

**ORDINANCE № 3 as of March 21st 2013 ON LICENSING
THE ACTIVITIES IN THE ENERGY SECTOR**

Issued by the State Energy and Water Regulatory Commission

Promulgated State Gazette No.33/05.04.2013; amended and supplemented, SG No. 52/22.06.2018; SG 98/13.12.2019, effective 13.12.2019; SG/111/31.12.2020, effective 31.12.2020; amended SG No.65/06.08.2021, effective 06.08.2021; amended and supplemented, SG No. 25 as of 29.03.2022; amended and supplemented, SG No. 18 as of 24.02.2023, amended and supplemented, SG No. 55 as of 27.06.2023

**CHAPTER ONE
GENERAL PROVISIONS**

Article 1. (1) This ordinance establishes the terms and conditions on:

1. (amended SG No. 111/2020, effective 31.12.2020) Issuance, amendment, supplement, term extension, termination, suspension and withdrawal of licenses for the activities in the energy sector, as determined by the Energy Act;
2. (amended SG No. 111/2020, effective 31.12.2020) Conducting tenders in accordance with Article 43, Para 9 and Article 46 of the Energy Act;
3. (amended SG No. 111/2020, effective 31.12.2020) Issuance of permits under the Energy Act;
4. Certifying the operators of electricity and gas transmission networks;
5. (amended SG No. 111/2020, effective 31.12.2020) Approving and amendment of the general terms in the contracts under the Energy Act (and under the Energy from Renewable Sources Act);
6. Approving and amendment of the rules for operation with the energy services users;
7. Clients supply with electrical and heat energy and natural gas;
8. (amended SG No. 111/2020, effective 31.12.2020) Submitting of complaints, considering them and amicable settlement of disputes as per Article 22 of the Energy Act;
9. Audit assignment and performance under Article 201, Para 2 Item 5 of the Energy Act and defining of the requirements with regard of the persons performing the audit;
10. Approval, monitoring and control of the implementation of the Ten Years Networks Development Plan (TYNDP) of the independent electricity transmission operator and the independent gas system operator;
11. (amended SG No. 111/2020, effective 31.12.2020) Elaboration of the forecasts under Energy from Renewable Sources Act, Article 22, Para 1 and 2;
12. Reporting by the electricity transmission and distribution networks operators on the cases of substantial decrease in the amounts of RES electrical power transmitted and distributed and the respective correction measures undertaken by the operators in order to prevent the decrease in these amounts;
13. (new – SG No. 111/2020, effective 31.12.2020) Exercising control regarding the implementation of Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and

transparency (OJ L 326/1 of 8 December 2011), referred to hereinafter as “Regulation (EU) 1227/2011”.

(2) (amended SG No. 111/2020, effective 31.12.2020) This ordinance establishes also the circumstances subject to entry into registers, as per Article 25, Para 1, item 1, 5 and 6 of the Energy Act, the entry into registers procedure, and the provision of information.

(3) (amended SG No. 111/2020, effective 31.12.2020) This ordinance determines also other data, except those mentioned in Article 38, Para 3 of the Energy Act, which data are to be stored by electricity and natural gas supply companies for a 5-year period.

CHAPTER TWO
LEGAL PROCEEDING BEFORE THE ENERGY AND WATER REGULATORY
COMMISSION
(TITLE AMEND. – SG NO. 98/2019, EFFECTIVE 13.12.2019)

Article 2. (SG No. 98/2019, effective 13.12.2019) A legal proceeding before the Energy and Water Regulatory Commission, referred to hereinafter as “the Commission” or “EWRC” shall be opened upon:

1. (amend. – SG No. 52/2018, SG No. 111/2020, effective 31.12.2020) Application for the cases as per Article 1, Para 1, Item 1, 3, 4, 5, 6, 10, 11 and as per Article 13, Para 6 and Para 7;

2. (amend. – SG No. 111/2020, effective 31.12.2020) Complaint or request for amicable settlement of dispute in accordance with Article 22 of the Energy Act;

3. EWRC initiative in the cases provided for in Article 8;

4. (amend. – SG No. 111/2020, effective 31.12.2020) Motivated request of the European Commission as laid down in Article 81a, Para 2 of the Energy Act.

Article 3. (1) EWRC shall approve the sample application forms as per Article 2, item 1 and the annexes thereto, and prescribe their minimum content. The application samples shall be published on EWRC [website](#).

(2) (suppl. - SG No. 52/2018) An application together with a set of required documents shall be filed in writing, on hard copy, at EWRC register office or sent by registered letter with an advice of delivery. The applications shall be registered in EWRC register office;

(3) (suppl. - SG No. 52/2018) Documents enclosed to the application shall be submitted in original or certified copy. A declaration of veracity regarding stated circumstances and enclosed documents and data shall be enclosed to the application and shall be signed by the applicant;

(4) (new – SG No. 52/2018, amend. 111/2020, effective 31.12.2020) The applications under Art. 1, Para 1, Items 1, 3, 5, 6, 10 and under Art. 13, Para 6 and 7 can be submitted in electronic form;

(5) (new – SG No. 52/2018) If the application is not submitted by an individual who legally represents the energy company, an authorization with the signature of this individual certified by notary’s office shall be enclosed to the application. If the application is submitted by electronically, the authorization shall be presented in electronic form;

(6) (new – SG No. 52/2018) An application in electronic form shall be submitted through EWRC Single portal for provision of information and services, signed with a qualified electronic signature in compliance with the requirements of

Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ, L 257/79 of 28 August 2014), referred hereinafter as “Regulation (EU) 910/2014”, and of Electronic Document and Electronic Trust Services Act. A declaration of veracity regarding stated circumstances and enclosed documents and data shall be enclosed to the application and shall be signed by the applicant with a qualified electronic signature;

(7) (new – SG No. 52/2018) An application submitted under Art. 6 shall be considered received as of the date of receipt of incoming reference number in EWRC administrative and information system;

(8) (new – SG No. 52/2018) An electronic application, which has not been submitted under the terms of Art. 6, shall not represent grounds for opening administrative proceedings;

(9) (new – SG No. 52/2018) EWRC can require documents enclosed to the application under Art. 6 to be presented on hard copy as well.

Article 4. (1) EWRC shall check the submitted applications and complaints for compliance with the provisions of the law and the ordinance within a 7-day period after they have been filed:

(2) If the application or claim is found to be non-compliant with the requirements, a written notice shall be forwarded to the applicant/complainant to correct the irregularities within a 7-day period.

(3) If, within the term of Para 2, the applicant fails to eliminate the irregularities, the file shall not be further processed in essence and by EWRC decision the file shall be suspended.

(4) The applicant, respectively the complainant, shall be notified in writing about the file’s suspension and that the application or complaint shall not be subject to further essential processing.

(5) (new – SG No. 18/2023, effective 24.02.2023) If an irregularity is found in a complaint submitted via EWRC e-mail, the complainant is notified electronically by a EWRC official to remove the admitted irregularity within 7 days.

(6) (new – SG No. 18/2023, effective 24.02.2023) If the irregularities are remedied within the period under Para 5, the complaint is filed in EWRC’s filing system.

(7) (new – SG No. 18/2023, effective 24.02.2023) If the irregularities are not remedied within the period referred to in Para 5, a EWRC official shall notify the complainant electronically that the complaint will not be considered by EWRC. In this case, the complaint shall not be filed in EWRC’s filing system.

(8) (amend. – SG No. 98/2019, effective 13.12.2019, previous Para 5 - SG No. 18/2023, effective 24.02.2023) The way files are initiated and examined, as well as the terms and conditions on considering the submitted applications and complaints and the decision making process, shall be defined in the Organizational Rules of the Energy and Water Regulatory Commission and its administration.

Article 5. (1) If for issuance of a license and/or for providing permit or agreement, a proper authorization of the Commission for Protection of Competition (CPC) in accordance with the Protection of Competition Act is needed, EWRC, based on an adopted decision, shall

terminate the proceeding and notify the applicant in writing within a 3-day period after the decision adoption.

(2) EWRC shall bring the case to the Commission for Protection of Competition for proceeding commencement in accordance with the procedures of the Protection of Competition Act, within a period of 3 days after the decision adoption as per paragraph (1).

(3) EWRC shall resume the proceeding of issuing an administrative act after the decision of the Commission for Protection of Competition comes into force.

Article 6. (amend. – SG No. 111/2020, effective 31.12.2020) In the course of performing its regulatory powers, EWRC shall take into account the principles, laid down by the Energy Act and the Energy from Renewable Sources Act.

Article 7. (1) EWRC may verify the stated data and facts ex officio by routine checks.

(2) (amend. – SG No. 111/2020, effective 31.12.2020) When reviewing the relevant file, EWRC may request the opinion of the persons listed in Article 19 of the Energy Act.

(3) EWRC shall proceed with resolving a certain file after a confirmation that all facts and circumstances pertaining to the respective case have been clarified and after discussing the clarifications and the objections of the interested citizens and organizations, if such are provided and respectively made.

(4) EWRC takes a decision on a certain application/complaint file at a closed session.

(5) (amend. – SG No. 98/2019, effective 13.12.2019) EWRC decisions shall be announced to the applicants/complainers following the procedures defined in the Organizational Rules of the Energy and Water Regulatory Commission and its administration.

(6) If EWRC does not come up with a decision within the prescribed terms, this shall be deemed as an implicit (silent) refusal.

Article 8. (1) (amend. – SG No. 111/2020, effective 31.12.2020) Upon its initiative EWRC shall open proceedings in the following cases determined by the Energy Act:

1. (amend. – SG No. 111/2020, effective 31.12.2020) Amendment and/or supplement of an issued license in the cases listed in Article 51, paragraph 2 of the Energy Act;

2. (amend. – SG No. 111/2020, effective 31.12.2020) Carrying out a tender, as specified in Article 43, paragraph 9 and Article 46, paragraphs 1 and 2 of the Energy Act for defining a license holder/titular;

3. (amend. – SG No. 111/2020, effective 31.12.2020) Certifying a transmission network operator as per Article 81(a), Article 81(l) and Article 81(o) of the Energy Act;

4. (amend. – SG No. 111/2020, effective 31.12.2020, amend. – SG No. 18/2023, effective 24.02.2023) Termination of a license in the cases specified in Article 55, Para 2 of the Energy Act for the whole territory or part of it, as well as in the cases under Article 55, Para 1, item 4 of the Energy Act; in case a court decision about declaring licensee's insolvency or a decision about ceasing an activity due to declaring a licensee in liquidation enter into force, the license shall be terminated as of the date when the respective court decision becomes effective;

5. (amend. – SG No. 111/2020, effective 31.12.2020) Appointment of a special manager, according to Article 56, Para 4 of the Energy Act;
6. (amend. – SG No. 111/2020, effective 31.12.2020) Withdrawal of a license in the cases specified by Article 59, Para 1, 2 or 3 of the Energy Act;
- (2) (amend. – SG No. 111/2020, effective 31.12.2020) EWRC shall open proceedings also in case of a motivated request of the European Commission, as per Article 81a, Para 2 of the Energy Act.
- (3) The proceedings as per Para 1 or 2 shall be opened by EWRC decision.
- (4) A copy of the decision with the grounds thereto shall be sent to the stakeholder, who shall have the right within 14 days after its receipt to provide an opinion in written and to submit evidences.

CHAPTER THREE
ISSUANCE OF LICENSES
SECTION I
GENERAL PROVISIONS

Article 9. (1) (amend. – SG No. 111/2020, effective 31.12.2020) EWRC shall issue the following licenses for exercising the activities defined by the Energy Act:

1. electricity generation;
2. heat energy generation;
3. electricity and heat energy generation;
4. electricity transmission;
5. heat energy transmission;
6. natural gas transmission;
7. electricity distribution;
8. natural gas distribution;
9. natural gas storage in storage facilities and/or liquefaction of natural gas, or import, unloading and regasification of liquefied natural gas in an installation for liquefied natural gas;
10. electricity trade;
- 10a. (new – SG No. 111/2020, effective 31.12.2020) natural gas trade;
11. organizing an electricity exchange market;
- 11a. (new – SG No. 98/2019, effective 31.12.2019) organizing natural gas exchange market;
12. electricity public supply;
13. natural gas public supply;
14. electricity supply from end-suppliers;
15. natural gas supply from end-suppliers;
16. traction electrical power distribution over the distribution networks of the railway transport;
17. electricity supply from supplier of last resort.

(2) (amend. – SG No. 111/2020, effective 31.12.2020, amend. – SG No. 18/2023, effective 24.02.2023) If an applicant for some of the activities under Para 1, items 1, 3, 4, 7, 7a, 10, 11, 12, 14, 16 and 17 or a license titular/holder meets the requirements for a balancing group coordinator, the respective license shall contain powers and obligations related to the activities of a balancing group coordinator.

(3) Licenses as per Para 1 shall be issued for a 35-year period. EWRC shall fix the term of the respective license depending on the lifetime resource of the assets involved in exercising the respective licensed activity, and on the financial status of the applicant. The Commission shall not fix a license term longer than the term requested by the applicant.

(4) A license shall be issued by EWRC decision and it shall be an integral part of the said decision.

(5) (amend. – SG No. 111/2020, effective 31.12.2020, annulled – SG No. 18/2023, effective 24.02.2023).

Article 10. (1) (amend. – SG No. 111/2020, effective 31.12.2020) A license for the activities in the energy sector mentioned in Article 9, Para 1 shall be issued to a person registered under the Commercial Act or to a person with registration equivalent to the aforementioned under the legislation of another EU Member State, who has filed an application and meets the conditions for issuance of a license under Article 40 of the Energy Act or who has been awarded at a tender in the cases laid down in Article 43, Para 9 and Article 46 Para 1 and 2 of the Energy Act.

(2) (amend. – SG No. 111/2020, effective 31.12.2020, amend. – SG No. 18/2023, effective 24.02.2023) When according to Article 43 of the Energy Act only one license can be issued for the whole territory of the country or for a differentiated territory, a new license shall be issued to the person, who has filed an application:

1. In case an existing license has been terminated and EWRC has authorized the transfer of the licensee's enterprise of the terminated license to the same person, who has filed an application:

2. In the case of terminating an existing license for a part of the territory covered by it, if this part meets the requirements of the Energy Act, and EWRC has authorized the transfer of the assets for exercising the licensed activities in the separated territory to the same person.

3. In case of amendment of an existing license, excluding from its territory the territory of an industrial park, respectively of a geographically separated industrial site, when this person has submitted an application for the issuance of a license for electricity distribution in a closed electricity distribution network, respectively for natural gas distribution in a closed gas distribution network, and meets the conditions for carrying out the activity.

(3) A license under Article 9, Para 1, item 17, shall be issued to:

1. A license holder for the activity electricity public supply - for customers connected to the electricity transmission network;

2. (suppl. – SG No. 18/2023, effective 24.02.2023) A license holder for the activity electricity supply from end-supplier - for customers connected to the respective electricity distribution network, for the territory of the active licenses for end-supplier, as well as for customers connected to the respective closed electricity distribution network for the territory of an electricity distribution license in a closed electricity distribution network, which territory is excluded from the territory of this end-supplier.

(4) (new – SG No. 18/2023, effective 24.02.2023) A license under Art. 9, Para 1, item 7a, respectively under Art. 9, Para 1, item 8a, shall be issued for the territory of an industrial park or a geographically separated industrial site when the activities or the production process of the users of this network are integrated due to certain technical reasons or for reasons related to safety, or when electricity or natural gas distribution is carried out mainly for the owner, network operator or for related to them enterprises.

Article 11. (1) The application for issuance of a license contains:

1. (amend. – SG No. 65/2021, effective 06.08.2021) company, unified identification code, determined by the Registry Agency and the full names of the applicant and of the person(s), who represent(s) it respectively - registration data in the case of commercial registration under the legislation of an EU Member State; person with registration under the legislation of other EU Member State, equivalent to the registration under the Commercial Act shall indicate their legal seat and address of management;

2. Type of the license applied for;

3. Description of the energy enterprise (facilities) for carrying out the licensed activity, if the license application is for an activity as laid down in Article 9, Paragraph 1, Items 1-9 and Item 16;

4. Proposal and justification of the term of the license required;

5. (revoked – SG No. 111/2020, effective 31.12.2020) ;

6. Specimen of the signature of the person(s), representing the applicant.

(2) The following documents shall be enclosed to the application in accordance with para (1):

1) (amend. – SG No. 52/2018, suppl. SG No. 111/2020 effective 31.12.2020) Proof of legal existence issued by a competent authority in accordance with the legislation of the state, where the applicant is registered; in cases of commercial registration under the legislation of an EU Member State it shall contain data about the person, including management authorities and means of representation;

2) Declarations, stating that:

a) Managers and the management bodies members of the applicant, and, in case the members are legal persons – their representatives in the corresponding management body – have not been deprived of the right to exercise trade activity;

b) Managers and the management bodies members of the applicant, and, in case the members are legal persons – their representatives in the corresponding management body – have not been sentenced by judgement-at-law for offense against property or the economy, unless discharged;

c) (suppl. – SG No. 18/2023, effective 24.02.2023) The applicant is not subject to bankruptcy adjudication proceedings, not declared insolvent and is not in liquidation in the cases of commercial registration under the legislation of an EU Member State;

d) (amend. – SG No. 111/2020, effective 31.12.2020) The applicant has not had a withdrawn license for the same activity, or the period under Article 59, Para 4 of the Energy Act has expired;

e) More than three months have passed from the entry into force of the act of denial of issuance of license for the same activity, if such an act has been issued;

3) (suppl. – SG, No. 18/2023 (*)) Business plan, elaborated in accordance with Article 13, if required for the relevant activity;

4) (amend. – SG, No. 65/2021, effective 06.08.2021, amend. – SG No. 18/2023, effective 24.02.2023) Annual financial statements of the applicant for the last three years, as well as the audit report if the annual financial statement of the applicant is subject to independent financial audit, in case those are not published in the [Commercial register](#) under the Registry Agency; if the legal person is newly registered – proofs of financial resources shall be enclosed;

5) Information on financing sources for the activity and evidence of these sources availability;

6) (amend. – SG, No. 111/2020, effective 31.12.2020) Proofs that the person, to whom it refers, satisfies the requirements set by the rules pursuant to Article 24, Para 2 and Article 173, Para 1 of the Energy Act, for financial provision of the transactions they sign in electricity or natural gas;

7) Information on the share percentages of the partners or shareholders of the applicant and the corresponding copies of documents (corporate contract, court rulings or copy of the shareholders' record book, etc.) providing proofs of the correctness of this information;

8) (revoked – SG No. 18/2023, effective 24.02.2023);

9) Information on the management and organizational chart of the applicant and the education and qualifications of the management personnel, as well as data on the number and qualifications of the staff occupied in carrying out the activity subject to licensing;

10) (amend. SG, No. 111/2020, effective 31.12.2020, suppl. – SG No. 18/2023, effective 24.02.2023) Rules on working with energy services consumers, if such are required for the relevant activity;

11) Documentary evidence of paid fee for processing the application.

(3) (suppl. – SG, No. 52/2018) Declarations under Para 2, Item 2, (c), (d) and (e) shall be submitted by the person(s) representing the applicant. Declarations under Para 2, Item 2, (a) and (b) shall be submitted by each member of the applicant management body. If the application is submitted in electronic form, the applicant shall present a declaration that the declarations under Para 2, Item 2, (a) and (b) enclosed to the application have been submitted by the declarants.

(4) to the license application pursuant to Article 9, Para 1, Item 1 – 9, except for the documents listed in Para 2, the following shall also be enclosed:

1. Permit of the energy facility usage and the corresponding infrastructure, which represent the means for exercising the licensed activity, issued in accordance with the Territorial Development Act (TDA), in case these facilities are newly constructed; no such permit is required if these facilities have been used for carrying out of activity according to an issued license by the applicant or a third party;

2. Data characterizing the technical status of the energy facility and its technical and operational characteristics, as well as those of its service infrastructure, and a list of the primary and auxiliary equipment of the energy facility;

3. Written evidence of the observation and compliance with:

a) normative requirements for safe and healthy working conditions, technical safety of machines, equipment and installations, values of working environment parameters, prevention measures, diminishing or limitation of the risks for safety and health at work, provision of the personnel with personal protection means and special working clothes, conducted evaluation and assessment of the working positions' risk, providing the workers with medical service by specialized medical office of labour medicine;

b) normative requirements for technical operation of power stations, transmission networks, equipment and installations;

c) normative requirements for environment protection, environment resolutions, authorizations and/or permits;

4. Documents, providing evidence of the ownership, respectively limited real right of the facility (facilities) usage, which constitute the means of exercising the licensed activity, with drawings and maps of the corresponding territories and networks;

5. (amend. and suppl. – SG No. 18/2023, effective 24.02.2023) Description of the territory where the respective distribution networks are set and data, reflecting the number of

connected customers and the number of potential customers, if the license application has been filed pursuant to Article 9, Para 1, Items 5, 7, 7a, 8 and 8a;

6. Description of the territory, subject to a license application for heat energy transmission and authenticated copies of the built-up area acting plans;

7. Opinion on the facility fire and emergency safety, issued by the competent authorities of the Ministry of Interior.

(5) The following documents shall be also enclosed to a license application pursuant to Article 9, Paragraph 1, Items 5, 7, 8, 14, 15 and 17 in addition to the documents listed in Para 2:

1. Information on possessed fixed assets, including information on deployed IT networks and software for carrying out the activity;

2. (amend. – SG, No. 111/2020, effective 31.12.2020) Rules for working with energy services consumers as a part of the general conditions in the contracts, in case that the Energy Act or Energy from Renewable Sources Act require the licensee to elaborate such rules or as an annex to the contracts;

3. (amend. – SG, No. 111/2020, effective 31.12.2020) Draft of the contracts general conditions, if the Energy Act or Energy from Renewable Sources Act require such provisions to be prepared by the licensee.

(6) In addition to the documents mentioned in Para 2, the following documents shall be also attached to a license application pursuant to Article 9, Paragraph 1, Items 10 and 11:

1. Information and evidence about the fixed assets in possession, including information and evidence about deployed IT networks and software for carrying out the activity;

2. Evidence of the availability of technical provisions for concluding deals with electricity in accordance with the Electricity Trading Rules;

3. (revoked – SG No. 18/2023, effective 24.02.2023).

4. (amend – SG, No. 98/2019, effective 13.12.2019, SG No. 111/2020, effective 31.12.2020) Evidence, defined in the rules under Article 24, Para 2 and Article 91 Para 2 of the Energy Act that the person satisfies the conditions to guarantee financially the electricity or natural gas transactions, which they conclude.

(7) new – SG, No. 98/2019, effective 13.12.2019, SG No. 111/2020, effective 31.12.2020) In addition to the documents listed in Para 2, the following papers under Art. 9, Para 1, item 10(a) and 11(a) shall also be enclosed to the license application:

1. Data and evidence about the material assets in possession, including data and evidence about the established IT network and software for performing the activity;

2. Data on the existence of technical provision for concluding natural gas deals;

3. (revoked – SG No. 18/2023, effective 24.02.2023).

(8) (new – SG No. 18/2023, effective 24.02.2023(*)) Except the documents under Para 2, 6 and 7, the application for issuing a license under Art. 9, Para 1, items 10 and 10a, shall also be accompanied by:

1. projected balance sheets, income statements and cash flow statements for a 3-year period by years;

2. estimated prices and quantities for purchase/sale of electricity or natural gas for a 3-year period by years.

Article 11a. (new – SG No. 18/2023, effective 24.02.2023) (1) The application for issuing a license under Art. 9, Para 1, items 7a and 8a shall contain the data and documents under Art. 11, Para 1 – 4.

