation of the licensee, where the said transformation leads to dissolution of the legal person which is the holder of the licence;
  4. entry into effect of a judgment of court adjudicating the licensee bankrupt or of a judgment on cessation of operation owing to the placing of the licensee in liquidation beside the cases under Article 61 herein.
- (2) (Amended, SG No. 74/2006) The Commission may, upon written notification, terminate the licence, should the licensee fail to exercise the licensed activity for a period exceeding one year.
- (3) A licence shall be terminated upon expiry of the term of validity thereof, except in the cases under Article 56 herein.
- (4) The decision to terminate a licence shall be a precondition for consideration by the competent court of a petition for recording of liquidators upon cessation of the operation of the legal person which is the holder of the licence.
- (5) In cases of termination of the licence under Item 1 of Paragraph (1) and Paragraph (2) under terms specified in the ordinance referred to in Article 60 herein, the Commission shall have the right to order the licensee to transfer to a third party the property whereby the licensed activity is performed in its entirety or to create a right of use of the said property, should the transferee in the said transaction is a licensee or has submitted an application and is responsive to the requirements for issuance of a licence for the respective activity. In case the licensee fails to transfer the ownership or to create a real right of use within one month after termination of the licence, the provisions of Article 56 (4) to (11) shall apply accordingly.

Article 56. (1) Not later than one year before expiry of the term of validity of the licence, the licensee shall be obligated:

1. to submit an application for extension of the said term, or
  2. to notify the Commission that it will not perform the licensed activity after expiry of the said term.
- (2) Where, after expiry of the term of validity of a licence, the energy work whereby the licensed activity was performed is subject to final decommissioning for technical reasons, the Commission shall extend the term of validity of the licence until the final decommissioning of the said energy work.
- (3) In the case under Item 2 of Paragraph (1), or should the Commission refuse to extend the term of validity of the licence if cessation of the licensed activity could lead to disturbance of the security of supply of electricity, heat or natural gas to consumers, or a risk to national security and public order could arise, the licensee shall be obligated to transfer the ownership thereof to a third party or to create a right of use of the property whereby the licensed activity is performed solely in its entirety, according to the procedure established by Article 53 (1) and (3) herein.
- (4) Where the licensee fails to fulfill the obligations thereof under Paragraph (3) not later than 60 days prior to expiry of the term of validity of the licence or the Commission refuses to authorize the capital improvement transaction, the Commission shall appoint a special commercial administrator who:
1. shall accept, against a checklist, the works whereby the licensed activity was performed, where the said facilities are transferred thereto for management, effective the first day following the expiry of the term of validity of the licence, and
  2. shall continue performance of the licensed activity for the account of the licensee until transfer of ownership of the energy works and selection of a new licensee.
- (5) The special commercial administrator shall be selected by mutual consent of the licensee and the

Commission not later than 30 days prior to expiry of the term of validity of the licence. Should no agreement be reached, the special commercial administrator shall be designated by the Commission.

(6) The special commercial administrator shall have the right to perform solely activities and transactions directly related to the licensed activity and shall have no right to alienate or encumber any corporeal immovables, as well as to perform any activities determined by the Commission by the act of appointment.

(7) The name and address of the special commercial administrator as appointed shall be recorded in the commercial register at the request of the Chairperson of the Commission and shall be promulgated in the State Gazette.

(8) After recording of the special commercial administrator in the commercial register, the management bodies of the licensee may perform solely activities related to the preparation and conclusion of a capital improvement transaction under Paragraph (3).

(9) In cases of appeal against a refusal by the Commission, the licensee shall continue to perform the activity until the final judgment of the court on the appeal.

(10) The circumstances under Paragraph (3) shall be ascertained in coordination with the relevant competent state bodies.

(11) Eligibility for appointment as a special commercial administrator shall be limited to persons responsive to the following requirements:

1. higher education and professional experience in management of energy companies;
2. no conviction, after reaching majority, of a premeditated offence at public law, unless rehabilitated;
3. no relations with the licensee give grounds for reasonable doubt as to the impartiality of the said persons.

Article 57. (1) In cases where a licensee requests termination of the licence prior to expiry of the term of validity thereof and if cessation of the licensed activity could lead to disturbance of the security of supply of electricity, heat or natural gas to consumers, or a risk to national security or public order could arise, the said licence shall be obligated to continue to perform the licensed activity until issuance of a new licence to another person according to the procedure established by Article 56 (3) herein.

(2) If no new licensee is selected according to the procedure established by Paragraph (1) during the period of the notice whereby the licensee has requested termination of the licence, the procedure established by Article 56 (4), (5), (6), (7), (9) and (11) herein shall apply, mutatis mutandis.

Article 58. (1) Upon submission of an application requesting termination of a licence issued after a tendering procedure, the Commission shall evaluate the request in view of the needs of the national overall forecast energy balance and the secure and reliable supply of energy and natural gas to consumers.

(2) The holder of a licence selected by tendering procedure may submit a request for termination of the said licence in case that the said holder has transferred the construction work in progress to a third party, under the terms established by Article 53 (1) herein.

Article 59. (1) After a written warning fixing a time limit, the Commission shall withdraw the licence:

1. where the licensee fails to perform or violates the obligations thereof under Chapters Six and Seven herein;
2. where the licensee fails to perform or violates the obligations there under the licence as issued;
3. where the licensee fails to perform within the prescribed time limit or breaches any prescriptions of the control authorities of the Commission or coercive administrative measures imposed by the Commission;
4. where the licensee has submitted untrue information which has served as grounds for issuance of the licence.

(2) The licence shall furthermore be withdrawn where a licence for operation of a nuclear facility, issued under the Safe Use of Nuclear Energy Act, has been withdrawn from the licensee by an effective administrative act.

(3) (Amended, SG No. 74/2006) The Commission may withdraw a licence for distribution of natural gas, issued after a tendering procedure, if the licensee fails to construct the relevant natural gas distribution network indicated in the tender thereof within the time limit fixed in the licence. In such a case, a new tendering procedure shall be held according to the procedure established by this Act for the area vacated.

(4) The decision to withdraw a licence shall fix a time period during which the person may not apply for issuance of a new licence for the same activity. The said time period may not be shorter than two years.

(5) Withdrawal of a licence shall not override the enforcement of administrative or criminal liability for a violation committed, if the preconditions for this exist.

(6) By a decision to withdraw a licence, the Commission shall appoints a special administrator vested with powers according to Article 56 (4) until the final judgment of the Supreme Administrative Court, in the event of appeal.

Article 60. The terms and procedure for the issuance, modification, supplementation, termination and withdrawal of licences, for the issuance of authorizations under this Chapter, for approval of the general conditions of contracts under this Act, for supply of electricity, heat and natural gas to consumers, as well as for amicable

settlement of disputes under Article 22 herein, shall be established by an ordinance adopted by the Council of Ministers on a motion by the Commission.

Article 61. The relations associated with the insolvency and bankruptcy of an energy company which has obtained a licence for transmission of electricity, heat and natural gas, for distribution of electricity or natural gas, as well as the persons which have obtained licences for public delivery or public supply of electricity or natural gas using works on the list of energy works of strategic national importance, as approved by the Council of Ministers, shall be regulated by a special law.

#### *Chapter Five*

### **REAL RIGHTS**

#### Section I

#### Building Right. Condemnation

Article 62. (Amended, SG No. 74/2006) (1) Where site and/or linear energy works, as well as ground or underground hydro-technological electricity generation facilities or parts thereof are constructed or expanded on a corporeal immovable constituting private state property or private municipal ownership, the competent state or municipal authorities shall create an onerous building right to the land tract without auction or tendering procedure in favour of the person to operate the energy site.

(2) The building right value shall be determined by an independent licensed evaluator, selected by the competent state or municipal authority according to the Public Procurement Act procedure. The value determined by the licensed evaluator shall be taken as the lowest market price that may be paid for the right to build on the specific property.

(3) Where site and/or energy works, as well as ground and underground hydro-technological electricity generation facilities or parts thereof have to be constructed or expanded on a corporeal immovable constituting private property, the energy company must acquire in advance and onerously a right or ownership or a building right to the land tract required for construction of the work.

Article 63. (1) (Amended, SG No. 74/2006) In case of refusal or of impossibility to implement the activities under Article 62 (3) herein for reasons beyond the control of the energy company, the corporeal immovable shall be condemned.

(2) Any condemnation referred to in Paragraph (1) shall be effected under the terms and according to the procedure established by the State Property Act .

(3) The energy company may use the corporeal immovable solely for the purposes of the condemnation.

#### Section II

#### Servitudes

Article 64. (1) (Amended and supplemented, SG No. 74/2006) Upon expansion of existing overhead and underground electric power lines of ground and underground hydro-technological electricity generation facilities, heating mains, oil and gas pipelines, and oil-product lines and upon construction of new such lines and mains, servitudes shall arise in favour of the energy companies. Servitudes under this Act shall be reflected in the cadastre and shall be recorded under the terms and according to the procedure established by the Cadastre and Property Register Act .

(2) There shall be the following servitudes under this Act:

1. a rights of passage of persons and machinery in favour of the energy company;
2. (amended and supplemented, SG No. 74/2006) a rights of laying overhead and underground electric power lines of ground and underground hydro-technological electricity generation facilities, heating mains, oil and gas pipelines, and oil-product pipelines in favour of the energy company;
3. limitation on use of lots adjoining the energy works.

(3) Upon exercise of servitudes:

1. the energy company shall acquire the right:

- (a) (amended and supplemented, SG No. 74/2006) to lay overhead and underground electric power lines, heating mains, gas and oil pipelines, and oil product pipelines in favour of the energy company;
- (b) for representatives of the energy company, to enter into and pass through the servient estates and to perform activities therein in connection with the operation of energy works, including a right of passage of machinery through the servient estates in connection with the construction and maintenance of overhead and underground lines;

2. the following shall be impermissible in the servient estates:

- (a) building development or plantation of perennial plants in the servitude strip, designated in the ordinance

referred to in Paragraph (9);

(b) laying of line of other physical-infrastructure networks, except in the cases when this is permissible under a statutory instrument, complying with the relevant technical requirements;

3. the change in the ownership of the corporeal immovable shall not terminate the effect of the servitudes in respect of the dominant estate and in respect of the servient estate;

4. servitudes shall be inseparable rights; they may be exercised entirely in favour of each part of the dominant estate and shall entirely encumber each part of the servient estate, even where the two estates are separated;

5. a servitude may be used solely for the needs of the dominant estate; 6. the owner of the servient estate shall have no right to relocate the servitude.

(4) Servitudes under Paragraph (2) shall arise when:

1. there is an effective detailed plan, whereby the location of the respective corporeal immovables is determined, and

2. a lump-sum compensation has been paid to the owner of the immovable whereon the servitude has arisen.

(5) The holder of the servitude shall pay a lump-sum compensation to the owner of the land tract.

(6) (Supplemented, SG No. 74/2006) The amount of compensations under this Chapter shall be determined according to the procedure established by Articles 210 and 211 of the Spatial Development Act or by mutual consent by both parties with an evaluation by a licensed evaluator.

(7) The energy company shall exercise the servitude right conforming to the technical requirements established by the ordinance referred to in Paragraph (9).

(8) In case the servitude zone falls within a corporeal immovable in respect of which a building right has been created in favour of the energy company, the servitude on the said corporeal immovable shall be stipulated in the act creating a building right.

(9) (Amended, SG No. 36/2008) The size, location and special exercise regime of servitudes shall be specific to the different types of energy works and shall be determined according to a procedure and in a manner provided for in an ordinance of the Minister of Economy and Energy, the Minister of Agriculture and Food Supply, and the Minister of Regional Development and Public Works.

Article 65. (1) The amount of the compensation referred to in Article 64 (5) herein shall be determined applying the following criteria:

1. the surface area of others' lots incorporated within the servitude boundaries;

2. the types of limitations on use;

3. the period of the limitation;

4. the assessed fair market value of the corporeal immovable or of the part thereof which falls within the servitude boundaries.

(2) Notwithstanding any compensation referred to in Paragraph (1), the energy company shall be obligated to repair all damages caused to the corporeal immovable or to pay a respective pecuniary compensation.

Article 66. The type and location of the energy works and of the surface areas of servient estates incorporated within the servitude boundaries under this Act shall determined in master plans and detailed plans.

Article 67. (1) Any representatives of the energy companies and any officials who exercise control under this Act may enter into and pass through others' corporeal immovables and perform activities therein in connection with the operation of the energy works or for control over the said facilities.

(2) (Amended and supplemented, SG No. 74/2006, SG No. 43/2008) Energy companies shall have the right to use bridges, roads, streets, sidewalks and other corporeal immovables constituting public property for the laying, connection, passage and maintenance of overhead and underground electric power lines, heating mains, gas pipelines, water mains for power generation purposes, oil and oil product pipelines by authorization of the relevant managing authority, while ensuring technical safety and taking measures for prevention of detriment.

(3) Energy companies shall use gratuitously parts of buildings for installation of metering devices and other equipment related to delivery of electricity, heat and natural gas.

(4) Owners of the corporeal immovables covered under Paragraphs (1) to (3) shall be entitled to compensation for any detriment sustained.

Article 68. (1) Where an owner, user or lessee of the corporeal immovable performs unauthorized building development, enclosure, planting or any other violation of the servitude exercise regime, the energy company shall have the right to approach the competent authorities with a request for removal of the illegal construction works for the account of the said owner, user or lessee, unless the said owner, user or lessee removes the said works within a time limit set by the energy company.

(2) In the cases under Paragraph (1), the energy company shall not owe any compensation for the damage sustained.

## *Chapter Six*

### **PUBLIC OBLIGATIONS**

Article 69. Energy companies shall be obligated to perform the operation thereof in the interest of the public and of the individual consumers and in accordance with the requirements established by this Act and the other statutory instruments, ensuring the security of supply, the non-interruption and the quality of electricity, heat and natural gas, the efficient utilization of fuels and energy, the protection of the environment, the life, health and property of citizens.

Article 70. (1) The Minister of Economy and Energy may impose additional public service obligations on energy companies.

(2) Additional obligations referred to in Paragraph (1) shall be imposed, where related to:

1. non-interruption of deliveries of electricity, heat and natural gas, and
2. protection of the environment: in consultation with the Minister of Environment and Water.

(3) The additional obligations referred to in Paragraph (1) shall be imposed by an order stating:

1. the person whereon the obligation is imposed;
2. the content of the obligation;
3. the time limit and terms under which the obligation must be performed;
4. other terms and conditions.

(4) Any supplementary costs incurred by the energy companies under Paragraph (3) shall be allowed as expenses under Article 35 herein.

Article 71. (Supplemented, SG No. 74/2006, on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) The energy companies managing the electric power grid, carrying out transmission of electricity, heat and natural gas or for distribution of electricity and natural gas, which provide a universal service and which have a dominant position on the market within the meaning given by the Protection of Competition Act, shall be subject to the provisions of the said Act insofar as this does not prevent them, de facto or de jure, from performing the obligations assigned thereto.

## *Chapter Seven*

### **SCHEDULED OUTAGE REGIME, TEMPORARY INTERRUPTION OR LIMITATION**

Article 72. (1) A scheduled outage regime for the supply of electricity, heat or natural gas may be introduced whenever the said supply has to be limited or interrupted for a duration exceeding 48 hours within the entire national territory or any part thereof as a result of:

1. force majeure;
2. occurrence, or for prevention, of breakdowns of facilities for generation and transmission of electricity, heat or natural gas and for distribution of electricity and natural gas;
3. a sustained shortage of power generation facilities or energy resources;
4. measures ordered by state bodies regarding an alert status or in case of hostilities;
5. terrorist acts.

(2) The Minister of Economy and Energy or a Deputy Minister empowered thereby shall be the authority competent to make decisions on introduction of a scheduled outage regime within the national territory.

(3) The mayors shall designate a scheduled outage regime for heat and natural gas within the territory of the municipality after consultation with the Minister of Economy and Energy, in accordance with the ordinance referred to in Article 74 (1) herein.

(4) The introduction of a scheduled outage regime or of the restrictive conditions under Paragraphs (1) to (3) shall be announced by the Minister of Economy and Energy through the mass communication media.

Article 73. (1) The operators of the electric power grid, of the heat transmission network, of the natural gas transmission network, or the relevant distribution network operator may order a suspension or limitation of the generation or supply of electricity, heat or natural gas without prior notification of producers and consumers:

1. upon occurrence, or for prevention, of breakdowns;
2. where human health or life is endangered;
3. where the integrity of the electric power grid, the heat transmission system or the natural gas transmission system is endangered;
4. in case the system, respectively the network or the consumers, risk sustaining substantial physical damage;
5. in case of risk of excessive environmental pollution, on a motion by the competent authorities within the

meaning given by Article 10 (1) of the Environmental Protection Act ;6. upon limitation of deliveries of natural gas for reasons beyond the control of the transmission company.

(2) The operators covered under Paragraph (1) shall be obligated to notify in advance producers and consumers of the time and duration of the interruption or limitation upon performance of repair works, operating switchovers, commissioning of new facilities and other such schedulable activities.

(3) The duration of an interruption or limitation under Paragraph (1) may not exceed 48 hours.

Article 74. (1) The procedure for introduction of a scheduled outage regime, temporary interruption or limitation of generation or supply of electricity, heat and natural gas shall be established by an ordinance of the Minister of Economy and Energy.

(2) Energy companies shall not be liable to pay compensation for any damages inflicted as a result of a scheduled outage regime, temporary interruption or limitation of generation or supply of electricity, heat or natural gas with the exception of the cases where the breakdowns or sustained shortage has occurred through the fault of the said companies.

### *Chapter Eight*

## **CONTROL IN THE ENERGY SECTOR**

Article 75. (1) (Amended, SG No. 74/2006) The Minister of Economy and Energy shall exercise preventive, current and follow-up control over:

1. (amended, SG No. 74/2006) the technical condition and the operation of the energy works;
2. application of the procedure and technical terms for heat supply, disconnection of heat delivery and application of share allocation of heat;
3. fulfilment of the obligation to build and store stocks of fuels required for secure and uninterrupted energy supply;
4. the readiness of the energy works to operate in emergency and in wartime;
5. (amended, SG No. 74/2006) fulfilment of the obligations under this Act to provide information to the Ministry of Economy and Energy.

(2) The Commission shall exercise control over:

1. compliance with the terms of the licences as issued;
2. application of the prices referred to in Article 30 (1) herein;
3. (repealed, SG No. 74/2006) ;

Article 76. (1) The Commission shall control the conformity of the licensed activities performed with the conditions of the licences as issued.

(2) The Commission shall exercise preventive, current and follow-up control.

(3) The Commission shall exercise preventive control over the procedures for issuance of licences under this Act.

(4) The Commission shall exercise current control over the conformity of the performance of the licensed activity with the licence conditions, including:

1. compliance with the requirements for security of deliveries of electricity, heat and natural gas and for efficient use of energy and energy resources;
2. fulfilment of the obligations to provide access to the networks;
3. application of the prices endorsed by the Commission;
4. fulfilment or readiness to fulfil additional obligations for cessation of the licensed activity after expiry of the term of validity of the licence or upon termination of the said licence, as well as for decommissioning of energy works;
5. fulfilment of the obligations to insure the property whereby the licensed activity is performed or to fulfil the financial security obligations;
6. fulfilment of the obligations to provide information to the Commission;
7. fulfilment of the obligations to provide information to the relevant system operator;
8. checking the justifiability of complaints and alerts against energy companies, including breaches of contracts, non-fulfilment of obligations for connection of producers and consumers to the networks, or interruption of energy or natural gas supply;
9. other conditions specified in the licence.

(5) The Commission shall exercise follow-up control over the implementation of recommendations and prescriptions issued to licensees.

Article 77. (1) In exercise of the control powers thereof, the Minister of Economy and Energy shall:

1. conduct inspections through persons authorized thereby;
2. notify the specialized control authorities with a view to taking measures within the scope of the competence of

the said authorities;

3. impose coercive administrative measures and administrative sanctions provided for by this Act.

(2) In exercise of the control powers thereof, the Commission shall:

1. conduct inspections through persons authorized thereby;

2. notify the specialized control authorities with a view to taking measures within the scope of the competence of the said authorities;

3. suspend the operation, modify or withdraw a licence as issued;

4. impose coercive administrative measures and administrative sanctions provided for by this Act.

(3) The Minister of Economy and Energy or the Commission, as the case may be, shall have the right to demand from persons inspected to provide information regarding the operation thereof, the documents required in connection with the exercise of control and, where necessary, to approach the specialized control authorities for assistance.

Article 78. (1) The persons who conduct inspections and who draw up statements ascertaining violations committed shall be designated by an order of the Minister of Economy and Energy or by the Chairperson of the Commission depending on the competence vested therein under this Act.

(2) The persons referred to in Paragraph (1), hereinafter referred to as the "control authorities," shall have the right:

1. to unimpeded access to the persons and works controlled thereby for inspection;

2. to demand from the relevant officials to produce the required data, information, explanations, operating and other information, including the performance or the commissioning of performance of expert assessments, measurements and tests in order to clarify the technical conditions and the service conditions of the work, including the licensed competence of the personnel, as well as any other information relevant to ensuring compliance with the conditions of the licence;

3. to conduct cross-checks and to demand from third parties to provide information and documents required for conduct of such cross-checks;

4. to make proposals for issuance of mandatory prescriptions;

5. to make proposals for imposition of coercive administrative measures and administrative sanctions.

(3) The person inspected shall be obligated to ensure all conditions required for the normal conduct of the inspection and to cooperate with the control authorities and, to this end:

1. provide a place for conduct of the inspection or present himself or herself at the building of the Ministry or of the Commission, as the case may be;

2. designate an employee thereof to liaise with and render assistance to the officials who conduct the inspection;

3. provide access to official premises;

4. produce all accounting, business and other documents required for establishment of facts and circumstances relevant to the scope of the inspection;

5. provide written explanations at the request of the control authority.

(4) The prescriptions issued by control authorities in exercise of the powers vested therein under this Act shall be mandatory.

Article 79. (1) The control authorities shall be obligated to safeguard any official, production and commercial secrets that have come to the knowledge thereof in the course of or in connection with the implementation of control activities.

