

**Law of Georgia**  
**on Energy and Water Supply**

**SECTION I**

**GENERAL PROVISIONS**

**Chapter I – Scope, Purpose and Objectives of the Law**

**Article 1 – Scope and purpose of the Law**

1. This Law provides a general legal framework for the generation, transmission, distribution, supply and trade in the electricity sector and for the transmission, distribution, supply, storage and trade in the natural gas sector, with a view to promoting the establishment, opening, development and integration of proper, transparent and competitive electricity and natural gas markets.
2. This Law regulates issues relating to the management, organisation, regulation, monitoring and supervision of the electricity and natural gas sectors, free access to electricity and natural gas markets, and cross-border trade in electricity and natural gas; it also establishes the criteria and procedures relating to the announcement of tenders, and the authorisation of energy activities, the operation of electricity and natural gas systems and access thereto, the provision of public services in the electricity and natural gas sectors, and customer rights and their protection.
3. This Law establishes measures for such degree of safety of supply that ensures the proper operation of the electricity and natural gas sectors. This Law also provides a legal framework within which a supply safety policy, the obligations of market participants, and procedures for ensuring the safety of supply, are determined, taking into account compliance with the requirements of competitive electricity and natural gas markets.
4. This Law provides a legal framework which reflects the requirements of the following EU legal acts, and for their entry into force:
  - a) Directive 2009/72/EC of 13 July 2009 concerning Common Rules for the Internal Market in Electricity and repealing Directive 2003/54/EC;
  - b) Regulation (EC) No 714/2009 of 13 July 2009 on Conditions for Access to the Network for Cross-border Exchanges in Electricity and repealing Regulation (EC) No 1228/2003;
  - c) Directive 2005/89/EC of 18 January 2006 concerning Measures to Safeguard Security of Electricity Supply and Infrastructure Investment;
  - d) Directive 2009/73/EC of 13 July 2009 concerning Common Rules for the Internal Market in Natural Gas and repealing Directive 2003/55/EC;
  - e) Regulation (EC) No 715/2009 of 13 July 2009 on Conditions for Access to the Natural Gas Transmission Networks and repealing Regulation (EC) No 1775/2005;
  - f) Directive 2004/67/EC of 26 April 2004 concerning Measures to Safeguard Security of Natural Gas Supply.
5. The requirements of the legal acts referred to in paragraph 4 of this article shall be reflected in the legislation of Georgia and become effective in an adapted manner established for the Energy Community, according to the respective decisions of the Energy Community Ministerial Council and in accordance with the Protocol of Accession of Georgia to the Treaty Establishing the Energy Community.



6. For natural gas, including liquefied natural gas, the norms established by this Law shall also apply to biogas and the gas derived from biomass, and to other types of gas, if it is technically possible to induce and transport such natural gas safely in a natural gas system.
7. For natural gas producers, this Law shall establish access to the natural gas system and the sale of natural gas on the market, as well the terms of participation in the natural gas market of Georgia, which include requirements relating to the connection of natural gas production equipment to transmission or distribution networks.
8. This Law shall not apply to the exploration, extraction and processing of natural gas or other hydrocarbons, the sale of natural gas through gas filling stations, nor to the production of gas products and any related relationships, except for activities related to natural gas processing in liquefied natural gas facilities.
9. This Law also regulates water supply and establishes a general framework for related legal relationships.
10. The provisions of this Law shall not apply to the retrieval and/or extraction of water from surface or underground water bodies.
11. This Law shall not apply to relationships originating in the intergovernmental agreement between Georgia and Azerbaijan with respect to the transit, transportation and sale of natural gas through the South Caucasus Pipeline, both in the territories of Georgia and the Republic of Azerbaijan, as well as beyond.

## **Article 2 – Objectives of the Law**

The objectives of this Law shall be to:

- a) provide legal grounds for customers based on established quality standards, in order to ensure the continuous supply of electricity and natural gas, and the safe delivery of potable water;
- b) provide the safe, reliable and efficient operation of electricity, natural gas and water supply systems and related services to all persons using the systems;
- c) determine the rights and obligations of regulated undertakings in accordance with the conditions provided for by this Law, and establish the rights and obligations of the Commission, as well as create a legal framework that regulates bilateral relations of regulated undertakings with each other, with the Commission, and with other state agencies;
- d) provide such conditions which, based on principles of competitiveness, transparency and non-discrimination, shall promote the full opening of the electricity and natural gas markets for the purpose of free trade in electricity and natural gas;
- e) establish common rules for the organisation and operation of the electricity and natural gas markets of Georgia including their further development, in the case of mutual connection with the countries of the Energy Community in the future, taking into account integration throughout Europe;
- f) determine the terms of performance of public services in the electricity and natural gas sectors and ensure the protection of the interests of end users;
- g) regulate and monitor the separation of transmission system operators and distribution system operators and guarantee their independence from other energy activities and commercial interests related thereto in accordance with the procedures established by this Law;
- h) develop relevant conditions for making investments in the electricity and natural gas systems, including in interconnectors with neighbouring systems, and in the means of increase of safety of supply, as well as in water supply systems;
- i) create legal grounds for regional and international cooperation between system and market operators, the Commission and other state agencies, and for bilateral cooperation between competent national authorities, state institutions, and other public agencies

## **Chapter II – Definition and Use of Terms**



### Article 3 – Definition of terms

The terms used in this Law shall have the following meanings:

a) ancillary services:

a.a) in the electricity sector – the services necessary for access to the electricity system and for the operation of electricity transmission and/or distribution networks, including frequency regulation, voltage control and resumption of supply;

a.b) in the natural gas sector – the services necessary for access to the natural gas system and for the operation of natural gas transmission and distribution networks, natural gas storage and/or liquefied natural gas facilities (except for facilities reserved for operators of natural gas transmission system for the performance of their functions), including load balancing, the mixing of inert gasses, and their introduction into the system;

b) authorisation – a licence or certificate to operate in the electricity, natural gas and water supply sectors, as well as the grant of other authorisations established by the legislation of Georgia;

c) available capacity – undistributed capacity for a particular time period, and which is available for electricity or natural gas systems;

d) balancing – all the actions and processes through which a transmission system operator ensures the continuous retention of determined parameters and quality standards for the purpose of operation of the systems at a stable level in order to enable the safe and reliable physical supply of electricity and natural gas to customers, including the management of capacity and energy flows, and the balancing of supply and demand;

e) balancing electricity – electricity necessary to balance the electricity system, including for providing ancillary services, and covering the difference between the actual amount in real time and the contractual amount;

f) balancing group – a group consisting of one or more participants in the electricity or natural gas markets, where the responsibility for any imbalance is imposed upon the person responsible for balancing;

g) person responsible for balancing a member of a balancing group who is responsible for any imbalance, and who has concluded a balancing and payment contract with a relevant operator;

h) capacity:

h.a) in the electricity sector – the maximum amount of electricity expressed in units of capacity (megawatts) the right to which is granted to an electricity power system user in accordance with the rules of an electricity transmission network;

h.b) in the natural gas sector – the maximum flow of natural gas expressed in cubic meters (or units of energy) in the unit of time, the right to which is granted to a user of a natural gas system in accordance with the terms of respective contracts concluded with a transmission system operator, a natural gas storage system operator, and/or a liquefied natural gas system operator;

i) certification – a procedure establishing the compliance of a transmission system operator with the requirements of independence and separation;

j) Commission the Georgian National Energy and Water Supply Regulatory Commission;

k) commissioner – a member of the Commission as elected under this Law;

l) Competition Agency the Legal Entity under Public Law called the Competition Agency;

m) congestion – a condition when the conductivity of an interconnector and/or a relevant system is insufficient for all physical flows of electricity or natural gas requested by system users, including for the flow arising from the cross-border trade;

n) congestion management the management of the capacity portfolio of a system operator for the purpose of the optimum and maximum use of power and the timely detection of congestion in the future;

o) contractual congestion – a situation where the level of demand for firm capacity exceeds the technical capacity of a natural gas



transmission network, or natural gas storage or liquefied natural gas facilities;

p) control – rights, contracts or other means which, together or individually, and in the context of existing reality and the legislation of Georgia, exert a substantial impact on an energy undertaking. This possibility may be derived from the right to property, the right to the full or partial use of the assets of an energy undertaking, and from other rights or contracts which make a considerable impact on the composition of the bodies of an energy undertaking, and the voting or decision-making at these bodies;

q) contracted capacity – the capacity distributed to a system user under a relevant contract by a natural gas transmission system operator, a natural gas storage system operator, or a liquefied natural gas system operator;

r) cross-border exchange:

r.a) in the electricity sector – the physical transfer of electricity into an electricity transmission network of Georgia performed as a result of cross-border trade in electricity between participants of the electricity market and individuals carrying out activities in neighbouring electricity systems;

r.b) in the natural gas sector – the physical overflow of natural gas into a natural gas transmission network of Georgia performed as a result of cross-border trade in natural gas between natural gas market participants and individuals carrying out activities in neighbouring natural gas systems;

s) customer – an end user of electricity or natural gas, a trader or an energy undertaking which purchases electricity and/or natural gas, and a consumer of potable water;

t) day-ahead electricity market:

t.a) in the electricity sector – an organised wholesale electricity market (like a stock exchange) where electricity is purchased and sold on an hourly basis, the day before the physical supply of such electricity;

t.b) in the natural gas sector – an organised wholesale natural gas market (like a stock exchange) where natural gas is purchased and sold on an hourly basis, the day before the physical supply of such natural gas;

u) direct line:

u.a) in the electricity sector – an electricity transmission line connecting an isolated place of electricity production with an isolated customer, or a line connecting an electricity producer and an electricity supplier through which their own place of activity, as well as subsidiary companies and qualified customers, are directly and immediately supplied with electricity;

u.b) in the natural gas sector – a pipeline connecting an isolated place of natural gas production with an isolated customer, or a pipeline connecting a natural gas producer and a natural gas supplier through which their own place of activity, as well as subsidiary companies and qualified customers, are directly and immediately supplied with natural gas;

v) dispatching – the management of operational capacities, the energy generated in production facilities, and/or the inflow energy within a transmission system, and/or the full management of energy flows within a transmission system, including through interconnectors with other systems;

w) distribution:

w.a) in the electricity sector – the transportation of electricity through a low and medium voltage (0,4-3,3-6-10-35-110 kilovolt networks) electricity distribution network to supply electricity to end users (not including supply/sale to end users);

w.b) in the natural gas sector – the transportation of natural gas through a natural gas distribution system (including a locally installed network that is not connected to the transmission network) to supply natural gas to end users (not including supply/sale to end users);

x) distribution network – an electricity and/or natural gas distribution network;

y) distribution system operator:

y.a) in the electricity sector – an electricity undertaking carrying out the activity of electricity distribution, an electricity distribution system operator responsible for the operation, maintenance and, where necessary, the development of an electricity distribution system in a respective area, as well as for the interconnection of an electricity distribution system to other systems



where possible, and for providing the long-term capacity of the system with a view to meeting reasonable demands relating to electricity distribution;

y.b) in the natural gas sector – a natural gas undertaking carrying out the activity of natural gas distribution, a natural gas distribution system operator responsible for the operation, maintenance and, where necessary, development of a natural gas distribution system in a respective area, as well as for the interconnection of a natural gas distribution system to other systems where possible, and for providing the long-term capacity of the system with a view to meeting reasonable demands relating to natural gas distribution;

z) water supply licensee – an undertaking carrying out water supply activities;

z<sub>1</sub>) water supply activities – the utilisation of a potable water supply system and/or wastewater system, the supply of potable water to water consumers, and/or a wastewater system within a specific water supply and/or wastewater system(s);

z<sub>2</sub>) potable water supply – the supply of potable water to water consumers through a potable water supply system;

z<sub>3</sub>) wastewater system – the draining and cleaning of wastewater through a cleaning facility to a permissible level;

z<sub>4</sub>) electricity balancing market – an organised market of trade in electricity for balancing an electricity system in real time;

z<sub>5</sub>) electricity derivative – a financial market instrument used for safeguarding electricity market participants against possible fluctuations in the market price of electricity;

z<sub>6</sub>) electricity distribution network – an electricity network consisting of an electricity facility, transformers, and medium and low voltage lines of not more than 110-kV voltage level, which connect the points of delivery present within the electricity transmission system, as well as of telecommunication and information technology equipment and other infrastructure required for the operation of the network, except for infrastructure assigned to the category of an electricity transmission network;

z<sub>7</sub>) electricity market – a market organised for trade in electricity and ancillary services in accordance with the terms determined by this Law, the concept of an electricity market model, the rules of the electricity market, and other legal acts (including the day-ahead electricity market, the daily electricity market, and the electricity balancing market) and/or a bilateral contract market;

z<sub>8</sub>) electricity market operator – a person responsible for organising certain segments of the electricity market of Georgia, which is determined under this Law and the subordinate acts adopted on the basis thereof;

z<sub>9</sub>) electricity market participant – a natural person or legal entity, including a system operator, authorised to purchase and/or sell electricity on the electricity market in accordance with the electricity market rules and other legal acts;

z<sub>10</sub>) electricity producer – an electricity undertaking which operates an electricity production facility (power station) and produces electricity;

z<sub>11</sub>) electricity supplier – an electricity undertaking supplying electricity to end users;

z<sub>12</sub>) electricity system – an electricity transmission and/or distribution network owned and/or used and operated by an electricity undertaking, including equipment necessary for providing ancillary services, and the related equipment of an electricity undertaking required for the transmission and distribution of electricity;

z<sub>13</sub>) electricity system service – services required for the adequate operation of electricity systems, including congestion management in electricity transmission and/or distribution networks, and ancillary services;

z<sub>14</sub>) electricity transmission network – an electricity network consisting of an electricity facility, transformers, and lines of higher than 110 kV voltage level which connect the points of delivery present within the electricity transmission system, as well as of telecommunication and information technology equipment and other infrastructure required for the operation of the network. By a decision of the Government of Georgia, an individual line/substation of a 110 kV or lower voltage level used for system and/or intersystem transit may be assigned to the category of electricity transmission network, which shall be specially indicated in its



transmission licence;

z<sub>15</sub>) electricity undertaking – any natural person or legal entity other than an end user which carries out at least one of the activities relating to electricity production, transmission, distribution or supply, and/or which is an owner of electricity transmission and/or distribution networks, and/or which trades in electricity or operates the electricity market, and is responsible for performing commercial, technical and/or maintenance functions with respect to these activities;

z<sub>16</sub>) qualified customer – an end user authorised to purchase electricity and/or natural gas from the supplier of his/her choice or from the organised market, according to the supply or market rules;

z<sub>17</sub>) parties to the Energy Community – contracting parties to the treaty establishing the Energy Community, as well as the European Union and its member states;

z<sub>18</sub>) energy market – an electricity and/or natural gas market;

z<sub>19</sub>) energy undertaking – an electricity and/or natural gas undertaking;

z<sub>20</sub>) end user – a customer purchasing electricity and/or natural gas for his/her own consumption;

z<sub>21</sub>) firm capacity – the capacity of a natural gas transmission network or natural gas storage facility or liquefied natural gas facility that, based on a contract concluded with an operator of a relevant system, is guaranteed as continuous capacity;

z<sub>22</sub>) guaranteed capacity – the capacity of an electricity production facility reserved to ensure the stability, safety and reliability of the electricity system, including the balance of supply and demand;

z<sub>23</sub>) horizontally integrated electricity undertaking – an electricity undertaking which performs at least one of the functions relating to the production of electricity for the purpose of its sale, transmission, distribution, supply and trade, or for the purpose of operation of the electricity market, in a manner that ensures that it is not a vertically integrated electricity undertaking, and simultaneously carries out such other activities unrelated to the electric power industry;

z<sub>24</sub>) horizontally integrated natural gas undertaking – a natural gas undertaking which performs at least one of the functions relating to the production, transmission, distribution, supply, storage, and trade of natural gas, or operation of the natural gas market, in a manner that ensures that it is not a vertically integrated electricity undertaking, and simultaneously carries out such other activities unrelated to natural gas;

z<sub>25</sub>) household customer – an end user which purchases electricity and/or natural gas for his/her own household consumption, that does not include a commercial or professional activity;

z<sub>26</sub>) interconnected system – electricity or natural gas systems physically connected with each other by one or more interconnector;

z<sub>27</sub>) interconnector – an electricity transmission line or natural gas transmission pipeline that crosses the border of Georgia and another country or that is stretched across the border in order to link the electricity or natural gas transmission system of Georgia with a similar transmission system of another country;

z<sub>28</sub>) interruptible capacity – capacity that can be terminated by a natural gas transmission system operator, a natural gas storage system operator, or a liquefied natural gas system operator, in accordance with the terms of a contract concluded with the operator of the system in question;

z<sub>29</sub>) daily electricity market – the organised wholesale electricity market (like a stock exchange) where electricity is purchased and sold through continuous trade, based on transactions arising after the closure of the day-ahead electricity market;

z<sub>30</sub>) large customer – a non-household end user who has the right to trade on the organised energy market and whose criteria and legal status are determined by the Commission;