(2) In case the application under Para 1 is for the territory of an industrial park, the following shall be applied, unless published in the register under Art. 21 of the Industrial Parks Act:

1. description of the industrial park territory;
2. data on the industrial park location and area;
3. identifiers of the landed properties on the industrial park territory according to the cadastral map and cadastral registers;
4. data on the technical infrastructure for electricity or natural gas distribution built on the industrial park territory, including its commissioning; that is required for the cases under § 4 of the transitional and final provisions of the Industrial Parks Act;
5. (amend. – SG No. 55/2023, effective 27.06.2023) justification that the activities or production process of the network users on the industrial park territory are integrated for certain technical reasons or for reasons related to safety, or when electricity or natural gas distribution is mainly carried out for the owner, network operator or for related to them businesses, where:
 - a) integration due to certain technical reasons shall be present when the activities or production processes of network users form a value added chain and the individual users are related to each other in supplier/intermediate supplier/subsupplier and intermediate buyer/repurchaser/customer relationships;
 - b) integration of activities or production process in terms of safety shall be present when network users have similar technical requirements to the quality of the network that cannot be satisfied by the main networks - possibility of emergency power supply/autonomous operation in island mode, ability to black start, special requirements for surge protection or frequency maintenance or those exceeding the standard (n-1) for security of supply or general control/dispatch centre, pressure, flow and quality of natural gas etc.;
 - c) electricity or natural gas distribution shall be carried out mainly for the owner, network operator or for enterprises related to them, when the distributed electricity or natural gas for the owner, network operator or for enterprises related to them is more than 30% of the total amount distributed electricity or natural gas in the respective network;
6. data on the industrial park owner;
7. data on the industrial park operator;
8. contract for the assignment of the industrial park operation activities or a concession contract - in case the functions of the industrial park operator are not performed by its owner;
9. evidence of property rights established in favour of the industrial park operator over the internal technical infrastructure elements for electricity or natural gas distribution - in case the functions of the industrial park operator are not performed by its owner;
10. preliminary contract for the connection of the closed electricity distribution network to the electricity transmission network or to the power distribution network; opinion on connecting the closed gas distribution network to the gas transmission network or to the gas distribution network - in case there is no other source of natural gas; a preliminary agreement or opinion is not required for the cases under § 4 of the transitional and final provisions of the Industrial Parks Act;

11. draft contracts general conditions, as well as draft rules for working with energy services users as part of the contract general conditions;

12. (new – SG No. 55/2023, effective 27.06.2023) evidence that through the closed distribution network no electricity or natural gas distribution is carried out for household customers supply, except in case of non-systematic network use by a small number of household customers who work under an employment or other legal relationship for a network user and are located in the network territory.

(3) The following shall also be applied to the application under Para 1, if it is for the territory of a geographically separate industrial site:

1. layout plan or spatial development scheme, with which the territory of the geographically separate industrial site is determined as an manufacturing or industrial zone;

2. documents defining that the geographically separated industrial site has been put into operation as of 31.12.1999;

3. description of the territory of the geographically separate industrial site;

4. data on the location and area of the geographically separate industrial site;

5. identifiers of the landed properties on the territory of the geographically separate industrial site according to the cadastral map and cadastral registers;

6. data on the technical electricity or natural gas distribution infrastructure built on the territory of the geographically separate industrial site, including its commissioning;

7. (amend. – SG No. 55/2023, effective 27.06.2023) justification that the activities or production process of the network users in the territory of the geographically separate industrial site are integrated for certain technical reasons or for reasons related to safety, or when electricity or natural gas distribution is mainly carried out for the owner, network operator or for related to them businesses, where:

a) integration due to certain technical reasons shall be present when the activities or production processes of network users form a value added chain and the individual users are related to each other in supplier/intermediate supplier/subsupplier and intermediate buyer/repurchaser/customer relationships;

b) integration of activities or production process in terms of safety shall be present when network users have similar technical requirements to the quality of the network that cannot be satisfied by the main networks - possibility of emergency power supply/autonomous operation in island mode, ability to black start, special requirements for surge protection or frequency maintenance or those exceeding the standard (n-1) for security of supply or general control/dispatch centre, pressure, flow and quality of natural gas etc.;

c) electricity or natural gas distribution shall be carried out mainly for the owner, network operator or for enterprises related to them, when the distributed electricity or natural gas for the owner, network operator or for enterprises related to them is more than 30% of the total amount distributed electricity or natural gas in the respective network;

8. data on the owner of the geographically separate industrial site;

9. evidence of property rights established in favour of the applicant over the elements of the internal technical infrastructure for electricity or natural gas distribution;

10. draft general conditions of contracts, as well as draft rules for working with energy services users as part of the contracts general conditions;

11. (new – SG No. 55/2023, effective 27.06.2023) evidence that through the closed distribution network no electricity or natural gas distribution is carried out for household

customers supply, except in case of non-systematic network use by a small number of household customers who work under an employment or other legal relationship for a network user and are located in the network territory.

(4) In case the applicant does not submit data under Para 2, item 5 and/or the industrial park is not entered in the register under Art. 21, Para 1 of the Industrial Parks Act, respectively did not submit some of the data and documents under Para 3, items 1, 2 and 7, as well as in case the submitted data and documents do not prove the prerequisites under Art. 43, Para 13 of the Energy Act and/or meet the conditions under § 1, item 26b of the additional provisions of the Energy Act, respectively § 1, item 11b of the additional provisions of the Energy Act, EWRC shall refuse to issue a license under Art. 9, Para 1, item 7a or under Art. 9, Para 1, item 8a and shall not initiate proceedings to amend an issued license for electricity, respectively natural gas distribution.

(5) Apart from the cases under Para 4, EWRC together with its decision scheduling an open meeting for the application consideration, shall also open proceedings to amend an issued license for electricity, respectively natural gas distribution in the territory encompassing the separate territory for which the license application has been submitted.

(6) EWRC shall notify in writing the licensee, whose license includes the separate territory for which the license application has been submitted, of the open proceedings under Para 5.

(7) EWRC shall rule a decision by which:

1. issues a license under Article 9, Para 1, Item 7a or Article 9, Para 1, Item 8a and amends the corresponding existing license for electricity or natural gas distribution, excluding from its territory the industrial park territory or the territory of the geographically separated industrial area;
2. refuses to grant a license under Art. 9, Para 1, item 7a or under Art. 9, Para 1, item 8a and terminates the proceedings for amendment of an existing electricity or natural gas distribution license, encompassing the separate territory for which the license application has been submitted.

Article 12. (1) (amend. - SG No. 111/2020, effective 31.12.2020, suppl. – SG No. 18/2023, effective 24.02.2023) When an application for issuance or supplement of an existing license according to Article 9, Para 1, Items 1, 3, 4, 7, 10, 11, 12, 14, 16 and 17 requests also the assignment of a balancing group coordinator, evidence shall be attached to the application in order to prove that the person satisfies the requirements for balancing group coordinator; also a draft contract for participation in a balancing group undertaking responsibility to balance market participants sites, different than the applicant's sites, shall be attached, in case that such a contract is required under the rules stipulated in Article 91, Para 2 of the Energy Act.

(2) The draft contract under Para 1 shall include:

1. Obligations of the balancing group coordinator and members;
2. Requirements for the balancing group members to submit forecast schedules;
3. Deadlines for carrying out physical and financial settlement within the balancing group;
4. Providing of information to the balancing group members for their participation in the total imbalance, including data from commercial metering devices, invoicing, contesting and payment of obligations of the balancing group members;
5. Conditions, procedure and deadlines for changing a balancing group coordinator;

6. Principles of allocating the total imbalance between the different balancing group members in accordance with the Electricity Trading Rules;

7. Operating procedures for the balancing group coordinator regarding its work with the balancing group members, procedure and deadlines of receiving, considering, checking and answering to claims raised by the balancing group members.

(3) When the applicant is part of a vertically integrated undertaking and applies for a license under Article 9, Para 1, Item 7 and 8, a programme with measures guaranteeing the independence of the applicant's activity from the other activities of the vertically integrated undertaking shall be attached to the license application.

(4) If the applicant fails to submit the programme as per Para 3, the license application shall not be considered.

(5) The programme as per Para 3 shall contain:

1. Measures guaranteeing the independence in the decision-making of the persons responsible for the management of the activity under the license, as well as with regard to decisions relating to network operation, maintenance and development.

2. (amend. – SG, No. 111/2020, effective 31.12.2020) Obligatory rules on operational personnel behaviour, guaranteeing impartiality and not allowing discriminatory behaviour while performing the obligations stipulated by the Energy Act;

3. Terms and conditions of training the operational personnel to perform the programme;

4. Detailed regulation on the confidential information and directions for treating it;

5. Terms and conditions of operational personnel access to commercial confidential information, guaranteeing its security;

6. Procedure of operational personnel access to the corresponding premises and recording systems, processing and storage of confidential information, guaranteeing not to allow access to these systems to persons other than the directly involved with the performance of the respective activity;

7. Procedure of programme performance control, comprising both rights and obligations of the persons, who shall provide the control.

(6) (amend. – SG, No. 111/2020, effective 31.12.2020) When considering the programme as per Para 3, EWRC may require for the applicant to provide additional information and may give mandatory instructions for amendment and supplement of the programme within a specified term, in order to put it in conformity with the requirements and the goals of the Energy Act.

(7) If the applicant fails to remove the irregularities in the programme within the term as per Article 4, Para 2 or does not comply with EWRC instructions under Para 6, the license application shall not be considered.

Article 13. (1) (amend. – SG, No. 111/2020, effective 31.12.2020) Business plans for the license activities with the exception of those under Art, Para 1, items 10, 10(a), 11 and 11(a), shall be prepared for a period of up to five years and shall contain:

1. investment programme;
2. production programme;
3. repair programme;
4. (revoked – SG No. 18/2023, effective 24.02.2023)

5. estimation of expenditure structure and volume on a yearly basis in accordance with the expenses classification based on EWRC instructions on the format and content of the information required for the purpose of pricing pursuant to the ordinances on price regulation of electricity, heat energy and of natural gas;

6. Forecasted annual financial reports.

(2) The transmission and distribution networks operators shall prepare the investment and repair programmes for each year of the business plan and shall envisage in them funds, including for:

1. Development of networks related to connection, transmission and distribution of electricity generated from renewable energy sources in order to comply with the goals and the measures set in the RES Energy National Action Plan;

2. Construction of the necessary interconnection lines required to fulfil the goals to implement joint projects for electrical power generation from renewable sources between the Republic of Bulgaria and EU Member States or between the Republic of Bulgaria and third countries.

(3) Business plans of licensees whose prices are being regulated by the method “price cap” or “revenue cap” shall indicate for each year of the regulatory period:

1. forecasted capital structure;

2. volume, method of financing and schedule of all planned investments with justification of the necessity of each one, as well as the term for their commissioning into operation and the effect of the investments made in natural measurement values;

3. forecast of the energy prices and/or services delivered for each price period over the business plan time period;

4. proposals for uniform price changes in case of significant deviations of the price setting factors;

5. determination of upgrading effectiveness areas.

(4) (new – SG, No. 111/2020, effective 31.12.2020, amend. – SG No. 18/2023(*)) Business plans for the license activities under Art.9, Para 1, items 11 and 11(a) shall be prepared for a term of up to 5 years and shall contain:

1. Estimated balance sheets, income and expenses reports and money flows reports within the period of the business plan by years;

2. Estimated prices and quantities for the purchase/sale of electricity or natural gas within the period of the business plan per years.

(5) (new – SG, No. 111/2020, effective 31.12.2020, amend. – SG No. 18/2023(*)) Business plans for the license activities under Art.9, Para 1, items 10 and 10(a) shall not be approved by EWRC.

(6) (new – SG No. 18/2023, effective 24.02.2023) Business plans for licensing activities under Art. 9, Para 1, items 7a and 8a shall be drawn for up to 5 years and shall contain:

1. Estimated balance sheets, income and expenses reports and money flows reports within the period of the business plan by years;

2. Investment and repair programmes.

(7) (previous Para 4 – SG, No. 111/2020, effective 31.12.2020, previous Para 6 – SG No. 18/2023, effective 24.02.2023) The first business plan and the first rules for working with customers of energy services shall be approved by EWRC together with the issuance of the license.

(8) (previous Para 5 – SG, No. 111/2020, effective 31.12.2020, previous Para 7 – SG No. 18/2023, effective 24.02.2023) The licensees present by application for EWRC approval all other subsequent business plans not later than three months prior to the expiration of the previous business plan term.

(9) (previous Para 6 – SG, No. 111/2020, effective 31.12.2020, previous Para 8 – SG No. 18/2023, effective 24.02.2023) Business plan update within the term of the approved business plan shall be provided after EWRC decision following licensee application.

Article 14. Rules for working with customers of energy services shall stipulate in compulsory manner the procedure and terms for receiving, considering, inspection and response to filed complaints, alerts and proposals, the demand data format and the procedure for energy services suppliers and customers to get access to this information, as well as special procedures for providing vulnerable customers with information related to demand and supply suspension.

Article 15. (1) When an applicant requests issuance of a license where transactions at regulated prices shall be concluded, the license application shall be submitted together with an application for price approval elaborated according to the provisions of the corresponding ordinance on price regulation.

(2) A license application shall not be considered if the applicant fails to present the application under Paragraph 1, accompanied by all required documents.

(3) EWRC shall deliver a separate decision on each of the submitted applications as per Para 1. When announcing the license issuance decision, EWRC shall announce the price approval decision as well.

(4) An appeal of the electricity and/or heat energy or natural gas price approval decision does not prevent the license issuance decision to be executed.

Article 16. (1) (amend. – SG, No. 111/2020, effective 31.12.2020, amend. – SG No. 18/2023, effective 24.02.2023) EWRC shall evaluate the availability of technical, material and human resources of the applicant in accordance with the specific requirements of the corresponding activity.

(2) EWRC shall assess the availability of financial resources of the applicant based on its capability to ensure the required funds and guarantees for carrying out the activity.

Article 17. (1) When the applicant has filed a joint application for issuance of more than one license for exercising different licensed activities, every request shall be considered individually with respect to the provisions for issuing the respective license.

(2) (amend. – SG, No. 111/2020, effective 31.12.2020) EWRC shall issue separate licenses for each licensed activity if the applicant fulfils the requirements for issuance of the corresponding license and the limitations of Article 44 of the Energy Act are not present.

(3) EWRC shall issue separate licenses for electricity/natural gas distribution/supply for each differentiated territory.

(4) When the applicant has filed an electricity/heat energy generation license application or natural gas storage license application involving several independent from each other energy facilities, EWRC shall issue one single license.

(5) In the cases of Para 4, if the applicant files a second application before EWRC has pronounced its decision on the first application within the statutory term, the two applications shall be integrated into one common file and the period for EWRC response shall commence from the filing date of the second application. If the term for announcing the decision on the first application has expired before filing the second application, EWRC shall consider the second application in the usual manner.

SECTION II
ISSUANCE OF LICENSES WITHOUT TENDER AHEAD OF ENERGY FACILITIES
CONSTRUCTION

Article 18. (suppl. – SG No. 18/2023, effective 24.02.2023) (1) A license for the activities under Art.9, Para 1 (except activities under Art. 9, Paragraph 1, items 7a and 8a for the territory of industrial zones and technological parks, which have been established by 16.03.2021 and entered in the register under Art. 21, Para 1 of the Industrial Parks Act and for the territory of a geographically separated industrial areas) may be issued ahead of the energy facility construction, by which the respective activity shall be carried out, submitting an application in accordance with Art.11, Para 1.

(2) Energy facility construction time period shall not be included in the license term.

(3) The documents under Article 11, Para 2 shall be attached to the application, as well as the following:

1.Information on: financing sources for the energy facility construction and evidence for the availability of these sources; a document proving the availability of raised funds and guaranteeing that the financing shall be submitted; a management body decision for the use of own funds for the project financing shall be presented;

2.(amend. – SG No. 18/2023, effective 24.02.2023) Preliminary design and/or technical design, and/or operational design of the energy facility construction, elaborated and approved in conformity with the Territorial Development Act (TDA) in electronic format; if necessary, EWRC may also request the document in paper;

3.Investment analysis and financial model, containing forecasted prices of energy and/or service;

4.Detailed schedule with time frame for the energy facility construction, bound with the investments by years;

5.A proposal and justification of the term of exercising the activity (the license term);

6.(amend. – SG No. 18/2023, effective 24.02.2023) A preliminary network connection contract with the transmission or distribution operator, unless there is no other source of natural gas;

7.Business plan, indicating without restriction: number of years for which it has been elaborated, with the year of license issuance set as zero reference; planned investment, investment made prior business plan presentation; forecasts for: capital structure, income and expenditures, production and maintenance programmes and related expenses, return on investment, annual cash flow, sales, prices;

8.Evaluation of the existing and forecasted potential of the resource, administrative acts enforced under the procedures of Chapter 6 of the Environmental Protection Act (EPA), Article 31 of the Biological Diversity Act (BDA), the Protected Areas Act (PAA), Waters Act

(WA), the Renewable and Alternative Energy Sources and Biological Fuels Act (RAESBFA), when these documents are required for the activity, subject to the license;

9. Description of the territory, subject to a heat energy transmission license application and authenticated copies of the valid drawings and plans of the built-up area;

10. Description of the territory, subject to a license application for transmission over natural gas transmission or distribution network and authenticated copies of the valid drawings and plans of the built-up area.

Article 19. (revoked – SG No. 18/2023, effective 24.02.2023)

Article 20. (1) EWRC shall issue a license pursuant to the provisions of this section if the entity filing the application possesses the financial capabilities to build the energy facility and meets the requirements for issuance of the respective license.

(2) In the license under Para 1 EWRC shall set conditions for the facility construction and a term for the licensed activity commencing.

Article 21. (1) On commencement of exercising the licenced activity by means of the energy facility subject to the license under Article 20, the licensee shall be obliged to submit to EWRC:

1.Document for commissioning of the construction site, issued under the conditions and the procedures of the Territorial Development Act (TDA).

2.Information on technical and operational characteristics of the newly constructed site and its service infrastructure, as well as a list of the energy facility basic and auxiliary equipment;

3.Documents providing evidence of ownership, respectively limited real rights for the facility (facilities) usage, which will provide the means of exercising the licensed activity, accompanied by plans and maps of the respective networks;

4.Evidence that the applicant has fulfilled the normative environmental regulations requirements for the facility commissioning and a water usage permit, in case it is provided for by the Environmental Protection Act (EPA), the Biological Diversity Act (BDA), the Protected Areas Act (PAA) and the Waters Act (WA);

5.Evidence concerning the employed personnel and its qualifications, information on the licensee management and organizational structure and data including number and qualifications of the personnel involved in exercising the activity subject to licensing;

6.Updated business plan and financial model.

(2) Within a period of one month as of filing the documents in accordance with Para 1, EWRC shall determine by its decision to:

1.Permit exercising the licensed activity commencement, or

2.Provide mandatory instructions and fix a time schedule for correcting any found inconsistencies with the requirements for exercising the licensed activity, or

3.Withdraw an issued license, if the instructions under Item 2 have not been implemented within the specified time period.

(3) (amend. - SG, No. 111/2020, effective 31.12.2020) When adopting the decision under Para 2, EWRC shall assess whether the conditions under Article 40, Para 1, Items 1 -3 of the Energy Act are met.

(4) EWRC shall notify the licensee in writing about its decision under Para 2 within a period of three days after the decision has been adopted.

Article 22. (1) On licensee's request the procedure under Article 21 Para 1 may be conducted after signing Act 15 determining whether the constructed site is ready to be accepted, pursuant to Ordinance No. 3 of 2003, regulating types of acts and protocols in the construction process (SG, No. 72, 2003). In this case the licensee shall submit the documents under Article 21 Para 1, Items 2–6 and the act itself.

(2) Within a period of one month as of filing the documents in accordance with paragraph (1), EWRC shall determine by its decision to:

1. Permit exercising the licensed activity commencement under condition – after receipt of a document for the construction site commissioning issued under the conditions and procedures of the Territorial Development Act (TDA), or

2. Provide mandatory instructions and set a time period for elimination of found inconsistencies with the requirements for exercising the licensed activity;

3. Withdraw the issued license, if the instructions under Item 2 have not been implemented within the specified time period.

Article 23. Together with the procedures under Article 21 and Article 22, Article 15 shall also be applied.

SECTION III LICENSE ISSUANCE WITHOUT CONDUCTING A TENDER

Article 24. (1) (amend. - SG, No. 111/2020, effective 31.12.2020) Licenses for the activities stipulated in Article 9, Para 1, Items 8 and/or 15 shall be issued without conducting a tender as per Article 43, Para 8 and 10 of the Energy Act for territories, which do not pertain to the described in the inventory territories under Article 4, Para 2, Item 6 of the Energy Act.

(2) License application under Para 1 shall contain:

1. Documents and information as per Article 11 and Article 18, Para 3, Items 1-4, 6-10;

2. (amend. - SG, No. 111/2020, effective 31.12.2020) Evidence that the proposed gas supply project has been agreed with the respective municipality in the cases as per Article 43, Para 8 of the Energy Act.

3. Evidence of the respective municipality consent to connect its territory to a differentiated territory for natural gas distribution or to a municipality territory, which already holds a license for the same activity (Municipality Council decision, natural gas supply project agreed by the municipality, etc.);

4. Compliance programme, when the applicant is part of a vertically integrated undertaking, except for cases when less than 100 000 natural gas end consumers are connected to the respective distribution network.

(3) Together with the procedures under this Article, Article 15 shall also be applied.

Article 25. (1) EWRC shall examine in due order the filed application to find out the availability of grounds for issuance of a license under Article 9, Para 1, Items 8 and/or 15 without conducting a tender, by:

1.(amend. - SG, No. 111/2020, effective 31.12.2020) verifying, based on the application information, whether the territory does not pertain to the described territories in the inventory under Article 4, Para 2, Item 6 of the Energy Act, and

2.verifying if for the territory mentioned in the application another license application under Article 9, Para 1, Items 8 and/or 15, meeting the formal requirements as per Article 42, Para 2, has also been filed at EWRC.

(2) When in the course of the license application considering another application for the same territory is being filed as well, meeting the requirements under Article 24, Para 2 and 3 or an application under Article 26, EWRC shall cease the procedure with a motivated decision. A notification in written for ceasing the procedure shall be sent to the applicant in three days term after the decision adoption.

(3) In case of ceasing the procedure as per Para 2 due to an application filed under Article 26 for amendment of an existing license for natural gas distribution, EWRC shall proceed to consider the file under Article 26.

(4) EWRC shall resume the ceased procedure on the license application, when the grounds under Article 26 for amendment of an existing natural gas distribution license are no more present and no other application has been filed.

(5) EWRC shall make a resolution at a closed session on the license application without tender, by which it:

1. (amend. - SG, No. 111/2020, effective 31.12.2020) Shall issue a license for the activities under Article 9, Para 1, Items 8 and/or 15, when the applicant is compliant with the conditions under the Energy Act and under Section I of this Chapter;

2. Shall withhold a license issuance.

(6) EWRC shall by its decision launch a tender to select a titular of a license, when for the same territory more than one license applications have been filed, meeting the requirements of Article 24, Para 2 and 3.

Article 26. (1) (amend. - SG, No. 111/2020, effective 31.12.2020) A titular of a license under Article 9, Para 1, Items 8 and/or 15 may file an application for amendment of the issued license by annexation of a territory, which does not pertain to the described in the inventory under Article 4, Para 2, Item 6 of the Energy Act, to the territory under the license it already holds.

(2) (amend. – SG, No 111/2020, effective 31.12.2020) A Council decision of the municipality, which territory does not pertain to the inventory under Article 4, Para 2, Item 6 of the Energy Act for agreement on adding this territory to the territory under the applicant's license, shall be attached to the application.

(3) (amend. – SG, No 111/2020, effective 31.12.2020) EWRC shall verify the availability of technical and financial possibilities, material and human resources and organizational structure of the applicant for meeting the normative requirements to carry out the licensed activity in respect of the territory required for annexation and the economical expediency of the required amendment of the license, taking into consideration the principles under Article 23 of the Energy Act and the objectives of Article 2 of the Energy Act.

(4) The consent of the municipality shall not be binding for EWRC.

(5) In such a case EWRC shall issue the license without conducting a tender.

(6) EWRC shall make a decision on the application for a license amendment, by which:

1. (amend. – SG, No 111/2020, effective 31.12.2020) shall amend the license by annexing the territory of the municipality, which does not pertain to the defined in Article 4, Para 2, Item 6 of the Energy Act, to the territory under the natural gas distribution license;
2. shall withhold a license amendment.

Article 27. As far as no other is provided in this Section, the stipulations of Section II shall respectively apply.

SECTION IV ISSUANCE OF LICENSES IN THE CASE OF LICENSEE SELECTION AFTER CONDUCTING A TENDER

Article 28. (1) (amend. – SG, No 111/2020, effective 31.12.2020) Only after conducting a tender for license titular selection under Article 43, Para 9 and Article 46 of the Energy Act, a license shall be issued for:

- 1.(amend. – SG, No 111/2020, effective 31.12.2020) electricity generation in the cases of justified and properly announced pursuant to Article 4, Paragraph 2, Item 5 of the Energy Act necessity for new electricity generation capacity;
2. (amend. – SG, No 111/2020, effective 31.12.2020) natural gas distribution with the exception of the cases under Article 43, Paragraph 8 and 11 of the Energy Act;
- 3.(amend. – SG, No 111/2020, effective 31.12.2020) natural gas distribution for territory vacated after a license withdrawal under Article 59, Para 3 of the Energy Act.