(2) The control authorities shall perform the activity thereof independently or, where necessary, jointly with other specialized control authorities.

Article 80. (1) The control authorities shall draft a memorandum on the results of each inspection, attaching thereto the data, documents and explanations collected.

(2) Any such memorandum shall be signed by the drafter and the person inspected or, should the latter refuse to sign, by two witnesses of the refusal.

(3) On the basis of the results of the inspection, the control authorities may issue mandatory prescriptions to the persons inspected by the memorandum and/or draw up statements ascertaining administrative violations.

(4) The persons who are issued mandatory prescriptions shall notify the control authorities of the compliance with the said prescriptions within the time limit appointed thereto.

Article 81. The State and municipal bodies and the administrations thereof, as well as any persons obligated under the law, shall be obligated to cooperate with the control authorities bodies in the exercise of the powers vested therein.

## *Chapter Nine*

### **ELECTRICITY INDUSTRY**

#### Section I

##### Electric Power Grid

Article 82. (1) All electricity works within the national territory shall be connected and shall function with an integral electric power grid with a common mode of operation and uninterrupted process of electricity generation, conversion, transmission, distribution and consumption.

(2) The electric power grid shall comprise the electric power plants, the transmission network, the individual distribution networks, and the electric wiring systems of consumers.

(3) (Supplemented, SG No. 74/2006) The parallel operation of Bulgaria's electric power grid with other power grids and pools of grids shall be implemented in accordance with the effective international electricity industry instruments and in compliance with the technical standards and reliable and safe operation requirements.

Article 83. (1) The power grid shall be structured and operated according to standards provided for in:

1. an ordinance on the structure of electric fixtures and electric power lines, which shall regulate the technical standards for design and construction of electric fixtures and electric power lines;

2. an ordinance on the operation of electric power plants and networks, which shall regulate the terms and procedure for organization and operation of: electric power plants and networks, of power plants for generation of electricity and/or heat, of heat transmission networks, of the hydraulic engineering facilities of power plants and the mechanical parts thereof (and the management and operation of electric power plants and networks);

3. an ordinance on the operation of power equipment, which shall regulate the rules for maintenance of the serviceability and the rules for safe operation of the electric fixtures and facilities of consumers;

4. rules for operation of the electric power grid, which shall regulate the rights and obligations of the transmission company, the electric power grid operator, and the persons connected to the transmission network in connection with a planning of the development of the transmission network, the planning and management of the mode of operation of the electric power grid, the procedures for mandatory data exchange, the procedure for early warning and exchange of information, the development and implementation of a protection plan and a recovery plan for the electric power grid, terms and procedure for conduct of system wide tests and for provision of ancillary services;

5. (amended, SG No. 18/2004) rules for management of distribution networks, which regulate the rights and obligations of the distribution company, the distribution network operator and the persons connected to the relevant network in connection with a planning of the development of the network, planning and management of the mode of operation of the distribution network, the procedures for mandatory data exchange, the procedure for early warning and exchange of information, the development and implementation of a local protection plan and for provision of ancillary services; 6. rules for electricity metering, regulating the metering principles, the metering methods and sites, the terms and procedure for servicing of the said sites, as well as the building and maintenance of data bases of the readings of commercial metering devices.

(2) The ordinances referred to in Items 1 to 3 of Paragraph (1) shall be issued by the Minister of Economy and Energy. The rules referred to in Items 4 to 6 of Paragraph (1) shall be adopted by the Commission on a motion by the energy companies.

(3) The technical rules and standard specifications for design, construction and use of facilities and installations for electricity generation, conversion, transmission and distribution shall be established by an ordinance of the Minister of Regional Development and Public Works and the Minister of Economy and Energy.

#### Section II

##### Electricity Generation

Article 84. Electricity may be generated by energy companies licensed for generation according to the procedure established by this Act, except in the cases under Item 1 of Article 39 (4) herein.

Article 85. (1) (Supplemented, SG No. 74/2006) Electricity producers shall be obligated to maintain stocks of fuels, including local hard fuels, in quantities guaranteeing sustained and reliable generation.

(2) (Amended, SG No. 74/2006) The terms and procedure for the building, maintenance of stocks of fuel and control shall be established by an ordinance of the Minister of Economy and Energy.

#### Section III

##### Electricity Transmission and Electric Power Grid Management

(Title amended, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty



concerning the  
Accession of the Republic of Bulgaria to the European Union)

Article 86. (1) (Amended, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) The transmission of electricity shall be implemented by a transmission company which owns the transmission network and which has been licensed for transmission of electricity.

(2) (New, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) The licensee may assign, through an agreement, the transmission operation and maintenance only to the electric power grid operator, who has obtained an electric power grid management licence.

(3) (Renumbered from Paragraph 2, amended, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) Electricity transmission and transformation shall be a universal service, managed by the electric power grid operator.

Article 87. (1) (New, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) The transmission company shall ensure the expansion, reconstruction, and modernisation of the transmission network, in accordance with the long-term electric power industry development forecasts and plans.

(2) (Renumbered from Paragraph 1, amended, SG No. 74/2006, on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) The electric power grid operator shall ensure:

1. integrated management of the electric power grid and reliable functioning of the transmission network;
2. (amended, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) transit transmission of electricity through the transmission network;
3. maintenance of the facilities and installations of the transmission network in accordance with technical requirements and with safe operation requirements;
4. (repealed, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) ;
5. maintenance and development of auxiliary networks.

(3) (Renumbered from Paragraph 2, amended, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) For preparation of the national electric energy balance, the electric power grid operator shall:

1. elaborate short-term and long-term forecasts of changes in consumption of electricity in Bulgaria;
2. organize the conduct of assessments of the feasibility of expansion and modernization of the transmission network with a view to the commissioning of new generating capacities, decommissioning of existing generating capacities, connecting new consumers to the transmission network, the expected increase in the quantity of electricity transmitted, implementation of new technologies ensuring better quality and security of the services provided and efficiency of the operation; the said assessments shall be accompanied by a feasibility study and an environmental impact analysis;
3. prepare short-term, medium-term and long-term forecasts and plans for expansion and modernization of the transmission network and for development of auxiliary networks;
4. prepare short-term and long-term plans for development of the electric power grid with a view to ensuring the electric energy balance;
5. (amended and supplemented, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) on the basis of the assessments, forecasts and plans, prepare a draft national electric energy balance and a list of the sources, including new generating capacities and intersystem electric power lines, required to meet national demand, and submit the said draft to the Minister of Economy and Energy.

## Section IV Electricity Distribution

Article 88. (1) The distribution of electricity and the operation of distribution networks shall be implemented by distribution companies which own the distribution networks within a self-contained area, licensed for distribution of electricity within the relevant area.

(2) (Amended, SG No. 74/2006) Electricity distribution shall be a universal service.

Article 89. The distribution company shall ensure for the area serviced by the distribution network:

1. distribution of the electricity entering the distribution network;
2. non-interruption of electricity supply and high quality of the electricity delivered;
3. management of the distribution network;
4. maintenance of the distribution network, the facilities and installations and the auxiliary networks in accordance with technical requirements;
5. expansion, redevelopment and modernization of the distribution network and auxiliary networks;
6. other services.

Article 90. The distribution company shall:

1. assess the prospects for economic development and changes in electricity consumption within the relevant area;
2. prepare short-term and long-term plans for development of the distribution network;
3. submit the results of the assessments and the plans as prepared under Items 1 and 2 to the transmission company.

## Section V Commercial Relationships. Parties to Electricity Transactions

Article 91. (1) Transactions in electricity may be concluded at prices regulated by the Commission, at prices freely negotiated between the parties, and on an organized electricity market.

(2) Transactions in electricity shall be effected in compliance with the provisions of this Act and the electricity trading rules (Market Rules) adopted by the Commission on a motion by the energy companies.

(3) (Amended, SG No. 74/2006) The rules referred to in Paragraph (2) shall establish the manner of transaction administration and of organization and operation of the balancing market for electricity, as well as the organisation of the balancing group types and the activities of balancing group coordinators.

(4) (New, SG No. 74/2006) The Commission, taking into account all results achieved from the electric power grid and the electricity market operation, as well as all procedures regulated in the electricity trading rules, after proposal by the energy companies, shall amend or repeal, and then accept new electricity trading rules, observing the equal-treatment and all-party interest balance principles.

Article 92. (Amended, SG No. 74/2006) Parties to electricity transactions shall be:

1. the public provider of electricity;
2. (repealed, SG No. 74/2006, effective 1.07.2007) ;
3. the electricity producers;
4. (amended, SG No. 74/2006) the consumers, including eligible consumers;
5. the transmission company;
6. the distribution companies;
7. the electricity traders;
8. (amended, SG No. 74/2006, on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) the electric power grid operator;
9. (new, SG No. 74/2006, effective 1.07.2007) the end supplier.

Article 93. (1) (Supplemented, SG No. 74/2006, repealed, SG No. 55/2007, effective 1.07.2007)

Article 93a. (New, SG No. 74/2006, effective 1.07.2007) (1) The public provider shall purchase electricity from producers, connected to the transmission network, on long-term availability and electricity purchase agreements, as well as electricity produced from renewable energy sources, from high-efficiency combined electricity and heat generation, and the quantity of electricity, defined under Article 4, Paragraph 2, Item 8.

(2) The public provider may purchase electricity, defined within the availability under Article 21, Paragraph 1, Item 17a, in order to provide electricity to end suppliers.

Article 94. (Repealed, SG No. 55/2007, effective 1.07.2007).

Article 94a. (New, SG No. 74/2006) (1) The end supplier shall ensure provision of electricity at a certain quality and reliability level to home consumers and companies having less than 50 employees and annual turnover of less than 19.5 mil. BGN, according to the rules under Article 21, Paragraph 1, Item 7a.

(2) Electricity supply under Paragraph 1 shall be an universal service under this Act, provided on the basis of equal-treatment.

(3) The end supplier shall purchase electricity produced using renewable energy sources and using high-efficiency combined electricity and heat generation from producers, connected to the distribution network.

Article 95. Eligible consumers shall be electricity consumers responsive to the eligibility requirements established in the rules referred to in Article 24 (2) herein, which shall have the right to choose the person wherefrom they purchase electricity.

Article 96. (Amended, SG No. 74/2006, effective 1.07.2007) Electricity traders shall be persons licensed for the operation thereof, responsive to the requirements for financial security of the electricity transactions concluded thereby as established in the rules under Article 24 (2) herein.

Article 96a. (New, SG No. 74/2006) Balancing group coordinator shall be a person, having licence issued for any activity under Article 39, Paragraph 1, Item 1, 2, 3, 5, 6, 7, 8, 10 or 11, meeting financial guarantee requirements for any transactions executed by this person, the requirements set forth in the rules under Article 91, Paragraph 1, and registered by the electric power grid operator.

## Section VI

### Transactions at Regulated Prices

Article 97. (1) Transactions in electricity at prices regulated Commission shall be concluded between:

1. (repealed, SG No. 74/2006, effective 1.07.2007) ;
2. (repealed, SG No. 74/2006, effective 1.07.2007) ;
3. (repealed, SG No. 74/2006, effective 1.07.2007) ;
4. (repealed, SG No. 74/2006, effective 1.07.2007) ;
5. (amended, SG No. 18/2004, repealed, SG No. 74/2006, effective 1.07.2007) ;6. (repealed, SG No. 74/2006, effective 1.07.2007) ;
7. (amended, SG No. 74/2006) the producers and the transmission company, the public provider and the distribution companies, respectively, for the electricity needed to compensate the technological losses of transmission or distribution, respectively.
8. (new, SG No. 74/2006, effective 1.07.2007) the producers and the end suppliers, or the public provider for the electricity defined by the Commission within the availability under Article 21, Paragraph 1, Item 17a;
9. (new, SG No. 74/2006, effective 1.07.2007) the public provider and the end suppliers for the electricity defined by the Commission within the availability under Article 21, Paragraph 1, Item 17a;
10. (new, SG No. 74/2006, effective 1.07.2007) end suppliers, home consumers, and the companies having less than 50 employees and less than 19.5 mil. BGN annual turnover, who have not exercised their right to select their electricity provider.

(2) (Amended, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union, repealed, SG No. 55/2007, effective 1.07.2007)

(3) (Repealed, SG No. 55/2007, effective 1.07.2007).

(4) (New, SG No. 74/2006) The electric power grid operator shall execute transactions with the neighbouring system operators to mutually compensate the transboundary electricity streams.

Article 98. (Repealed, SG No. 55/2007, effective 1.07.2007).

Article 98a. (New, SG No. 74/2006, effective 1.07.2007) (1) The end supplier shall sell electricity under publicly known general conditions.

(2) These general conditions shall include:

1. information, provided by the supplier;
2. the agreement term;
3. the supply termination or suspension terms;

4. the energy company liability upon failure to meet the general terms.

(3) The end electricity supplier shall publish its general conditions in at least one national and one local daily publication.

(4) The general conditions become effective for all consumers, purchasing electricity from the end supplier, without the need of express written acceptance.

(5) Within 30 days after the general conditions become effective, consumers, who do not agree with them, shall have the right to submit to their respective end electricity supplier a request proposing special conditions. The special conditions, accepted by the end electricity supplier, which differ from the published general conditions, shall be reflected in written annexes.

Article 98b. (New, SG No. 74/2006, effective 1.07.2007) (1) (Amended, SG No.55/2007, effective 1.07.2007) The end electricity supplier consumers shall use the distribution networks that they are connected to, under publicly known general conditions.

(2) These general conditions shall include:

1. information, supplied by the distribution company;

2. the supply termination or suspension terms;

3. the supply quality and reliability conditions;

4. the energy company's liability upon any unregulated suspension or low-quality supply.

(3) The distribution company shall publish its general conditions in at least one national and one local daily publication.

(4) The general conditions become effective for all consumers, purchasing electricity from the end supplier, without the need of express written acceptance.

Article 98c. (New, SG No. 55/2007, effective 1.07.2007) (1) The relationships between the end supplier and the distribution company in connection with the electricity supply for the consumers connected to the distribution networks shall be regulated by the rules for trade in electricity.

(2) The relationships under Articles 98a and 98b between the home consumers and the companies with less than 50 employees and an annual turnover of less than 19.5 mil. BGN, on the one hand, and the end supplier and the distribution company, on the other hand, shall be regulated by a general contract in accordance with the rules for trade in electricity.

Article 99. (Amended, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) (1) For the purposes of balancing electricity production and demand, the electric power grid operator shall organize a balancing market for electricity in accordance with the rules referred to in Article 91 (2) herein.

(2) The electric power grid operator shall be party to all balancing transactions in electricity.

(3) The electric power grid operator shall execute balancing transactions in electricity with domestic or foreign suppliers to balance the electric power grid.

(4) The electric power grid operator shall execute transactions with balancing group coordinators to settle their imbalances.

(5) The electric power grid operator shall settle all transactions and mutual obligations between the balancing energy market participants in accordance with the rules under Article 91, Paragraph 2.

## Section VII

### Transactions at Freely Negotiated Prices

Article 100. (1) Electricity producers, electricity traders and eligible consumers may conclude between them transactions in electricity at freely negotiated prices.

(2) (Repealed, SG No. 74/2006, effective 1.07.2007) .

(3) (Repealed, SG No. 74/2006, effective 1.07.2007) .

(4) (New, SG No. 74/2006, effective 1.07.2007) The public electricity provider shall sell any electricity purchased under Article 93a at freely negotiated prices. In this case, the public provider shall have the right to claim reimbursement for its costs before the Commission under Article 34 and Article 35.

Article 101. (1) For an identical period of time fixed in the rules referred to in Article 91 (2) herein, eligible consumers may conclude transactions at freely negotiated prices and/or prices regulated by the Commission in the cases provided for in the said rules.

(2) (Amended, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty

concerning the Accession of the Republic of Bulgaria to the European Union) The transmission company shall receive validated data on the metered quantities of electricity by the commercial metering device owners under the procedures and within the timeframes regulated in the rules under Article 83, Paragraph 1, Item 6 and Article 91, Paragraph 2.

Article 102. (Amended, SG No. 74/2006) Electricity producers, traders, the public provider, the public suppliers, the end suppliers, and the eligible consumers may conclude electricity transactions with resident persons of a European Union member country, or persons registered in a country, with which the Republic of Bulgaria has an agreement under an international act for mutual application of the respective European Communities law, when:

1. electricity producers, traders, the public provider, the public suppliers, the end suppliers and the eligible consumers are granted the right to free trade in electricity according to the legislation of the other State, and
2. on conditions of reciprocity, the legislation of the other State provide for an opportunity for free trade in electricity for eligible consumers of the said State.
3. provided that all home consumers and companies having less than 50 employees and less than 19.5 mil. BGN annual turnover have been provided with the electricity they need at certain quality indicators and transparent and reasonable prices.

Article 103. (1) Transactions in the organized electricity market shall be concluded according to the electricity trading rules referred to in Article 91 (2) herein.

(2) An electricity market shall be organized by a person licensed under Item 6 of Article 39 (1) herein, which shall:

1. organize the solicitation of offers for sale and purchase of electricity;
2. match the offers for sale and purchase for the relevant period until the demand is met;
3. inform the market participants and the electric power grid operator of the transactions on the organized market and take into consideration the limitations and changes dictated by limitations of the transmission capacity or by emergency situations in the networks;
4. set a price of the electricity traded for each period.

(3) (Repealed, SG No. 74/2006, effective 1.07.2007) .

## Section VIII

### Transmission, Access, Ancillary Services and Cold Reserve Transactions

(Title amended, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union)

Article 104. (Amended, SG No. 74/2006, effective 1.07.2007) (1) Users of the relevant network, excluding the end supplier's consumers, shall execute a transaction governing their relationships, concerning their network usage and the transmission of any quantities of electricity fed to the network or consumed by the network, with the transmission and/or distribution company.

(2) Users of the relevant network, excluding the end supplier's consumers, shall execute a transaction governing their relationships, concerning network access, with the electric power grid operator and/or the distribution company.

(3) (Amended, SG No. 55/2007) The terms, the procedure, and the ratio for the payment of all prices under Paragraph 1 and Paragraph 2 by users of relevant networks shall be set forth in the rules for trade in electricity.

Article 105. (1) (Amended, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) For the purpose of guaranteeing the reliable operation of the electric power grid, the electric power grid operator shall conclude ancillary-services and cold-reserve transactions under the terms and according to the procedure established by Article 83, Paragraph 1, Item 4 and Article 91, Paragraph 2 herein with suppliers within or outside the country.

(2) The cold reserve referred to in Paragraph (1) shall be procured through availability purchase transactions in quantities determined on the basis of the level of reliability of electricity supply under Item 4 of Article 4 (2) herein.

(3) The terms and procedure for purchase of the quantities of cold reserve referred to in Paragraph (2) shall be established by the rules referred to in Item 4 of Article 83 (1) herein.

(4) (New, SG No. 74/2006) The net electricity from an activated cold reserve shall be paid on terms, procedure, and price, set forth in the rules under Article 91, Paragraph 2.

Article 106. For the purpose of guaranteeing the reliable operation of the distribution networks, the distribution

companies shall conclude ancillary-services transactions under the terms and according to the procedure established by Item 4 of Article 83 (1) herein.

Article 107. (Amended, SG No. 74/2006, SG No. 59/2007) The public provider, the electricity system operator, the public suppliers, the suppliers of last resort, the transmission company and the distribution companies shall have the option to move for the issuance of an enforcement order under Article 410 (1) of the Code of Civil Procedure for the receivables thereof for electricity provided or transmitted, as well as for the services rendered thereby under this Act, regardless of the amount of the said receivables.

## Section IX Operational Management

Article 108. (1) (Amended, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) The centralized operational planning, coordination, and management of the electric power grid shall be performed by the electric power grid operator and by the operators of each of the distribution networks.

(2) (Amended, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) The electric power grid operator shall be a separate legal person, having obtained an electric power grid management licence.

(3) The operational management and the ensuring of the reliable functioning of the distribution networks shall be performed by the operators of the respective networks.

(4) The operators of the distribution networks shall be specialized units of the distribution companies.

Article 109. (1) The electric power grid operator shall be obligated to ensure:

1. secure, safe and efficient functioning of the electric power grid;
2. maintenance of the balance between electricity generation and consumption;
3. implementation of the joint operation of the national electric power grid with the electric power grids of other countries in accordance with international treaties;
4. non-discriminatory access to electricity transmission in compliance with quality requirements;
5. secure and efficient functioning of the auxiliary networks.

(2) (Supplemented, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) The directives of the electric power grid operator, related to the fulfilment of the obligations assigned thereto by this Act, shall be mandatory for the operators of the distribution networks and the electricity producers and the electricity consumers connected to the transmission network, and for the other companies of the vertically integrated company in the cases when the electric power grid operator is part of a vertically integrated company.

(3) (New, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) The electric power grid operator shall set forth a coordinated schedule for planned downtimes of the generation capacities and the transmission network components based on maximum reliability criterion.

Article 109a. (New, SG No. 74/2006) (1) When the electric power grid operator is part of a vertically integrated company, its activities shall be independent in terms of legal organisational form and decision making from the vertically integrated company's other activities.

(2) In order to ensure the electric power grid operator's independence under Paragraph 1, any persons responsible for the management, including operational management of the electric power grid:

1. may not take part in the management of the other companies in the vertically integrated company, performing electricity generation, distribution, public delivery, public supply and trade;
2. shall take independent decisions in the course of their duties under this Act;
3. shall not allow discriminatory actions in the course of their duties under this Act;

(3) The electric power grid operator shall prepare a programme, setting forth measures to achieve the goal under Paragraph 1 and Paragraph 2, containing specific obligations for the employees for its implementation, and shall designate an employee, responsible for the control over this programme's implementation.

(4) The electric power grid operator shall prepare an annual report on all measures under Paragraph 3, which shall be presented to the Commission by the designated employee and shall be published in the bulletin under Article 15, Paragraph 1.

Article 110. (1) (Amended, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) For the purposes of metering the quantities of electricity, the transmission company shall ensure:

1. technical and metrological support, development and modernization of the commercial metering devices for the quantity of electricity entering and leaving the transmission system;

2. (amended, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) maintenance of data bases of the readings of the quantity of electricity referred to in Item 1, taken by commercial metering devices.

