
Energy Act

Promulgated in the State Gazette No. 107 of 9 December 2003, amended in the State Gazette No. 18 of 5 March 2004, amended in the State Gazette No. 18 of 25 February 2005, amended in the State Gazette No. 95 of 29 November 2005, amended in the State Gazette No. 30 of 11 April 2006, amended in the State Gazette No. 65 of 11 August 2006, amended in the State Gazette No. 74 of 8 September 2006

Chapter One

GENERAL DISPOSITIONS

Article 1. *(Supplemented, SG No. 74/2006, effective 8.09.2006)* 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, transmission of crude oil and petroleum products through pipelines, trade in electricity, heat and natural gas, and utilization of renewable energy sources, 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 provision at minimum cost;
5. sustainable development in the utilization of renewable energy sources, including production of electricity from renewable energy sources in the interests of environmental protection;
6. promotion of cogeneration;
7. *(New, SG No. 74/2006, effective 8.09.2006)* development of infrastructures for transmission of electricity, natural gas, crude oil or petroleum products within and through the national territory.

(2) *(Amended and supplemented, SG No. 74/2006, effective 8.09.2006)* The generation, import, export, transmission, transit transmission, distribution and trade in electricity, heat, natural gas, crude oil and petroleum products shall be carried out while guaranteeing the protection of the life and health of citizens, property, the environment, the interests of consumers, and 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) (*Amended, SG No. 74/2006, effective 8.09.2006*) 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, effective 8.09.2006*) The national energy policy shall be implemented by the Minister of Economy and Energy.

(2) (*Amended, SG No. 74/2006, effective 8.09.2006*) 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 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, effective 8.09.2006*) lay a list of energy works of strategic national importance, including such extracting local solid fuels, before the Council of Ministers for endorsement;
4. (*Supplemented, SG No. 74/2006, effective 8.09.2006*) define, by an order, the mandatory parameters of the level of reliability of electricity supply, as well as minimum security of natural gas supply standards;
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 geographically limited areas for natural gas distribution and for modification of existing geographically limited 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. elaborate national long- and short-term programmes for the promotion of the utilization of renewable energy sources and lay the said programmes before the Council of Ministers for adoption;

10. (*Supplemented, SG No. 74/2006, effective 8.09.2006*) elaborate national indicative targets for promotion of the consumption of electricity produced from renewable energy sources, lay the said targets before the Council of Ministers for adoption, and prepare annual reports on the attainment of such targets, stating the degree of compliance of any measures taken with the obligations to prevent climate change, as well as the measures for verifying the certificates of origin referred to in Article 159 (3) herein;

11. (*Amended, SG No. 74/2006, effective 8.09.2006*) (*) on the basis of adopted criteria, prepare an analysis of the national potential for high-efficiency cogeneration and evaluate the progress made on increasing the share of high-efficiency cogeneration in the gross consumption of electric power every four years and publish the said analysis on the Internet site of the Ministry of Economy and Energy;

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. (*Applicable until 31.12.2005*) lay before the Council of Ministers a proposal for the grant of state aids to certain entities and/or activities in the energy sector;

15. exercise 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 crude oil and petroleum products through pipelines within and through the national territory;

18a. (*New, SG No. 74/2006, effective 8.09.2006*) represent the State in its relationships with other States, as well as with commercial corporations, in all matters related to the application of the Treaty of the [European] Energy Charter and to the implementation of projects for construction of cross-border infrastructures for transmission of electricity, natural gas and crude oil;

18b. (*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*) supply the

competent institutions of the European Communities with the information provided for in Community law;

18c. (*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*) acting within the powers vested therein, address requests and notices to the competent institutions of the European Communities for granting temporary exemption from the application of provisions of Community law and transitional periods in the energy sector in the cases provided for in Community law;

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) (*Amended, SG No. 74/2006, effective 8.09.2006*) 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, effective 8.09.2006*) organization and control of physical protection (security) of works, implemented by the authorities of the Ministry of Interior or by persons carrying on business 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, effective 8.09.2006*) Any persons performing activities under this Act by means of works included in the list referred to in Paragraph (1) shall implement activities and measures for work during military and non-military crises, as assigned thereto 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 supply of electricity, heat and natural gas.

(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, effective 8.09.2006*) 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, effective 8.09.2006*) Upon conduct of the state policy in the energy sector, the Minister of Economy and Energy may be assisted by branch chambers and organizations of power engineers and of energy resource extractors.

(2) (*Supplemented, SG No. 74/2006, effective 8.09.2006*) Employers in the energy sector may establish and participate in branch chambers and organizations of power engineers and of energy resource extractors.

(3) (*Supplemented, SG No. 74/2006, effective 8.09.2006*) The branch chambers and organizations of power engineers and of energy resource extractors shall be registered under the terms and according to the procedure established by the Not-for-Profit Legal Entities Act.

(4) (*Supplemented, SG No. 74/2006, effective 8.09.2006*) The branch chambers and organizations of power engineers and of energy resource extractors 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 a party upon signing of an industry-wide collective agreement;

3. (*Supplemented, SG No. 74/2006, effective 8.09.2006*) 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, effective 8.09.2006*) create databases on experts in the sector available to assist energy producers and energy resource extractors, as well as the state bodies;

6. (*Supplemented, SG No. 74/2006, effective 8.09.2006*) 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, effective 8.09.2006*) notify the competent authorities of any 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, effective 8.09.2006*) The state bodies and the management bodies of the branch chambers and organizations of power engineers shall collaborate and inform each other of any 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, effective 8.09.2006*) The state bodies, institutions and central-government departments, the bodies of local self-government and local administration shall assist and provide the branch chambers and organizations of power engineers and energy resource extractors with information as 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, effective 8.09.2006*) The Minister of Economy and Energy shall elaborate the Energy Strategy of the Republic of Bulgaria.

(2) (*Amended, SG No. 74/2006, effective 8.09.2006*) 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, effective 8.09.2006*) 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, effective 8.09.2006*) 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, effective 8.09.2006*) the plan for development of new generating capacities at minimum costs to the public, prepared by the electricity system operator.

(5) (*Amended and supplemented, SG No. 74/2006, effective 8.09.2006*) The Minister of Economy and Energy shall implement an energy policy targeting national energy development with efficient use of energy and energy resources and meeting the public demand for electricity and heat, natural gas, petroleum 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, effective 8.09.2006*) The Minister of Economy and Energy shall carry out monitoring of security of supply and shall publish the measures planned and taken, the results of the monitoring and the energy policy guidelines in the bulletin referred to in Item 17 of Article 4 (2) herein, as well as on the Internet site of the Ministry of Economy and Energy.

Article 9. (1) (*Supplemented, SG No. 74/2006, effective 8.09.2006*) Enterprises 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, effective 8.09.2006*) conduct studies and analyses, elaborate short-term, medium term and long-term forecasts on the energy resource extraction, the processing and trade in fuels and energy, and adopt the relevant plans ensuring the said activities;
2. (*Amended, SG No. 74/2006, effective 8.09.2006*) prepare, at least once every two years, and submit to the Minister of Economy and Energy plans for rehabilitation, for taking 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, effective 8.09.2006*) 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, effective 8.09.2006*) to the Minister of Economy and Energy;
2. (*Supplemented, SG No. 18/2005, effective 8.09.2006*) 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, effective 8.09.2006*) to the transmission companies and to the electricity system operator;
5. to the relevant distribution companies.

(3) (*Amended and supplemented, SG No. 74/2006, effective 8.09.2006*) The content, structure, terms and procedure for submission of the information covered under Paragraphs (1) and (2) shall be established by an ordinance of the Minister of Economy and Energy.

(4) (*New, SG No. 74/2006, effective 8.09.2006*) The content, structure, terms and procedure to present for submission of the information referred to in Item 18b of Article 4 (2) herein and in Item 19a of Article 21 (1) herein shall be established by a Council of Ministers ordinance on a motion 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

(Heading amended, SG No. 18/2005, effective 20.01.2005)

Article 10. (1) (*Amended, SG No. 18/2005, effective 20.01.2005*) 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, effective 20.01.2005*) 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, effective 20.01.2005)* 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 legally capable Bulgarian citizens who have graduated from a higher educational establishment, attaining an educational qualification degree of Master, and at least one of whom shall be a qualified lawyer and one an economist:

1. *(Supplemented, SG No. 18/2005, effective 20.01.2005)* with length of employment and/or civil-service seniority of not less than 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 have not been sentenced to deprivation of liberty for a premeditated offence at public law.

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

1. *(Supplemented, SG No. 18/2005, effective 20.01.2005)* any sole traders, shareholders, partners, managing directors, managerial agents or members of management or supervisory bodies, as well as any liquidators and consultants of commercial corporations engaged in activities subject to licensing under this Act or to regulation under the Water-Supply and Sewerage Services Regulation Act;

2. any 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 six 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, effective 20.01.2005*) 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, effective 20.01.2005*) 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, effective 20.01.2005*) 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, effective 20.01.2005*) The Commission shall be a standing body which shall meet provided that 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 Water-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, effective 20.01.2005*) 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, effective 20.01.2005*) 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, effective 20.01.2005, supplemented, SG No. 74/2006, effective 8.09.2006*) The decisions of the Commission under Paragraphs (3) and (4) shall be made at 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) (*Amended, SG No. 30/2006, effective 12.07.2006*) In performance of the powers thereof, the Commission shall apply the rules of procedure provided for in this Act, and in cases not regulated thereby, the rules of the Code of Administrative Procedure.

(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, effective 20.01.2005*) The Commission shall conduct a procedure for public discussions with stakeholders when drafting general administrative acts provided for in this Act and in the Water-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, effective 20.01.2005, amended, SG No. 74/2006, effective 8.09.2006*) Stakeholders under Paragraph (1) shall be the state bodies, the branch organizations, the energy companies, the water and sewerage utilities, the eligible customers, directly related to the draft prepared, and customer organizations.

(3) The Commission shall discuss the basic principles set in the draft with the stakeholders and shall allow not less than fourteen days for submission of opinions on the said draft.

(4) The Commission shall consider all opinions submitted by stakeholders 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) herein 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, effective 20.01.2005*) (1) The Chairperson of the Commission, the members thereof and the employees of the administration thereof shall be

bound not to disclose any classified information which they create and store and which has come to their knowledge in the course of performance of the duties under this Act and under the Water-Supply and Sewerage Services Regulation Act, contained in list of specific facts, information and subjects constituting an official secret.

(2) The Commission, after consultation with the State Commission on Information Security, shall endorse, amend and supplement the list referred to in Paragraph (1) by a decision.

(3) The list referred to in Paragraph (1) may include information, declared to be a commercial secret by the applicants and licensees, but only if publication of any such information would lead to unfair competition between merchants or to jeopardy of the commercial interests of any third parties. The Commission shall include this category of information in the list after consultation with the Commission for the Protection of Competition.

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

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

(2) In the performance of the functions thereof, the Commission may cooperate with persons who represent and protect consumers' 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 dealings with third parties;
3. appoint and dismisses the employees of the administration;
4. submit annually a report on the activity of the Commission to the Council of Ministers;
5. organize the preparation of the budget and lay the said budget 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) (*Redesignated from Article 21, SG No. 18/2005, effective 20.01.2005*) For regulation of the activities comprehended in generation, transmission and distribution of electricity, transmission and distribution of natural gas, trade in electricity and natural gas, and generation and transmission of heat, 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 activity 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, effective 8.09.2006*) adopt the rules for trade in electricity and natural gas (Market Rules) and the technical rules for the networks (System Code), acting on a proposal by the energy companies, and control compliance with the said rules;
- 7a. (*New, SG No. 74/2006, effective 1.07.2007*) adopt rules for the supply of electricity and natural gas by suppliers of last resort as part of the rules for trade in electricity and natural gas referred to in 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 referred to in Item 7;
9. establish the rules for access to the electricity and natural gas transmission network and, respectively, to the electricity and natural gas distribution network (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 fixtures appurtenant thereto within the transmission or distribution networks and issue mandatory prescriptions for the purchase thereof 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 customers, including the quality of service standards;
13. (*Amended, SG No. 74/2006, effective 8.09.2006*) consider the requests of energy companies for reimbursement of any non-recoverable costs or any costs resulting from public obligations imposed thereon under Articles 34 and 35 herein and endorse the

reasoned amount of the said costs, as well as the manner of reimbursement thereof;

14. issue certificates to electricity producers on the origin of the electricity commodity produced from renewable energy sources and from cogeneration;

15. *(Repealed, SG No. 74/2006, effective 8.09.2006)*;

16. *(Amended and supplemented, SG No. 74/2006, effective 8.09.2006)* adhering to a methodology or instructions adopted by the Commission, determine the permissible allowances for technological losses of electricity in the process of generation, transmission and distribution of electricity, in the process of generation and transmission of heat, and in the process of transmission, distribution and storage of natural gas;

17. *(Repealed, SG No. 74/2006, effective 1.07.2007)*;

17a. *(New, SG No. 74/2006, effective 1.07.2007)* determine the availability for electricity generation, wherewithin each producer shall be obligated to conclude transactions with suppliers of last resort and/or the public provider with a view to implementing the principles covered under Article 24 (1) herein;

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. authorize the effecting of transactions for disposition of property used in the performance of licensed activities (Capital Improvements and Lending Operations) in the cases provided for in this Act, as well as of other transactions that lead or may lead to impairment of the security of supply as a result of indebtedness of the energy company;

19a. *(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)* supply the competent institutions of the European Communities with the information provided for in Community law;

19b. *(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)* acting within the powers vested therein, address requests and notices to the competent institutions of the European Communities for granting temporary exemption from the application of provisions of Community law and transitional periods in the energy sector in the cases provided for in Community law;

19c. *(New, SG No. 74/2006, effective 8.09.2006)* publish an annual report on the activity thereof, including the results of the control for preclusion of the limitation and distortion of competition on the energy markets and for the effective functioning of the said markets;

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, effective 20.01.2005*) The powers of the Commission to regulate activities in the sphere of water supply and sewerage shall be determined in the Water-Supply and Sewerage Services Regulation Act.

Article 22. (1) (*Amended, SG No. 18/2005, effective 20.01.2005*) The Commission shall consider complaints:

1. by customers against licensees or by licensees against other licensees, related to performance of the licensed activity;

2. by customers against water and sewerage utilities, or by water and sewerage utilities against water and sewerage utilities, related to the subject matter regulated under the Water-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 to 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. preventing and precluding the limitation or distortion of competition on the energy market;

2. balancing the interests of energy companies and customers;

3. ensuring non-discrimination between the various categories of energy companies and between groups of customers;

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 referred to in 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, effective 8.09.2006)* In implementation of the power thereof referred to in Items 7a and 17a of Article 21 (1) and § 135 herein, the Commission shall adhere to the following principles:

1. *(Amended and supplemented, SG No. 74/2006, effective 8.09.2006)* fair apportionment of the economic consequences of market liberalization among all parties to transactions in electricity and natural gas;

2. *(Supplemented, SG No. 74/2006, effective 8.09.2006)* ensuring equal terms for conclusion of transactions at freely negotiated prices, compared to the transactions concluded with the public provider or with the public suppliers of electricity and of natural gas;

3. *(Supplemented, SG No. 74/2006, effective 8.09.2006)* ensuring a balanced adjustment of final-customer prices, taking into account the public service obligations, the public obligations, and the non-recoverable costs of the public provider or the public suppliers;

4. *(New, SG No. 74/2006, effective 8.09.2006)* ensuring the measures required to supply customers with electricity and natural gas of a specified quality at fully comparable, transparent and objective prices, applied in conditions of non-discrimination.

(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, the 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, effective 8.09.2006);*

4. *(Repealed, SG No. 74/2006, effective 8.09.2006);*

5. any permits as issued by the Commission under this Act.

(2) (*Amended, SG No. 74/2006, effective 8.09.2006*) 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 Item 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, effective 20.01.2005*) 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 Water-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, effective 20.01.2005*) the fees collected by the Commission under Article 28 herein and under Items 1 and 3 of Article 8 (1) of the Water-Supply and Sewerage Services Regulation Act, and any interest thereon;

2. (*Supplemented, SG No. 18/2005, effective 20.01.2005*) twenty per cent of the fines and pecuniary penalties provided for in this Act and in the Water-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 Commercial Code.

(2) (*Supplemented, SG No. 18/2005, effective 20.01.2005*) No donation may be accepted from any persons subject to licensing under this Act or subject to regulation under the Water-Supply and Sewerage Services Regulation Act, or from any persons connected therewith within the meaning given by the Commercial Code.

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

1. (*Supplemented, SG No. 18/2005, effective 20.01.2005*) 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 Water-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 proceeds 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, effective 20.01.2005)* For exercise of the regulatory powers thereof under this Act and under the Water-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 expert 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, effective 8.09.2006)* Any fees, collected according to the procedure established by this Act and by the Water-Supply and Sewerage Service Regulation Act, shall be public state receivables.