(2) (amend. – SG, No 111/2020, effective 31.12.2020) Differentiated territories of natural gas distribution licenses shall be determined in the list pursuant to Article 4, Paragraph 2, Item 6 of the Energy Act.

Article 29. (1) A list of required new electricity capacities shall contain the following characteristics of each energy facility:

- 1.location;
- 2.basic technical and operational parameters, including the primary energy sources nature;
- 3.time schedule for the facility commissioning with respect to electricity needs and total energy balance.

(2) A list of new differentiated territories for natural gas distribution and of amendment of existing differentiated territories for natural gas distribution, for which no license has been issued, shall contain the territory boundaries.

Article 30. (1) Within a three months period after promulgation of the list in State Gazette EWRC shall elaborate a programme of the tenders, which have to be conducted on the basis of the list(s).

(2) The programme under Paragraph 1 shall be published on EWRC internet site.

(3) In accordance with the programme under Para 1 EWRC, by adopting a decision, shall determine for each facility:

1. tender subject;
2. procedure and term for tender documentation preparation.

Article 31. (1) A working group appointed by EWRC decision shall prepare the tender documentation draft.

(2) Working group members are obliged to observe the confidentiality of the information submitted to them in accordance with the assigned task and sign a proper declaration of non-disclosure.

(3) Working group members shall have no the right to:

1. provide consultations in any form to third parties with respect to the tender subject;
2. take part in the tender directly or by connected persons as specified in the Trade Act.

Article 32. (1) Tender documentation shall be prepared in Bulgarian language and shall contain all data, instructions and requirements necessary for the preparation of the applicants' proposal. EWRC may decide to compile the tender documentation in another language as well.

(2) Tender documentation shall include the following mandatory components:

1. Detailed description of the tender subject;
2. Tender conditions – technical, price, etc.;
3. A license draft;
4. (amend. – SG, No 111/2020, effective 31.12.2020) Draft of an electricity purchase contract in the case under Article 46, Paragraph 1 of the Energy Act, proposed by the public supplier - its provisions shall be approved by EWRC;
5. List of documents, which must be submitted by the candidate for evaluating the proposal and as evidence of the candidate's technical, financial, economic and organizational capabilities for the implementation of the proposal;
6. Requirements to the applicants;
7. Requirements to the proposal and the annexes thereto;
8. Evaluation criteria and methods of proposal evaluation.

(3) Tender subject description shall contain sufficient data for the applicants' proposal elaboration – facility description with information on its financial, economic, technical, operational, ecological and other characteristics, as well as data concerning the expected trends in the general and detailed territory development plans pertaining to the facility (cadastre or construction site), information on the license territory, etc.

(4) EWRC shall approve by decision the tender documentation, provided it has been prepared in accordance with the ordinance provisions and satisfies the conditions concerning its assignment.

Article 33. (1) EWRC decision on announcing the tender shall contain:

1. tender subject;
2. commencing and final date of the facility construction in the cases when the tender subject is selection of a licensee/ license holder for electricity generation; or a timeframe for particular parts construction of the respective gas distribution network;
3. terms and conditions of conducting the tender;
4. requirements to the license applicants;
5. type, amount and payment method of the tender participation guarantee;
6. place and deadline for acquiring the tender documentation, tender documentation price for participation in the tender and payment method;

7. place and deadline for filing the tender participation applications;
8. date, place and time of opening the submitted tender participation applications;
9. proposals evaluation term.

(2) EWRC decision may also stipulate a requirement for establishing a legal person, registered under the Trade Act, when the tender is awarded to a foreign person, who is not registered in an EU Member State or in other state – party under the Agreement on the European Economic Area (EAA), or to a consortium that is not a legal person. The newly established legal person shall be bound by the application filed by the foreign person or the consortium.

(3) With the decision under Paragraph 1 a sample form of a data confidentiality declaration for the tender documentation data shall be approved. The decision shall constitute an inseparable part of the tender documentation.

(4) In cases when the territory, which will be covered by the license for new gas distribution network construction, encompasses the territory of more than one municipality, the draft decision under Paragraph 1 shall be coordinated with the corresponding municipalities.

(5) The tender shall be promulgated by EWRC decision, which shall be published in State Gazette and in the Official Journal of the European Union.

(6) EWRC decision on opening the tender may be appealed only together with the decision on applicant's selection – winner of the tender.

Article 34. (1) Tender documentation shall be acquired after paying the set price in accordance with a bilaterally signed inventory of the documentation package contents and after signing a confidentiality declaration concerning the information contained in the tender documentation.

(2) Tender participation guarantee shall be set to the initial license fee amount of the corresponding license, the holder of which is being selected by the announced tender.

(3) Deadline for submitting the tender participation applications shall be determined depending on the type of energy facility, which constitutes the means of exercising the licensed activity, however it cannot be shorter than six months since the promulgation date of the tender announcing decision.

(4) Tender participation applications opening date shall be no later than 30 days after the expiry of the deadline for submitting the tender participation applications.

(5) Evaluation period shall not exceed three months after the opening date of the submitted applications.

Article 35. (amend. – SG, No. 111/2020, effective 31.12.2020) Tender participation applicant may be a person satisfying the requirements as per Article 47, Para 4 of the Energy Act.

Article 36. (1) The tender participation application shall be in writing. EWRC shall approve a sample application form for participation in the tender as part of the tender documentation.

(2) Attached to the application under Paragraph 1 are:

1. Applicant's proposal and the annexes thereto in accordance with the tender documentation;
2. (amend. – SG, No. 52/2018) Proof of legal existence issued by a competent authority, in accordance with the legislation of the state where the applicant is registered in the case of trade registration under the legislation of an EU Member State;

3. (revoked – SG, No. 52/2018);
4. (amend. SG, No. 111/2020, effective 31.12.2020) Declarations for absence of circumstances as laid down by Article 40, Paragraph 3 of the Energy Act;
5. (amend. – SG, No. 65/2021, effective 06.08.2021) Annual financial reports for the last three years, as well as the audit report, if the annual financial report of the applicant shall be subject of an independent audit report, in case those have not been published in the trade register under the Registry Agency; if the legal entity is newly incorporated, proofs of financial resource shall be enclosed (certificate from the corresponding bank for existing bank accounts and their coverage);
6. Document providing evidence of the tender documentation purchase and documentary evidence of deposited bank guarantee for tender participation;
7. Evidence on the applicant's experience in similar projects and/or performance of the licensed activity;
8. Analysis on gasification project importance for the Bulgarian natural gas market;
9. Miscellaneous documents specified by the tender documentation.

(3) When the application for participation in the tender is filed by a consortium which is not a legal entity, a contract for the establishment of the consortium shall be attached to the application.

Article 37. (1) Application submission and the attachments thereto shall be done at the location, specified by the tender documentation, sending the documents by registered post with advice of delivery or by courier service.

(2) (amend. – SG No. 52/2018) Tender participation applications shall be received up to the date and time, specified in the announcement decision. Filed applications shall be logged in the registry system with an incoming reference number, which shall be submitted to the sender.

(3) Application and attachments thereto shall be submitted in a non-transparent sealed envelope observing the requirements of the tender documentation.

(4) When sending the application by post the valid date shall be the sending station post stamp date.

(5) A register of the filed applications shall be kept with entries reflecting the sequence of received applications and the applications receipt date and time.

Article 38. If till the deadline of tender participation applications submission no application has been filed, or only one application has been filed, the deadline can be extended by no more than 60 days from the deadline extension decision date of promulgation in State Gazette and in the Official Journal of the European Union. In such a case, the applications opening date shall be changed too.

Article 39. (1) (amend. – SG No. 98/2019, effective 13.12.2019) After expiry of the applications submission deadline, EWRC by adopting a decision shall appoint a committee for conducting the tender, counting from four to eight members, including a chair.

(2) (amend. – SG No. 98/2019, effective 13.12.2019) Tender conducting committee chair shall be EWRC member.

(3) (amend. – SG No. 98/2019, effective 13.12.2019) Tender conducting committee members shall be officials of the EWRC administration and, depending on the tender subject, representatives of the municipality of the licence covered territory and representatives of other institutions and organisations interested in the tender.

(4) It is compulsory to include in the tender conducting committee a licensed jurist and economist and the other members shall possess the required professional qualifications and working experience corresponding to the subject of the tender.

(5) Tender conducting committee member shall not be a person who:

1. Possesses material interest in setting up the facility – subject of the tender;
2. Is connected person according to the Trade Act with an applicant in the tender;
3. Has participated in the working group for the tender documentation preparation;

(6) Tender conducting committee members shall be obliged to observe the confidentiality of the information submitted to them in connection with holding the tender and information contained in the applicants' proposals, to keep in secret any circumstances, which have become known to them in the process of working for the committee. Tender conducting committee members do not have the right to take out of the place determined for committee sessions documents related to the tender.

(7) Tender conducting committee members shall certify by proper declaration the absence of circumstances under Para 5 and shall sign a declaration regarding their obligations under Para 6 at the time of their appointment.

(8) (amend. – SG No. 98/2019, effective 13.12.2019) Remuneration of external experts – tender conducting committee members, and all expenses in connection with the committee's activities shall be provided by EWRC.

(9) (amend. – SG No. 98/2019, effective 13.12.2019) EWRC may change the members of the tender conducting committee in case of death or continued illness of a member or for other objective reason, which prevents its member to perform his/her activities.

Article 40. (1) The chair of the tender conducting committee shall hold the first meeting within three days after its establishment.

(2) The meeting shall be considered regular if at least 2/3 of the total number of its members is present at the meeting.

(3) At its first meeting the tender conducting committee:

1. Shall determine the rules of procedure and the place of holding meetings;
2. (amend. – SG No. 98/2019, effective 13.12.2019) if necessary, may propose to EWRC to invite more experts, observing the confidentiality requirements and to determine the remuneration amount for the invited experts.

(4) Tender conducting committee shall adopt its decisions with a majority of 2/3 of the total number of members. When a member objects the taken decision, he/she shall sign the minutes with a dissenting opinion and shall state his/her arguments in written.

(5) Minutes of the meetings shall be taken for the tender conducting committee sessions.

Article 41. (1) On the day, appointed for the tender participation applications opening, the tender conducting committee shall open the submitted applications and check their formal (technical) compliance with the requirements of participation.

(2) Minutes shall be taken of this meeting, which shall be signed by all members of the tender conducting committee. A separate annex to the minutes shall be prepared for every single application, in which the tender conducting committee states the extent of compliance with the requirements, specified by the tender documentation, which must be satisfied by the application and the annexes to it.

(3) Authorized representatives of the tender applicants may attend the meeting for opening the applications. The list of the applicant representatives or their authorized representatives shall be attached to the minutes.

(4) The committee for conducting the tender shall remove from participating in the tender an applicant, whose application and the attachments to it do not meet the requirements, specified by the tender documentation.

(5) Tender conducting committee is obliged to notify in writing the applicants about their removal within three days after the day of holding the meeting.

(6) A removed applicant can appeal the decision for selection of the winning tender applicant.

Article 42. (1) After checking the formal compliance the tender conducting committee shall proceed with evaluation of the applications.

(2) Minutes shall be taken for every evaluation meeting.

(3) The tender conducting committee shall have the authority to remove tender participants, who have reached that phase of the selection if, in the evaluation process some discrepancies of their proposals with the tender provisions appear. In this case Article 41, Paragraph 6 and 7 shall be applied.

(4) The tender conducting committee may request additional information from the applicants and may specify a deadline for its submission.

(5) The submitted additional information as per Para 4 shall become an inseparable part of the applicant's proposal under Article 36, Para 2, Item 1, but it cannot represent an amendment or supplement to the proposal.

Article 43. The tender conducting committee members are obliged to observe confidentiality with respect to proposals contents and are forbidden to take out of the place determined for the committee sessions documents related to the tender.

Article 44. (1) (amend. – SG No. 98/2019, effective 13.12.2019) After completion of the evaluation the tender conducting committee chair shall submit to EWRC a report on the evaluation results and a draft decision within a three-day period of the report elaboration.

(2) In its report under Para 1 the tender conducting committee shall evaluate and propose a motivated ranking of the applicants. If tender conducting committee members have any reservations expressed in minutes of dissent, they shall be attached to the report together with the proposals of all tender applicants.

(3) (amend. – SG, No. 111/2020, effective 31.12.2020) The tender conducting committee may in its report propose termination of the tender, if conditions under Article 50, Paragraph 1 of the Energy Act exist.

(4) The tender conducting committee report contents together with the proposals shall not be disclosed to applicants and made public in the media.

(5) (amend. – SG No. 98/2019, effective 13.12.2019) EWRC alone shall assess the proposals, circumstances and facts, presented in the report of the tender conducting committee.

Article 45. (1) (amend. – SG No. 98/2019, effective 13.12.2019) within a 14-day period as of receipt of the tender conducting committee proposal EWRC shall rank the applicants and by a motivated decision shall appoint the entity – winner of the tender.

- (2) (amend. – SG No. 98/2019, effective 13.12.2019) With its decision under Paragraph 1 EWRC shall issue the respective license.
- (3) (amend. – SG No. 98/2019, effective 13.12.2019) EWRC shall notify in writing the applicants about the decision within three days, including the removed applicants.

Article 46. (1) (amend. – SG No. 98/2019, effective 13.12.2019) EWRC shall terminate the tender and announce a new one, if:

1. Only one applicant has applied;
2. Applicants' proposals do not meet the tender requirements.

(2) (amend. – SG No. 98/2019, effective 13.12.2019) In the case of only one applicant after a second tender announcement, EWRC shall pronounce that applicant as the tender winner, if it meets the tender conditions.

Article 47. (1) (amend. – SG No. 98/2019, effective 13.12.2019) In its decisions for appointing the winning tender applicant or for tender termination, EWRC shall pronounce on retaining (withholding) or release of the guarantees for participation in the tender.

(2) (amend. – SG No. 98/2019, effective 13.12.2019) EWRC shall have the right to retain the guarantee for participation when an applicant:

1. Withdraws its proposal after the expiration of the proposal submission deadline;
2. Files a complaint against the applicants ranking decision till the dispute resolution by the court;
3. Withdraws its proposal after being appointed winner of the tender.

(3) The guarantees of the unranked applicants shall be released by the tender assigner within three working days after the expiration of the deadline for filing a complaint (appeal) against the decision under Paragraph 1. At termination of the tender the guarantees of all candidates shall be released within the same period of time.

(4) The guarantees of the ranked applicants shall be released within three days after the license issuance decision comes into force.

(5) (amend. – SG No. 98/2019, effective 13.12.2019) EWRC shall release the guarantees without being liable for interest for the period when the guarantee sums have been deposited as collateral for the tender.

(6) The guarantee of the tender winner may be retained as an initial license fee.

Article 48. After the energy facility construction, the provisions of Article 21 shall be respectively applied.

SECTION V LICENSE CONTENTS

Article 49. (1) A license shall contain:

1. Name of the state body issuing the license;
2. Name and registration number of the act;
3. Legal grounds for issuing the act;
4. Name, registered office, management address and ID number of the licensee;

5. Activity, for which the license has been issued;
6. Term of the license;
7. Territory of the license (for activities, for which it is required);
8. Facility (facilities) for exercising the activity;
9. Regulatory section, which specifies the special conditions for exercising the licensed activity, depending on the type of license and the special requirements, including the requirements for balancing group coordinator, as determined by the applicable normative, general and individual administrative acts.

(2) The following annexes constitute an inseparable part of the license and they shall be updated periodically:

1. List and description of the facility (facilities), which provide the means of exercising the licensed activity with their technical and technological characteristics;
2. Description of the boundaries and, if needed, a map indicating the territory covered by the respective electricity, heat energy or natural gas transmission or distribution license and electricity and natural gas supply;
3. Business plan;
4. Rules on working with customers;
5. Decisions for setting or approval of tariffs related to the license activity;
6. Decisions for setting energy and/or service quality measures and a programme for achieving and guaranteeing the target values;
7. Approved contracts general conditions (if such are required);
8. A compliance programme on measures to guarantee the licensee independence from other activities of the vertically integrated undertaking;
9. Time schedule for the energy facility construction, when the license is issued before the energy facility construction;
10. Draft contract for participation in a balancing group as provided for in Article 12, Para 2.

(3) A change in the licensee name and/or management address and registered office, or its transformation from one legal form to another, as well as updating the attachments under Paragraph 2, Items 3 – 7 shall not be considered as a license amendment.

Article 50. (amend. – SG, No. 111/2020, effective 31.12.2020) General conditions for exercising the licensed activity shall be the applicable provisions of normative acts, as well as adopted by EWRC individual and general administrative acts, applicable to the corresponding licensed activity, and observing the goals and principles of regulation in accordance with the Energy Act.

Article 51. Special conditions of the license shall be determined depending on the licensed activity and they shall include, without limitation:

1. Obligation to make research of the power consumption, forecasting, planning, and development of generating capacities, respectively of transmission and distribution networks;
2. Obligation for effective utilization of energy and energy resources in accordance with the norms and standards, related to energy efficiency and environmental protection;
3. Obligation of taking out insurances – types, covered risks and amount of insurance coverage;
4. Rules on quality and supply standards of the delivered energy and/or services, approved by EWRC;

5.Requirements to energy facility construction, in case the license has been issued prior energy facility construction;

6.Requirements to the decommissioning (terminating the operation) of an energy facility.

SECTION VI
COLLECTION AND PROVIDING OF INFORMATION UNDER THE ENERGY ACT
(TITLE AMENDED – SG, NO. 111/2020, EFFECTIVE 31.12.2020)

Article 52. (1) (amend. – SG, No. 111/2020, effective 31.12.2020) In order to perform its functions under the Energy Act, EWRC may require from licensees to submit information and documents related to the licensed activity.

(2) Each licensee shall be obliged to submit to EWRC on an annual basis, within the designated time frames and in conformity with its instructions, the following information:

1.Annual report on the programmes performance related to the business plan and on maintaining the safety and security of the energy facility(facilities);

2.Information on signed contracts;

3.Information on newly constructed energy facilities, components of the transmission and distribution network and submission of documents to enable their usage or commissioning (commencement of operation).

4.Information on parameters’ fulfilment of energy quality, continuity of supply and quality of service;

5.Information on fulfilment of the compliance programme on measures to guarantee the licensee independence from other activities of the vertically integrated undertaking.

(3) Upon EWRC request, the licensee shall, without limitations, submit the following information:

1. Active power and available generation capacity offered for purchase or purchased by the public provider for a given time period;

2. Generated and/or sold amount of electricity, heat energy or natural gas and payments made as per the sales contracts;

3. Performance activity of the sales contracts for electricity, heat energy and natural gas;

4. Relations with customers – quality of service, reliability and security of supply;

5. Publication of general conditions and tariffs;

6. Any accounting documentation, which is of significance for the regulation;

7. Contracts concluded with the balancing group members.

Article 53. (1) Transmission operators shall without further delay submit to EWRC the decisions of:

1.the general assembly of the shareholders for election of supervisory board member(s), as well as information on the conditions arranging the mandate, its duration and cessation and work conditions including remunerations;

2.the supervisory board for election of management board member(s), as well as information on the conditions arranging the mandate, its duration and cessation and work conditions including remunerations;

(2) Transmission operators shall submit to EWRC:

1.shareholders general assembly decisions for pre-term dismissal of supervisory board member(s), together with grounds for the decisions;

2.supervisory board decisions for pre-term dismissal of the management board member(s), together with grounds for the decisions;

(3) Transmission operators shall submit to EWRC upon its request (within the terms it shall define and according to its instructions), documents and information on:

1.services provided to the vertically integrated undertaking;

2.transactions concluded, which may impose revision of the observation of the transmission operator independency requirements;

3.All commercial and financial relations with the vertically integrated undertaking, including loans, provided by the operator to the vertically integrated undertaking.

Article 54. (1) When EWRC places a request with the licensee to submit any information or documentation, it shall notify the licensee in writing and specify a deadline for their submission.

(2) (amend. – SG, No. 111/2020, effective 31.12.2020) EWRC may impose a property sanction or a fine pursuant to the Energy Act in case the requested information or documents have not been submitted.

Article 55. (1) EWRC may obligate the licensee to collect and store information and documents pertaining to:

1. readings of the metering devices;

2. fulfilment of energy quality parameters, continuity of supply, quality of service and compensation paid;

3. contracts of customers and energy services users;

4. complaints.

(2) Transmission operators shall store detailed documentation on commercial and financial relations with the vertically integrated undertaking, including loans, provided by the operator to the vertically integrated undertaking and at EWRC request shall provide access to the said documentation.

Article 56. (1) EWRC may publish all documents and information received under the procedure of this section, if they do not constitute corporate confidential matter and when this is to the benefit of electricity, heat energy or natural gas consumers.

(2) EWRC shall collect and store information and documents submitted by licensees in the files kept separately for each license.

(3) Licensees are obliged to store the information and the documents mentioned in this section for a period of five years.

SECTION VII
COLLECTION AND PROVIDING OF INFORMATION ACCORDING TO ENERGY
FROM RENEWABLE SOURCES ACT ((TITLE AMENDED – SG, NO. 111/2020,
EFFECTIVE 31.12.2020)

Article 57. (1) Transmission and distribution electricity network operators shall elaborate in every six months written reports containing the following information:

1. cases of important decrease in transmitted and distributed amounts of electricity from renewable energy sources;

2. measures undertaken by the operator to correct and prevent the decrease of transmitted and distributed amounts of electricity from renewable energy sources.

(2) The reports under Para 1 shall be sent to EWRC by July 31st of the respective calendar year and by January 31st of the following calendar year.

(3) Attached to the reports shall be:

1. Abstract from the dispatcher's record with exact description of the RES electricity supply curtailment and suspension cases;

2. Reference about the reasons imposing the curtailment and suspension mentioning the date and time of the curtailment implementation and its respective range.

(4) Upon EWRC request, the transmission and distribution electricity network operators shall elaborate written reports on the curtailment and suspension cases, including remotely, of RES electricity supply to the network, when the transmission capacities of the respective network, to which the RES generators are connected, have been exceeded.

Article 58. (1) Transmission and distribution electricity networks operators shall elaborate an annual report containing:

1. Report on the performance of the activities set in the investment and maintenance programmes for the networks development under Article 13, Para 2 during the previous calendar year, with regard to the goals of connecting RES electricity generation facilities;

2. The measures undertaken by the operator in case of non-performance of the activities, set in the investment and maintenance programmes for the networks development;

3. (amend. – SG, No. 111/2020, effective 31.12.2020) Information on the sums collected under Article 29, Para 1 of the Energy from Renewable Sources Act and their expenditure;

4. Summarized information as per Article 57.

(2) The reports under Para (1) shall be submitted to EWRC by March 31st of the respective calendar year.

SECTION VIII INSURANCE

Article 59. (1) Licensees shall be obliged to take out and keep for the term of their license the following types of insurance:

1. assets insurance of the facilities, which constitute the means of exercising the licensed activity;

2. general civil liability insurance;

3. other types of insurance, prescribed by EWRC implementing the regulatory principles.

(2) The insurance shall be to the extent and amount sufficient to provide the financial means necessary to replace each component of the energy facilities and equipment, damaged or destroyed as a result of an accident or other emergency circumstances, as well as for payments of compensations for damages caused to third parties.

(3) The license shall specify the particular covered risks and the amount of the insurance coverage, which the licensee is obliged to keep for the duration of exercising the license.

Article 60. (1) Licensees shall be obliged to submit to EWRC on an annual basis and within time frames set up by the license, information about the signed insurance contracts.

(2) At EWRC's request the licensee shall submit proofs of the insurance validity.

CHAPTER FOUR
AMENDMENT, EXTENSION OF THE TERM, TERMINATION,
SUSPENSION AND WITHDRAWAL OF LICENSES
SECTION I
REVISION AND AMENDMENT OF LICENSES

Article 61. (1) Any issued license shall be revised and/or amended by EWRC decision.

(2) Proceedings for revision/amendment of a license shall commence:

1. Upon EWRC initiative;
2. Upon licensee's request.

(3) EWRC decision on license revision and amendment proceeding opening shall not be subject to appeal.

Article 62. (1) A license may be revised or amended upon EWRC's initiative in the following cases:

1. To guarantee reliable, uninterrupted, high quality supply of electricity, heat energy and natural gas to customers;
2. In case of legislation amendment, as well as to fulfil legally binding decisions of the European Commission or ACER;
3. For the purpose of ensuring the national security and public order in coordination with the respective competent state bodies and offices;
4. In case of danger for human life and health, environmental pollution and harm to the environment and the property of third entities, when it does not imply withdrawal of license, and/or on proposal of specialized state bodies in exercising their authority;
5. In the event of authorization of corporate transformation of a licensee or transaction of disposal, if it does not lead to termination of the license;
6. On decision of the Commission for Protection of Competition or court ruling, which affect the license conditions, related to violation of competition rights;
7. 7. In pursuance of EWRC controlling functions;
8. In case of obvious error in facts.