- z<sub>31</sub>) licence – the right to carry out an activity determined under this Law and granted to a person, based on a decision of the Commission, and on the basis of compliance with the conditions established by the Law of Georgia on Licences and Permits, and this Law;
- z<sub>32</sub>) licence applicant – a person applying to the Commission with a request to issue a licence for a licence activity regulated under this Law;
- z<sub>33</sub>) licensee – a person holding a licence for a licence activity regulated under this Law;
- z<sub>34</sub>) network gas – natural gas stored within the natural gas transmission system (except for equipment reserved for a natural gas transmission system operator for the performance of its functions) in a compressed manner;
- z<sub>35</sub>) liquefied natural gas facility – a terminal used for liquefying natural gas, or the importation, unloading, and regasification of natural gas. A liquefied natural gas facility includes ancillary services, and temporary storage required for the process of regasification and for further supply to the natural gas transmission system, except for the parts of liquefied natural gas terminals used for the storage of natural gas;
- z<sub>36</sub>) capacity of a liquefied natural gas facility – the capacity available in a terminal of liquefied natural gas used for liquefying natural gas or importing liquefied natural gas, providing ancillary services and for temporary storage and regasification;
- z<sub>37</sub>) liquefied natural gas system operator – a natural gas undertaking which liquefies natural gas or imports, unloads and regasifies liquefied natural gas and is responsible for the operation of a liquefied natural gas facility;
- z<sub>38</sub>) micro-generating power plant – an electricity production facility owned by an end user or group of end users that utilises renewable energy sources, connects to an electricity distribution network, and the designed capacity of which does not exceed 100 kilowatts, except where the Commission determines a higher upper margin, which shall not exceed 500 kilowatts;
- z<sub>39</sub>) Ministry – the Ministry of Economy and Sustainable Development of Georgia;
- z<sub>40</sub>) natural gas balancing market – an organised market for the purchase and sale of natural gas required for balancing the natural gas system;
- z<sub>41</sub>) natural gas derivative – a financial market instrument used for safeguarding natural gas market participants against possible fluctuations in the market price of natural gas;
- z<sub>42</sub>) natural gas distribution network – a natural gas network connecting a point of delivery and a customer, the design and/or working pressure of which does not exceed 1.2 MPa, and also the metering and regulating stations present at all points of delivery in a natural gas distribution system, and electric communications and information systems and other infrastructure required for the distribution of natural gas;
- z<sub>43</sub>) natural gas market – a market organised in accordance with the terms determined by this Law, the concept of a natural gas market model, the natural gas market rules and other legal acts for trade in natural gas and ancillary services;
- z<sub>44</sub>) natural gas market operator – a person responsible for the organisation of certain segments of the natural gas market of Georgia, as determined under this Law and subordinate acts adopted on the basis thereof;
- z<sub>45</sub>) natural gas market participant – a natural person or legal entity, including a system operator authorised to purchase and/or sell natural gas on the natural gas market, in accordance with the natural gas market rules and other legal acts;
- z<sub>46</sub>) natural gas producer – a natural gas undertaking that operates a natural gas production facility and is authorised to process natural gas in accordance with the legislation of Georgia;
- z<sub>47</sub>) natural gas storage capacity – any combination of natural gas storage volume, capacity of injection, and supply of storage



facility;

z<sub>48</sub>) natural gas storage facility – a facility owned and/or operated by a natural gas undertaking used for creating natural gas supplies, including parts of a liquefied natural gas facility used for storing natural gas. Parts used for producing natural gas, as well as equipment reserved for a natural gas transmission system operator to perform its functions, shall not be considered a natural gas storage facility;

z<sub>49</sub>) natural gas storage system operator – a natural gas undertaking performing the function of natural gas storage, and responsible for the operation of a natural gas storage facility;

z<sub>50</sub>) natural gas supplier – a natural gas undertaking supplying natural gas to end users;

z<sub>51</sub>) natural gas system – a natural gas transmission, and/or distribution network, and/or natural gas storage and/or liquefied natural gas facilities, owned and/or operated by a natural gas undertaking, including for the storage of network gas, as well as equipment for providing ancillary services, and related undertaking equipment required for natural gas transmission, distribution and storage, as well as for access to liquefied natural gas;

z<sub>52</sub>) natural gas system services – services required for the adequate operation of natural gas systems, including the management of natural gas transmission and distribution networks, the resumption of supply, and the regulation and control of pressure;

z<sub>53</sub>) natural gas transmission network – an infrastructure the design pressure of which exceeds 1.2 MPa, as well as measuring units and regulating stations, block valve stations, compression stations, electronic communication and information systems, and other infrastructure at all supply points which are required for the transmission of natural gas and the storage of network gas, except for the vehicles provided for by the Law of Georgia on Oil and Gas;

z<sub>54</sub>) natural gas undertaking any natural person or legal entity, other than an end user, which carries out at least one of the activities relating to natural gas production, transmission, distribution, supply or storage, and/or which is an owner of a natural gas transmission and/or distribution network, which trades in natural gas or operates the natural gas market, and is responsible for performing commercial, technical and/or maintenance functions with respect to the above-mentioned activities;

z<sub>55</sub>) non-household customer – a customer which purchases electricity and/or natural gas for non-household consumption, including undertakings and traders;

z<sub>56</sub>) operational safety of electricity networks the continuous operation of electricity transmission and, in respective cases, of distribution networks under predictable circumstances;

z<sub>57</sub>) simultaneous operation of electricity systems the synchronous or asynchronous operation of two or more interconnected neighbouring electricity systems, or parts thereof, in order to maintain the stability of the electricity system, within specified parameters;

z<sub>58</sub>) point of delivery – a specified point in a system, including an interconnection point, where a respective system operator supplies electricity or natural gas to a system user or customer for further transportation or consumption;

z<sub>59</sub>) point of receipt – a specified point in a system, including an interconnection point, where a respective system operator receives electricity and/or natural gas from producers or other interconnected systems;

z<sub>60</sub>) natural gas production – the extraction, treatment and/or processing of natural gas before its supply to a natural gas system, for the purpose of its further transportation, storage, repeated processing and/or consumption;

z<sub>61</sub>) protected customer – a household customer and a small undertaking connected to a natural gas distribution network, a basic social purpose institution connected to a natural gas distribution or transmission network, and the installation for central heating that is a source of heating for the said customers is connected to a natural gas distribution or transmission network, and which cannot be switched to another type of fuel;

z<sub>62</sub>) public service obligation – an obligation, based on the common economic interests imposed upon an energy undertaking, to





provide a service based on safety, including the safety of supply, and on sustainability, quality and price, as well as on environmental protection. A public service obligation shall be non-discriminatory and shall not restrict competition more than necessary in providing the respective public service. The provision of a public service by an energy undertaking, under this Law, shall not entail the exercise of public legal powers as provided for by the General Administrative Code of Georgia;

z<sub>63</sub>) related undertaking – an affiliated and/or interdependent person(s) as determined by the legislation of Georgia;

z<sub>64</sub>) regulated undertaking – all types of energy undertakings, including a water supply licensee, the activities of which are regulated under this Law, and which are subject to the regulatory competence of the Commission;

z<sub>65</sub>) renewable energy sources – sources of renewable non-fossil energy, including wind, sun, geothermal, wave, tidal, and hydro energy, gas produced from waste processing, gas from wastewater systems, and biogas;

z<sub>66</sub>) safety of supply – the ability of an electricity/a natural gas system to supply electricity/natural gas to end users in compliance with the requirements established by this Law;

z<sub>67</sub>) small undertaking – a non-household customer (other than a trader) the number of employees, annual turnover, accounting balance and/or other indicator of which does not exceed the amount specified by the Government of Georgia;

z<sub>68</sub>) natural gas storage – the storage of natural gas, by a respective system operator, in a natural gas storage facility or a liquefied natural gas facility, including the provision of related services to system users;

z<sub>69</sub>) supply the sale of electricity/natural gas, including liquefied natural gas, to end users;

z<sub>70</sub>) supply contract – a contract on the supply of electricity and/or natural gas, including liquefied natural gas;

z<sub>71</sub>) supply of last resort – supply in the form of public service provision, for a limited period and under the regulated terms and conditions, to an end user who, because of certain circumstances, failed to choose or lost an electricity and/or natural gas supplier;

z<sub>72</sub>) system – an electricity and/or natural gas system;

z<sub>73</sub>) system operator – an electricity transmission system operator, an electricity distribution system operator, a natural gas transmission system operator, a natural gas distribution system operator, a natural gas storage system operator, a liquefied natural gas system operator;

z<sub>74</sub>) system user – any natural person or legal entity using the services of a system;

z<sub>75</sub>) take-or-pay contract – a contract for the purchase and sale of natural gas that obligates a buyer to pay a cost that is relevant to the full amount of the contracted capacity, or to a part determined by the contract, irrespective of actual consumption;

z<sub>76</sub>) tariff – the price of goods and services established by the Commission in accordance with the procedures established by this Law;

z<sub>77</sub>) tariff methodology – a set of rules, methods and principles which have been determined and adopted by the Commission and which are applied to establish tariffs and/or fees;

z<sub>78</sub>) technical capacity – the maximum firm capacity that can be offered to system users by a natural gas transmission system operator, a natural gas storage system operator, or a liquefied natural gas system operator, taking into account the integrity of the natural gas system in question, and the operational requirements thereof;

z<sub>79</sub>) third country – any country which is not a party to the Energy Community or a member of the European Economic Area;

z<sub>80</sub>) access of a third person – right to access to and use of a system for any person according to specified procedures and



conditions;

z<sub>81</sub>) trade – the purchase and sale of electricity and/or natural gas for the purpose of its resale in or outside of the territory of Georgia;

z<sub>82</sub>) trader – a person trading in electricity/natural gas on the wholesale market in accordance with the procedures established by the respective market rules, except for a system operator;

z<sub>83</sub>) electricity transmission – the transportation of electricity through an electricity transmission network from the point of receipt to the point of supply in order to ensure the supply of electricity;

z<sub>84</sub>) natural gas transmission – the transportation of natural gas through a natural gas transmission network to the point of supply in order to ensure the supply of natural gas;

z<sub>85</sub>) transmission system operator:

z<sub>85</sub>.a) in the electricity sector – an electricity undertaking carrying out the activity of electricity transmission, an electricity transmission system operator responsible for the operation, maintenance and development of an electricity transmission system in a respective area, as well as for the interconnection of an electricity transmission system to other systems where possible, and for providing the long-term capacity of the system with a view to meeting reasonable demands for electricity transmission;

z<sub>85</sub>.b) in the natural gas sector – a natural gas undertaking carrying out the activity of natural gas transmission, a natural gas transmission system operator responsible for the operation, maintenance and development of a natural gas transmission system in a respective area, as well as for the interconnection of a natural gas transmission system to other systems where possible, and for providing the long-term capacity of the system with a view to meeting reasonable demands for natural gas transmission;

z<sub>86</sub>) transmission system owner – an undertaking which is the owner of an electricity or natural gas transmission system but is not a transmission system operator;

z<sub>87</sub>) universal service – the supply of electricity in the form of providing a public service, under regulated terms and conditions, to a household customer and small undertaking authorised to receive this service on such terms, by their choice or automatically, determined by the legislation of Georgia;

z<sub>88</sub>) unused capacity – the firm capacity obtained by a system user based on a respective contract concluded with a natural gas transmission system operator, a natural gas storage system operator, or a liquefied natural gas system operator, for the utilisation of which the system user did not provide prior notification within a specified period in accordance with the network rules;

z<sub>89</sub>) vertically integrated undertaking:

z<sub>89</sub>.a) in the electricity sector – a vertically integrated energy undertaking, an electricity undertaking, or a group of electricity undertakings, performing, on the one hand, at least one function of electricity transmission and/or distribution, and on the other hand, at least one function of electricity production and/or supply at the same time, the direct or indirect control of which the same person(s) is (are) entitled;

z<sub>89</sub>.b) in the natural gas sector – a vertically integrated natural gas undertaking, a natural gas undertaking, or group of natural gas undertakings, performing, on the one hand, at least one function of natural gas transmission, distribution and/or storage, and on the other hand, at least one function of natural gas production and/or supply at the same time, the direct or indirect control of which the same person(s) is (are) entitled;

z<sub>90</sub>) vulnerable customer – a household customer which, due to his/her status or condition, has been granted the right to use a system and/or receive electricity and/or natural gas and/or water supply on preferential terms, under the respective legislation of Georgia;

z<sub>91</sub>) small power plant – a power plant the design capacity of which does not exceed 15 megawatts;



z<sub>92</sub>) water supply system – a potable water supply system and/or wastewater system;

z<sub>93</sub>) potable water supply system a combination of a network for water intake, transportation and distribution (pipelines, reservoirs, open and closed channels, and where necessary, pump stations, etc.) used for providing potable water to water consumers;

z<sub>94</sub>) wastewater system – a combination of wastewater networks, underground and overground unconfined flow pipes and confined flow pipes, tunnels, special premises (treatment facilities, pumping stations, etc.) and equipment and installations that enable the receipt and draining of wastewater from customers, and its cleaning to a permissible level;

z<sub>95</sub>) potable water – water the quality of which has been determined by the technical regulations for potable water;

z<sub>96</sub>) potable water consumption rate – water consumption per inhabitant individually determined for each water supply licensee by the Commission during the calculation of a potable water tariff, and which is included in the water supply tariff.

#### **Article 4 – Use of terms**

All the general terms determined in this Law shall be defined and applied to all sectors provided for by this Law, except where the context of a respective provision expressly indicates its application only to a specific sector or related relationship.

## **SECTION II**

### **ELECTRICITY AND WATER SUPPLY ACTIVITIES**

#### **Chapter III – Regulation of Energy Activities**

#### **Article 5 – General principles of regulation of energy activities**

1. The main principles of organisation, regulation and monitoring of energy activities shall be:

- a) the safety and reliability of operation of electricity and natural gas systems and of the provision of related services;
- b) the safe supply of electricity and natural gas to customers residing and carrying out activities in the territory of Georgia;
- c) unlimited access to electricity and natural gas systems and the effective exercise of the right to replace a supplier in accordance with the conditions determined by this Law;
- d) to ensure competition, transparency, non-discrimination and legal certainty in all types of energy activities, regardless of whether such activities are carried out in the form of a public service obligation or in the context of a market activity;
- e) the independence of transmission and distribution activities from other energy activities and related commercial interests, and the exclusion of preconditions for conflicts of interest and cross subsidising;
- f) the increase in efficiency and sustainable development of energy activities in accordance with the environmental, economic and social security policy of Georgia, as well as the reduction of negative environmental impacts;
- g) support for the use of smart and eco-friendly technologies when operating a system;
- h) the promotion of the cross-border exchange of electricity and overflow of natural gas for the purpose of the efficient use of



capacities of interconnectors, diversification in energy markets, and increase in competition, in accordance with clearly determined, transparent and non-discriminatory tools for capacity distribution and congestion management;

- i) the protection of the rights and legitimate interests of participants and end users in electricity and natural gas markets;
- j) the provision of the physical availability and affordability of electricity and natural gas to the advantage of customers residing and carrying out activities in Georgia.

2. The legal acts regulating energy activities or those related thereto shall be defined and introduced with consideration for the basic principles determined by paragraph 1 of this article.

## **Article 6 – Competent authorities**

1. The Government of Georgia, the Ministry and other state agencies shall take respective decisions on the management of energy activities within the special competences determined by this Law and other legislative and subordinate normative acts of Georgia.
2. The Commission, as the only national regulatory body responsible for the area provided for by this Law, shall be created and shall operate in accordance with the procedures established by this Law.
3. The procedure for issuing a permit for the construction of facilities in the areas provided for by this Law and the agencies authorised to issue a permit shall be determined by the Law of Georgia on Licences and Permits and respective subordinate acts.
4. To harmonise regulatory and administrative practices in the energy and water supply sectors, the competent authorities provided for by this article shall ensure close cooperation at national and regional levels.

## **Article 7 – State Energy Policy**

1. The Ministry, in cooperation with the Government of Georgia, the Commission and other relevant parties, shall develop a state energy policy for at least a 10-year period, and ensure its implementation, following its approval and promulgation by the Parliament of Georgia, in accordance with the appropriate procedure.
2. The following issues shall be reflected in the State Energy Policy:
  - a) the strategy and priorities developed for the electricity and natural gas sectors for short, medium and long-term periods, including the strategic development of activities relating to electricity production, transmission (including cross-border transmission) and distribution, as well as natural gas production, transmission (including cross-border transmission), distribution and storage, and of activities relating to liquefied natural gas;
  - b) measures aiming at the safe and reliable supply of electricity and natural gas to customers residing and carrying out activities in the territory of Georgia;
  - c) activities which provide the physical availability and affordability of electricity and natural gas for customers residing and carrying out activities in the territory of Georgia, and ensure the gradual overcoming of energy poverty;
  - d) the planning of long-term balancing of supply and demand by the development of the energy sector and energy activities, taking into account the trends of consumption of electricity and natural gas;
  - e) mechanisms for the diversification of primary energy sources used for electricity production, as well as for the diversification of import sources, routes and suppliers of electricity and natural gas;
  - f) means for increasing and improving the capacities of electricity exports from Georgia under economically efficient and sustainable conditions;
  - g) measures aiming at using sources of renewable energy for the production and consumption of electricity produced from such sources, as well as any supportive measures or mechanisms to encourage the use of renewable energy sources;
  - h) measures and related supporting mechanisms which aim at promoting the combined production of electricity and heat;



- i) measures for the increase in efficiency of energy activities, and the consumption of electricity and natural gas;
- j) issues relating to the increase in efficiency of energy activities and to the reduction of negative environmental impacts, and their sustainable development, in accordance with the environmental, economic and social security policy of Georgia;
- k) measures for protecting the rights and interests of all participants in the energy sector, including vulnerable customers;
- l) measures for encouraging and attracting investments in electricity production, transmission and distribution infrastructure, natural gas transmission and distribution infrastructure, and where appropriate, in natural gas production, storage and liquefied natural gas facilities, including the introduction of innovative, environmentally safe and smart technologies to the electricity and natural gas sectors;
- m) measures promoting competition, transparency, non-discrimination and legal clarity in energy activities;
- n) measures promoting scientific research and education in the energy field including the attraction of state subsidising and private investments;
- o) other analyses, forecasts, opinions and recommendations important for the operation and development of energy sector of Georgia.

3. The State Energy Policy shall take into account all the energy resources used in the country, and it shall include a national, integrated climate plan aiming to provide energy security and solidarity, the management of energy markets, the reduction of greenhouse gas emissions, the management of innovation, competition and energy requirements in the energy sector. The national plan shall take into account the goals for each direction, and describe the policy necessary for the achievement of each goal, as well as the measures required for the implementation of the policy. The national plan shall be approved as a part of or an annex to the State Energy Policy document. The national plan shall be prepared and submitted to the Energy Community Secretariat in accordance with the recommendation of the Energy Community Ministerial Council and the guidelines issued by the Energy Community Secretariat.

## **Chapter IV – Organisation of Energy Activities**

### **Article 8 – Energy activities**

1. For the purposes of this Law, energy activities shall be:

- a) electricity activities;
  - a.a) electricity production;
  - a.b) electricity transmission;
  - a.c) electricity distribution;
  - a.d) electricity supply;
  - a.e) trade in electricity;
  - a.f) the operation of the electricity market;
- b) natural gas activities:
  - b.a) natural gas production;
  - b.b) natural gas transmission;



b.c) natural gas distribution;

b.d) the operation of natural gas storage systems;

b.e) the operation of liquefied natural gas facilities;

b.f) natural gas supply;

b.g) trade in natural gas;

b.h) the operation of the natural gas market.