(2) (Amended, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) Owners of commercial metering devices for quantities of electricity shall make available the readings of the said devices to the electric power grid operator, needed by the latter to carry out its activities under Article 111.

(3) (Amended, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) The parties to electricity transactions shall have the right to receive information from the electric power grid operator's data base regarding the quantities of electricity traded by the said parties under the transactions.

Article 111. (1) (Amended, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) The electric power grid operator shall administrate electricity transactions, executed on regulated and freely negotiated prices, and shall organise a balancing market for electricity according to the rules referred to in Article 91, Paragraph 2, and to this end shall:

1. (amended, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) keep registers of the persons concluding transactions on the market for electricity;

2. keep registers of the contracts concluded between the persons referred to in Item 1;

3. receive, arrange on priority lists according to price and technological criteria, and activate proposals and orders for purchase and/or sale of balancing electricity;

4. apply a method for computation and fix balancing electricity prices for each settlement period;

5. prepare advance and final notices of the amounts due for balancing electricity from the participants for each settlement period; 6. control the financial security of balancing transactions in electricity and issue mandatory instructions to market participants in connection with this;

7. have the right, upon occurrence of circumstances endangering the secure operation of the electric power grid or of parts thereof, to suspend the performance of transactions or to change the quantities of electricity contracted thereunder, under terms and in a manner described in the rules referred to in Article 91 (2) herein;

8. provide information regarding forecast consumption of electricity, transmission system limitations, references about balancing electricity prices in prior periods, and other information as may be required by the participants.

(2) The costs incurred in connection with the performance of the functions covered under Paragraph (1) shall be allowed as economically justified costs under Item 2 of Article 31 herein.

Article 112. (1) (Amended, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) The electric power grid operator shall regulate the distribution of the electric load of the electric power grid among the electric power plants under technical and economic criteria.

(2) (Amended, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) In the process of distribution of the electric load, the electric power grid operator shall ensure compliance with the contracts as concluded which provide for mandatory purchase of part or all of the electricity generated under this Act.

(3) (New, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) When dividing the throughput of any network

components, the electric power grid operator shall observe technical and economic rules to ensure equal access and following its network safety and public availability of information obligations.

(4) (New, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) The electric power grid operator shall have the right to sanction any violators of any network-user negotiated technical requirements for the reliable operation of the electric power grid.

Article 113. (1) Distribution network operators shall be obligated to ensure:

1. reliable, safe and efficient functioning of the relevant distribution network;
2. reliable and efficient functioning of the auxiliary networks;
3. non-discriminatory access to electricity transmission in compliance with quality requirements;
4. non-discriminatory treatment of the producers and of the consumers connected to the network.

(2) (Supplemented, SG No. 74/2006) The directives of the distribution network operator, related to the fulfilment of the obligations assigned thereto by this Act, shall be mandatory for the operational personnel on duty at energy works and the electricity producers directly connected to the relevant distribution network and for the other companies in the vertically integrated company, in the cases when the distribution company is part of a vertically integrated company.

Article 113a. (New, SG No. 74/2006) (1) When the distribution company is part of a vertically integrated company, its activities shall be independent in terms of legal organisational form and decision making from the other activities, which are not related to distribution.

(2) In order to ensure the distribution company's independence under Paragraph 1, any persons responsible for the management, including operational management of the distribution networks:

1. may not take part in the management of the other companies in the vertically integrated company, performing electricity generation, transmission, public delivery, public supply and trade;
2. shall take independent decisions in the course of their duties under this Act;
3. shall not allow discriminatory actions in the course of their duties under this Act;

(3) The distribution company shall prepare a programme, setting forth measures to achieve the goal under Paragraph 1 and Paragraph 2, containing specific obligations for the employees for its implementation. The distribution company shall designate an employee, responsible for the control over this programme's implementation.

(4) The distribution company shall prepare an annual report on all measures under Paragraph 3, which shall be presented to the Commission by the designated employee and shall be published in the bulletin under Article 15, Paragraph 1.

Article 114. (Amended, SG No. 74/2006) The electric power grid and the distribution network operators shall be obligated to respect the confidentiality of any information, constituting commercial secret, obtained in the course of or in connection with the fulfilment of the obligations thereof. The operators shall provide information on their activities on equal-treatment basis.

Article 115. The terms and procedure for performance of the activity of the electric power grid operator and the distribution network operators, as well as of the operational personnel on duty at electricity works and the electric fixtures of consumers, shall be established by an ordinance of the Minister of Energy and Energy Resources.

## Section X

### Connecting Producers and Consumers to Networks.

#### Access to Networks

Article 116. (1) The transmission company or distribution company, as the case may be, shall be obligated to connect any electricity producer located within the relevant area which:

1. has concluded a written contract with the transmission company or distribution company, as the case may be, at a connection price fixed according to the relevant ordinance referred to in Article 36 (3) herein;
2. has fulfilled the conditions for connection to the transmission or distribution network, and
3. has electric fixtures built within the boundaries of the said producer's own corporeal immovable or of a corporeal immovable wherewithin the said producer enjoys a building right, and the said fixtures conform to technical standards and to safe operation requirements.

(2) The transmission company shall be obligated to connect facilities of the distribution companies under the terms established by Paragraph (1).



- (3) The transmission company or the relevant distribution company shall be obligated to implement the expansion and redevelopment of the transmission network or distribution networks related to connection of electric power plants up to the interconnection point.
- (4) The transmission company or distribution company, as the case may be, shall own the expansion or redevelopment implemented as referred to in Paragraph (3).
- (5) In cases where the interconnection point is not located on the property boundaries of the electric fixtures of the producer, the high- voltage or medium-voltage electric power lines connecting the said fixtures shall be built by the transmission company or distribution company, as the case may be, which shall own the said lines.
- (6) The electricity generated shall be metered by commercial metering devices owned by the transmission company or distribution company, as the case may be, with the requirements that the said devices must satisfy and the location site thereof being established by the rules referred to in Item 6 of Article 83 (1) herein.
- (7) The terms and procedure for connection to the relevant network, for suspension of the connection or electricity supply, and the property boundaries between the electric facilities shall be established by an ordinance of the Minister of Energy and Energy Resources.

Article 117. (1) The transmission company or distribution company, as the case may be, shall be obligated to connect any facility of a electricity consumer located within the relevant area which:

1. has electric fixtures built within the boundaries of the said producer's own corporeal immovable or of the corporeal immovable of the said consumer which conform to the technical standards and to safe operation requirements;

2. has satisfied the conditions for connection to the transmission network or distribution network, as the case may be, and

3. has concluded a written contract with the transmission company or distribution company, as the case may be, at a connection price fixed according to the relevant ordinance referred to in Article 36 (3) herein.

- (2) The distribution company may connect an electricity consumer located within the area of another distribution company, wherever that is technically and economically advisable and in the interest of consumers.

- (3) The terms and procedure for connection to the transmission or distribution network and for conclusion of the contracts referred to in Paragraph (1) shall be regulated by the ordinance referred to in Article 116 (7) herein.

- (4) The refusal of the energy company to perform a connection shall have to be reasoned.

- (5) (Supplemented, SG No. 74/2006) High-voltage and medium-voltage electric fixtures and/or lines, which are used to supply electricity to a single consumer of electricity for business uses, shall be built for the account of the said consumer and shall be owned thereby.

- (6) Low-voltage electric equipment, which are located within the corporeal immovables of consumers and are located outside the property boundaries of the facilities, shall be built for the account of the consumers and shall be owned thereby.

- (7) (Amended, SG No. 74/2006) Electric fixture and equipment owners shall be obligated to provide the transmission company or distribution company, as the case may be, access through their own fixtures and facilities for the purposes of electricity conversion and transmission to other consumers. An access price shall be fixed according to a method approved by the Commission.

Article 118. (Amended, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) (1) The electric power grid operator and the distribution company shall provide access on equal-treatment basis to the transmission and distribution networks for the respective network's users.

- (2) The electric power grid operator or distribution company, as the case may be, may refuse access in case the provision of such access could result in deterioration of technical conditions and security of the networks or to deterioration of the conditions for supply of other consumers and users.

Article 119. (1) Producers may supply electricity to branches, enterprises and works thereof located within the national territory:

1. through the transmission network and/or the distribution networks (high-voltage, medium-voltage and low-voltage) to the relevant work, concluding to this end a contract for transmission with the transmission company and/or the distribution companies, or

2. through direct electric power lines, constructed for the account of the said producers up to the divisions or works thereof.

- (2) (New, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) Eligible consumers may be supplied through a direct electric power line.

(3) (Renumbered from Paragraph 2, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) The transmission company and/or the distribution companies may refuse to sign contracts for transmission through the relevant networks in the cases under Item 1 of Paragraph (1) where:

1. the transmission capacity of the networks is insufficient, or
  2. (repealed, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union)
  3. no technical conditions exist for metering of the quantities of electricity consumed that originate from own generation separately from the quantities of electricity delivered from other sources.
- (4) (Renumbered from Paragraph 3, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) The manner of distribution of the electricity originating from own generation or delivered from other sources shall be established by the rules referred to in Article 91 (2) herein.
- (5) (New, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) The electric power grid operator and the distribution companies may refuse to execute an agreement on access to the relevant networks in the cases under Paragraph 1, Item 1, when the reliable operation of the electric power grid or the security of supply are being compromised.

Article 120. (1) The electricity used by consumers shall be metered by means of commercial metering devices owned by the transmission company or by the relevant distribution company, which shall be located next to or on the property boundary of the consumer.

(2) The property boundary of electric facilities and the site of commercial metering devices shall be determined according to the requirements established by the ordinance referred to in Article 116 (7) herein and by the rules referred to in Item 6 of Article 83 (1) herein.

(3) The transmission company or distribution company, as the case may be, shall determine the type, number and site of the metering devices and equipment and of the appurtenant controls and communication devices.

(4) Where endorsed tariffs allow consumers of a particular group to choose the method of metering of the quantity of electricity, the transmission company or distribution company, as the case may be, shall be obligated to instal metering devices corresponding to the choice stated by the consumer in writing.

(5) The terms and procedure for replacement of a metering devices at the request of a consumer in the cases under Paragraph (4) shall be established by the rules referred to in Item 6 of Article 83 (1) herein.

Article 120a. (New, SG No. 74/2006) The electricity consumers shall not pay a fee for the commercial metering devices.

Article 121. (1) The transmission company or distribution company, as the case may be, shall specify to consumers mandatory technical requirements for installation of consumer's own stand-by power supply source according to the ordinance referred to in Item 1 of Article 83 (1) herein.

(2) Any consumer wishing to install an own stand-by power supply source shall be obligated to notify in writing the transmission company or distribution company, as the case may be, and to provide representatives of the said company with access to the stand-by source for the conduct of inspections.

(3) The transmission company or distribution company, as the case may be, shall have the right to suspend the electricity supply of the consumer if the said consumer fails to fulfil the obligations thereof under Paragraphs (1) and (2).

## Section XI

### Suspension of Connection and Electricity Supply

Article 122. (1) The transmission company or the distribution companies shall have the right to suspend the electricity transmission through the relevant network by written advance notice in the event of planned repair, redevelopment or inspection of facilities of the electric energy company requiring the switching off of the said facilities for safety purposes.

(2) The transmission company or the distribution companies shall have the right to suspend electricity transmission through the relevant network without advance notice:

1. for prevention of an imminent risk to human health and security or to the security of facilities;

2. upon failures of the electricity networks and facilities for reasons beyond the control of the electric energy company;
  3. where electricity is consumed unmetered or is incorrectly metered by means of commercial metering devices;
  4. where an uncleared modification of the connection diagram of the consumer is detected.
- (3) The transmission company or the distribution companies shall have the right to suspend the connection:
1. of persons who have connected to the relevant network without having a right to do so;
  2. of consumers who have suffered the connection of a third party to their own electric fixtures without the express consent of the energy company;
  3. upon failure to perform a prescription issued by a control authority for remedy of a violation within the prescribed time limit;
  4. of consumers who cause disturbances to the electric power grid through their own network.
- (4) Upon suspension of the transmission and connection under Paragraphs (2) and (2), the public provider or the public suppliers shall not incur any liability for damages resulting from limitation or suspension of the supply.

Article 123. (1) The public provider and public suppliers shall have the right to suspend the supply of electricity to consumers which fail to fulfill any obligations under the contract for sale of electricity, including a failure to fulfil the obligation to pay for the electricity consumed when due, or in the event of exceeding the agreed capacity.

- (2) The advance notice periods and the other conditions for suspension of supply shall be regulated by the contracts for purchase of electricity or in the general conditions, as the case may be.
- (3) The transmission company or the relevant distribution company shall suspend the transmission of electricity to the consumers referred to in Paragraph (1) at the request of the public provider or of the public supplier, as the case may be.
- (4) Upon fulfillment of the obligation thereof under Paragraph (3), the transmission company or the relevant distribution company shall not incur any liability for damages resulting from suspension of the transmission of electricity.

Article 123a. (New, SG No. 74/2006, effective 1.07.2007) (1) The end supplier shall be entitled to temporarily suspend the electricity supply to any consumers which fail to fulfil any obligations under the contract for sale of electricity, including a failure to fulfil the obligation to pay for the electricity consumed when due, or in the event of exceeding the agreed capacity.

- (2) The advance notice periods and the other conditions for suspension of supply shall be regulated by the contracts for purchase of electricity or in the general conditions, as the case may be.
- (3) The transmission company or the relevant distribution company shall suspend the transmission of electricity to the consumers referred to in Paragraph (1) at the request of the end supplier.
- (4) Upon fulfillment of the obligation thereof under Paragraph (3), the transmission company or the relevant distribution company shall not incur any liability for damages resulting from suspension of the transmission of electricity.

Article 124. The energy shall restore the supply and/or connection of consumers upon elimination of the reasons that led to the suspension of the said supply and/or connection.

#### *Chapter Ten*

### **HEAT SUPPLY**

#### Section I

#### General Provisions

Article 125. (1) Heat supply is the process of generation, transmission, delivery, distribution and consumption of heat with water steam and hot water as a heat-transfer medium for household and business uses.

- (2) Heat supply shall be implemented by means of facilities and installations for generation, transmission, delivery and distribution connected in a heat supply system.
- (3) The procedure and the technical conditions for heat supply, for operational management of the heat supply system, for connection of producers and consumers to the heat transmission network, for distribution, disconnection of heat supply and suspension of heat supply shall be established by an ordinance of the Minister of Energy and Energy Recourses.
- (4) The technical rules and standard specifications for design, construction and operation of the facilities and installations for generation, transmission and distribution of heat shall be established by an ordinance of the Minister of Regional Development and Public Works and the Minister of Energy and Energy Resources.

## Section II Heat Generation

Article 126. (1) Heat shall be generated by an energy company licensed for generation according to the procedure established by this Act.

(2) (Amended, SG No. 55/2007) Persons may generate heat even without holding a licence in the cases under Item 2 and 4 of Article 39 (4) herein.

Article 127. (1) Heat shall be generated at:

1. combined heat and power plants;
  2. heat generation plants;
  3. installations for recovery of waste heat and for utilization of renewable energy sources.
- (2) In case of a declared demand for heat, new plants with a capacity exceeding 5 megawatts and using natural gas as fuel shall be constructed for the combined generation of heat and electricity (co-generation).

Article 128. Producers of heat at heat power plants and/or heat generation plants shall be obligated to maintain stocks of fuels in a quantity guaranteeing reliable generation, determined under the terms and according to the procedure established by the ordinance referred to in Article 85 (2) herein.

## Section III Heat Transmission

Article 129. (1) (Amended, SG No. 74/2006) The heat transmission network shall be operated by a heat transmission company.

(2) (Amended, SG No. 74/2006) The heat transmission company may, in addition, perform an activity comprehended in the generation of heat and electricity.

Article 130. The heat transmission company shall be obligated:

1. to supply heat to consumers connected to the heat transmission network on equal and non-discriminatory terms;
2. to maintain the facilities and installations of the heat transmission network in accordance with technical requirements and safe operation requirements;
3. to develop the heat transmission network in accordance with the plans for development of the areas for which the said company has been issued a licence;
4. to purchase the contracted quantities of heat from producers located within the area for which the said company is licensed.

## Section IV Operational Management

Article 131. (1) The operational management of the heat transmission system shall be performed by a heat transmission network operator.

(2) A heat transmission network operator shall be a specialized unit of the heat transmission company.

(3) The directives of the operator shall be mandatory for the heat producers and consumers.

Article 132. (1) The heat transmission network operator shall be obligated to ensure:

1. a mode of operation of the heat transmission network in accordance with the requirements established by the ordinance referred to in Article 125 (3) herein;
2. maintenance of the balance between generation and consumption;
3. (amended, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) coordination with the electric power grid operator and/or the electricity distribution network operator in accordance with the contracts as concluded: in cases of combined generation of heat and electricity (co-generation);
4. coordination with the natural gas transmission network operator and/or the natural gas distribution network operator in accordance with the contracts as concluded: where natural gas is used.

(2) (Amended, SG No. 74/2006) The heat transmission network operator shall regulate the distribution of the heat load among the heat generation plants under criteria determined by the ordinance referred to in Article 125 (3) herein.

Section V  
Connection to the Heat Transmission Network

Article 133. (1) The heat transmission company shall be obligated to connect to the heat transmission network producers and consumers located within the relevant area specified by the licence for transmission of heat.  
(2) (Supplemented, SG No. 74/2006) The connection of consumers in a condominium-project building through a subscriber sub-station or self-contained branches therefrom shall require a resolution of the general meeting of the condominium owners, taken with an express written consent by two thirds of all owners and titleholders of real right to use in a condominium-project building.  
(3) The heat transmission company may refuse to connect a producer to the heat transmission network if the said producer has failed to comply with the requirements under this Act and under the ordinance referred to in Article 125 (3) herein.  
(4) The heat transmission company may refuse to connect consumers to the heat transmission network:  
1. where no heat transmission network has been constructed;  
2. upon shortage of generating capacities;  
3. upon insufficient transmission capacity of the heat transmission network;  
4. (amended, SG No. 74/2006) where the systems of consumers in a condominium-project buildings are not equipped with the devices and appliances covered under Items 2 and 3 of Article 140 (1) herein.  
(5) The heat transmission company shall provide a reasoning in writing for a refusal to connect any producer or consumer.

Article 134. Producers shall be connected to the heat transmission network by means of connecting heating mains which shall be constructed by and for the account of the producer and shall be owned thereby.

Article 135. Consumers shall be connected to the heat transmission network by means of a connecting heating main and a subscriber sub-station.

Article 136. (1) Upon connection of a consumer of heat for business uses, the connecting heating mains and the appurtenant facilities and the subscriber sub-station shall be constructed by and for the account of the consumer and shall be owned thereby.  
(2) Connection of a new consumer of heat for business uses by means of an existing connecting heating main owned by another consumer for business uses may be performed if technically practicable, provided the heat transmission company buys out the common use section of the connecting heating main or the owner creates an onerous right of use to the said section in favour of the said company.

Article 137. (1) Upon connection of consumers of heat for household uses, the connecting heating main, the appurtenant facilities and the subscriber sub-station shall be constructed by the heat transmission company and shall be owned thereby.  
(2) (Amended, SG No. 74/2006) Construction of the facilities referred to in Paragraph (1) may be performed by the consumers after clearance with the heat transmission company. In this case, the heat transmission company shall pay a price to use the consumer-constructed facilities under Paragraph 1.  
(3) (New, SG No. 74/2006) Ownership of consumer-constructed facilities shall be transferred within three years, and any related relationships thereto shall be settled by the connection contract referred to in Article 138, Paragraph 1.  
(4) (Renumbered from Paragraph 3, SG No. 74/2006) Connection of consumers from one or more buildings to a subscriber sub-station in another building shall only be permissible where:  
1. the owners of the corporeal immovables in the buildings without a subscriber sub-station have concluded a contract for use of the premise of the existing subscriber sub-station, and  
2. the said owners have complied with the technical requirements established by the ordinance referred to in Article 125 (3) herein.  
(5) (Renumbered from Paragraph 4, amended, SG No. 74/2006) The connecting heating main from the existing subscriber sub-station to the building of the consumers referred to in Paragraph (4) shall be constructed by and for the account of the connecting consumers and shall be owned thereby.

Article 138. (1) Producers and consumers shall be connected to the heat transmission network shall on the basis of a written contract with the heat transmission company under the terms and according to the procedure established by the ordinance referred to in Article 125 (3) herein.  
(2) Producers and consumers referred to in Paragraph (1) shall pay the heat transmission company a connection price which shall be formed according to the procedure established by the relevant ordinance referred to in Article 36 (3) herein.

(3) Consumers connected to the heat transmission network shall be obligated to provide the licensed heat transmission company access through their own facilities for the purposes of heat transmission to other consumers within the area specified in the licence. The price for the access provided shall be fixed according to a method approved by the Commission.

## Section VI Heat Distribution

Article 139. (1) Heat shall be distributed in a condominium project building on the basis of a share distribution system.

(2) (Amended, SG No. 74/2006) Heat share distribution in a condominium-project building among the consumers shall be done by the heat transmission company or by a heat provider, or shall be assigned to a person, listed in the public register under Article 139a.

Article 139a. (New, SG No. 74/2006) (1) Persons performing the share distribution service shall be registered in a public register with the Ministry of Economy and Energy.

(2) A person meeting the following requirements shall be listed in the public register under Paragraph 1:

1. is presenting a commercial registration document and a current status certificate;
2. is a producer of individual heat distribution devices or is a duly authorised representative of such producer, which shall be certified by a statement from the producer person, and for the producer representatives - by a notarised letter of attorney or other document, with which the producer authorises the person to conduct such activities;
3. is offering and/or using individual heat distribution and/or metering devices, meeting the effective standards in the country;
4. is providing warranty and post-warranty service for the share distribution devices offered and installed;
5. owns the hardware and licensed software needed to conduct its activities;
6. has qualified personnel and an authorised representative at the respective city or village;
7. applies a heat share distribution methodology, compliant with the rules on distribution according to the ordinance under Article 126, Paragraph 3;
8. is not in any liquidation proceedings;
9. is not declared bankrupt, and is not in any bankruptcy proceedings;
10. presents a certificate for being a personal data administrator under the Personal Data Protection Act ;
11. does not have its right to conduct commercial activities revoked;
12. has no monetary obligations to the state, established by an act of a competent authority, or obligations to social insurance funds, except in cases where the competent authority has allowed the obligation to be rescheduled or deferred.