Article 29. (1) The fee for consideration of an application shall be paid upon submission of any such 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 fee: 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 fee: 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 the public suppliers;

1a. (*New, SG No. 74/2006, effective 1.07.2007*) at which producers, within the availability determined thereto by the Commission under Item 17a of Article 21 (1) herein, sell electricity to the supplier of last resort or to the public provider;

2. (*Supplemented, SG No. 74/2006, effective 8.09.2006*) at which producers sell heat to the heat transmission company and to directly connected customers;

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

4. (*Amended, SG No. 74/2006, effective 8.09.2006*) at which the public provider sells electricity to public suppliers, to customers 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 suppliers of last resort any electricity purchased under Item 17a of Article 21 (1) herein;

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

5a. (*New, SG No. 74/2006, effective 1.07.2007*) at which the public provider sells natural gas to natural gas suppliers of last resort;

6. at which public providers sell electricity and natural gas to customers connected to the respective distribution networks or to public suppliers;

6a. (*New, SG No. 74/2006, effective 1.07.2007*) at which suppliers of last resort sell electricity and natural gas to household customers and companies with fewer than 50

occupied persons and an annual turnover not exceeding BGN 19.5 million;

7. of transmission of electricity and natural gas to customers through the respective transmission and/or distribution networks, with the exception of the prices of transit transmission;

8. of connection to the networks;

9. of storage of natural gas;

10. (*New, SG No. 74/2006*) (*) of 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 customers acquire the status of eligible customers.

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

(4) The prices of energy, natural gas and services provided by the energy companies shall not be subject to regulation by the Commission when the said Commission 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, effective 8.09.2006*) In exercising the price regulation powers thereof, in addition to the principles covered 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 customers;

(c) provision 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 shall ensure an economically justified rate of capital return;
5. prices for the individual groups of customers shall conform to the costs of provision of energy and natural gas to the said customers;
6. avoidance of cross subsidization through the prices:
 - (a) between individual groups of customers;
 - (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, effective 8.09.2006)* fair passing of any preferential pricing costs of renewable energy sources and cogeneration to final customers of electricity;
8. *(New, SG No. 74/2006, effective 8.09.2006)* fair passing of any system service costs, including ancillary service costs, cold reserve costs and technological costs to users of the transmission network and, respectively, of the distribution networks.

Article 32. (1) The Commission may regulate prices by setting an upper limit to prices or income, by determining effectiveness parameters for energy companies, indicators 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, effective 8.09.2006)* The Commission shall endorse a price of heat for final customers as a single-component price.

Article 33. *(Amended, SG No. 74/2006, effective 8.09.2006)* (1) The Commission shall determine preferential prices for sale of electricity produced from renewable energy sources under Article 159 (2) herein and from cogeneration by combined heat and power plants under Item 1 of Article 162 (2) herein.

(2) The preferential price of any electricity produced from renewable energy sources under Paragraph (1) shall be set as not less than 70 per cent of the average selling price for the preceding calendar year of the public suppliers or the suppliers of last resort plus a surcharge determined by the Commission under criteria depending on the primary energy

source type according to the ordinance referred to in Article 36 (3) herein.

(3) The preferential price of any electricity produced from cogeneration by combined heat and power plants under Paragraph (1) shall be set on the basis of individual production costs plus a surcharge determined by the Commission by producer group and under criteria according to the ordinance referred to in Article 36 (3) herein.

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

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 for establishment of the amount thereof. Any such applications shall be accompanied by evidence of the grounds for incurrence of such non-recoverable costs and of 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) Non-recoverable costs shall be compensated by all customers in a non-discriminatory and transparent manner.

Article 35. (1) Energy companies shall have the right to request compensation of costs 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 costs under Paragraph (1):

1. resulting from an obligation to purchase electricity from producers which have won a tendering procedure under Article 46 herein;

2. resulting from an obligation to generate electricity using local primary energy sources under Item 8 of Article 4 (2) herein;

3. resulting from an obligation to purchase electricity at preferential prices under Articles 159 and 162 herein;

4. other additional obligations.

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

(4) The Commission shall determine the recoverable volume for each individual company and the overall recoverable volume 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 customers 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 issued by the Commission regarding price formation shall be mandatory for the energy companies.

(2) *(Repealed, SG No. 74/2006, effective 8.09.2006).*

(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, effective 8.09.2006)* (1) Within one month before submission to the Commission of an application for endorsement of new prices or for modification of effective prices, the public provider of electricity and natural gas, the public suppliers of electricity or natural gas, and the electricity or natural gas suppliers of last resort, as well as the heat transmission companies shall make public through the mass communication media their proposal for endorsement of new prices or for modification of effective prices.

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

(3) Within seven days after receipt of the decision referred to in Paragraph (2), the licensee shall publish in the mass communication media the price limits as endorsed and the prices under the contracts with customers.

Section V

Separate Accounting

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

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 group of customers, 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 type 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 provision 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)* supply of electricity or natural gas by suppliers of last resort;
11. *(New, SG No. 74/2006) (*)* management of the electricity system;
12. *(New, SG No. 74/2006, effective 8.09.2006)* distribution of traction electricity through the railway transport 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, effective 8.09.2006)* Issuance of a licence shall not be required for:

1. generation of electricity by a person possessing a plant with a total installed electricity

generating capacity of up to 5 megawatts;

2. generation of heat by a person possessing a plant with a total installed heat generating capacity of up to 5 megawatts;

3. transmission of heat by a person possessing a heat transmission network where to plants with a total installed capacity of up to 5 megawatts are connected;

4. generation of heat for own consumption only.

(5) (*New, SG No. 74/2006, effective 8.09.2006*) When the person applying for licence for any activity referred to in Items 1 to 3, 5 to 8, 10 and 11 of Paragraph (1) or holding such a licence meets the requirements for a balancing group coordinator, the respective licence shall contain the rights and obligations related to the activities of a balancing group coordinator.

Article 40. (1) A licence shall be issued to a legal person registered under the Commercial Code 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*) (*) holds rights *in rem* to the energy works whereby the activity is to be performed, if the said works 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 is 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 present 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, effective 11.08.2006*) A licence referred to in Item 4 of Article 39 (1) herein shall be issued in compliance with the provisions of Article 118a (3) to (6) of the Water Act.

(4) (*Renumbered from Paragraph (3), SG No. 65/2006, effective 11.08.2006*) 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, effective 11.08.2006)* 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, effective 11.08.2006)* 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.

(6) *(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 licence under Paragraph (1) shall also be issued to a legal person registered under the legislation of any Member State of the European Union or of another Contracting State to the Agreement on the European Economic Area, under the terms established by Paragraphs (1) to (5).

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 as well, 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 set 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 rendition of the decision on a refusal or, respectively, after the entry into effect of the judgment of court whereby the appeal is dismissed as unfounded.

Article 42. (1) A licence 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 (1), 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) By 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 provision of electricity or of natural gas;
4. *(New, SG No. 74/2006) (*)* management of the electricity system.

(2) Only a single licence shall be issued within a geographically limited 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, effective 1.07.2007)* supply of electricity or natural gas by suppliers of last resort;
3. transmission of heat.

(3) A geographically limited area for distribution of electricity shall comprise not fewer than 150,000 customers 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)* Only a single licence shall be issued within a geographically limited area referred to in Paragraph (3) for electricity supply by suppliers of last resort.

(5) *(Renumbered from Paragraph (4), SG No. 74/2006, effective 8.09.2006)* A geographically limited area for distribution of natural gas shall comprise not fewer than 50,000 customers, who may be connected to the adjoining distribution network, and the boundaries of the said area 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)* Only a single licence shall be issued within a geographically limited area referred to in Paragraph (5) for supply of natural gas by suppliers of last resort.

(7) *(Renumbered from Paragraph (5), SG No. 74/2006, effective 8.09.2006)* A geographically limited 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) and amended, SG No. 74/2006, effective 8.09.2006)*

The provision of Paragraph (6) shall not apply, where an interest has been expressed in supply of natural gas to 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 which is subject to investment interest shall be designated as a geographically limited area for distribution of natural gas. Licences for distribution of natural gas, as well as for public supply or for supply of natural gas by a supplier of last resort to any such area, shall be issued without a tendering procedure to the interested investor under the terms established by Section I of this Chapter and according to the procedure established by the ordinance referred to in Article 60 herein, after consultation with the municipality concerned.

(9) *(Renumbered from Paragraph (7) and amended, SG No. 74/2006, effective 8.09.2006)*
If more than one application for supply of natural gas to an area referred to in Paragraph (8) has been submitted, the Commission shall announce a tendering procedure under the terms established by Section II of this Chapter and according to the procedure established by the ordinance referred to in Article 60 herein.

(10) *(Renumbered from Paragraph (8) and amended, SG No. 74/2006, effective 8.09.2006)*
By decision of the Commission to modify the licence, the area of the municipality, which is outside the inventory referred to in Article 4 (2) herein, may be joined to a geographically limited area for distribution of natural gas upon request stated by the municipality concerned and consent of the holder of the licence for distribution of natural gas within the geographically limited area.

(11) *(New, SG No. 74/2006, effective 8.09.2006)* The provisions of Paragraphs (8) and (9) shall not apply where the consent referred to in Paragraph (10) from the holder of the licence for distribution of natural gas within the geographically limited area has been obtained.

(12) *(New, SG No. 74/2006, effective 8.09.2006)* Only a single licence within the national territory shall be issued for distribution of traction electricity through the railway transport distribution networks, to the Railway Infrastructure National Company.

Article 44. (1) *(Amended, SG No. 74/2006)* (*) Any person whereto a licence for management of the electricity system 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 transmission of natural gas 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 person whereto a licence for transmission of natural gas has been issued may not engage in trade in natural gas.

(3) *(Amended, SG No. 74/2006, effective 8.09.2006)* 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, effective 8.09.2006)* Any persons whereto licences for

distribution of natural gas have been issued may not be issued licences for other activities subject to licensing under this Act, except licences for public supply of natural gas or supply of natural gas by a supplier of last resort, if the customers attached to the gas distribution network in the relevant area are fewer 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) herein, the holder of the licence stating an obligation to construct such a capacity shall be selected by a tendering procedure.

(2) The holders of licences for distribution of natural gas for geographically limited 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 referred to in Paragraph (1) or Paragraph (2) shall be issued a licence under Article 39 (3) herein.

(4) *(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)*
Where the winner in a tendering procedure is a non-resident person which is not registered

in a Member State of the European Union or in another Contracting State to the Agreement on the European Economic Area, the licence shall be issued to a corporation registered under the Commercial Code 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 has been received by the time limit for submission of applications for participation in the tendering procedure, or where only a single such application has been 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, which shall be 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, representatives of the municipalities concerned and interested central- government departments and organizations as well.

(2) The tender board shall consider and evaluate the tenders 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, effective 8.09.2006*) Within fourteen days after receipt of the proposal of the tender board, the Commission shall rank the candidates and 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, effective 8.09.2006*) The Commission shall notify the candidates of the decision referred to in Paragraph (3).

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

1. only a single candidate has applied, or
2. the proposals of the candidates do not satisfy the tendering procedure requirements.

(2) Should after the tendering procedure is re-announced only a single candidate applies, the Commission shall declare the said candidate the winner of the tendering procedure, provided that the said candidate satisfies 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 customers;
2. upon change of legislation;
3. to safeguard national security and public order in consultation 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 disposition 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 supplement the licence after expiry of the time limit referred to in Paragraph (3).

(5) The licensee may request a 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 a 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 said 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 satisfies 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 entry of the corporate transformation in the Commercial Register.

(3) *(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)* The termination, modification or issuance of a licence in the Republic of Bulgaria upon any corporate transformation of a legal person holding a licence issued under Article 40 (6) herein shall become effective as from the date of entry into effect of the transformation of the said legal person under the legislation of the State of registration of the said person.

Article 53. (1) Transactions for disposition of any construction works in progress or of 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 (unit) which

can technologically be operated independently of one other, an individual unit may be the subject of any such 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 satisfies 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 disposition transaction regardless of whether the transferee has submitted an application for issuance of a licence.

(5) The Commission shall also grant authorization 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 whereunder 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, by the prosecutor, or by 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 satisfies the 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. upon 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, effective 8.09.2006*) 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 be a licensee or have submitted an application and satisfies the requirements for issuance of a licence for the respective activity. In case the licensee fails to transfer the ownership or to create a right *in rem* to use within one month after termination of the licence, the provisions of Article 56 (4) to (11) shall apply, *mutatis mutandis*.

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 the said licensee 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 customers, 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 disposition transaction, the Commission shall appoint a special business administrator who:

1. shall accept, according to an inventory, the works whereby the licensed activity was performed, where the said facilities are transferred thereto for management, reckoned from the first day after 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 business administrator shall be selected by mutual consent of the licensee and the Commission not later than 30 days before expiry of the term of validity of the licence. Should no agreement be reached, the special business administrator shall be designated by the Commission.

(6) The special business 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, nor perform any activities determined by the Commission by the act of appointment.

(7) The name and address of the special business administrator as appointed shall be entered in the Commercial Register at the request of the Chairperson of the Commission and shall be promulgated in the *State Gazette*.

(8) After entry of the special business administrator in the Commercial Register, the management bodies of the licensee may perform solely activities related to the preparation and conclusion of a disposition 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 consultation with the relevant competent state bodies.

(11) Eligibility for appointment as a special business administrator shall be limited to persons who satisfy the following requirements:

1. higher education and professional experience in management of energy companies;

2. no conviction, after attainment of the age of 18 years, of a premeditated offence at public law, unless rehabilitated;

3. no relations with the licensee that give rise to 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 customers, 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 license 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 judge the request considering the needs of the national overall forecast energy balance and the secure and reliable supply of energy and natural gas to customers.

(2) The holder of a licence selected by tendering procedure may submit a request for termination of the said licence if 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 thereof under the licence as issued;
3. where the licensee fails to comply with, within the prescribed time limit, or breaches any prescriptions of the control authorities of the Commission or any 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, effective 8.09.2006*) 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) A decision to withdraw a licence shall fix a time period during which the person may not apply for the 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 appoint a special administrator vested with powers according to Article 56 (4) herein 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 customers, 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 any 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 any persons which have obtained licences for public provision 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

RIGHTS *IN REM*

Section I

Building Right. Condemnation

Article 62. (*Amended, SG No. 74/2006, effective 8.09.2006*) (1) Where site and/or line energy works, as well as above-ground or underground hydraulic engineering facilities for

electricity generation or parts thereof are constructed or expanded within a corporeal immovable constituting private state property or private municipal property, 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 which is to operate the energy work.

(2) The value of the building right shall be determined by an independent licensed appraiser, selected by the competent state or municipal authority according to the procedure established by the Public Procurement Act. The value determined by the licensed appraiser shall be treated as the lowest market price that may be paid for the building right to the specific corporeal immovable.

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

Article 63. (1) *(Amended, SG No. 74/2006, effective 8.09.2006)* Upon refusal or 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, effective 8.09.2006)* Upon expansion of existing overhead and underground electric power lines of above-ground and underground hydraulic engineering facilities for electricity generation, heating mains, gas pipelines, and crude-oil and petroleum-product pipelines, and upon construction of new such lines and mains, servitudes shall arise in favour of the energy companies. The 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 right of passage of persons and machinery in favour of the energy company;

2. (*Amended and supplemented, SG No. 74/2006, effective 8.09.2006*) a right of laying overhead and underground electric power lines of above-ground and underground hydraulic engineering facilities for electricity generation, heating mains, gas pipelines, crude-oil and petroleum-product pipelines in favour of the energy company;

3. limitation on the 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, effective 8.09.2006*) to lay overhead and underground electric power lines, heating mains, gas pipelines, crude-oil and petroleum-product pipelines in favour of the energy company;

(b) for representatives of the energy company, to enter into and to pass through the servient estates and to perform activities therein in connection with the operation of the 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 planting of perennial plants in the servitude strip, as designated in the ordinance referred to in Paragraph (9);

(b) laying of lines 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 of 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, effective 8.09.2006)* 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 of both parties through a valuation by a licensed appraiser.

(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. 74/2006, effective 8.09.2006)* 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 Forestry, 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 the other person's lot 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 the servient estates incorporated within the servitude boundaries under this Act shall be 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 other persons' 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, effective 8.09.2006)* Energy companies shall have the right to use gratuitously bridges, roads, streets, sidewalks and other corporeal immovables constituting public property for the laying, connecting, passing and maintaining overhead and underground electric power lines, heating mains, gas pipelines, water mains for power generation purposes, crude-oil and petroleum-product pipelines, while ensuring technical safety and taking measures for the prevention of detriment.

