



Republika e Kosovës
Republika Kosova-Republic of Kosovo
Kuvendi - Skupština - Assembly

Law No. 03/L-133

ON NATURAL GAS

Assembly of Republic of Kosovo,

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves

LAW ON NATURAL GAS

Article 1
Scope

1. The purpose of this Law is to establish a legal framework for the transmission, distribution, supply, usage and storage of natural gas.
2. This Law specifies the organization and functioning of the natural gas sector, access to the market, the criteria and procedures applicable to the granting of authorizations for transmission, distribution, supply, usage and storage of natural gas and the operation of systems.
3. The rules established by this Law, including liquefied natural gas (LNG), shall also apply to biogas and gas from biomass or other types of gas in so far as such gases can technically and safely be injected into and in security aspect and transported through, the natural gas system.

Article 2
Definitions

1. Terms used in this Law have the following meaning:

1.1. **Transmission** - the transport of natural gas through a pipeline network with high pressure other than an upstream pipeline network with a view to its delivery to customers, but not including supply according to the EU standards;

1.2. **Interconnector** - a transmission line which crosses or spans a border between Kosovo and any immediately adjacent country for the sole purpose of connecting the national transmission of natural gas system to such country;

1.3. **Inspector** – inspector of natural gas and of transmission’s systems;

1.4. **Supply** - the sale, including resale of natural gas, including LNG, to the last customers;

1.5. **Natural gas** - a mixture of hydrocarbon compounds existing in the gaseous phase or in solution with crude oil in natural underground reservoirs at reservoir conditions. The principal hydrocarbons usually contained in the mixture are: methane, ethane, propane, butanes, and pentanes;

1.6. **Customers** - wholesale and final customers of natural gas and natural gas undertakings which purchase natural gas;

1.7. **Household customers** - customers purchasing natural gas for their own household consumption;

1.8. **Non-household customers** - customers purchasing natural gas which is not for their own household use;

1.9. **Final customers** - customers’ purchasing natural gas for their own use;

1.10. **Eligible customers** - customers who are free to purchase gas from the supplier of their choice, in accordance with Article 20 of this Law;

1.11. **Wholesale customers** - any natural or legal persons other than transmission system operators and distribution system operators who purchase natural gas for the purpose of resale inside or outside the system where they are established;

1.12. **Connection to gas system** - physical connection to the networks of transmission, storage, distribution, supply pursuant determined technical conditions;

1.13. **Control** – taken measures between or among undertakings when the rights, obligations, contracts or any other means either separately or in combination, confer the possibility of exercising decisive influence on an undertaking, in particular by:

1.13.1. ownership or the right to use all or part of the assets of an undertaking; or,

1.13.2. rights or contracts which confer decisive influence on the composition, voting or decisions of the bodies of an undertaking;

1.14. **Linepack** - the storage of gas by compression in gas transmission and distribution systems, but excluding facilities reserved for transmission system operators carrying out their functions;

1.15. **Direct line** - a natural gas pipeline, except the interconnected system that connects directly one gas undertaking and a privileged consumer;

1.16. **Ministry** - the Ministry of Energy and Mining;

1.17. **Minister** - the Minister of Energy and Mining;

1.1.8. **Natural gas undertaking** - any natural or legal person which carries out at least one of the following functions: production, transmission, distribution, supply, purchase, sale or storage of natural gas, including LNG, which is responsible for the commercial, technical and/or maintenance tasks related to those functions, but shall not include final customers;

1.19. **Supply undertaking** - any natural or legal person who carries out the function of supply;

1.20. **Integrated natural gas undertaking** - a vertically or horizontally integrated undertaking;

1.21. **Vertically integrated undertaking** - a natural gas undertaking or a group of undertakings whose mutual relationships fit within the meaning of “control” of concentrations between undertakings and where the undertaking/group concerned is performing at least one of the functions of transmission, distribution, LNG or storage, and at least one of the functions of production or supply of natural gas;

1.22. **Horizontally integrated undertaking** - an undertaking performing at least one of the functions of production, transmission, distribution, supply or storage of natural gas, and a non-gas activity;

1.23. **Transmission system operator** - a natural or legal person who is responsible for operating, ensuring the maintenance of, and, if necessary, developing the transmission system in a given area, and, where applicable, its interconnections with other systems, and for ensuring the long-term ability of the system to meet reasonable demands for the transportation of gas;