(3) In order to obtain registration, the person shall submit a application to the Minister of Economy and Energy, attaching thereto any documents certifying the conditions under Paragraph 2. When the share distribution is to be done by a foreign natural or legal person, the application shall be submitted in Bulgarian language, and any foreign-language documents attached thereto shall be also presented in translation.

(4) For all conditions under Paragraph 2, Items 4-6, the person shall attach a statement to the application, stating the number of employees used, and their qualifications.

(5) The conditions under Paragraph 2, Item 3 and Items 8-12 shall be certified by documents from the respective competent administrative or judicial authorities.

(6) The application shall be reviewed by a Committee, appointed by order of the Minister of Economy and Energy, which, within one month after the date the application is submitted, shall prepare a motivated proposal for the Minister.

(7) The Committee under Paragraph 6 shall be entitled, over the course of review of this application, to verify the data stated by the person, to ask for clarifications regarding the conditions and the documents under Paragraph 2, as well as to require written presentation within a given period of additional proof of any conditions stated in the application.

(8) The Minister of Economy and Energy shall make a decision on the application based on the Committee's proposal within 7 days after preparation of the latter. The applicant shall be notified under the procedure of the Code of Civil Procedure.

(9) The authority under Paragraph 8 shall make a decision with a motivated refusal on the application, when the person does not meet any requirements in Paragraph 2, and/or has not provided any documents under Paragraph 4 or Paragraph 5. The refusal may be appealed under the procedure of the Code of Administrative Procedure.

(10) The entry into the register shall be effected within three days after the decision of the authority under Paragraph 8, on which the applicant shall have a certificate issued. The registration shall be considered effective as of the date of presenting the certificate.

(11) Any person, listed in the register under Paragraph 1, shall be de-listed by an act of the authority under Paragraph 8:

1. upon application for de-listing, submitted by the person;
2. upon termination of activity or death of the natural person - sole trader, or upon placement of the latter under full judicial disability, as well as upon termination - for a legal person;
3. when, as a result of any change in conditions, does not meet the requirements under Paragraph 2;
4. when by two or more effective acts by competent state authorities it has been established that the company has been in regular violations of the law.

(12) Persons, listed in the register under Paragraph 1, shall inform the Minister of Economy and Energy on all changes in conditions under Paragraph 2 within 7 days after such changes have occurred;

(13) For the application review and the register listing, a fee shall be paid, set forth in a schedule by the Council of Ministers, upon proposal by the Minister of Economy and Energy.

(14) The rules to maintain and store all data in the register shall be defined in an instruction by the Minister of Economy and Energy.

Article 139b. (New, SG No. 74/2006) (1) Consumers in a condominium-project building shall designate a person, registered under the procedure of Article 139a, to perform the share distribution service.

(2) The designation under Paragraph 1 shall be based on decision by heat consumers in the condominium-project building, taken on a general meeting of the condominium-project, held under the procedure of the Condominium Management, Order and Supervision Rules (prom., Not., No. 101/1951; amended No. 16/1952, No. 14 and 32/1957, SG, No. 76/1978, No. 73/1979, No. 21/1991, No. 87/2002).

(3) Consumers shall notify in writing the heat transmission company or the heat supplier on the result of this designation decision.

Article 139c. (New, SG No. 74/2006) (1) When the heat transmission company or the heat supplier have not been registered under Article 139a, they shall execute a written agreement on the performance of the share distribution service with the person designated by consumers under Article 139b.

(2) The agreement under Paragraph 1 shall be executed on general conditions proposed by the heat transmission company or the heat supplier and approved by the Commission.

(3) The agreement under Paragraph 1 shall contain:

1. rights and obligations of the parties;
2. the methodology for heat share distribution;
3. the terms, procedure, timeframes and content of any required information the parties provide each other in order to perform the share distribution;
4. price for the share distribution service, paid by the heat transmission company or the supplier, which compensates any service costs proven before the heat transmission company or the heat supplier and an economically justified rate of return on investment;
5. the obligation of the person designated by consumers under Article 139b to read the share distribution meters and to prepare amount equalization for the actual consumed heat quantity in the event of agreement termination;
6. all liabilities and charges upon any violation of the agreement, as well as the control the heat transmission company or the heat supplier has over the correct performance of the share distribution service;
7. the agreement termination terms;
8. the terms, procedure, timeframes, access, and conditions to provide all information needed to prepare the bills for consumers in the condominium-project building by the share distribution performing person, to the heat transmission company or the heat supplier.

(4) Upon termination of the agreement under Paragraph 1, consumers in the condominium-project building, or the association under Article 151, Paragraph 1, shall designate another person registered under Article 139a, with whom the heat transmission company or the heat supplier shall execute an agreement.

Article 140. (1) The share distribution of heat among consumers in a condominium-project building shall be performed by means of:

1. commercial metering devices for the quantity of heat in the subscriber sub-station;
2. (amended, SG No. 74/2006) heating share distribution devices: individual allocators conforming to the current standards in Bulgaria, or individual heat meters;
3. (amended, SG No. 74/2006) household hot-water supply share distribution devices: individual hot water meters installed on all branches from the building hot-water supply system to the properties of the consumers;
4. (repealed, SG No. 74/2006) .

(2) Consumers connected to the subscriber sub-station in a condominium-project building shall use heating share distribution devices of one and the same model, delivered by one and the same merchant or approved by the said merchant for use in the building.

- (3) (Amended, SG No. 74/2006) Building heating and household hot-water supply installations shall be condominium-project property.
- (4) (Amended, SG No. 74/2006) The heating units, the appurtenant control fittings, the branches from the heating building systems, the branches from the hot-water supply systems and the share distribution devices referred to in Paragraph 1, Item 2, and the individual water meters referred to in Paragraph 1, Item 3 shall be owned by the consumers.
- (5) (Repealed, SG No. 74/2006) .
- (6) (Repealed, SG No. 74/2006) .

Article 140a. (New, SG No. 74/2006) The total consumed quantity of heat in a condominium-project building, connected to a subscriber sub-station or a separate branch thereto, shall be allocated for hot-water supply and heating.

Article 141. (1) The heat for hot-water supply in a condominium project building shall be calculated by means of:

1. the quantity of household hot water supplied and consumed in the building according to the readings of the common water meter;
  2. the consumption of heat for heating of 1 cubic metre of water of the quantity referred to in Item 1, determined under the terms and according to the procedure established by the ordinance referred to in Article 125 (3) herein.
- (2) The heat referred to in Paragraph (1) shall be distributed among consumers under the terms and according to the procedure established by the ordinance referred to in Article 125 (3) herein.

Article 142. (1) (Amended, SG No. 74/2006) The heat for heating of a condominium-project building shall be the difference between the total quantity of heat for allocation in a condominium-project building and the quantity of heat for hot water supply, calculated under Article 141 (1) herein.

(2) The heat for heating of a condominium-project building shall be divided into heat released by the building system, heat for heating of common parts, and heat for heating of the properties.

Article 143. (1) (Amended, SG No. 74/2006) The heat released by the building system, upon application of share distribution system through individual allocators, shall be calculated by the person performing heat share distribution in the building using methodology in the ordinance under Article 125, Paragraph 3.

(2) The heat for heating of the common parts with installed heating units in condominium-project buildings, upon application of share distribution through individual allocators, shall be calculated on the basis of:

1. the capacity of the heating units, or
  2. the readings of the individual allocators installed on the said heating units.
- (3) The heat referred to in Paragraphs (1) and (2) shall be distributed among all consumers in proportion to the design heated volume of the individual properties.

Article 144. (1) The heat for heating of the properties shall be distributed among the individual properties on the basis of share units according to the readings of the individual allocators installed on the heating units in each property.

(2) The value of one share unit shall be calculated on the basis of readings of the individual allocator, taking into consideration evaluation factors in accordance with the standard of the said allocator.

(3) The heat per share unit shall be calculated by dividing the heat for heating of the building, less the quantity of heat calculated under Paragraph (1) and Item 1 of Paragraph (2) of Article 143 herein, by the sum total of the share units for all heating units in the building.

(4) The heat released by one heating unit shall be the product of the share units as determined according to the readings of the individual allocator installed on the radiator, and the heat per share unit.

(5) (New, SG No. 74/2006) The heat under Paragraph 4 shall not exceed the maximum heat the heating unit is able to emit within a heating period, calculated using methodology in the ordinance under Article 125, Paragraph 3, at the respective building installation operating mode.

(6) (New, SG No. 74/2006) If there are no heating share distribution devices in a particular property and/or on particular premises, the heat for the heating thereof shall be calculated by multiplying the installed capacity of the heating units installed therein by the maximum specific consumption for the building, arrived at according to the procedure established by the ordinance referred to in Article 125 (3) herein.

Article 145. (1) The heat for heating of the properties in a condominium-project building, upon application of share distribution through individual heat meters, shall be calculated on the basis of the readings of the heat meters in the individual properties.

(2) The heat released by the building system and the heat for the heating of the common parts, upon application



of share distribution through individual heat meters, shall be calculated as the difference between the heat for heating of the building, arrived at under Article 142 (1) herein, and the heat for heating of the properties, calculated under Paragraph (1).

(3) The heat referred to in Paragraph (2) shall be distributed among all consumers in proportion to the heated volume of the individual properties.

Article 146. (Repealed, SG No. 74/2006) .

Article 147. (Repealed, SG No. 74/2006) .

Article 148. (Amended, SG No. 18/2004, repealed, SG No. 74/2006) .

## Section VII Commercial Relationships

Article 149. (1) Heat shall be sold on the basis of written contracts under general conditions, concluded by and between:

1. a producer and a heat transmission company;
2. a producer and directly connected consumers of heat for business uses;
3. a heat transmission company and consumers of heat for business uses;
4. a heat transmission company and associations of heat consumers in a condominium-project building.
5. (new, SG No. 74/2006) a heat transmission company and a heat supplier;
6. (new, SG No. 74/2006) a heat supplier and consumers in condominium-project building.

(2) (Amended and supplemented, SG No. 74/2006) The general conditions of any contracts referred to in under Items 1, 3 and 4 of Paragraph (1) shall be proposed by the heat transmission company, and the general conditions of any contracts referred to in Item 2 of Paragraph (1) shall be submitted by the producer to the Commission for approval.

Article 149a. (New, SG No. 74/2006) (1) Heat consumers in a condominium-project building may purchase heat from a supplier, selected on a general meeting of the condominium owners. This selection shall be reflected in a protocol under the Condominium Management, Order, and Supervision Rules.

(2) Heat suppliers shall be legal persons, registered as companies under Bulgarian law, meeting all financial-guarantee requirements for all transactions they execute with the heat transmission company.

(3) The financial guarantees under Paragraph 2 shall be presented by the supplier to the benefit of the heat transmission company under the terms and procedure set forth in the ordinance under Article 125, Paragraph 3.

Article 149b. (New, SG No. 74/2006) (1) Upon any sale of heat by supplier to consumers in a condominium-project building, the written agreement shall define:

1. the rights and obligations of the parties;
2. the price of heat;
3. the procedure to measure, read, distribute and pay for the heat;
4. the procedure to provide access to the heating units and the share distribution devices;
5. the requirements to the quality of the service;
6. the responsibility upon any failure to meet obligations;
7. the procedure to review all consumer complaints and claims;
8. the terms and procedure for agreement termination.

(2) Integral part of the agreement under Paragraph 1 shall be:

1. a copy of the agreement with the heat transmission company;
2. the consumed heat share distribution methodology;
3. a protocol from the general meeting of the condominium owners;

(3) In the agreement under Paragraph 1, the share distribution service shall be performed by and at the expense of the supplier separately, or under an agreement the supplier has executed with a person registered under Article 139a.

Article 150. (1) Heat shall be sold by the heat transmission company to consumers of heat for household uses under publicly known general conditions as proposed by the heat transmission company and as approved by the Commission; the said conditions shall stipulate:

1. the rights and obligations of the heat transmission company and the consumers;
2. the procedure for metering, reading, distribution and payment of the quantity of heat;
3. the liability for non-fulfilment of the obligations;
4. the terms and procedure for connection, suspension and disconnection of heat supply;

5. the procedure for provision of access to the heating units, the commercial metering devices or other control appurtenances.6. (new, SG No. 74/2006) the procedure and the timeframes for the consumers to provide and receive their individual heat distribution bills in a manner setting forth the time, when the appeal period commences.

(2) Heat transmission companies shall mandatorily publish the general conditions as approved by the Commission in at least one national and one local daily newspaper in the cities where heat supply for household uses is available. Such general conditions shall take effect 30 days after the first publication thereof, without the need of an express written acceptance by consumers.

(3) Within 30 days after the effective date of the general conditions, the consumers who disagree with the said conditions shall have the right to submit a statement to the relevant heat transmission company, proposing thereby special conditions. Any special conditions departing from the general conditions as published, which are accepted by the heat transmission companies, shall be entered in supplemental written agreements.

Article 151. (1) Heat consumers in a condominium-project building may establish an association wherewith the heat transmission company may conclude a contract for sale of heat to be used by the consumers in the said building.

(2) Any contract referred to in Paragraph (1) shall stipulate:

1. the rights and obligations of the parties to the contract;
2. the procedure for metering, reading and payment of the quantity of heat according to the readings of the heat meter in the subscriber sub- station;
3. warranties ensuring fulfillment of the obligations of the parties to the contract;
4. the liability for non-fulfilment of the obligations;
5. the procedure for consideration of consumer claims;
6. the terms and procedure for termination of the contract.

(3) Any contract referred to in Paragraph (1) shall be concluded at a preferential price of heat for the association, fixed by the Commission at a proposal by the heat transmission companies.

(4) The contract for sale of heat at a preferential price shall be terminated upon dissolution of the association referred to in Paragraph (1) or upon cessation of a consumer's membership in the said association. As of the time of termination of the contract, the owners or users of the properties in a condominium-project building shall be considered to be the heat consumers.

Article 152. (1) The association referred to in Article 151 (1) herein shall be a voluntary association of all heat consumers in a condominium- project building. The registration of any such association shall be effected according to the procedure established by Chapter One of the Non-profit Legal Persons Act . The court shall record in the register the particulars referred to in Items 1 to 3, 5, 6, 8 and 9 of Article 18 (1) of the Non-profit Legal Persons Act .

(2) The association referred to in Article 151 (1) herein shall be incorporated for enhancement and improvement of the living conditions and environment in a condominium-project buildings and may:

1. purchase heat from the heat transmission company which is to be used in the condominium-project building;
2. take the readings of the metering devices and the heat distribution devices;
3. create new or update existing documentation with data on the heated facilities and on the consumption of hot water;
4. exercise control over the heating units and water meters, including such whereto heat delivery and hot-water delivery has been discontinued;
5. perform repair and adjustment of the building systems, whether independently or through other persons, including rehabilitation of the condominium-project building;
6. take care of the building systems and of the condominium project building;
7. perform other activities related to the servicing of the properties in the condominium-project building;
8. carry out economic activity.

(3) The association referred to in Article 151 (1) herein shall be a legal person and shall not distribute profit.

(4) The association shall be dissolved on the grounds and according to the procedure established by the Non-profit Legal Persons Act .

(5) Upon dissolution, the association shall be liquidated. Liquidation shall be carried out by the Manager or by a person designated by the General Meeting. The provisions of the Commerce Act shall apply, mutatis mutandis, to the insolvency or bankruptcy, as the case may be, to the procedure for liquidation and to the powers of the liquidator.

(6) The incorporators shall adopt a Charter which must state:

1. the corporate name of the association;
2. the purposes and the means for attainment thereof;
3. the seat;
4. the amount of initial contributions;

5. the objects of economic activity;
  6. the governing bodies;
  7. the powers of the bodies of the association;
  8. the rules regarding the commencement and cessation of membership, as well as the procedure for settlement of property relations upon cessation of membership;
  9. the duration wherefor the association is incorporated, if applicable;
  10. the procedure for determination of the amount and the manner of transfer of contributions.
- (7) Each member shall have the right to participate in the management of the association, to stand informed of the operation of the association, to benefit from the property thereof and from the results of the activity according to a procedure established in the Charter. Each member shall be obligated to make contributions in an amount provided for in the Charter. Membership shall cease according to the procedure and in the manner established in the Charter.
- (8) Contributions by the members of the association which do not exceed the amount owed by the association under the contract for sale of heat referred to in Article 151 herein shall not form part of the economic activity of the association.
- (9) The General Meeting and the Manager shall be the bodies of the association.
- (10) The General Meeting shall be composed of all members of the association who are heat consumers.
- (11) The General Meeting shall exercise the following powers:
1. amend and supplement the Charter;
  2. approve other internal acts;
  3. elect and remove a Manager and a Liquidator;
  4. admit, release and expel members;
  5. pass upon dissolution of the association;
  6. adopt the guidelines and a programme of action of the association;
  7. adopt the budget of the association;
  8. pass upon the dueeness and amount of membership dues and/or of contributions;
  9. approve the report on the activities of the association;
  10. pass upon any other matters as provided for in the Charter.
- (12) Any resolution of the General Meeting shall be subject to judicial review as to the legal conformity thereof and compatibility with the Charter, the said review lying within the competence of the district court exercising jurisdiction over the seat of the association.
- (13) The General Meeting shall be called to a session by the Manager on his or her own initiative or on a requisition of one third of the members of the association. Should the Manager fail to transmit a written notice of convocation of the General Meeting within one week, the meeting shall be called by the interested members or by a person authorized thereby.
- (14) Any notice of convocation must state the agenda, the date, time and venue of the session of the General meeting, as well as the initiative for convocation.
- (15) Any notice of convocation shall be posted on the notice board in the building where the management of the association resides not later than one week prior to the appointed date.
- (16) For the valid transaction of business at any session of the General Meeting, more than one half of all members shall have to be present there, save as otherwise provided for by the Charter. Unless the required quorum is present, the session of the General Meeting shall stand adjourned to a time within one hour thereafter at the same venue and with the same agenda and can be held, with the attendance of whatever number of members have presented themselves, save as otherwise provided for in the Chamber.
- (17) No member of the General Meeting shall be entitled to vote in determination of any matter affecting the member himself or herself, the spouse thereof, or any lineal relative thereof up to any degree of consanguinity, or any collateral relative thereof up to the fourth degree of consanguinity, or any affine thereof up to the second degree of affinity.
- (18) A single person may not represent more than three members of the General Meeting by virtue of a written authorization, unless the Charter provides for a different representation quota or for a meeting of delegates. Re-authorization shall be inadmissible.
- (19) Each member of the General Meeting shall be entitled to one vote. The General Meeting shall pass resolutions by a majority of the members attending.
- (20) The Manager of the association shall be a natural person who is a member of the association and who shall perform the following functions:
1. represent the association;
  2. ensure implementation of the resolutions of the General Meeting;
  3. dispose of the property of the association in compliance with the provisions of the Charter;
  4. prepare a draft budget and lay it before the General Meeting;
  5. prepare a report on the activities of the association and lay it before the General Meeting;
  6. make decisions on any matters which by law or according to the Charter do not lie within the competence of the General Meeting;
  7. discharge any other duties provided for in the Charter.

Article 153. (1) All owners and holders of a real right of use in a condominium-project building, who are connected to a subscriber sub-station or to a self-contained branch therefrom, shall be considered heat consumers and shall be obligated to install share distribution devices referred to in Item 3 of Article 140 (1) herein on the heating units in the properties thereof and to a price for heat under the terms and according to the procedure established in the relevant ordinance referred to in Article 36 (3) herein.

(2) (Amended, SG No. 74/2006) Where two thirds of all owners and holders of a real rights of use in a condominium-project building, who are connected to a subscriber sub-station or to a self-contained branch thereof, do not wish to be considered consumers of heat for heating and/or for hot water supply, the said owners and holder shall be obligated to declare this in writing to the heat transmission company and to request disconnection of the heat supply for heating and/or hot water supply from the said subscriber sub-station or from the self contained branch therefrom.

(3) The persons referred to in Paragraph (2) shall be considered heat consumers until the date of disconnection of the heat supply.

(4) The heat transmission company shall be obligated to perform the disconnection as requested under Paragraph (2) within fifteen days after receipt of the application.

(5) If a heat share distribution system is applied, the consumers in a condominium-project building shall have no right to discontinue the delivery of heat to the heating units in the properties thereof by means of physical disconnection of the said heating units from the building system.

(6) (Amended, SG No. 74/2006) Any consumers in a condominium-project building, who discontinue the heat delivery to the heating units in the properties thereof, shall continue to be considered consumers of the heat released by the building system and by the heating units in the common parts of the building.

Article 154. (Amended and supplemented, SG No. 74/2006, amended, SG No. 59/2007) In respect of the liabilities of any customers, who are defaulting payers, and of the association referred to in Article 151 (1) herein to the heat transmission company, an enforcement order may be issued under Article 410 (1) of the Code of Civil Procedure, regardless of the amount of the said liabilities. An equalizing bill for the respective year for which the liability applies must have been prepared in respect of the liabilities of any customers with application of a share distribution system, who are defaulting payers.

Article 155. (1) (Supplemented, SG No. 74/2006) Heat consumers in a condominium-project building shall pay for the heat consumed using one of the following options available to them:

1. (amended, SG No. 74/2006) in ten equal monthly instalments and two equalizing instalments;
2. in monthly installments calculated on the basis of a forecast consumption for the building and one equalizing installment;
3. on the basis of the actual monthly consumption.

(2) The rules for calculation of the forecast consumption and equalization of the bills for the quantity of heat actually consumed by each individual consumer shall be established by the ordinance referred to in Article 125 (3) herein.

Article 156. (1) Heat shall be measured by means of commercial metering devices owned by the heat transmission company and installed on the property boundary of the facilities.

(2) The property boundary of the facilities:

1. between the producer and the heat transmission company shall be the last stop valve of the producer;
2. between the heat transmission company or the producer and the business consumers shall be the last stop valve upstream of the connecting mains of the consumers;
3. between the heat transmission company and the heat consumers in a self-contained building or in a condominium-project building shall be the last stop valve upstream of the distribution network of the building systems.