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

(4) The 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 customers and in accordance with the requirements established by this Act and the other statutory instruments, ensuring the security of supply, an uninterrupted supply and quality of electricity, heat and natural gas, efficient use of fuels and energy, protection of the environment, the life, health and property of citizens.

Article 70. (1) *(Amended, SG No. 74/2006, effective 8.09.2006)* 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. uninterrupted provision of electricity, heat and natural gas, and
2. environmental protection: 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 whereunder the obligation must be fulfilled;
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*) (*) The energy companies for management of the electricity system, transmission of electricity, heat and natural gas or for distribution of electricity and natural gas, which provide a universal service and are in 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) (*Amended, SG No. 74/2006, effective 8.09.2006*) 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) (*Amended, SG No. 74/2006, effective 8.09.2006*) 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) (*Amended, SG No. 74/2006, effective 8.09.2006*) 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 electricity system, 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 customers:

1. upon occurrence, or for prevention, of breakdowns;
2. where human health or life is endangered;
3. where the integrity of the electricity system, the heat transmission system or the natural gas transmission system is endangered;
4. in case the system, respectively the network or the customers, 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 the 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 customers 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) (*Amended, SG No. 74/2006, effective 8.09.2006*) 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, effective 8.09.2006)* The Minister of Economy and Energy shall exercise preventive, current and follow-up control over:

1. *(Amended, SG No. 74/2006, effective 8.09.2006)* the technical condition and the operation of energy works;
2. the application of the procedure and technical terms for heat supply, disconnection of heat delivery and application of share distribution 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 energy works to operate in emergency and in wartime;
5. *(Amended, SG No. 74/2006, effective 8.09.2006)* the 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, effective 8.09.2006).*

Article 76. (1) The Commission shall control the conformity of the licensed activities as 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 provision 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 to connect producers and customers 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) (*Amended, SG No. 74/2006, effective 8.09.2006*) In exercise of the control powers thereof, the Minister of Economy and Energy shall:

1. conduct checks 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 checks 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) (*Amended, SG No. 74/2006, effective 8.09.2006*) The Minister of Economy and Energy or the Commission, as the case may be, shall have the right to demand from persons checked to provide information regarding the operation thereof, any documents required in connection with the exercise of control and, where necessary, to approach the specialized control authorities for assistance.

Article 78. (1) (*Amended, SG No. 74/2006, effective 8.09.2006*) The persons who conduct checks 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 a check;

2. to demand from the relevant officials to produce the required data, information, explanations, operating and other information, including to perform or the commission 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 checked 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. to provide a place for conduct of the check or present himself or herself at the building of the Ministry or of the Commission, as the case may be;

2. to designate a contact person from among the employees thereof to render assistance to the officials who conduct the check;

3. to provide access to official premises;
4. to produce all accounting, business and other documents required for establishment of facts and circumstances relevant to the scope of the check;
5. to provide written explanations upon request by 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 secret that comes 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 check, attaching thereto the data, documents and explanations collected.

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

(3) On the basis of the results of the check, the control authorities may issue mandatory prescriptions to the persons checked by the memorandum and/or draw up written 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

Electricity System

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

(2) The electricity system shall comprise the electric power plants, the transmission network, the individual distribution networks, and the electric fixtures of customers.

(3) (*Supplemented, SG No. 74/2006, effective 8.09.2006*) The parallel operation of the electricity system [of Bulgaria] with other electricity systems and pools of systems shall be implemented in accordance with the concluded international electricity industry instruments and in compliance with the technical standards and requirements for reliable and safe operation.

Article 83. (1) The electricity system 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 technical 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 technical operation of electric power plants and networks);
3. an ordinance on the technical 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 installations of customers;
4. rules for operation of the electricity system, which shall regulate the rights and obligations of the transmission company, the electricity system 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 electricity system, 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 electricity system, terms and procedure for conduct of system-wide tests and for provision of ancillary services;
5. (*Amended, SG No. 18/2004, effective 5.03.2004*) rules for management of distribution networks, which shall 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 databases of the readings of commercial metering devices.

(2) *(Amended, SG No. 74/2006, effective 8.09.2006)* 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 at a proposal by the energy companies.

(3) *(Amended, SG No. 74/2006, effective 8.09.2006)* The technical rules and standard specifications for design, construction and use of facilities and installations for generation, conversion, transmission and distribution of electricity 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, effective 8.09.2006)* Electricity producers shall be obligated to maintain stocks of fuels, including stocks of local solid fuels, in quantities guaranteeing sustained and reliable generation.

(2) *(Amended, SG No. 74/2006, effective 8.09.2006)* The terms and procedure for the building, maintenance of stocks of fuels and control shall be established by an ordinance of the Minister of Economy and Energy.

Section III

Electricity Transmission and Management of Electricity System

(Heading amended, SG No. 74/2006) ()*

Article 86. (1) *(Amended, SG No. 74/2006) (*)* Electricity shall be transmitted by a transmission company which owns the transmission network and which has been licensed for transmission of electricity.

(2) *(New, SG No. 74/2006) (*)* The licensee may assign, by contract, the operation and maintenance of the transmission network only to the electricity system operator which has been licensed to manage the electricity system.

(3) *(Renumbered from Paragraph (2) and amended, SG No. 74/2006) (*)* Electricity transmission and transformation shall be a universal service, over which the electricity system operator shall exercise dispatching control.

Article 87. (1) *(New, SG No. 74/2006) (*)* The transmission company shall ensure the expansion, redevelopment and modernization of the transmission network in accordance with the long-term forecasts and plans for development of the electricity industry.

(2) *(Renumbered from Paragraph (1) and amended, SG No. 74/2006) (*)* The electricity system operator shall ensure:

1. integrated management of the electricity system and reliable functioning of the transmission network;
2. *(Amended, SG No. 74/2006) (*)* 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) (*)*;
5. maintenance and development of the auxiliary networks.

(3) *(Renumbered from Paragraph (2) and amended, SG No. 74/2006) (*)* For preparation of the national electric energy balance, the electricity system 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 customers 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 electricity system with a view to ensuring the electric energy balance;
5. *(Amended and supplemented, SG No. 74/2006) (*)* 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 inter-system 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) Electricity shall be distributed and the distribution networks shall be operated by distribution companies which own the distribution networks within a geographically limited area and are licensed for distribution of electricity within the relevant area.

(2) *(Amended, SG No. 74/2006, effective 8.09.2006)* 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. uninterrupted electricity supply and high quality of the electricity provided;
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 at a proposal by the energy companies.

(3) (*Amended, SG No. 74/2006, effective 8.09.2006*) The rules referred to in Paragraph (2) shall establish the manner of administrating of the transactions and of organizing and functioning of the balancing market for electricity, as well as the organizing of the balancing group types and the activities of balancing group coordinators.

(4) (*New, SG No. 74/2006, effective 8.09.2006*) The Commission, taking into account the results achieved in the functioning of the electricity system and the electricity market and the procedures regulated in the electricity trading rules and at a proposal by the energy companies, shall amend or repeal and adopt new electricity trading rules, adhering to the principles of non-discrimination and balancing of the interests of all parties.

Article 92. (*Amended, SG No. 74/2006, effective 8.09.2006*) The following shall be parties to electricity transactions:

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, effective 8.09.2006*) the customers, including eligible customers;

5. the transmission company;
6. the distribution companies;
7. the electricity traders;
8. (*Amended, SG No. 74/2006*) (*) the electricity system operator;
9. (*New, SG No. 74/2006, effective 1.07.2007*) the supplier of last resort.

Article 93. (1) (*Supplemented, SG No. 74/2006, effective 8.09.2006*) The public provider of electricity shall ensure the supply of electricity to public suppliers and to the customers connected to the transmission network who have not chosen another supplier.

(2) The public provider shall enjoy an exclusive right to conclude transactions for import and export of electricity.

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 contracts for long-term purchase of availability and electricity, as well as electricity produced from renewable energy sources, from high-efficiency cogeneration, and the quantity of electricity determined according to the procedure established by Item 8 of Article 4 (2) herein.

(2) The public provider may purchase electricity determined within the limits of the availability referred to in Item 17a of Article 21 (1) herein for the purpose of ensuring electricity to the suppliers of last resort.

Article 94. Public suppliers of electricity shall ensure the supply of electricity to customers connected to the distribution networks within the areas whereof the said suppliers are licensed.

Article 94a. (*New, SG No. 74/2006, effective 8.09.2006*) (1) The supplier of last resort shall ensure the supply of electricity of a particular quality and reliability level to household customers and companies with fewer than 50 occupied persons and an annual turnover not exceeding BGN 19.5 million in accordance with the rules referred to in Item 7a of Article 21 (1) herein.

(2) Electricity supply under Paragraph (1) shall be a universal service under this Act, which shall be provided under conditions of non-discrimination.

(3) The supplier of last resort shall purchase electricity produced from renewable energy

sources and from high-efficiency cogeneration by producers connected to the distribution network.

Article 95. Eligible customers shall be electricity consumers satisfying 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, effective 8.09.2006*) "Balancing group coordinator" shall be a person which has been issued a licence for any of the activities referred to in Item 1, 2, 3, 5, 6, 7, 8, 10 or 11 of Article 39 (1) herein, satisfying the financial-guarantee requirements for any transactions concluded thereby, the requirements established in the rules referred to in Article 91 (2) herein, and which is registered by the electricity system operator.

Section VI

Transactions at Regulated Prices

Article 97. (1) Electricity transactions 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, effective 8.09.2006*) the producers and the transmission company or, respectively, the public provider and the distribution companies, in respect of the electricity needed to compensate the technological costs of transmission or of distribution, respectively;

8. (*New, SG No. 74/2006, effective 1.07.2007*) the producers and the suppliers of last resort or the public provider in respect of the electricity determined by the Commission within the availability referred to in Item 17a of Article 21 (1) herein;

9. (*New, SG No. 74/2006, effective 1.07.2007*) the public provider and the suppliers of last resort in respect of the electricity determined by the Commission within the availability referred to in Item 17a of Article 21 (1) herein;

10. (*New, SG No. 74/2006, effective 1.07.2007*) the suppliers of last resort, household customers and companies with fewer than 50 occupied persons and an annual turnover not exceeding BGN 19.5 million, which have not exercised their right to choose the person wherefrom they purchase electricity.

(2) (*Amended, SG No. 74/2006*) (*) Where the quantities of electricity contracted under Items 1 and 2 of Paragraph (1) are insufficient for the supply of customers, the public provider and the public suppliers may purchase electricity at regulated prices from producers within the quantities fixed according to the procedure established by § 135 herein.

(3) The provision of electricity under Items 3, 4 and 5 of Paragraph (1) shall be a universal service within the meaning given by this Act and shall be provided under conditions of non-discrimination.

(4) (*New, SG No. 74/2006, effective 8.09.2006*) The electricity system operator shall conclude transactions with the neighbouring system operators for mutual compensation of the influence of cross-border flows of electricity.

Article 98. (1) Public suppliers of electricity shall sell electricity to customers under publicly known general conditions.

(2) The general conditions referred to in Paragraph (1) shall be prepared by the public suppliers of electricity and shall be approved by the Commission.

(3) The general conditions shall mandatorily contain:

1. conditions for the quality of supply;
2. information to be provided by the companies;
3. term of validity of the contract;
4. conditions for disconnection or suspension of supply;

5. liability incurred by the energy company in the event of unwarranted suspension and poor quality of supply.

(4) Public suppliers of electricity shall publish the general conditions as approved in at least one national and one local daily newspaper. Such general conditions shall take effect 30 days after the first publication thereof, without the need of an express written acceptance by customers.

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

(6) The procedure provided for in Paragraphs (2) to (4) shall furthermore apply to introduction of modifications in the general conditions.

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

(2) The general conditions shall mandatorily contain:

1. information to be provided by the supplier;
2. term of validity of the contract;
3. conditions for disconnection or suspension of supply;
4. liability incurred by the energy company upon failure to fulfil the general conditions.

(3) The electricity supplier of last resort shall publish the general conditions in at least one national and one local daily newspaper.

(4) The general conditions shall become effective for all customers who purchase electricity from the supplier of last resort, without the need of an express written acceptance.

(5) Within 30 days after the effective date of the general conditions, the customers who disagree with the said conditions shall have the right to submit a statement to the relevant electricity supplier of last resort, proposing thereby special conditions. Any special conditions departing from the general conditions as published, which are accepted by the electricity supplier of last resort, shall be entered in supplemental written agreements.

Article 98b. *(New, SG No. 74/2006, effective 1.07.2007)* The customers of the supplier of last resort shall conclude a contract with the distribution company for the transmission of any electricity they have consumed through distribution networks under publicly known

general conditions.

(2) The general conditions shall mandatorily contain:

1. information to be provided by the distribution company;
2. conditions for disconnection or suspension of supply;
3. conditions for quality and reliability of supply;
4. liability incurred by the energy company in the event of unwarranted suspension and poor quality of supply.

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

(4) The general conditions shall become effective for the customers who purchase electricity from the supplier of last resort, without the need of an express written acceptance.

Article 99. (*Amended, SG No. 74/2006*) (*) (1) For the purposes of balancing the generation of and demand for electricity, the electricity system operator shall organize a balancing market for electricity in accordance with the rules referred to in Article 91 (2) herein.

(2) The electricity system operator shall be a party to all balancing transactions in electricity.

(3) The electricity system operator shall conclude balancing transactions in electricity with domestic and/or foreign suppliers to balance the electricity system.

(4) The electricity system operator shall conclude transactions with balancing group coordinators for management of the imbalances thereof.

(5) The electricity system operator shall settle the transactions and mutual obligations among the participants on the market for balancing electricity in accordance with the rules referred to in Article 91 (2) herein.

Section VII

Transactions at Freely Negotiated Prices

Article 100. (1) Electricity producers, electricity traders and eligible customers 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 provider of electricity shall sell any electricity purchased under Article 93a herein at freely negotiated prices. In this case, the public provider shall have the right to claim recovery of the costs incurred thereby from the Commission under Articles 34 and 35 herein.

Article 101. (1) For an identical period of time fixed in the rules referred to in Article 91 (2) herein, eligible customers 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) (*)* The transmission company shall receive validated data on the metered quantities of electricity from the owners of the commercial metering device according to the procedures and within the time limit regulated in the rules referred to in Item 6 of Article 83 (1) and Article 91 (2) herein.

Article 102. *(Amended, SG No. 74/2006, effective 8.09.2006)* Producers, traders, the public provider, the public suppliers, the suppliers of last resort and the eligible customers may conclude electricity transactions with resident persons in a Member State of the European Union or persons registered in a State wherewith the Republic of Bulgaria has reached an agreement by virtue of an international instrument on mutual application of the respective Community law, where:

1. the producers, the electricity traders, the public provider, the public suppliers, the suppliers of last resort and the eligible customers are granted the right to free trade in electricity according to the legislation of that other State, and
2. on conditions of reciprocity, the legislation of that other State provides for a possibility for free trade in electricity for eligible customers of the said State;
3. subject to the condition that the household customers and companies with fewer than 50 occupied persons and an annual turnover not exceeding BGN 19.5 million have been provided with the electricity they need of certain quality indicators and at transparent and reasonable prices.

Article 103. (1) Transactions on 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 electricity system 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

(Heading amended, SG No. 74/2006) ()*

Article 104. *(Amended, SG No. 74/2006, effective 1.07.2007)* (1) Users of the relevant network, with the exception of the customers of the supplier of last resort, shall settle through a transaction the relationships thereof with the transmission and/or the distribution company in respect of network use and the transmission of any quantities of electricity which have entered the network or consumed by the network.

(2) Users of the relevant network, with the exception of the customers of the supplier of last resort, shall settle through a transaction the relationships thereof with the electricity system operator and/or the distribution company in respect of network access.

(3) The procedure, the terms and the proportion in the payment of the prices referred to in Paragraphs (1) and (2) by the users of relevant networks shall be established in the relevant ordinance referred to in Article 36 (3) herein.

Article 105. (1) *(Amended, SG No. 74/2006) (*)* For the purpose of ensuring the secure operation of the electricity system, the electricity system operator shall conclude ancillary-services and cold-reserve transactions under the terms and according to the procedure established by Item 4 of Article 83 (1) and Article 91 (2) herein with suppliers within and/or outside Bulgaria.

(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, effective 8.09.2006)* The net electricity from an activated cold reserve shall be paid under terms, according to a procedure and at a price determined in the rules referred to in Article 91 (2) herein.

Article 106. For the purpose of ensuring the secure 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, effective 8.09.2006)* The public provider, the electricity system operator, the public suppliers, the suppliers of last resort, the transmission company and the distribution companies may collect the receivables thereof for electricity provided or transmitted, as well as for the services rendered thereby under this Act, from defaulting payers according to the procedure established by Littera (j) of Article 237 of the Code of Civil Procedure on the basis of abstracts of the bills.