2. Electricity production without using a transmission and/or distribution network for personal consumption of the full amount shall not be regulated by this Law, except where such producer intends to sell surplus electricity to another electricity undertaking or customer.

## **Article 9 – Public service**

1. Taking into account the general economic interest, an energy undertaking may have imposed upon it the obligation to provide a public service in order to ensure security, continuity, and appropriate quality and cost of supply, as well as environmental protection, energy efficiency, and energy production from renewable energy sources and climate protection.

2. A public service obligation upon an energy undertaking shall be imposed by the Government of Georgia after consulting the competent state authorities, the Commission, and the Energy Community Secretariat.

3. A public service obligation is an interim measure that shall be subject to regular revision for the purpose of determining its need and the results of its impact.

4. An obligation to provide a public service may, except for a service as provided for by paragraph 11 of this article, be imposed on any energy undertaking, if required for the achievement of the goals established by this Law. The imposition and fulfilment of a public service obligation shall be transparent, non-discriminatory and easily verifiable. It shall be proportional, shall not restrict competition in the energy markets more than necessary for the achievement of the goals of said public service, and shall also provide the energy undertakings of the parties to the Energy Community with equal access to end users in Georgia.

5. When imposing a public service obligation upon an energy undertaking, the Government of Georgia shall, in accordance with the requirements of this Law, designate persons or a group of persons who will receive such service.

6. For the fulfilment of a public service obligation, an energy undertaking shall be granted financial or other compensation, or any exclusive right in a transparent and non-discriminatory manner; moreover, such benefit granted by the State shall not exceed the costs related to the fulfilment of the relevant public service obligation, taking into account the income and reasonable profits received. The Commission shall be authorised to establish a rate for the fulfilment of a public service obligation.

7. All the measures in the form of a public service obligation offered under this Law shall be assessed taking into account the requirements of this article and, where appropriate, shall be substantiated in compliance with the requirements of the legislation of Georgia regulating competition and/or state aid.

8. Energy undertakings providing a public service shall, within the specific scope determined by this Law for adequate energy activity, and in compliance with the established requirements, provide:

a) safety of supply;

b) the supply of electricity or natural gas of a predetermined and/or agreed quality;

c) in certain cases, the use of the tariffs or fees established under regulated terms and conditions;

d) the improvement of environmental protection and energy efficiency;

e) the protection of human health, life and property;



f) the protection of customers' rights.

9. The Energy Community Secretariat shall be notified of all measures which aim to impose a new public service obligation, or change an existing one, including with respect to customers and environmental protection, and shall receive a submitted assessment report of their potential impact on national and international competition. The Energy Community Secretariat shall also be notified of any subsequent changes made to such measures and activities.

10. The information referred to in paragraph 9 of this article shall be prepared and provided by the Ministry in cooperation with the Commission.

11. The terms and procedures for imposing a public service obligation provided for by this article shall not apply to an energy activity that is carried out in the form of a public service in compliance with this Law and the terms determined by the subordinate normative acts adopted on its basis:

- a) electricity or natural gas transmission by a transmission system operator;
- b) electricity or natural gas distribution by a distribution system operator.

### **Article 10 – Market activity**

1. An energy activity not considered a public service nor subject to a public service obligation under Article 9 of this Law, shall be carried out in the form of a market activity, in accordance with the procedures regulating the respective activity, and the quantity and price of electricity or natural gas and/or related services, as well as other commercial terms, shall be determined by a contract, and/or by a direct offer of price in the organised electricity or natural gas markets.

2. The organisation and implementation of a market activity shall meet the needs of an end user and aim at the safe, reliable and efficient supply of electricity and natural gas, in compliance with the principles of fair competition and the legal equality of energy undertakings.

## **Chapter V – Authorisation of Energy and Water Supply Activities**

### **Article 11 – Mandatory authorisation of energy and water supply activities**

1. According to the terms of the Law of Georgia on Licences and Permits and this Law, the Commission shall issue licences for the following activities:

a) in the electricity sector:

a.a) electricity production, except for the cases provided for by paragraph 3 of this article;

a.b) electricity transmission;

a.c) electricity distribution;

a.d) the operation of the electricity market;

b) in the natural gas sector:

b. a) natural gas transmission;

b.b) natural gas distribution;

b.c) the operation of a natural gas storage system;



b.d) the operation of a liquefied natural gas facility;

b.e) the operation of the natural gas market;

c) water supply.

2. It shall be prohibited to carry out an activity provided for by paragraph 1 of this article without a licence issued by the Commission that allows an undertaking to carry out the respective activity.

3. The following shall not require licensing:

a) the production of electricity by an individual for his/her own (household and/or non-household) consumption, only where the facility of both electricity production and electricity consumption is not connected to an electricity transmission or distribution network;

b) electricity production during the commissioning of a facility in accordance with Article 36 of this Law;

c) electricity production by small and micro-generating power plants.

4. A small power plant and an energy undertaking which carries out or intends to carry out the activity of electricity or natural gas supply, or that of a trade which does not require a licence, shall be obliged to report on same in accordance with Article 102 of this Law.

## **Article 12 – Licensing terms and conditions**

1. The Commission shall issue licences to undertakings which comply with the terms and conditions established by the Law of Georgia on Licences and Permits, this Law and the licensing procedures approved by the Commission.

2. A licence applicant shall be obliged to substantiate the following capacities of an undertaking, through the documents provided for by Article 13 of this Law:

a) technical, economic, financial and operational (human resources) capacities, which are required for the performance of the functions relating to the activities subject to licensing and determined by the legislation of Georgia;

b) the ability to take all measures required to assure the quality of the service to be provided;

c) the ability to adequately fulfil other obligations established by the legislation of Georgia for the relevant activity.

3. In respective cases, an applicant seeking to obtain a licence in the area of energy activity shall also substantiate his/her ability to fulfil a public service obligation as determined by Article 9 of this Law.

4. The availability of the capacities provided for by paragraph 2, and in relevant cases, paragraph 3 of this article, shall be a mandatory licensing condition. If a licence applicant fails to prove the capacity to adequately fulfil the above-mentioned conditions, the Commission shall not issue a licence.

5. A licence applicant shall be obliged to ensure the adequate fulfilment of the licence terms and conditions throughout the licence duration period. When supervising the activity subject to licensing, the Commission shall have the right to request from a licensee documents which prove compliance with the licence terms and conditions. The failure to meet this requirement shall be considered a violation of the licence terms and conditions and shall result in the imposition of liability as provided for by the Law of Georgia on Licences and Permits and this Law.

## **Article 13 – Issuing licences**

1. A licence to operate shall be issued in a transparent, impartial, legally substantiated and non-discriminatory manner, in accordance with the terms and conditions established by this Law, the Law of Georgia on Licences and Permits, and the licensing procedures approved by the Commission.





2. In addition to the fulfilment of the requirements provided for by the Law of Georgia on Licences and Permits, a license applicant in the area of energy activity shall, together with a licence application, also submit the following to the Commission:

- a) documents certifying ownership of the electricity or natural gas facility required for a specific energy activity (or the right to use such facility); if necessary, the Commission shall be authorised to require that the licence applicant extend a right of temporary ownership for a minimum term determined by the Commission;
- b) documents certifying the commissioning of an electricity or natural gas facility referred to in sub-paragraph (a) of this paragraph, if obtaining such documents is mandatory under the relevant legislation of Georgia, and/or documents certifying the compliance of the said facility with the technical requirements provided for by Article 97 of this Law;
- c) documents certifying ownership of the facilities necessary for carrying out specific energy activities, and for providing the related services to market participants, or documents certifying the legal right to use such facilities and/or related operating or maintenance services through third persons;
- d) a plan of the electricity or natural gas network owned by the energy undertaking, in accordance with the required licence and in the form specified by the Commission;
- e) technical conditions for connection to an electricity or natural gas network, if, in accordance with the required licence, the performance of the energy activity requires connection to an electricity or natural gas network;
- f) an environmental decision provided for by the Environmental Assessment Code, if, under the legislation of Georgia, such decision is mandatory for carrying out the energy activity in question;
- g) a list of fixed assets with indications of values and a conclusion on the assessment (audit) of the energy undertaking applying for a licence;
- h) the organisational structure of a licence applicant, certifying that an energy undertaking seeking a licence has the human resources with the qualifications and competences required for the performance of professional functions relating to particular energy activities, or documents certifying the performance of the above-mentioned functions through third persons.

3. An electricity or natural gas transmission license applicant shall, among other requirements, also comply with the requirements established by Chapters XI and XII of this Law with respect to the separation and certification of transmission system operators. A certified transmission licence applicant shall not be required to provide documents certifying separation along with a licence application.

4. A license applicant for an electricity or natural gas distribution shall, in addition to meeting other requirements, also comply with the requirements established by Article 73 of this Law for the separation of distribution system operators. The licence applicant shall submit to the Commission respective certifying documents.

5. In addition to meeting the requirements established by the Law of Georgia on Licences and Permits, a license applicant in the area of water supply shall, along with the licence application, also submit the following to the Commission:

- a) a document certifying the possession of the means of production (or the right to use such means);
- b) a scheme of the potable water supply system and/or wastewater system relevant to the requested licence, and a technological description of its operation;
- c) a document certifying the compliance of the technical conditions of the means of production provided for by sub-paragraph (a) of this paragraph with valid technical standards;
- d) a list of fixed assets and a conclusion on the assessment (audit) of the undertaking applying for a licence.

6. At the request of the Commission, a licence applicant shall be obliged to submit to the Commission all the factual circumstances including respective documents, data and information, which prove the licence terms and conditions relevant to the licence requested by the licence applicant are met.

7. The Commission shall ensure the publication on its website and constant updates of the full list of documents to be submitted by a licence applicant, and of respective regulatory legal acts, and of the standard forms of competent public authorities and standard forms relating to licensing, in accordance with this Law, the Law of Georgia on Licences and Permits, and licensing procedures.



8. The issue of a licence shall be certified by a licence certificate issued by the Commission under the Law of Georgia on Licences and Permits which, in addition to other data, shall also indicate the licence holder, the activity subject to licensing, the service to be provided by the licensee, the location of fixed assets, and the scope and date of issue of the licence. The standard form of a licence certificate shall be approved by the Commission.

9. A licence applicant may be denied the issue of a licence only on the grounds established by this Law and the Law of Georgia on Licences and Permits. The refusal to issue a licence shall be legally substantiated and based on principles of impartiality, transparency and non-discrimination. The refusal to issue a licence shall be explained to the licence applicant in a proper manner.

10. The refusal to issue a licence may be appealed in the manner established by this Law and the Law of Georgia on Licences and Permits.

11. All the cases of refusal to issue a licence to operate in the energy sector shall, along with the causes of refusal, be notified to the Energy Community Secretariat.

#### **Article 14 – Rights and obligations of a licensee**

1. A licensee may, in accordance with the procedures established by the legislation of Georgia, fully exercise the rights granted to him as a result of a licence for a specific activity, and shall be obliged to perform the functions and obligations imposed on him/her in a proper manner.

2. Without prior consent from the Commission, a licensee shall have no right to reduce or extend beyond its scope the service provided for by the licence, except where the service is terminated or reduced due to the non-payment of the service fee by a system user or customer, and/or due to the technical or safety reasons specified by the legislation of Georgia. In addition to the above-mentioned exceptions, the licensee shall be obliged to apply to the Commission in advance for the termination or reduction of a service, with a reasonable notice period, requesting the termination or reduction of the service. In such cases, if the Commission receives a request for termination and/or reduction of the service or for repealing a licence, in accordance with the requirements of the Law of Georgia on Licences and Permits, it shall be authorised to take a decision on the appointment of a special manager if, where the request of the licensee is met, the continuous supply of electricity and natural gas, and reliable potable water provision, in compliance with the quality standards established for customers, may be jeopardised. The licensee shall deliver a licence certificate if he/she receives the approval of the Commission on the termination or reduction of the service. In such case, the Commission shall have the right to amend or repeal said licence.

3. A licensee shall not be obliged to continue delivering a service provided for by a licence, if a system user or customer of such service fails to comply with the requirements provided for by the legislation of Georgia and/or a service contract.

4. In accordance with the licensing procedures approved by the Commission, a licensee shall be obliged to notify the Commission of any amendments made to the data or information submitted in obtaining the licence. The Commission shall determine the data and information where amendments thereto are to be immediately notified, and establish the time frames for notifying amendments made to any other types of data or information.

5. A licensee shall, in accordance with the reporting procedure approved by this Law, the Law of Georgia on Licences and Permits and by the Commission, prepare and present an activity report to the Commission and, in the cases provided for by this Law, to other competent state authorities.

6. If a licensee fails to fulfil the obligations imposed on him/her, this will result in liability as provided for by this Law and the Law of Georgia on Licences and Permits.

7. The Commission shall have the authority to issue a licence without the documents determined by Article 13(2) of this Law, provided that the licensee submits these documents within the time frames determined by the Commission.

8. If the licensee, to which a licence has been issued under paragraph 7 of this article, fails to provide documents within the time frames determined by the Commission, the latter shall, by its own initiative, be authorised to repeal the licence and/or determine an additional period for the licensee to provide such documents, and/or apply measures as provided for by the legislation of Georgia against the licensee.

#### **Article 15 – Licence validity in time and space**



1. The licences provided for by this Law shall be issued for an indefinite period.
2. For the operation of the electricity market, as well as of respective segment(s) of the natural gas market, only one relevant licence may be issued that grants the licensee an exclusive right to carry out the relevant activity in the territory of Georgia.
3. Licences for the transmission and distribution of electricity and natural gas, as well as a water supply licence, grant the relevant licensees an exclusive right to carry out activities in the geographical or administrative or other area provided for by the licence. For the said activity, a licence for only one relevant activity shall be issued in one geographical, administrative or other area.
4. Except as provided for by this article, the number of other licences in the area of energy activities shall not be limited.

#### **Article 16 – Amending and repealing a licence**

1. The Commission shall be authorised to amend, suspend or repeal a licence in the cases and in a manner provided for by the Law of Georgia on Licences and Permits.
2. The Commission shall amend a licence in accordance with the licence terms and conditions. A licence may also be amended, if:
  - a) amendment results from amendments made to the legislation of Georgia;
  - b) there exists a substantiated request from the Commission and/or a licensee to make amendments and/or additions to the licence.
3. When making changes to the licence, the Commission may request that the licensee comply with terms different from those given in the initial licence, including stricter requirements.
4. The Commission may suspend the duration of a licence if a licensee violates the requirements of the legislation of Georgia and/or the licence terms and conditions, and a written warning and fine have already been applied as a sanction against the licensee.
5. The validity of a licence shall be suspended until the violation provided for by paragraph 4 of this article has been eliminated, however not later than 6 months after the decision on the suspension of the validity of the licence.
6. Following the elimination of a violation for which the validity of a licence has been suspended, the validity of the licence shall be resumed by a decision of the Commission, based on the application of the licensee.
7. A licence shall be repealed for violation of the terms and conditions of licence, this Law and the Law of Georgia on Licences and Permits. The Commission shall also have the right to repeal a licence where this results from an amendment to the legislation of Georgia.
8. In other cases, except as provided for by paragraphs 2, 4 and 7 of this article, the Commission shall have the right to make changes to, suspend the validity of, or repeal a licence only with the prior consent of the licensee.

#### **Article 16<sup>1</sup> – Merger of the system operator and/or alienation of shares/stocks or operating assets and/or change of controlling entity (final beneficiary)**

1. If there is an intention to merge the system operator and/or alienate more than 5 percent, or more than 5 percent of shares/stocks, or there is an intention to alienate 5 per cent, or more than 5 per cent of the total value of operating assets and/or to change the controlling person (ultimate beneficiary) that creates a possibility for a person or a legal entity residing in a third country to exercise control over the system operator and/or operating assets, the relevant system operator shall be obliged to notify the Commission in advance.
2. In the case provided for by paragraph 1 of this article, the following information and documents of the participating persons shall be indicated in the notification submitted to the Commission by the system operator:
  - a) the brand name, the type of activity, experience in the field of energy, registration data, founding documents, name, surname, address, and citizenship of a controlling person (final beneficiary);



b) a report on the assessment of operating assets for the current period, and the audit report on the financial statements of an enterprise;

c) conditions for merging the system operator and/or alienating shares/stocks or operating assets and/or changing the controlling entity (final beneficiary);

d) information on the origin of financial resources.

3. A relevant system operator shall be responsible for the accuracy and completeness of the information provided in the notification of a system operator. The indication of incorrect information in the said notification by the system operator, and the failure to submit correct information to the Commission before making a decision under paragraph 5 or 7 of this article shall be grounds for refusing to merge a system operator and/or alienate 5 per cent or more than 5 per cent of shares/stocks and/or to alienate 5 per cent, or more than 5 per cent of the total value of operating assets and/or to change the controlling person (ultimate beneficiary) that creates a possibility for a person or a legal entity residing in a third country to exercise control over the system operator and/or operating assets, the relevant system operator shall be obliged to notify the Commission in advance. If the relevant transaction/operation is performed, the said shall be the basis for the invalidity of the said transaction/operation, and the restoration of the initial condition.

4. The Commission shall verify the data referred to in the notification provided for by paragraph 2 of this article. If the notification of the system operator does not comply with the requirements established by paragraphs 2 and 3 of this article, the Commission shall determine an additional reasonable time limit for the submission of information or document. The Commission shall also be authorised to request a system operator to submit information and/or documents that are not specified by paragraph 2 of this article, but are necessary to evaluate the relevant transaction/operation and to make a decision by the Commission under paragraphs 5 or 7 of this article.

5. The Commission shall be authorised to approve the merger of a system operator within 3 months after receiving the complete notification of a system operator, the alienation of 5 per cent or more than 5 per cent of shares/stocks and/or the alienation of 5 per cent, or more than 5 per cent of the total value of operating assets and/or the change of a controlling person (ultimate beneficiary) that creates a possibility for a person or a legal entity residing in a third country to exercise control over the system operator and/or operating assets.

6. The Commission shall be authorised to request the adjustment of the terms of merger of a system operator, the alienation of 5 per cent or more than 5 per cent of shares/stocks and/or the alienation of 5 per cent, or more than 5 per cent of the total value of operating assets and/or the change of a controlling person (ultimate beneficiary), which may affect the services provided by a system operator to the users of the system, the fulfilment of requirements established by the legislation of Georgia by a system operator (including license conditions) and/or the tariff of a system operator.