(3) Where the heat is metered by means of commercial metering devices installed on a site other than the property boundary referred to in Paragraph (2), the manner of heat metering shall be regulated according to the ordinance referred to in Article 125 (3) herein.

#### *Chapter Eleven*

### **PROMOTION OF POWER GENERATION CO-GENERATION**

(Title amended, SG No. 49/2007)

#### Section I

Generation of Electricity from Renewable Energy Sources

(Repealed, SG No. 49/2007)

Article 157. (Amended and supplemented, SG No. 74/2006, repealed, SG No. 49/2007).

Article 158. (Supplemented, SG No. 74/2006, repealed, SG No. 49/2007).

Article 159. (Amended and supplemented, SG No. 74/2006, repealed, SG No. 49/2007).

Article 160. (Supplemented, SG No. 74/2006, repealed, SG No. 49/2007).

Article 161. (Repealed, SG No. 74/2006) .

## Section II

### Generation of Electricity by Combined Heat and Power Plants

Article 162. (1) (Amended and supplemented, SG No. 74/2006, effective 1.07.2007) The public provider and the end suppliers, respectively, shall be obligated to purchase from producers, connected to the respective network, the entire quantity of electricity from high- efficiency combined generation of heat and electricity, registered by a certificate of origin, with the exception of quantities used by the producer for own needs or for which the said producer has concluded contracts according to the procedure established by Section VII of Chapter Nine, or quantities with which the said producer participates on the balancing market.

(2) (Amended, SG No. 74/2006) The electricity referred to in Paragraph (1) shall be purchased at preferential prices according to the respective ordinance under Article 36, Paragraph 3.

(3) (Amended, SG No. 74/2006) The method for metering the co-generated electricity generated depending on the type of the technological cycle, the requirements for the technical metering and recording devices for co-generated electricity shall be specified by an ordinance of the Minister of Economy and Energy.

(4) (New, SG No. 74/2006) The form, content, terms and procedure to issue the certificates of origin for the electricity from combined electricity and heat generation shall be set forth by the ordinance under Article 159, Paragraph 3.

Article 162a. (New, SG No. 74/2006) (1) The transmission company and the distribution companies shall perform priority connection of all power plants generating electricity using high-efficiency combined generation, having installed capacity up to 10 MW, to the transmission, and the distribution network, respectively.

(2) Any costs required to connect the power plant to the respective network up to the border of ownership of the electric works shall be borne by the producer.

(3) Expansion and reconstruction of the transmission and/or distribution network, related to the connection of the power plant under Paragraph 1, shall be carried out by the transmission, and the distribution company, respectively, upon payment of a connection price.

(4) In order to implement the expansion and reconstruction of the networks under Paragraph 3, the transmission and/or the distribution company, respectively, may apply for outside financing.

Article 163. (Amended, SG No. 74/2006) The criteria, to which the analysis of the national potential for high-efficiency combined generation under Article 4, Paragraph 2, Item 11 shall conform, shall be set forth in the ordinance under Article 162, Paragraph 3.

## *Chapter Twelve*

### **GAS SUPPLY**

#### Section I

##### General Provisions

Article 164. Gas supply is a totality of activities comprehended in the transmission, transit transmission, storage, distribution and delivery of natural gas for the purpose of meeting the demand of consumers.

Article 165. The facilities and installations for performance of the activities comprehended in the transmission, storage and distribution of natural gas within the national territory, which are interconnected, shall function within an integral natural gas transmission system with a common mode of operation.

#### Section II

##### Natural Gas Transmission, Transit Transmission, Storage and Distribution

Article 166. Natural gas shall be transmitted and the natural gas transmission network shall be operated by the transmission company licensed under Item 2 of Article 39 (1) herein.

Article 167. (1) Transit transmission of natural gas through the national territory to other countries shall be performed by the transmission company.

(2) Transit transmission may furthermore be performed by any person licensed under Item 9 of Article 39 (1) herein.

Article 168. Natural gas shall be stored and the storage facilities shall be operated by a person licensed under Item 4 of Article 39 (1) herein.

Article 169. Natural gas shall be distributed and the distribution works shall be operated by distribution companies licensed under Item 3 of Article 39 (1) herein.

Article 170. The transmission company shall ensure:

1. integrated management and reliable functioning of the natural gas transmission network;
2. transmission of natural gas through the natural gas transmission network and metering of the said gas;
3. maintenance of the facilities and installations of the natural gas transmission network in accordance with technical requirements and with safe operation requirements;
4. expansion of the gas-transmission network in accordance with long- term forecasts and plans for development of gas supply and outside the framework of such plans, where economically justified;
5. maintenance and expansion of the auxiliary networks.

Article 171. The distribution company shall ensure:

1. management and reliable functioning of the natural gas distribution network;
2. distribution of natural gas through the natural gas distribution network and metering of the said gas;
3. maintenance of the facilities and installations of the natural gas distribution network in accordance with technical requirements;
4. development of the distribution network in accordance with natural gas consumption forecasts adopted by the Commission, and outside the framework of such forecasts where economically justified;
5. maintenance and development of the auxiliary natural gas distribution facilities and networks.

Article 172. (1) The transmission company and the distribution companies shall be obligated to provide access on non discriminatory terms to the transmission network and/or the distribution networks thereof to persons responsive to conditions set in rules adopted by the Commission.

(2) The transmission company or the distribution company, as the case may be, may refuse to provide access for lack of capacity or in case the provision of access would lead to breach of the technical conditions and the security of networks or would prevent the companies from fulfilling the public service obligations thereof, or if provision of access would result in substantial economic and financial difficulties to the transmission company or to the distribution company, as the case may be, as a result of contracts for delivery concluded with a "take or pay" clause.

Article 172a. (New, SG No. 74/2006, effective as from the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) (1) The public provider, the public supplier, the end supplier and the merchant may file a request to the Commission for temporary relief of the transmission or distribution company of its obligation to grant access under Article 172, Paragraph 1 in cases when granting such access would lead to serious economic and financial difficulties resulting from "take or pay" agreements executed before this Act becomes effective.

(2) The request under Paragraph 1 shall be submitted for each separate case before or immediately after the denial of access to the system.

(3) The request under Paragraph 1 shall be accompanied by detailed information on the type and scope of the economic and financial difficulties, and the measures taken to overcome them.

(4) The Commission shall grant the temporary relief under Paragraph 1 upon lack of any other economically feasible option to grant access and upon taking into consideration the following criteria:

1. fulfilment of obligations to the public and ensuring the safety of supply;
2. the company's position on the gas market and the actual state of competition on this market;
3. the degree of economic and financial difficulties;
4. the contract terms and conditions;
5. the measures taken to overcome the difficulties;
6. the degree to which, upon accepting the "take or pay" obligations, the company has been able to predict, under the provisions of this Act, the occurrence of serious difficulties;
7. the level of connectivity of the system to other systems and the degree of interaction of these systems;

8. the consequences of the temporary relief for the efficient application of the provisions of this Act, related to the development of a competitive market for natural gas.

(5) The Commission decision under Paragraph 4 shall be motivated.

(6) There shall be no serious difficulties under Paragraph 1, when:

1. natural gas sales have not fallen under the level of the minimum contracted quantities on "take or pay" gas purchase contracts;

2. the terms of the respective "take or pay" gas purchase contract may be renegotiated.

(7) The Commission shall notify the European Commission immediately on any effective temporary relief decision under Paragraph 4 and shall send the required information.

(8) Upon request by the European Commission, the Commission may, within 28 days, to amend or repeal its decision under Paragraph 4, and shall notify the European Commission thereof.

(9) The Commission shall notify the European Commission in all cases, when the Commission does not amend or repeal its decision under Paragraph 8. In this case, the temporary relief shall be decided by the European Commission.

Article 172b. (New, SG No. 74/2006, effective 1.07.2007) (1) Gas storage operators shall grant access to natural gas storage facilities to transmission and distribution network operators, the public provider, the public suppliers, the end suppliers, the natural gas merchants and the eligible consumers on equal-treatment basis.

(2) Gas storage operators may deny access:

1. for lack of capacity;

2. if granting access would result in compromising the technical conditions and safety of the facilities;

3. if granting access would prevent operators from fulfilling their public service obligations.

Article 172c. (New, SG No. 74/2006, effective as from the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) (1) Upon any significant changes for the development of the transmission network, the distribution networks in a self-contained area under Article 43, Paragraph 5, and in order to promote investment, the Minister of Economy and Energy, per request from the interested parties, may submit a request to the European Commission for temporary relief from the application within this area of any provisions under Article 37 and Article 48, Chapter Four, Article 172, Paragraph 1, and Article 197, Paragraph 2.

(2) The Minister of Economy and Energy shall evaluate the grounds for the request under Paragraph 1 upon taking into account the following criteria:

1. need for infrastructure investment, which in a competitive market environment would not be economically feasible;

2. rate of return of the needed investment;

3. size and age of the gas system at the self-contained area;

4. prospects for the respective gas market development;

5. size, location, features, social-economic and demographic factors at the self-contained area.

(3) For newly-built transmission networks, a temporary relief may be granted only if within the self-contained area there are no other such networks or if the existing ones have been built no more than 10 years ago. In these cases, the relief may not be for more than 10 years, commencing on the date of the first delivery of natural gas to the self-contained area.

(4) For distribution networks, a temporary relief may be granted for a period of no more than 20 years since the first delivery of natural gas to the self-contained area.

(5) The Minister of Economy and Energy shall make a decision on the request within three months, and immediately after the act accepting the request as reasonable becomes effective shall submit a request for temporary relief to the European Commission.

### Section III

#### Natural Gas Transactions

Article 173. (1) Transactions in natural gas shall be effected on the basis of written contracts in compliance with the provisions of this Act and of the natural gas trading rules adopted by the Commission.

(2) The rules referred to in Paragraph (1) shall specify the manner of administering transactions in natural gas.

Article 174. Transactions in natural gas shall be delivery, transmission through a transmission network and distribution networks, and storage of natural gas.

Article 175. The following may be parties to transactions in natural gas:

1. a public provider of natural gas;

2. (repealed, SG No. 74/2006, effective 1.07.2007) ;
3. gas extraction companies;
4. gas storage operators;
5. a transmission company;
- 5a. (new, SG No. 74/2006, effective as from the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) a combined operator;
6. a distribution company;
7. natural gas traders;
8. eligible consumers;
9. consumers other than eligible consumers.
10. (new, SG No. 74/2006, effective 1.07.2007) a natural gas end supplier;
11. (new, SG No. 74/2006, effective 1.07.2007) end supplier customer consumers.

Article 176. (1) Gas extraction companies may conclude natural gas delivery transactions with the public provider of natural gas, with the public supplier of natural gas, with storage operators, with natural gas traders and with eligible consumers.

(2) Gas extraction companies may conclude natural gas transmission transactions with the transmission company and the distribution company.

(3) Gas extraction companies may conclude natural gas storage transactions with the natural gas storage operators.

(4) Gas extraction companies and natural gas consumers referred to in Article 175 (8) and (9) herein inside and outside Bulgaria may construct direct gas pipelines between each other and may conclude contracts for delivery of natural gas through the said gas pipelines.

Article 176a. (New, SG No. 74/2006) The extraction companies, the public natural gas provider, the public natural gas suppliers, the end suppliers, the gas storage operators, the natural gas merchants and the eligible consumers may execute natural gas supply transactions with resident persons of a European Union member country, or persons registered in a country, with which the Republic of Bulgaria has an agreement under an international act for mutual application of the respective European Communities law:

1. when the extraction companies, the public natural gas provider, the public natural gas suppliers, the end suppliers, the gas storage operators, the natural gas merchants and the eligible consumers are entitled to free trade in natural gas under the law of the other country, and

2. on conditions of mutuality, when the law of the other country makes a provision for free trade in natural gas for its eligible consumers.

Article 177. (1) (Supplemented, SG No. 74/2006, effective as from the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) The public provider of natural gas shall be a legal person registered under the Commerce Act or under the law of a European Union member country, or under the law of another country party to the European Economic Area Agreement, which may conclude natural gas delivery transactions with gas extraction companies, with natural gas traders, with public suppliers of natural gas, with eligible consumers and with consumers directly connected to the transmission network.

(2) The public provider of natural gas may conclude natural gas transmission transactions with the transmission and distribution companies.

(3) The public provider of natural gas may conclude natural gas storage transactions with the gas storage operators.

(4) (Repealed, SG No. 74/2006, effective 1.07.2007) .

Article 178. (1) (Supplemented, SG No. 74/2006, effective as from the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) The public suppliers of natural gas shall be legal persons registered under the Commerce Act or under the law of a European Union member country, or under the law of another country party to the European Economic Area Agreement, which conclude natural gas delivery transactions with end consumers connected to the natural gas distribution network for the area for which the said suppliers are licensed.

(2) (Repealed, SG No. 74/2006, effective 1.07.2007) .

Article 178a. (New, SG No. 74/2006, effective 1.07.2007) The end supplier shall be any person, licensed for its activity, providing natural gas supply to household consumers and companies with less than 50 employees and less than 19.5 mil. BGN annual turnover, according to the rules under Article 21, Paragraph 1, Item 8.

Article 178b. (New, SG No. 55/2007) The delivery of natural gas by the public provider and by the end suppliers



shall be a universal service within the meaning given by this Act.

Article 179. (1) A natural gas trader may be any Bulgarian or foreign legal person registered as a merchant under the Commerce Act or under the national legislation thereof.

(2) (Amended, SG No. 74/2006) Outside the cases under Article 176a, natural gas traders shall conclude natural gas transactions with gas extraction companies inside or outside Bulgaria, with eligible consumers, with other natural gas traders, with the public provider of natural gas and with the natural gas storage operators.

Article 180. (1) Eligible consumers shall be natural gas consumers responsive to certain eligibility conditions specified in the rules referred to in Article 173 (1) herein and having the right to choose the persons wherefrom to purchase natural gas inside and/or outside Bulgaria.

(2) Eligible consumers shall be obligated to notify the transmission company and/or the distribution company in advance of any natural gas contracts concluded thereby according to a procedure and in a form established in the rules referred to in Article 173 (1) herein.

(3) The transmission company and/or the distribution company shall meter the natural gas consumed according to a procedure and a method specified in the rules referred to in Article 173 (1) herein.

Article 181. Natural gas contracts shall be concluded:

1. at prices regulated by the Commission for universal services of natural gas transmission, distribution and delivery;
2. at prices freely negotiated between the parties on an organized market, administered and managed by the transmission system operator, under the terms and according to the rules referred to in Article 173 (1) herein.

Article 182. (1) Gas extraction companies, natural gas traders and eligible consumers shall conclude natural gas transactions between each other at freely negotiated prices.

(2) The parties referred to in Paragraph (1) and the transmission company may furthermore conclude natural gas market balancing transactions under terms, according to a procedure and according to rules for price formation of natural gas intended for balancing, as provided for in the rules referred to in Article 173 (1) herein.

Article 183. (Repealed, SG No. 74/2006, effective 1.07.2007) .

Article 183a. (New, SG No. 74/2006, effective 1.07.2007) (1) The end supplier shall sell natural gas on publicly known general conditions.

(2) The general conditions shall include:

1. the conditions on supply quality;
2. information, provided by the supplier;
3. term of validity of the contract;
4. the energy company liability for any violation of the general terms.

(3) The end supplier shall publish the general terms in at least one national and one local daily publication.

(4) The published general conditions shall become effective for all consumers, buying natural gas from an end supplier, without the need for express written acceptance.

Article 183b. (New, SG No. 74/2006, effective 1.07.2007) (1) End supplier's consumers shall execute an agreement with the distribution company on the transmission through distribution networks of the natural gas consumed by them on publicly known general conditions.

(2) The general conditions shall include:

1. the conditions on supply quality;
2. the terms for supply termination or suspension;
3. liability incurred by the energy company in the event of unwarranted suspension or poor quality of supply.

(3) The distribution company shall publish the general conditions in at least one national and one local daily publication.

(4) The published general conditions shall become effective for all consumers, buying natural gas from an end supplier, without the need for express written acceptance.

Article 184. (Amended and supplemented, SG No. 74/2006, effective 1.07.2007, amended, SG No. 59/2007) The public provider, the public suppliers, and the end suppliers of natural gas shall have the option to move for the issuance of an enforcement order under Article 410 (1) of the Code of Civil Procedure for the receivables thereof for supply of natural gas regardless of the amount of the said receivables.

## Section IV Operational Management

Article 185. (1) The centralized operational management, the coordination and control of the mode of operation of the natural gas transmission network shall be performed by the transmission network operator.

(2) Operational management of each distribution network shall be performed by the distribution network operator.

(3) (Supplemented, SG No. 74/2006, effective as from the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) The directives of the natural gas transmission network operator shall be mandatory for the natural gas distribution network operators, the consumers, the gas extraction companies and the gas storage operators connected to the transmission network, and for the other companies in the vertically integrated company, in cases when the combined operator is part of a vertically integrated company.

(4) The natural gas transmission network operator shall be a specialized unit within the structure of the transmission company.

(5) The natural gas distribution network operators shall be specialized units within the structure of distribution companies.

Article 186. (1) The transmission network operator shall ensure:

1. reliable, safe and efficient functioning of the natural gas transmission network;
2. maintenance of a balance between import, extraction and consumption of natural gas;
3. transmission of natural gas through the natural gas transmission network in compliance with quality requirements;
4. non-discrimination of consumers upon transmission of natural gas;
5. secure and efficient functioning of auxiliary networks;
6. operational management of the modes of operation of storage facilities during injection of natural gas under pressure and extraction of natural gas;
7. optimum mode of operation of the transmission network upon performance of the activity comprehended in the transit transmission of natural gas.

(2) The transit transmission network operator shall ensure:

1. reliable, safe and efficient functioning of the transit transmission network;
2. transit transmission of natural gas through the transit transmission network;
3. secure and efficient functioning of auxiliary networks and facilities;
4. operational management of the modes of operation of storage facilities upon injection of natural gas under pressure and extraction of natural gas.

Article 186a. (New, SG No. 74/2006) (1) When the combined operator is part of a vertically integrated company, its activities shall be independent in terms of legal organisational form and decision making from the other activities, not related to transmission, transit transmission, and storage.

(2) In order to ensure the operator's independence under Paragraph 1, any persons responsible for the management, including operational management of the combined operator:

1. may not take part in the management of the other companies in the vertically integrated company, performing extraction, distribution, public delivery, public supply and trade in natural gas;
2. shall take independent decisions in the course of their duties under this Act;
3. shall not allow discriminatory actions in the course of their duties under this Act;

(3) The combined operator shall prepare a programme, setting forth measures to achieve the goal under Paragraph 1 and Paragraph 2, containing specific obligations for the employees for its implementation. The combined operator shall designate an employee, responsible for the control over this programme's implementation.

(4) The combined operator shall prepare an annual report on all measures under Paragraph 3, which shall be presented to the Commission by the designated employee and shall be published in the bulletin under Article 15, Paragraph 1.

Article 187. (1) For the purposes of metering of natural gas, the transmission network operator shall ensure:

1. technical and metrological support, development and modernization of the commercial metering devices for the quantity of natural gas entering and leaving the transmission system;
2. maintenance of a data base with the readings of commercial metering devices of the quantity of natural gas referred to in Item 1 and under transactions at freely negotiated prices and on the balancing market.

(2) The owners of natural gas commercial metering devices shall submit to the transmission network operator the readings taken by such devices regarding the transactions at freely negotiated prices and balancing transactions in natural gas.

(3) Parties to natural gas transactions shall have the right to receive information from the data base regarding the quantities of natural gas traded by the said parties under the transactions.

(4) The terms and procedure for maintenance of the commercial metering devices, maintenance of the data base and access thereto shall be regulated by the rules referred to in Article 173 (1) herein.

Article 188. The natural gas transmission network operator shall administrate natural gas transactions at freely negotiated prices and shall organize the balancing of the natural gas market in accordance with the rules referred to in Article 173 (1) herein and, to this end shall:

1. keep registers of the persons concluding transactions at freely negotiated prices and for balancing the natural gas market;
2. keep registers of the contracts concluded between the persons referred to in Item 1;
3. receive, arrange on priority lists according to price and technological criteria, and dispatch proposals and orders for purchase/sale for balancing the natural gas market;
4. apply a method for computation and fix balancing natural gas prices for each settlement period;
5. prepare advance and final notices of the amounts due for natural gas market balancing transactions from the participants for each settlement period;
6. control the financial security of natural gas market balancing transactions and issue mandatory instructions to market participants in connection with this;
7. have the right, upon occurrence of circumstances endangering the security of operation of the natural gas transmission system or of parts thereof, to suspend the performance of transactions or to change the quantities of natural gas contracted thereunder, under terms and in a manner described in the rules referred to in Article 173 (1) herein;
8. provide information regarding forecast consumption of natural gas, transmission system limitations, references about natural gas prices upon market balancing in prior periods, and other information as may be required by the participants.

Article 189. (1) The transmission company shall be party to all natural gas market balancing transactions.

(2) The transmission company shall generate no profit from any transactions referred to in Paragraph (1).

(3) The costs of performance of the functions referred to in Article 188 herein shall be allowed as economically justified costs under Item 2 of Article 31 herein.

Article 190. Distribution network operators shall ensure:

1. reliable, safe and efficient functioning of the distribution network;
2. distribution of natural gas to consumers while in compliance with security and quality requirements;
3. secure and efficient functioning of the auxiliary networks;
4. non-discrimination of consumers upon natural gas distribution.

Article 190a. (New, SG No. 74/2006) (1) When the distribution company is part of a vertically integrated company, its activities shall be independent in terms of legal organisational form and decision making from the other activities, which are not related to distribution.

(2) In order to ensure the distribution company's independence under Paragraph 1, any persons responsible for the management, including operational management of the gas distribution networks:

1. may not take part in the management of the other companies in the vertically integrated company, performing extraction, transmission, public delivery, public supply and trade in natural gas;
2. shall take independent decisions in the course of their duties under this Act;
3. shall not allow discriminatory actions in the course of their duties under this Act;

(3) The distribution company shall prepare a programme, setting forth measures to achieve the goal under Paragraph 1 and Paragraph 2, containing specific obligations for the employees for its implementation. The distribution company shall designate an employee, responsible for the control over this programme's implementation.