Section IX

Day-to-Day Operation Management

Article 108. (1) *(Amended, SG No. 74/2006) (*)* The centralized operational planning, coordination and management of the electricity system shall be performed by the electricity system operator and by the operators of each of the distribution networks.

(2) *(Amended, SG No. 74/2006) (*)* The electricity system operator shall be a separate legal person licensed to manage the electricity system.

(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 distribution network operators shall be specialized units of the distribution companies.

Article 109. (1) The electricity system operator shall be obligated to ensure:

1. secure, safe and efficient functioning of the electricity system;
2. maintenance of the balance between generation and consumption of electricity;
3. implementation of the joint operation of the national electricity system with the

electricity systems 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*) (*) The directives of the electricity system operator, related to the fulfilment of the obligations assigned thereto by this Act, shall be mandatory for the distribution network operators and for the electricity producers and the electricity consumers connected to the transmission network, and for the other companies of the vertically integrated undertaking in the cases where the electricity system operator is part of a vertically integrated undertaking.

(3) (*New, SG No. 74/2006*) (*) The electricity system operator shall determine a coordinated schedule for planned downtimes of the generating capacities and the transmission network components based on a maximum reliability criterion.

Article 109a. (*New, SG No. 74/2006, effective 8.09.2006*) (1) Where the electricity system operator is part of a vertically integrated undertaking, the activity of the said operator must be independent in terms of legal form of business organization and decision-making from the other activities of the vertically integrated undertaking.

(2) In order to ensure the independence of the electricity system operator referred to in Paragraph (1), the persons responsible for the management, including day-to-day operation management of the electricity system:

1. may not take part in the management of the other companies in the vertically integrated undertaking engaged in the generation, distribution, public provision, public supply and trade in electricity;

2. shall make independent decisions in the course of performance of the duties assigned thereto by this Act;

3. shall be obligated to exclude discriminatory conduct in the course of performance of the duties assigned thereto by this Act.

(3) The electricity system operator shall prepare a programme setting out measures to meet the objective referred to in Paragraphs (1) and (2), which shall contain specific obligations of employees for meeting the said objective, and shall designate an employee responsible for monitoring compliance with the said programme.

(4) The electricity system operator shall prepare an annual report on the measures referred to in Paragraph (3), which shall be submitted to the Commission by the designated employee and shall be published in the bulletin referred to in Article 15 (1) herein.

Article 110. (1) *(Amended, SG No. 74/2006)* (*) 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)* (*) maintenance of databases of the readings of the quantity of electricity taken by commercial metering devices referred to in Item 1.

(2) *(Amended, SG No. 74/2006)* (*) The owners of commercial metering devices shall provide the electricity system operator with the readings of the said devices as shall be needed for performance of the functions of the said operator covered under Article 111 herein.

(3) *(Amended, SG No. 74/2006)* (*) The parties to electricity transactions shall have the right to receive information from the database of the electricity system operator regarding the quantities of electricity traded by the said parties under the transactions.

Article 111. (1) *(Amended, SG No. 74/2006)* (*) The electricity system operator shall administrate electricity transactions which are concluded at regulated and freely negotiated prices, and shall organize a balancing market for electricity in accordance with the rules referred to in Article 91 (2) herein, and to this end:

1. *(Amended, SG No. 74/2006)* (*) shall keep registers of the persons concluding transactions on the electricity market;

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

3. shall 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. shall apply a method for computation and set balancing electricity prices for each settlement period;

5. shall prepare advance and final notices of the amounts due for balancing electricity from the participants for each settlement period;

6. shall control the financial security of balancing transactions in electricity and issue mandatory instructions to the participants in the market in connection with this;

7. shall have the right, upon occurrence of circumstances endangering the secure operation of the electricity system or of any 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. shall 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)* (*) The electricity system operator shall regulate the distribution of the electric load of the electricity system among the electric power plants under technical and economic criteria.

(2) *(Amended, SG No. 74/2006)* (*) In the process of distribution of the electric load, the electricity system 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)* (*) When dividing the traffic capacity of any network components, the electricity system operator shall observe technical and economic rules to ensure non-discriminatory access and fulfilment of the obligations for security of the network and public availability of information.

(4) *(New, SG No. 74/2006)* (*) The electricity system operator shall have the right to impose sanctions on any violators of the technical requirements for reliable operation of the electricity system as agreed with network users.

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 customers connected to the network.

(2) *(Supplemented, SG No. 74/2006, effective 8.09.2006)* 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 undertaking, in the cases where the distribution company is part of a vertically integrated undertaking.

Article 113a. *(New, SG No. 74/2006, effective 8.09.2006)* (1) Where the distribution company is part of a vertically integrated undertaking, the activities of the said company

shall be independent in terms of legal form of business organization and decision-making from the other activities not relating to distribution.

(2) In order to ensure the independence of the distribution company referred to in Paragraph (1), the persons responsible for the management, including day-to-day operation management of the distribution networks:

1. may not take part in the management of the other companies in the vertically integrated undertaking engaged in the generation, transmission, public provision, public supply and trade in electricity;

2. shall make independent decisions in the course of performance of the duties assigned thereto by this Act;

3. shall be obligated to exclude discriminatory conduct in the course of performance of the duties assigned thereto by this Act;

(3) The distribution company shall prepare a programme setting out measures to meet the objective referred to in Paragraphs (1) and (2), which shall contain specific obligations of employees for meeting the said objective. The distribution company shall designate an employee responsible for monitoring compliance with the said programme.

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

Article 114. *(Amended, SG No. 74/2006, effective 8.09.2006)* The electricity system operators and the distribution network operators shall be obligated to respect the confidentiality of any information constituting a commercial secret and obtained in the course of or in connection with the fulfilment of the obligations thereof. The operators shall provide information regarding the activities thereof under conditions of non-discrimination.

Article 115. *(Amended, SG No. 74/2006, effective 8.09.2006)* The terms and procedure for performance of the activity of the electricity system operator and the distribution network operators, as well as of the operational personnel on duty at electricity works and the electric fixtures of customers, shall be established by an ordinance of the Minister of Economy and Energy.

Section X

Connecting Producers and Customers to Networks. Network Access

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 set 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 works 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, and the requirements that the said devices must satisfy and the location site thereof shall be established by the rules referred to in Item 6 of Article 83 (1) herein.

(7) (*Amended, SG No. 74/2006, effective 8.09.2006*) 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 Economy and Energy.

Article 117. (1) The transmission company or distribution company, as the case may be, shall be obligated to connect any work of an 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 customer 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 set 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 expedient 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) A refusal of the energy company to perform a connection shall have to be reasoned.

(5) *(Supplemented, SG No. 74/2006, effective 8.09.2006)* High-voltage and medium-voltage electric fixtures and/or lines, which serve 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 facilities, which are situated within the corporeal immovables of customers and is located outside the property boundaries of the facilities, shall be built for the account of the said customers and shall be owned thereby.

(7) *(Amended, SG No. 74/2006, effective 8.09.2006)* The owners of electric fixtures and facilities shall be obligated to grant the transmission company or distribution company, as the case may be, access through their own fixtures and facilities for the purposes of conversion and transmission of electricity to other customers. A price for the access granted shall be set according to a method approved by the Commission.

Article 118. *(Amended, SG No. 74/2006)* (*) (1) The electricity system operator and the distribution company shall provide the users of the respective network with access to the transmission and distribution networks under conditions of non-discrimination.

(2) The electricity system 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 customers 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) up 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)* (*) Eligible customers may be supplied through a direct electric power line.

(3) *(Renumbered from Paragraph (2), SG No. 74/2006)* (*) The transmission company and/or the relevant distribution companies may refuse to conclude 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)* (*);

3. no technical conditions exist for metering of the quantities of electricity consumed that originate from own generation separately from the quantities of electricity provided from other sources.

(4) *(Renumbered from Paragraph (3), SG No. 74/2006)* (*) The manner of distribution of the electricity originating from own generation or provided from other sources shall be established by the rules referred to in Article 91 (2) herein.

(5) *(New, SG No. 74/2006)* (*) The electricity system operator and the distribution companies may refuse to conclude a contract for access to the relevant networks in the cases under Item 1 of Paragraph (1), where the reliable operation of the electricity system and/or the security of supply are 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 customers 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 install metering devices corresponding to the choice stated by the customer in writing.

(5) The terms and procedure for replacement of a metering device at the request of a customer 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, effective 8.09.2006)* 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 determine mandatory technical requirements to customers for installation of a customer's own stand-by power supply source according to the ordinance referred to in Item 1 of Article 83 (1) herein.

(2) Any customer 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 checks.

(3) The transmission company or distribution company, as the case may be, shall have the right to suspend the electricity supply of the customer if the said customer 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 safety 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 used without being metered or is incorrectly metered by commercial

metering devices;

4. where an uncleared modification of the connection diagram of the customer is detected.

(3) The transmission company or the distribution companies shall have the right to suspend the connection:

1. of any persons who have connected to the relevant network without having a right to do so;

2. of any customers who have admitted the connection of a third party to their own electric fixtures without the express consent of the energy company;

3. upon failure to act on a prescription issued by a control authority for curing of a violation within the prescribed time limit;

4. of any customers who cause disturbances to the electricity system through their own network.

(4) Upon suspension of the transmission and connection under Paragraphs (2) and (3), 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 customers 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 customers 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 supplier of last resort shall have the right to suspend the electricity supply to any customers upon failure 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 customers referred to in Paragraph (1) at the request of the supplier of last resort.

(4) Upon fulfilment 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 customers upon elimination of the reasons that led to the suspension of the said supply and/or connection.

Chapter Ten

HEAT SUPPLY

Section I

General Dispositions

Article 125. (1) "Heat supply" shall be the process of generation, transmission, provision, 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 works and facilities for generation, transmission, provision and distribution connected in a heat supply system.

(3) (*Amended, SG No. 74/2006, effective 8.09.2006*) The procedure and the technical conditions for heat supply, for day-to-day operation management of the heat supply system, for connection of producers and customers 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 Economy and Energy.

(4) (*Amended, SG No. 74/2006, effective 8.09.2006*) The technical rules and standard specifications for design, construction and operation of the work and facilities 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 Economy and Energy.

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) Persons may generate heat even without holding a licence in the cases under Item 2 and 3 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 installations with a capacity exceeding 5 megawatts and using natural gas as fuel shall be constructed for cogeneration.

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, effective 8.09.2006)* The heat transmission network shall be operated by a heat transmission company.

(2) *(Amended, SG No. 74/2006, effective 8.09.2006)* 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 customers connected to the heat transmission network under equal and non-discriminatory conditions;
2. to maintain the works and facilities 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 licensed;
4. to purchase the contracted quantities of heat from producers located within the area for which the said company is licensed.

Section IV

Day-to-Day Operation Management

Article 131. (1) The day-to-day operation 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 customers.

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*) (*) coordination with the electricity system operator and/or the electricity distribution network operator in accordance with the contracts as concluded: in cases of cogeneration;
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, effective 8.09.2006*) 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 Heat Transmission Network

Article 133. (1) The heat transmission company shall be obligated to connect to the heat transmission network producers and customers located within the relevant area specified by the licence for transmission of heat.

(2) *(Supplemented, SG No. 74/2006, effective 8.09.2006)* The connection of customers 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, adopted with an express written consent of two thirds of all owners and holders of a right *in rem* 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) *(Amended, SG No. 74/2006, effective 8.09.2006)* The heat transmission company may refuse to connect customers to the heat transmission network:

1. where a constructed heat transmission network does not exist;
2. upon shortage of generating capacities;
3. upon insufficient transmission capacity of the heat transmission network;
4. *(Amended, SG No. 74/2006, effective 8.09.2006)* where the systems of customers 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 any refusal to connect a producer or customer.

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. Customers 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 customer 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 customer and shall be owned thereby.

(2) Connection of a new customer of heat for business uses by means of an existing connecting heating main owned by another customer 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 customers 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, effective 8.09.2006*) Construction of the facilities referred to in Paragraph (1) may be performed by the customers after clearance with the heat transmission company. In such case, the heat transmission company shall pay a price for use of the facilities referred to in Paragraph (1) as constructed by the customers.

(3) (*New, SG No. 74/2006, effective 8.09.2006*) Ownership of the facilities constructed by the customers shall be transferred within three years, and the relevant relationships shall be settled by the contract for connection referred to in Article 138 (1) herein.

(4) (*Renumbered from Paragraph (3), SG No. 74/2006, effective 8.09.2006*) Connection of customers from one or more buildings to a subscriber sub-station in another building shall be permissible only 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) and amended, SG No. 74/2006, effective 8.09.2006*) The connecting heating main from the existing subscriber sub-station to the building of the customers referred to in Paragraph (4) shall be constructed by and for the account of the connecting customers and shall be owned thereby.

Article 138. (1) Producers and customers shall be connected to the heat transmission

network 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) The producers and customers 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) Customers connected to the heat transmission network shall be obligated to provide the licensed heat transmission company with access through their own facilities for the purposes of heat transmission to other customers within the area specified in the licence. The price for the access provided shall be set according to a method approved by the Commission.

Section VI

Heat Distribution

Article 139. (1) Heat shall be distributed in a condominium-project building through a share distribution system.

(2) (*Amended, SG No. 74/2006, effective 8.09.2006*) The share distribution of heat in a condominium-project building among the customers shall be performed by the heat transmission company or by a heat provider, either independently or through assignment to a person entered in the public register referred to in Article 139a herein.

Article 139a. (*New, SG No. 74/2006, effective 8.09.2006*) (1) The persons providing the share distribution service shall be registered in a public register at the Ministry of Economy and Energy.

(2) A person which satisfies the following requirements shall be entered in the public register referred to in Paragraph (1):

1. which submits a document on commercial registration and a current status certificate;

2. which is a manufacturer of individual heat allocators or is a duly authorized representative of any such manufacturer, which shall be certified by a declaration from the manufacturer person or, applicable to manufacturer representatives, by a notarized power of attorney or another document whereby the manufacturer authorizes the person to carry out such activity;

3. which is a supplier and/or user of individual heat allocators and/or individual heat meters conforming to the effective standards in Bulgaria;

4. which ensures warranty and extra-warranty service maintenance of the share distribution devices supplied and installed;
5. which has at its disposal hardware and licensed software required for performance of the activity;
6. which has at its disposal qualified personnel and an authorized representative in the respective nucleated settlement;
7. which applies a method of share distribution of heat compliant with the distribution rules according to the ordinance referred to in Article 125 (3) herein;
8. which is not subject to instituted liquidation proceedings;
9. which is not adjudicated bankrupt and is not subject to instituted bankruptcy proceedings;
10. which submits a certificate showing that it is a personal data administrator under the Personal Data Protection Act;
11. which is not disqualified from practising commercial business;
12. which does not incur any pecuniary obligations to the State, established by an effective act of a competent authority, or any obligations to social insurance funds, except where the competent authority has allowed a rescheduling or deferral of the obligation.

(3) For the effecting of registration, the person shall submit an application to the Minister of Economy and Energy, attaching thereto documents certifying the circumstances covered under Paragraph (2). Where the share distribution is to be performed by a non-resident natural or legal person, any such application shall be submitted in the Bulgarian language, and any documents in a foreign language attached to the said application shall be submitted in a translated version as well.

(4) In respect of the circumstances covered under Items 4 to 6 of Paragraph (2), the person shall attach a declaration to the application, stating therein the size of the staff employed as well as the qualifications thereof.

(5) The circumstances covered under Items 3 and 8 to 12 of Paragraph (2) shall be certified by documents issued by the relevant competent administrative or judicial authorities.

(6) The application shall be considered by a board appointed by an order of the Minister of Economy and Energy, which shall prepare a reasoned motion to the Minister within one month after the date of submission of the said application.

(7) In the course of consideration of the application, the board referred to in Paragraph (6) shall have the right to verify the data stated by the person, to require clarifications regarding the circumstances and the documents covered under Paragraph (2), as well as to require submission, within a specified time limit, of additional written evidence of any circumstances stated in the application.

(8) The Minister of Economy and Energy shall rule on the application on the basis of the motion of the board within seven days after preparation of the said motion. The applicant shall be notified according to the procedure established by the Code of Civil Procedure.

(9) The authority referred to in Paragraph (8) shall rule by a reasoned refusal of the application, where the person does not satisfy the requirements of Paragraph (2) and/or has failed to submit any of the documents covered under Paragraph (4) or (5). Any such refusal shall be appealable according to the procedure established by the Code of Administrative Procedure.

(10) The entry into the register shall be effected within three days after the ruling by the authority referred to in Paragraph (8), and the applicant shall be issued a certificate on the said entry. The registration shall be considered effective as from the date of service of the certificate.