7. The Commission shall be authorised to prohibit the merger of a system operator, and/or the alienation of 5 per cent or more than 5 per cent of shares/stocks and/or the alienation of 5 per cent, or more than 5 per cent of the total value of operating assets and/or the change of a controlling person (ultimate beneficiary) that creates a possibility for a person or a legal entity residing in a third country to exercise control over the system operator and/or operating assets. The grounds for the said prohibition may be the possible deterioration of services provided by a system operator to the users of the system, possible non-fulfilment of requirements established by the legislation of Georgia by a system operator (including license conditions), and/or the possible negative impact of a relevant transaction/operation on the tariff of a system operator.

8. For the purposes of this article:

a) a controlling person (final beneficiary) shall be a natural person, who is the final owner of an enterprise, receives monetary or other benefits from the activities of an enterprise, or may receive such benefits, and is not obliged to transfer these benefits to another person;

b) an operating asset shall be a regulated asset defined through a tariff methodology by the Commission.

9. This Article shall not apply to a transaction/operation, which was carried out for the sole purpose of separating a system operator in accordance with the requirements established by this Law.

*Law of Georgia No 7064 of 17 July 2020 – website, 21.7.2020*

### SECTION III



**Chapter VI – Status and Activity of the Commission**

**Article 17 – Status of the Commission**

1. The Constitution of Georgia, International Treaties of Georgia, the Law of Georgia on National Regulatory Bodies, this Law, the Statute of the Commission, and other subordinate normative acts approved by the Commission, shall serve as legal grounds for the activities of the Commission.
2. The Commission shall regulate and supervise the activities of the electricity, natural gas and water supply sectors as the only body regulating these sectors, as determined by the Law of Georgia on National Regulatory Bodies.

**Article 18 – Legal form of the Commission**

The Commission is a legal entity under public law holding special legal capacity that has been established for the regulation of a specified area and that has no state control body, is independent from state authorities, and acts within the scope of powers established by this Law and the respective legislation of Georgia.

**Article 19 – Independence of the Commission**

1. When exercising regulatory powers and performing obligations, the Commission shall be independent and guided by principles of impartiality, transparency and non-discrimination, the requirements established by the legislation of Georgia, and international best practice available in the area of the regulation of energy activities.
2. When performing functions falling within the scope of competences of the Commission under the legislation of Georgia, the commissioners and personnel of the Office of the Commission shall comply with the requirements of independence as established for them under the Law of Georgia on National Regulatory Bodies.
3. Compliance with the requirements of independence shall not restrict close cooperation between the Commission and other competent state agencies of Georgia, or the general principles of the energy policy approved under Article 7 of this Law, except where this is in conflict with the terms established by paragraph 2 of this article, or if this applies to the obligations and regulatory functions imposed on the Commission.

**Article 20 – Composition of the Commission**

1. The Commission shall be composed of 5 members elected by the Parliament of Georgia.
2. A Georgian citizen with a higher education and the qualifications and experience necessary for the performance of the functions established by this Law may be elected as a commissioner.
3. A commissioner shall have a good reputation and comply with the requirements of ethics and independence established by the Law of Georgia on National Regulatory Bodies. The procedures for the restriction of actions, the incompatibility of duties, and the declaration of the economic interests of a commissioner shall be determined by the Law of Georgia on Conflict of Interest and Corruption in Public Institutions.
4. A candidate for membership of the Commission shall be nominated by the Government of Georgia based on an open, transparent and non-discriminatory competition. The competition shall be organised and conducted by the Selection Commission created in accordance with paragraph 5 of this article.



5. The Selection Commission shall be established by the Government of Georgia and consist of 5 members, at least 3 of whom shall be independent, in particular, they shall not be public servants, public political officials or political officials of Georgia, or persons employed at or appointed by a regulated undertaking, or the management body of such undertaking. By a decision of the Government of Georgia, members may include representatives appointed by the Energy Community Secretariat. The Selection Commission shall be created at least 14 days prior to the planned interview with candidates for membership of the Commission, and its term of authority shall be 3 years. The Selection Commission shall elect a chairperson from among its members. The procedure for activities of the Selection Commission shall be approved by the Government of Georgia.

6. Information on the announcement of a competition to select a candidate for membership of the Commission shall be published on the websites of the Government of Georgia, the Commission and the Legal Entity under Public Law called the Civil Service Bureau. The selection competition shall be publicly announced for not less than 3 months before the term of office of a commissioner expires, or not later than 10 days after a commissioner has been dismissed from office. The public notice on the announcement of the selection competition shall contain information on the required qualifications, the list of documents to be submitted along with the application, the deadline for submission of the application, other necessary requirements and procedural rules of the competition, or a reference to an electronic source where the public can have an unlimited access to this information.

7. Within not later than 30 days after the public announcement of the competition, the Commission shall identify the candidate for membership of the Commission, and submit it to the Government of Georgia for approval. If only one person participates in the competition, the Selection Commission may extend the deadline of the competition for an additional 30 days.

8. The Government of Georgia shall agree upon the candidate selected as a commissioner within not later than 10 days after the Selection Commission submits a relevant candidate. By a recommendation of the Government of Georgia, the President of Georgia, with the co-signature of the Prime Minister of Georgia, shall submit the candidate for membership of the Commission to the Parliament of Georgia for approval. The Parliament of Georgia shall vote on commissioners by the procedure established by the rules of procedure of Parliament.

9. The agreement of the Government of Georgia on a candidate for membership of the Commission, and the selection of a commissioner by the Parliament of Georgia, shall be based on the assessment of the compliance of the candidate with the requirements established for a commissioner by paragraphs 2 and 3 of this article. If the Government of Georgia does not agree upon a candidate for membership of the Commission, or the Parliament of Georgia does not elect a commissioner, the Selection Competition shall be conducted again, in accordance with paragraphs 6 and 7 of this article.

10. A commissioner shall be appointed to office for a term of 6 years. The same person may be elected as a commissioner for only two terms.

11. A commissioner shall be dismissed only in the cases provided for by Article 14(2) of the Law of Georgia on National Regulatory Bodies. In addition, in cases provided for by Article 14(2)(b), (c), (c<sup>1</sup>) and (c<sup>2</sup>) of the Law of Georgia on National Regulatory Bodies, a decision on the removal of a commissioner shall, in accordance with the procedures established by the rules of procedure of Parliament, be taken by the Parliament of Georgia, whereas in cases provided for by other sub-paragraphs of the same paragraph, the term of office of a commissioner shall be terminated automatically, as soon as the relevant legal fact occurs.

12. A commissioner may appeal a decision on his/her removal in accordance with the procedure established by the legislation of Georgia.

13. If the position of a commissioner becomes vacant prematurely, in accordance with the procedure established by this article, a new commissioner shall be elected for the remaining term of office if the remaining term exceeds a year, and in other cases, for the term of office determined by paragraph 10 of this article.

14. After the expiry of the term of office of a commissioner, the authority of the latter shall be automatically renewed on a one-off basis, until the same or another person is elected as a commissioner in accordance with the procedure established by the rules of procedure of Parliament of Georgia, but not for longer than 3 months. This paragraph shall not apply to a commissioner if not less than 3 members remain in the composition of the Commission.

15. A commissioner, within one year after the expiration of his/her term of membership of the Commission, or after being dismissed from office, may not hold a leading position at a regulated undertaking, or become a member of a supervisory board of such undertaking.

16. After the expiration of the term of membership of the Commission, the State shall assist the commissioner in finding employment.

17. Using violence, threats and/or any other unlawful actions against a commissioner or an employee of the Office of the Commission with respect to the performance of their official duties shall be prohibited. The violation of the requirements of this



paragraph shall result in the imposition of liability as established by law.

## **Article 21 – Management of the activities of the Commission**

1. The organisation of the activities of the Commission and daily record-keeping shall be provided by the Chairperson of the Commission (the Chairperson) and the Office of the Commission. The structure, functions and competencies of the Office of the Commission shall be determined by the Statute of the Commission and/or by legal acts regulating internal organisational matters.
2. The Chairperson shall be elected by the Commission by secret ballot, by a majority of its all members, and with the recommendation of at least 2 commissioners, for a term of 3 years, but not for longer than the remaining term of office of the commissioner in question, within 15 calendar days after the expiry of the term of office or termination of authority of the acting Chairperson. The Chairperson may resign from the position but stay on as a commissioner for the remaining term of his/her office. In his/her absence, the Chairperson shall be authorised to assign to another commissioner the performance of the duties of Chairperson. In cases of the resignation of a Chairperson, the termination of his/her office, his/her inability to perform the duties of a Chairperson, or his/her failure to assign to another commissioner the performance of the duties of Chairperson in the absence of same, the most senior commissioner shall perform the duties of Chairperson.
3. The Commission shall be authorised to dismiss a Chairperson from office by a four fifths majority of all its members. The issue of early dismissal of a Chairperson may be raised by not less than 2 commissioners through a joint, substantiated written request. The Commission shall be obliged to consider the issue of the early dismissal of a Chairperson and put it to a vote within 10 calendar days after the submission of the request of commissioners. If the Commission does not dismiss a Chairperson from position, the issue of early dismissal of a Chairperson may not be raised within the next 3 months.
4. The Chairperson shall chair the meetings of the Commission and be responsible for publishing and complying with the procedural rules when adopting an ordinance and taking decisions, as well as for the administrative management of the Commission and the Office.
5. To comprehensively perform its functions and regulatory powers, the Commission shall have an Office composed of representatives from all professions which fall within the competences of the Commission. The Commission shall determine the structure and staff list of the Office independently.
6. The personnel of the Office of the Commission shall be appointed to and may be dismissed from office by the Chairperson, in agreement with the commissioners, in accordance with the legislation of Georgia. The authority of a commissioner shall equally apply to the personnel of the Office of the Commission as well, except in matters of administrative management.
7. The rights and obligations determined by this Law, the Law of Georgia on National Regulatory Bodies, the Statute and other legal acts of the Commission, shall apply to the commissioner and the personnel of the Office. The labour conditions of a commissioner and an employee of the Office of the Commission, including remuneration and other benefits, shall be determined in accordance with the procedures established by the Law of Georgia on National Regulatory Bodies and the legal acts of the Commission. It shall be prohibited to apply the legislation regulating the public service of Georgia to a member of the Commission or an employee of the Office of the Commission.
8. The procedure for organising the activity of the Office of the Commission shall be determined by the Statute and other legal act of the Commission, within the competences and regulatory powers of the Commission.
9. It shall be prohibited to develop political parties and public organisations or their structural entities at the Commission or in the Office.
10. An employee of the Office may not have any direct or indirect property or economic interest in an energy undertaking or a regulated water supply undertaking or hold a position in any such undertaking. An employee of the Office may be a customer of such undertaking, however the latter may not offer a free or discounted service, nor may an employee of the Office accept same.

## **Article 22 – Organising the activities of the Commission**

1. The meetings of the Commission shall be held in accordance with the General Administrative Code of Georgia, the Law of Georgia on National Regulatory Bodies, this Law, other legislative acts of Georgia and the legal acts of the Commission.



2. The meetings of the Commission shall be public. With a view to maintaining confidentiality of information, the Commission shall be authorised to hold a closed meeting, in accordance with the legislation of Georgia.
3. A meeting of the Commission shall be authorised to take a decision, if it is attended by not less than 3 commissioners, and is chaired by the Chairperson or the acting chairperson.
4. Before taking any decision or adopting an ordinance, the Commission shall be obliged to notify the interested parties thereof, and allow them to attend the relevant meeting of the Commission. The Commission shall allow the interested parties to freely communicate their views at the meeting.
5. All procedural records, protocols of meetings, official documents, working materials and any other related documents, data and information of the Commission shall be kept, in accordance with the procedures established by the legislation of Georgia, and shall be accessible to interested persons. A legal act of the Commission shall determine the procedure for considering any information available at the Commission confidential and the procedure for its disclosure, as well as a list of confidential information, in accordance with the applicable legislation of Georgia.
6. The Commission shall adopt and publish a Code of Ethics that determines the standards relating to the ethics and conflict of interests of a commissioner and an employee of the Office. The Code of Ethics shall comply with the Law of Georgia on the National Regulatory Bodies, and this Law, and shall reflect the common international practice.
7. The Chairperson shall issue an order on matters of internal organisational of the Commission and the Office.
8. A commissioner and an employee of the Office of the Commission shall, within their competences, be granted the opportunity to work uninterruptedly with the personnel and documents of a regulated undertaking, which are required for the performance of the functions assigned to the Commission.
9. Within its competences, the Commission shall have the authority to revise the accuracy of the documents and data submitted.

### **Article 23 – Legal acts of the Commission**

1. The Commission shall be responsible for the legality of the administrative acts, ordinances and decisions, it delivers. The legal acts of the Commission shall be executed in writing, substantiated and, if necessary, contain explanations with regard to their performance. With respect to separate, individual issues provided for by the Law, including those resulting from an ordinance, the Commission shall take a decision within its own competence.
2. An ordinance and decision of the Commission shall be taken by a majority of votes of the commissioners present at a meeting. Each commissioner shall have one vote.
3. A legal act of the Commission shall enter into force in accordance with the procedures established by the legislation of Georgia and the legal acts of the Commission. A legal act of the Commission shall comply with the requirements provided for by this Law and other legislative acts of Georgia.
4. It shall be mandatory for regulated undertakings and natural persons and legal entities to implement a legal act of the Commission which applies to them.
5. A normative administrative act of the Commission shall be published in the Legislative Herald of Georgia and on the website of the Commission. An individual administrative act of the Commission, subject to protection of information containing commercial secrets and personal data, shall be published on the website of the Commission and submitted to interested parties in accordance with the procedures established by the legislation of Georgia.

### **Article 24 – Public consultation and cooperation**

1. The Commission shall publish on its website a draft normative administrative act for public review, and establish a reasonable time frame for the submission of opinions by interested persons. The conducting of a public discussion with regard to an individual administrative act may not be requested, except for the cases determined by paragraph 2 of this article.
2. The Commission shall also conduct public discussions in cases specified by the Law of Georgia on National Regulatory Bodies,





including before taking decisions on licensing and establishing a tariff.

3. The Commission shall elaborate and approve a procedure for conducting a public discussion that determines matters relating to public discussions, including a procedure and the conditions of the public discussion and a procedure for publishing information for public review. The Commission shall make information about an ongoing public discussion and its results publicly available on its website, except for confidential information.

4. Without violating the requirements of this Law established with regard to the independence and competence of the Commission, the latter shall be authorised to cooperate with a regulated undertaking and competent state authorities while performing its functions and regulatory powers, and to determine the procedure for meetings of commissioners and employees of the Office with interested parties.

## **Article 25 – Cooperation on cross-border issues**

1. The Commission shall cooperate with the Energy Community Secretariat, the Energy Community Regulatory Board, and the regulatory bodies of parties to the Energy Community, and shall ensure the provision of information to same required for the fulfilment of their obligations. The Commission shall also have the authority to request such information. When sharing information, at least the same level of confidentiality shall be maintained as requested by the authority issuing the information.

2. In accordance with paragraph 3 of this article, the Commission shall cooperate on regional and international levels in order to:

a) promote, for the purpose of the optimum management of electricity networks and/or natural gas networks, the creation of operational mechanisms as well as the mutual exchange of electricity and/or natural gas and the distribution of cross-border capacity, and provide an adequate level of capacity of interconnectors in a region and between regions, including through new interconnectors that provide the means for developing effective competition, and the improvement of security of supply between the supplying undertakings of various parties to the Energy Community, without discrimination;

b) contribute to the development of rules for networks;

c) participate in the elaboration of the rules of congestion management which apply to Georgia and, where necessary, represent Georgia in mechanisms regulating the distribution of regionally coordinated capacity and congestion management.

3. To promote regulating cooperation, the Commission shall be authorised to participate in mutual cooperation activities together with other authorised regulatory bodies.

4. The actions determined by paragraph 2 of this article shall be implemented, where necessary, in close consultation with competent state authorities and without restriction of their specified competences and legal authority.

5. The Commission shall be obliged to implement all the decisions taken by the authorised bodies of the Energy Community, which are mandatory for Georgia to implement. Within the legal and regulatory framework of the European Union, consideration shall be given to the guiding principles and network rules adopted by the Energy Community in the legislation of Georgia without amendment, taking into account the exceptional circumstances specified in the Protocol of 14 October 2016 on the Accession of Georgia to the Treaty Establishing the Energy Community.

6. For the purposes of paragraph 5 of this article, the Commission shall adopt such guiding principles and network rules after they receive relevant notification of their accession to the Energy Community, and monitor their appropriate entry into force and implementation. All guiding principles and network rules shall be adopted by the Commission. In addition, they shall be developed and published in compliance with the requirements provided for by this Law.

7. The Commission shall notify the Energy Community Secretariat of the measures taken with a view to adopting the guiding principles and network rules and of any respective changes, within 2 weeks after taking such measures.

## **Article 26 – Funding of the Commission**

1. When performing its functions and exercising regulatory powers, the Commission shall be financially independent in accordance with the Law of Georgia on National Regulatory Bodies and this Law.



2. Before the end of every year, the Commission shall adopt a detailed budget for the following year that shall reflect all the expenses of the Commission, including the salaries of commissioners and the employees of the Office, any types of financial benefit, and other types of planned budgetary expenditure of the Commission.
3. The Commission shall be financed from the regulatory fees established for the regulated activities of the Commission that shall be paid by relevant licensees and other regulated undertakings in accordance with the conditions established by the Law of Georgia on Regulatory Fees and this Law.
4. Before 15 September of each year, the Commission shall receive from licensees and other regulated undertakings a forecast of the volume of activity and/or turnover for the following year based on which it shall establish a regulatory fee in the amount that will be sufficient to cover all the expenses provided for by the budget of the Commission, taking into account the requirements established by the Law of Georgia on Regulatory Fees.
5. Regulatory fees shall be transferred to the bank account of the Commission in accordance with the procedures established by the Commission. Only the Commission shall have the authority to dispose of the funds available on its account. The funds not used in the current financial year shall be transferred to the budget of the following year. The Commission shall be authorised balance a budget deficit which has occurred during a current financial year from the budgetary funds planned for the following year, by an adequate adjustment to the regulatory fee.
6. If the regulatory fees received cannot cover the current expenses of the Commission, the latter shall be authorised to take a loan at a reasonable and justified interest rate. The Commission shall repay the loan and respective interest from the funds received in the following year in the form of regulatory fees.
7. It shall be permissible to allocate funds and receive grants from the State Budget of Georgia for use by the Commission.
8. Licensees and other regulated undertakings shall have the right to reimburse the regulatory fees established by the Commission with the tariffs established by the Commission or through the price paid for goods or services associated with relevant commercial (market) activity.
9. The budget of the Commission shall be published on the website of the Commission.