(4) The distribution company shall prepare an annual report on all measures under Paragraph 3, which shall be presented to the Commission by the designated employee and shall be published in the bulletin under Article 15, Paragraph 1.

(5) Provisions in Paragraphs 1-4 shall not apply to vertically integrated natural gas companies, when less than 100 000 end users of natural gas are connected to the respective distribution network.

Article 191. (Amended, SG No. 74/2006) Transmission and distribution network operators shall be obligated to respect the confidentiality of any information, which constitutes commercial secret, obtained in the course of or in connection with the fulfilment of the obligations thereof, as well as provide information related to their activities in a non-discriminatory manner.

Article 192. The terms and procedure for the performance of the activities of transmission and distribution network operators shall be established by an ordinance of the Minister of Energy and Energy Resources.

#### Section V Natural Gas Metering

Article 193. Natural gas shall be transmitted through a natural gas transmission network using high-pressure gas pipelines to the outlets of natural gas metering stations or natural gas regulation stations.

Article 194. Natural gas shall be distributed through the natural gas distribution network from the outlets of natural gas metering stations or from outlets of natural gas regulation stations of the transmission network to the consumer natural gas metering device.

Article 195. (1) The quantity of natural gas destined for consumers connected to the transmission network shall be metered by means of commercial metering devices which are owned by the transmission company.

(2) The quantity of natural gas destined for consumers connected to the distribution network shall be metered by means of commercial metering devices owned by the distribution company.

(3) The quantity of natural gas destined for storage shall be metered by means of commercial metering devices owned by the company licensed for natural gas storage.

(4) Natural gas consumers or owners on the properties whereof the commercial metering devices are installed shall be obligated to provide access to the said devices to authorized representatives of the public supplier for installation and inspection, reading and maintenance of the metering devices under terms stipulated in the general conditions referred to in Article 183 herein.

(5) Transmission network operators, distribution network operators and/or storage facility operators shall determine the location and type of the commercial metering devices to be installed.

#### Section VI Connection to Natural Gas Pipeline Network

Article 196. (1) Connection to the transmission and distribution networks shall be established under terms and according to a procedure established in an ordinance on connection, issued by the Minister of Energy and Energy Resources.

(2) Connection to the natural gas transmission network and/or to the natural gas distribution network of extraction companies, natural gas storage companies, distribution companies and end consumers shall be established at prices fixed according to the procedure established by the relevant ordinance referred to in Article 36 (3) herein and on the basis of a written contract concluded between the transmission company or the distribution companies, as the case may be, and the connecting persons.

Article 197. (1) The transmission company shall be obligated to connect to the network thereof, at an interconnection point designated thereby, the distribution companies, extraction companies, and natural gas storage companies.

(2) Eligible natural gas consumers may also be connected to the transmission network through direct connecting gas pipelines.

(3) The transmission company may refuse to establish connection to the network where:

1. there is lack of capacity of the network, or
2. there is lack of a link with the network, and
3. improvement of the network is economically unjustified.

(4) In case of a refusal under Paragraph (3), the extraction companies, the natural gas storage companies and the eligible natural gas consumers may construct, for their own account, the respective link with the transmission network.

(5) The owner of the connecting gas pipeline shall be obligated to ensure the servicing, maintenance and repair of the said gas pipeline.

(6) The transmission company may service, maintain and repair the connecting gas pipelines at the request of the owner and against payment.

(7) Consumers connected to the natural gas transmission network shall be obligated to provide the relevant licensed natural gas distribution company access through their own facilities for the purposes of natural gas transmission to other consumers within the area specified in the licence. The price for the access provided shall be fixed according to a method approved by the Commission.

Article 198. Distribution companies shall be obligated to build the distribution network thereof for their own account up to the interconnection point designated by the transmission company.

Article 199. (1) The distribution company shall be obligated to connect and to ensure the supply of natural gas to consumers on non-discriminatory conditions and in compliance with technical requirements for reliable and safe operation.

(2) By authorization of the Commission, the distribution company may connect a natural gas consumer located within the area of another distribution company where this is technically and economically advisable and is in the interest of consumers.

(3) The branches and the facilities for connecting consumers to the relevant distribution network shall be constructed by the distribution company.

Article 200. (1) (Amended, SG No. 95/2005) The layout and safe operation of the transmission and distribution gas pipelines, of the natural gas facilities, installations and appliances, shall be regulated by an ordinance adopted by the Council of Ministers on a motion by the Minister of Energy and Energy Resources and the Chairperson of the State Agency for Metrological and Technical Surveillance.

(2) The technical rules and standard specifications for design, construction and use of the facilities and installations for natural gas transmission, storage, distribution and delivery shall be determined by an ordinance of the Minister of Regional Development and Public Works and the Minister of Energy and Energy Resources.

(3) (Amended, SG No. 95/2005) The layout and safe operation of oil pipelines and petroleum product pipelines within the territory of the Republic of Bulgaria shall be stipulated in an ordinance adopted by the Council of Ministers on a motion by the Minister of Energy and energy Resources and the Chairperson of the State Agency for Metrological and Technical Surveillance.

#### *Chapter Thirteen*

#### **COERCIVE ADMINISTRATIVE MEASURES**

Article 201. (1) The Commission or the Minister of Energy and Energy Resources shall impose the measures covered under Paragraph (2) if they establish that the legal persons controlled under this Act, the employees thereof or persons who, under contract, perform managerial functions therein or conclude transactions for their account, have committed or are committing any acts whereby:

1. they violate any provisions of this Act, of the statutory instruments of secondary legislation on the application thereof, of acts issued by the Commission and by the Minister of Energy and Energy Resources;
2. they endanger the security of the energy system, public interests, or interests of electricity, heat and natural gas consumers or of other energy companies;
3. they breach the conditions for performance of the licensed activity;
4. they obstruct the exercise of control activities by the Commission or by the Minister of Energy and Energy Resources.

(2) In the cases covered under Paragraph (1), for the purpose of prevention or cessation of the violations, as well as for elimination of the harmful consequences of such violations, the Commission or the Minister of Energy and Energy Resources or persons authorized thereby, each acting according to the competence vested therein, shall impose the following coercive administrative measures:

1. issue mandatory written instructions:

- (a) to cease the performance of particular actions or to mandatorily undertake such actions within a prescribed time limit;
  - (b) to conduct expert assessments, inspections, tests of facilities and installations, parts thereof, systems or components;
  - (c) to change operating conditions of energy works, parts thereof, systems or components;
  - (d) to modify designs and structures relevant to the safety of persons and networks;
  - (e) to certify the staff, including testing of knowledge and skills, organizing training and qualification courses;
2. to order the licensee to convene a general meeting and/or to schedule a meeting of the management or supervising bodies with a preset agenda for making decisions on the measures that have to be taken;

3. direct in writing a suspension or limitation of the licensed activity;

4. appoint a special manager in the cases provided for in this Act.

(3) The act whereby a coercive administrative measure is imposed shall establish an appropriate time limit for the execution thereof. Coercive administrative measures shall be applied until elimination of the reasons that led to the imposition of such measures.

Article 202. (1) The proceedings for imposition of coercive administrative measures shall be initiated by the Commission or by Minister of Energy and Energy Resources, acting on a memorandum of ascertainment drafted

by the persons entitled to exercise control under this Act.

(2) The persons concerned shall be notified of the initiation of proceedings for imposition of coercive administrative measures.

(3) Any notifications and the communications in the proceedings referred to in Paragraph (1) may furthermore be effected by means of registered mail with advice of delivery, by telegraph, teleprinter or facsimile machine.

Where effected by means of registered mail with advice of delivery or by telegraph, notification or communication shall be certified by an advice of delivery, where effected by means of telephone call, notification or communication shall be certified in writing by the official who made the call, or where effected by means of teleprinter or facsimile machine, notification or communication shall be certified by confirmation in writing of a message sent.

(4) Should any notification or communication in the proceedings referred to in Paragraph (1) be not received at the address, telephone, telex or facsimile number as named by the persons, the said notification or communication shall be deemed effected by the posting thereof in a place expressly provided for this purpose in the building of the Commission or of the Ministry of Energy and Energy Resources.

Any such posting shall be attested by a memorandum drafted by officials designated by an order of the Chairperson of the Commission or by the Minister of Energy and Energy Resources.

(5) Coercive administrative measures shall be imposed with a reasoned written decision or by an order which shall be communicated to the person concerned within seven days after rendition.

Article 203. (1) Any decision referred to in Article 202 (5) herein shall be appealable before the Supreme Administrative Court care of the Commission or care of the Minister of Energy and Energy Resources within fourteen days after communication of the said decision.

(2) Any decision or any order imposing a coercive administrative measure shall be subject to immediate execution.

(3) An appeal against any decision imposing a coercive administrative measure shall not stay the execution of the said decision.

Article 204. Save insofar as any specific rules are provided for in this Chapter, the provisions of the Administrative Procedure Code shall apply.

#### *Chapter Fourteen*

#### **ADMINISTRATIVE PENALTY PROVISIONS**

Article 205. (1) Any person, who performs or suffer the performance of any activities under this Act without a licence in the case where a licence is required, shall be liable to a fine of BGN 50,000 or exceeding this amount but not exceeding BGN 100,000, unless subject to a severer sanction.

(2) Where the violations referred to in Paragraph (1) have been committed by a legal person or asole trader, a pecuniary penalty of BGN 100,000 or exceeding this amount but not exceeding BGN 150,000 shall be imposed.

(3) A repeated violation shall be punishable by a fine or a pecuniary penalty, as the case may be, equivalent to treble the maximum amount of the fine or pecuniary penalty, as the case may be, as fixed under Paragraphs (1) and (2).

Article 206. (1) (Amended, SG No. 49/2007) Any energy company, which breaches the conditions of a licence issued thereto, shall be liable to a pecuniary penalty of BGN 20,000 or exceeding this amount but not exceeding BGN 1,000,000.

(2) A repeated violation shall be punishable by a pecuniary penalty equivalent to treble the maximum amount of the pecuniary penalty as fixed under Paragraph (1).

Article 207. (1) Any energy company, which refuses in non conformity with the law:

1. to establish a connection to the relevant energy networks;
2. to conclude a contract for sale of electricity, heat or natural gas;
3. (amended, SG No. 49/2007) to provide access to electricity and natural gas transmission or distribution networks, shall be liable to a pecuniary penalty of BGN 20,000 or exceeding this amount but not exceeding BGN 1,000,000.

(2) A repeated violation shall be punishable by a pecuniary penalty equivalent to treble the maximum amount of the pecuniary penalty as fixed under Paragraph (1).

Article 208. (1) (Amended, SG No. 49/2007) Any energy company, which fails to submit the required information in the cases provided for in this Act, shall be liable to pecuniary penalty of BGN 10,000 or exceeding this amount but not exceeding BGN 100,000.

(2) A repeated violation shall be punishable by a pecuniary penalty equivalent to treble the maximum amount of the pecuniary penalty as fixed under Paragraph (1).

Article 209. (1) Any consumer, who or which fails to provide access to the own fixtures and facilities under the terms established by Article 117 (7) and Article 197 (7) herein, shall be liable to a fine of BGN 1,000 or exceeding this amount but not exceeding BGN 5,000 or to a pecuniary penalty of BGN 7,000 or exceeding this amount but not exceeding BGN 20,000.

(2) A repeated violation shall be punishable by a fine or a pecuniary penalty, as the case may be, equivalent to treble the maximum amount of the fine or pecuniary penalty, as the case may be, as fixed under Paragraph (1).

Article 210. (1) (Amended, SG No. 49/2007) Any person covered under Article 30 (1) herein, which sells electricity, heat or natural gas at prices subject to regulation without such prices having been endorsed or fixed by the Commission or at prices higher than the prices endorsed or fixed by the Commission according to Article 30 herein, shall be liable to a pecuniary penalty of BGN 20,000 or exceeding this amount but not exceeding BGN 1,000,000.

(2) A repeated violation shall be punishable by a pecuniary penalty equivalent to treble the maximum amount of the pecuniary penalty as fixed under Paragraph (1).

Article 211. (1) (Amended, SG No. 49/2007) Any energy company, which fails to comply with the technical standards or requirements for operation of energy works or the standards for building and storage of stocks of fuels by electric power and/or heat generation plants, shall be liable to a pecuniary penalty of BGN 20,000 or exceeding this amount but not exceeding BGN 1,000,000.

(2) A repeated violation shall be punishable by a pecuniary penalty equivalent to treble the maximum amount of the pecuniary penalty as fixed under Paragraph (1).

Article 212. (Amended, SG No. 74/2006, repealed, SG No. 49/2007).

Article 212a. (New, SG No. 74/2006) (1) Any legal person or a sole trader, who, in violation of Article 139a, Paragraph 1, performs share distribution activities in violation of the registration regime, shall be liable to a pecuniary penalty between BGN 5,000 and BGN 10,000.

(2) Upon any recurring violation, the pecuniary penalty shall be three times the maximum amount of the penalty under Paragraph 1.

Article 213. (1) (Amended, SG No. 74/2006) Any person, who fails to comply with the technical conditions and procedure set for heat supply, for disconnection of heat supply and the rules for share distribution of heat under Article 125 (3) herein, shall be liable to a pecuniary penalty of BGN 10,000 or exceeding this amount but not exceeding BGN 25,000.

(2) A repeated violation shall be punishable by a pecuniary penalty equivalent to treble the maximum amount of the pecuniary penalty as fixed under Paragraph (1).

Article 214. (Amended, SG No. 74/2006) (1) A fine of BGN 1000 or exceeding this amount but not exceeding BGN 5000 shall be imposed on any person, unless subject to a severer sanction:

1. who disrupts the normal electricity supply, heat supply or natural gas supply;
2. who causes the introduction of a scheduled outage regime;
3. who uses heat without the quantities thereof being metered by means of a commercial metering device and/or without having such heat distributed thereto upon share distribution, or who alters the readings of commercial metering and recording devices, or who impedes the proper functioning of such devices.

(2) A repeated violation under Paragraph (1) shall be punishable by a fine equivalent to double the maximum amount of the fine referred to in Paragraph (1).

Article 215. (1) Any person, who obstructs with the performance by officials and control authorities of the obligations thereof under this Act, shall be liable to a fine of BGN 100 or exceeding this amount but not exceeding BGN 200, unless the act constitutes a criminal offence.

(2) Any person, who fails to perform the prescriptions of the officials or of the control authorities or who tolerates non performance of such prescriptions, shall be liable to a fine of BGN 500 or exceeding this amount but not exceeding BGN 1,000 unless subject to a severer sanction.

(3) Any person, who or which fails to comply with an effective decision of the commission, shall be liable to a

fine of BGN 3,000 or exceeding this amount but not exceeding BGN 10,000 or to a pecuniary penalty of BGN 20,000 or exceeding this amount but not exceeding BGN 60,000.

Article 216. (Amended, SG No. 49/2007) Any official, who fails to fulfil the obligations under this Act, shall be liable to a fine of BGN 1,000 or exceeding this amount but not exceeding BGN 5,000, unless subject to a severer sanction.

Article 217. A repeated violation under Articles 215 and 216 herein shall be punishable by a fine equivalent to treble the maximum amount of the fine or pecuniary penalty.

Article 218. (1) Any violation under Article 214 herein, which is committed by a legal person or by a sole trader, shall be punishable by a pecuniary penalty of BGN 5,000 or exceeding this amount but not exceeding BGN 10,000.

(2) A repeated violation shall be punishable by a pecuniary penalty equivalent to quintuple the maximum amount of the pecuniary penalty as fixed under Paragraph (1).

Article 219. (1) (Amended, SG No. 49/2007) Any official in an energy company, who suffers the commission of any violation covered under Articles 206, 207, 210, 211 herein, shall be liable to a fine of BGN 1,000 or exceeding this amount but not exceeding BGN 8,000.

(2) A repeated violation under Paragraphs (1) to (4) shall be punishable by a fine equivalent to treble the maximum amount of the fine referred to in Paragraph (1).

Article 220. (1) Any person, who shall fail to act or who shall suffer another to fail to act on a directive of an operator referred to in Article 109 (2), Article 113 (2), Article 131 (3) and Article 185 (3) herein, shall be liable to a fine of BGN 500 or exceeding this amount but not exceeding BGN 5,000.

(2) Any violation under Paragraph (1), which is committed by a legal person or by a sole trader, shall be punishable by a pecuniary penalty of BGN 10,000 or exceeding this amount but not exceeding BGN 20,000.

(3) A repeated violation shall be punishable by a fine or a pecuniary penalty, as the case may be, equivalent to treble the maximum amount of the fine or pecuniary penalty, as the case may be, as fixed under Paragraph (1) or (2).

Article 221. (1) Any energy company, whereof an operator fails to comply with Article 73 (2) herein, shall be liable to a pecuniary penalty of BGN 20,000 or exceeding this amount but not exceeding BGN 50,000.

(2) A repeated violation shall be punishable by a pecuniary penalty equivalent to treble the maximum amount of the pecuniary penalty as fixed under Paragraph (1).

Article 222. (1) Any electricity, heat or natural gas consumer, who fails to fulfil the obligation thereof under Article 117 (7), Article 138 (3) and Article 197 (7) herein, shall be punishable by a fine of BGN 500 or exceeding this amount but not exceeding BGN 5,000.

(2) Any violation under Paragraph (1), which is committed by a legal person or by a sole trader, shall be punishable by a pecuniary penalty of BGN 30,000 or exceeding this amount but not exceeding BGN 50,000.

(3) A repeated violation shall be punishable by a fine or a pecuniary penalty, as the case may be, equivalent to treble the maximum amount of the fine or pecuniary penalty, as the case may be, as fixed under Paragraph (1) or (2).

Article 223. Any person, who violates any mandatory provisions of the statutory instruments on application of this Act, shall be sanctioned by the administrative sanctioning authority by a fine of BGN 500 or exceeding this amount but not exceeding BGN 1,000, unless subject to a severer sanction, or by a pecuniary penalty of BGN 5,000 or exceeding this amount but not exceeding BGN 10,000.

Article 224. Any person referred to in Article 79 (1) herein, who discloses, provides, publishes, uses or disseminates in any other manner any data and circumstances constituting an official secret, shall be liable to a fine of BGN 2,000 or exceeding this amount but not exceeding BGN 5,000.

Article 224a. (New, SG No. 74/2006, effective as from the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) (1) Any energy company failing to comply with the requirements of Article 3, Paragraphs 2, 3, and 6, Article 4, Article 5, Article 6, Paragraphs 1, 2, 3, 5, and 6 of Regulation 1228/2003/EC of the European Parliament and the Council on conditions for access to the network for cross-border exchanges in electricity, shall be liable to a pecuniary penalty between BGN 10,000 and BGN 60,000.



(2) Upon any recurring violation, the pecuniary penalty shall be double the maximum amount of the penalty under Paragraph 1.

Article 224b. (New, SG No. 74/2006, effective as from the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) (1) Any energy company failing to comply with the requirements of Article 4, Article 5, Paragraphs 2, 3, 4 and 5, and Article 6, Article 7, Paragraph 6, and Article 8 of 1775/2005/EC of the European Parliament and the Council on conditions for access gas transmission networks, shall be liable to a pecuniary penalty between BGN 10,000 and BGN 60,000.

(2) Upon any recurring violation, the pecuniary penalty shall be double the maximum amount of the penalty under Paragraph 1.

Article 225. (1) The violations under this Act shall be ascertained by statements drawn up by the persons referred to in Item 1 of Paragraph (1) and Item 1 of Paragraph (2) of Article 77 herein.

(2) (Amended, SG No. 74/2006, effective as from the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union, SG No. 49/2007) The penalty decrees under Articles 205, 206, 207, 208, 209, 210, 215, 216, 217, 218, 219, 222, 223 and 224, 224a и 224b herein shall be issued by the Chairperson of the Commission or by an official authorized by the Commission.

(3) The penalty decrees under Articles 211, 213, 214, 215, 216, 217, 218, 219, 220, 221, 223 and 224 herein shall be issued by the Minister of Energy and Energy Resources or by an official authorized thereby.

(4) Violations shall be ascertained, and penalty decrees shall be issued, appealed and executed under the terms and according to the procedure established by the Administrative Violations and Sanctions Act .

(5) Pending the issuance of a penalty decree, the person affected by the administrative violation may approach the administrative sanctioning authority with a request for compensation for the damages sustained by the said person to an amount not exceeding BGN 20,000.

#### SUPPLEMENTARY PROVISION

§ 1. Within the meaning given by this Act:

1. "Subscriber sub-station" shall be a fixture whereby heat is delivered, metered, transformed and regulated as to parameters from the heat transmission network to consumers.

1a. (New, SG No. 74/2006) "Balancing group" shall be any group comprised of one or more electricity merchants, network users or owners, organised under the requirements of the rules under Article 91, Paragraph 2.

2. (Amended, SG No. 74/2006) "Balancing energy" shall be the active energy which the electric power grid operator activates to compensate the difference between the agreed and the actual delivery schedules registered at the operator, as well as the fluctuations of loads without agreed delivery schedule.

3. (Supplemented, SG No. 74/2006, repealed, SG No. 49/2007).

3a. (New, SG No. 74/2006) A "vertically integrated company" shall be any energy company or interrelated energy companies, conducting at least one activity of transmission, distribution, storage activity and at least one activity of production/extraction, public delivery, public supply or trade in electricity or natural gas, when one of the companies is capable of controlling other(s) or exercising influence in decisions related to above activities.

4. (Amended, SG No. 74/2006) "Universal service" shall be the transport, delivery, or supply of energy of a particular quality, at a regulated price and under other agreed conditions, which may not be refused for reasons not specified in the Act.

5. "High-efficiency combined generation of heat and electricity by thermoelectric power plants" shall be such generation performed by plants:

(a) constructed after the entry of this Act into force, where the said generation of heat and electricity leads to saving of not less than 10 per cent of the fuel necessary for the separate generation of an identical quantity of heat and electricity;

(b) constructed before the entry of this Act into force, where the said generation of heat and electricity leads to saving of not less than 5 per cent of the fuel necessary for the separate generation of an identical quantity of heat and electricity;

(c) using renewable energy sources and/or with unit electricity generating capacity of up to 1 megawatt, where the said generation of heat and electricity leads to saving of up to 5 per cent of the fuel necessary for the separate generation of an identical quantity of heat and electricity.6. (Repealed, SG No. 49/2007).