(11) Any person entered in the register referred to in Paragraph (1) shall be stricken by an act of the authority referred to in Paragraph (8):

1. upon submission of an application for striking by the person;
2. upon termination of activity or upon death of the sole-trader natural person, or upon placement of the said person under total interdiction, as well as upon dissolution if a legal person;
3. where, as a result of any change in circumstances, the person ceases to satisfy the requirements covered under Paragraph (2);
4. where two or more effective acts of competent state bodies have ascertained that the merchant has systematically violated the provisions of the law.

(12) The persons entered in the register referred to in Paragraph (1) shall be obligated to notify the Minister of Economy and Energy of any changes in the circumstances covered under Paragraph (2) within seven days after the occurrence of any such changes.

(13) A fee fixed by a rate schedule of the Council of Ministers on a motion by the Minister of Economy and Energy shall be paid for consideration of the application and for entry in the register listing.

(14) The rules for keeping and storing the particulars in the register shall be determined by an instruction of the Minister of Economy and Energy.

Article 139b. (*New, SG No. 74/2006, effective 8.09.2006*) (1) The customers in a condominium-project building shall select a person registered according to the procedure established by Article 139a herein for provision of the share distribution service.

(2) The selection referred to in Paragraph (1) shall be based on a resolution adopted by the heat customers in the condominium-project building at a general meeting of the condominium owners, convened according to the procedure established by the Regulations

for Management, Order and Supervision in a Condominium Project (promulgated in *Transactions of the Presidium of the National Assembly* No. 101 of 1951; amended in No. 16 of 1952, Nos. 14 and 32 of 1957, *State Gazette* No. 76 of 1978, No. 73 of 1979, No. 21 of 1991, No. 87 of 2002).

(3) Customers shall notify in writing the heat transmission company or the heat supplier of the result of the selection.

Article 139c. (*New, SG No. 74/2006, effective 8.09.2006*) (1) Where the heat transmission company or the heat supplier have not been registered according to the procedure established by Article 139a herein, they shall conclude a written contract for provision of the share distribution service with the person selected by the customers according to the procedure established by Article 139b herein.

(2) The contract referred to in Paragraph (1) shall be concluded under general conditions proposed by the heat transmission company or the heat supplier and approved by the Commission.

(3) The contract referred to in Paragraph (1) shall mandatorily state:

1. the rights and obligations of the parties;
2. the methodology for share distribution of heat;
3. the procedure, manner, time limits and content of the requisite information which the parties shall provide each other in order to perform the share distribution;
4. the price of the share distribution service, paid by the heat transmission company or the supplier, which compensates service costs proven to the heat transmission company or the heat supplier and an economically justified rate of return on capital;
5. the obligation of the person selected by the customers according to the procedure established by Article 139b herein to read the share distribution meters and to prepare amount equalization for the actually consumed quantity of heat in the event of termination of the contract;
6. the liabilities and damages upon non-performance of the contract, as well as the control exercised by the heat transmission company or the heat supplier as to the correct provision of the share distribution service;
7. the terms for termination of the contract;
8. the procedure, manner, time limits, access and conditions for provision of the information required for preparation of the bills of the customers in the condominium-project building by the person performing share distribution, of the heat transmission company or the heat supplier.

(4) Upon termination of the contract referred to in Paragraph (1), the customers in the

condominium-project building or the association referred to in Article 151 (1) herein shall be obligated to select another person registered under Article 139a herein wherewith the heat transmission company or the heat supplier shall conclude a contract.

Article 140. (1) The share distribution of heat among customers 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, effective 8.09.2006)* heating share distribution devices: individual allocators conforming to the effective standards in Bulgaria, or individual heat meters;
3. *(Amended, SG No. 74/2006, effective 8.09.2006)* household hot-water supply share distribution devices: a common household hot-water meter and individual hot-water meters installed on all branches from the building hot-water supply system to the properties of the customers;
4. *(Repealed, SG No. 74/2006, effective 8.09.2006).*

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

(3) *(Amended, SG No. 74/2006, effective 8.09.2006)* The building heating and household hot-water supply systems shall be common property of the condominium project.

(4) *(Amended, SG No. 74/2006, effective 8.09.2006)* The heating units, the appurtenant control fittings, the branches from the building heating systems, the branches from the hot-water supply systems and the share distribution devices referred to in Item 2 of Paragraph (1) and the individual water meters referred to in Item 3 of Paragraph (1) shall be owned by the customers.

(5) *(Repealed, SG No. 74/2006, effective 8.09.2006).*

(6) *(Repealed, SG No. 74/2006, effective 8.09.2006).*

Article 140a. *(New, SG No. 74/2006, effective 8.09.2006)* The total consumed quantity of heat in a condominium-project building connected to a subscriber sub-station or to 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

determined 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 allocated among the customers 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, effective 8.09.2006)* 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, determined 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, effective 8.09.2006)* Upon application of a share distribution system through individual allocators, the heat released by the building system shall be determined by the person performing share distribution of heat in the building according to a methodology under the ordinance referred to in Article 125 (3) herein.

(2) Upon application of share distribution through individual allocators, the heat for heating of the common parts of a condominium-project building where heating units are installed shall be determined 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 allocated among all customers in proportion to the design heated volume of the individual properties.

Article 144. (1) The heat for heating of the properties shall be allocated 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 determined by dividing the heat for heating of the building, less the quantity of heat calculated under Article 143 (1) and Item 1 of Article 143 (1) and (2) 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 heating unit, and the heat per share unit.

(5) *(New, SG No. 74/2006, effective 8.09.2006)* The heat referred to in Paragraph (4) may not exceed the maximum heat which the heating unit can release during a heating period, determined according to methodology under the ordinance referred to in Article 125 (3) herein, at the respective mode of operation of the building system.

(6) *(New, SG No. 74/2006, effective 8.09.2006)* 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) Upon application of share distribution through individual heat meters, the heat for heating of the properties in a condominium-project building shall be determined on the basis of the readings of the heat meters in the individual properties.

(2) Upon application of share distribution through individual heat meters, the heat released by the building system and the heat for the heating of the common parts shall be determined as the difference between the heat for heating of the building, determined under Article 142 (1) herein, and the heat for heating of the properties, determined under Paragraph (1).

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

Article 146. *(Repealed, SG No. 74/2006, effective 8.09.2006).*

Article 147. *(Repealed, SG No. 74/2006, effective 8.09.2006).*

Article 148. *(Repealed, SG No. 74/2006, effective 8.09.2006).*

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 customers of heat for business uses;
3. a heat transmission company and customers of heat for business uses;
4. a heat transmission company and associations of heat customers in a condominium-project building;
5. *(New, SG No. 74/2006, effective 8.09.2006)* a heat transmission company and a heat supplier;
6. *(New, SG No. 74/2006, effective 8.09.2006)* a heat supplier and customers in condominium-project building.

(2) (Amended and supplemented, SG No. 74/2006, effective 8.09.2006) The general conditions of any contracts referred to in under Items 1, 3, 4 and 5 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, whereas the general conditions of any contracts referred to in Item 6 of Paragraph (1) shall be submitted by the heat supplier to the Commission for approval.

Article 149a. *(New, SG No. 74/2006, effective 8.09.2006)* (1) Heat customers in a condominium-project building may purchase heat from a supplier selected at a general meeting of the condominium owners. Minutes on any such selection shall be drawn up according to the Regulations for Management, Order and Supervision in a Condominium Project.

(2) Heat suppliers shall be legal persons registered as merchants under Bulgarian legislation, who or which satisfy the financial-guarantee requirements for the transactions concluded thereby with the heat transmission company.

(3) The financial guarantees referred to in Paragraph (2) shall be furnished by the supplier

in favour of the heat transmission company in a form, under terms, and according to a procedure established by the ordinance referred to in Article 125 (3) herein.

Article 149b. (*New, SG No. 74/2006, effective 8.09.2006*) (1) Upon sale of heat by a supplier to customers in a condominium-project building, the written contract shall stipulate:

1. the rights and obligations of the parties;
2. the price of heat;
3. the procedure for metering, reading, distribution and payment of the heat;
4. the procedure for provision of access to the heating units and the share distribution devices;
5. the requirements to the quality of the service;
6. the liability upon non-fulfilment of the obligations;
7. the procedure for consideration of complaints and claims from customers;
8. the procedure and terms for termination of the contract.

(2) The following shall be an integral part of the contract referred to in Paragraph (1):

1. a copy of the contract with the heat transmission company;
2. the methodology for share distribution of the consumed heat;
3. minutes of proceedings at the general meeting of the condominium owners.

(3) Under the contract referred to in Paragraph (1), the share distribution service shall be provided by and for the account of the supplier independently or under a contract concluded thereby with a person registered according to the procedure established by Article 139a herein.

Article 150. (1) Heat shall be sold by the heat transmission company to customers 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 customers;
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, effective 8.09.2006)* the procedure and the time limits for provision to and receipt by customers to of the individual heat distribution bills thereof in a manner certifying the commencement of the time limit for appeal.

(2) Heat transmission companies shall mandatorily publish the general conditions as approved by the Commission in at least one national and in 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 customers.

(3) Within 30 days after the effective date of the general conditions, the customers 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, which are proposed by customers and are accepted by the heat transmission companies, shall be entered in supplemental written agreements.

Article 151. (1) Heat customers 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 customers 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 customer 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, set 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 customer'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 customers.

Article 152. (1) The association referred to in Article 151 (1) herein shall be a voluntary association of all heat customers in a condominium-project building. The registration of any such association shall be effected according to the procedure established by Chapter One of the Not-for-Profit Legal Entities Act. The court shall enter in the register the particulars referred to in Items 1 to 3, 5, 6, 8 and 9 of Article 18 (1) of the Not-for-Profit Legal Entities Act.

(2) The association referred to in Article 151 (1) herein shall be incorporated for enhancement and improvement of the living conditions and living 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 where to 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 relating 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 Not-for-Profit Legal Entities Act.

(5) Upon dissolution, the association shall be wound up. Liquidation shall be carried out by the Manager or by a person designated by the General Meeting. The provisions of the Commercial Code 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 customers.

(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 dueness 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 legal conformity 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 Charter.

(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 the said draft before the General Meeting;
5. prepare a report on the activities of the association and lay the said report 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 right *in rem* to 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 customers 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 pay 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, effective 8.09.2006*) Where two-thirds of the owners and holders of a right *in rem* to 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 customers 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 customers 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 customers 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, effective 8.09.2006*) Any customers in a condominium-project building, who discontinue the heat delivery to the heating units in the properties thereof, shall continue to be considered customers of the heat released by the building

system and by the heating units in the common parts of the building.

Article 154. (1) *(Supplemented, SG No. 74/2006, effective 8.09.2006)* 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 shall be collectible according to the procedure established by Littera (j) of Article 237 of the Code of Civil Procedure on the basis of an abstract of the accounts of the heat transmission company, and the liabilities of any customers with application of a share distribution system, who are defaulting payers, shall be collectible only after an equalizing bill for the respective year of the liability has been prepared and attached.

(2) *(Repealed, SG No. 74/2006, effective 8.09.2006).*

Article 155. (1) *(Supplemented, SG No. 74/2006, effective 8.09.2006)* Heat customers in a condominium-project building shall pay for the heat consumed using one of the following options available thereto:

1. *(Amended, SG No. 74/2006, effective 8.09.2006)* in ten equal monthly installments and two equalizing installments;
2. in monthly installments determined 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 determination of the forecast consumption and equalization of the amounts due for the quantity of heat actually consumed by each individual customer shall be established by the ordinance referred to in Article 125 (3) herein.

Article 156. (1) Heat shall be metered 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 customers shall be the last stop valve upstream of the connecting mains of the customers;
3. between the heat transmission company and the heat customers 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 PRODUCTION OF ELECTRICITY FROM RENEWABLE ENERGY SOURCES AND FROM COGENERATION

Section I

Production of Electricity from Renewable Energy Sources

Article 157. *(Amended and supplemented, SG No. 74/2006, effective 8.09.2006)* The national indicative targets for promotion of the consumption of electricity produced from renewable energy sources shall be set as a percentage of the national gross annual electricity consumption for the succeeding ten years by the Council of Ministers on a motion by the Minister of Economy and Energy and shall be updated every five years.

Article 158. For attainment of the national indicative targets, production of electricity from renewable energy sources shall be promoted while:

1. taking into account the principles of the electricity market;
2. taking into account the characteristics of the various renewable energy sources and technologies for generation of electricity;
3. *(Supplemented, SG No. 74/2006, effective 8.09.2006)* ensuring electricity producers an effect at least equivalent to preferential treatment in respect of the income of the said producers per unit of electricity produced in case of change in the mechanism for promotion of production of electricity from renewable energy sources.

Article 159. (1) *(Amended, SG No. 74/2006, effective 1.07.2007)* The public provider and, respectively, the suppliers of last resort, which hold a licence for electricity supply, shall be obligated to purchase the entire quantity of electricity produced by a plant using renewable energy sources and registered by a certificate of origin, with the exception of the quantities for which the producer has concluded contracts according to the procedure established by Section VII of Chapter Nine herein or by which the said producer participates on the

balancing market.

(2) (*Amended, SG No. 74/2006, effective 1.07.2007*) The public provider and the suppliers of last resort, respectively, shall be obligated to purchase the electricity produced by plants using renewable energy sources, including hydroelectric power plants with an installed capacity of up to 10 megawatts, at preferential prices according to the relevant ordinance referred to in Article 36 (3) herein.

(3) (*New, SG No. 74/2006, effective 8.09.2006*) The form, content, terms and procedure for issuance of the certificate of origin shall be established by an ordinance adopted by the Council of Ministers on a motion by the Commission.

Article 160. (1) The transmission company and the distribution companies shall be obligated to assign priority to the connecting of all power plants producing electricity from renewable energy sources, including hydroelectric power plants with an installed capacity of up to 10 megawatts, to the transmission network or to the distribution network, as the case may be.

(2) The costs required for connecting the power plant to the relevant network up to the property boundary of the electric facilities shall be assumed by the producer.

(3) (*Supplemented, SG No. 74/2006, effective 8.09.2006*) The expansion and redevelopment of the transmission and/or distribution network related to the connection of the power plant referred to in Paragraph (1) shall be the responsibility of the transmission company or of the distribution company, as the case may be, after payment of a connection price.

(4) For implementation of the expansion and redevelopment of the networks referred to in Paragraph (3), the transmission company and/or the respective distribution company shall have the right to apply for external financing.

Article 161. (*Repealed, SG No. 74/20065, effective 8.09.2006*).

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 suppliers of last resort, respectively, shall be obligated to purchase from producers connected to the respective network the entire quantity of electricity produced from high-efficiency cogeneration, 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, effective 8.09.2006)* The electricity referred to in Paragraph (1) shall be purchased at preferential prices according to the relevant ordinance referred to in Article 36 (3) herein.

(3) *(Amended, SG No. 74/2006, effective 8.09.2006)* The method for metering the cogenerated electricity depending on the type of the technological cycle, the requirements for the technical metering and recording devices for cogenerated electricity, shall be specified by an ordinance of the Minister of Economy and Energy.

(4) *(New, SG No. 74/2006, effective 8.09.2006)* The form, content, terms and procedure for issuance of the certificates of origin of the electricity from combined electricity and heat generation shall be established by the ordinance referred to in Article 159 (3) herein.

Article 162a. *(New, SG No. 74/2006, effective 8.09.2006)* The transmission company and the distribution companies shall be obligated to assign priority to the connecting of all power plants producing electricity from high-efficiency cogeneration with an installed capacity of up to 10 megawatts, to the transmission and the distribution network, respectively.

(2) The costs required for connecting the power plant to the relevant network up to the property boundary of the electric facilities shall be assumed by the producer.

(3) The expansion and redevelopment of the transmission and/or distribution network related to the connection of the power plant referred to in Paragraph (1) shall be the responsibility of the transmission company or of the distribution company, as the case may be, after payment of a connection price.

(4) For implementation of the expansion and redevelopment of the networks referred to in Paragraph (3), the transmission company and/or the respective distribution company shall have the right to apply for external financing.

Article 163. *(Amended, SG No. 74/2006, effective 8.09.2006)* The criteria which must be met by the analysis of the national potential for high-efficiency cogeneration referred to in Item 11 of Article 4 (2) herein shall be determined by the ordinance referred to in Article 162 (3) herein.

Chapter Twelve

NATURAL GAS SUPPLY

Section I

General Dispositions

Article 164. "Natural gas supply" shall be a totality of activities comprehended in the transmission, transit transmission, storage, distribution and provision of natural gas for the purpose of meeting the demand of customers.

Article 165. The works and facilities 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

Transmission, Transit Transmission, Storage and Distribution of Natural Gas

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 networks 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 works and facilities 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 natural 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 works and facilities 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 conditions of non-discrimination to the transmission network and/or the distribution networks thereof to persons satisfying the 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 serious economic and financial difficulties for the transmission company or for the distribution company, as the case may be, as a consequence of contracts for provision 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 supplier of last resort and the trader may submit a request to the Commission for temporary derogation of the transmission or distribution company from the obligation thereof to provide access under Article 172 (1) herein in cases where provision of such access would result in serious economic and financial difficulties as a consequence of contracts for provision concluded with a take-or-pay clause concluded before the entry of this Act into force.