(2) EWRC shall explicitly mention in its decision under Para 1 the necessity and the goal of the proposed amendment.

Article 63. (1) When EWRC opens proceedings for revision and/or amendment of an issued license on its initiative, a copy of the decision about the opening of proceedings shall be sent to the licensee, mentioning explicitly the grounds for the proposed amendment and the content of the proposed modification of the license.

(2) Within a 14-day period after receipt, the licensee may submit a statement in written on the motives for revision and/or amendment of the license. EWRC may amend a license even if the licensee would not provide a written statement.

(3) EWRC may request an opinion on its proposal for amendment of an issued license from the competent state and municipal bodies, and they shall submit it in a 14-day deadline, in written form accompanied by the required data and documents.

(4) EWRC shall revise and/or amend the license after the expiration of the deadline under Para 2 and 3.

Article 64. (1) (amend. – SG No. 18/2023, effective 24.02.2023) A licensee may request revision and/or amendment of a license if a substantial change of the circumstances of exercising the licensed activity has occurred, as well as changes with respect to the nature of the primary energy sources which are used, and/or the energy transformation technology, when this will lead to effectiveness increase in utilizing the energy and energy resources and/or diminishing the harmful effect on the environment.

(2) The licensee shall be obliged to apply for license revision in case of decommissioning of generating capacities.

(3) A holder of a license, issued by tender procedure before the energy facility construction, may request a license revision and/or amendment before commencing operation only in case of extraordinary circumstances, which could not be foreseen or evaded.

Article 65. (1) The licensee shall submit an application in written form for revision and/or amendment of a license, which shall contain:

1.(amend. – SG, No. 65/2021, effective 06.08.2021) Name and unified identification code of the applicant; a person with registration under the legislation of other EU Member State, equivalent to the registration under the Trade Act; indication of seat and management address;

2. License registration number;

3. Grounds and motives of the request for revision and/or amendment of the license;

4. Proposal for revision and/or amendment.

(2) The following documents shall be attached to the application under Para 1:

1. Proofs (evidence) of the circumstances, which constitute the ground for the requested revision and/or amendment;

2. Document of paid fee.

(3) Depending on the ground for revision and/or amendment of the license, the applicant submits the documents needed for assessment of the application.

(4) In the proceeding for revision and/or amendment of a license the procedure and terms of submission, examination and decision of a license application shall be applied respectively.

Article 66. After considering the submitted opinions and collected statements, data and documents under the open proceeding, EWRC shall pronounce its decision for:

1. Revision and/or amendment of the license, or

2. Termination of the procedure for revision and/or amendment.

SECTION II
EXTENSION OF THE LICENSE TERM

Article 67. (1) A licensee may request extension of the license term at least one year before the expiration of the license term.

(2) If the applicant would not keep the term as per Para 1, the application shall not be processed. In such a case the licensee may submit an application for issuance of a new license following the procedure under the ordinance.

(3) If on expiry of the license term, the energy facility exercising the licensed activity is subject to final decommissioning due to technical reasons, EWRC may extend the license term till the complete decommissioning (termination of operation) of the energy facility.

(4) The term under paragraph (3) shall not exceed the term of the final and complete decommissioning of the energy facility.

(5) The right to apply for extension of the license term may be exercised every time the extended license term expires.

Article 68. (1) The application for license term extension shall include:

1. (amend. – SG, No. 65/2021, effective 06.08.2021) Name and unified identification code of the applicant; a person with registration under the legislation of other EU Member State, equivalent to the registration under the Trade Act; indication of seat and management address;

2. Permit or license registration number;

3. Application for license term extension;

4. Proposal and justification of the new license term.

(2) The following documents shall be attached to the application under Para 1:

1. (amend. – SG, No. 52/2018) proof of legal existence under judicial registration, issued by a competent authority in accordance with the legislation of the state where the applicant has been registered, in the cases of trade registration under the legislation of EU Member State;

2. (revoked – SG, No. 52/2018) ;

3. Evidence of the energy facility technical status and its technical and operational characteristics and its service infrastructure;

4. Document of paid fee.

5. (amend. -SG, No. 111/2020, effective 31.12.2020) Business plan, that shall contain data about the person, including the management authorities and the way of representation.

Article 69. (1) EWRC shall consider the request in the application and assess the requirements and obligations observation under the effective license as well as the documents, which are attached to the application, with respect to the continued compliance of the applicant with the terms and conditions for exercising the license for its new term.

(2) EWRC shall by decision:

1. Extend the license term;

2. Refuse the license term extension.

(3) By its decision under Para 2, Item 1 EWRC shall specify the conditions for exercising the licensed activity during the new term.

(4) In the proceeding for a license extension the terms and procedure of submission, consideration and decision of a license application shall be implemented.

SECTION III TERMINATION OF LICENSE

Article 70. (1) An issued license shall be terminated by EWRC decision.

(2) The proceedings for termination of a license shall be opened on EWRC initiative or by licensee application in writing.

(3) (New – SG, No. 111/2020, effective 31.12.2020) A license shall be terminated without EWRC decision upon expiration of the term for which it was issued, with the exception of the cases under Art.56 of the Energy Act.

Article 71. (1) A license shall be terminated in the following cases:

1. (amend. – SG, No. 111/2020, effective 31.12.2020) upon expiration of the term of the license with the exception under Article 56 of the Energy Act;

2. (amend. – SG, No. 111/2020, effective 31.12.2020) upon licensee's request, including the case of assets transfer, which constitute the means of exercising the licensed activity under the conditions of Article 53 of the Energy Act;

3. In case of licensee corporate transformation, when the transformation leads to termination of the legal person – holder of the license;

4. In case of destruction of the energy enterprise, which constitutes the means of exercising the licensed activity by the licensee;

5. (amend. – SG, No. 111/2020, effective 31.12.2020) On entry into force of a court ruling declaring the licensee insolvent or a ruling terminating the activity as a result of winding-up of the licensee beyond the instances provisioned under Article 61 of the Energy Act;

6. When the licensee has not exercised the licensed activity for a period of more than a year.

(2) (amend. – SG, No. 111/2020, effective 31.12.2020) A licensee, selected by tender, may submit a license termination application only if the energy facility under construction (incomplete construction)/the assets, which constitute the means of exercising the licensed activities has/have been transferred to a third party under the conditions stipulated by Article 53, paragraph 1 of the Energy Act. In such a case EWRC shall consider the application with regards to the needs of the state total forecasted energy balance and the secure and reliable energy and natural gas supply to customers.

Article 72. (1) A licensee shall submit a license termination application with the following contents:

1. (amend. – SG, No. 52/208, No. 65/2021, effective 31.12.2021) Name and unified identification code of the applicant; a person with registration under the legislation of other EU Member State, equivalent to the registration under the Trade Act, indication of seat and management address;

2. License registration number;

3. Justification of the termination applied for;

4. Disposal procedure of the assets, which constitute the means of exercising the licensed activity or the unfinished energy facility (if construction has commenced).

(2) Document of paid fee and documents providing evidence of the termination required grounds shall be attached to the application.

(3) In the proceeding for license termination the terms and procedure for submission, consideration and decision of an application for issuance of a license shall be implemented.

Article 73. (1) In case EWRC opens proceedings for license termination on its initiative, a copy of the decision about the opening of proceedings shall be sent to the licensee.

(2) EWRC may request opinion on the opened proceedings for license termination from competent governmental and municipal bodies, which deliver such opinion in writing together with the data and documents requested from them within a 14-day time frame.

(3) The licensee shall submit a statement in writing on the decision about the opening of proceedings for the license termination within a 7-day period after receipt of the said decision. EWRC may terminate the license even if the licensee does not submit a statement in writing.

(4) EWRC shall take a decision to terminate the license after the expiration of the deadlines under paragraphs (2) and (3).

Article 74. (1) EWRC shall execute routine check if the termination of the licensed activity may provoke disturbance in the security of electricity, heat energy or natural gas supply or the national security and the public order may be endangered.

(2) When performing the check EWRC may request the opinion of the Ministry of Economy, Energy and Tourism (MEET), Ministry of Defence (MoD), Ministry of Regional Development and Public Works (MRDPW) and of the relevant municipality, as well as of other stakeholders. In case the termination application concerns a license for heat energy and/or electricity generation, an opinion of the relevant transmission operator might be requested.

(3) In case the circumstances under Para 1 are present, EWRC shall determine by a decision:

1. A deadline within which the licensee shall be obliged to transfer to a third person its ownership or to establish a right of use over the assets, which constitute the means of exercising the licensed activities, in its integrity only.

2. A deadline within which the licensee shall be obliged to submit to EWRC an application for permission of the disposal transaction, following the proceedings and the conditions stipulated in Article 53, Para 3 of the Energy Act.

(4) A copy of the decision as per Para 3 shall be sent to the licensee within 3-day deadline.

(5) If the licensee fails to perform its obligations under Para 3 within the deadline defined by EWRC or EWRC does not permit the disposal transaction, or no new licensee is awarded within the advance notification deadline, by which the licensee has applied for license termination, EWRC shall appoint a special business manager, as per Section V of this Chapter.

Article 75. (1) When an application is submitted for termination of a license awarded at a tender, EWRC shall consider the application with regards to the needs of the state total forecasted energy balance and the secure and reliable energy and natural gas supply.

(2) (amend. SG, No. 111/2020, effective 31.12.2020) The licensee selected by tender may submit a license termination application if the energy facility under construction (unfinished construction)/the assets, which constitute the means of exercising the licensed activity has/have been transferred to a third party under the conditions stipulated by Article 53, paragraph 1 of the Energy Act.

Article 76. (1) EWRC shall terminate the license upon a licensee request by decision:

1. Within a one-year period as of the application submission due to term expiry;
 2. (amend. SG, No. 111/2020, effective 31.12.2020) On entry into force of a license for the same activity in the cases specified by Article 52 and Article 53 of the Energy Act;

3. Within a period of three months as of the license termination application submission in all other cases.

(2) EWRC decision shall determine the period of actual cessation of the activity or appoint a special manager.

(3) The licensee shall be obliged to exercise the licensed activity till closing of the license termination proceedings.

(4) EWRC shall suspend processing the license termination application, when the licensee withdraws its application prior to the decision adoption. In the cases under Article 71, Paragraph 1, Item 1 the licensee shall be obliged to file an application of license term extension simultaneously with the withdrawal of the license termination application.

SECTION IV LICENSE SUSPENSION AND WITHDRAWAL

Article 77. (1) (amend. SG, No. 111/2020, effective 31.12.2020) Procedure for withdrawal of an issued license shall be opened EWRC decision in the cases under Article 59 of the Energy Act.

(2) By its decision for opening a procedure of a license withdrawal EWRC shall notify in written the licensee to cease the infringement and to rectify its aftereffects, specifies a deadline for the prescription implementation and sets up a date for an open session after the expiry of the rectification period.

(3) The decision for opening a procedure of a license withdrawal shall not be subject to appeal.

Article 78. (1) EWRC shall withdraw the issued license for electricity generation without opening a procedure for a license withdrawal in the presence of an administrative act on a license withdrawal for nuclear facility operation pursuant to the Safe Use of Nuclear Energy Act or for cancellation of a permit for water use under the Water Act (when the license has been issued for electricity generation by a hydro power plant).

(2) The decision under Para 1 shall be adopted by EWRC after entering into force of the administrative act on a license withdrawal for nuclear facility operation or for cancellation of a water use permit.

Article 79. (1) In a 3-day period as of the decision adoption for opening a license withdrawal procedure, EWRC shall send a copy of the decision to the licensee.

(2) The Licensee may provide a written statement in a 14-day period after the notification.

(3) EWRC may request a standpoint concerning a license withdrawal to be provided by the competent state and municipality authorities within 14-day period, in written and with the data and documents required in attachment.

(4) If within the time frame set by EWRC the licensee observes the given warning, stops the infringement and eliminates the consequences and that shall be acknowledged by EWRC inspection and control offices, EWRC shall by decision terminate the license withdrawal procedure. A written notification of the procedure termination shall be sent to the licensee.

Article 80. (1) If the licensee fails to fulfil the given warning, does not discontinue the infringement or does not rectify the consequences, EWRC shall hold an open session on license withdrawal.

(2) (amend. SG, No. 111/2020, effective 31.12.2020) EWRC shall assess whether a given license or law infringement represents a ground for a license withdrawal, depending on its significance for the uninterrupted and reliable supply, violating the Energy Act goals and principles and/or a systematic infringement of the licensee obligations under the license or the Energy Act.

(3) EWRC shall officially explore the need to appoint a special business manager.

(4) At the open session the licensee shall have the right to deliver its objections to the license withdrawal.

Article 81. (1) EWRC shall deliver a decision on the opened license withdrawal procedure at a closed session. By its decision EWRC shall:

1. Terminate the procedure, if the grounds for license withdrawal have become irrelevant;
2. Withdraw the license.

(2) With the license withdrawal decision EWRC shall specify a period needed for the actual termination of the activity, exception made by the cases when this may violate the requirements for secure and uninterrupted electricity and heat energy or natural gas supplies. It shall also specify the term in which the person cannot apply for issuance of a new license for the same activity. This term shall not be less than two years.

(3) (amend. SG, No. 111/2020, effective 31.12.2020) If circumstances for the appointment of a special business manager are present, EWRC shall appoint a special business manager with the license withdrawal decision. With the license withdrawal decision EWRC shall appoint a special business manager with legal powers under Art. 56, Para 4 of the Energy Act until the final ruling of the Supreme Administrative Court in case of appeal.

(4) The termination of the license withdrawal procedure, as well as the license withdrawal itself, shall not exclude searching of administrative and penal responsibility for an infringement documented by an act of infringement ascertainment.

Article 82. (1) (amend. SG, No. 111/2020, effective 31.12.2020) EWRC may by decision stop the exercising of the activity under an issued license in cases when EWRC controlling office has found an offence by the licensee as per Article 201, Para 1 of the Energy Act.

(2) In its decision EWRC shall determine the time frame for which the activity shall be ceased and the offense shall be rectified.

(3) In cases when the discontinuation of the licensed activity may bring to violation of the security of electricity, heat energy or natural gas supply or the national security and public order may be threatened, EWRC shall appoint a special business manager for the time period set in Para 2.

(4) In cases when the license has been issued for a separate territory, EWRC shall appoint another licensee that shall meet the conditions of license issuance and it shall exercise the activity in that territory until the expiration of the discontinuation term.

SECTION V APPOINTMENT OF A SPECIAL BUSINESS MANAGER

Article 83. (1) EWRC shall appoint a special business manager in the cases when a license termination, withdrawal or suspension, as well as a refusal to extend the term of a license, may cause violation of the security of electricity, heat energy or natural gas supply or the national security and public order may be threatened.

(2) A special business manager in the cases mentioned in Para 1 shall be appointed:

1. If the licensee has informed EWRC that it shall not perform the licensed activity after the license term expiration, but it failed to performed before the license term expiration its obligation to transfer to a third person his ownership or to establish a right of use on the assets, which constitute the means of exercising the licensed activities in its integrity, or EWRC has not permitted a disposal transaction;

2. When EWRC refuses to extend the license term and the licensee has not performed before the license term expiration its obligation to transfer to a third person his ownership or to establish a right of use on the assets, which constitute the means of exercising the licensed activities in its integrity, or EWRC has not permitted a disposal transaction;

3. (amend. SG, No. 111/2020, effective 31.12.2020) When the license is terminated at the licensee request, including the case of a transfer of the assets which constitute the means of exercising the licensed activities, under the conditions of Article 53 of the Energy Act and in case that EWRC has obliged the licensee to transfer to a third person its ownership or to establish a right of use on the assets, which constitute the means of exercising the licensed activities in its integrity, if the acquirer is a licensee or has applied and meets the requirements for issuance of a license for the respective activity, and within one month after the license termination the licensee does not transfer its ownership or establish a right of use on the assets;

4. In case the license is terminated when the licensee does not perform the licensed activity for more than one year period and in case EWRC has obliged the licensee to transfer to a third person its ownership or to establish a right of use on the assets, which constitute the means of exercising the licensed activities in its integrity, if the acquirer is a licensee or has applied and meets the requirements for issuance of a license for the respective activity, and within one month after termination of the license the licensee does not transfer its ownership or establish a right of use on the assets;

5. When the license is terminated following a licensee request before the license term expiration and within the notification term there is no new licensee appointed;

6. At a license withdrawal, when the license withdrawal decision is appealed;

7. At suspension of exercising the licensed activity.

(3) In the case as per Para 2, Item 6 the appointment of a special business manager shall be for a period till a final decision of the Supreme Administrative Court shall be ruled, and under Para 2, Item 7 – for the term of the licensed activity suspension.

Article 84. (1) A special business manager shall be appointed by EWRC decision.

(2) A special business manager shall be appointed by mutual consent of the licensee and EWRC in the cases as per Article 83, Para 2, Item 1 and 2 within 30 days before the license term expiration. If consent may not be reached, the special business manager shall be determined by EWRC.

(3) EWRC decision under Para 1 shall indicate:

1. Full name, education and qualification of the person, determined as a special business manager;
2. The license for which the special business manager shall be appointed;
3. Term of the appointment of the special business manager;
4. Conditions for exercising the activity;
5. Remuneration of the special business manager.

Article 85. (1) A person may be appointed for a special business manager when meeting the following requirements:

1. A university degree and professional experience in the management of energy enterprises;
2. Not to have been sentenced as an adult of an intentional crime, if except for being exculpated;
3. Not to be in relations with the licensee that may arouse fair suspicion about his/her impartiality.

(2) The special business manager shall submit to EWRC a certificate of conviction and shall sign a statement for absence of the circumstances under Para 1, Item 3.

(3) The name and the address of the appointed special business manager shall be entered in the:

1. public license register;
2. [commercial register](#), following EWRC Chair request and shall be published in State Gazette.

(4) After the special business manager has been registered in the [commercial register](#), the managerial bodies of the licensee may only provide actions related to preparation and conclusion of a disposal transaction for the assets, which constitute the means of exercising the licensed activity.

Article 86. The special business manager shall possess the following powers:

1. To receive the sites on the inventory, which constitute the means of exercising the licensed activity, when the assets are transferred to him/her for management; and
2. To continue the performance of the licensed activity on behalf of the licensee till the ownership transfer of the energy facilities and the nomination of a new licensee.

3. To carry out only actions and transactions, which are directly connected to the licensed activity;

4. Shall not have the right to expropriate and to encumber immovables with burden, except with EWRC permission, as well as to carry out actions, determined by EWRC in the act for appointment.

CHAPTER FIVE
APPROVALS OF LICENSEES CORPORATE TRANSFORMATION AND OF
DISPOSALS AND TRANSACTIONS

Article 87. (1) EWRC shall approve a licensee corporate transformation through consolidation, merger, separation, division of a single-owner joint-stock company and through change of the legal form (transformation), if the entity that will perform the licensed activity after the transformation meets the requirements for issuance of a license for the activity and /or amendment of the license.

(2) (amend. SG, No. 111/2020, effective 31.12.2020) The procedure for approval of a licensee corporate transformation pursuant to Article 52 of the Energy Act shall be started with a written application by the licensee, which shall be submitted to EWRC before the resolution of corporate transformation in accordance with the Trade Act.

(3) The application under para 2 shall contain:

1. Name and unified identification code of the applicant; a person with registration under the legislation of other EU Member State, equivalent to the registration under the Trade Act, indication of seat and management address;

2. license registration number;

3. application of corporate transformation and its type;

4. description of the facilities, with which (depending on their type) the licensed activity shall be performed after the transformation;

5. specimen of the signature of the person who represents the applicant.

(4) The following documents shall be attached to the application under para 2:

1. corporate transformation contract or transformation plan;

2. auditor's report as provided by Article 262 l of the Trade Act;

3. evidence and data that the requirements for issuance and /or amendment of a license are present after the applicant transformation by applying art. 11, para 2;

4. document of paid fee.

(5) (amend. SG, No. 111/2020, effective 31.12.2020) The transformation contract or plan under paragraph 4 must provide evidence that following the planned corporate transformation the goals and principles of the regulation pursuant to the Energy Act shall be observed.

Article 88. (1) (amend. SG, No. 111/2020, effective 31.12.2020) EWRC shall take a decision on the corporate transformation application within a period of one month after submission of the application or rectification of the irregularities, and it shall be governed by the goals and principles as laid down in the Energy Act.

(2) (amend. SG, No. 111/2020, effective 31.12.2020) The deadline under paragraph 1 may be extended with the time necessary for conducting an external expert assessment assigned by EWRC, which would prove whether, as a result of the planned

corporate transformation, the balance between the energy enterprise interests and the customers and their equal standing will be impaired, as well as the other goals and principles of the Energy Act.

(3) EWRC by decision shall:

1. issue an approval of the transformation and amend or terminate the current license and /or issue a new license, respectively, if the application meets the requirements for implementation of the license activity.
2. issue a refusal for the transformation.

(4) In the cases, when EWRC approves the corporate transformation by a decision under paragraph 3, item 1, it revises or terminates the existing license and/or issues a new one.

(5) (amend. SG, No. 111/2020, effective 31.12.2020) The termination, revision or issuance of a license comes into force from the transformation date of entry in the [commercial register](#) and in case of a legal entity transformation with issued license under art. 40 para 7 of the Energy Act, it comes into force as of the date of the legal entity transformation under the legislation of the country in which it has been registered.

Article 89. (1) EWRC shall authorize the execution of disposal with unfinished construction facilities or with assets, which constitute the means of exercising the activity pursuant to an issued license only as a whole, including the case of announcement of a licensee bankruptcy. Subject to disposal can be a separate unit in the cases when the activity under the license is implemented through generating capacities (units), which technologically can be operated independently from each other.

(2) In case of privatisation of a specific part of an energy company, EWRC approval shall not be required.

(3) The authorization issuance procedure under paragraph 1 shall be opened upon a licensee written application and shall contain:

1. (amend. – SG, No. 65/2021, effective 06.08.2021) Name and unified identification code of the applicant; a person with registration under the legislation of other EU Member State, equivalent to the registration under the Trade Act, indication of seat and management address;
2. license registration number;
3. (amend. SG, No. 111/2020, effective 31.12.2020) request for authorization of the transactions execution as laid down in Article 53, paragraph 1 or 2 of the Energy Act;
4. request for amendment, supplement or termination of the issued licence;
5. description of the facility (entity) – subject of transaction.

(4) The following documents shall be attached to the application under Para 3:

1. an application of the future purchaser for the energy facility (site) acquisition and for issuance of a new license when the termination or the amendment of the licence can lead to violation of the security of supply with electricity or heat energy or natural gas; the application shall contain all required documents for issuance of a license under the ordinance;
2. preliminary contract between the licensee and the purchaser.

(5) EWRC shall issue a licence to the purchaser under the privatisation transaction according to para 2, if it had requested the issuance of a license and has met the conditions for that.

Article 90. (1) EWRC shall consider the applications under Article 89, paragraphs 3, and 4 within a three-month period as of their submission or as of eliminating the irregularities.

(2) Provisions of Chapter Two shall be applied in the process of considering the request for disposal execution and for a new license issuance.

(3)(amend. SG, No. 111/2020, effective 31.12.2020) EWRC shall authorise the disposals execution defined in the Energy Act, if the request meets the requirements of the license activity implementation and the conditions for granting the relevant authorisation.

Article 91. (1) EWRC shall make a decision on the request for executing disposal with unfinished entities under construction or with assets, which constitute the means of implementing the activity under an issued license, by which it:

1. (amend. SG, No. 111/2020, effective 31.12.2020) grants authorization for disposal execution and indicates the acquirer and the transaction execution term and amends, supplements or terminates the license and issues a licence to the purchaser if it meets the conditions under the Energy Act on issuance of a licence for the relevant activity;

2. issues a refusal of the disposal execution, when the acquirer does not meet the requirements for issuance of license.

(2) EWRC may grant an authorization for disposal execution irrespective of the acquirer's license application submission, when the license termination or revision does not lead to decrease in the security of supply.

(3) The licensee and the acquirer shall be obliged to submit to EWRC information and evidence of executing the disposal in the terms specified by it.

(4) The license issued to the acquirer shall become effective after the disposal execution.