#### **Article 27 – Annual report of the Commission**

1. Before 1 June of every year, the Commission shall prepare and publish a financial report for the previous year that shall include the amounts received by the Commission from regulatory fees, the expenses of the Commission, and loans made and other amounts used by the Commission.
2. The control of the financial activities of the Commission shall be conducted by the relevant authorised bodies, in accordance with the procedures established by the legislation of Georgia. The financial activities of the Commission shall be audited annually, by an appointed independent auditor. The audit report shall be prepared and published along with the financial report prepared in compliance with paragraph 1 of this article. The audit of the financial activities of the Commission shall not terminate or impede the ongoing activities of the Commission.
3. Before 1 June of every year, the Commission shall prepare an annual report on its activities and performed obligations, including the measures taken with respect to each goal, obligation and regulatory power determined by Chapter VII of this Law, as well as the consequences thereof. The annual report of the Commission shall be submitted to the President of Georgia, the Parliament of Georgia and the Government of Georgia, as well as to the Energy Community Secretariat and the Regulatory Board. The report of the Commission shall be published on its website.

### **Chapter VII – Objectives, Obligations and Regulatory Powers of the Commission**

#### **Article 28 – Objectives of the Commission**

1. When performing the obligations determined by this Law and exercising regulatory powers, the Commission shall take all reasonable measures to ensure the implementation of the following objectives:



- a) in close cooperation with the Energy Community Regulatory Board, the regulatory bodies of the parties to the Energy Community, and the Energy Community Secretariat, the promotion of competitive, safe and ecologically sustainable internal energy markets in the Energy Community, and support for the effective opening of a market for all customers and suppliers within the Energy Community, as well as the provision of appropriate conditions for the efficient and reliable operation of energy networks, taking into account long-term objectives;
- b) the development of competitive and adequately operating regional energy markets in the Energy Community, taking into account the objectives specified in this paragraph;
- c) the elimination of restrictions related to the trade in energy between the parties to the Energy Community, including through the development of cross-border transmission capacity and the enhanced integration of national markets for meeting requirements, which can promote energy exchange within the Energy Community;
- d) the promotion of the development of safe, reliable, efficient, non-discriminatory and customer-oriented systems in the most effective way, as well as the promotion of energy efficiency in accordance with the sustainability of systems and the objectives of the general energy policy;
- e) the promotion of large and small-scale production of electricity and natural gas from renewable energy sources, and of the integration of production facilities connected to relevant distribution networks with transmission and distribution networks;
- f) the promotion of the access of electricity and natural gas production to networks of new capacities, in particular the elimination of obstacles which may hinder the access of new market participants, and electricity and natural gas produced from renewable energy sources, to a network;
- g) adequate short and long-term encouragement of system operators and system users to increase the efficiency of system operation and promote the integration of the market;
- h) the opportunity for customers to benefit from the efficient operation of energy markets, as well as encouragement of effective competition and the protection of customers;
- i) ensuring a high standard of public service provision in the electricity and natural gas sectors, and the promotion of the compatibility of data exchange processes necessary for the protection of vulnerable customers and replacing suppliers.

2. The objectives determined by paragraph 1 of this article shall be implemented in close cooperation with competent state authorities and without restricting the powers of the said agencies.

## **Article 29 – Functions of the Commission**

1. The Commission shall:

- a) for the purposes of the authorisation of energy and other activities regulated by this Law, determine the conditions for such activities and for their supervision, as follows:
  - a.a) issue and make changes to a licence, suspend its duration and repeal it in accordance with the Law of Georgia on Licences and Permits, this Law and the licensing procedures approved by the Commission;
  - a.b) certify transmission system operators and supervise their continuous compliance with the requirements for independence and separation established by this Law;
  - a.c) establish the procedures and conditions for the provision of services by regulated undertakings, in accordance with this Law and other legal acts;
  - a.d) determine a potable water consumption rate;
  - a.e) approve a unified accounting system for relevant regulated undertakings and supervise proper compliance with the above-mentioned requirements;
  - a.f) determine a procedure for providing information to system users and/or customers by regulated undertakings;



- a.g) supervise the activities of regulated undertakings and ensure their compliance with the obligations and requirements established by the legislation of Georgia;
- a.h) supervise the provision of a public service and the fulfilment of public service obligations in accordance with the requirements established by the legislation of Georgia;
- a.i) maintain a register of energy undertakings carrying out energy activities in accordance with the requirements established by this Law;
- a.j) inspect a regulated undertaking on the spot, including without prior notice;
- a.k) determine the reporting procedure for a regulated undertaking;
- a.l) establish procedures for the supply and consumption of potable water which regulate the relationships between a water supply licensee and a customer;
- a.m) for the purpose of extinguishing fire, regulate issues relating to the use, accounting and reimbursement of costs for water obtained from fire hydrants (regardless of their form of ownership) by the fire rescue divisions of the Emergency Management Service, a state sub-agency within the governance of the Ministry of Internal Affairs of Georgia (the Emergency Management Service);
- a.n) approve the standard terms and conditions of a contract;
- b) for the purposes of determining tariffs and/or fees and adopting methodologies, approve the following:
- b.a) tariffs of electricity and natural gas transmission and distribution, and the methodology of their calculation;
- b.b) fees for connection to electricity and natural gas transmission and distribution networks, as well as to potable water supply and wastewater systems, and/or the methodology of their calculation;
- b.c) fees for services provided by market operators, and the methodology of their calculation, where necessary in accordance with the terms determined by this Law;
- b.d) tariffs of natural gas storage and the methodology of their calculation, where necessary in accordance with the terms determined by this Law;
- b.e) the tariff for access to a liquefied natural gas facility, and the methodology of its calculation;
- b.f) methodologies for the calculation of tariffs for potable water supply and wastewater systems;
- b.g) rules on the regulatory audit of expenditures;
- b.h) fees and/or tariffs for the provision of a public service, and the methodologies of their calculation in the case provided for by Article 9(6) of this Law;
- b.i) the amount of the regulation fee and the procedure for its calculation;
- b.j) procedure for the calculation of costs for conducting electricity, natural gas and potable water through a network owned by a third person(s);
- c) approve the amount of normative losses and the procedure for their calculation for transmission and distribution system operators and for water supply licensees;
- d) approve the Rules on the Assessment of Investments, including the procedure and conditions for reporting on the submission of investment plans, and their constituent projects to be implemented by regulated undertakings subject to tariff regulation to the Commission, the approval of them by the Commission, as well as making amendments to approved investment plans and/or projects and their implementation. A regulated undertaking subject to tariff regulation shall be obliged to act in line with the principle of minimum expenditure, to the extent possible, taking into account economic efficiency;
- e) ensure that the methodologies approved by the Commission are published within a reasonable period prior to their entry into



force, and with respect to the tariffs and methodologies provided for by sub-paragraph (b) of this paragraph, ensure that:

e.a) tariffs and fees:

e.a.a) are substantiated, reasonable, verifiable, non-discriminatory and based on transparent and impartial criteria, and protect customers from monopolistic prices;

e.a.b) reflect the substantiated expenditure of the operation, maintenance, replacement, construction and rehabilitation of networks, including a reasonable return on reasonable and sensible investments, amortisation (depreciation) and taxes, taking into account environmental and customer protection. When establishing a tariff and a fee, the Commission shall also be authorised to take into account the investments to be made, in accordance with the above-mentioned principles;

e.a.c) allow the making of necessary investments in networks and facilities so that these investments ensure the viability of such networks and facilities and their unhindered development according to relevant development plans;

e.a.d) allow a regulated undertaking to ensure returns on investments made within reasonable time frames, to cover their current expenses which include the cost of fuel purchased at an economically justified price, operational expenditure, expenditure for current and capital repair, remuneration, payment of interest for loans taken as floating capital and for the investments, regulatory fees and service fees of market operators and other expenses. The tariff should include a reasonable and fair level (rate) of return on investment and amortisation (depreciation) that is sufficient to attract investment in refurbishment and development;

e.a.e) promote the growth of the financial return of a regulated undertaking by reducing the costs of service by means of increasing operational and management efficiency, provided that the respective regulated undertaking complies with the requirements of the legislation of Georgia and/or licence terms and conditions relating to quality of service;

e.a.f) reflect the different costs of services for various categories of customers. The costs of services provided by a regulated undertaking subject to tariff regulation shall be covered from the amounts received from each category of customers, and shall be proportionate to the expenditure for the provision of the service of a particular category; various tariffs, in accordance with customer categories, may be established for the purpose of reflecting peak values, weighted average values and marginal values, the seasonality of general consumption, daily variation in consumption, types of service, or similar parameters. Innovative tariff methodologies may be used when establishing a tariff, if the application of such methodologies are in the interests of undertakings and customers;

e.b) the operators of transmission and distribution systems are provided with long and short-term encouragement with a view to promoting increased efficiency, the integration of the market, and security of supply, as well as supporting research activities related to same;

e.c) during the establishment of transmission-related service fees, transportation and cross-border exchange of electricity or overflow of natural gas within the boundaries of the country are treated on equal terms, except where specific costs associated with certain services need to be considered, provided that such costs are clear, substantiated and used in a transparent and non-discriminatory manner;

e.d) a rate dependent on the outcomes of the activities is reflected, if the Commission considers it necessary to establish such type of rate;

e.e) the rates for interruptible service and load balancing, and for a service available in the electricity sector, and other mechanisms for improving energy efficiency and the management of requests, are encouraged, including the potential development and dispatching of renewable energy sources;

e.f) where a tariff can be adjusted according to peak and off-peak service values, tariffs dependent on season and time of consumption shall be established;

e.g) cross subsidising between transmission and distribution activities on the one hand and supply and trade activities on the other hand shall be eliminated, as well as discrimination between the users or customers of a system or the users or customers of various categories of a system;

e.h) where necessary, establish an economically justified cost of connection to transmission and distribution networks, as well as to potable water supply and wastewater systems, or for a substantial increase in connection capacity;

e.i) the establishment of tariffs, costs and related procedures and conditions reflect common international practice;

f) establish tariffs, fees and/or upper price margins; for tariff purposes, it shall be authorised to determine voltage levels in



accordance with the methodologies, procedures and criteria approved by the Commission which, along with other issues, take into consideration the obligation of regulated undertakings to prepare a tariff application for each category of user and/or customer of a system, and to submit it to the Commission along with a relevant substantiation. A legal act of the Commission on the establishment of tariffs, fees and/or the upper margin of prices shall be published within a reasonable period prior to its entry into force;

g) supervise the application of tariffs, fees and relevant methodologies and ensure their adequate implementation;

h) for the purpose of regulating and supervising activities relating to the operation of electricity and natural gas systems:

h.a) revise and approve rules for allowing the fair and non-discriminatory access of third persons to electricity and natural gas transmission and distribution systems and, in cases provided for by this Law, to natural gas storage and liquefied natural gas facilities, and supervise their implementation;

h.b) establish quality standards for operating electricity and natural gas systems and providing services, including ancillary and system services, by energy undertakings, and supervise their implementation;

h.c) establish compensation mechanisms for non-compliance of the activities of energy undertakings with the quality standards established by the Commission, and supervise their implementation;

h.d) approve, and reflect in relevant tariffs or costs, the investment plans of regulated undertakings subject to tariff regulation, and supervise their implementation; and moreover, include the assessment of these plans in the annual report of the Commission and, if necessary, recommendations for changes thereto;

h.e) supervise the activities of transmission system operators, including the efficiency of mechanisms and methods to ensure a balance between supply and demand;

h.f) review and approve network rules prepared by relevant system operators;

h.g) in accordance with the relevant network rules, check the efficiency of requirements for the safety and reliability of a network, and supervise their implementation, and also establish quality standards and requirements for the provision of services and supply in cooperation with other competent state authorities, where necessary;

h.h) in accordance with the procedures established by this Law and/or relevant network rules, control the time spent on the connection of operators of transmission and distribution systems to a network and on the repair of a network;

h.i) ensure the supervision and revision of terms of access to natural gas storage and to storage of the network gas in accordance with Article 87 of this Law. This obligation does not apply to the revision of tariffs if access to natural gas storage is determined under Article 87(4) of this Law;

h.j) control the proper application of the criteria according to which the application of Article 87(4) or (6) of this Law to a natural gas storage facility is determined;

h.k) promote the supervision of implementing security measures for energy activities, within its competence, in accordance with Articles 138 and 143 of this Law;

i) for the purpose of the regulation and supervision of the energy market:

i.a) regulate and supervise activities carried out in energy markets within the regulatory authority determined by this Law;

i.b) in compliance with the requirements of this Law and the Law of Georgia on Competition, supervise the level and efficiency of the opening of energy markets, as well as competition in energy markets, including any case of violation or restriction of competition;

i.c) supervise the level of transparency of energy markets, including the level of wholesale and retail prices, and ensure the fulfilment of obligations relating to the transparency by energy undertakings;

i.d) at least once a year, publish recommendations concerning the compliance of prices with this Law and the subordinate legal acts issued based thereon, and if necessary, provide said recommendations to other competent state authorities;

i.e) supervise the restriction of contractual practices in energy markets, including the application of exclusive terms and conditions



that may hinder large customers from concluding contracts with more than one supplier simultaneously, or restrict their option to conclude such contracts;

i.f) protect contractual freedom with regard to interruptible supply contracts and long-term contracts (more than 10 years), if said contracts comply with the requirements of legislation of Georgia and the Energy Community;

i.g) review and approve market rules prepared by relevant market operators, as well as establish fees to be used by market operators, and supervise their activities;

i.h) approve procedures for monitoring the energy market;

i.i) promote, on the regional level, the compatibility of data exchange for processes which are important for the energy market;

j) for the purpose of cross-border trade in electricity and natural gas:

j.a) supervise the fulfilment of conditions relating to cross-border trade in electricity and natural gas, including compliance with relevant technical requirements;

j.b) control the quality of, and access to, technical and commercial data requested by system users with respect to interconnectors, in order to allow system users access to relevant energy markets without discrimination;

j.c) supervise the congestion management of electricity and natural gas systems, including interconnectors, and compliance with the rules of congestion management;

j.d) approve the procedures prepared by a relevant transmission system operator to allow access to cross-border infrastructure, including rules for capacity distribution and congestion management, taking into account measures coordinated at the regional level;

j.e) with respect to cross-border issues, cooperate with the competent regulatory authorities of parties to the Energy Community and with the Energy Community Regulatory Board;

k) for the purpose of protecting customers' rights and the resolution of disputes:

k.a) ensure the efficiency of measures for the protection and implementation of customers' rights together with other competent state authorities in order to guarantee:

k.a.a) fair and non-discriminatory treatment;

k.a.b) high quality services;

k.a.c) competition, and the prevention of actions which restrict competition, in accordance with the requirements of this Law and the Law of Georgia on Competition;

k.b) provide access to data on consumption by customers, and a harmonised format of such data in an easily understandable manner, throughout the country for use whenever required, and the unhindered access of all customers to such data, in accordance with Article 107 of this Law;

k.c) review disputes in accordance with Article 155 of this Law and the dispute resolution procedures approved by the Commission;

l) approve a statute of administrative proceedings;

m) for the purpose of regulating competition in the energy sector:

m.a) ensure the regulation of issues relating to competition and the issue of subordinate normative acts in the energy sector in accordance with this Law and the Law of Georgia on Competition;

m.b) in the case of anti-competitive practices, apply sanctions against regulated undertakings in accordance with the Law of Georgia on Competition;

m.c) by a subordinate normative act, establish rules and criteria for determining a market share, as well as the dominant status of a



regulated undertaking in the energy market;

m.d) prepare conclusions concerning the competitive effect of a merger or combination of undertakings, and by a subordinate normative act, determine a procedure for the submission of a notification on market concentration to the Commission for its review;

m.e) by a subordinate normative act, determine a procedure for submitting an application/appeal related to anti-competitive practices in the energy sector to the Commission, including which person is authorised to submit the application/appeal, the grounds for an examination and assessment of cases of anti-competitive practice, the grounds and procedure for an inquiry into a case, and a procedure for maintaining confidentiality, requesting information from respective regulated undertakings or another interested parties, and on-site inspections of a subject, as well as, in the case of a failure to provide case-related information, the application of sanctions, and other issues relating to case-related administrative proceedings;

m.f) by a subordinate normative act, establish a procedure for the distribution of a cooperation programme, and for the discharge of liability as provided for by the Law of Georgia on Competition;

n) develop recommendations on the use of natural gas and carbon monoxide detectors.

2. Taking into account the energy policy of Georgia, the Commission shall have the right to establish long-term tariffs. The Commission shall have the right to establish long-term tariffs for the water supply sector also. Based on a tariff application, the commission shall be authorised to establish water supply tariffs for a potable water supply system owned by a water supply licensee according to municipalities.

3. When discussing issues relating to the establishment of tariffs in accordance with the requirements of this Law, the Commission shall hold open meetings. When reviewing a tariff application and establishing a tariff, the Commission shall rely on:

a) a substantiated tariff application, with audit and financial information attached;

b) procedures for reviewing a tariff application and adopting relevant ordinances;

c) procedures for commenting on the establishment of a tariff by customers and other interested parties;

d) procedures for retrieving and obtaining additional information required for the assessment of a tariff application;

e) procedures for establishing financial compensation for a regulatory fee.

4. A tariff shall be approved by the Commission within 180 days after filing a tariff application, provided it meets the requirements established by the Commission for a tariff application.

5. The Commission shall, in accordance with the procedures established by the legislation of Georgia, have the right to adopt such other legal acts which are not directly provided for by this Law, and which are within the scope of powers of the Commission.

6. The Commission shall also perform other functions imposed on it by this Law and other legislative acts of Georgia.

7. The procedures, conditions, criteria, standards, mechanisms, methods and other requirements provided for by this Law which are to be adopted by the Commission shall be approved by normative administrative acts and ordinances, and it shall not be mandatory to combine them in a single, particular act.