(2) The request referred to in Paragraph (1) shall be submitted for each particular case before or immediately after the refusal of access to the system.

(3) The request referred to in Paragraph (1) must be accompanied by detailed information on the type and scope of the economic and financial difficulties and on the measures taken to overcome the said difficulties.

(4) The Commission shall grant the temporary derogation referred to in Paragraph (1) if there is no economically viable alternative outlet and taking into consideration the following criteria:

1. fulfilment of public obligations and ensuring the security of supply;
2. the position of the company in the natural gas market and the actual state of competition in the said market;
3. the seriousness of the economic and financial difficulties encountered;
4. the dates of signature and terms of the contracts;
5. the measures taken to overcome the difficulties;
6. the extent to which, when accepting the take-or-pay commitments, the company could have foreseen, having regard to the provisions of this Act, that serious difficulties were likely to arise;
7. the level of connection of the system with other systems and the degree of interoperability of these systems;
8. the effects of granting of temporary derogation on the efficient application of the provisions of this Act, as regards the development of a competitive natural gas market.

(5) The decision of the Commission under Paragraph (4) shall be reasoned.

(6) Serious difficulties under Paragraph (1) shall be deemed not to exist when:

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

2. the terms of the relevant take-or-pay contract for purchase of natural gas can be renegotiated.

(7) The Commission shall notify the European Commission without delay of any effective decision on temporary derogation under Paragraph (4) and shall send the required information.

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

(9) The Commission shall notify the European Commission in the cases where the Commission does not amend or withdraw the decision thereof under the terms established by Paragraph (8). In such case, the temporary derogation shall be decided by the European Commission.

Article 172b. (*New, SG No. 74/2006, effective 1.07.2007*) Natural gas storage operators shall provide access to natural gas storage facilities to the transmission and distribution network operators, the public provider, the public suppliers, the suppliers of last resort, the natural gas traders and the eligible customers under conditions of non-discrimination.

(2) Natural gas storage operators may refuse access:

1. for lack of capacity;

2. if provision of 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 substantial changes concerning the development of the transmission network, the distribution networks within a geographically limited area referred to in Article 43 (5) herein, and in order to promote investment, the Minister of Economy and Energy, acting on a request from the stakeholders, may submit a request to the European Commission for temporary derogation from the application within the said area of the provisions of Articles 37 and 38, Chapter Four, Article 172 (1) and Article 197 (2) herein.

(2) The Minister of Economy and Energy shall evaluate the grounds for the request referred

to in Paragraph (1) taking into account the following criteria:

1. the need of infrastructure investments, which would not be economically justified to operate in a competitive market environment;
2. the pay-back prospects of the investments required;
3. the size and maturity of the natural gas system in the geographically limited area concerned;
4. the prospects for development of the natural gas market concerned;
5. the size, location, characteristics, socio-economic and demographic factors of the geographically limited area.

(3) For newly-built transmission networks, temporary derogation may be granted only if there are no other such networks within the said geographically limited area or if the existing networks have been established for less than ten years. In such cases, the derogation may not exceed ten years, reckoned from the time natural gas is first supplied in the geographically limited area.

(4) For distribution networks, temporary derogation may be granted for a time period which may not exceed 20 years reckoned from the time natural gas is first supplied in the geographically limited area.

(5) The Minister of Economy and Energy shall rule on the request within three months, and immediately after the act whereby the request was found reasonable becomes effective shall submit a request for temporary derogation to the European Commission.

Section III

Transactions in Natural Gas

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 provision, 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. natural gas extraction companies;
4. natural 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 customers;
9. customers other than eligible customers;
10. *(New, SG No. 74/2006, effective 1.07.2007)* a natural gas supplier of last resort;
11. *(New, SG No. 74/2006, effective 1.07.2007)* consumers who or which are customers of the supplier of last resort.

Article 176. (1) Natural gas extraction companies may conclude transactions for provision of natural gas with the public provider of natural gas, with the public supplier of natural gas, with storage operators, with natural gas traders, and with eligible customers.

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

(3) Natural gas extraction companies may conclude transactions for storage of natural gas with the natural gas storage operators.

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

Article 176a. *(New, SG No. 74/2006, effective 8.09.2006)* The extraction companies, the public natural gas provider, the public natural gas suppliers, the suppliers of last resort, the natural gas storage operators, the natural gas traders and the eligible customers may conclude transactions for natural gas provision with resident persons in a Member State of the European Union Member State, or persons registered in a State wherewith the Republic of Bulgaria has reached an agreement by virtue of an international instrument on mutual application of the respective Community law:

1. where the extraction companies, the natural gas traders, the public provider of natural gas, the public suppliers of natural gas, the natural gas suppliers of last resort and the eligible customers are granted the right to free trade in natural gas according to the legislation of that other State, and

2. on conditions of reciprocity, where the legislation of that other States provides for a possibility of free trade in natural gas for eligible customers of the said State.

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 Commercial Code or under the legislation of a Member State of the European Union, or of another Contracting State to the Agreement on the European Economic Area, which may conclude transactions for natural gas provision with natural gas extraction companies, with natural gas traders, with public suppliers of natural gas, with eligible customers and with customers directly connected to the transmission network.

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

(3) The public provider of natural gas may conclude transactions for storage of natural gas with the natural 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 Commercial Code or under the law of a Member State of the European Union, or of another Contracting State to the Agreement on the European Economic Area, which conclude transactions for natural gas provision with final customers 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 supplier of last resort shall

be any person licensed for the activity thereof which ensures natural gas supply to household customers and companies with fewer than 50 occupied persons and an annual turnover not exceeding BGN 19.5 million, according to the rules referred to in Item 8 of Article 21 (1) herein.

Article 179. (1) A natural gas trader may be any resident or non-resident legal person registered as a merchant under the Commercial Code or under the national legislation thereof.

(2) (*Amended, SG No. 74/2006, effective 8.09.2006*) Outside the cases under Article 176a herein, natural gas traders shall conclude natural gas transactions with natural gas extraction companies inside or outside Bulgaria, with eligible customers, with other natural gas traders, with the public provider of natural gas, and with the natural gas storage operators.

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

(2) Eligible customers 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 in a manner 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 transmission, distribution and provision of natural gas;
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) Natural gas extraction companies, natural gas traders and eligible customers 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 transactions in natural gas for balancing the market under terms, according to a procedure and according to rules for price formation of balancing natural gas, 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 supplier of last resort shall sell natural gas under publicly known general conditions.

(2) The general conditions shall mandatorily contain:

1. conditions for the quality of supply;
2. information to be provided by the supplier;
3. term of validity of the contract;
4. liability incurred by the energy company upon failure to fulfil the general conditions.

(3) The supplier of last resort shall publish the general conditions in at least one national and one local daily newspaper.

(4) The published general conditions shall become effective for the customers who purchase natural gas from a supplier of last resort, without the need of an express written acceptance.

Article 183b. *(New, SG No. 74/2006, effective 1.07.2007)* (1) The customers of the supplier of last resort shall conclude a contract with the distribution company for the transmission through distribution networks of the natural gas consumed thereby under publicly known general conditions.

(2) The general conditions shall mandatorily contain:

1. conditions for quality of supply;
2. conditions for termination or suspension of supply;
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 newspaper.

(4) The published general conditions shall become effective for the customers who

purchase natural gas from a supplier of last resort, without the need of an express written acceptance.

Article 184. *(Amended and supplemented, SG No. 74/2006, effective 1.07.2007)* The public provider, the public suppliers and the suppliers of last resort of natural gas may collect the receivables thereof for natural gas from defaulting payers according to the procedure established by Littera (j) of Article 237 the Code of Civil Procedure on the basis of abstracts of the bills.

Section IV

Day-to-Day Operation Management

Article 185. (1) The centralized day-to-day operation 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) The day-to-day operation 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 customers, the natural gas extraction companies and the natural gas storage operators connected to the transmission network, and for the other companies in the vertically integrated undertaking, in cases where the combined operator is part of a vertically integrated undertaking.

(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 customers upon transmission of natural gas;
5. secure and efficient functioning of auxiliary networks;
6. day-to-day operation 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. day-to-day operation 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, effective 8.09.2006*) (1) Where the combined operator is part of a vertically integrated undertaking, the activity of the said operator must be independent in terms of legal form of business organization and decision-making from the other activities not relating to transmission, transit transmission and storage.

(2) In order to ensure the independence of the operator referred to in Paragraph (1), the persons responsible for the management, including day-to-day operation management of the combined operator:

1. may not take part in the management of the other companies in the vertically integrated undertaking engaged in the extraction, distribution, public provision, public supply and trade in natural gas;
2. shall make independent decisions in the course of performance of the duties assigned thereto by this Act;
3. shall be obligated to exclude discriminatory conduct in the course of performance of the duties assigned thereto by this Act.

(3) The combined operator shall prepare a programme setting out measures to meet the objective referred to in Paragraphs (1) and (2), which shall contain specific obligations of employees for meeting the said objective. The combined operator shall designate an employee responsible for monitoring compliance with the said programme.

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

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 database 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 transactions in natural gas shall have the right to receive information from the database 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 database 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 transactions in natural gas 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 set balancing natural gas prices for each settlement period;

5. prepare advance and final notices of the amounts due for transactions for balancing the natural gas market 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 transactions for balancing the natural gas market.

(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 customers in compliance with security and quality requirements;
3. secure and efficient functioning of the auxiliary networks;
4. non-discrimination of customers upon natural gas distribution.

Article 190a. (*New, SG No. 74/2006, effective 8.09.2006*) (1) Where the distribution company is part of a vertically integrated undertaking, the activities of the said company shall be independent in terms of legal form of business organization and decision-making from the other activities not relating to distribution.

(2) In order to ensure the independence of the distribution company referred to in Paragraph (1), the persons responsible for the management, including day-to-day operation management of the gas distribution networks:

1. may not take part in the management of the other companies in the vertically integrated undertaking engaged in the extraction, transmission, public provision, public supply and

trade in natural gas;

2. shall make independent decisions in the course of performance of the duties assigned thereto by this Act;

3. shall be obligated to exclude discriminatory conduct in the course of performance of the duties assigned thereto by this Act.

(3) The distribution company shall prepare a programme setting out measures to meet the objective referred to in Paragraphs (1) and (2), which shall contain specific obligations of employees for meeting the said objective. The distribution company shall designate an employee responsible for monitoring compliance with the said programme.

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

(5) The provisions of Paragraphs (1) to (4) shall not apply to vertically integrated natural gas undertakings, where fewer than 100,000 final customers of natural gas are connected to the respective distribution network.

Article 191. *(Amended, SG No. 74/2006, effective 8.09.2006)* Transmission and distribution network operators shall be obligated to respect the confidentiality of any information constituting a commercial secret and obtained in the course of or in connection with the fulfilment of the obligations thereof, as well as provide information regarding the activities thereof in a non-discriminatory manner.

Article 192. *(Amended, SG No. 74/2006, effective 8.09.2006)* 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 Economy and Energy.

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 customer natural gas metering device.

Article 195. (1) The quantity of natural gas destined for customers 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 customers 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 storage of natural gas.

(4) Natural gas customers 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) *(Amended, SG No. 74/2006, effective 8.09.2006)* 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 Economy and Energy.

(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 final customers shall be established at prices set 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 customers of natural gas 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 customers of natural gas 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) Customers directly 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 transmission of natural gas to other customers within the area specified in the licence. The price for the access provided shall be set 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 customers under conditions of non-discrimination and in compliance with technical requirements for reliable and safe operation.

(2) By authorization of the Commission, the distribution company may connect a customer of natural gas located within the area of another distribution company where this is

technically and economically expedient and is in the interest of consumers.

(3) The branches and the facilities for connecting customers to the relevant distribution network shall be constructed by the distribution company.

Article 200. (1) *(Amended, SG No. 95/2005, effective 1.03.2006, amended, SG No. 74/2006, effective 8.09.2006)* 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 Economy and Energy and the Chairperson of the State Agency for Metrological and Technical Surveillance.

(2) *(Amended, SG No. 74/2006, effective 8.09.2006)* The technical rules and standard specifications for design, construction and use of the works and facilities for the transmission, storage, distribution and provision of natural gas shall be determined by an ordinance of the Minister of Regional Development and Public Works and the Minister of Economy and Energy.

(3) *(Amended, SG No. 95/2005, effective 1.03.2006, amended, SG No. 74/2006, effective 8.09.2006)* The layout and safe operation of crude-oil pipelines and petroleum-product pipelines within the territory of the Republic of Bulgaria shall be determined in an ordinance adopted by the Council of Ministers on a motion by the Minister of Economy and Energy and the Chairperson of the State Agency for Metrological and Technical Surveillance.

Chapter Thirteen

COERCIVE ADMINISTRATIVE MEASURES

Article 201. (1) *(Amended, SG No. 74/2006, effective 8.09.2006)* The Commission or the Minister of Economy and Energy 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. *(Amended, SG No. 74/2006, effective 8.09.2006)* 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 Economy and Energy;

2. they endanger the security of the energy system, public interests, or interests of electricity, heat and natural gas customers or of other energy companies;

3. they breach the conditions for performance of the licensed activity;

4. (*Amended, SG No. 74/2006, effective 8.09.2006*) they obstruct the exercise of control activities by the Commission or by the Minister of Economy and Energy.

(2) (*Amended, SG No. 74/2006, effective 8.09.2006*) 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 Economy and Energy 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, checks, tests of installations and facilities, 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. to direct in writing a suspension or limitation of the licensed activity;

4. to appoint a special administrator 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) (*Amended, SG No. 74/2006, effective 8.09.2006*) The proceedings for imposition of coercive administrative measures shall be initiated by the Commission or by Minister of Economy and Energy, 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) (*Amended, SG No. 74/2006, effective 8.09.2006*) 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 Economy and Energy.

(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) (*Amended, SG No. 74/2006, effective 8.09.2006*) 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 Economy and Energy 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. (*Amended, SG No. 30/2006, effective 12.07.2006*) Save insofar as any specific rules are provided for in this Chapter, the relevant provisions of the Code of Administrative Procedure 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 a sole 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) Any energy company, which breaches the conditions of a licence issued thereto, shall be liable 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 pecuniary penalty equivalent to treble the maximum amount of the sanction 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. to provide access to electricity and natural gas transmission or distribution networks,

shall be liable 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 pecuniary penalty equivalent to treble the maximum amount of the sanction as fixed under Paragraph (1).

Article 208. (1) Any energy company, which fails to submit the required information in the cases provided for in this Act, shall be liable to a pecuniary penalty of BGN 5,000 or exceeding this amount but not exceeding BGN 15,000.

(2) A repeated violation shall be punishable by a pecuniary penalty equivalent to treble the maximum amount of the sanction as fixed under Paragraph (1).

Article 209. (1) Any customer, who or which fails to provide access to 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) 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 set by the Commission or at prices higher than the prices endorsed or set by the Commission according to Article 30 herein, shall be liable 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 pecuniary penalty equivalent to treble the maximum amount of the sanction as fixed under Paragraph (1).

Article 211. (1) 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 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 sanction as fixed under Paragraph (1).

Article 212. (1) (*Amended, SG No. 74/2006, effective 8.09.2006*) Any energy company, which fails to comply with the terms and procedure established for fulfilment of the obligation for production of electricity from renewable energy source and from cogeneration in accordance with the mandatory quotas established by the Minister of Economy and Energy according to Article 163 herein, shall be liable to a fine, applicable to natural persons, or to a pecuniary penalty, applicable to sole traders and legal persons, of BGN 30 or exceeding this amount but not exceeding BGN 90 for each megawatt-hour of electricity of unfulfilled obligation. The amount of the sanction shall be fixed annually by an order issued by the Minister of Economy and Energy.

(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 sanction as fixed under Paragraph (1).

Article 212a. (*New, SG No. 74/2006, effective 8.09.2006*) (1) Any legal person or a sole trader, which or who, in violation of Article 139a (1) herein, performs the activity

comprehended in share distribution in breach of the registration requirements, shall be liable to 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 treble the maximum amount of the sanction as fixed under Paragraph (1).

Article 213. (1) *(Amended, SG No. 74/2006, effective 8.09.2006)* Any person, which fails to comply with the technical conditions and procedure established 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 sanction as fixed under Paragraph (1).

Article 214. *(Amended, SG No. 74/2006, effective 8.09.2006)* (1) A fine of BGN 1,000 or exceeding this amount but not exceeding BGN 5,000 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 allocated thereto upon performance of share distribution, or who alters the readings of recording and commercial metering 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 sanction as fixed under Paragraph (1).