1.24. **Distribution system operator** - a natural or legal person who carries out the function of distribution and is responsible for operating, ensuring the maintenance of, and if necessary, developing the distribution system in a given area, and, where applicable, its interconnections with other systems, and for ensuring the long-term ability of the system to meet reasonable demands for the distribution of gas;

1.25. **Storage system operator** - a natural or legal person who carries out the function of storage and is responsible for operating a storage facility;

- 1.26. **LNG system operator** - a natural or legal person who carries out the function of liquefaction of natural gas, or the importation, offloading, and re-gasification of LNG and is responsible for operating its facility;
- 1.27. **Long-term planning** - the planning of supply and transportation capacity of natural gas undertakings on a long-term basis with a view to meeting the demand for natural gas of the system, diversification of sources and securing supplies to customers;
- 1.28. **Upstream pipeline network** - any pipeline or network of pipelines operated and/or constructed as part of an oil or gas production project, or used for transmission of natural gas from one or more such projects to a processing plant or terminal or final coastal landing terminal;
- 1.29. **Storage facility** - a facility used for the stocking of natural gas and owned and/or operated by a natural gas undertaking, including the part of LNG facilities used for storage, excluding the portion used for production operations, and excluding facilities reserved exclusively for transmission system operators in carrying out their functions;
- 1.30. **LNG facility** - a terminal which is used for the liquefaction of natural gas or the importation, offloading, and re-gasification of LNG, and shall include ancillary services and temporary storage necessary for the re-gasification process and subsequent delivery to the transmission system, but shall not include any part of LNG terminals used for storage;
- 1.31. **System** - any transmission networks, distribution networks, LNG facilities and/or storage facilities owned and/or operated by a natural gas undertaking, including linepack and its facilities supplying ancillary services and those of related undertakings necessary for providing access to transmission, distribution and LNG;
- 1.32. **Security** - both security of supply of natural gas and technical safety;
- 1.33. **Interconnected system (Interconnector)** - a number of systems which are linked with each other;
- 1.34. **Distribution** - the transport of natural gas through local or regional pipeline networks with a view to its delivery to customers, but not including supply;
- 1.35. **Ancillary services** - all services necessary for access to operation of transmission, distribution, LNG facilities and/or storage facilities including load balancing and blending, but excluding facilities reserved exclusively for transmission system operators carrying out their functions;
- 1.36. **System users** - any natural or legal persons supplying to, or being supplied by, the system;
- 1.37. **LNG** - natural liquated gas, is natural gas which is converted in liquid form for the purposes of storage and easier transportation – to be transformed in liquid form the temperature should be lowered down to -163 °C and the maximum transportation pressure should be around 25 kPa.

2. Expressions and other terms used in this Law shall have the same meaning, as determined in the Law on Energy and the Law on Energy Regulatory.

Article 3 **Natural Gas Sector Policies**

1. The Ministry of Energy and Mines is responsible for development of policies in the natural gas sector, in consultation with other governmental bodies. The policies drafted for natural gas sector, shall be reviewed at least every three (3) years, and shall consider, the following components:

1.1. building the appropriate institution framework including the competent authority to implement such policy;

1.2. ensuring security of supply in natural gas;

1.3. forecasting the natural gas import and export;

1.4. elaborating and developing investment programs in natural gas sector;

1.5. ensuring environmental protection;

1.6. evaluation and disposal of effective policies to provide the transparency of the development of regulated prices and tariffs of natural gas;

1.7. increasing efficiency in natural gas production, storage, transmission, distribution and utilization;

1.8. developing and ensuring the natural gas storage capacities;

1.9. specifying the directions of relevant research and possible development for the natural gas sector and promoting advanced technologies in this field;

1.10. developing international cooperation;

1.11. proposals and drafting sub-legal acts in the natural gas sector.