Article 92. (1) EWRC shall issue an authorization for the following transactions:

1. establishment of a guarantee deposit, including special guarantee deposit or mortgage on the property and assets, which constitute the means of exercising the licensed activity;

2. (amend. SG, No. 111/2020, effective 31.12.2020, amend. – SG No. 18/2023, effective 24.02.2023) transactions, which lead or may lead to decrease in the security of supply as a result of indebtedness of the energy company as laid down by Article 21, Para 1, item 23 of the Energy Act energy, with the exception of contracts for purchase and sale of electricity, thermal energy or natural gas and transactions worth less than 20 per cent of the licensee's assets according to the last audited annual financial statement, not secured by a pledge, special pledge or mortgage on the property, with which license activity is carried out;

3. (revoked – SG No. 18/2023, effective 24.02.2023).

(2) The authorization procedure under paragraph 1 shall be opened on a written licensee application, which shall contain:

1. (amend. – SG, No. 65/2021, effective 06.08.2021) Name and unified identification code of the applicant; a person with registration under the legislation of other EU Member State, equivalent to the registration under the Trade Act, indicating seat and address of management;

2. license registration number;

3. request for authorisation of the relevant transaction execution, grounds for its conclusion, financial reasoning.

4. description of the entity - subject of guarantee when establishment of a guarantee deposit or mortgage are set and entity data in favour of which the guarantee shall be made.

(3) The following documents shall be attached to the application under Para 2:

1. copy of the draft contract, serving as a basis for the request of guarantee establishment;
2. (amend. – SG No. 18/2023, effective 24.02.2023) copy of the draft contract, for which authorization is being requested;
3. redemption plan for the contractual liabilities.

(4) EWRC shall take a decision on the application within one month as of its filing or as of rectifying the application irregularities and shall:

1. authorize the establishment of a guarantee deposit or mortgage;
2. authorize the execution of the requested transaction;
3. (amend. SG, No. 111/2020, effective 31.12.2020) refuse the issuance of authorization for the respective transaction or for establishment of guarantee or mortgage, when the execution of the transaction or the establishment of guarantee or mortgage would lead to breaking substantial conditions for exercising the licensed activity, including the principles pursuant to Article 23 of the Energy Act. In such cases, EWRC may issue mandatory instructions to the licensee, concerning the provisions and clauses of the submitted draft contract.

(5) The licensee may submit a new application with the same request, pursuant to this article, after the fulfilment of the EWRC mandatory instructions, as laid down in paragraph 4, item 3.

Article 93. In executing its authority under this chapter, EWRC may request statements from the Commission for Protection of Competition, concerning adherence to competition regulations.

CHAPTER SIX CERTIFICATION OF TRANSMISSION NETWORK OPERATOR

SECTION I GENERAL PROVISIONS

Article 94. (1) EWRC shall certify each transmission network operator for implementing the independence requirements.

(2) The certification procedure shall be opened at:

1. written application from the transmission operator;
2. EWRC initiative;
3. reasoned request from the European Commission (EC); or
4. application from an owner or transmission network operator, which is controlled by entity or entities from third country or third countries.

Article 95. (1) Within 4 months as of the opening date of a procedure for a transmission operator's certification, EWRC shall adopt a draft certification decision or shall refuse certification.

(2) The draft decision under para 1, together with all related information and documentation shall be immediately notified to the European Commission for opinion. In case the European Commission does not issue explicit opinion, it shall be deemed the draft decision for certification is accepted.

(3) (amend. – SG, No. 98/2019, effective 13.12.2019) During the certification procedure, EWRC and the European Commission shall be entitled to request any information related to the implementation of the obligations for independence of the operator and on the other hand the transmission network operator and the enterprises fulfilling any of the functions of electricity generation, natural gas extraction or electricity or natural gas supply and natural gas generation from renewable sources, shall be obliged to provide it at request within the specified deadlines. The Energy and Water Regulatory Commission shall be obliged to keep the confidentiality of the information which represents a trade secret.

(4) The deadline for receipt of the European Commission’s opinion shall be two months, and in case the European Commission has requested an opinion from ACER – 4 months, and it shall start as of providing the draft decision under para 2 and the relevant information and documents.

(5) The opinion of the European Commission shall be published on the official internet site of the European Commission.

Article 96. (1) EWRC shall adopt a final certification decision or shall refuse certification after the receipt of the EC’s opinion or after the deadline for its receipt.

(2) EWRC shall adopt a final decision in relation to the certification of the transmission operator which or which owner is controlled by entity or entities from a third country, in accordance with the opinion of the European Commission within two months after its receipt or after the deadline for the receipt of such an opinion.

(3) The decision on determining an operator shall be notified to EC and shall be published in EU [Official Journal](#) and shall be entered in EWRC’s register.

Article 97. (1) (amend. SG, No. 111/2020, effective 31.12.2020) When a certification is requested by an owner or a transmission network operator, which is controlled by entity or entities from a third country or third countries, EWRC shall refuse certification in the cases specified in art. 81b, para 5 and 6 of the Energy Act.

(2) (amend. SG, No. 111/2020, effective 31.12.2020) Before the final decision adoption, EWRC may request from the Council of Ministers to assess whether the circumstances under art. 81b para 5, item 2 and para 6, items 1 and 2 from the Energy Act are present, by presenting all related information. The Council of Ministers shall adopt a decision which is binding for EWRC.

SECTION II CERTIFICATION OF INDEPENDENT TRANSMISSION OPERATOR

Article 98. (1) The certification application of an independent transmission operator (ITO) shall contain:

1. (amend. – SG, No. 65/2021, effective 06.08.2021) Name and unified identification code of the applicant; a person with registration under the legislation of other EU Member State, equivalent to the registration under the Trade Act; indicating seat and address of management;
2. license registration number;
3. certification request;
4. description of the transmission network;
5. signature specimen of the person representing the applicant;
6. document of paid fee.

(2) The application under para 1 shall be accompanied by evidence that the applicant meets the certification criteria:

1. documents on the corporate structure of the independent transmission operator – copy of the documents on the establishment, including a decision on the Supervisory board members appointment and the Management Board members appointment, as well as information on the conditions regulating the mandate, its term and termination, working conditions, including remuneration and copy of the Articles of Association;

2. data and documents in relation to the shares ownership in the transmission operator's capital, as well as for the participation of the independent transmission operator in undertakings from the vertically integrated undertaking, performing electricity supply or generation activities or natural gas supply or production activities;

3. curriculum vitae of the ITO management board members, of the persons who report directly to the ITO management board members on issues related to network operation, maintenance and development;

4. declarations of the supervisory board members and the management board members of the transmission operator, of the persons who report directly to the management board members on issues related to network operation, maintenance and development, that they:

- a) do not occupy professional position or have responsibility, they do not have economic interests or business relations, directly or indirectly with any part of the vertically integrated undertaking or with its controlling shareholders;

- b) do not have interest in or receive any financial benefit, directly or indirectly, from any part of the vertically integrated undertaking;

- c) receive remuneration which does not depend on the activity or the results of the vertically integrated undertaking other than the one from the transmission system operator;

- d) haven't occupied any professional position or had responsibility, didn't have interest or business relationship, directly or indirectly, with the vertically integrated undertaking or any part of it, other than the transmission operator, or its controlling shareholders (for the majority of the management board member) or that for a period of at least six months (for the rest of the management board members) before their appointment they haven't exercised any managerial or other similar function in the vertically integrated undertaking;

5. declarations of professional independence for the management board members and the supervisory board members and the compliance officer;

6. evidence on the assets ownership needed for the electricity or natural gas transmission activity, including the transmission network;

7. data on ITO organisational structure (approved structure, functions and relations between separate units), on education and qualification of the managerial personnel, number and qualification of the ITO personnel and concluded labour contracts (information, analysis);

8. declaration of the persons representing the enterprise that the ITO does not employ or does not provide personnel from and to other parts of the vertically integrated undertaking;

9. evidence in regards to the presence of ITO own corporate identity and separate head office;

10. data and evidence regarding the presence of financial resources needed for the implementation of the obligations of executing the electricity or natural gas transmission activity, including external and internal financing, evidence of compliance with the market conditions (internal rules under the Public Procurement Act, performed procedures under the PPA, contracts, expertise statements, etc.);

11. ten-year network development plan and business plan;

12. evidence regarding the presence of IT separation from any other part of the vertically integrated undertaking, performing electricity or natural gas supply or generation (independent systems or information technologies equipment, premises and security systems regarding their access, usage of different consultants or external contractors for system or information technologies equipment and security systems regarding the access), description of the unbundling;

13. evidence regarding the information services separation (report on separation, description of the unbundling, etc.);

14. evidence that the ITO uses independently the needed for its activity equipment, as well as legal, accountancy and other services;

15. evidence regarding provided by the ITO services to the vertically integrated undertaking at market conditions (internal rules on the Public Procurement Act (PPA)), performed procedures under the PPA, contracts, expertise statements, etc.);

16. evidence that the operator does not receive services from any other part of the vertically integrated undertaking performing the activities electricity generation or supply or natural gas production or supply – declaration from the persons representing the enterprise, internal rules and other evidences;

17. evidence that the ITO is independently audited by an auditor different from the one of the vertically integrated undertaking and the enterprises within it (executed procedures under the PPA, decision for the appointment of auditor, declaration from the auditor);

18. compliance programme;

19. data on the person appointed as a compliance officer by the supervisory board of the independent transmission operator (supervisory board decision, curriculum vitae, documents for the professional competency and independence, contract with the person);

20. evidence regarding the powers provided to the compliance officer (Articles of association, related internal acts – instructions, rules, orders, ethic code, etc.).

(3) The declarations under Para 2, item 4, letter (d), proposal one, shall be applied to at least half minus one of the supervisory board members, to the majority of the management board members, the persons who report directly to the ITO management board members on issues related to network operation, maintenance and development and to the compliance officer.

Article 99. (1) EWRC shall start an ITO certification procedure at its own initiative in the following cases:

1. (amend. SG, No. 111/2020, effective 31.12.2020) if in the provided deadline under § 192 in the Transitional and Final Provisions of the Act for Amendment and Supplement of the Energy Act (SG No. 54 / 2012, effective 17.07.2012, amen. No. 23/ 2013,

effective 8.03.2013) the electricity and gas transmission networks operators fail to submit a certification application under the Energy Act and the present Ordinance;

2. (amend. SG, No. 111/2020, effective 31.12.2020) when there is information that planned change in the powers or influence of the owners of the transmission systems or transmission system operators may lead to violation of the independence requirements, specially art. 81e, para.5 and para.6 of the Energy Act.

(2) The procedure under para.1 shall be opened by a EWRC decision. A copy of the decision shall be sent to the transmission operator, which shall be obliged within the determined by EWRC deadline, not longer than 14 days, to provide to EWRC all data and documents indicated in Art.98, Para 2.

Article 100. (1) EWRC shall start a certification procedure upon reasoned request by the European Commission.

(2) EWRC shall notify in written form the transmission operator of the received reasoned request of the European Commission within 3-days as of its receipt.

(3) The transmission operator shall be obliged within the deadline determined by EWRC, which shall be no longer than 14 days, to provide to EWRC all data and documents listed in Art.98, Para 2.

Article 101. (1) When a certification is requested by owner or transmission network operator, which is controlled by an entity or entities from a third country or third countries, the application shall be submitted pursuant to art. 98.

(2) Documents under para.1 shall be accompanied by data and evidence that:

1. the certification will not put at risk the electricity and natural gas security of supply in the Republic of Bulgaria and in the European Union, whereas:

a) the European Union's rights and obligations with respect to the third country, arising from the international law, including any agreement concluded with one or more third countries, to which the European Union is a party and which addresses the issues of electricity and natural gas security of supply;

b) the Republic of Bulgaria's rights and obligations with respect to the third country, arising from agreements concluded with it as far as they respect the European Union legislation; and

c) other specific facts and circumstances related to the case and the third country concerned.

2. the certification will not lead to violation of the security of supply in the Republic of Bulgaria or the security of supply in other European Union member-state and it will not endanger the national security and the public order.

Article 102. (1) (amend. SG, No. 111/2020, effective 31.12.2020) EWRC shall adopt a decision on the certification of the independent transmission operator when EWRC finds out in an indisputable manner that the applicant meets the certification criteria according to Energy Act.

(2) By its certification decision EWRC shall approve:

1. the elaborated by the independent transmission operator 10-year network development plan;

2. terms and conditions for provision of services by the ITO to the vertically integrated undertaking;

3. all trade and financial agreements with the vertically integrated undertaking and the operator, in case they affect the market development conditions;

4. (amend. SG, No. 111/2020, effective 31.12.2020) compliance programme under Art. 81k, para.1 of Energy Act;

5. (amend. SG, No. 111/2020, effective 31.12.2020) compliance officer according art. 81k, para.2 of Energy Act.

(3) (amend. SG, No. 111/2020, effective 31.12.2020) EWRC shall refuse certification to an ITO in case the analysis of the provided data and evidence establishes that there is no compliance with the certification criteria according to the Energy Act, in relation to:

1. independent transmission operator unbundling;
2. legal form, management system, powers of the management bodies, independence of the management bodies, the compliance officer and the persons reporting directly to the management board;
3. transmission network ownership;
4. resources (human, technical, physical and financial), needed for executing the obligations related to electricity or natural gas transmission activity;
5. corporate identity and head office of the independent transmission operator;
6. self-use of the required equipment and of legal, accountancy and informational or other services;
7. the company auditing;
8. provision of services from and to the independent transmission operator to and from the vertically integrated undertaking and any other parts of the vertically integrated undertaking, exercising electricity supply/generation or natural gas supply/production;
9. compliance programme elaborated by the independent transmission operator;

Article 103. (amend. SG, No. 111/2020, effective 31.12.2020) EWRC shall exercise constant control on the ITO regarding the compliance with the certification criteria under the Energy Act.

SECTION III CERTIFICATION OF INDEPENDENT SYSTEM OPERATOR

Article 104. (1) (amend. SG, No. 111/2020, effective 31.12.2020) In case of regular violation of the ITO obligations related to independence requirements, as per Section II of Chapter eight (a) of the Energy Act, including in case of systematic discriminatory behaviour in favour of the vertically integrated enterprise, EWRC, at its own initiative, shall start a certification procedure for an independent system operator, which shall be implemented according to art.81 (a) or 81(b) of the Energy Act.

(2) The procedure shall be started by EWRC decision, copy of which shall be sent to the independent transmission operator and to the transmission network owner.

(3) Within 14 days, the transmission network owner shall submit to EWRC a written proposal for the entity that shall be determined as independent system operator (ISO) of the transmission network.

(4) EWRC shall send a written notification to the entity indicated by the owner and shall determine a deadline within which the entity should confirm its consent for certification and should provide a written application containing data and evidence of compliance with the certification criteria.

(5) EWRC shall send a written notification to the transmission network owner and to the natural gas storage operator and shall determine a deadline within which the necessary documents shall be provided.

Article 105. (1) The written application under Art. 104, para.4 shall be submitted to EWRC and shall contain:

1. (amend. – SG, No. 65/2021, effective 06.08.2021) Name and unified identification code of the applicant; a person with registration under the legislation of other EU Member State, equivalent to the registration under the Trade Act has to indicate their seat and address of management;

2. certification request;

3. signature specimen of the person, who represents the applicant;

4. document of paid fee.

(2) The application under para.1 shall be accompanied by evidence that the applicant meets the certification criteria:

1. documents related to the applicant's corporate structure – copy of the documents for the establishment, including decision on the supervisory board members appointment and the management board members appointment, as well as information on the conditions regulating the mandate, its term and termination, working conditions, including remuneration, copy of the Articles of Association;

2. data and documents in relation to the capital shares ownership of the applicant, as well as participation in enterprises of the vertically integrated undertaking, performing electricity supply /generation activities or natural gas supply/production activities;

3. curriculum vitae of the applicant's management bodies members;

4. evidence for compliance of the legal requirements for one and the same person or one and the same persons:

a) do not directly or indirectly exercise control over an undertaking performing any activities of electricity or natural gas production/supply, and simultaneously directly or indirectly exercise control or exercise any right over transmission system operators or over a transmission system;

b) do not directly or indirectly exercise control over a transmission network operator or over a transmission network, and simultaneously directly or indirectly exercise control or exercise any right over an undertaking performing any of the activities of electricity or natural gas generation/supply;

c) do not appoint TSO's supervisory board members or managing bodies or transmission network owner and directly or indirectly exercise control or exercise any right over an undertaking performing any of the activities of electricity or natural gas production/supply;

d) are not members of the supervisory board or management bodies of an undertaking performing any generation or supply activities, and simultaneously in the same position at the transmission network operator or transmission network owner;

5. data and evidence:

a) that the applicant has at its disposal all human, technical, physical and financial resources needed for the implementation of the obligations related to the electricity or natural gas transmission activity;

b) on data on applicant's organisational structure (approved structure, functions and relations between separate units), education and qualification of the managerial personnel, number and qualification of the applicant's personnel, concluded labour contracts (information, analysis);

c) on guaranteed external and internal financing of the activity;

d) on technical equipment, machines, apparatus and other equipment;

e) on IT equipment, premises and security systems regarding their access;

6. (amend. SG, No. 111/2020, effective 31.12.2020) decision by the applicant's management bodies obliging them to observe the network development plan under Art. 81(d) of the Energy Act;

7. evidence that the applicant is able to implement the obligations under Regulation (EC) No 714/2009 or Regulation (EC) No 715/2009, including cooperation between transmission network operators at European and regional level;

8. (amend. SG, No. 111/2020, effective 31.12.2020) draft agreements between the transmission network owner and the applicant - candidate for independent system operator, and other related agreements, including financial agreements under Art.811, para.5, item 2 of the Energy Act.

Article 106. (1) In the course of the certification procedure for the electricity transmission network ISO, EWRC shall require from the transmission network owner, in case the same is part of the vertically integrated undertaking, to provide evidence regarding its independence in relation to the legal organisational form, organisation and decision-making from the other activities of the vertically integrated undertaking, which are not related to electricity transmission:

1. declarations of the persons responsible for the management that they:

a) do not participate in enterprises of the integrated energy undertaking responsible directly or indirectly for the day-to-day activity of generation, distribution, public supply and trade;

b) independently take decisions regarding the implementation of the assigned by this act obligations and appropriate measures have been taken in relation to them, considering their professional interests, in order to ensure the ability to act independently;

c) (amend. SG, No. 111/2020, effective 31.12.2020) are obliged to prevent discrimination in implementing the assigned duties and obligations according to the Energy Act;

2. (amend. SG, No. 111/2020, effective 31.12.2020) A programme with measures aiming to fulfil the requirements of art. 81(m), para.1 and 2 of Energy Act, containing specific obligations for the employees in order to achieve it;

3. decision on the appointment of a person responsible for the programme implementation control pursuant to item 2;

(2) In the course of the certification procedure of the gas transmission network ISO, EWRC require from the transmission network owner and the natural gas storage facility operator, in case both of them are part of the vertically integrated undertaking, to provide evidence for their independence regarding the legal organisational form, the organisation and

decision-making from the other activities of the vertically integrated undertaking, which are not related to natural gas transmission, distribution and storage:

1. declarations from the persons responsible for the management, that they:
 - a) do not participate in enterprises of the integrated energy undertaking responsible directly or indirectly for the day-to-day activity on natural gas extraction, gas production from renewable sources and natural gas public supply and trade;
 - b) independently take decisions regarding the implementation of the assigned by this act obligations and appropriate measures have been taken in relation to them, considering their professional interests, in order to ensure the ability to act independently;
 - c) are obliged to prevent discrimination in implementing the assigned duties and obligations according this act;
2. (amend. SG, No. 111/2020, effective 31.12.2020) a programme with measures aiming to fulfil the requirements of art. 81(m), Para 1 and 2 of Energy Act, containing specific obligations for the employees in order to achieve it;
3. decision on the appointment of a person responsible for the programme implementation control pursuant to item 2.

Article 107. (1) (amend. SG, No. 111/2020, effective 31.12.2020) EWRC shall adopt a decision on the ITO certification when EWRC has found out in an indisputable manner that the requirements under art.81(l), para.2 of Energy Act have been met and the transmission network owner has proved its ability to implement its obligations under Art.81(l), para.5 of Energy Act.

(2) By its certification decision, EWRC shall approve:

1. the financial agreements between the applicant and the transmission network owner after consultations with the transmission network owner and with other stakeholders;
2. other related agreements between the applicant and the transmission network owner;
3. a compliance programme, as well as the person responsible for its implementation control;

(3) The decision designating the independent system operator shall be immediately notified to the European Commission for approval. EWRC decision shall be published in Official Journal of the European Union together with the EC decision for approval.

(4) EWRC shall refuse certification of the independent system operator when the provided data analysis and evidence finds out the presence of some of the following circumstances:

1. (amend. SG, No. 111/2020, effective 31.12.2020) non-compliance with the certification criteria under the Energy Act;
2. (amend. SG, No. 111/2020, effective 31.12.2020) the transmission network owner failed to prove its ability to implement the obligations under art. 81(l), para.5 of the Energy Act;
3. the transmission network owner independence as part of the vertically integrated undertaking has not been ensured.

Article 108. (amend. SG, No. 111/2020, effective 31.12.2020) EWRC shall exercise continuous on-going control over the independent system operator regarding the compliance with certification criteria according the Energy Act.

SECTION IV
CERTIFICATION OF TRANSMISSION NETWORK OPERATORS UNBUNDLED BY OWNERSHIP

Article 109. (1) A certification application of a transmission network operator unbundled by ownership shall contain the information under art. 98, para.1;

(2) The application under para.1 shall be accompanied with evidence that the applicant meets the certification criteria:

1. documents on the operator's corporate structure – copy of the establishment documents including a decision on the appointment of the members of the Supervisory board and for the appointment of the management board members, as well as information on the conditions, which regulate the mandate, its term and termination, working conditions, including remuneration, copy of the Articles of Association;

2. documents evidencing that the operator has at its disposal all human, technical, physical and financial resources needed for the implementation of the obligations related to the electricity or natural gas transmission activity;

3. documents evidencing that one and the same person/persons are not entitled to:

a) directly or indirectly exercise control over an undertaking performing any of the activities of electricity/natural gas generation or supply and at the same time directly or indirectly to exercise control or any right over the transmission system operators or over a transmission system;

b) directly or indirectly exercise control over a transmission network operator or over a transmission network and at the same time directly or indirectly to exercise control or any right over an undertaking performing any of the activities of electricity/natural gas generation or supply;

c) appoint supervisory board members or management bodies members of both the transmission network operator or the transmission network owner and directly or indirectly exercise control or any right over an undertaking performing any of the activities electricity/natural gas generation or supply;

d) be members of the supervisory board or management bodies of an undertaking performing any of the generation or supply activities and simultaneously – members of a transmission network operator or transmission network owner;

4. evidence on the ownership of the assets needed for electricity / natural gas transmission, including of the transmission network;

5. data on the organisational structure of the operator (approved structure, functions and relations between separate units), education and qualification of the managerial personnel, number and qualification of the ITO personnel, concluded labour contracts (information, analysis);

6. evidence that the operator is not part of the vertically integrated undertaking;

7. data and evidence on the availability of financial resources needed for the implementation of the obligations related to electricity / natural gas transmission, including external and internal financing;

8. ten-year network development plan and business plan.

Article 110. (amend. SG, No. 111/2020, effective 31.12.2020) EWRC shall adopt a certification decision for the operator unbundled by ownership when EWRC has found out in

an indisputable manner that the requirements under art.81(1) of Energy Act have been met and the transmission network owner has proved its ability to implement its obligations.

Article 111. (amend. SG, No. 111/2020, effective 31.12.2020) EWRC shall exercise continuous on-going control over the operator unbundled by ownership regarding the compliance with certification criteria according the Energy Act.

SECTION V TRANSMISSION NETWORK DEVELOPMENT PLAN

Article 112. (1) The transmission network operator shall submit for EWRC approval a 10-year network development plan (TYNDP), which shall consist of:

1. forecast on construction, extension, reconstruction and modernisation in the next 10 years of the main transmission infrastructure;
2. all the investments for which a decision is already taken;
3. identified new investments which have to be executed in the next three years;
4. time frame for all investment projects.

(2) (amend. SG, No. 111/2020, effective 31.12.2020) TYNDP shall be elaborated by the transmission network operator on the grounds of available information about generation, supply, consumption and the exchanges with other countries, including their evolution, considering the investment plans for regional and Community-wide networks. When elaborating the TYNDP the operator shall consider the researches, plans and forecasts under Art.87, Para 3 of the Energy Act. When elaborating the TYNDP the operator shall consider the investment plans for natural gas storage facilities.

(3) The transmission network operator shall consult with all stakeholders on the elaborated under the previous paragraphs TYNDP. The draft TYNDP shall be published on the internet site of the operator not later than 30 days before its submission for EWRC approval.