7. "Natural gas metering station" shall be a facility equipped with commercial natural gas metering devices.

8. "Natural gas transmission network" shall be a system of high pressure gas pipelines and the appurtenant installations with an integrated technological mode of operation for transmission of natural gas to the outlet of a natural gas metering station or a natural gas regulation station, to which consumers and/or distribution companies are connected

9. "Natural gas distribution network" shall be a local or regional system of high-pressure, medium-pressure and

low-pressure natural gas pipelines and the appurtenant installations for transmission of natural gas to the relevant consumers within an area specified by a licence.

10. "Natural gas regulation station" shall be a facility for regulation of natural gas pressure, also equipped with commercial metering devices

11. "Natural gas transmission system" shall be a system of connected networks for transmission, transit transmission ("wheeling") and distribution of natural gas, as well as facilities to and from natural gas storage facilities and extraction companies within the national territory.

12. "Direct gas pipeline" shall be a gas pipeline connecting directly a natural gas extraction company to a non-household consumer.

13. "Contract for delivery with a 'take or pay' clause" shall be a contract providing for mandatory payment of quantities of natural gas stipulated therein at a fixed price, irrespective of whether the said natural gas has been received.

14. "Ancillary services" shall be all services necessary for the operation of the electric power grid, including participation in voltage regulation and delivery of reactive power, participation in primary frequency regulation and secondary frequency regulation and exchange of power, spinning reserve, start-up capacity after a major break-down without the aid of an off-site source, and continuous load following.

15. "Access" shall be the right to use the transmission network and/or the distribution networks for paid transmission of electricity or natural gas at a price and under terms specified in an ordinance.

16. "Natural gas delivery" shall be sale of natural gas to consumers.

17. "Long-term forecast energy balances" shall be forecast energy balances covering a period of 10 to 15 years.

18. (Repealed, SG No. 49/2007).

19. "Electric fixture" shall be a totality of machinery, plant and apparatus intended for transmission, conversion and distribution of electricity.

20. (Amended, SG No. 74/2006) "Electricity transmission network" shall be a totality of electric power lines and electric fixtures, which serves for transmission of electricity, transformation of electricity from high-voltage to mid-voltage, redistribution of electric power streams, or for electricity transit transmission ("wheeling") to a third party.

21. (Amended, SG No. 74/2006) "Electric power lines" shall be overhead or cable facilities for connecting of electric fixtures and intended for transmission, transit, or distribution of electricity, conforming to "linear engineering electric supply networks" as defined by the Spatial Development Act.

22. "Electricity distribution network" shall be a totality of electric power lines and high-voltage, medium-voltage and low voltage electric fixtures, which serves for distribution of electricity.

23. (Amended, SG No. 74/2006) "Energy work" shall be a work or a totality of works whereat or whereby electricity and/or heat is generated in a particular output, oil or natural gas is extracted or stored, electricity, heat, and natural gas, oil or oil products are transmitted as well as converted as to parameters or type, as well as the ancillary networks and facilities of any such work, electricity, heat or natural gas is distributed through networks, as well as the ancillary networks and facilities of any such work, excluding the on-site systems of consumers.

24. (Supplemented, SG No. 74/2006) "Energy company" shall be a legal person which performs one or more of the activities comprehended in the generation, conversion, transmission, storage, distribution, delivery, and supply of electricity, heat or natural gas on the grounds of a licence issued under this Act, or a person, which performs an activity comprehended in the generation of electricity and/or heat without being obligated to obtain a licence for the activity performed thereby under this Act, or a person performing oil and oil product transmission activity through pipelines.

24a. (New, SG No. 74/2006) "Energy resources" shall be primary energy resources (coal, oil, gas, et al.), oil products, as well as renewable energy sources used to produce electricity and heat.

25. (Repealed, SG No. 74/2006) .

26. "Economically inexpedient", where applied to an energy company, shall be the construction of connecting facilities wherein the investment cannot be recouped by the resources raised from depreciation charges and the profit from sales of energy and natural gas through the said facilities for a period of eight years, plus the price that a consumer will pay for establishment of the connection.

27. "Individual allocator of heat for heating" shall be a technical device whereof the readings are used for distribution of the heat consumed by the heating units in a building.

The readings of any such allocator shall be in relative units which shall be adjusted by evaluation factors depending on the type of the device and the type of the heating unit. The individual allocators shall serve only to determine the share of heat consumed by each heating unit as a share in the aggregate consumption of heat by the building.

27a. (New, SG No. 74/2006) "Combined operator" shall be any energy company, which has obtained at least two of the licences under Article 39, Paragraph 1, Item 2, Item 4, and/or Item 9.

28. "Combined generation of heat and electricity" shall be generation of heat and electricity in a single process

depending on the demand for heat.

28a. (New, SG No. 74/2006, effective 1.07.2007) "End supplier" shall be any energy company supplying electricity or natural gas to household users and companies having less than 50 employees and less than 19.5 mil. BGN annual turnover, which have not exercised their right to select the person, from which to purchase electricity or natural gas.

29. "Short-term forecast energy balances" shall be forecast energy balances covering a period of one year.

30. "Cross subsidization for integrated energy companies: between individual activities subject to licensing under this Act, and/or between activities subject to licensing under this Act and other activities" shall be the assimilation of the costs of another licensed activity to the prices for a particular licensed activity and/or assimilation of costs of a non- licensed activity to the prices of a licensed activity.

31. "Cross subsidization between individual groups of consumers" shall be the assimilation to the prices for a group of consumers of an amount of costs larger than the costs relevant to the individual supply of the said group or of an amount of costs smaller than the additional costs incurred by the joint supply of the said group with the rest of the groups.

31a. (New, SG No. 74/2006) "Oversight on the security of supply" shall be the balance between the supply and demand of electricity and natural gas on the national market, the level of anticipated future consumption and all projected additional capacities, which are in process of planning or building, the quality and the level of network maintenance, as well as the measures to cover peak consumptions and overcoming the shortages of one or more providers, suppliers, or merchants.

32. "Material resources" shall be the availability of principal and auxiliary facilities required to ensure the normal functioning of an energy work.

33. "Electric power grid interconnection point" shall be any of the points in the structure of the electric power grid owned by the transmission company, whereto the connecting facility of one or more consumers and producers are connected.

34. "Aggregate heated volume of a building" shall be the sum total of the volumes of the properties of consumers and the volumes of the premises constituting common parts of a condominium project building, intended to be heated according to the design.

35. (Amended, SG No. 74/2006) "Organized electricity market" shall be a totality of forms of trade in electricity whereon the method, place and time of conclusion of transactions are publicly known and pre-announced in trading rules.

36. "Organizational structure" shall be the organization of the managerial and shop-floor personnel that reflects the staff size, the functional links, the coordination between the individual positions and units depending on the needs of the licensed activity.

36a. (New, SG No. 74/2006) "Principal supplier" shall be any provider company and/or persons related thereto, having market share exceeding 75 percent.

37. "Heating units" shall be the tubular heating units and vertical heating pipes, the radiator heating devices, the baseboard heating units and convectors which are structural elements used for release of heat on the premises through radiation and convection of the heat-transfer medium thereto connected.

38. "Heated volume of a property" shall comprehend the volume of all premises owned and/or used by the subscriber and the relevant appertaining portions of the common parts of the building, intended to be heated according to the design.

39. "Heated volume of common parts" shall be the sum total of the volumes of premises constituting common parts in a condominium project buildings with heating units projected according to the design.

40. "Balancing energy market" shall be organized trade in electricity and natural gas for the purposes of maintaining the balance between generation and consumption in the electric power grid and, respectively, between natural gas import and consumption.

41. (Supplemented, SG No. 74/2006) "Site energy works" shall be buildings and the energy works permanently affixed thereto or to a lot, excluding the line parts thereof, intended for performance of the activities comprehended in the generation, transmission and distribution of electricity, heat and natural gas, as well as energy resource extraction.

41a. (New, SG No. 74/2006, effective 1.07.2007) "Network user" shall be any natural or legal person, providing electricity to the transmission and/or distribution networks or supplied thereby.

42. (Amended, SG No. 74/2006) "Consumer of energy or natural gas for household uses" shall be a natural person who is owner or user of a property and who consumes electricity or heat with hot water or steam as a heat-transfer medium for heating, air conditioning and hot water supply, or natural gas, for the household thereof.

43. (Amended and supplemented, SG No. 74/2006) "Consumer of energy or natural gas for business uses" shall be a natural or legal person, who or which purchases electricity or heat with hot water or steam as a heat-transfer medium for heating, air conditioning, hot water supply, and technical needs, or natural gas for business purposes, as well as persons financed by the state budget or a municipal budget.

44. (Amended, SG No. 74/2006) "Electricity, heat or natural gas, oil and oil product transmission" shall be the transport of electricity, heat or natural gas, oil or oil products through the transmission network or pipelines.
45. "Connecting gas pipeline" shall be a totality of gas pipelines and the appurtenant facilities connecting the transmission network to a non- household consumer of natural gas.
46. (Amended, SG No. 74/2006) "Producer" shall be a person which generates electricity and/or heat.
47. "Direct electric power line" shall be an electric power line which directly connects a producer with a division or branch thereof or with a consumer.
48. "Availability" shall be the capability of a producer to provide available capacity over a particular period of time to deliver electricity. Availability shall be measured in watts per hour and the derivative units.
49. "Distribution" shall be the transport of electricity or natural gas through the distribution networks.
50. "Heat distribution" shall be the transport of heat through the systems for household hot water supply, heating, air conditioning and other such of consumers.
51. (Amended, SG No. 74/2006) "Certificate of origin of electricity from combined generation of heat and electricity" shall be an official non transferable document certifying a producer, the quantity of co generated electricity, stating the period of generation, the electricity generation plant, the output of the said plant and other data and parameters specified in the ordinance referred to in Article 159 (3) herein.
52. (Amended, SG No. 74/2006, repealed, SG No. 49/2007).
53. "Settlement" shall be a system applied by the electric power grid operator for individual calculation of deviations of the electricity as actually consumed or generated from the contracted quantities for a particular period using a method regulated in trading rules stipulated by an ordinance.
- 53a. (New, SG No. 74/2006, effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union amended, amended, SG No. 55/2007) "System services" shall be all services, provided by the network operator, which are necessary for the reliable operation of the electricity power grid and for the viability of the market, including planning, administration, and management of the reliable operation of network users, settlement of the liabilities of the market participants, balanced delivery schedules.
54. (Amended, SG No. 18/2005, repealed, SG No. 74/2006) .
- 54a. (New, SG No. 74/2006) "Special balancing group" shall be any group comprised of licensed companies under Article 39, Paragraph 1, Items 2, 3, 7, 8 and 10, and producers selling at Commission-regulated prices and/or on long-term agreements, to which special balancing conditions apply according to the rules under Article 91, Paragraph 2.
55. "Auxiliary networks" shall be the management, control, safety, communication and information networks required for the efficient functioning of the transmission and distribution networks.
56. "Medium-term forecast energy balances" shall be forecast energy balances covering a period of three to five years.
57. "Heating share distribution devices for heat consumption" shall be devices installed downstream from the heat commercial metering devices.
58. "Commercial metering devices" shall be technical metering devices which possess metrological characteristics and are intended to be used for metering, whether independently or connected to one or more technical devices, and which are used upon sale of electricity, heat or natural gas.
59. "Length of seniority in the energy sector" shall be the length of employment and/or civil-service seniority acquired in a managerial or expert position in the state administration of state bodies for management of the energy sector, in commercial corporations whereof the objects are subject to licensing under this Act or to award of concession under the Subsurface Resources Act , as well as in research institutions or commercial corporations servicing such activities.
- 59a. (New, SG No. 18/2005) "Experience in the sphere of water supply and sewerage" shall be a length of civil-service or employment seniority acquired in a managerial or expert position at state or municipal bodies for management of water-supply and sewerage activities, at higher schools, at research institutions, or at commercial corporations whereof the objects are subject to regulation under the Supply and Sewerage Services Regulation Act .
- 59b. (New, SG No. 74/2006) "Standard balancing group" shall be group of commercial participants under Article 100, Paragraph 1, executing transactions in electricity at freely negotiated prices, to which the general conditions on balancing apply according to the rules under Article 91, Paragraph 2.
60. "Level of reliability of the electric power grid" shall be the probability, determined in percentage terms by the Minister of Energy and Energy Recourses, of balancing consumption and generation of electricity in case of occurrence of a shortage in the system.
61. (Amended, SG No. 74/2006) "Cold reserve" shall be a reserve, necessary to ensure the required level of adequacy, which the electric power grid operator purchases in the form of availability of generating units that are not planned to operate during a particular period of time and which the operator activates in the event of a

shortage.

62. "Natural gas storage" shall be an activity of injection of natural gas under pressure into natural gas storage facilities and the extraction of the said gas back to the gas transmission network, excluding the delivery of natural gas.

63. "Technical capabilities" shall be the overall technical and operational condition of the energy work in accordance with the regulatory requirements for uninterrupted, secure, environmentally sound and safe operation of the facilities whereby the licensed activity is to be performed.

64. "Technological costs" shall be the costs of electricity, heat and natural gas which are imputed to the technological process of the generation, transmission, distribution and storage thereof.

65. "Heat transmission network" shall be a system of heating mains and technological facilities located between the property boundary of the heat transmission company with the source of heat and/or the consumers, serving for transmission of heat from the source of heat to the consumers.

66. (Amended, SG No. 74/2006) "Transit transmissions" shall be the transmission of energy or natural gas, oil or oil products across the borders of a particular country provided that such energy or natural gas, oil or oil products have not been generated and will not be consumer within the territory of the said country.

66a. (New, SG No. 55/2007) "Pulling power electricity" shall be the electricity consumed from the contact network of the National Railroad Infrastructure Company by the electricity-driven pulling power rolling stock - electricity-driven locomotives and electricity-driven trains owned by the licensed railroad carriers.

67. "Financial capability" shall be the overall financial and economic condition of the applicant with a view to performing the licensed activity.

68. "Storage facility" shall be a facility which is used for storage of natural gas and which is owned and/or operated by a natural gas company licensed for storage.

69. "Human resources" shall be available to an applicant which has at its disposal the minimum managerial and shop-floor personnel possessing the appropriate level of education and professional qualifications enabling the said applicant to perform the licensed activity.

70. "Plant" shall be a totality of technologically connected facilities, installations and auxiliary entities for generation of electricity, heat, and/or for combined generation of heat and electricity.

#### TRANSITIONAL AND FINAL PROVISIONS

§ 2. This Act shall supersede the Energy and Energy Efficiency Act (promulgated in the State Gazette No. 64 of 1999; amended in No. 1 of 2000, No. 108 of 2001, No. 63 of 2002 and No. 9 of 2003), with the exception of Chapter Thirteen thereof.

§ 3. (1) All commercial metering devices, which are owned by consumers upon the entry of this Act into force, shall be purchased by the energy companies at the market value of the said devices within three years after the entry of this Act into force.

(2) The obligation of energy companies to purchase the commercial metering devices referred to in Paragraph (1) shall be waived where the said companies install their own devices replacing the existing devices within the time limits provided for the purchase.

§ 4. (1) The energy facilities and installations, constituting elements of the relevant transmission or distribution network which, upon the entry of this Act into force, should be owned by the energy companies but are actually owned by third parties, shall be purchased by the transmission company or by the respective distribution company depending on the appurtenance of the work to the networks within eight years after the entry of this Act into force.

(2) The transmission company or, respectively, the distribution company, shall not be obligated to purchase any constructed fixtures and/or electric power lines owned by consumers connected to the transmission network or, respectively, to the distribution network whereto the said consumers have actually connected themselves without a contract for connection of new consumers.

(3) The works referred to in Paragraph (1) shall be purchased at market value.

In case the parties fail to reach agreement on the value of the said works, the said parties shall commission an independent licensed appraiser to conduct valuation of the said works.

The value of the work as determined by the appraiser shall be the price of the purchase transaction.

Should no agreement on the designation of an appraiser be reached within 60 days after receipt of a notice of such designation from the other party, the energy company and/or the owner of the works shall have the right to approach the Chairperson of the Commission with a request to designate an independent appraiser.

The appraiser designated according to this procedure shall be mandatory to the parties. The costs of the valuation shall be shared equally between the parties.

(4) The energy companies and the owners referred to in Paragraph (1) may not refuse, without good reason, to purchase or, respectively, to sell the energy works.

(5) The obligation of the energy companies to purchase the energy works referred to in Paragraph (1) shall be waived where the said companies construct their own works replacing the existing works within the time limits

provided for the purchase.

(6) (Amended, SG No. 18/2004) In case of a refusal without good reason on the part of the owners to sell energy facilities and installations constituting elements of the transmission system and/or of the distribution networks, the said facilities and installations shall be condemned according to the procedure established by Article 63 herein together with the adjoining grounds.

(7) The energy works referred to in Paragraph (1), which constitute private state or municipal property at the date of entry of this Act into force, and which have been constructed on resources from the state budget or a municipal budget, shall be transferred onerously to the energy companies within eight years after the entry of this Act into force.

(8) Energy companies shall be obligated to transfer gratuitously any outdoor lighting facilities for streets, squares, parks, gardens and other corporeal immovables constituting public municipal property, which are incorporated into the assets of the said companies, to the relevant municipalities within two years after the entry of this Act into force.

(9) Upon restitution of any corporeal immovables constituting former state property, should any energy works incorporated into the tangible fixed assets of an energy company be construction within any such immovables, the owners of the said immovables shall have no right to demand the relocation of the said works, to deprive other consumers of energy supply, and to obstruct the operation of the energy companies.

(10) The owners of any corporeal immovables wherein energy works are constructed shall have the right to perform construction or other activities in the said immovables in compliance with the regulatory requirements for safe operation of energy works and after consultation with the energy company.

(11) Upon privatization of any items of property wherewithin any energy works are constructed, the said works shall be excluded from the subject of the transaction if more than one consumer is supplied with energy or natural gas through the said works. Such works shall be transferred to the relevant energy company according to the procedure established by the foregoing paragraphs.

§ 5. The members of the State Energy Regulatory Commission, including the Chairperson and the Deputy Chairperson, shall complete the terms of office for which they were appointed under the Energy and Energy Efficiency Act as superseded.

§ 6. (Repealed, SG No. 74/2006) .

§ 7. The provision of Item 14 of Article 4 (2) herein shall apply until the 31st day of December 2005.

§ 8. (Amended and supplemented, SG No. 74/2006) The non-recoverable costs incurred by energy companies under Article 34 herein shall be compensable according to the procedure under Article 21, Paragraph 1, Item 13.

§ 9. (Repealed, SG No. 74/2006) .

§ 10. (Repealed, SG No. 74/2006) .

§ 11. (Repealed, SG No. 74/2006) .

§ 12. (1) Any licences and authorizations issued in pursuance of the Energy and Energy Efficiency Act as superseded shall remain in effect insofar they do not conflict with this Act. The requirements for self-contained area under Article 43 (3) to (5) herein shall not apply to any such licences and authorizations.

(2) The holders of any authorizations for construction of energy works under Article 37 (1) of the Energy and Energy Efficiency Act as superseded shall be obligated to submit an application to the Commission for issuance of a licence under Article 39 (3) herein within six months after the entry into force of the ordinance referred to in Article 60 herein.

(3) Any licences issued, which conflict with this Act or are incomplete, shall be re-issued to the same licensees for the remainder of the term of validity of the effective licences or shall be supplemented at the discretion of the Commission. Any licensees whereof the licences are subject to re-issuance or supplementation shall be obligated to submit an application to the Commission within six months after the entry into force of the ordinance referred to in Article 60 herein. No fees shall be due for the proceedings of re-issuance or supplementation of any such licences.

(4) The evidence which was already furnished for the issuance of the initial licences will not have to be furnished for the re issuance or supplementation of any licences referred to in Paragraph (3), provided that no intervening new circumstances have occurred.

(5) Pending the issuance of a new licence under Paragraph (2), the licensees shall have the right to perform the licensed activities.

§ 13. Any proceedings for the issuance of authorizations or licences under the Energy and Energy Efficiency Act as superseded, which are pending upon the entry of this Act into force, shall be concluded according to the procedure and under the terms established by this Act.

§ 14. The inventory for construction of new natural gas transmission networks, issued in pursuance of Item 7 of Article 4 of the Energy and Energy Efficiency Act as superseded, shall remain in effect even after the adoption of this Act, and any pending tendering procedures for selection of an investor for construction of new natural gas transmission networks shall be completed according to the hitherto effective procedure.

§ 15. (1) (Amended, SG No. 74/2006) The activities associated with electric power grid management and

organizing of an electricity market may be separated in legal and organizational terms from the rest of the activities of the National Electric Company EAD not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union. National Electric Company EAD shall submit applications to the Commission to be allowed to transform and/or execute transactions for the disposal of property used to perform its licensed activity, and for the issuance of respective licences.

(2) A licence for performance of the activity of public provider of electricity shall be issued to the National Electric Company EAD within six months after the entry of this Act into force. Until the effective date of the relevant licence, the National Electric Company EAD shall perform the functions of a public provider of electricity, as arising from this Act.

(3) A licence for transmission of electricity shall be issued to the National Electric Company EAD within six months after the entry of this Act into force. Until the effective date of the relevant licence, the National Electric Company EAD shall perform the activities comprehended in the transmission of electricity, as arising from this Act.

(4) (Amended, SG No. 74/2006) A licence for the activities of electric power grid management and organizing an electricity market shall be issued to the electric power grid operator - legal person, after its creation by the National Electric Company EAD. The Commission shall issue such a licence proprio motu, after evidence of the transformation under Paragraph 1 is furnished.

(5) (Repealed, SG No. 74/2006) .

§ 16. (1) Any contracts for long term purchase of availability and electricity at fixed parameters and the associated guarantees, concluded by the National Electric Company EAD before the entry of this Act into force, shall continue in effect for the time period for which they were concluded.