2. The Ministry ensures the accomplishment thereof by undertaking the following actions:

2.1. develop detailed programs and plans for implementing the policy to the extent that other agencies do not have primary authority over them;

2.2. to the extent that funding allows, undertaking studies on the priority policy items;

- 2.3. work with the Energy Regulatory Office and any other entities governing the natural gas sector;
 - 2.4. monitor the application and conformity of measures established for environmental protection by the respective agencies;
 - 2.5. ensures the harmonization with European Union standards and regulations in natural gas sector and creates necessary mechanisms for their implementation;
 - 2.6. elaborates and develops, together with the Ministry of Labor and Social Welfare, associations and trade union organizations, proposals for social policy relevant to natural gas sector, programs for social and medical assistance and to rehabilitate those who have suffered labor accidents and professional diseases;
 - 2.7. in cooperation with Ministry of Labor and Social Welfare issues sub-legal acts in accordance with norms on work protection on the natural gas sector.
3. All utilities of natural gas, related to transmission or distribution network, function as a unique system of natural gas, with the common aim of transmission, storage, distribution and continuous supply with natural gas.
 4. Natural gas system in Kosovo acts as integral system related to natural gas systems of other states in regional market, when these systems are in compliance with technical and security standards of European Union.

Article 4

Public service obligations and customer protection

1. The Energy Regulatory Office shall exercise determined regulatory authority according to the Law on Energy Regulatory for natural gas undertakings and the natural gas industry in Kosovo and shall regulate the natural gas market of Kosovo with a view to achieving a competitive, secure and environmentally sustainable market of natural gas and that there shall not be any discrimination between these undertakings as regards to either their rights or obligations.
2. The Energy Regulatory Office may impose pertinent measures for undertakings operating in the gas sector related to security of supply, with energy efficiency, management demand for supply and for environmental issues of the natural gas sector.
3. The Energy Regulatory Office shall take appropriate measures to protect final customers and to ensure high levels of consumer protection, including transparency regarding general contractual terms and conditions, access to general information and dispute settlement mechanisms, and to ensure that an eligible customer is effectively able to switch to a new supplier where more than one supplier is available.
4. The Energy Regulatory Office must implement appropriate measures to achieve objectives of social and economic cohesion, environmental protection, which may include means to combat climate changes, and security of supply, and also will take

incentive economic measures based on the legislation in force and other measures required by Acquis.

5. The Energy Regulatory Office shall present the annual report to the Assembly of Kosovo, in compliance with the Law on Energy Regulatory.

6. The authority on natural gas enterprises and natural gas regulation of the natural gas market are regulated by the Energy Regulatory Office in accordance with the given authorization by the Law on Energy Regulatory.

Article 5

Building and operating of the transmission network and other obligations

1. Building and operating new gas networks on transmission and distribution, building of direct pipeline systems for transit of natural gas, and supply of natural gas at the wholesale customers, shall be done in accordance with the Law on Concessions and Law on Energy Regulatory.

2. The way of achieving a suitable level of security supply with gas, determination of the role and responsibility of the gas market actors and also determination of instruments for realization of these goals, shall be regulated by sub-legal act.

Article 6

Designation of Transmission and Storage System Operator

Government of Republic of Kosovo shall select based on competition and shall designate legal persons as candidates for operator of the transmission and storage systems. The candidates should apply for license to the Energy Regulatory Office within sixty (60) days from the day of selection by the Government.

Article 7

Tasks of Transmission and Storage System Operator

1. Each transmission, storage and/or LNG system operator shall:

1.1. operate, maintain and develop under economic conditions secure, reliable and efficient transmission, storage and/or LNG facilities, with due regard to the environment;

1.2. refrain from discriminating between system users or classes of system users, particularly in favor of its related undertakings;

1.3. provide any other transmission system operator, storage, LNG and/or any distribution system operator, sufficient information to ensure that the transport and storage of natural gas may take place in accordance with the secure and efficient operation of the interconnected system;

- 1.4. provide system users with the information they need for efficient access to the system.
2. Rules adopted by transmission system operators for balancing the gas transmission system shall be objective, transparent and non-discriminatory, including rules for charging the users of their networks for energy imbalance.
3. Non-discriminatory terms and conditions, including cost-reflective tariffs, for the provision of such services by transmission system operators shall be developed and proposed by the system operator. Such rules shall be submitted to the Energy Regulatory Office for approval. Rules received by the Energy Regulatory Office and the ones not denied within ninety (90) days shall be deemed approved. Upon approval, the rules shall be published.
4. Transmission system operators shall procure the energy they use for carrying out their functions according to transparent, non-discriminatory and market based procedures.