(4) The first TYNDP shall be approved by EWRC with the certification decision of the transmission network operator.

Article 113. (1) EWRC shall consult all actual or potential system users on TYNDP in an open and transparent manner by organising public consultation.

(2) Stakeholders shall be given a deadline for submitting comments and proposals, the deadline being not less than 14 days.

(3) Persons or enterprises claiming to be potential system users may be required to substantiate such claims. EWRC shall publish on its [internet site](#) the result of the consultation process, including the possible investments needs.

(4) EWRC shall examine whether the TYNDP covers all investment needs identified during the consultation process, and whether it is consistent with the Community-wide ten-year network development plans.

Article 114. (1) EWRC shall monitor and evaluate the TYNDP implementation.

(2) When the independent transmission operator fails to execute an investment under the TYNDP, which was to be executed in the following three years, EWRC shall require a written explanation of the reasons, together with supporting data and documents.

(3) EWRC, by a decision shall oblige the operator to execute the investments in question, if they are still to be executed, as well as to provide for the reimbursement of the costs for such investments through the prices of network services, unless the non-execution under para.2 is due to overriding reasons beyond the control of the network operator.

CHAPTER SEVEN

APPROVAL DECISIONS OF THE FORECAST ANNUAL ELECTRICITY CAPACITIES UNDER THE ENERGY FROM RENEWABLE SOURCES ACT

(TITLE AMEND. – SG NO. 111/2020, EFFECTIVE 31.12.2020)

Article 115. (1) Each year, the electricity distribution networks operators shall elaborate forecasts for the electricity capacities which can be provided for connection of sites for electricity generation from renewable sources to the relevant distribution networks for the next price period.

(2) The forecasts of the electricity distribution networks operators shall be elaborated per connection regions of the generation sites and voltage level in accordance with the approved by EWRC investment programme of the electricity distribution company, considering the network transmission capabilities, the actual and forecasted electricity consumption and the concluded preliminary connection contracts.

(3) On the grounds of the forecasts under para.1, the of the electricity distribution operators shall elaborate a proposal which they shall present to the transmission network operator till 28 February of the relevant year.

(4) the of the electricity distribution operator shall attach to the proposals under para.3, data, information and documents on:

1. concluded preliminary contracts;
2. actual and forecasted electricity consumption;
3. networks transmission capabilities;
4. possibilities for capacity balancing within the electricity distribution network.

Article 116. (1) The electricity transmission network operator, on the grounds of the proposals made by the electricity distribution networks operators, the approved by EWRC investment programme and the TYNDP, shall elaborate forecast of the electricity capacities, which can be provided for connection of generation facilities for electricity from renewable sources to the transmission and distribution networks.

(2) The forecast of the transmission network operator under para.1 shall be elaborated per connection regions of the generation sites and voltage level.

Article 117. The electricity transmission network operator may request additional data and information from the electricity distribution networks operators in relation to the forecasts per connection regions of the generation sites and voltage level, which the relevant electricity distribution network operator is obliged to provide within the specified deadline.

Article 118. (1) On the grounds of the forecast under art.116, para.1, the electricity transmission network operator shall elaborate a proposal for the electricity capacities, which can be provided for connection of generation facilities for electricity from renewable sources to the transmission and distribution networks for the next price period. The proposal shall be submitted to EWRC and the Minister of economy, energy and tourism till 30 April of the relevant year.

(2) The electricity transmission network operator shall attach to the proposal under para.1:

1. the proposals of the electricity distribution networks operators together with all their appendices, as well as additionally provided data and information;
2. information and data on:
 - a) concluded preliminary contracts;
 - b) actual and forecast electricity consumption;
 - c) networks transmission capabilities;
 - d) possibilities for capacity balancing within the power system.

Article 119. Within one month as of receipt of the electricity transmission network operator's proposal, the Minister of economy, energy and tourism shall prepare and send to the EWRC an opinion on its compliance with the National action plan for energy from renewable sources.

Article 120. (1) EWRC shall consider the proposal of the electricity transmission network operator within two months as of its submission.

(2) In the course of the proposal's examination, EWRC may request from the transmission and distribution networks operators to present additional data and information.

(3) EWRC shall oblige the electricity transmission network operator to review the elaborated proposal for the forecast electricity capacities for a one-year price period, in the following cases:

1. when the proposals are not in compliance with:
 - a) The National action plan for development of renewable sources according the opinion of the Minister of economy, energy and tourism;
 - b) the forecasts according to the TYNDP;
 - c) the approved investment programmes of the transmission and distribution networks operators;
2. when it is found out that the networks transmission capacities and the possibilities for capacity balancing in the power system are not precisely considered.

(4) The electricity transmission network operator shall be obliged to review the proposal within the specified by EWRC deadline.

Article 121. (1) EWRC shall announce a decision on the electricity transmission network operator's forecast proposal for electricity capacities, which can be provided for connection of generation facilities for electricity from renewable sources to the transmission and distribution networks till 30 June.

(2) By its decision under para.1 EWRC shall approve the one-year forecast period as of 1 July of electricity capacities which can be provided for connection of generation

facilities for electricity from renewable sources to the transmission and distribution networks, per regions of connections and voltage level.

- (3) EWRC decision shall be published on EWRC [internet site](#).

CHAPTER EIGHT SUPPLY TO CUSTOMERS

SECTION I GENERAL PROVISIONS

Article 122. (1) Licensees shall be obliged to ensure secure and reliable, uninterrupted and with high quality supply to customers, except the cases of power supply shutdown and interruption, when:

1. planned or emergency repairs of the transmission and distribution network are carried out;
2. a competent state body has determined a restrictive schedule of using electricity, heat energy and natural gas;
3. bills have not been paid;
4. customers have violated the contract and the contract infringement is subject to such a sanction.

(2) Consumers of energy services shall have the right of connecting to the licensees' networks under the conditions and procedure provided for by the Energy Act and the ordinances for its application, which regulate the connection to these networks.

(3) The licensees shall be obliged to ensure the metering and reading (logging) of electricity, heat energy and natural gas by:

1. installing and keeping in good condition the commercial metering equipment;
2. employing qualified personnel to exercise control and take the metering equipment readings.

Article 123. (1) Licensees providing services of public interest are obliged to ensure the customers' rights protection and to ensure equal standing of the customers groups by:

1. elaborating contracts with users of energy services, the conditions of which and the proposals for their amendment are announced before contract's conclusion or confirmation.
2. elaborating general terms on customers, approved by EWRC and published;
3. providing information to the users of energy services;
4. elaborating Energy Services User Code, approved by EWRC and published;
5. execution of electricity, heat energy and natural gas sales contracts on the basis of the general terms;
6. establishment of customers centres;
7. publication of emergency handling rules and their changing.

(2) The contracts between users of energy services and the energy companies providing services of public interest shall contain obligatory:

1. data on the energy company, including address;
2. services offered and the terms and conditions for their provision;

3. means through which an up-to-date information can be received for all applicable prices of the services offered;
4. term of the contract, conditions for temporary termination, termination of their provision and of the contract;
5. conditions for unilateral termination of the contract by the user of energy services and possibility for such termination without any additional payment;
6. terms and conditions for set off and reimbursement of sums in case of violation of the quality requirements of the contracted services, including incorrect or delayed invoicing;
7. rights of the energy services users, including information on the procedure for consideration and decision on complaints;
8. (amend. – SG No.111/20201 effective 31.12.2020) other conditions according to the Energy Act provisions.

(3) Energy enterprises under para.1 shall provide information in the invoices or enclosed to them and on their internet sites, regarding:

1. payment ways, supply disconnection or reconnection prices, maintenance services prices and other prices of services related to the licensed activity;
2. switching procedure and information that users of energy services do not owe additional payments for the switching;
3. actual quantities consumed power and the costs made without obligation for additional payment for this service;
4. preparation of final adjusted bill at each switching;
5. share of each energy source in the overall supplied energy from the supplier over the preceding calendar year in a comprehensible and clearly comparable manner;
6. existing sources of public available information on the environment impact at least in relation to carbon dioxide emissions and radioactive waste - result from the electricity generation from different energy sources in the total supplied energy by the supplier during the preceding year;
7. information on the means of dispute settlement.
8. check list, adopted by the European Commission, containing practical information on their rights.

(4) Electricity generators and the electricity public provider shall be obliged to provide to electricity end suppliers and suppliers of last resort the information needed for the implementation of their obligations under art. 3, items 5 and 6.

Article 124. (1) Licensees providing services of public interest shall be obliged to publish on their internet site, at a visible place in the Clients Centres and in other appropriate ways, up-to-date information at least on:

1. general terms and conditions of the contracts with energy services users or conditions of contracts with energy services users;
2. name, address and telephone to contact the energy company;
3. services offered:
 - a) type of offered by the energy company services;
 - b) provided services prices and content of each price element, such as access fee, consumer fees, maintenance fee; the applied standard discounts, special and target tariff schemes, additional fees and costs in regards to end electronic communication devices;
 - c) compensation and reimbursement of costs procedures;

4. disputes settlement procedures, including the ones elaborated by the energy company;

(2) Information under para.1 shall be published in a clear, understandable and accessible form.

(3) EWRC may determine additional requirements in relation to the form in which the information under Para 1 shall be published.

SECTION II SERVICE QUALITY STANDARDS

Article 125. (1) Electricity, heat energy and natural gas quality of supply shall be determined by the following indicator groups:

1. Electricity, heat energy and natural gas quality;
2. Supply security, uninterrupted and effectiveness;
3. Commercial services quality.

(2) Quality indicators included in the groups under para.1 and their target values (norms) shall be determined by EWRC via methodologies and/or guidelines on performance monitoring of the target energy quality indicators for uninterrupted supply and service quality.

(3) Quality indicators particular values (norms) and the time frame for reaching these target values shall be determined for each licensee by EWRC decision and shall become conditions under the license.

(4) Quality indicators which shall be considered when applying the ordinances on electricity, heat energy and natural gas price regulation shall be the aggregated indicators for energy quality, uninterrupted supply and service quality;

(5) Licensees must take into consideration the target values achievement under paragraph 3 in their business plans.

(6) Licensees shall elaborate, as part of their business plans, programmes for collection, storage, analysis and presenting before EWRC the information needed for electricity, heat energy and natural gas quality assessment and services provided.

(7) EWRC shall supervise the implementation of the plans and programmes under para.5 and 6 as part of its supervisory activity on license provisions compliance.

(8) Licensees shall keep the whole information on quality indicators, uninterrupted supply and service quality in a manner and in timeframes determined by EWRC.

(9) EWRC shall be entitled to monitor the performance of service quality indicators, as well as the collection and storage process of the provided information.

SECTION III ELECTRICITY, HEAT ENERGY AND NATURAL GAS SALE, ELECTRICITY DISTRIBUTION AND NATURAL GAS TRANSMISSION AT PUBLICLY KNOWN GENERAL CONDITIONS

Article 126. (1) (amend. – SG No. 111/2020, effective 31.12.2020, amend. – SG No. 18/2023, effective 24.02.2023) EWRC shall approve the general conditions of electricity, heat energy and natural gas sale contracts under article 95(a), 98(a), 150 and 183(a) of Energy Act, the general conditions of electricity transmission/distribution under art 104(a) of Energy Act and the general conditions of natural gas distribution under art 183(b) of Energy Act.

(2) Publicly known general terms and conditions under para.1 shall be elaborated and proposed by:

1. electricity end suppliers – for electricity sales;
2. heat transmission enterprise – for heat energy sales for domestic purposes;
3. natural gas end suppliers – for natural gas sales;
4. an electricity transmission network operator, an electricity distribution network operator and gas transmission network operator - for electricity and natural gas transmission through the electricity transmission, electricity and gas distribution networks to end consumers;
5. suppliers of last resort – for electricity sales.

Article 127. (1) The general terms and conditions under Article 126 shall contain the conditions under art. 123, para 2, as well as:

1. rights and the obligations of an energy enterprise and energy services users;
2. quality of supply conditions;
3. information submitted by the energy enterprise pursuant to art.123, para 3;
4. conditions for electricity, heat energy or natural gas supply termination or disconnection;
5. procedure for electricity, heat energy and natural gas metering, reading, distribution and payment;
6. procedure for providing access to commercial metering devices or other monitoring equipment, as well as to heating elements, when consuming heat energy;
7. responsibility of the energy enterprise in case of unregulated interruption or low quality of electricity, heat energy and natural gas supply;
8. procedure for provision and receipt by the end consumers of their individual bills for heat energy distribution, as well as determination of the moment as of which the term for appeal starts;
9. transparent and accessible procedures for considering customers' claims, as well as procedures for reimbursing unduly paid sums and indemnifying caused damages;
10. contents of the invoices and bills issued by the energy enterprises, which shall reflect the actual consumption and shall contain particulars on the metering device number, electricity, heat energy or natural gas consumption for the billing period in consideration, value added tax (VAT) and a breakdown of the tariff into components, if such have been approved of;
11. notification in advance in case of termination, limitation or interruptions of the services when there are repair works, operational switching, commissioning of new facilities and other similar works which shall be planned, as well as the period of service termination, limitation or interruption;
12. notification to end consumers on amendments in the general terms and conditions within one month before their submission at EWRC for approval;
13. notification in advance to end consumer when a request for access to his premises shall be required;
14. public announcement of address and/or telephone for contact in case of failures and for information;
15. provision of information;
16. data storage needed for payments for a specified time;

17. (amend. – SG No. 111/2020, effective 31.12.2020) procedure for notification to customers in case of a bill correction according to the rules under art.83, para.1, item 6 of Energy Act;

(2) general terms and conditions shall be elaborated by the energy enterprise in a clear, comprehensive and user-friendly form.

Article 128. (1) Drafts of general terms and conditions shall be made public to consumers in an adequate way by the energy enterprise and shall be announced in the customers' centres at least 30 days before their submission for approval by EWRC. The announcement shall contain:

1. telephone and address for submission of proposals on the draft,
 2. deadline for submission of proposals.
 3. date, time and place of the public consultation on the draft terms and conditions;
- (2) The energy enterprises shall draw up minutes of the public consultation.

Article 129. (1) Energy enterprises shall present the draft general terms and conditions for approval by EWRC after the deadline under Art.128. Para 1, with a written application accompanied by the following:

1. statements and comments on the draft, which have been received in the course of the public consultation, as well as minutes of the public consultation;
2. opinion of the energy enterprise on the received comments and notes in the course of the public consultation on the draft terms and conditions;
3. resolution of the energy enterprise management bodies for acceptance of the general terms and conditions.

(2) When considering the proposed drafts of general terms and conditions, EWRC may require from the energy enterprises additional information and may issue mandatory instructions and deadline for revision and amendment of the draft general terms and conditions with respect to rendering them in line with law requirements and ensuring equal standing.

Article 130. (1) EWRC shall take a decision on the approval application of the general terms and conditions within 30 days as of the information submission or instructions implementation.

(2) By its decision under para.1 EWRC shall:

1. approve the general terms and conditions;
2. shall approve the general terms and conditions according to the instructions issued or refuse to approve the general terms and conditions in case the enterprise failed to implement the mandatory instructions within the specified term and the general terms and conditions do not provide for equal standing of the contract parties.

Article 131. (1) Energy enterprises shall publish the approved by EWRC general terms and conditions in one central daily paper and one regional daily paper as a minimum, within 7 days as of the decision adoption for their approval. The general terms and conditions shall be

published on the energy enterprise website and shall be available in the customer's centres during the whole period of the energy enterprise activities.

(2) General terms and conditions shall enter into force 30 days as of their first publication without any need for explicit written acceptance by the consumers.

(3) End consumers who disagree with the general terms and conditions shall have the right in a period of 30 days as of their entry into force to file an application at the respective energy enterprise with proposal of special conditions.

(4) The special conditions accepted by the energy enterprise, which differ from the published ones, shall be reflected in additional written agreements. These agreements cannot provide for conditions, which place the end consumers in an unequal position with respect to the rest of the consumers.

(5) The provisions under paragraphs 3 and 4 shall be applied also to new customers.

Article 132. (1) The general terms and conditions can be revised and/or amended with a EWRC decision:

1. at the licensee request;
2. at EWRC initiative, also at consumer organisations' proposal under the Customers Protection Act and NGOs.

(2) The procedure foreseen for the initial adoption of general terms and conditions shall be applied for their amendment or supplement at the licensee request.

(3) (amend. – SG No. 111/2020, effective 31.12.2020) In case EWRC has requested the licensee to elaborate proposal for amendment or supplement of the general terms and conditions and the licensee failed to do so within the specified by EWRC deadline, a report shall be drafted by EWRC working group, appointed by EWRC chairman order. Such a report shall be adopted at EWRC closed session and shall be published on [its website](#). With the adoption of the report EWRC shall determine a date for public consultation with stakeholders. Within not less than 14 days as of the public consultation date, licensees and stakeholders shall be entitled to present their written comments on the proposed draft of the general terms and conditions amendment.

(4) EWRC shall take a decision on:

1. amendment and/or supplement of the general terms and conditions, or
2. refusal to amend and/or supplement the general terms and conditions.

SECTION IV WRITTEN CONTRACTS UNDER GENERAL TERMS AND CONDITIONS

Article 133. (1) EWRC shall approve general terms and conditions of written contracts for:

1. (amend. – SG No. 111/2020, effective 31.12.2020) heat energy sale pursuant to Article 149 of Energy Act;
2. (amend. – SG No. 111/2020, effective 31.12.2020) Assignment of the service provision of heat energy share distribution pursuant to Article 139(c) of Energy Act;

(2) The general terms and conditions under para.1 shall be elaborated:

1. by the heat transmission company for:
 - a) heat energy sale to industrial consumers;
 - b) heat energy purchase from producers;

c) (amend. – SG No. 111/2020, effective 31.12.2020) assignment of an entity under Art. 139(b) of Energy Act, that shall provide the service of heat energy share distribution;

d) heat energy sale to a supplier;

e) heat energy sale to customers' association in a building - condominium;

2. by the heat energy generating enterprise - for sale of heat energy to directly connected industrial clients;

3. by a heat energy supplier for:

a) heat energy sale to customers in a building - condominium;

b) (amend. – SG No. 111/2020, effective 31.12.2020) assignment of an entity under art. 139(b) of the Energy Act, to provide the service of heat energy share distribution;

(3) The general terms and conditions under para.1 shall meet the requirements of art.123, para.2 and shall contain:

1. conditions and requirements for service quality;

2. offered additional services for maintenance of customers' devices and facilities;

3. responsibility of the energy enterprise for unregulated disconnection and supply with poor quality;

4. penalties for contract violations.

(4) The general terms and conditions or their amendment shall be published by the licensee on its website and shall be available at a visible place in the customers' centres or in other way, within not less than 30 days before their submission to EWRC for approval.

(5) Energy enterprises shall present the draft general terms and conditions for EWRC approval after the expiration of the term under para.4, with a written application accompanied by the following:

1. received comments and notes on the draft;

2. opinion of the energy enterprise on the received comments and notes;

3. resolution of the energy enterprise management bodies on acceptance of the general terms and conditions.

(6) When considering the proposed drafts of general terms and conditions EWRC may require from the energy enterprises additional information and may issue mandatory instructions and specify a deadline for amendment and supplement of the draft general terms and conditions with respect to rendering them in line with the law requirements and ensuring equal standing.

Article 134. (1) EWRC shall decide on the application for general terms and conditions' approval in a period of 30 days after the information submission or instructions implementation.

(2) By its decision under para.1 EWRC shall:

1. approve the general terms and conditions;

2. in case the enterprise failed to implement the mandatory instructions within the specified term and the general terms and conditions do not provide for equal standing of the contract parties, EWRC shall approve the general terms and conditions according to the instructions issued or shall refuse to approve the general terms and conditions.

(3) General terms and conditions can be revised and/or amended with EWRC decision:

1. at the licensee request;

2. at EWRC initiative, including at the proposal of consumers organisations under the Customers Protection Act and non-profit legal entities.

(4) (amend. – SG No. 98/2019, effective 13.12.2019) When EWRC had requested the licensee to elaborate a proposal for revision and amendment of the general terms and conditions and the licensee failed to do so within the specified by EWRC deadline, a report shall be issued by the working group, appointed with EWRC chair's order, and such a report shall be adopted at a closed EWRC meeting and shall be published on EWRC [internet site](#). By adopting the report EWRC shall determine a date for public consultation with stakeholders. Within not less than 14 days as of the public consultation date, the licensee and the stakeholders shall be entitled to present their written comments on the proposed draft for amendment of the general terms and conditions.

(5) EWRC shall take a decision on:

1. revision and/or amendment of the general terms and conditions, or
2. refusal to revise and /or amend the general terms and conditions.

Article 135. (1) Every customer shall be entitled to read the draft contract and the approved by EWRC general terms and conditions of that contract in advance.

(2) Energy enterprises/suppliers of heat energy shall be obliged to propose to customers alternative payment ways under the contracts.

SECTION V

GENERAL TERMS AND CONDITIONS FOR ACCESS TO THE ELECTRICITY TRANSMISSION AND DISTRIBUTION NETWORKS UNDER THE ENERGY FROM RENEWABLE SOURCES ACT (TITLE AMEND. – SG NO. 111/2020, EFFECTIVE 31.12.2020)

Article 136. (1) (amend. – SG No. 111/2020, effective 31.12.2020) EWRC shall approve general terms and conditions for access to the electricity transmission and distribution networks under art.30 of the Energy from Renewable Sources Act (ERSA).

(2) The general terms and conditions under paragraph 1 shall be elaborated and proposed by:

1. the electricity transmission network operator - for access to electricity transmission network;
2. the electricity distribution networks operators - for access to electricity distribution networks;

(3) EWRC shall decide on the request for the general terms and conditions approval. With its decision, EWRC shall approve the general terms and conditions or shall refuse their approval and shall give mandatory instructions for revision and amendment of the draft.

(4) The procedure foreseen for the initial adoption of the general terms and conditions shall be applied for their revision or amendment.

Article 137. The general terms and conditions under art. 136 shall obligatory contain:

1. rights and obligations of the energy enterprise and producers of electricity from renewable sources;
2. (amend. – SG No. 111/2020, effective 31.12.2020) requirements to provide an assessment of the potential under art. 19, para 1 of ERSA, when its elaboration is obligatory,

which potential shall be the grounds for elaboration of the forecast schedules for generation of electricity from renewable sources;

3. conditions for implementation of the forecast schedules for generation of electricity from renewable sources;

4. conditions and procedure for data submission in real time by producers of electricity from renewable sources above 30 kW to the transmission or distribution network operator regarding the supplied electricity capacity in the connection point;

5. conditions for termination or disconnection of access to the relevant network;

6. conditions and procedure for notification to the producer of electricity from renewable sources for the introduced limitations;

7. (amend. – SG No. 111/2020, effective 31.12.2020) responsibility of the energy enterprise in case of unregulated termination or limitation in the generating regime of the energy facility of producers of electricity from renewable sources, except the cases of planned repairs, as well as the cases under art. 72 and art. 73 of the Energy Act.

Article 138. (1) The draft general term and conditions shall be announced and consulted under the conditions and according to the procedure under art. 128.

(2) Energy enterprises shall submit for EWRC approval the draft general terms and conditions together with a written application, which shall be accompanied by:

1. opinions and comments on the draft received by stakeholders;

2. opinion of the energy enterprise on the received comments and notes;

3. resolution of the management bodies of the energy enterprise for acceptance of the general terms and conditions.

(3) In the course of considering the proposed drafts of general terms and conditions, EWRC may require from the energy enterprises additional information and may issue mandatory instructions for revision and amendment of the draft general terms and conditions with respect to rendering them in line with the requirements of the law and ensuring equal standing.

Article 139. (1) EWRC shall decide on the request for approval of the general terms and conditions.

(2) EWRC by its resolution under Para1 shall:

1. approve the general terms and conditions;

2. refuse to approve the general terms and conditions when EWRC mandatory instructions under Art. 138, para 3 are not implemented or the general terms and conditions do not provide for equal treatment of the contract parties, as well as when they are not in compliance with the requirements of Art. 137.

Article 140. (1) Energy enterprises shall publish the approved by EWRC general terms and conditions in one central daily newspaper and on its internet site as a minimum, within 3 days as of the decision notification for their approval according to art. 61 of the Administrative Procedure Code.

(2) The approved by EWRC general terms and conditions shall enter into force 30 days after their publication, without any need for explicit written acceptance by the producers of electricity from renewable sources.

Article 141. (1) The general terms and conditions can be revised and/or amended by EWRC decision:

1. at the licensee request;
2. at EWRC's initiative;

(2) The procedure foreseen for the initial adoption of the general terms and conditions shall be applied for their revision or amendment.