*Law of Georgia No 7020 of 15 July 2020 – website, 28.7.2020*

### **Article 30 – Regulatory powers of the Commission**

1. To perform the functions provided for by Article 29 of this Law, the Commission shall be authorised to:

a) for full and proper exercise of its authority, in accordance with the procedures established by this Law and the subordinate acts issued on the basis thereof, request any information:

a.a) from a regulated undertaking;





a.b) from competent state authorities and other public agencies which, due to their direct obligations, possess such information;

b) require, where necessary, that system operators make changes to terms in order to ensure their proportionality and non-discriminatory application. This right does not apply to the revision of tariffs if access to a natural gas storage facility is determined in accordance with Article 87(4) of this Law;

c) in the case of a delay by the Commission in establishing tariffs for transmission, distribution and public service as provided for by Article 9 of this Law, establish temporary tariffs for transmission, distribution and public service as provided for by Article 9 of this Law, and determine adequate compensation measures if the final tariffs are different from the temporary tariffs;

d) initiate procedures for public discussion and cooperation in accordance with the procedure established by Article 24 of this Law, if this is required in order to obtain necessary information, to harmonise regulatory practice, to substantiate decisions to be made, or to assess legal and/or regulatory means put forward to address a problem;

e) initiate and conduct research concerning the operation of energy markets in Georgia, make decisions, and take necessary and proportional measures to encourage effective competition and the proper operation of energy markets;

f) adopt legal acts which bind regulated undertakings and which are necessary for the proper implementation of this Law, and other legislative and subordinate acts of Georgia;

g) in accordance with Article 153 of this Law, impose effective, proportional and preventive sanctions on regulated undertakings which do not comply with the obligations provided for by this Law, and other relevant legislative and subordinate acts of Georgia, or the binding legal acts of competent authorities in the Energy Community;

h) for the purpose of reviewing disputes in accordance with Article 155 of this Law, exercise the authority necessary to provide instructions and conduct investigations;

i) review an application submitted by a regulated undertaking for the purpose of establishing a tariff, take a decision on the admissibility of an application in public administrative proceedings, the identification of shortcomings, or the dismissal of an application, and establish tariffs and review tariffs on its own initiative, except in the cases provided for by this Law.

2. Any approval given in accordance with this Law by the Commission or the competent authorities of the Energy Community shall not compromise the future exercise of authority by the Commission or other competent state authorities as determined by the legislation of Georgia, including the imposition of penalties.

3. The legal acts adopted by the Commission shall be substantiated. These acts shall be publicly available, taking into account the requirements of maintaining confidentiality established by Article 23 of this Law.

### **Article 31 – Additional functions and regulatory powers of the Commission**

1. If, in accordance with Article 46 of this Law, an independent system operator has been named, in addition to the functions and regulatory powers established by Articles 29 and 30 of this Law, the Commission shall:

a) supervise the fulfilment of the obligations of the transmission system owner and independent system operator determined by this Law and, in the case of a failure to fulfil obligations, shall be authorised to impose penalties in accordance of Article 153 of this Law;

b) for the purpose of ensuring the fulfilment of obligations by the independent system operator, supervise the relations and communication between the independent system operator and the transmission system owner, including approving the contracts to be concluded between the parties, and in the case of filing an application for review in a disputed issue by one of the parties, act as a dispute resolution body;

c) without restricting the procedure determined by Article 53 of this Law, be authorised, in the process of certifying the independent system operator, to approve an investment program for the first 10-year plan of transmission network development, and also review the 10-year plans of transmission network development which are annually submitted by the independent system operator, in agreement with the transmission system owner;

d) ensure that the transmission tariff established for the independent system operator includes compensation for the transmission system owner in the amount approved by the Commission that provides for adequate compensation for the network assets and



new investments made therein that shall be taken into consideration, if these investments have been made in an economically justified and efficient manner;

e) be authorised to perform an on-site inspection of the transmission system owner and independent system operator, including without prior notice.

2. The fulfilment of the obligations established by Article 47(3) of this Law by the transmission system owner shall be controlled by close cooperation between the Commission and respective agencies authorised by the legislation of Georgia.

## SECTION IV

### PRODUCTION

#### Chapter VIII – Electricity Production

##### Article 32 – Conditions for electricity production

1. The construction, maintenance and operation of electricity production facilities and related equipment and their connection to a transmission network and/or distribution network shall comply with the technical standards and norms established by the legislation of Georgia, along with the rules of an electricity transmission network and/or electricity distribution network, and other mandatory terms, including requirements relating to the environment, public security and the protection of property.

2. Electricity production, except for the cases provided for by Article 11(3) of this Law, shall be subject to mandatory licensing in accordance with the procedures established by the Law of Georgia on Licences and Permits, this Law, and the licensing procedures approved by the Commission.

##### Article 33 – Rights of an electricity producer

An electricity producer shall have the right to:

- a) produce electricity through the energy source specified in the terms of the commissioned facility and the licence, in compliance with the characteristics and requirements relating to environmental protection which have been established by a relevant licence and the legislative acts of Georgia;
- b) conclude contracts on the purchase and sale of electricity, in compliance with the terms established by this Law and the rules of the electricity market;
- c) conclude contracts on balancing, and the provision of ancillary services, in accordance with the terms established by this Law and relevant subordinate normative acts adopted on its basis;
- d) have access to electricity transmission and/or electricity distribution systems in accordance with the conditions established by this Law, the rules of the electricity transmission network, the rules of the electricity distribution network, and other legislative and subordinate acts of Georgia;
- e) enjoy other rights provided for by the legislation of Georgia.

##### Article 34 – Obligations of an electricity producer

1. An electricity producer shall be obliged to:



- a) comply with the requirements and conditions determined by this Law and the respective licence;
- b) possess a metering device that is able to keep a record of the electricity provided to a respective network;
- c) comply with the requirements established by the rules of an electricity transmission network and an electricity distribution network;
- d) follow the operational instructions issued by a respective transmission system operator and/or distribution system operator, including instructions relating to the dispatching, electricity balancing, system failure and the provision of an ancillary service;
- e) comply with the requirements of energy efficiency and environmental protection;
- f) while participating in the electricity market, comply with the rules established by the normative acts regulating competition, including those related to the unsubstantiated restriction of capacity and unsubstantiated reduction of electricity production;
- g) maintain the proper operational status of electricity production facilities, ensure their uninterrupted operational readiness and safe operation, in accordance with technical and other types of standards and requirements. The fulfilment of this obligation shall be subject to supervisory inspection;
- h) upon request, provide to a transmission system operator or a distribution system operator the data and information required for the operation and management of an electricity system;
- i) provide free access to a transmission system operator and distribution system operator to the equipment of an electricity production facility which is used for reserve purposes and for the provision of ancillary services, as well as for transporting electricity flows and transmitting or distributing electricity;
- j) take into consideration the recommendations of a relevant transmission system operator and/or distribution system operator concerning the change of installations and equipment in an electricity production facility, in accordance with the procedures and conditions established by the network rules;
- k) in accordance with the needs of operational and system management, and the plan of development of an electricity transmission network and/or distribution network, maintain and improve the installations and equipment of an electricity production facility which are also used for electricity transmission or distribution. The fulfilment of these obligations shall be subject to supervisory inspection.

2. An electricity producer operating an electricity production facility of 100 kW or more nominal capacity shall be obliged to maintain and, in accordance with the international commitments undertaken by Georgia, make available to appropriate state authorities, system operators and competent international authorities, the hourly data on electricity production for each facility which are required for verifying operational dispatching decisions, and actions relating to the offer of prices by participants of the Electricity Exchange, auctions for interconnectors, reserve markets, and the markets of bilateral contracts.

3. The data provided for by paragraph 2 of this article, along with other information, shall include data on the available capacity of electricity production and on guaranteed reserves, along with data on the offer of prices and the allocation of guaranteed reserves at the level of each electricity production facility during electricity production.

4. The Commission shall supervise the application of principles of fair competition and, where necessary, shall be authorised to request that an individual electricity producer and other electricity undertakings take special measures for compliance with these principles.

5. Each electricity producer shall be obliged to prepare and publish, in a relevant form, a programme of measures for the improvement of energy efficiency and an annual report on the results of the implementation of these measures.

6. If the Government of Georgia considers it necessary to introduce additional requirements for the improvement of the energy efficiency of an electricity production process, it shall be authorised to establish a minimum efficiency level for individual technologies to be achieved during the construction of new electricity production facilities or the reconstruction of existing facilities.

7. For small power plants, simplified requirements may be determined by legal acts determining the obligations of an electricity producer, without limiting the requirements provided for by this article.



### **Article 35 – Tender on new capacities of electricity production**

In order to build a new electricity production capacity and to enhance existing electricity production capacity, the Government of Georgia shall be authorised to conduct a tender, in accordance with the legislation of Georgia, or apply another procedure of selection provided for by the legislation of Georgia. The Government of Georgia shall approve the tender procedures and conditions which shall be fulfilled in a transparent and non-discriminatory manner.

### **Article 36 – Trial run or complex testing of an electricity production facility for commissioning**

1. An undertaking which constructs or reconstructs an electricity production facility, enhances its capacity, or connects it to an electricity transmission network or distribution network, in accordance with the procedures established by the legislation of Georgia and in compliance with technical requirements, in order to carry out a trial run and/or the complex testing of an electricity production facility for its commissioning, shall apply to the operator of the transmission system or distribution system to whose network this facility has been connected. Representatives of the respective transmission system operator shall participate in the trial run and/or complex testing of the electricity production facility.
2. A transmission system operator and a distribution system operator shall perform a trial run and/or the complex testing of an electricity production facility, and give approval for its commissioning, in accordance with the procedures established by the rules of the electricity transmission network and/or electricity distribution network and other subordinate acts. Unless otherwise established by the respective network rules, an appropriate system operator shall give consent to or reject the commissioning of an electricity production facility within not later than 90 calendar days after the trial run of that facility.
3. During the period of commissioning referred to in paragraph 2 of this article, an undertaking which owns an electricity production facility shall not be obliged to obtain a licence for a trial run and/or the complex testing of the electricity production facility.
4. Trade in the electricity produced during the commissioning of an electricity production facility shall be regulated by the electricity market rules.
5. A commissioned electricity production facility may produce electricity only on the basis of a licence for electricity production issued under Chapter V of this Law, and in the cases provided for by Article 11(3) of this Law, on the basis of a document issued by a competent authority certifying the commissioning of the electricity production facility.

### **Article 37 – Promoting electricity production**

1. The promotion of electricity production shall be regulated in a transparent and non-discriminatory manner, taking into account economic feasibility, and the minimum expenses and electricity balance of an end user, as well as criteria relating to the impact on the operation of the electricity system of Georgia.
2. The production and high-efficiency co-generation of electricity from renewable energy sources may be promoted by encouragement and support mechanisms developed in accordance with the procedures and conditions established by the legislative acts of Georgia and the normative acts of the Government of Georgia, in order to produce electricity from renewable energy sources, and/or to achieve the levels of combined production of electricity and heat established for Georgia by the relevant legislation of the Energy Community.
3. The procedures and conditions provided for by paragraph 2 of this article shall cover respective encouragement and support mechanisms, the rights and obligations of electricity undertakings, conditions for encouraged electricity production, and related regulatory requirements.
4. The promotion of electricity production, including the assessment of all encouragement and/or support measures, shall be carried out taking into account the requirements of this Law and, where necessary, be substantiated in accordance with the legislation of Georgia regulating competition and/or state aid.

### **Article 38 – Micro-generating power plant**



1. An end user or a group of end users owning a micro-generating power plant shall be authorised to connect the micro-generating power plant to an electricity distribution network, and to supply the surplus electricity produced by this power plant to an electricity distribution network on terms established by the rules of the electricity distribution network.
2. The surplus electricity produced by a micro-generating power plant and supplied to an electricity distribution network shall be purchased, in accordance with the electricity supply rules, by the universal service provider in whose service area this plant is located. The terms of use of surplus electricity by an end user or a group of end users, and the cost of the surplus electricity purchased from the end user or group of end users, shall be determined by the Commission.
3. The regulatory regime established by this Law, the Law of Georgia on Licences and Permits, and the Law of Georgia on Regulatory Fees, shall not apply to the production of electricity by a micro-generating power plant and the supply of surplus electricity to an electricity distribution network. The legislation of Georgia regulating market relations in the electricity sector shall apply to micro-generating power plants only in cases directly provided for by said legislation.
4. An end user or a group of end users which produces electricity through a micro-generating power plant and supplies surplus electricity to a distribution network shall be exempt from paying fees for electricity system and market operation services.
5. The total capacity of micro-generating power plants connected to an electricity distribution network to ensure the sustainability and stable operation of the electricity system shall not exceed the maximum amount established by the Commission. This amount shall be determined and established by the Commission on the basis of consultations with system operators.

## **Chapter IX – Natural Gas Production**

### **Article 39 – Mandatory conditions for natural gas production**

1. Natural gas may be produced by an undertaking which has the authorisation to process natural gas in a commissioned facility and operates that facility in accordance with the procedure established by the Law of Georgia on Oil and Gas and relevant subordinate normative acts.
2. All natural gas producers complying with the requirements established by paragraph 1 of this article shall be authorised to be engaged in trade in accordance with the rules of the natural gas market, after being registered by a natural gas market operator as a market participant.

### **Article 40 – Rights of a natural gas producer**

1. For the purposes of this Law, a natural gas producer shall have the right to:
  - a) conclude contracts on the purchase and sale of natural gas in accordance with the conditions established by this Law and the rules of the natural gas market;
  - b) conclude contracts on the provision of balancing and/or ancillary services in compliance with the terms established by this Law, the rules of the natural gas transmission network and/or natural gas distribution network, and after the creation of a balancing market of natural gas and an organised market for ancillary services, in compliance with the terms determined by the rules of the natural gas market also;
  - c) have access to natural gas transmission and/or distribution systems in accordance with the terms established by this Law, the rules of the natural gas transmission network and natural gas distribution network, as well as other legislative normative acts of Georgia.
2. A natural gas producer may enjoy other rights granted by the legislation of Georgia.

### **Article 41 – Obligations of a natural gas producer**



1. For the purposes of this Law, a natural gas producer shall be obliged to:

- a) comply with the requirements and conditions of this Law, the rules of the natural gas market, and other legislative and subordinate legal acts of Georgia;
- b) meet the technical and operational requirements established by the rules of the natural gas transmission network and natural gas distribution network;
- c) comply with energy efficiency and environmental requirements;
- d) make available for a transmission system operator and a distribution system operator the data and information required for the operation and management of the natural gas system;
- e) ensure the free access of a transmission system operator and distribution system operator to the equipment of a natural gas production facility that is used to supply natural gas to a natural gas transmission or distribution system respectively.

2. If the Government of Georgia considers it necessary to introduce additional requirements for improving the energy efficiency of the natural gas production process, it shall be authorised to establish a minimum efficiency level for individual technologies to be achieved during the construction of new natural gas production facilities or the reconstruction of existing facilities.

3. The requirements of paragraph 1(b) and (e) of this article shall also apply to a natural gas transportation licensee regulated under the Law of Georgia on Oil and Gas.

## SECTION V

### TRANSMISSION

#### Chapter X – Status and Name of a Transmission System Operator

##### **Article 42 – Status of a transmission system operator**

1. Transmission is an activity falling within the area of public interest that includes the transmission of electricity or natural gas into a transmission network, the operation, maintenance and development of a transmission network according to economic conditions, and other related activities which are required for the safe, reliable and efficient operation of electricity and natural gas systems.

2. Transmission activities shall be carried out by a transmission system operator in accordance with the procedures established by this Law and other legislative and subordinate legal acts of Georgia regulating the energy sector.

3. A transmission system operator shall be a special and independent energy undertaking and legal entity under private law established under the legislation of Georgia. When exercising its power, a transmission system operator shall be independent from production, distribution, supply and trading activities, and from the commercial interests relating to those activities.

4. A transmission system operator shall not have the right to purchase and/or sell electricity or natural gas, except as directly provided for by this Law. A transmission system operator shall have the right to purchase electricity or natural gas to compensate for losses in the transmission network, and purchase natural gas for its own consumption (for the operation of a compressor and gas pre-heating), and in the cases provided for by the subordinate acts adopted on the basis of this Law, buy and/or sell electricity or natural gas for balancing purposes.

5. A transmission system operator may carry out its activities, provided that it fulfils the conditions established by Article 43 of this Law.

6. The independence of a transmission system operator from the activities provided for by paragraph 3 of this article shall be achieved and subsequently secured by means of separation, in accordance with the conditions established by Chapter XI of this



### **Article 43 – Authorisation of a transmission system operator**

1. A transmission system operator shall be authorised by the Commission through the issue of a licence for transmission activities. The licence shall be issued according to the conditions determined by the Law of Georgia on Licences and Permits, Chapter V of this Law, and licensing procedures approved by the Commission.
2. A licence for transmission activities may be issued only to a transmission system operator which has been certified in accordance with the procedures established by Article 50 of this Law.

## **Chapter XI – Separation of a Transmission System Operator**

### **Article 44 – Model of separation of a transmission system operator**

1. The Government of Georgia shall take a decision on the model of separation of a transmission system operator. The Commission, in agreement with the Energy Community Secretariat, shall submit to the Government of Georgia a model of separation of a transmission system operator and an action plan for its implementation.
2. The model of separation of a transmission system operator shall be the ownership unbundling provided for by Article 45 of this Law.
3. If, by 6 October 2011 or prior thereto, a transmission system operator has belonged to a vertically integrated undertaking, as an exception from the ownership unbundling model determined by paragraph 2 of this article, an independent system operator model may be applied in accordance with Articles 46 and 48 of this Law.
4. It shall be inadmissible to replace a model of separation of a transmission system operator with another model that entails a smaller degree of independence of the transmission system operator, and will result in a closer connection of the transmission system operator to a vertically integrated undertaking or part thereof, or increase its dependence on same.
5. Interference by a transmission system operator and/or transmission system owner with the measures taken for the purpose of implementing the ownership unbundling model provided for by Article 45 of this Law shall be prohibited.
6. Separation requirements shall not apply to a horizontally integrated electricity undertaking or a horizontally integrated natural gas undertaking.