Article 8

Independence of Transmission and Storage System Operator

1. The transmission system operator is part of a vertically integrated undertaking, it shall be independent at least in terms of its legal form, organization and decision making from other activities not related to transmission. This requirement shall not include an obligation to separate the ownership of assets of the transmission system from the vertically integrated undertaking.
2. In order to ensure the independence of the transmission system operator referred to in paragraph 1 of this Article, the following minimum criteria shall apply:
 - 2.1. persons responsible for the management of the transmission system operator may not participate in company structures of the integrated natural gas undertaking responsible, directly or indirectly, for the day-to-day operation of the production, distribution and supply of natural gas;
 - 2.2. appropriate measures must be taken to ensure that the professional interests of persons responsible for the management of the transmission system operator are taken into account in a manner that ensures that they are capable of acting independently;
 - 2.3. the transmission system operator shall have effective decision-making rights, independent from the integrated gas undertaking, with respect to assets necessary to operate, maintain or develop the network. This should not prevent the existence of appropriate coordination mechanisms to ensure that the economic and management supervision rights of the parent company in respect of return on assets regulated indirectly in accordance with paragraph 2 Article 22 of this law, in a subsidiary are protected.

2.4. in particular, on the contest of the sub- paragraph 3 of this paragraph shall enable the parent company to approve the annual financial plan, or any equivalent instrument, of the transmission system operator and to set global limits on the levels of indebtedness of its subsidiary. This shall not permit the parent company to give instructions regarding day-to-day operations, nor with respect to individual decisions concerning the construction or upgrading of transmission lines, that do not exceed the terms of the approved financial plan, or any equivalent instrument;

2.5. the transmission system operator shall establish a compliance program, which sets out measures taken to ensure that discriminatory conduct is excluded, and ensure that observance of it is adequately monitored. The program sets out the specific obligations which fulfill the employees to meet this objective. An annual report, setting out the measures taken, shall be submitted by the person or body responsible for monitoring the compliance program to the Energy Regulatory Office and shall be published.

Article 9

Confidentiality for Transmission and Storage System Operator

1. Without prejudging Article 15 of this law and specific Articles of the Law on Energy Regulatory or any other legal obligation to disclose information, each transmission, storage and/or LNG system operator shall preserve the confidentiality of commercially sensitive information, obtained in the course of carrying out its business, and shall prevent information about its own activities which may be commercially advantageous from being disclosed in a discriminatory manner.
2. Transmission system operators shall not, in the context of sales or purchases of natural gas by related undertakings, abuse commercially sensitive information, obtained from third parties, in the context of providing or negotiating access to the system.

Article 10

Designation of Distribution System Operator

The Government of Republic of Kosovo shall select based on competition and shall designate one or more candidates as operators of the distribution system. Candidates should apply for license to the Energy Regulatory Office within sixty (60) days from the day of selection by the Government.

Article 11

Tasks of Distribution System Operator

1. Each distribution system operator shall:

- 1.1. operate, maintain and develop under economic conditions secure, reliable and efficient system, with due regard to the environment;
 - 1.2. refrain from discrimination between system users or classes of system users, particularly in favor of its related undertakings;
 - 1.3. provide for any other distribution system operator, transmission and/or storage, as well as any LNG system operator, sufficient information to ensure that the transport and storage of natural gas may take place in a manner compatible with the secure and efficient operation of the interconnected system;
 - 1.4. provide system users with the information they need for efficient access to the system.
2. Rules adopted by distribution system operators for balancing the gas distribution system shall be objective, transparent and non-discriminatory, including rules for charging the system users of their networks for energy imbalance.
 3. Non-discriminatory terms and conditions, including cost-reflective tariffs, for provision of such services by distribution system operators, shall be drafted and proposed by the system operator.
 4. Approved rules from the operators shall be submitted to the Energy Regulatory Office and shall be published upon their approval. Requests that are not denied within sixty (60) days shall be deemed approved.