Article 215. (1) Any person, who obstructs or who tolerates the obstruction of 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 act on the prescriptions of the officials or of the control authorities or who tolerates a failure to act on 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. Any official, who fails to fulfil the obligations thereof under this Act, 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.

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 sanction as fixed under Paragraph (1).

Article 219. (1) Any official in an energy company, who tolerates the commission of any violation covered under Articles 206, 207, 210, 211 and 212 herein, shall be liable to a fine of BGN 500 or exceeding this amount but not exceeding BGN 5,000.

(2) A repeated violation under Paragraphs (1) to (4) shall be punishable by a fine equivalent to treble the maximum amount of the sanction as fixed under Paragraph (1).

Article 220. (1) Any person, who fails to act or who tolerates a failure 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 sanction as fixed under Paragraph (1) or (2).

Article 221. (1) Any energy company, whereof the 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 sanction as fixed under Paragraph (1).

Article 222. (1) Any customer of electricity, heat or natural gas, 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 sanction 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, which fails to comply with the requirements of Article 3 (2), (3) and (6), Article 4, Article 5, Article 6 (1), (2), (3), (5) and (6) of Regulation 1228/2003/EC of the European Parliament and of the Council on conditions for access to the network for cross-border exchanges in electricity, shall be liable to a pecuniary penalty of BGN 10,000 or exceeding this amount but not exceeding BGN 60,000.

(2) A repeated violation under Paragraph (1) shall be punishable by a pecuniary penalty equivalent to double the maximum amount of the sanction as fixed 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, which fails to comply with the requirements of Article 4, Article 5 (2), (3), (4) and (5) and Article 6, Article 7 (6) and Article 8 of Regulation 1775/2005/EC of the European Parliament and of the Council on conditions for access to the natural gas transmission networks, shall be liable to a pecuniary penalty of BGN 10,000 or exceeding this amount but not exceeding BGN 60,000.

(2) A repeated violation under Paragraph (1) shall be punishable by a pecuniary penalty equivalent to double the maximum amount of the sanction as fixed under Paragraph (1).

Article 225. (1) The violations under this Act shall be ascertained by written 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)* The penalty decrees under Articles 205, 206, 207, 208, 209, 210, 212, 215, 216, 217, 218, 219, 222, 223, 224, 224a and 224b herein shall be issued by the Chairperson of the Commission or by an official authorized by the Commission.

(3) *(Amended, SG No. 74/2006, effective 8.09.2006)* 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 Economy and Energy 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, converted and regulated as to parameters from the heat transmission network to customers.

1a. *(New, SG No. 74/2006, effective 8.09.2006)* "Balancing group" shall be any group

comprised of one or more electricity traders, network users or owners, organized according to the requirements of the rules referred to in Article 91 (2) herein.

2. (*Amended, SG No. 74/2006, effective 8.09.2006*) "Balancing electricity" shall be the active electricity which the electricity system operator activates to compensate the difference between the agreed and the actual delivery schedules registered at the said operator, as well as the fluctuations of loads without an agreed delivery schedule.

3. "Biomass" shall be products consisting of any whole or part of a vegetable matter from agriculture or forestry, which may be used as fuel, or the following wastes used as fuel:

(a) vegetable waste from agriculture and forestry;

(b) vegetable waste from the food processing industry, if the heat generated is recovered;

(c) fibrous vegetable waste from virgin pulp production and from production of paper from pulp, if it is co-incinerated at the place of production and the heat generated is recovered;

(d) cork waste;

(e) wood waste with the exception of wood waste which may contain halogenated organic compounds or heavy metals;

(f) sludge from treatment plants;

(g) (*New, SG No. 74/2006, effective 8.09.2006*) animal substances.

3a. (*New, SG No. 74/2006, effective 8.09.2006*) "Vertically integrated undertaking" shall be any energy company or interconnected energy companies which perform at least one of the activities comprehended in the transmission, distribution, storage and at least one of the activities comprehended in the production/extraction, public provision, public supply or trade in electricity or natural gas, where there is a possibility for one of the companies to control the other/others or to exercise influence thereon upon decision-making regarding the said activities.

4. (*Amended, SG No. 74/2006, effective 8.09.2006*) "Universal service" shall be the transport, provision 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 this Act.

5. "High-efficiency cogeneration" shall be generation of heat and electricity by heat-power 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. "Renewable energy sources" shall be solar, wind, hydroelectric and geothermal energy, which are renewed without apparent depletion from use of the said sources, as well as waste heat, energy from vegetable or animal biomass, including biogas, and energy from industrial and household waste.

7. "Natural gas metering station" shall be an installation 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 customers 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 customers within an area specified by a licence.

10. "Natural gas regulation station" shall be an installation 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 customer.

13. "Contract for provision 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 electricity system, including participation in voltage regulation and provision 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. "Provision of natural gas" shall be sale of natural gas to customers.
17. "Long-term forecast energy balances" shall be forecast energy balances covering a period of ten to fifteen years.
18. "Electricity produced from renewable energy sources" shall be the electricity produced by facilities using only renewable energy sources, as well as the portion of electricity produced from renewable energy sources in hybrid systems, using also conventional energy sources and including renewable electricity for filling of storage systems and excluding electricity produced as a result of storage systems.
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, effective 8.09.2006*) "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 medium-voltage, redistribution of flows of electricity or for transit transmission ("wheeling") of electricity to a third party.
21. (*Amended, SG No. 74/2006, effective 8.09.2006*) "Electric power lines" shall be overhead or cable facilities for connecting of electric fixtures, intended for the transmission, transit or distribution of electricity, which correspond to "utility lines networks of electricity supply" within the meaning given 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, effective 8.09.2006*) "Energy work" shall be a work or a totality of works whereat or whereby electricity and/or heat is generated in a particular output, crude oil or natural gas is extracted or stored, electricity, heat and natural gas, crude oil or petroleum 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 customers.
24. (*Supplemented, SG No. 74/2006, effective 8.09.2006*) "Energy company" shall be a legal person which performs one or more of the activities comprehended in the generation, conversion, transmission, storage, distribution, provision and supply of electricity, heat or natural gas, the management of the electricity network 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 which performs an activity comprehended in the transmission of crude oil and petroleum products through pipelines.
- 24a. (*New, SG No. 74/2006, effective 8.09.2006*) "Energy resources" shall be the primary energy resources (coal, crude oil, natural gas and other such), the petroleum products, as well as the renewable energy sources used for generation of electricity and heat.

25. *(Repealed, SG No. 74/2006, effective 8.09.2006).*

26. "Economically inexpedient", in reference to an energy company, shall be the construction of connecting facilities wherein the investment cannot be compensated 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 customer 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 allocation of the heat consumed by the heating units in a building. The readings of the said devices are in relative units, which are adjusted by evaluation factors depending on the type of the device and the type of the heating unit. 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, effective 8.09.2006)* "Combined operator" shall be any energy company which has obtained at least two of the licences referred to in Item 2, 4 and/or 9 of Article 39 (1) herein.

28. "Cogeneration" shall be the simultaneous generation in one process of thermal energy and electrical energy depending on the demand for heat.

28a. *(New, SG No. 74/2006, effective 1.07.2007)* "Supplier of last resort" shall be any energy company supplying electricity or natural gas to household customers and companies with fewer than 50 occupied persons and an annual turnover not exceeding BGN 19.5 million, which have not exercised their right to choose a person wherefrom they 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 the assimilation of the costs of a non-licensed activity to the prices of a licensed activity.

31. "Cross subsidization between individual groups of customers" shall be the assimilation to the prices for a group of customers 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, effective 8.09.2006)* "Monitoring of security of supply" shall cover the balance between supply and demand of electricity and natural gas on the national market, the level of expected future demand and envisaged additional capacity being planned or under construction, and the quality and level of maintenance of the networks, as well as measures to cover peak demand and to deal with shortfalls of one or more providers, suppliers or traders.

32. "Material resources" shall be the availability of principal and auxiliary facilities

required to ensure the normal functioning of an energy work.

33. "Electricity system interconnection point" shall be any of the points in the structure of the electricity system owned by the transmission company, whereto the connecting facilities of one or more customers and producers are connected.

34. "Aggregate heated volume of a building" shall be the sum total of the volumes of the properties of customers 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, effective 8.09.2006*) "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, effective 8.09.2006*) "Principal provider" shall be any provider enterprise and/or parties connected therewith which have a market share exceeding 75 per cent.

37. "Heating units" shall be the tubular heating units and vertical heating pipes, the radiator heating units, the baseboard heating units and convectors which are structural elements serving to release 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 building with heating units projected according to the design.

40. "Balancing market" shall be organized trade in electricity and natural gas for the purposes of maintaining the balance between generation and consumption in the electricity system and, respectively, between natural gas import and consumption.

41. (*Supplemented, SG No. 74/2006, effective 8.09.2006*) "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 in 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, effective 8.09.2006*) "Customer of energy or natural gas for

household uses" shall be any natural person who is owner or user of a property and who uses 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, effective 8.09.2006)* "Customer of energy or natural gas for business uses" shall be any 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 technological needs or natural gas for business purposes, as well as any persons financed by the State budget or a municipal budget.

44. *(Amended, SG No. 74/2006, effective 8.09.2006)* "Transmission of electricity and heat or natural gas, crude oil and petroleum products" shall be the transport of electricity, heat or natural gas, crude oil or petroleum 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 customer of natural gas.

46. *(Amended, SG No. 74/2006, effective 8.09.2006)* "Producer" shall be a person generating 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 customer.

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 customers.

51. *(Amended, SG No. 74/2006, effective 8.09.2006)* "Certificate of origin of electricity from cogeneration" shall be an official non-transferable document certifying the producer, the quantity of cogenerated 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, effective 8.09.2006)* "Certificate of origin of electricity from renewable energy sources" shall be an official non-transferable document certifying the producer, the quantity of electricity produced from renewable energy sources, stating the period of production, 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.

53. "Settlement" shall be a system applied by the electricity system 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) (*)* "System services" shall be all services provided by the network operator, as are necessary for the reliable operation of the electricity system and for the viability of the market, which include planning, dispatching and management of the reliable operation of network users, metering and recording the electricity, settlement of the obligations of the market participants, balanced delivery schedules, provision of electricity for technological costs of transmission (network losses).

54. *(Amended, SG No. 18/2005, effective 20.01.2005, repealed, SG No. 74/2006, effective 8.09.2006).*

54a. *(New, SG No. 74/2006, effective 8.09.2006)* "Special balancing group" shall be any group comprised of licensed companies referred to in Items 2, 3, 7, 8 and 10 of Article 39 (1) herein and producers which sell at prices regulated by the Commission and/or under long-term contracts, whereto special balancing conditions apply according to the rules referred to in Article 91 (2) herein.

55. "Auxiliary networks" shall be the management, regulating, 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. "Share distribution devices for heat consumption" shall be devices installed downstream from the commercial metering devices for heat.

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 a 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, at 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 at research institutions or commercial corporations servicing such activities.

59a. *(New, SG No. 18/2005, effective 8.09.2006)* "Length of seniority 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 Water-Supply and Sewerage Services Regulation Act.

59b. *(New, SG No. 74/2006, effective 8.09.2006)* "Standard balancing group" shall be group of commercial participants referred to in Article 100 (1) herein, which conclude transactions in electricity at freely negotiated prices, whereto the general conditions of

balancing apply according to the rules referred to in Article 91 (2) herein.

60. *(Amended, SG No. 74/2006, effective 8.09.2006)* "Level of reliability of the electricity system" shall be the probability, determined in percentage terms by the Minister of Economy and Energy, of balancing consumption and generation of electricity in case of occurrence of a shortage in the system.

61. *(Amended, SG No. 74/2006, effective 8.09.2006)* "Cold reserve" shall be a reserve necessary to ensure the required level of adequacy, which the electricity system 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 and return of the said gas back into the natural gas transmission network, excluding the provision 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 and heat and of 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 customers, serving for transmission of heat from the source of heat to the customers.

66. *(Amended, SG No. 74/2006, effective 8.09.2006)* "Transit transmission" shall be the transmission of energy or natural gas, crude oil or petroleum products across the borders of a particular country, provided that such energy or natural gas, crude oil or petroleum products have not been generated and will not be consumed within the territory of the said country.

67. "Financial capabilities" shall be the overall financial and economic situation 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 which enable the said applicant to perform the licensed activity.

70. "Plant" shall be a totality of technologically connected installations, facilities and

auxiliary entities for generation of electricity, heat and/or for cogeneration.

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 customers 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 works and facilities, constituting elements of the relevant transmission or distribution network which, upon the entry of this Act into force, should be owned by the licensed 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 the distribution company, as the case may be, shall not be obligated to purchase any constructed fixtures and/or electric power lines owned by customers connected to the transmission network or, respectively, to the distribution network whereto the said customers have *de facto* connected themselves without a contract for connection of new customers.

(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, effective 5.03.2004*) In case of a refusal without good reason on the part of the owners to sell energy works and facilities constituting elements of the transmission system and/or of the distribution networks, the said works and facilities 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 constructed 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 customers 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 customer 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, effective 8.09.2006*).

§ 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, effective 8.09.2006)* The non-recoverable costs incurred by energy companies under Articles 34 and 35 herein shall be compensable according to the procedure established by Item 13 of Article 21 (1) herein.

§ 9. *(Repealed, SG No. 74/2006, effective 8.09.2006).*

§ 10. *(Repealed, SG No. 74/2006, effective 8.09.2006).*

§ 11. *(Repealed, SG No. 74/2006, effective 8.09.2006).*

§ 12. (1) Any licences and authorizations issued in pursuance of the Energy and Energy Efficiency Act as superseded shall remain in effect insofar as the said licences do not conflict with this Act. The requirements for geographically limited 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, effective 8.09.2006*) The activities relating to management of the electricity system and with organizing an electricity market shall 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. The National Electric Company EAD shall submit applications to the Commission for authorization of commercial transformation and/or of transactions for disposition of property used to perform the licensed activity, and for the issuance of the relevant licences.

(2) A licence for performance of the activity of a 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, effective 8.09.2006*) A licence for the activities of management of the electricity system and organizing an electricity market shall be issued to the legal-person electricity system after its formation by the National Electric Company EAD. The licences shall be issued by the Commission *proprio motu*, after evidence of the corporate transformation performed under Paragraph (1) is furnished.

(5) (*Repealed, SG No. 74/2006, effective 8.09.2006*).

§ 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, effective 8.09.2006)* 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 (1) herein.

§ 17. *(Amended, SG No. 74/2006, effective 8.09.2006)* (1) The activities relating to distribution of electricity and day-to-day operation management of the distribution networks shall 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 applications to the Commission for authorization of corporate transformation and/or transactions for disposition of property used to perform the licensed activity, and for the issuance and/or modification and/or termination of the respective licences.

(2) Licences for performance of the activity of a 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, as arising from this Act, for the relevant areas.

(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 activities comprehended in 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 corporate transformation, the licences for electricity distribution and for electricity supply of the existing electricity distribution companies and the legal successors thereof shall be modified and/or terminated, respectively, or new licences shall be issued. The transformed companies shall not owe the initial licensing fees referred to in Item 1 of Article 29 (3) herein for the newly issued or the modified licenses.

(5) After the corporate transformation thereof under Paragraph (1), the electricity distribution companies shall accede to all rights and shall assume all obligations related to electricity distribution within the geographically limited area, as defined by the licence for electricity distribution, including any rights and obligations which have arisen prior to the corporate transformation, related to the regulation of the relevant prices, while the public suppliers shall accede to all rights and shall assume all obligations related to electricity supply to the geographically limited area, as defined by the licence for public supply of electricity, including any rights and obligations which have arisen prior to the corporate transformation, related to the regulation of the relevant prices.

§ 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 customer fails to install 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 right *in rem* to use shall be obligated to notify the heat transmission company of this 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 the holder of the right *in rem* to 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, effective 8.09.2006*) If the heat transmission company finds it technically impracticable to apply the heat share distribution system in a condominium-project building, the allocation 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, effective 8.09.2006*) Customers shall not install any additional insulating fittings or stop valves at the input and output of the heating units.

§ 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 cogenerated 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 cogeneration, 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 (3) herein, with the exception of the quantities which the producer consumes for its own uses or for which the

said producer has concluded contracts according to the procedure established by Section VII of Chapter Nine herein, or with which the said producer 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, effective 8.09.2006*) The activities of Bulgargaz EAD relating to transmission of natural gas shall be separated in legal and organizational terms from the activities relating to public provision of natural gas on or before 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. Bulgargaz EAD shall submit applications to the Commission for authorization of corporate transformation and/or of transactions for disposition of property used to perform the licensed activity, and for the issuance of the relevant licences.

(2) A licence for performance of the activity of a 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 a public provider of natural gas, as arising from this Act.

(3) Licences for transmission and for transit transmission 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 activities comprehended in transmission of natural gas, as arising from this Act.