(2) (Amended, SG No. 74/2006) The public provider shall be a party to the contracts referred to in Paragraph (1) after the corporate transformation of the National Electric Company EAD under § 15, Paragraph 1.

§ 17. (Amended, SG No. 74/2006) (1) The activities associated with distribution of electricity and operational management of the distribution networks may be separated in legal and organizational terms from electricity supply and the other activities of the electricity distribution companies until the 31st day of December 2006 but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union. Electricity distribution companies shall submit requests to the Commission to allow transformation and/or transactions for disposal of property used to perform the licensed activity, as well as for the issuance and/or amendment, and/or termination of respective licences.

(2) Licences for the activity of public supplier of electricity shall be issued to the electricity distribution companies within six months after the entry of this Act into force. Until the effective date of the relevant licence, the electricity distribution companies shall perform the functions of public suppliers of electricity for the relevant areas, as arising from this Act.

(3) Licences for electricity distribution with the relevant areas shall be issued to the existing electricity distribution companies within six months after the entry of this Act into force. Until the effective date of the said licences, the electricity distribution companies shall perform the functions of electricity distribution within the relevant areas, as arising from this Act.

(4) Depending on the type of corporate transformation referred to in Paragraph (1) and the activities carried out by the transformed companies after the transformation, the electricity distribution and electricity supply licences of existing electricity distribution companies and their successors shall be amended and/or terminated, respectively, or new licences shall be issued. For the newly issued or the amended licenses, the transformed companies shall not pay initial licensing fees under Article 29, Paragraph 3, Item 1.

(5) After their transformation under Paragraph 1, the electricity distribution companies shall inherit by subrogation all rights and obligations, related to electricity distribution at the self-contained area, defined by the electricity distribution licence, including any rights and obligations arising prior to the transformation, related to respective price regulation, while the public suppliers shall inherit by subrogation all rights and obligations, related to electricity supply at the self-contained area, defined by the public electricity supply licence, including any rights and obligations arising prior to the transformation, related to respective price regulation.

§ 18. (1) Until the corporate transformation of the National Electric Company EAD according to § 15 herein, and, respectively, of the electricity distribution companies according to § 17 herein, the provisions of Article 104 (1) herein shall apply only to the quantities of electricity traded at freely negotiated prices.

(2) The provisions of Article 104 (2) herein shall apply to the public provider, as transformed within the meaning given by § 15 herein, and the public suppliers and distribution companies, as transformed within the meaning given by § 17 herein.

§ 19. (1) In the cases where a consumer fails to instal a hot water meter in a corporeal immovable constituting private property, the heat for water heating shall be calculated according to the rates for water consumption as stipulated in the ordinance referred to in Article 125 (3) herein.

(2) In the cases where a residential property is used or allocated to other persons for performance of economic activity, the owner or the holder of the real right of use shall be obligated to notify the heat transmission

company within 30 days after commencement of the economic activity or after allocation of the property. Upon failure to fulfil this notification obligation, the owner or holder of the real right of use shall pay for the heat at a price for business uses with a 20 per cent surcharge for the delay. This provision shall be effective as long as different prices apply to heat for household and business uses.

(3) (Amended, SG No. 74/2006) If the heat transmission company finds it technically impracticable to apply the heat share distribution system in a condominium-project building, the distribution shall be performed by the heat transmission company under terms and according to a procedure established in the ordinance referred to in Article 125 (3) herein.

(4) (New, SG No. 74/2006) Consumers shall not install any additional insulation or blocking fittings to the heating unit inputs and outputs.

§ 20. Until the 1st day of January 2010, the quantity of electricity required to ensure the operational reliability of the principal facilities at the combined heat and power plants existing upon the entry of this Act into force, generated in excess of the quantity of co-generated electricity, shall mandatorily be purchased by the public provider and/or by the public suppliers at negotiated prices.

§ 21. Until the 1st day of January 2010, the public provider and/or the public suppliers shall be obligated to purchase the entire quantity of electricity registered by a certificate of origin from combined generation, generated by the combined heat and power plants existing upon the entry of this Act into force, without high efficiency parameters achieved, at preferential prices, according to the relevant ordinance referred to in Article 36 (2) herein, with the exception of the quantities which the producer consumes for its own uses or for which it has concluded contracts according to the procedure established by Section VII of Chapter Nine herein, or with which it participates in the balancing market. The provisions of Article 163 herein shall apply to any plants which have achieved a high efficiency parameter.

§ 22. (1) (Amended, SG No. 74/2006) Bulgargaz EAD's activities associated with natural gas transmission, shall be separated in legal and organizational terms from the activities, by December 31, 2006, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union. Bulgargaz EAD shall submit requests to the Commission to allow transformation and/or transactions for disposal of property used to perform the licensed activity, and for the issuance of respective licences.

(2) A licence for performance of the activity of public provider of natural gas shall be issued to Bulgargaz EAD pending execution of the corporate transformation referred to in Paragraph (1). Until the effective date of the relevant licence, Bulgargaz EAD shall perform the functions of public provider of natural gas, as arising from this Act.

(3) A licence for natural gas transmission and transit transmission shall be issued to Bulgargaz EAD pending execution of the corporate transformation referred to in Paragraph (1). Until the effective date of the relevant licence, Bulgargaz EAD shall perform the activities comprehended in natural gas transmission, as arising from this Act.

(4) A licence for natural gas storage shall be issued to Bulgargaz EAD, pending execution of the corporate transformation referred to in Paragraph (1). Until the effective date of the relevant licence, Bulgargaz EAD shall perform the activities comprehended in natural gas storage, as arising from this Act.

(5) (Repealed, SG No. 74/2006) .

(6) The prohibition referred to in Article 44 (2) herein shall apply after the date of the corporate transformation referred to in Paragraph (1).

(7) The existing consumers, within the meaning given by Items 8 and 9 of Article 175 herein, of the transmission upon the entry of this Act into force shall be considered directly connected consumers.

(8) (New, SG No. 74/2006) In cases, when, as a result of the restructuring under Paragraph 1, the licence for the activity of public natural gas supply, issued under Paragraph 2, is terminated and issued to a different person, the new licence holder shall subrogate Bulgargaz EAD as party to any natural gas supply agreements executed by Bulgargaz EAD prior to the said licence termination date.

(9) (New, SG No. 74/2006) In cases, when, as a result of the restructuring under Paragraph 1, the licence for the activity of natural gas transit transmission, issued under Paragraph 3, is terminated and issued to a different person, the new licence holder shall subrogate Bulgargaz EAD as party to any natural gas transit transmission agreements executed by Bulgargaz EAD prior to the said licence termination date.

§ 22a. (New, SG No. 74/2006, effective as from the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union) (1) When all the following conditions are present:  
1. the Republic of Bulgaria is not directly connected to the gas transport network to another European Union member country and

2. the market share of the principal gas supplier or any related persons thereto as defined under the Commerce Act is not exceeding 75 percent, all interested persons may submit a request to the commission for a temporarily relief from application of Chapter Four, Article 172, Paragraph 1, and Article 197, Paragraph 2 provisions.

(2) The Commission shall take decision on the request under Paragraph 1 within one month and shall immediately notify the European Commission on any effective decision on granting temporary relief.



§ 23. (1) (Supplemented, SG No. 74/2006) The activities associated with natural gas distribution shall be separated in legal and organizational terms from natural gas supply to end consumers and from the other activities of the natural gas distribution companies when not fewer than 100,000 final consumers of natural gas are connected to the relevant distribution network. Gas distribution companies shall submit requests to the Commission to allow transformation and/or transactions for disposal of property used to perform the licensed activity, and for the issuance of respective licences.

(2) Licences for performance of the activity of public supplier of natural gas shall be issued to the natural gas distribution companies pending execution of the corporate transformation referred to in Paragraph (1). Until the effective date of the relevant licence, the natural gas distribution companies shall perform the functions of public suppliers of natural gas, as arising from this Act, for the relevant areas.

(3) Licences for natural gas distribution within the relevant areas shall be issued to the existing natural gas distribution companies pending execution of the corporate transformation referred to in Paragraph (1). Until the effective date of the relevant licences, the natural gas distribution companies shall perform the activities comprehended in natural gas transmission, as arising from this Act, within the relevant areas.

(4) (Repealed, SG No. 74/2006) .

§ 24. (Repealed, SG No. 74/2006) .

§ 25. (Amended, SG No. 74/2006) In cases, when assets of energy companies include property of right-holding persons under the Indemnification of Nationalized Property Owners Act or under Article 18 of the repealed State and Municipal Company Transformation and Privatisation Act (prom., SG No. 38/1992; amended, No. 51/1994, No. 45, 57, and 109/1995, No. 42, 45, 68, and 85/1996; corr., No. 86/1996; amended, No. 55, 61, 89, 98, and 122/1997, No. 39/1998; corr., No. 41/1998; amended, No. 70/1998, No. 12/1999, No. 47/1999 - Constitutional Court Decision No. 8/1999; amended, No. 56, 84, and 96/1999, No. 20, 99, and 108/2000, No. 42/2001; отм., No. 28/2002), the latter shall be indemnified only by compensatory notes under the procedure of the Indemnification of Nationalized Property Owners Act.

§ 26. (1) All servitude rights arising by virtue of the Energy and Energy Efficiency Act as superseded in favour of energy companies in respect of any energy works existing upon the entry of this Act into force shall continue in effect.

(2) The size, location and special regime for exercise of any servitudes referred to in Paragraph (1) shall be determined according to the procedure and in the manner provided for in the ordinance referred to in Article 64 (9) herein.

(3) Any servitude rights referred to in Paragraph (1) shall be recorded in the recording office and in the property register according to the location of the servient estate at the request of the relevant energy company which owns the energy work.

§ 27. The Spatial Development Act (promulgated in the State Gazette No. 1 of 2001; amended in Nos. 41 and 111 of 2001, No. 43 of 2002, Nos. 20 and 65 of 2003) shall be amended and supplemented as follows:

1. In Article 73 (1), the words "the utility company or shared between the said company and" in the second sentence shall be deleted.

2. In Article 182 (2), after the number 4 at the end of the first sentence, there shall be added "or a servitude has been established under Article 64 and § 26 of the Transitional and Final Provisions of the Energy Act";

3. In Item 31 of § 5 , after the words "electricity supply" there shall be added "heat supply".

§ 28. In Article 15 of the Protection of Competition Act (promulgated in the State Gazette No. 52 of 1998; (modified by) Constitutional Court Judgment No. 22 of 1998, (promulgated in) No. 112 of 1998; amended in No. 81 of 1999, No. 28 of 2002, No. 9 of 2003), Paragraph (2) shall be amended to read as follows:

"(2) Alignment of general conditions shall be admissible only where authorized by the Commission, except in cases where the said general conditions have been approved by a competent authority exercising regulation and control. Any such authorization shall be granted within two months after the submission of a request by the companies referred to in Paragraph (1)."

§ 29. The Act Restricting Administrative Regulation and Administrative Control over Economic Activity (promulgated in the State Gazette No. 55 of 2003; corrected in No. 59 of 2003) shall be amended and supplemented as follows:

1. In Article 13 :

(a) the existing text shall be redesignated to become Paragraph (1);

(b) there shall be added the following new paragraph:

"(2) Paragraph (1) shall only apply where no special law established another procedure on the grounds of exclusive rights."

2. Item 28 of the Annex to Item 2 of Article 9 (1) shall be amended to read as follows:

"28. Activities in the energy sector, as regulated in a special law."

§ 30. The Mandatory Stocks of Crude Oil and Petroleum Products Act (promulgated in the State Gazette No. 9 of 2003) shall be amended as follows:

1. Article 3 (2) shall be amended to read as follows

"(2) The stocks of petroleum products, which are created and maintained by energy companies according to the procedure established by Article 85 (1) and Article 128 of the Energy Act, shall be assimilated to the total quantity of stocks under this Act."

2. Article 4 (4) shall be amended to read as follows:

"(4) Annually, the persons obligated under Article 85 (1) and Article 128 of the Energy Act shall prepare information on the stocks of petroleum products thereof for the current calendar year and shall submit the said information to the State Agency of Contingency Reserves and Wartime Stockage on or before the 25th day of February."

3. Article 24 (3) shall be amended to read as follows

"(3) The persons obligated under Article 85 (1) and Article 128 of the Energy Act shall notify the Chairperson of the Agency of each case of use of the stocks of petroleum products and the time limits for replenishment of such stocks. Any such notification shall be submitted in writing or electronically not later than the working day next succeeding the day when the stocks were drawn from."

§ 31. In Article 47 of the Water Act (promulgated in the State Gazette No. 67 of 1999; amended in No. 81 of 2000, Nos. 34, 41 and 108 of 2001, Nos. 47, 74 and 91 of 2002, Nos. 42, 69 and 84 of 2003), there shall be added the following new paragraph:

"(5) A concession compensation, fixed according to a methodology adopted by the Minister of Environment and Water and the Minister of Energy and Energy Resources, shall be paid for production of geothermal energy from mineral waters constituting exclusive state property, where the said waters are used only as a heat-transfer medium and are returned to the respective occurrence."

§ 32. The Forestry Act (promulgated in the State Gazette No. 125 of 1997; amended in Nos. 79 and 133 of 1998, No. 26 of 1999, Nos. 29 and 78 of 2000, Nos. 77, 79 and 99 of 2002, No. 16 of 2003) shall be amended and supplemented as follows:

1. In Item 1 of Article 16 (5), the words "overhead electric power lines" shall be deleted.

2. The following new article shall be inserted:

"Article 16b. (1) The provisions of Chapter Five of the Energy Act shall apply to any servitudes around overhead and underground electric power lines, heating mains and natural gas pipelines.

(2) Any servitudes around energy works located in forests or in forest stock land tracts shall be consulted by the energy companies with the National Forestry Board.

(3) The amount of compensation for any servitudes on forests or forest stock land tracts, referred to in Paragraph (2), shall be fixed according to the procedure established by the ordinance referred to in Article 19 herein."

§ 33. (Effective 10.06.2004) In Article 32 of the Technical Requirements Towards Products Act (promulgated in the State Gazette No. 86 of 1999; amended in Nos. 63 and 93 of 2002, No. 18 of 2003), after the words "acetylene equipment" there shall be added "oil pipelines and petroleum product pipelines".

§ 34. (1) The statutory instruments of secondary legislation on the application of this Act shall be adopted within six months after the entry of the said Act into force.

(2) Pending the issuance of the statutory instruments of secondary legislation as provided for under this Act, the statutory instruments of secondary legislation issued for application of the Energy and Energy Efficiency Act as superseded shall be applied insofar as they do not conflict with this Act.

§ 35. The provision of § 33 herein shall enter into force six months after the promulgation of this Act in the State Gazette.

This Act was adopted by the 39 National Assembly on 26 November 2003 and the Official Seal of the National Assembly has been affixed thereto.

## TRANSITIONAL AND FINAL PROVISIONS

of the Administrative Procedure Code  
(SG, No. 30/2006, effective 12.07.2006)

§ 47. Everywhere in the Energy Act (Promulgated, SG No. 107/2003, amended, SG No. 18/2004, amended and supplemented, SG No. 18/2005, amended, SG No. 95/2005) the words "the Administrative Procedure Act" shall be replaced by "the Administrative Procedure Code".

## TRANSITIONAL AND FINAL PROVISIONS

to the Energy Act Amendment Act  
(SG No. 74/2006, effective 8.09.2006, amended, SG No. 49/2007,  
SG No. 55/2007, effective 6.07.2007)

§ 125. Throughout the Act:

1. All phrases "Minister of Energy and Energy Resources" and "Ministry of Energy and Energy Resources" shall be replaced by the phrases "Minister of Economy and Energy" and "Ministry of Economy and Energy", respectively.
2. The phrase "act whereby Republic of Bulgaria is recognised as full member of the European Union" shall be replaced by the phrase "Treaty concerning the Accession of the Republic of Bulgaria to the European Union".

§ 126. (Effective 1.07.2007) (1) The public provider shall ensure electricity supply at freely negotiable prices to any consumers connected to the transmission network, when these consumers have obtained the eligible consumer status, but have not selected another provider, until the time when they have exercised this right.  
(2) End suppliers shall ensure electricity supply at freely negotiable prices to any consumers connected to the transmission network, when these consumers have obtained the eligible consumer status, but have not selected another provider, until the time when they have exercised this right.

§ 127. (Repealed, SG No. 49/2007).

§ 128. (1) The mandatory purchase under Article 162 of electricity produced using high-efficiency combined heat and electricity generation at preferential prices shall be applied for a term of 8 years:

1. starting on the date this Act becomes effective - for all existing electricity producers using high-efficiency combined heat and electricity generation;

2. starting on electricity production start, but not later than December 31, 2011 - for all other electricity producers using high-efficiency combined heat and electricity generation;

(2) The preferential prices for the purchase of electricity produced using high-efficiency combined heat and electricity generation for the period until December 31, 2019, shall be set forth according to the respective ordinance under Article 36, Paragraph 3.

(3) The Minister of Economy and Energy shall, by December 31, 2011, prepare and submit to the Council of Ministers for adoption a draft law introducing market mechanism for promotion of electricity production using a combined method, which may not be applied to electricity producers under Paragraph 1.

§ 129. (1) Licences for the activity of electricity supply by end suppliers within the respective areas shall be issued proprio motu by the Commission to existing public electricity suppliers by July 1, 2008.

(2) Until the date the newly-issued licenses under Paragraph 1 become effective, public electricity suppliers shall perform the activities of end suppliers within the respective areas, arising under this Act and the public electricity supply licences held by them, as far as these are not contradictory to the Act.

(3) All licences under Paragraph 1 shall be issued for the remaining term of validity of existing public electricity supply licences.

§ 130. (1) Licences for the activity of natural gas supply by end suppliers within the respective areas shall be issued proprio motu by the Commission to existing public natural gas suppliers by July 1, 2008.

(2) Until the date the newly-issued licenses under Paragraph 1 become effective, public natural gas suppliers shall perform the activities of end suppliers within the respective areas, arising under this Act and the public natural gas supply licences held by them, as far as these are not contradictory to the Act.

(3) All licences under Paragraph 1 shall be issued for the remaining term of validity of existing public natural gas supply licences.

§ 131. Merchants, who, at the date this Act becomes effective, perform the activity of heat share distribution in condominium-project buildings, shall submit an application for registration under Article 139a, Paragraph 3 within three months after this Act becomes effective.

§ 132. The § 27 provision, related to the amendment of Article 49, Paragraph 3 and Paragraph 4, shall also apply to any unfinished proceedings existing at the date this Act becomes effective, created under Article 46, Paragraph 2, which have no effective Commission decision on designating a licence holder.

§ 133. (1) The § 55 provision, related to the amendment of Article 102, shall apply to any transactions with resident persons in a European Union member country, on the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union.

(2) The effective § 55 shall restrict, respectively, the public provider's exclusive right on the import and export of electricity under Article 93, Paragraph 2.

(3) The provision in § 55 shall apply on the date this Act becomes effective to electricity producers, having:

1. a licence under Article 39, Paragraph 3 to build new electricity generation energy works;
2. a permit for expansion under Article 35, Paragraph 1, Item 1 of the repealed Energy and Energy Efficiency Act (prom., SG, No. 64/1999; amended, No. 1/2000, No. 108/2001, No. 63/2002, No. 9/2003; repealed, No. 107/2003 and No. 18/2004)

§ 134. The provision in § 105, related to creation of Article 176a shall become effective to any transactions with resident persons in a European Union member country, on the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union.

§ 135. Until the provision of § 12, Item 6 on the repealing of Article 21, Paragraph 1, Item 17 becomes effective, the Commission shall determine the availability, based on which any producer may execute transactions with eligible consumers, electricity merchants, and other producers according to the rules under Article 91, Paragraph 2, or take part in an organised market.

§ 136. Until the provision of § 24, Item 2, "a" on the repealing of Article 43, Paragraph 2, Item 2 on the self-contained area under Article 43, Paragraph 3 becomes effective, only one public electricity supply licence shall be issued.

§ 137. Until the provision of § 24, Item 2, "a" on the repealing of Article 43, Paragraph 2, Item 2 on the self-contained area under Article 43, Paragraph 5 becomes effective, only one public natural gas supply licence shall be issued.

§ 138. Until the provision of § 50, Item 1, "a" - in the part concerning repealing of Article 97, Paragraph 1, Item 4 - becomes effective, electricity transactions shall be executed at Commission-regulated prices between the public provider and all transmission network connected consumers, who have not selected another supplier.

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§ 140. Any statutory acts related to the application of the Energy Act shall be adopted or brought in accordance with this Act within 6 months after this Act becomes effective.

§ 141. This Act shall become effective on the date of its promulgation in the State Gazette, except the provisions in:

1. § 3, Item 2, "f", related to Article 4, Paragraph 2, Item 18b and Item 18c, § 12, Item 8, related to Article 21, Paragraph 1, Item 19a and Item 19b, § 23, Item 2; § 26, § 28, § 103, related to Article 172a and Article 172c, § 104, Item 2, § 106, Item 1, § 107, Item 1, § 113, § 121, § 122, § 124, Item 9, becoming effective on the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union;
2. (Amended, SG No. 55/2007) § 12, Item 2, Item 6, and Item 7, § 16, Item 1, Item 4, Item 5, and Item 6, § 22, Item 1, "a" and "b", § 24, Item 2, Item 3, and Item 5, § 44, Item 2 and Item 5, § 46, § 48, § 50, Item 1, "a" and "c", § 51, § 53, § 56, § 74, § 97, Item 1, and Item 2, § 100, Item 1, § 103, related to the creation of Article 172b, § 104, Item 1 and Item 3, § 106, Item 2, § 107, Item 2, § 108, § 110, § 111, § 112, § 123, Item 13, and § 126, becoming effective July 1, 2007;
3. § 16, Item 4 and Item 7, § 22, Item 1, "c", § 23, Item 1, § 24, Item 1, § 25, Item 1, § 35, § 39, § 40, § 41, § 44, Item 4, § 50, Item 2, § 52, § 54, § 57, § 59, Item 1, § 61, § 62, § 64, § 65, § 66, § 71, § 72, § 76, Item 1, and § 123, Item 25, becoming effective on the date of entry into the Commercial Registry the decision to transform National Electric Company EAD, but not later than the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union.