Article 12

Independence of Transmission and Storage System Operator

1. If the distribution system operator is part of a vertically integrated undertaking, it shall be independent at least in terms of its legal form, organization and decision making from other activities not related to distribution. This requirement shall not create an obligation to separate the ownership of assets of the distribution system from the vertically integrated undertaking.
2. In order to ensure the independence of the distribution system operator referred to in paragraph 1. of this Article, the following minimum criteria shall apply:
 - 2.1. the persons responsible for the management of the distribution system operator may not participate in company structures of the integrated natural gas undertaking responsible, directly or indirectly, for the day-to-day operation of the production, transmission and supply of natural gas;
 - 2.2. appropriate measures must be taken to ensure that the professional interests of persons responsible for the management of the distribution system operator are taken into account in a manner that ensures that they are capable of acting independently;

2.3. the distribution system operator shall have effective decision-making rights, independent from the integrated gas undertaking, with respect to assets necessary to operate, maintain or develop the network. This should not prevent the existence of appropriate coordination mechanisms to ensure that the economic and management supervision rights of the parent company in respect of return on assets regulated indirectly in accordance with paragraph 2 Article 22 of this law in a subsidiary are protected.

2.4. in particular, this shall enable the parent company to approve the annual financial plan, or any equivalent instrument, of the distribution system operator and to set global limits on the levels of indebtedness of its subsidiary. It shall not permit the parent company to give instructions regarding day-to-day operations, nor with respect to individual decisions concerning the construction or upgrading of distribution lines, that do not exceed the terms of the approved financial plan, or any equivalent instrument;

2.5. the distribution system operator shall establish a compliance program, which sets out measures taken to ensure that discriminatory conduct is excluded, and ensure that observance of it is adequately monitored. The program sets out the specific obligations which are fulfilled from employees. An annual report, setting out the measures taken, shall be submitted by the person or body responsible for monitoring the compliance program to the Energy Regulatory Office and shall be published.

Article 13 **Confidentiality for Distribution System Operator**

1. Without prejudice to Article 15 of this law or any other legal obligation to disclose information, each distribution system operator preserves the confidentiality of commercially sensitive information obtained in the course of carrying out its business, and prevents information about its own activities which may be commercially advantageous from being disclosed in a discriminatory manner.

2. Distribution system operators shall not, in the context of sales or purchases of natural gas by related undertakings, abuse commercially sensitive information obtained from third parties in the context of providing or negotiating access to the system.

Article 14 **Combined System Operator**

1. The terms of paragraph 1 of Articles 8 and paragraph 1 of Article 12 shall not prevent the operation of a combined transmission, LNG, storage and distribution system operator, which is independent in terms of its legal form, organization and decision making from other activities not related to transmission LNG, storage and distribution system operations and which meets the requirements set out in sub-paragraphs 1.1 to 1.4 of this Article. The terms of this Article shall not create an obligation to separate the ownership

of assets of the combined system from the vertically integrated undertaking. The conditions for allowance to be a combined system operator shall include:

1.1. persons responsible for the management of the combined system operator don't participate in company structures of the integrated natural gas, directly or indirectly, for the day-to-day operation of the production and supply of natural gas;

1.2. appropriate measures to ensure that the professional interests of persons responsible for the management of the combined system operator are taken into account in a manner that ensures that they are capable of acting independently;

1.3. the combined system operator shall have effective decision-making rights, independent from the integrated gas undertaking, with respect to assets necessary to operate, maintain or develop the network. This should not prevent the existence of appropriate coordination mechanisms to ensure that the economic and management supervision rights of the parent company in respect of return on assets, regulated indirectly in accordance with paragraph 2 of Article 22 of this law in a subsidiary are protected;

1.4. in particular, this shall enable the parent company to approve the annual financial plan, or any equivalent instrument, of the combined system operator and to set global limits on the levels of indebtedness of its subsidiary. It shall not permit the parent company to give instructions regarding day-to-day operations, nor with respect to individual decisions concerning the construction or upgrading of transmission and distribution lines, that do not exceed the terms of the approved financial plan, or any equivalent instrument;

1.5. the combined system operator shall establish a compliance program, which sets out measures taken to ensure that discriminatory conduct is excluded, and ensure that observance of it is adequately monitored. The program shall set out the specific obligations of employees to meet this objective. An annual report, setting out the measures taken, shall be submitted by the person or body responsible for monitoring the compliance program to the Energy Regulatory Office and shall be published.

Article 15

Right of access to accounts

1. The Energy Regulatory Office, in accordance with Article 50 of the Law on Energy Regulatory and Article 16 of this law, has the right of access to the accounts of natural gas undertakings.

2. The Energy Regulatory Office preserves the confidentiality of commercially sensitive information; provided, however, that the disclosure of such information may be made by the Energy Regulatory Office where this is necessary in order for it to carry out its functions.