(4) A licence for storage 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 activities comprehended in natural gas storage, as arising from this Act.

(5) (*Repealed, SG No. 74/2006, effective 8.09.2006*).

(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 customers, 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 customers.

(8) (*New, SG No. 74/2006, effective 8.09.2006*) In the cases where, as a result of the restructuring referred to in Paragraph (1), the licence for performance of the activity of public provision of natural gas, issued according to Paragraph (2), is terminated and issued to another person, the new licence holder shall subrogate Bulgargaz EAD as party to any contracts for provision of natural gas concluded by Bulgargaz EAD until the time of termination of the said licence.

(9) (*New, SG No. 74/2006, effective 8.09.2006*) In the cases where, as a result of the restructuring referred to in Paragraph (1), the licence for performance of the activity of transit transmission of natural gas, issued according to Paragraph (3), is terminated and

issued to another person, the new licence holder shall subrogate Bulgargaz EAD as party to any contracts for transit transmission of natural gas concluded by Bulgargaz EAD prior to the time of termination of the said licence.

§ 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 the following conditions are simultaneously fulfilled:

1. the Republic of Bulgaria is not directly connected to the gas transportation network of another Member State of the European Union, and

2. the market share of the principal provider of natural gas or of any parties connected therewith within the meaning given by the Commercial Code does not exceed 75 per cent, the stakeholders may submit a request to the Commission for temporary derogation from application of the provisions of Chapter Four, Article 172 (1) and Article 197 (2) herein.

(2) The Commission shall rule on any request referred to in Paragraph (1) within one month and shall notify the European Commission without delay of any effective decision on temporary derogation.

§ 23. (1) *(Supplemented, SG No. 74/2006, effective 8.09.2006)* The activities relating to distribution of natural gas shall be separated in legal and organizational terms from natural gas supply to final customers and from the other activities of the natural gas distribution companies where not fewer than 100,000 final customers of natural gas are connected to the relevant distribution network. Natural gas distribution companies shall submit applications to the Commission for authorization of corporate transformation and/or transactions for disposition of property used to perform the licensed activity, and for the issuance of the relevant licences.

(2) Licences for performance of the activity of a 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 distribution of natural gas 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 distribution of natural gas, as arising from this Act, within the relevant areas.

(4) *(Repealed, SG No. 74/2006, effective 8.09.2006).*

§ 24. (Repealed, SG No. 74/2006, effective 8.09.2006).

§ 25. (Amended, SG No. 74/2006, effective 8.09.2006) In the cases where assets of energy companies include property of title holders under the Indemnification of Nationalized Property Owners Act or under Article 18 of the Transformation and Privatization of State-Owned and Municipal-Owned Enterprises Act as repealed (promulgated in the *State Gazette* No. 38 of 1992; amended in No. 51 of 1994, Nos. 45, 57 and 109 of 1995, Nos. 42, 45, 68 and 85 of 1996; corrected in No. 86 of 1996; amended in Nos. 55, 61, 89, 98 and 122 of 1997, No. 39 of 1998; corrected in No. 41 of 1998; amended in No. 70 of 1998, No. 12 of 1999; [modified by] Constitutional Court Judgment No. 8 of 1999, [promulgated in] No. 47 of 1999; amended in Nos. 56, 84 and 96 of 1999, Nos. 20, 99 and 108 of 2000, No. 42 of 2001; repealed in No. 28 of 2002), the latter shall be indemnified only by compensation notes under according to the procedure established by the Indemnification of Nationalized Property Owners Act.

§ 26. (1) The servitude rights which have accrued 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 entered at 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 sentence two of 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 figure "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 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):

"(2) Paragraph (1) shall only apply where no special law establishes another procedure on the grounds of exclusive rights."

2. Item 28 of the Annex to Item 2 of Article 8 (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. In Article 3, Paragraph (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. In Article 4, Paragraph (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. In Article 24, Paragraph (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):

"(5) A concession royalty, fixed according to a methodology adopted by the Minister of Environment and Water and the Minister of Economy and Energy, 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 Forests 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 16b 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 cleared 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 determined 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 for 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 "crude-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 passed by the 39th National Assembly on the 26th day of November in the year 2003, and the Official Seal of the National Assembly has been affixed thereto.

WATER-SUPPLY AND SEWERAGE SERVICES REGULATION ACT

(Promulgated in the State Gazette No. 18 of 2005)

TRANSITIONAL AND FINAL PROVISIONS

§ 7. (1) This Act shall enter into force as from the 20th day of January 2005.

(2) Item 3 of § 6 (regarding the repeal of Article 193 (3) of the Water Act) shall enter into force as from the 1st day of June 2005.

MEASUREMENTS ACT

(Promulgated in the State Gazette No. 95 of 2005, effective 1.03.2006)

TRANSITIONAL AND FINAL PROVISIONS

§ 66. This Act shall enter into force three months after the promulgation thereof in the *State Gazette*, with the exception of § 48 and 49 herein, which shall enter into force on the date

of promulgation of the Act in the *State Gazette*.

CODE OF ADMINISTRATIVE PROCEDURE

(Promulgated in the State Gazette No. 30 of 2006, effective 12.07.2006)

TRANSITIONAL AND FINAL PROVISIONS

§ 47. In the Energy Act (promulgated in the *State Gazette* No. 107 of 2003; amended in No. 18 of 2004, Nos. 18 and 95 of 2005), the words "the Administrative Procedure Act" shall be replaced *passim* by "the Code of Administrative Procedure".

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§ 142. This Code shall enter into force three months after the promulgation thereof in the *State Gazette* with the exception of:

1. Title Three, Item 1 of § 2 and Item 2 of § 2 herein (in respect of the repeal of Chapter Three, Section II "Appeal Before the Court" [of the Administrative Procedure Act]), Items 1 and 2 of § 9, Items 1 and 2 of § 11, § 15, Items 1 and 2 of § 44, Item 1 of § 51, Item 1 of § 53, Item 1 of § 61, Item 3 of § 66, Items 1 to 3 of § 76, § 78, § 79, Item 1 of § 83, Items 1 and 2 of § 84, Items 1 to 4 of § 89, Item 1 of § 101, Item 1 of § 102, § 107, Items 1 and 2 of § 117, § 125, Items 1 and 2 of § 128, Item 2 of § 132 and Item 1 of § 136, as well as § 34, Item 2 of § 35, Item 2 of § 43, Item 1 of § 62, Items 2 and 4 of § 66, Item 2 of § 97, and Item 1 of § 125 herein (in respect of the replacement of the word "district" by "administrative" and the replacement of the words "the Sofia City Court" by "the Sofia City Administrative Court"), which shall enter into force as from the 1st day of March 2007;
2. § 120 herein, which shall enter into force as from the 1st day of January 2007;
3. § 3 herein, which shall enter into force as from the day of promulgation of this Code in the *State Gazette*.

ACT TO AMEND AND SUPPLEMENT THE WATER ACT

(Promulgated in the State Gazette No. 65 of 2006, effective 11.08.2006)

TRANSITIONAL AND FINAL PROVISIONS

§ 145. This Act shall enter into force on the date of promulgation thereof in the *State Gazette*, with the exception of the provisions of:

1. Item 3 of § 18 herein, which shall enter into force one year after the entry into force of this Act;
2. § 48: herein in the part thereof regarding the provision of Item 1 of Article 118a (1) [of the Water Act], which shall enter into force on the 22nd day of December 2013;
3. Item 5 of § 60 herein, which shall enter into force on the 1st day of March 2007;
4. § 73 herein: in the part thereof regarding the provision of Item 1 of Article 155a (1) [of the Water Act], which shall enter into force one year after the entry into force of this Act.

ACT TO AMEND AND SUPPLEMENT THE ENERGY ACT

(Promulgated in the State Gazette No. 74 of 2006, effective 8.09.2006)

TRANSITIONAL AND FINAL PROVISIONS

§ 125. Throughout the Act:

1. The words "the Minister of Energy and Energy Resources" and "the Ministry of Energy and Energy Resources" shall be replaced, respectively, by the words "the Minister of Economy and Energy" and "the Ministry of Economy and Energy".
2. The words "the act whereby Republic of Bulgaria is recognized as full member of the European Union" shall be replaced by "the Treaty concerning the Accession of the Republic of Bulgaria to the European Union".

§ 126. *(Effective 1.07.2007)* (1) The public provider shall be obligated to ensure electricity

supply at freely negotiated prices to any customers connected to the transmission network which have acquired the status of eligible customers but have not chosen another provider, until such time as the said customers exercise this right thereof.

(2) The suppliers of last resort shall be obligated to ensure electricity supply at freely negotiated prices to any customers connected to the transmission networks which have acquired the status of eligible customers but have not chosen another provider, until such time as the said customers exercise this right thereof.

§ 127. (1) The obligatory purchase of electricity produced from renewable energy sources at preferential prices under Article 159 [of the Energy Act] shall be effected under contracts for purchase. The term of validity of the said contracts shall be twelve years:

1. reckoned from the time of entry into force of this Act: applicable to the existing producers of electricity from renewable energy sources, including hydroelectric power plants with an installed capacity of up to 10 megawatts;

2. reckoned from the commencement of the production of electricity but not later than the 31st day of December 2010: applicable to all new producers of electricity from renewable energy sources, including hydroelectric power plants with an installed capacity of up to 10 megawatts.

(2) The price for preferential purchase of electricity produced from renewable energy sources, disaggregated by year until the 31st day of December 2022, shall be determined by the relevant ordinance referred to in Article 36 (3) [of the Energy Act].

(3) Not later than the 31st day of December 2011, the Minister of Economy and Energy shall draft a bill introducing a market mechanism promoting the production of electricity from renewable energy sources and shall lay the said bill before the Council of Ministers for approval, and the said bill need not be apply to the producers of electricity from renewable energy sources referred to in Paragraph (1).

§ 128. (1) The obligatory purchase under Article 162 [of the Energy Act] of electricity produced from high-efficiency cogeneration at preferential prices shall apply for a period of eight years:

1. reckoned from the time of entry into force of this Act: applicable to the existing electricity producers of electricity from high-efficiency cogeneration;

2. reckoned from the commencement of the production of electricity but not later than the 31st day of December 2011: applicable to all other producers of electricity from high-efficiency cogeneration.

(2) The preferential prices for purchase of electricity from high-efficiency cogeneration for the period until the 31st day of December 2019 shall be determined according to the

relevant ordinance referred to in Article 36 (3) [of the Energy Act].

(3) Not later than the 31st day of December 2011, the Minister of Economy and Energy shall draft a bill introducing a market mechanism promoting the cogeneration of electricity and shall lay the said bill before the Council of Ministers for approval, and the said bill need not be apply to the producers of electricity from renewable energy sources referred to in Paragraph (1).

§ 129. (1) Licences for performance of the activity of electricity supply by suppliers of last resort within the relevant areas shall be issued *proprio motu* by the Commission to the existing public suppliers of electricity not later than the 1st day of July 2008.

(2) Until the effective date of the newly issued licences referred to in Paragraph (1), the public suppliers of electricity shall perform the activities of suppliers of last resort within the relevant areas as arising from this Act and from the licences for public supply of electricity issued thereto, insofar as the said licences do not conflict with the said Act.

(3) The licences referred to in Paragraph (1) shall be issued for the remainder of the term of validity of the existing licences for public supply of electricity.

§ 130. (1) Licences for performance of the activity of natural gas supply by suppliers of last resort within the relevant areas shall be issued *proprio motu* by the Commission to the existing public suppliers of natural gas not later than the 1st day of July 2008.

(2) Until the effective date of the newly issued licenses referred to in Paragraph (1), the public suppliers of natural gas shall perform the activities of suppliers of last resort within the relevant areas as arising from this Act and from the licences for public supply of natural gas issued thereto, insofar as the said licences do not conflict with the said Act.

(3) The licences referred to in Paragraph (1) shall be issued for the remainder of the term of validity of the existing licences for public supply of natural gas.

§ 131. Any merchants which perform an activity comprehended in share distribution of heat in condominium-project buildings at the date of entry into force of this Act shall be obligated to submit an application for registration according to the procedure established by Article 139a (3) [of the Energy Act] within three months after the entry into force of this Act.

§ 132. The provision of § 27 herein regarding the amendment of Article 49 (3) and (4) [of the Energy Act] shall furthermore apply to any proceedings pending upon the entry of this Act into force, initiated according to the procedure established by Article 46 (2) [of the Energy Act] on which there is no effective decision by the Commission on designation of a

licence holder.

§ 133. (1) The provision of § 55 herein regarding the amendment of Article 102 [of the Energy Act] shall furthermore apply to any transactions with resident persons in a Member State of the European Union as from the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union.

(2) The entry into force of § 55 herein shall accordingly restrict the exclusive right of the public provider to import and export electricity under Article 93 (2) [of the Electricity Act].

(3) The provision in § 55 herein shall apply as from the date of entry into force of this Act to any electricity producers holding:

1. a licence under Article 39 (3) [of the Energy Act] for construction of a new energy work for generation of electricity;

2. an authorization for expansion under Item 1 of Article 35 (1) of the Energy and Energy Efficiency Act as superseded (promulgated in the *State Gazette* No. 64 of 1999; amended in No. 1 of 2000, No. 108 of 2001, No. 63 of 2002, No. 9 of 2003; repealed in No. 107 of 2003 and No. 17 of 2004) solely in respect of the increase of output.

§ 134. The provision of § 105 herein regarding the insertion of Article 176a [of the Energy Act] shall enter into force in respect of any transactions with resident persons in a Member State of the European Union as from the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union.

§ 135. Until the entry into force of the provision of Item 6 of § 12 herein regarding the repeal of Item 17 of Article 21 (1) [of the Energy Act], the Commission shall determine the availability in accordance with which each producer may conclude transactions with eligible customers, electricity traders and other producers under the terms established by the rules referred to in Article 91 (2) [of the Energy Act] or participate in an organized market.

§ 136. Until the entry into force of the provision of Item 2 (a) of § 24 herein regarding the repeal of Item 2 of Article 43 (2) [of the Energy Act], only a single licence for public supply of electricity shall be issued for a geographically limited area referred to in Article 43 (3) [of the Energy Act].

§ 137. Until the entry into force of the provision of Item 2 (a) of § 24 herein regarding the repeal of Item 2 of Article 43 (2) [of the Energy Act], only a single licence for public

supply of natural gas shall be issued for a geographically limited area referred to in Article 43 (5) [of the Energy Act].

§ 138. Until the entry into force of the provision of Item 1 (a) of § 50 herein in the part regarding the repeal of Item 4 of Article 97 (1) [of the Energy Act], electricity transactions between the public provider and the customers connected to the transmission network, who have not chosen another provided, shall be concluded at prices regulated by the Commission.

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§ 140. The statutory instruments of secondary legislation for the application of the Energy Act shall be adopted or brought into conformity with this Act within six months after the entry into force of this Act.

§ 141. This Act shall enter into force on the date of the promulgation thereof in the *State Gazette*, with the exception of the provisions of:

1. Item 2 (f) of § 3 herein regarding Items 18b and 18c of Article 4 (2) [of the Energy Act], Item 8 of § 12 herein regarding Items 19a and 19b of Article 21 (1) [of the Energy Act], Item 2 of § 23 herein; § 26, § 28, § 103 herein regarding Article 172a and Article 172c [of the Energy Act], Item 2 of § 104, Item 1 of § 106, Item 1 of § 107, § 113, § 121, § 122, Item 9 of § 124 herein, which shall enter into force as from the date of entry into force of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union;

2. Items 2, 6 and 7 of § 12, Items 1, 4, 5 and 6 of § 16, Item 1 (a) and (b) of § 22, Items 2, 3 and 5 of § 24, Items 2 and 5 of § 44, § 46, § 48, Item 1 (a) and (c) of § 50, § 51, § 53, § 56, § 58, § 74, Items 1 and 2 of § 97, Item 1 of § 100, § 103 regarding the insertion of Article 172b [of the Energy Act], Items 1 and 3 of § 104, Item 2 of § 106, Item 2 of § 107, § 108, § 110, § 111, § 112, Items 13 and 18 of § 123 and § 126 herein, which shall enter into force on the 1st day of July 2007;

3. Items 4 and 7 of § 16, Item 1 (c) of § 22, Item 1 of § 23, Item 1 of § 24, Item 1 of § 25, § 35, § 39, § 40, § 41, Item 4 of § 44, Item 2 of § 50, § 52, § 54, § 57, Item 1 of § 59, § 61, § 62, § 64, § 65, § 66, § 71, § 72, Item 1 of § 76 and Item 25 of § 123 herein, which shall enter into force as from the date of entry into the Commercial Register of the decision on the corporate transformation of the 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.

(*) Effective as from the date of entry into the Commercial Register of the decision on the corporate transformation of the 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.