### **Article 45 – Ownership unbundling**

1. An energy undertaking owning a transmission system may act as a transmission system operator and obtain a licence for transmission activities in accordance with Article 43(1) of this Law.
2. To ensure the independence of a transmission system operator, it shall be prohibited for the same person:
  - a) which directly or indirectly controls an energy undertaking carrying out any activity of production or supply, to control or exercise any right, directly or indirectly, with respect to a transmission system operator or a transmission network at the same time;
  - b) which directly or indirectly controls a transmission system operator or a transmission network, to control or exercise any right, directly or indirectly, with respect to an energy undertaking carrying out any activity of production or supply at the same time;
  - c) that appoints members of the supervisory board, management board or representative body of an undertaking owning a transmission system operator or a transmission network, to control or exercise any right, directly or indirectly, with respect to an energy undertaking carrying out any activity of production or supply at the same time;



d) to be, simultaneously, a member of the supervisory board, management board or representative body of both an undertaking carrying out any activity of production or supply and a transmission system operator or a transmission network.

3. The rights referred to in paragraph 2 of this article include:

a) voting rights;

b) the right to appoint members of a supervisory board, a management board or a representative body;

c) the right to possess the majority of shares (stocks).

4. The conditions provided for by paragraph 2 of this article shall also apply where one or more energy undertakings owning a transmission system establish a joint undertaking that performs the functions of a transmission system operator in two or more countries. It shall be inadmissible for any other undertaking to participate in a joint undertaking unless it is authorised as a system operator on account of meeting the requirements for separation and certification in accordance with the procedure established by the legislation of Georgia.

5. If the person provided for by paragraph 2 of this article is a Georgian state authority, municipality body or other public agency, two separate public agencies, one of which controls a transmission system operator or transmission network and the other controls an energy undertaking carrying out any activity of production or supply, shall not be considered the same person.

6. It shall be prohibited for a transmission system operator which belonged to a vertically integrated undertaking to deliver commercially sensitive information or personnel to an energy undertaking carrying out production or supply activities.

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#### **Article 46 – Independent system operator**

1. The Commission shall be authorised, as an exception from the ownership unbundling established by Article 45 of this Law, to authorise an independent system operator in accordance with the conditions determined by Article 44(3) of this Law.

2. An independent system operator may only be authorised if:

a) the candidate for independent system operator complies with the requirements established by Article 45(2) of this Law;

b) the candidate for independent system operator possesses necessary financial, technical, physical and human resources in order to perform the functions and obligations provided for by Articles 51 and 52 of this Law;

c) the candidate for independent system operator assumes the obligation to implement a 10-year plan for the development of the transmission network in accordance with Article 53 of this Law;

d) the transmission system owner declares that he/she has an appropriate capacity to fulfil the obligations established by Article 47(3) of this Law, as proof of which he/she shall submit draft contracts to be concluded with the candidate for independent system operator and other respective undertakings (if necessary) agreed in advance;

e) the appropriate capacity of an independent system operator to fulfil the obligations relating to access to the transmission system includes cooperation with transmission system operators at the European and regional levels.

#### **Article 47 – Functions of an independent system operator and a transmission system owner**

1. An independent system operator authorised in accordance with Article 46 of this Law shall be obliged to:

a) grant a third person the right to access the system and manage the exercise of that right, including the administration of relevant tariffs and fees;





b) operate, maintain and develop the transmission system, and provide long-term capacity in order to meet the reasonable requirements of the transmission system through respective investment planning. When developing a transmission system, an independent system operator shall be responsible for the planning (including obtaining respective authorisations), constructing and commissioning of new infrastructure. For this purpose, it acts as a transmission system operator in accordance with Articles 51 and 52 of this Law.

2. A transmission system owner shall not be responsible for investment planning, for granting the right of access to the system to the third persons, or for managing the exercise of this right.

3. If an independent system operator is authorised, a transmission system owner shall be obliged to:

a) cooperate with the independent system operator and support it in the performance of its functions and provide all necessary information;

b) finance investments which have been decided upon by the independent system operator in cooperation with the transmission system owner, and in agreement with the Commission, or give approval to the financing of these investments by another interested person, including the independent system operator. In this case, any financial contract shall require the approval of the Commission. Before granting such approval, the Commission shall hold consultations with the independent system operator, the transmission system owner, and other interested persons;

c) insure the liabilities relating to the assets of the transmission network, except for the liabilities associated with the functions of the independent system operator;

d) provide an adequate guarantee for the purpose of promoting the funding of network extension, unless, under sub-paragraph (b) of this paragraph, he/she has given approval to the funding of investments by another interested person, including the independent system operator.

4. An independent system operator may own the assets of a transmission network with the consent of the transmission system owner and in a form established by the legislation of Georgia. The Commission shall approve a contract concluded between a transmission system owner and an independent system operator concerning the transfer of assets into the ownership of the transmission network, including the compensation of the system owner.

#### **Article 48 – Independence of a transmission system owner**

1. If an independent system operator has been authorised in accordance with Article 46 of this Law, the transmission system owner, which is part of a vertically integrated undertaking, shall be independent, at least in terms of legal form, organisational structure and decision-making, from other activities which are not related to transmission, distribution or storage.

2. The following minimum requirements need to be met to ensure the independence of a transmission system owner established by paragraph 1 of this article:

a) the inadmissibility of the participation of persons responsible for the management of the transmission system owner in the corporate structures of the integrated undertaking directly or indirectly responsible for the daily activities of production, distribution, supply and/or trade;

b) the taking of appropriate measures to ensure that the professional interests of persons responsible for the management of the transmission system owner are taken into consideration provided that they are allowed to act independently;

c) the creation of a compliance programme by the transmission system owner, that determines measures for preventing discriminatory actions and ensures proper control over their adoption. For this purpose, the compliance programme shall determine the specific obligations of the employees. The person or body responsible for supervising the compliance programme shall prepare an annual report on implemented measures and submit it to the Commission. The annual report shall be published.

#### **Article 49 – Supervision of the separation of a transmission system operator**

1. The continuous compliance of a transmission system operator with the requirements for independence and separation, regardless of the requested degree of independence and/or the applied model of separation, shall be supervised by the Commission.



2. The Commission shall assess the compliance of a transmission system operator with the requirements for independence and separation, and start a certification procedure provided for by Chapter XII of this Law in the following cases:

a) based on notification from a transmission system operator as provided for by paragraph 3 of this article;

b) by its own initiative, if it has information that planned changes to the rights associated with a transmission system operator or their impact may result in the non-compliance of the transmission system operator with the requirements for independence and separation, or if there is a reasonable assumption concerning the existence of such non-compliance;

c) based on a substantiated request of the Energy Community Secretariat.

3. A transmission system operator shall notify the Commission of all planned transactions which may necessitate the repeated assessment of the compliance of the transmission system operator with the requirements for independence and separation.

4. The Commission shall take a decision on the compliance of a transmission system operator with the requirements for independence and separation in accordance with paragraph 2 of this article, not later than within 4 months after receiving a notification from the transmission system operator, or a substantiated request from the Energy Community Secretariat, or after the commencement of an inspection on its own initiative. The day of commencement of an inspection of a transmission system operator on the initiative of the Commission shall be considered the day of the commencement of the inspection as indicated in the relevant certificate of the Commission relating to the commencement of inspection.

5. If the Commission considers that a transmission system operator has failed to comply with the requirements for independence and/or separation, the transmission system operator shall eliminate the non-compliance within a reasonable period as determined by the Commission, and submit to the Commission documents, data and information in confirmation. Before the Commission takes a final decision on the elimination of non-compliance, the transmission system operator shall carry out its respective activities under a temporary authorisation.

6. The repeated certification procedure provided for by this article shall be carried out in accordance with the procedure established by Article 50 of this Law.

7. If the Commission considers that a transmission system operator has failed to eliminate non-compliance with the requirements for independence and/or separation, the Commission may take a decision to repeal a licence in accordance with the procedure established by the Law of Georgia on Licences and Permits, and/or to impose a penalty on the transmission system operator in accordance with Article 153 of this Law.

## **Chapter XII – Certification of a Transmission System Operator**

### **Article 50 – Certification of a Transmission System Operator**

1. An energy undertaking shall notify the Commission, in writing, of compliance with the requirements for separation established for a transmission system operator under Chapter XI of this Law, and submit documents, data and information in confirmation.

2. Within 4 months after a transmission system operator submits a notification and all the required documents, data and information in accordance with established procedure, the Commission shall review the issue of certification of the transmission system operator and submit its decision on the consent or refusal of certification to the Energy Community Secretariat before its entry into force to enable the latter to communicate its opinions within a term of not less than a month. The Commission shall make its final decision within 2 months after the submission of the relevant decision to the Energy Community Secretariat. If, upon the expiry of this period, a decision on the consent or refusal of certification of the transmission system operator is not taken the transmission system operator shall be considered certified.

3. For the purpose of the certification of a transmission system operator (even if it is under the control of residents of third countries) provided for by this article, the procedure for submitting a notification to the Commission, taking a decision on the certification of the transmission system operator by the Commission, and agreeing it with the Energy Community, shall be determined by the procedure for certification of a transmission system operator approved by the Commission.

4. Before completing the procedure for certification of a transmission system operator, the Commission and the Energy Community Secretariat shall be authorised to request from the transmission system operator and/or the transmission system owner



and/or producing or supplying energy undertakings, any information at any time concerning the fulfilment of the obligations provided for by this article. The Commission and the Energy Community Secretariat shall be obliged to maintain the confidentiality of information containing a commercial secret.

## **Chapter XIII – Transmission System Operator**

### **Article 51 – Functions of a transmission system operator**

1. Regardless of its separation model, a transmission system operator shall ensure the construction, operation, maintenance and development of a safe, reliable and efficient transmission system according to economic conditions in order to keep an open market protected, as well as provide the long-term capacity of a transmission system to meet the reasonable demands for electricity or natural gas transmission in a specified area, and the means required to fulfil obligations relating to the services provided. During its activities, a transmission system operator shall be obliged to take into account environmental issues.
2. A transmission system operator shall provide transmission-related services in accordance with this Law, the transmission network rules, the licence terms and conditions, and the technical rules provided for by Article 97 of this Law.
3. The users of a transmission system shall be provided with services relating to transmission based on a contract concluded with the transmission system operator. The transmission system operator shall develop standard terms of a contract for the provision of services, including the standard terms of service contract relating to the connection to a distribution network and transmission, and publish them on its own website after their approval by the Commission.
4. A transmission system operator and, where appropriate, a transmission system owner shall, in the case of the existence of economically reasonable and technically feasible demands for capacities and taking into account the security of supply, ensure the construction of sufficient cross-border capacities (interconnectors) with a view to integrating the electricity and natural gas transmission systems of Georgia with the transmission systems of the parties to the Energy Community, and also with the transmission systems of other neighbouring countries in cases specified by the State Energy Policy.
5. It shall be inadmissible for a transmission system operator to discriminate between system users or between different categories of system users, including for the benefit of a related undertaking.
6. A transmission system operator shall provide to all respective operators of a neighbouring system, including transmission and distribution systems, as well as operators of natural gas storage and liquefied natural gas systems, sufficient information to ensure the transmission of electricity or natural gas or, where appropriate, the storage of natural gas, in compliance with the safe and efficient operation of the interconnected systems.
7. A transmission system operator shall provide system users with detailed information on offered services and conditions, that shall be understandable, quantifiable and easily accessible, as well as with the technical information required for efficient access to the system by the system users, with exceptions determined by procedures for maintaining confidentiality of information as approved by the Commission.
8. A transmission system operator shall purchase the energy required to perform its own functions in accordance with transparent, non-discriminatory and market procedures.
9. A transmission system operator shall ensure that competent state authorities, including the Commission and the Competition Agency, as well as the Energy Community Secretariat, have access to all the information provided for by this article, as well as the technical information required for efficient access for system users, and information concerning transparency requirements for at least 5 years.

### **Article 52 – Obligations of a transmission system operator**

1. A transmission system operator shall be obliged to:
  - a) meet the requirements of the rules of an electricity transmission network in accordance with Articles 60 and 68 of this Law;



b) elaborate an annual plan for the development of the transmission system for not less than 10 years in accordance with Article 53 of this Law, the State Energy Policy, and the investment plans appropriately agreed with other system operators;

c) perform transparent and efficient procedures and comply with transparent and efficient rules and conditions for allowing non-discriminatory and unlimited access of third persons to the transmission system in accordance with Articles 57, 58, 65 and 66 of this Law;

d) perform transparent and efficient procedures, rules and conditions of the non-discriminatory and optimum connection of distribution systems and other energy facilities, including industrial customers, to the transmission network, in accordance with Articles 59 and 67 of this Law;

e) comply with the transmission system dispatching rules and conditions and perform the functions of a dispatcher that involve the management of the operational capacities of the production facilities connected to the transmission network, as well as the management of energy flows produced by such production facilities and supplied to the transmission system, and/or the management of full energy flows available in the transmission system, including the use of interconnectors for the purpose of cross-border exchange with interconnected systems;

f) ensure the balancing of the transmission system and compliance with related rules and conditions in accordance with the requirements established by this Law;

g) ensure the purchase of ancillary services and the provision of system services, as well as compliance with the rules and conditions related thereto, in accordance with the requirements established by this Law;

h) ensure the performance of the functions of distribution of capacity and congestion management, as well as compliance with the rules and conditions related thereto, in accordance with Articles 62, 63 and 70 of this Law, for the efficient use of the available capacities, including interconnectors;

i) take appropriate safety measures for using the transmission system and equipment related thereto;

j) maintain the confidentiality of information containing commercial secrets, in accordance with Article 151 of this Law, obtained when carrying out activities, and publish information which might confer market privilege in a non-discriminatory manner;

k) collect and publish the data and information which are necessary to comply with the requirements of the transparency and supervision of energy markets according to the transmission network rules and the technical rules provided for by Article 97 of this Law;

l) promote the security of supply by providing the adequate capacity and reliability of the transmission system, and act in compliance with the requirements for the security of supply established by Chapters XXXIII and XXXIV of this Law;

m) take appropriate measures to ensure increased energy efficiency and environmental protection;

n) apply modern standards of energy efficiency, and supply management in compliance with the minimum standards for the maintenance and development of the transmission system, including interconnectors;

o) cooperate with the operators of other systems and relevant interested persons, and promote the conclusion of operational agreements with them and the development of Energy Exchange for the purpose of establishing regional energy markets in accordance with Article 56 of this Law;

p) determine minimum internal operational regulations and obligations for network safety in accordance with this Law and the transmission network rules;

q) promote the integration and liberalisation of energy markets;

r) submit to the Commission and, in the cases determined by this Law, to competent state authorities and international institutions, the information and documents required for the performance of their function.

2. In addition to the fulfilment of the obligations determined by paragraph 1 of this article, an electricity transmission system operator shall administer congestion costs and fees within a compensation mechanism between transmission system operators, and allow the access of third persons to the transmission system and the management of the use of the transmission system by them, and in the case of a refusal to such access, shall issue substantiated explanations that shall be supervised by the Commission.



3. A transmission system operator shall also perform other functions and obligations falling within its competence according to this Law and other legislative and subordinate normative acts of Georgia.

### **Article 53 – Development of a transmission network and investment decisions**

1. A transmission system operator shall develop a 10-year plan and update it annually for the following 10 calendar years on the development of the transmission network, based on existing and forecast indicators of supply and demand. A 10-year plan for the development of a transmission network shall include effective measures to ensure the adequacy of the safety of the transmission network and supply.

2. A 10-year plan for the development of a transmission network shall include:

- a) information on existing and forecast indicators of supply and demand for electricity or natural gas;
- b) information on the internal forecast production and cross-border exchange of electricity or overflow of natural gas;
- c) information on the basic infrastructure of the transmission network that will be constructed or improved within the following 10 years;
- d) information on investments decided and new investments to be made within the following 3 years;
- e) specific time frames for the implementation of investment projects;
- f) information on the integration of new production facilities (including renewable energy sources) into the network;
- g) other information required for the efficient operation and management of the energy system of Georgia in compliance with the requirements established by this Law, the transmission network rules and the normative acts regulating the safety of supply.

3. When elaborating a 10-year plan for the development of a transmission system, a transmission system operator shall make reasonable assumptions (presumptions) for the assessment of production, supply, consumption and cross-border exchange of electricity or overflow of natural gas, taking into account investment plans for the current networks and, in the case of the development of a natural gas network, also investment plans for natural gas storage facilities and liquefied natural gas facilities.

4. A transmission system operator shall include in a 10-year plan for the development of transmission network target indicators for the strategic development of the network provided for by the State Energy Policy under Article 7 of this Law, and cross-border and local projects.

5. After preparing a 10-year draft plan for the development of a transmission network through consultations with interested parties, a transmission system operator shall submit it to the Ministry and the Commission not later than 1 October in the respective year. The Commission shall review the 10-year draft plan for the development of the transmission network, check whether the plan meets all investment needs, and submit its remarks and recommendations in this regard to the Ministry within 2 months after receiving the draft.

6. The Ministry shall review the 10-year draft plan for the development of the transmission network and the remarks and recommendations submitted together with the Commission and the transmission system operator. The Ministry shall have the right to request that the system operator make changes to the 10-year plan for the development of the transmission network, including by taking into account the remarks made by the Commission. This does not apply to the removal from a 10-year plan for the development of transmission network projects relevant to the target indicators provided for by paragraph 4 of this article, although, where appropriate, the time frames for their implementation may be changed. The Commission shall be authorised to request from the transmission system operator additional clarifications and/or explanations and, if the Commission considers it necessary, also request changes to the financial indicators relating to projects, including projects which can affect the cost of energy for end users. The expenditure of implementing such projects may be fully or partially funded from the state budget if the Government of Georgia takes such a decision based on a cost-benefit analysis. Otherwise, they will be taken into account in regulated tariffs in accordance with the procedures and conditions established by the relevant methodology that has been approved by the Commission.

7. The Ministry, on the basis of approval from the Government of Georgia, not later than by the end of a respective year, shall ensure the approval of a 10-year plan for development of a transmission network. The implementation of a 10-year plan for development of a transmission network shall be supervised and evaluated by the Commission and the Ministry within their



competences.

8. If a transmission system operator does not implement the investment planned under the 10-year plan for development of the transmission network for the following 3 years, except when caused by reasons of force majeure due to circumstances beyond its control, to ensure the implementation of the relevant investment, the Commission shall, if this is still of importance in the 10-year plan for the development of the transmission network, take one or several of the following measures in agreement with the Government of Georgia:

- a) require that the transmission system operator make the relevant investment;
- b) conduct an open tender to select an investor interested in making the relevant investment;
- c) in order to make the necessary investment, instruct the transmission system operator to increase its own capital and allow independent investors to become shareholders or partners of the transmission system operator.