Article 16

Unbundling of accounts

1. The Energy Regulatory Office ensures that the accounts of natural gas undertakings are kept in accordance with paragraphs 2 to 5 of this Article. Where undertakings benefit from derogation of this provisions, on the basis of Article 24 of this law, they shall at least keep their internal accounts in accordance with this Article.

2. Natural gas undertakings, whatever their system of ownership or legal form, shall draw up, submit to audit and publish their annual accounts in accordance with legislation in force concerning the annual accounts of limited liability companies. Undertakings which are not legally obliged to publish their annual accounts shall keep a copy of these at the disposal of the public at their head office.

3. Natural gas undertakings shall, in their internal accounting, keep separate accounts for each of their transmission, distribution, LNG and storage activities as they would be required to do if the activities in question were carried out by separate undertakings, with a view to avoiding discrimination, cross-subsidization and distortion of competition. The Enterprises also keep accounts, which may be consolidated, for other gas activities not relating to transmission, distribution, LNG and storage.

4. Revenue from ownership of the transmission/distribution network shall be specified in the accounts. Until 1 January, 2015, they shall keep separate accounts for activities for eligible customers and activities for non-eligible customers. Where appropriate, they shall keep consolidated accounts for other, non-gas activities. The internal accounts shall include a balance sheet and a profit and loss account for each activity.

5. The audit, referred to in paragraph 2 of this Article, shall, in particular, verify that the obligation to avoid discrimination and cross-subsidies referred to in paragraph 3 of this Article.

6. Undertakings shall specify in their internal accounting the rules for the allocation of assets and liabilities, expenditure and income as well as for depreciation, without prejudice applicable accounting rules, which they follow in drawing up the separate accounts referred to in paragraph 3 of this Article. These internal rules may be amended only in exceptional cases. Such amendments shall be mentioned and duly substantiated.

7. The annual accounts indicate in notes every transaction of a certain size conducted with related undertakings.

Article 17

Third Party Access

1. Transmission and distribution system operators should allow natural gas undertakings and eligible customers, including supply undertakings, to have non-discriminatory access to transmission and distribution systems, pursuant to rules and tariffs approved and

published by the Energy Regulatory Office. Tariffs should be transparent and non-discriminatory.

2. The provisions of paragraph 1 of this article shall not prevent the conclusion of long-term contracts so long as they are not in derogation of the intent of this Law to promote competition. Transmission system operators shall, if necessary for the purpose of carrying out their functions, including in relation to cross-border transmission, have access to the network of other transmission system operators.

3. Access for third parties similar to those specified in paragraph 1. of this Article, shall also be permitted to upstream pipeline networks, including facilities supplying technical services incidental to such access, except for the parts of such networks or facilities which are used for local production operations at the site of a field where the gas is produced. Transmission and distribution system operators should offer non-discriminatory services for all users of the network.

4. The access referred to in paragraph 3 of this Article shall be provided for achieving a competitive market in natural gas taking into account security and regularity of supplies, capacity which is or can reasonably be made available and environmentally protected. In accordance with this paragraph should be taken into account:

4.1 the need to refuse access where there is incompatibility of technical specifications which cannot be reasonably overcome;

4.2 the need to avoid difficulties which cannot be reasonably overcome and could prejudice the efficient, current and planned future production of hydrocarbons, including that from fields of marginal economic viability;

4.3 the need to respect the duly substantiated reasonable needs of the owner or operator of the upstream pipeline network for the transport and processing of gas and the interests of all other users of the upstream pipeline network or relevant processing or handling facilities who may be affected; and

4.4 the need to apply their laws and administrative procedures, in conformity with the legislation in force, for the grant of authorization for production or upstream development.

5. The Energy Regulatory Office shall issue rules for settlement of the disputes related to access or refusal to allow access to every facility set forth in this Law. The Energy Regulatory Office publishes information on flow, methodology and structure of tariffs.

6. Transmission system operators should make it public the detailed information related to services offered and conditions required for application together with necessary technical information for users of the network to have efficient access to the network. In order to provide transparent, objective and non-discriminatory tariffs and to facilitate the efficient use of gas network.