CHAPTER NINE COMPLAINTS HANDLING AND DISPUTES SETTLEMENT

SECTION I COMPLAINTS

Article 142. (1) EWRC shall consider complaints of:

1. networks and facilities users against transmission and distribution networks operators, producers, natural gas storage facilities operators and liquefied natural gas facilities operators, related to the performance of their obligations under the Energy Act, and of consumers against water and sanitation services (W&S) operators, related to the regulation subject under the Water Supply and Sewerage Services Regulation Act;

2. (amend. – SG No. 111/2020, effective 31.12.2020) consumers against energy or natural gas suppliers, including end suppliers, related to the performance of their obligations under the Energy Act;

3. licensees against licensees, related to the performance of the licensed activity under the Energy Act, as well as of W&S operators against W&S operators, related to the subject of regulation under Water Supply and Sewerage Services Regulation Act ;

4. (amend. – SG No. 111/2020, effective 31.12.2020) members of the transmission network operator bodies, of transmission network operator's compliance officers and persons under art. 81e, para 9 of the Energy Act, at termination of their employment relationships in the provided by the Energy Act cases.

(2) Consumers organisations under the Consumers Protection Act and non-profit legal entities for protection of energy services users can file complaints under para 1, item 1 и 2 for violation of collective interests of the energy services consumers, as well as to propose to EWRC to start a procedure for general terms and conditions amendment of the contracts in accordance with this ordinance.

(3) EWRC shall also consider complaints of:

1. the independent transmission operator against the vertically integrated undertaking and of the vertically integrated undertaking against the independent transmission operator;

2. the independent system operator against the transmission network owner and of the transmission network owner against the independent system operator; the decision on such complaint shall be taken within 2 months as of its receipt; this deadline can be extended with two months if the dispute nature requires collection of additional data and information by EWRC; upon complainant's consent the extended deadline can be extended with another two months.

(4) EWRC shall consider complaint under Para 1, items 1 and 2 in case the same has been considered by the relevant enterprise and the complainant has not been satisfied by the response, as well as in cases when response has not been received.

(5) In the cases under Para 4, when the complaint has not been considered, the same shall be forwarded for consideration by the relevant enterprise, which is obliged to consider it and to notify the complainant of the results.

Article 142a. (new – SG No. 52/2018) (1) A complaint under Article 142 shall be submitted in hard copy or electronically.

(2) If a complaint has been submitted to EWRC through the respective energy company or W&S operator, the energy company or W&S operator may submit their opinion together with the complaint file in electronic form through EWRC single portal for provision of information and services, signed with qualified electronic signature in compliance with the requirements of Regulation (EU) 910/2014 and the Electronic Document and Electronic Trust Services Act.

(3) If a complaint under Art. 142, Para 1, item 1 and 2 from a natural person has not been submitted to EWRC through the respective energy company or W&S operator, it may be submitted in electronic form through EWRC single portal for provision of information and services, signed with electronic signature or advanced electronic signature in compliance with the requirements of Regulation (EU) 910/2014 and the Electronic Document and Electronic Trust Services Act.

(4) A complaint under Art, 142, Para 1 from a legal entity may be submitted in electronic form through EWRC single portal for provision of information and services, signed with electronic signature or advanced electronic signature in compliance with the requirements of Regulation (EU) 910/2014 and the Electronic Document and Electronic Trust Services Act.

Article 143. (1) A complaint shall meet the following requirements:

1. to be written in Bulgarian language;
2. (amend. – SG No. 65/2021, effective 06.08.2021) to specify name and address or name and Unified Identification Code of the complainant, as well as name of the entity against which a complaint is filed;
3. to specify the nature of the complaint;
4. to present the circumstances pertaining to the case and factual evidences, if available;
5. to be signed by the complainant.

(2) A complainant shall attach to the complaints under Art. 142, Para 1, items 1 and 2 the company's response or other evidence that the complaint has been considered by the relevant company.

(3) A complaint shall be filed at EWRC through the relevant energy company or W&S operator, which shall be obliged to perform examination and send the complaint to EWRC together with their opinion, as well as the whole case file within 7 days as of the complaint receipt.

(4) In case a complaint has not been filed through the relevant energy company or W&S operator EWRC shall send the filed complaint to the energy company or W&S operator, requiring the implementation of an examination and return of the complaint to EWRC together with the company's opinion, as well as the whole case file within 7 days as of the complaint receipt.

(5) In the cases under para 3 and para 4, the relevant energy company or W&S operator shall be obliged to send a copy of their opinion on the complaint to the complainant, as well as to provide to EWRC evidence of its receipt by the complainant.

(6) EWRC shall consider the complaint if the opinion of the energy company or W&S operator has been attached, together with the whole case file.

Article 144. (1) During the examination of the filed complaint, all necessary evidence for clarification of the circumstances shall be collected.

(2) For the purpose of examination of a complaint:

1. a meeting between the parties can be organised at EWRC premises for additional clarification of the circumstances. Minutes shall be taken of the meeting, signed by the parties present.

2. assistance can be provided for the voluntary dispute settlement.

Article 145. (1) On completion of the examination, a report and a draft decision shall be prepared reflecting the circumstances, the opinion of the examined entity, the collected evidence on the administrative file and the legal and actual findings for the complaint. The report and the draft decision shall be accompanied with all collected evidence on the administrative proceeding.

(2) The report, the draft decision, the complaint and the case file shall be presented to EWRC chair, who shall decide with a resolution on the complaint consideration date and its solving by EWRC in a closed meeting.

Article 146. (1) Within two months as of filing a complaint under Art.142, Para 1, items 1, 2 and 3 and Para 2, EWRC can provide assistance for voluntary dispute settlement. The term can be extended with another two months, if the dispute nature requires collection of additional data and information EWRC.

(2) In case of complaints under Art.142, Para 1, items 1, 2 and 3, including the ones filed under Art. 142, Para 2, if agreement on voluntary dispute settlement has not been reached or a certain party has refused voluntary settlement, EWRC shall take a decision on the complaint within two months as of its receipt. The term can be extended with another two months, if the dispute nature requires collection of additional data and information by EWRC. Upon complainant's consent, the extended term can be extended with another two months.

Article 147. (1) When as a result of the complaint consideration and on the grounds of the collected in the course of administrative proceeding evidence, EWRC finds out that the complaint is not reasonable, it shall terminate the case by decision.

(2) When as a result of the complaint consideration and on the grounds of the collected in the course of administrative proceeding evidence, EWRC finds out that the complaint is reasonable, it shall issue mandatory instructions and shall determine appropriate deadline for their implementation.

(3) EWRC shall notify the complaint parties of its decision within 7 days as of its adoption.

Article 148. (1) (amend. – SG No. 98/2019, effective 13.12.2019) EWRC decisions pertaining to this chapter shall be subject to appeal before the Administrative Court - Sofia - city according to the procedures of the Administrative Procedure Code (APC).

(2) EWRC may publish complaints decisions on its [web site](#), but not the evidence, statements, opinions and parties arguments in the dispute.

Article 149. (1) A complaint under Art. 142, Para 1, item 4 shall be filed within 7 days as of the decision receipt or the ahead-of-schedule termination act of the relevant legal relationship.

(2) A complaint shall meet the requirements of Art. 143, Para 1 and has to be filed at EWRC through the entity, which is subject of the complaint.

(3) The entity subject to complaint shall send the whole case file and its opinion on it to EWRC within three days of its receipt.

(4) While considering the filed complaint all necessary evidence for clarification of the circumstances shall be collected.

(5) EWRC shall decide on the complaint within two weeks as of its receipt.

(6) When as a result of considering the complaint and on the grounds of collected in the course of administrative proceeding evidence EWRC finds out that the complaint is not reasonable, it shall terminate the case with a decision.

(7) When as a result of considering the complaint and on the grounds of collected in the course of administrative proceeding evidence EWRC finds out that the complaint is reasonable, it shall issue mandatory instructions and shall determine appropriate deadline for their implementation.

(8) (amend. – SG No. 111/2020, effective 31.12.2020) When as a result of considering the complaint it has been found out that there has been a violation of the complainant legal relationship termination with the inspected entity, EWRC shall object against the legal relationship termination and the legal relationship termination decision shall not produce effects pursuant to Art. 81e, Para 3 of the Energy Act.

(9) EWRC shall notify the complaint parties of its decision within 3 days as of its adoption.

SECTION II VOLUNTARY DISPUTE SETTLEMENT

Article 150. (1) EWRC may assist in voluntary dispute settlement for a complaint under Art. 142, Para 1, items 1, 2 and 3 and Para 2 and written consent from the parties.

(2) EWRC shall not rule any decision in voluntary dispute settlement.

Article 151. (1) At the written consent from the parties for voluntary dispute settlement, the working group shall propose to EWRC to extend the complaint considering term with 2 months.

(2) With the term extension decision EWRC shall nominate a person from the working group - mediator, who shall assist for the voluntary dispute settlement. Copy of the term extension decision shall be sent to the complaint parties.

(3) The mediator shall notify the parties that the reconciliation procedure is voluntary and confidential and it does not prevent the sides from seeking protection of their rights in court.

(4) The reconciliation procedure shall be held at EWRC head office.

(5) The voluntary dispute settlement meetings shall be obligatory attended by the parties and the nominated mediator. Minutes shall be taken of the meetings held, which shall be signed by both the parties and the mediator.

Article 152. (1) The mediator shall use all reasonable means and efforts to settle the dispute and with each side consent may reveal information regarded as confidential to the other side in order to facilitate reaching an agreement.

(2) The mediator may propose to the parties a solution of the dispute and with their consent to prepare a written agreement, which shall be signed by them.

(3) The voluntary dispute settlement agreement may contain payment obligations of proceeding expenses and other liabilities related to the license conditions, signed contracts or normative and administrative acts.

Article 153. In case the parties cannot reach voluntary settlement of their dispute within two months as of the complaint term extension decision, the working group shall continue considering the complaint according to the procedure under Section I.

SECTION III COMPLAINTS AND DISPUTES ON COMPETITION

Article 154. (1) When in exercising its powers EWRC finds out that a licensee violates or restricts competition, it shall refer the matter to the Competition Protection Commission (CPC).

(2) EWRC shall send a written request to CPC to consider and study the case file that violation evidence has been found out and to take the required measures within the scope of its powers.

(3) The request under paragraph 2 shall contain the grounds for referring the matter to CPC with enclosed copies of the pertaining evidence. A copy of the request shall be sent to the licensee too.

(4) EWRC shall assist CPC by providing all necessary information and documents, which may be used by CPC in connection with the case file.

(5) In the course of CPC proceedings EWRC shall notify it of any changes related to the case file that have occurred in the meantime.

Article 155. (1) (amend. – SG No. 111/2020, effective 31.12.2020) In case CPC finds out by a decision that by its activity the licensee violates or restricts competition, EWRC may impose compulsory administrative measures as laid down in the Energy Act.

(2) In case CPC finds out systematic violation of the competition rules, EWRC may withdraw the license.

CHAPTER NINE A
(NEW – SG NO. 111/2020, EFFECTIVE 31.12.2020)
TERMS AND CONDITIONS FOR EXERCISING CONTROL UNDER CHAPTER SEVEN A OF THE
ENERGY ACT

SECTION I
GENERAL RULES (NEW- SG, NO. 111/2020, EFFECTIVE 31.12.2020)

Article 155a. (new – SG/111, effective 31.12.2020, amend. SG/25 of 2022) (1) Market participants in the sense of art.2 items 7 and 8 of Regulation (EU) 1227/2011, are obliged to keep for a period of 5 years on an electronic (magnetic) carrier data on all concluded transactions under contracts for electricity and electricity derivatives supply with wholesale customers and transmission system operators, data on transactions under contracts for gas and gas derivatives supply with wholesale customers and gas transmission system operators, as well as with storage and LNG system operators.

(2) Data under para.1 shall be provided to the Energy and Water Regulatory Commission at its request.

Article 155b. (new – SG, No. 111/2020, effective 31.12.2020, amend.SG/25 of 2022) (1) Data under Art.155a, should contain, where applicable, details on the relevant transaction elements, as follows:

1. data on transactions carried out on the wholesale energy markets, including withdrawn and annulled trading orders; information to be kept shall include an accurate indication of the purchased and sold wholesale energy products, agreed price and quantity, dates and times of execution, parties to the transaction and beneficiaries of the transaction and any other relevant information that is specified in an annex to Commission Implementing Regulation (EU) No. 1348/2014;

2. Information representing basic data reported in accordance with Art. 8 and 9 of Implementing Regulation (EU) No. 1348/2014 in relation to the capacity and use of facilities for production, storage, consumption or transmission of electricity or natural gas or in relation to the capacity and use of LNG facilities, including planned and unplanned unavailability of these facilities.

(2) The stored information shall also include the information provided to ACER according to the tables set out in the Annex to Implementing Regulation (EU) No. 1348/2014 - details of reportable contracts, including:

1. Reportable details of standard contracts for the supply of electricity and gas;
2. Reportable details of non-standard contracts for the supply of electricity and gas;
3. Reportable details of wholesale energy products in relation to the transportation of electricity;
4. Reportable details of wholesale energy products in relation to the transportation of gas.

(3) Each market participant shall be obliged to keep for a 5-year period, in accessible and appropriate for use manner the whole documentation related to transactions concluded; withdrawn and annulled orders for the purchase and/or sale of wholesale energy products; rules and procedures for identifying, avoiding and/or stopping a violation under

Regulation (EU) No. 1227/2011; personnel responsibilities, as well as internal and external correspondence in connection with and/or on the occasion of trading in such products.

(4) Each market participant shall be obliged to keep for a 5-year period records of telephone calls, concerning orders and/or transactions with wholesale energy products, in a way allowing the authentication of the orders given for transactions with wholesale energy products, including when the person that has received the order, trades at its own expense or at the expense of a mother company, or connected company under the meaning of Regulation (EU) 1227/2011. When orders have been given and/or transactions have been signed through other means different from a telephone, the market participant shall be obliged to provide, for the period under Art.155a, the records preservation on a lasting carrier, allowing their reproduction as document, electronic message, fax, protocol or notes from a meeting with a client.

(5) Market participants who operate outside an organized exchange market of electricity and natural gas shall be obliged, in addition to the data under para. 1, to record and store information on:

1. prices that they have communicated to participants on the wholesale energy products market - their customers, according to the requirements of para.1;
2. source of information for these prices;
3. order execution;
4. any other information that has been provided to a customer in connection with concluding a contract for a wholesale energy product.

Article 155c. (new – SG, No. 111/2020, effective 31.12.2020) (1) The organized power exchange market operator and the organized natural gas exchange market operator shall be obliged to implement appropriate measures, systems, rules and procedures for storage of orders received from participants at the respective market in electronic form. These measures must ensure the storage of information on transactions concluded and orders received for wholesale energy products separately from transaction orders, to which the respective operator is a party.

(2) Measures under para.1 must provide guarantees for publicity of the received sale/purchase offers for wholesale energy products; matching of sale and purchase offers for the corresponding period until the demand has been covered; informing participants about transactions concluded on the organized power and natural gas wholesale market, as well as preserving the property rights of participants at the respective exchange market associated with collateral and financial funds belonging thereto.

(3) The organized power exchange market operator and the natural gas exchange market operator shall be obliged to establish internal organization that shall:

1. Create conditions for the timely identification, ceasing, prevention and reporting to EWRC in compliance with all trade secret protection requirements and non-public reporting in case of transactions and/or orders that may constitute market manipulation or attempt for market manipulation, or may be a result of insider trading as per Regulation (EU) 1227/2011;
2. Create conditions for ensuring protected internet connection with EWRC that shall be used only for the purposes of notifying EWRC and for provision of data under item 1;
3. In case of a EWRC decision on implementing immediate measures under Art. 74l of Energy Act, ensure timely notification and equal access of all participants at the respective organized market to information regarding the imposed measures and dubious transactions

and/or orders, if possible, as well as equal conditions for all participants for submitting correctional purchase and/or sell offers;

4. Ensure control over the capital owner's compliance of Regulation (EU) 1227/2011, as well as governing and controlling bodies members of the organized market place and its employees, and for fulfilment of the commitments it made to all market participants and transaction parties with the operator;

5. Ensure a possibility for independent clearing of the provided and received collateral from market participants;

6. Ensure publication within no later than 1 hour as of an event occurrence, as well as storage of messages published by market participants in wholesale energy products on changes in structural data on production, consumption or wholesale prices of energy products, such as: production capacity, planned or unplanned stay or other limitation of transmission capacity; storage capacity; cross-border capacity; accident or forced market interruption.

(4) Control over the fulfilment of obligations under para 3 shall be exercised by the managing body of the organized exchange market operator or by a specifically appointed employee or employees.

(5) Entities under Para1 shall be obliged to store for 5 years all information and documents regarding their activity on paper and / or electronic (magnetic) carrier at an accessible and appropriate for use place and in a way to ensure their preservation on a second carrier or their restoration in case of loss due to technical reasons.

(6) Entities under Para 1 shall be obliged to introduce systems, internal rules and / or procedures for their own monitoring of deals reporting to EWRC, for which they have reasonable grounds to assume that it may violate Art.3 or 5 of Regulation (EU) 1227/2011.

Article 155d. (new – SG, No. 111/2020, effective 31.12.2020 (revoked – SG, No. 25/2022).

Article 155e. (new – SG, No. 111/2020, effective 31.12.2020) (1) Market participants shall be required to develop internal rules for the public, effective and timely disclosure of insider information under Regulation (EU) 1227/2011 and to ensure a ban on trade based on such information for the period until the publication.

(2) Rules under para.1 may include assessment of the obligations violation risk under Art. 4 of Regulation (EU) 1227/2011, as well as plans for periodic training of employees, owners, management and control bodies members of the participant on the implementation of obligations under Regulation (EU) 1227/2011.

(3) Rules under para.1 shall include terms and conditions under which the market participant shall inform EWRC in cases of delayed public disclosure of insider information.

Article 155f. (new – SG, No. 111/2020, effective 31.12.2020, suppl. SG No. 25 of 2022) (1) Market participants shall be obliged to store on paper and electronic carrier for 5 years publicly disclosed insider information under Regulation (EU) 1227/2011, the notification to EWRC and the collected materials, which determined the decision On delayed public disclosure of insider information, as well as evidence on the existence of a self-interest risk being affected by timely disclosure and of not affecting the public interest by delayed publication.

(2) (supplemented, SG No. 25 of 2022) Market participants shall be obliged to store on paper and electronic carrier within 5 years evidence that during the period of delayed public disclosure of insider information they have not traded in wholesale products, to which the same information applies.

(3) (revoked, SG, No. 25 of 2022).

(4) (suppl. SG No. 25 of 2022) Entities under Art. 155a, para.1 shall develop internal procedures for reporting transactions and / or orders for transactions with wholesale energy products. The procedures may include risk assessment of breach of the obligations under Art. 8 and 9 of Regulation (EU) 1227/2011, as well as plans for periodic training of employees, owners, members of management and control bodies on the fulfilment of these obligations.

SECTION II

(NEW- SG, NO. 111/2020, EFFECTIVE 31.12.2020)

PRELIMINARY INVESTIGATION ON THE PRESENCE OF REASONABLE ASSUMPTION FOR COMMITTED VIOLATION OF ARTICLES 3 AND 5 OF REGULATION (EU) NO 1227/2011 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 25 OCTOBER 2011 ON WHOLESALE ENERGY MARKET INTEGRITY AND TRANSPARENCY

Article 155g. (new – SG, No. 111/2020, effective 31.12.2020) (1) A request of entities under Art.74a of Energy Act to EWRC for initiating proceedings of establishing a violation of Art.3 and/or 5 of Regulation (EU) 1227/2011, shall be submitted in writing and shall contain clear, accurate and detailed information about:

1. name and registration/unique civil number details of the notifying person and of the market participant (s) against whom the complaint has been made;
2. address/seat and address of management of the notifying person and of the market participant (s), against which the complaint has been made;
3. description of the circumstances, on which the request and the alleged violation are based;
4. alleged violation - products; participants; markets and period of implementation;
5. evidence in support of the request;
6. signature of the person, who submits the request, or of their authorized representative.

(2) The written form of the request under para.1 shall be deemed to have been complied with when the request has been submitted in the form of an electronic message to the e-mail address of the Monitoring and Control Unit for implementation of Regulation (EU) 1227/2011, announced on EWRC website, or when received through a secured communication channel coordinated with EWRC.

(3) (new - SG No. 25 of 2022) Requests that do not meet the conditions of the previous paragraphs will not be considered.

Article 155h. (new – SG, No. 111/2020, effective 31.12.2020) (1) Preliminary investigation shall be carried out by officials, determined by the order of Art.74a, Para 2 and 3 of Energy Act, and shall be monitored by the head of the Monitoring and Control Unit for implementation of Regulation (EU) 1227/2011, who, if necessary, shall give instructions.

Article 155i. (new – SG, No. 111/2020, effective 31.12.2020) (1) When conducting the preliminary investigation, the officials under Art.155h shall establish the facts and circumstances by requiring written statements and information, written and material evidence, conclusions of experts and other means that are not prohibited by law. The request for their provision shall be made in writing by EWRC Chair.

(2) In case the preliminary investigation has been initiated ex officio or at the request of a national competition authority or other public authority, and in case the investigation reveals evidence of an infringement of competition law and/or financial market law, the exchange of information and cooperation between EWRC and the other state bodies shall be carried out by the order and under the conditions of Art.74p of the Energy Act.

Article 155j. (new – SG, No. 111/2020, effective 31.12.2020) (1) The officials under Art. 155h shall reflect the results of the preliminary investigation in a written report agreed with the head of the Monitoring and Control Unit for implementation of Regulation (EU) 1227/2011 and submitted to EWRC Chair for scheduling a closed meeting, where it shall be considered by EWRC.

(2) A separate draft decision shall be attached to the report under Para 1 without stating the factual grounds for issuing the act. The reasons for the decision accepting the proposal made in the report shall be considered the reasons set out in the report, as well as the statements of EWRC members in its support. The statements of EWRC members against the proposal made shall be considered as motives of the decision, by which the proposal is not accepted.

SECTION III

(NEW- SG, NO. 111/2020, EFFECTIVE 31.12.2020)

PROCEEDING FOR ESTABLISHING VIOLATION UNDER ARTICLES 3 AND 5 OF REGULATION (EU) NO. 1227/2011 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 25 OCTOBER 2011 ON WHOLESALE ENERGY MARKET INTEGRITY AND TRANSPARENCY

Article 155k. (new – SG, No. 111/2020, effective 31.12.2020) (1) Inspection for establishing a violation under Art.3 and 5 of Regulation (EU) 1227/2011 shall be carried out by officials appointed under Art.74a, para. 6 of the Energy Act.

(2) The inspection under Para 1 shall be carried out in compliance with the provisions of Chapter Seven “a” of the Energy Act and of this section.

Article 155l. (new – SG, No. 111/2020, effective 31.12.2020) (1) On-site inspections shall be carried out by EWRC experts, designated by an order of EWRC Chair under Art.74a, Para 6 of the Energy Act, who shall identify themselves with the order and present to the inspected person an uncertified transcript of the court permit under Art.74g of the Energy Act.

(2) Collection of evidence during the on-site inspections shall be carried out in accordance with the procedure and under the conditions of Art.74h of the Energy Act.

Article 155m. (new – SG, No. 111/2020, effective 31.12.2020) (1) Original documents, material evidence and information on electronic or digital carrier shall be seized in the condition, in which they have been found during the inspection and shall be returned to the inspected person after the entry into force of EWRC decision under Art.74n of the Energy Act. During the seizure, the inspected person shall be given the opportunity to make copies of the original documents.

(2) Upon a motivated request of the inspected person, from whom original documents have been seized, they may be returned even before EWRC decision has entered into force. In all cases, EWRC shall return the seized original documents when the exercise of rights under them is related to their actual possession, which shall be proved by the inspected person.

(3) A protocol shall be drawn up for the seized evidence under para.1 on the spot, with a complete and accurate inventory of the seized materials by the order and under the conditions of Art. 74h, Para 7 of the Energy Act.

Article 155n. (new – SG, No. 111/2020, effective 31.12.2020) (1) The procedure regulating the access, use and storage of documents constituting a production, trade or other secret protected by law shall be governed by rules adopted by EWRC, which shall be published on EWRC website.

(2) The inspected person has the right to indicate the materials that contain production, trade or other secret protected by law in the protocol for documents and material evidence seized during the inspection, regardless of the carrier on which they are stored, motivating their allegations to the inspection team.