7. The final decision of the Energy Regulatory Office shall be subject to appeal to the Courts of general jurisdiction of Kosovo. Tariffs for network access shall not restrict

market liquidity nor distort trade across borders of different transmission systems. Where differences in tariff structures or balancing mechanisms would hamper trade across transmission systems, transmission system operators, the Energy Regulatory Office shall cooperate to actively pursue convergence of tariff structures and charging principles including in relation to balancing.

Article 18

Refusal of access

1. Transmission, distribution or storage system operators may refuse access to the system on the basis of lack of capacity or where the access to the system would prevent them from carrying out the public service obligations referred to in paragraph 2 of Article 4 of this law, on the basis of serious economic and financial difficulties with take-or-pay contracts having regard to the criteria and procedures set out in Article 23 of this law. Such refusal should be reasonable.
2. The Ministry may require from a natural gas undertaking which refuses to provide access to its facilities based upon a lack of capacity or a lack of connection for necessary investments to the extent that the same would be economically feasible to do so or when a potential customer is willing to pay for enlargement of the capacity.

Article 19

New infrastructure

1. Major new interconnectors between Kosovo and another country, as well as LNG and storage facilities, may, upon request, be exempted from the provisions of Articles 17 and paragraphs 2. and 3. of Article 22 of this law under the following conditions;
 - 1.1 the investment must enhance competition in gas supply and enhance security of supply;
 - 1.2 the level of risk attached to the investment is such that the investment would not take place unless an exemption was granted;
 - 1.3 the infrastructure must be owned by a natural or legal person which is separate at least in terms of its legal form from the system operators in whose systems that infrastructure will be built;
 - 1.4 charges are levied on users of that infrastructure;
 - 1.5 the exemption is not detrimental to competition or the effective functioning of the internal gas market, or the efficient functioning of the regulated system to which the infrastructure is connected.

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

3. The Energy Regulatory Office may, on a case by case basis, decide on the exemption referred to in paragraphs 1 and 2 of this Article. The decision shall be published.

3.1. the exemption may cover all or parts of, respectively, the new infrastructure, the existing infrastructure with significantly increased capacity or the modification of the existing infrastructure.

3.2. in deciding to grant an exemption consideration shall be given, on a case by case basis, to the need to impose conditions regarding the duration of the exemption and non-discriminatory access to the interconnector.

3.3. when deciding on the conditions in this subparagraph shall be considered, in particular, the duration of contracts, additional capacity to be built or the modification of existing capacity, the time horizon of the project and national circumstances.

3.4. when granting an exemption the Energy Regulatory may decide upon the rules and mechanisms for management and allocation of capacity insofar as this does not prevent the implementation of long term contracts.

3.5. the exemption decision, including any conditions referred to in sub-paragraph 3.2. of this paragraph, shall be duly reasoned and published.

3.6. in the case of an interconnector any exemption decision shall be taken after consultation with representatives of the other country into which the interconnector would pass or the regulatory authority of that country.

Article 20

Market opening and reciprocity

1. The term “eligible customers” shall include:

1.1. non-households from and after January 1, 2008; and

1.2. all customers, whether household or non-household, from and after 1 January, 2015.

2. To avoid imbalance in the opening of gas markets:

2.1. contracts for the supply with an eligible customer in the system of a country other than Kosovo shall not be prohibited if the customer is eligible in both systems involved;

2.2. in cases where transactions as described in sub-paragraph 2.1 of this paragraph are refused because the customer is eligible in only one of the two systems, if the Assembly issues an order that the refusing party shall execute the supply requested by the customer, the Energy Regulatory Office shall order the system operator to comply with the Assembly order.

Article 21 Direct Lines

1. The Energy Regulatory Office enables any eligible customer to be supplied through a direct line by natural gas undertakings, wherever this is technically and economically feasible.
2. The Energy Regulatory Office shall establish rules prescribing the criteria for the grant of authorization for the construction or operation of direct lines. In establishing such rules the Energy Regulatory Office shall take into consideration matters of safety, efficiency, the integrity of transmission and distribution systems. Such rules shall be objective, transparent, and non-discriminatory in application.

Article 22 Duties and Obligations of the Energy Regulatory Office

1. The Energy Regulatory Office shall be the competent authority to monitor and regulate the natural gas industry in Kosovo and it shall be responsible for ensuring a non-discriminatory, effectively competitive and efficiently functioning natural gas market in Kosovo. In performing this function the Energy Regulatory Office shall monitor the following:
 - 1.1 the rules on the management and allocation of interconnection capacity, in conjunction with the regulatory authority or authorities of those countries adjacent to Kosovo with which interconnection exists;
 - 1.2 any mechanisms to deal with congested capacity within the national gas system;
 - 1.3 the time taken by transmission and distribution system operators to make connections and repairs;
 - 1.4 the publication of appropriate information by transmission and distribution system operators concerning interconnectors, grid usage and capacity allocation to interested parties, taking into account the need to treat non-aggregated information as commercially confidential;
 - 1.5 the effective unbundling of accounts as referred to in Section 16 of this law, to ensure there are no cross subsidies between transmission, distribution, storage, LNG and supply activities;

1.6 the access conditions to storage, linepack and to other ancillary services as provided for in Section 17 of this law;

1.7 the extent to which transmission and distribution system operators fulfill their tasks in accordance with Sections 7 and 11 of this law;

1.8 the level of transparency and competition.

2. The Energy Regulatory Authority shall publish an annual report on its findings from monitoring the facts and indicators listed in subparagraphs 1.1 through 1.6, above.

3. The Energy Regulatory Office shall prepare a methodology for setting the tariff for connection and access to any natural gas network, including transmission, distribution tariffs and balancing services.

4. The Energy Regulatory Office have the authority to require transmission, LNG and distribution system operators, if necessary, to modify the terms and conditions, including tariffs and methodologies referred to in paragraphs 1, 2 and 3, to ensure that they are proportionate and applied in a non-discriminatory manner.

5. Any party having a complaint against a transmission, LNG or distribution system operator with respect to the issues mentioned in paragraphs 1, 2, 3 and 5 and in Section 19 may refer the complaint to the Energy Regulatory Office which, acting as dispute settlement authority, shall issue a decision within two months after receipt of the complaint. This period may be extended by two months where additional information is sought by the Energy Regulatory Office. Such a decision shall have binding effect unless and until overruled on appeal.

Article 23

Derogations in relation to take-or-pay commitments

1. If a natural gas undertaking encounters, or considers it would encounter, serious economic and financial difficulties because of its take-or-pay commitments in one or more gas-purchase contracts, it may apply for a temporary derogation.

2. The application from the paragraph 1 of this Article shall be heard without delay. The applications shall be accompanied by all relevant information on the nature and extent of the problem and on the efforts undertaken by the natural gas undertaking to solve the problem. In making its decision of whether or not to grant a temporary derogation of Article 17 of this law, the Energy Regulatory Office shall consider the following criteria:

2.1. the objective of achieving a competitive gas market;

2.2. the need to fulfill public service obligations and to ensure security of supply;

2.3. the position of the natural gas undertaking in the gas market and the actual state of competition in this market;

2.4. the seriousness of the economic and financial difficulties encountered by natural gas undertakings and transmission undertakings or eligible customers;

2.5. the dates of signature and terms of the contract or contracts in question, including the extent to which they allow for market changes;

2.6. the efforts made to find a solution to the problem;

2.7. the extent to which, when accepting the take-or-pay commitments in question, the undertaking could reasonably have foreseen, having regard to the provisions of this law, that serious difficulties were likely to arise;

2.8. the effects that the granting of a derogation would have on the correct application of this Directive as regards to the smooth functioning of the internal natural gas market.

Article 24

Kosovo as an Emergent and Isolated Market

So long as Kosovo has not developed the natural gas system and is not connected with the systems of other countries, provisions of Articles 5, 6, 7.1, 7.2, 8, 10, 11.2, 12, 16, 17, 20, and 21 of this law, shall not be implemented.

Article 25

Transitional Provisions

1. Transmission system operator drafts rules for access to the natural gas transmission networks in accordance with (EC) Regulation no. 1775/2005 and the same submits it to the Energy Regulatory Office for approval.

2. Ministry of Energy and Mines shall issue sub-legal acts defined with this law and other acts to safeguard security of natural gas supply in accordance with EU Directive 2004/67/EC.

Article 26

Entry into force

This law enters into force fifteen (15) days after its publication in the Official Gazette of the Republic of Kosovo.

Law No. 03/L-133

2 November 2009

President of the Assembly of Republic of Kosovo

Jakup KRASNIQI