(3) The materials indicated as confidential by the inspected person shall be included in the inventory, as the inspection team shall determine a term in which the inspected person shall be obliged to present the same materials in a version in which the data considered confidential have been deleted.

Article 155o. (new – SG, No. 111/2020, effective 31.12.2020) (1) Inspection results shall be described in a report by the officials under Art. 74, para. 6 of the Energy Act, and when the report contains production, trade or other secret protected by law - the officials shall prepare a summary thereof.

(2) The report under para.1 shall contain a description of the actions performed in the course of the inspection; evidence collected; established circumstances; conclusion regarding the presence or absence of a violation under Art.3 and/or 5 of Regulation (EU) 1227/2011 and a proposal for EWRC decision. The summary shall have the same content as that of the report, but with deleted data from materials collected during the proceedings, indicated as containing production, trade or other secret protected by law.

(3) The report under para.1 shall be coordinated with the head of the Monitoring and Control Unit for implementation of Regulation (EU) 1227/2011 and shall be submitted to EWRC Chair, who shall schedule a closed EWRC meeting for its consideration.

(4) With the report acceptance decision under Para 1, EWRC shall send the report or its summary to the inspected person and shall set a term for submission of an opinion.

(5) Within the term under para.4, the inspected person shall have the right of access to the materials in the file, with the exception of the materials, containing production, trade or other secret protected by law. Access to EWRC internal documents, including

correspondence with ACER and regulatory authorities of Member States of the European Union, shall not be granted.

(6) EWRC may schedule an open session meeting in camera for hearing the inspected person in the meeting, at which it shall consider the opinion of the inspected person on the report.

(7) During the meeting under para.6, presentation of evidence shall not be allowed, unless they are newly discovered or newly emerged.

(8) Notices and documents in the course of the proceedings shall be handed over by EWRC to the inspected person and / or explicitly authorized representatives of theirs by an order, indicated in the notification under Art. 74a, Para 7 of the Energy Act. The procedure for providing information by the inspected person or third parties shall be indicated in the written request for its provision.

Article 155p. (new – SG, No. 111/2020, effective 31.12.2020) (1) EWRC shall adopt a decision under Art. 74n of the Energy Act for presence or absence of committed violation or attempt for violation of art.3 and/or 5 of Regulation (EU) 1227/2011 in closed session. By its decision EWRC shall:

1. establish a violation under Art. 3 and / or 5 of Regulation (EU) 1227/2011 or those actions have been taken to commit a violation of Art. 3 and/or 5 of Regulation (EU) 1227/2011, imposes property sanctions and / or fines and may apply the measure under Art. 74l of the Energy Act;
2. establish that there is no violation under Art. 3 and/or 5 of Regulation (EU) 1227/2011 or no actions have been taken to violate Art. 3 and/or 5 of Regulation (EU) 1227/2011 and terminate the proceedings.

(2) At any moment in the course of the proceedings, including the decisions under Art. 74a, Para 5, item 2 and under Art. 74n, Para 1, item 2 of the Energy Act, when data for a committed crime of general nature and / or violation of competition law are established, EWRC shall take a decision for notifying the bodies of the pre-trial proceedings and/or the Commission for Protection of Competition.

SECTION IV

(NEW – SG, NO. 111/2020, EFFECTIVE 31.12.2020)

EXTERNAL EXPERTS

Article 155q. (new – SG, No. 111/2020, effective 31.12.2020) (1) When special knowledge is required at the request of inspecting officials in order to clarify the circumstances in proceedings for the establishment of violations of Art.3 and/or Art.5 of Regulation (EU) 1227/2011, EWRC shall assign an expertise to be performed by one or more external experts under the terms and conditions of Art. 74i of the Energy Act.

(2) The appointed external expert shall declare in writing before EWRC the lack of direct or indirect interest in the outcome of the proceedings.

(3) The appointed external experts shall be obliged in writing not to disclose industrial and trade secrets, which have become known to them during or on the occasion of the implementation of the assigned expertise, and the result of the expertise to third parties.

SECTION V
(NEW – SG, NO. 111/2020, EFFECTIVE 31.12.2020)
PROTECTED PERSON

Article 155r. (new – SG, No. 111/2020, effective 31.12.2020) (1) Persons who have provided explanations or information about a violation under Regulation (EU) 1227/2011 may request confidentiality of identity.

(2) The persons under para 1 shall receive the status of a protected person.

(3) Keeping the protected persons' confidentiality shall be a protective measure applied by EWRC, provided that there are sufficient grounds to assume that the disclosure of their identity would have serious adverse consequences for the activity exercised by them or for their personality.

(4) The existence of preconditions to keep the protected persons confidentiality shall be proved by the respective person, who will benefit from the protective measure and shall be assessed by EWRC on case by case base.

Article 155s. (new – SG, No. 111/2020, effective 31.12.2020) (1) A procedure of keeping the protected person's confidentiality shall be opened at the request of the person who will benefit from the application of the protective measure.

(2) The request under para. 1 shall be in writing. Therein, the person should state all their reasons justifying the application of the measure, presenting or providing evidence in support of their request.

(3) The request under para. 1 shall contain name, Unified Civil Number (UCN), address and signature of the person, who will benefit from the application of the protective measure.

(4) Based on the request under para. 1, a motivated proposal shall be prepared to EWRC for issuing an order for keeping the respective person's confidentiality.

(5) The proposal under para. 4 shall be prepared by the head of the Monitoring and control unit for implementation of Regulation (EU) 1227/2011 and shall contain:

1. identification data of the person requesting confidentiality;
2. information on whether the explanations and the data provided by the person provide evidence of essential importance for initiating proceedings before EWRC or for substantiating a violation under Regulation (EU) 1227/2011;
3. the grounds on the basis of which it is assumed that the disclosure of their identity would have serious adverse consequences for the activity exercised by them or for their personality;
4. proposal for a combination of numbers and letters to be determined as identification number of the protected person;
5. other data, specific for the specific case, if such are available.

(6) The request under para 1 shall be attached to the proposal under Para 2.

(7) EWRC shall consider the proposal and shall pronounce with a decision in closed session.

(8) EWRC decision approving the proposal for keeping a protected person's confidentiality shall contain:

1. identification data of the person, whose identity will be kept secret;
2. identification number of the protected person.

(9) The protected person shall be acquainted with EWRC decision, with their assigned identification number and the whole applicable order for keeping a protected person's confidentiality.

Article 155t. (new – SG, No. 111/2020, effective 31.12.2020) (1) The identification number of the protected person shall be determined at random principle as a combination of a total of eight digits and letters in Cyrillic, which should be written consecutively, without spaces or punctuation marks between them. The number of the respective proceedings before EWRC and the year of its formation are added to the identification number.

(2) Recording of oral explanations of the protected person and drafting protocols, as well as the use and storage of explanations and data provided by the protected person shall be arranged in internal rules adopted by EWRC.

(3) The disclosure of the protected person's identity shall be carried out only in case of:

1. explicit written consent of the protected person;
2. elimination of the need to apply the protective measure.

(4) Written consent of the protected person shall not be required upon disclosure of his/her identity, if it has been established that he / she has participated in the alleged violation.

(5) Elimination of the need to apply the protective measure shall be established by the head of the Monitoring and Control Unit for the Implementation of Regulation (EU) 1227/2011, who shall make a proposal to EWRC for a decision revealing the identity of the protected person.

SECTION VI

(NEW – SG, NO. 111/2020, EFFECTIVE 31.12.2020)

PREVENTIVE, CURRENT AND SUBSEQUENT CONTROL OVER THE FULFILMENT OF THE OBLIGATIONS UNDER ART. 4, 8, 9 AND 15 OF REGULATION (EU) NO 1227/2011 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 25 OCTOBER 2011 ON WHOLESALE ENERGY MARKET INTEGRITY AND TRANSPARENCY

Article 155u. (new – SG, No. 111/2020, effective 31.12.2020) (1) EWRC shall carry out preventive, current and subsequent control over the fulfilment of the obligations under Art. 4, 8, 9 and 15 of Regulation (EU) 1227/2011 on the basis of its register of market participants in the electricity and natural gas markets through the ACER platform (centralized European register of market participants).

(2) The officials that carry out preventive, current and subsequent control over the fulfilment of the obligations under Art. 4, 8, 9 and 15 of Regulation (EU) 1227/2011 and draw up acts for establishing an administrative violation shall be determined once - by EWRC Chair order and the individual tasks of each expert in carrying out the control of a specific inspection shall be assigned by the head of the Monitoring and control unit for the implementation of Regulation (EU) 1227/2011.

(3) For each performed inspection a statement of findings shall be drawn up, to which all collected evidence, written explanations, documents, statements and others, as well as obligatory prescriptions to the inspected persons, if any, shall be attached. The report shall be signed by the compiler and by the inspected person, and in case of refusal - by two witnesses of the refusal.

(4) The inspected person shall have the right to give explanations within seven days as of handing over the protocol, which shall be reflected in the statement of findings. Based on the explanations made, the officials draft a conclusion, which is reflected in a report on the results of the inspection and is an integral part of the file.

(5) No statement of findings shall be drawn up in the cases when the control bodies have established a violation on the basis of official documents, as well as in case of non-fulfilment of the obligation to provide documents and information provided in the Energy Act and in the bylaws.

(6) For the results of the performed inspection (findings and conclusions) the officials who have performed the inspection, shall draft a report to EWRC Chair, to which the ascertainment protocol, the collected evidence, materials and opinions shall be attached.

(7) When as a result of the inspection violations have been established, obligatory prescriptions shall be given to the inspected persons together with the ascertainment protocol and / or an act for establishment of an administrative violation shall be drawn up.

CHAPTER TEN REGISTERS

Article 156. (1) EWRC shall keep public registers of:

1. issued licenses, where all licensee shall be registered, issued licenses and other circumstances,
2. (amend. – SG, No. 111/2020, effective 31.12.2020) issued by EWRC authorizations/permits under the Energy Act;
3. (amend. – SG, No. 111/2020, effective 31.12.2020) issued by EWRC decisions under Art.21, Para 1, item 1, 4, 5, 9, 10, 15, 18, 21, 25 and 26 of the Energy Act.

(2) The registers shall be kept in a computer data base and a file-index of the persons, circumstances and decisions subject to entry.

(3) Subject to entry shall be only circumstances provided for by the ordinance and consequent changes in their status.

(4) The licensees shall be obliged to report changes in the circumstances, subject to entry within a seven-day period after their occurrence.

Article 157. (1) The license register shall be public. Everyone shall be entitled to review it and to receive copies or extracts from it.

(2) Requests for extracts from the register shall be directed to EWRC Chair.

(3) Entries in the register shall have notification function only.

Article 158. (1) Entries in the registers shall be made on the basis of EWRC decisions. In case of a change in licensee's name and/or address and head office, the entries shall be made after notification of the change made and ex officio document from the trade register for the change of the indicated by the licensee circumstance are present.

(2) An entry of circumstances into a personal file shall be made on the basis of data contained in documents submitted to EWRC or collected by EWRC through an official procedure.

(3) Entries in the registers shall be made by officials appointed by EWRC Chair to keep and maintain the corresponding registers.

Article 159. (1) For each person subject to registration in the computer database, a batch is found with unique index, where all entries provided for by the ordinance shall be stored.

(2) Each batch shall consist of fields, corresponding to the circumstances subject to entry. Each field shall have a unique index – common (one and the same) to all batches.

(3) Each field shall contain columns and rows for entry of the following particulars:

1. Filing number and date of EWRC decision for making the entry;
2. Date of entry;
3. Corresponding circumstance subject to entry;
4. Name of the official that has made the entry;
5. Comments.

(4) All subsequent entries shall be made in a manner not affecting the information, contained in previous entries.

(5) When an entered particular is being deleted, an entry shall be made in the corresponding field, indicating that the original entry has been deleted. The deletion must not lead to destruction (loss) or damage of the information related to the entry being deleted.

(6) Entry errors shall be corrected on the basis of EWRC decision and the correction shall be indicated in the corresponding field. The correction must not lead to destruction (loss) or damage of the information related to the circumstance being corrected.

Article 160. (1) For each entity subject to entry in the register, a file shall be opened in the index register, which shall contain in order of submission all documents and EWRC acts related to it.

(2) Each file shall have a unique index, being the same as the file index of the registered entity in the computer database.

(3) Documents arranged in the case file shall be accompanied by an inventory with dates of submission of the listed documents. The official who keeps the register shall authenticate the inventory.

Article 161. An entity subject to entry in the licenses register shall have a batch in the computer database and a file in the index register, which shall contain:

1. name of the company, registered office, address of management and subject of activity;
2. business ID number;
3. court of registration, company case file number, partition, register, volume and page of entry of the entity;
4. registered offices of branches, if applicable;
5. management bodies, names of the persons who manage and represent them, form of representation; in case legal persons are members of management bodies or representatives – their name, registered office, address of management, business ID number, as well as the full names of the persons representing them;
6. term of incorporation of the company, amount of registered corporate capital, number, type and face (par) value of the shares;
7. date of receipt of the license application at EWRC;
8. date and filing number of EWRC decision for issuance of a license;
9. date and filing number of EWRC decision for revision, amendment or withdrawal of the license;

10. date and filing number of EWRC decision for authorization of the licensee pursuant to the Energy Act;
11. date and filing number of EWRC decision containing mandatory instruction to the licensee;
12. imposed penalty sanctions and compulsory measures.

CHAPTER ELEVEN
TERMS AND CONDITIONS FOR PROCUREMENT AND IMPLEMENTATION OF AUDIT UNDER
ART. 201, PARA 2, ITEM 5 OF THE ENERGY ACT (HEADING AMENDED – SG, NO. 111/2020,
EFFECTIVE AS OF 31.12.2020)

SECTION I
GENERAL RULES

Article 162. (1) (amend. – SG, No. 111/2020, effective 31.12.2020) An audit shall be implemented on the grounds of EWRC decision taken in the cases under Art.201, Para 1 of the Energy Act, in order to prevent or terminate violations, as well as to deal with the harmful consequences thereof.

(2) The costs for implementation of the audit shall be at the expense of the audited entity.

(3) With its decision for implementing an audit, EWRC shall determine:

1. audited entity;
2. subject and term of the audit;
3. time frame for implementation of the audit;
4. initial amount of the costs needed for the implementation of the audit

and term within which they should be paid by the audited entity to indicated by EWRC bank account.

(4) In its decision under para 1, EWRC may determine for external experts to take part in the audit as well.

Article 163. (1) The audit shall be implemented by a working group which, by performing procedures and actions shall establish, analyse and assess the collected in the course of the audit evidences.

(2) Except official EWRC employees, external experts determined by EWRC decision on implementation of the audit shall be included in the working group.

SECTION II
AUDIT PROCEDURE

Article 164. (1) On the grounds of EWRC decision under art. 162, EWRC shall issue an order which shall consist of:

1. the working group that shall implement the audit;
2. a working programme;

(2) The working group composition shall include at least one certified jurist and economist and all members should have the necessary professional qualification and practical experience in accordance with the audit subject.

(3) By the order a working group leader shall be determined who shall be responsible for the planning, implementation and reporting of the audit results, by:

1. distributing the work between the working group members and participating in its implementation;
2. preparing a draft audit plan which shall contain: range, aims, time frame of the stages of the audit planning, implementation and reporting, as well as allocation of the resources for the engagement implementation;
3. organising an audit report;
4. organising an audit file;
5. supervising the work programme implementation.

Article 165. (1) The working group leader and members shall be impartial and independent from all aspect of the audited entity management or financial interest, as well as its managers and/or supervisory bodies or other directly related persons and organisations. Related persons to the officials in the audited entity as per § 1, item 1 of the *Supplementary provision of the Conflict of Interest Prevention and Ascertainment Act* shall not be allowed to participate in the audit, as well as persons who have worked in it or have participated in its management during the last two years or have personal interest in the audit.

(2) Circumstances under para 1 shall be declared in written before the audit, before EWRC Chair, and the working group members fill in also a declaration for confidentiality and protection of trade secret.

(3) When an incompatibility under para 1 has been established in the course of the audit, the persons shall be obliged to make a written statement of exclusion.

(4) When a person fails to make statement of exclusion under para 3, EWRC Chair shall suspend him/her immediately.

Article 166. (1) In the course of the audit the working group leader and members are entitled to:

1. free access to the audited persons and sites for inspection;
2. request from the relevant officials the needed documents, data, information, explanations, operational and other information, including to perform metering and tests for clarification of the technical status and the operational conditions of the site, including personnel qualification, as well as any other information related with the performance of the license conditions;
3. perform counter examinations and to require information and documents from third parties, required for the performance of the counter examinations.

(2) The audited person shall cooperate with the working group by providing rooms, necessary equipment and access to data bases, as well as the required additional information and documents both on paper and in electronic form according to the instructions of the working group leader and members.

Article 167. (1) An audit report on the audit results shall be drafted in one copy, and it shall contain: aims and range; findings and results; recommendations. All collected evidences, written explanations, documents, statements proving the inspection findings and results shall

be attached to the report. Information on the incurred costs with attached supporting documents shall be presented together with the audit report.

(2) The audit report shall be signed by all working group members. In case some of the working group members have dissenting opinion, he/she shall sign the audit report with "dissent opinion" and within 3 days he/she shall provide his/her written opinion.

(3) Within 10 days as of completing the working group activity its leader shall present the audit report to EWRC Chair.

(4) EWRC Chair shall decide by resolution on the consideration of the audit report by EWRC in a closed meeting.

(5) Should EWRC decide that the facts, circumstances and findings of the audit report are not fully and comprehensively clarified, EWRC shall send back the report to the working group for additional examination with specific mandatory instructions and shall determine a deadline for their implementation.

(6) The revised and amended audit report shall be considered by EWRC as per to Para 3 and Para 4.

Article 168. (1) EWRC shall accept the audit report by a decision wherein it shall determine the final amount of the audit implementation costs and the term within which the audited person shall pay them to a specified by EWRC bank account.

(2) By its decision of audit report acceptance EWRC may give to the audited person mandatory instructions on the application of the law, the legislative acts, the obligations under the licenses and under the general terms and conditions of the contracts and EWRC decisions, as well as to specify a deadline for their implementation.

(3) Should there be data in the audit report for an administrative violation committed by the audited person, administrative penalty proceeding shall be started.

(4) Should there be data for committed crime, EWRC Chair shall send certified copy of the audit report to the Prosecution office.

SECTION III EXTERNAL EXPERTS

Article 169. (1) EWRC shall issue a list of external experts who can participate in audits under the conditions and procedures of this chapter.

(2) An external expert can be any person with a university education with qualification degree "Master" who has not been sentenced to imprisonment for a premeditated criminal offence, and who meets the requirements of art. 164, para 2 and art. 165, para 1 and has professional experience of at least three years.

(3) The specific requirements for professional qualification of the external experts in order to be included in the list under para 1, shall be determined by EWRC decision and shall be published on its internet site.

(4) EWRC shall make a decision on the inclusion of persons in the external experts list.

(5) At any change of the circumstances under Para 2 or in the requirements of Para 3, EWRC shall take a decision for exclusion from the list of the external experts persons who failed to meet the specified conditions.

SUPPLEMENTARY PROVISIONS

§ 1. Within the meaning of this ordinance:

1. A company shall be considered as “newly incorporated company” for a period of three financial years after its incorporation (entry into the commercial register).

1a. (new – SG, No. 55/2023, effective 27.06.2023) “Related company” means related companies within the meaning of Art. 2, item 12 of Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on annual financial statements, consolidated financial statements and related reports of certain types of enterprises and amending Directive 2006/43/EC of European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC, as well as companies belonging to the same shareholders.

2. “Systematic violation of the obligations under the license or the law” shall be reported, when three or more administrative violations of the Energy Act or the ordinances for its application have occurred for a period of two years.

3. (new – SG, No. 111/2020, effective 31.12.2020, suppl. – SG, No. 25/2022) “Market participant” shall be each physical or legal person, including transmission network operators that perform deals, including trade orders, at two or more wholesale energy markets.

4. (new – SG, No. 25/2022) “Wholesale energy market” means a market within the European Union where an energy product is wholesaled. Wholesale energy markets encompass both product and derivative markets. These include, among others, regulated markets, multilateral trading facilities and over-the-counter (OTC) transactions and bilateral contracts, whether direct or through intermediaries.

§ 2. (suppl. – SG, No. 111/2020, effective 31.12.2020) This Ordinance shall implement the requirements of: Directive 2009/72/EC of the European Parliament and of the Council concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC and Directive 2009/73/EC of the European Parliament and of the Council concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC, and Regulation (EU) 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency.

§ 3. The provisions of this ordinance, which relate to the member states of the European Union, shall apply also to the other countries - parties of The Agreement on the European Economic Area.

CONCLUSIVE PROVISION

§ 4. The ordinance is accepted on the grounds of Article 60 of the Energy Act and Article 22, Para 6 and Article 30, Para 7 of the Energy from Renewable Sources Act.

**TRANSITIONAL AND CONCLUSIVE PROVISIONS
TO THE ORDINANCE FOR AMENDMENT AND SUPPLEMENT OF ORDINANCE NO. 3 OF 2013 ON
LICENSING THE ACTIVITIES IN THE ENERGY SECTOR
(SG, No. 98/2019, effective as of 31.12.2019)**

§ 6. Everywhere in Ordinance No. 3 of 2013 on licensing the activities in the energy sector the words “State Energy and Water Regulatory Commission” and “SEWRC” shall be replaced respectively with “Energy and Water Regulatory Commission” and “EWRC”.

§ 7. This Ordinance shall enter into force as of the day of its promulgation in the State Gazette.

**ORDINANCE FOR AMENDMENT AND SUPPLEMENT OF ORDINANCE NO. 3 OF
2013 ON LICENSING THE ACTIVITIES IN THE ENERGY SECTOR
(SG, NO. 111/2020, EFFECTIVE AS OF 31.12.2020)**

§ 14. Everywhere in the ordinance the abbreviations “EA” and “ERSA” shall be replaced respectively with “of the Energy Act” and “of the Energy from Renewable Sources Act” and the words “under EA” and “under ERSA”, respectively “under the Energy Act” and “under the Energy from Renewable Sources Act”.

**TRANSITIONAL AND CONCLUSIVE PROVISIONS
TO THE ORDINANCE FOR AMENDMENT AND SUPPLEMENT OF ORDINANCE NO. 3 OF 2013 ON
LICENSING THE ACTIVITIES IN THE ENERGY SECTOR
(SG, No. 111/2020, effective as of 31.12.2020)**

§ 15. Entities under Art.155a – 155f shall set their activities in compliance with these provisions in a term of up to three months after their entering into force.

§ 16. The Ordinance shall enter into force as of the day of its promulgation in the State Gazette.

**CONCLUSIVE PROVISIONS
TO THE ORDINANCE FOR AMENDMENT AND SUPPLEMENT OF ORDINANCE NO. 3 OF 2013 ON
LICENSING THE ACTIVITIES IN THE ENERGY SECTOR
(SG, No. 65/2021, effective as of 06.08.2021)**

§ 13. The Ordinance shall enter into force as of the day of its promulgation in the State Gazette.

**TRANSITIONAL AND CONCLUSIVE PROVISIONS
TO THE ORDINANCE FOR AMENDMENT AND SUPPLEMENT OF ORDINANCE NO. 3 OF 2013 ON
LICENSING THE ACTIVITIES IN THE ENERGY SECTOR
(SG, No. 18/2023, effective as of 24.02.2023)**

.....
§ 20. Proceedings that have started before the entry into force of this Ordinance shall be completed under the conditions and according to the order of this Ordinance.

§ 21. This Ordinance shall enter into force as of the day of its promulgation in the State Gazette, with the exception of the provisions of § 5, item 1, letter “a” and item 5 and § 8, items 2 and 3, which enter into force after the entry into force of the amendment to Article 19, Paragraph 3 of the *Rules on the terms and conditions for providing access to the electricity transmission and distribution networks* (SG, No.98/2013).

TRANSITIONAL AND CONCLUSIVE PROVISIONS
TO THE ORDINANCE FOR AMENDMENT AND SUPPLEMENT OF ORDINANCE NO. 6 OF
2014 ON CONNECTION OF ELECTRICITY PRODUCERS AND CUSTOMERS TO THE
TRANSMISSION OR DISTRIBUTION ELECTRICITY NETWORKS
(SG, No. 55/2023, effective as of 27.06.2023)

.....

§ 19. Paragraph 18 shall also apply in proceedings instituted before its entry into force.

§ 20. The Ordinance was adopted by the Energy and Water Regulatory Commission with a decision under Protocol No. 202 of 22.06.2023 under item 2 and enters into force as of the day of its promulgation in State Gazette.