9. The investors provided for by paragraph 8 of this article may not be companies which carry out activities relating to electricity or natural gas production, supply and/or trade.

10. If the Commission takes the measure specified by paragraph 8(b) of this article, it may instruct the transmission system operator to meet one or several of the following conditions:

- a) to give approval to funding by third persons;
- b) to give approval to asset building by third persons;
- c) to build relevant new assets itself;
- d) to operate relevant new assets itself.

11. A transmission system operator shall be obliged to make the maximum effort to promote the implementation of investment projects, and provide investors with all the required information, including with regard to the connection of a new facility to the transmission network. The financial agreements resulting from this paragraph require the prior approval of the Commission.

12. If the Commission takes the measure specified in paragraph 8(b) of this article, the cost of the relevant investment shall be reimbursed by the service fee for transmission.

13. Unless an independent system operator and a transmission system owner appointed in accordance with Article 46 of this Law agree on the development of the assets of a transmission network, including the extension of a transmission network, a decision on such investments shall be made by the Commission on the basis of an economic and technical substantiation presented by the independent system operator and transmission system owner.

#### **Article 54 – Transparency of the activities of a transmission system operator. Annual report**

1. A transmission system operator shall be obliged to publish detailed information on services it offers and the relevant terms, along with the technical information required for the efficient access of system users to the transmission system, in the form and within the time frames established by the Commission.

2. A transmission system operator shall be obliged to publish a report on the activities of the previous calendar year annually, in a form and within the time frames established by the Commission.

3. A transmission system operator shall submit to the Ministry an annual report after it is approved by the Commission. The Ministry shall, taking into account the annual report of the transmission system operator, prepare an annual report on the situation concerning the safety of supply in the country and on the expected demand for electricity and natural gas.

4. The Commission shall, based on the annual report of a transmission system operator, have the right to request that the transmission system operator and/or, in respective cases, other energy undertakings, implement specific actions in order to ensure:

- a) transparency, impartiality and non-discrimination;



- b) the adequate operation and management of the transmission system;
- c) the reduction of losses within the transmission network;
- d) the improvement of the quality of supply;
- e) the improvement of the operational safety of the network.

#### **Article 55 – Provision of data and information to a transmission system operator**

Producers, system operators, and end users owning a facility connected to a transmission network shall, upon request, be obliged to provide the transmission system operator with all the data and information necessary for the operation, management and development of the system, in accordance with this Law, the transmission network rules, the normative acts regulating the security of supply, and the procedure for the submission of information approved by the Commission.

#### **Article 56 – Regional and international cooperation of transmission system operators**

1. A transmission system operator shall, in coordination with the Commission, promote the cooperation of transmission system operators on a regional level, including with respect to cross-border issues, in order to facilitate the establishment of a competitive regional market of electricity or natural gas, and the compliance of the legal and technical requirements regulating the activities of a transmission system operator with the international obligations assumed by Georgia.
2. Within the scope specified by this Law, the legislation of the Energy Community and other respective normative acts of Georgia, a transmission system operator shall cooperate with the Energy Community Regulatory Board and, where appropriate, with the regulatory bodies and transmission system operators of parties to the Energy Community.
3. To distribute transmission capacities and to inspect security in transmission networks, a transmission system operator shall, with the prior consent of the Commission, be authorised to participate in the operation of one or several integrated systems, within one or several regions, covering not less than two parties to the Energy Community.
4. For the purpose of the optimum management of the transmission networks within the Energy Community, a transmission system operator shall promote operational agreements, the development of Energy Exchange, and the coordinated distribution of cross-border capacities through market and non-discriminatory mechanisms. For this purpose, a transmission system operator shall take into account the advantages of the auction of the cross-border trade in electricity with respect to short-term distributions, as well as the integration of balancing and reserve mechanisms.

### **Chapter XIV – Operation and Management of Electricity Transmission System**

#### **Article 57 – Allowing access of a third person to electricity transmission system**

1. A transmission system operator shall, in compliance with the requirements of the rules of the electricity transmission network, allow non-discriminatory and unlimited access of system users to the electricity transmission system. The fee for access to the electricity transmission system shall be calculated and established by the Commission, according to the relevant methodology.
2. A transmission system operator shall offer various persons using the electricity transmission system the same service on equal contractual terms, using a harmonised transmission service contract and/or in accordance with the rules of the electricity transmission network.
3. The provisions of this Law shall not interfere with the conclusion of long-term contracts provided that these contracts comply with the competition procedures established by the legislation of Georgia and the Energy Community.
4. A transmission system operator shall publish on its website the procedure, rules and conditions of access to the electricity transmission system, including the requirements established by the rules of the electricity transmission network, and the fees



determined by the Commission, as well as technical and quantitative data subject to regular updates which are required for access to and the use of the electricity transmission system.

5. In cases provided for by the legal acts of the Commission, the service relating to the access of the third person may be provided to the user of the electricity transmission system only after presenting a relevant financial guarantee. This guarantee shall be provided for by the standard contractual terms developed in accordance with Article 51(3) of this Law, shall be non-discriminatory, transparent and proportional, and shall not create unjustified barriers to entering the market.

6. Transmission system operators shall, in accordance with the terms of bilateral or multilateral contracts and/or other terms of cooperation, have access to the networks of the operators of transmission systems of neighbouring countries, if so required for the performance of their functions, including for the cross-border transmission of electricity.

7. During the dispatching of production facilities, a transmission system operator shall, in accordance with the procedures established by the legislation of Georgia, be authorised to give priority to facilities which produce energy through renewable energy sources, or to other facilities of encouraged production.

#### **Article 58 – Refusal of access to an electricity transmission system**

1. A transmission system operator shall be authorised to fully or partially refuse the access of a third person to an electricity transmission system on the basis of insufficient capacity or lack of connection points, and also if the access of the third person to the system will prevent the transmission system operator from providing a public service under this Law, or will endanger public health or safety. The procedure and terms for the refusal of access of the third person to an electricity transmission system shall be determined by the rules of the electricity transmission network.

2. A transmission system operator shall substantiate a decision refusing access to an electricity transmission system, with an indication of the term of validity of the decision, relevant reasons for refusing, and the measures to be taken for the elimination thereof. In respect of persons not granted access to an electricity transmission system upon their request, the transmission system operator shall immediately but not later than within 5 working days after the receipt of the request for access, notify in writing the reasons for the refusal, and provide impartial and non-discriminatory evidence based on technically and economically justified criteria.

3. A transmission system operator which has been refused access to an electricity transmission system due to insufficient capacity or lack of points of connection, shall be obliged to take necessary measures to enhance the transmission system, if such action is economically justified, or the potential number of customers could cover the appropriate costs.

4. Where appropriate, the Commission shall ensure that a transmission system operator provides a person concerned with relevant information on the measures provided for by paragraph 3 of this article for the enhancement of the electricity transmission system. A reasonable fee may be established to cover the costs for providing this information.

5. A person denied access to an electricity transmission system or a person dissatisfied with the terms of access to an electricity transmission system shall have the right to submit an application to the Commission in accordance with Article 155 of this Law.

#### **Article 59 – Connection of electricity appliances to an electricity transmission network**

A transmission system operator shall, in accordance with the rules of the electricity transmission network, ensure the connection of electricity appliances to an electricity transmission network. The cost for connecting electricity appliances to an electricity transmission network shall be established by the Commission on the basis of a calculation performed with methodology adopted by the Commission.

#### **Article 60 – Rules of an electricity transmission network**

1. An electricity transmission network is operated and managed in accordance with the rules of the electricity transmission network and the procedures established by other legislative and subordinate acts of Georgia.

2. The rules of the electricity transmission network shall establish:





- a) the operating requirements necessary for the security of the electricity transmission network in compliance with the requirements for the technical quality of electricity established by the technical rules determined by Article 97 of this Law;
- b) the procedures of operation of the electricity system under regular and emergency conditions, in cases of malfunction, during force majeure circumstances, and any other impediment, taking into consideration the rules for emergency management and safety of supply established by relevant legal acts;
- c) the procedure, rules and conditions for access of a third person to the electricity transmission system, including in accordance with Articles 57 and 58 of this Law, and the service to be provided by a transmission system operator with regard to the access of a third person;
- d) the procedure and conditions for connection to the electricity transmission network under Article 59 of this Law, including:
- d.a) the preconditions for connection to the electricity transmission network;
- d.b) the method of accounting electricity, the functional requirements for a metering device, and the class of accuracy in accordance with the requirements determined by the technical rules, Article 97 of this Law, and other legal acts;
- d.c) the right to property of the metering device present at a point of connection or any other specified settlement point;
- d.d) the rights and obligations of the transmission system operator and the system user relating to connection to the electricity transmission network;
- e) the rules and conditions of dispatching, including services to be provided with respect to dispatching by the transmission system operator, during which account shall be taken of the economic advantages (the sorting of electricity supply sources according to economic criteria) of the electricity produced by an existing production facility and/or electricity received from the cross-border exchange, and of technical restrictions of the electricity system. If the measures provided for by Article 37 of this Law have been taken, during the dispatching of electricity production facilities, preference may be given to facilities which generate electricity and/or carry out a combined production of electricity and thermal energy through renewable energy sources;
- f) general rules and conditions of connection of facilities connected to the electricity distribution network or electricity transmission network to the electricity network, in accordance with the rules of the electricity distribution network and other applicable rules, as long as it is required for dispatching purposes in the electricity system;
- g) conditions for balancing the electricity system which reflect the actual needs of the system and take into account the resources of minor value held by a transmission system operator. The rules for balancing shall be based on impartial, non-discriminatory, transparent market principles;
- h) rules for the development of electricity balance. Electricity balance shall determine the forecast data of supply and demand for electricity production and supply to the system, and it shall be used for dispatching and balancing purposes. Electricity balance shall be developed and updated periodically, in cooperation with the operators of interconnected systems and other relevant system users, and published on the website of the transmission system operator;
- i) rules for the management of cross-border exchanges of electricity in accordance with Article 61 of this Law;
- j) rules for capacity distribution, including for the distribution of capacity of cross-border transmission in, and the use of, electricity in accordance with Article 62 of this Law;
- k) rules for congestion management within the electricity transmission network in accordance with Article 63 of this Law;
- l) the criteria, methods and rules for the procurement of ancillary services and the provision of electricity system services;
- m) the procedure, criteria and methodology of operation and development of the electricity transmission network;
- n) the procedure and rules for accounting the capacity and volume of electricity supplied and transmitted to the electricity transmission network;
- o) rules for performing procedures relating to the interruption in supply of electricity through the electricity transmission network;



- p) the rights and obligations of the transmission system operator and system user related to the operation and management of the electricity transmission network;
- q) the general rules and conditions of contractual relations with respect to the provision of transmission-related services, including those related to connection to the electricity transmission network (according to a standard contract on connection) and electricity transmission (according to a standard contract on electricity transmission);
- r) a procedure for reviewing and resolving complaints and disputes arising from contracts on electricity transmission in the internal organisational level of the transmission system operator, or from other relationships dealing with access and connection to, or use of, the electricity transmission network;
- s) a method for publishing the data and information held by the transmission system operator necessary for the operation and management of the electricity system and the organisation of the electricity market, including an explanation of all relevant paragraphs, and a schedule of publishing of information as provided for by Article 54 of this Law;
- t) a method of exchange of data and information with other operators of interconnected electricity systems;
- u) rules for providing the transmission system operator with the data and information necessary for the operation and management of the electricity transmission network in accordance with Article 55 of this Law;
- v) measures for improving energy efficiency and requirements for the security of electricity supply within the competences of the transmission system operator;
- w) other rules and terms relating to the operation and management of the electricity transmission network.

3. The rules of an electricity transmission network shall be developed by the transmission system operator and approved by the Commission. The transmission system operator shall ensure the taking of consultations from all interested persons, and their adequate participation in the process of the development of the rules of the electricity transmission network. To establish the compliance of the draft electricity network rules with the legislation of the Energy Community, the transmission system operator shall be authorised to apply to the Energy Community Secretariat for recommendations. The transmission system operator shall act in accordance with the technical rules provided for by Article 97 of this Law and with other legislative and subordinate legal acts of Georgia.

4. The rules of an electricity transmission network shall be published in the Legislative Herald of Georgia and on the website of the transmission system operator.

#### **Article 61 – Management of cross-border exchange of electricity**

1. The cross-border exchange of electricity through an electricity transmission network shall be managed by the transmission system operator in accordance with the technical capacities under the international treaties of Georgia, cross-border electricity transmission lines, and the unified electricity transmission network.

2. Payments relating to fees for using cross-border electricity transmission lines between the transmission system operator and the operators of the systems of other countries which participate in the cross-border exchange of electricity shall be made in accordance with the obligations assumed under this Law, the international treaties of Georgia, and international obligations assumed by Georgia.

3. A transmission system operator shall provide the Commission with information on the actual use and purpose of revenues obtained with regard to the use of cross-border electricity transmission lines, in order to allow the Commission to exercise the regulatory authority determined by this Law with respect to cross-border electricity transmission lines (interconnectors).

4. Based on the electrical and physical characteristics of a transmission network, the transmission system operator shall develop a methodology for calculating the available volume and transmission reliability margin of the capacity of the electricity transmission network. The transmission system operator shall submit this methodology, and all amendments made thereto, to the Commission for approval, and shall publish it in a due manner. For the purposes of this paragraph, the Commission shall cooperate with the respective regulatory authorities of neighbouring countries according to Article 25 of this Law.

5. The transmission system operator shall publish an estimated calculation of the available volume of electricity transmission capacity for each day, with an indication of the reserved portion of the available volume of electricity transmission capacity. This



information shall be published a day before electricity transmission, at certain intervals, and shall include calculations made a week previously and a month previously, as well as the expected reliability of available volume of electricity transmission capacity, with an indication of the relevant amount.

6. Upon request, the Commission shall provide the competent authorities of the Energy Community with all data relating to the cross-border exchange of electricity, in accordance with the international obligations assumed by Georgia.

#### **Article 62 – Distribution and use of the capacity of cross-border electricity transmission**

1. The capacity of cross-border electricity transmission shall be distributed and used in accordance with the rules of an electricity transmission network, and the rules determined by paragraph 3 of this article, taking into account agreements coordinated at the regional level.

2. In respective cases, a transmission system operator, in compliance with the international treaties of Georgia, shall be authorised to establish, together with the transmission system operators of other countries, one or several legal entities under private law, in order to ensure the coordination of the auction of the cross-border electricity transmission capacity, for the purpose of the distribution and use of cross-border electricity transmission capacity in one or several regions, or the undeclared purchase and sale of electricity together with cross-border transmission capacity.

3. The rules for the distribution and use of cross-border transmission capacity of electricity shall be prepared by the transmission system operator and approved by the Commission in accordance with the legislation of Georgia. In the case of the physical connection of a transmission network with a member country of the Energy Community, these rules shall be prepared by the transmission system operator and approved by the Commission in cooperation with respective national regulatory bodies, and shall be in accordance with the harmonised rules existing at the regional level of the Energy Community and with the instructions of respective national regulatory authorities. The distribution of cross-border electricity capacity at the regional level shall be supervised in accordance with a decision on the establishment of a legal entity under private law carrying out a coordinated auction.

#### **Article 63 – Congestion management in an electricity transmission network**

1. Congestion within an electricity transmission network, including congestion related to cross-border electricity transmission, shall be managed by non-discriminatory decisions based on market principles which provide efficient economic signals to participants in the electricity market, the transmission system operator, and other relevant electricity undertakings.

2. Difficulties relating to congestion within an electricity transmission network shall be primarily resolved in a manner that will not necessitate a choice between the contracts of individual electricity market participants.

3. Choice between the contracts of individual electricity market participants (namely, the restriction of contracts) may be made only in emergency situations, when the transmission system operator is obliged to act expeditiously, and it is impossible to redispatch or trade in the direction opposite to exchange. All such measures shall be taken in a non-discriminatory manner. Electricity market participants to which cross-border electricity transmission capacity was distributed, in the case of restriction of contracts shall be compensated, except in the cases determined by the legislation of Georgia, or a relevant contract.

4. A transmission system operator shall, in line with the standards for the safe operation of electricity systems in Georgia and neighbouring countries, ensure that the maximum capacity of the electricity transmission network, that has an impact on interconnectors and the cross-border exchange of electricity, is available to participants in the electricity market.

5. An electricity market participant shall, within a reasonable time prior to the relevant operating period, notify a transmission system operator of the use of the capacity distributed to him/her. Any distributed transmission capacity not used shall be placed on the electricity market again in an open, transparent and non-discriminatory manner.

6. To provide the maximum conductivity of a line, a transmission system operator shall deduct for overloaded interconnectors requirements for reverse direction electricity flows, where technically possible.

7. For the safe operation of the electricity system, a transmission system operator shall not refuse operations which facilitate the unloading of congestion in an electricity transmission network.



8. If the volume of the capacity obtained from the deduction of capacities for relevant interconnectors nominated by participants in the electricity market is less than the available volume of capacity, and an electricity transmission network is not congested, the service shall be delivered to all market participants and an additional fee for the congestion management service shall not be paid.

9. Any revenue received by a transmission system operator from congestion management with respect to the usage of cross-border electricity transmission lines shall be used for the following purposes:

a) to ensure actual availability of distributed transmission capacity;

b) to maintain or enhance cross-border capacity by making investments in the electricity transmission network, in particular in new interconnectors.

10. If, for achieving the goals determined by paragraph 9 of this article, the revenues received by a transmission system operator cannot be efficiently used, the Commission, with a view to reducing a tariff, shall take the unused revenue into account when calculating the fee for using the electricity transmission system. The remaining portion of the revenue shall be deposited in a separate internal account of the transmission system until it can be used to achieve the goals determined by paragraph 9 of this article, and the Commission shall notify the Energy Community Regulatory Board thereof.

#### **Article 64 – Simultaneous operation of electricity systems**

1. The simultaneous operation of electricity systems shall be a set of measures and tools necessary for the synchronous or asynchronous operation of two or more neighbouring electricity systems, or any part thereof, for maintaining the stability of the electricity systems.

2. A transmission system operator shall be authorised to conclude a contract (contracts) on the simultaneous operation of electricity systems with the competent operators of neighbouring electricity systems.

3. The conclusion of a contract on the simultaneous operation of electricity systems shall be permitted, provided it does not contravene the requirements of this Law, including the terms relating to the separation, independence and competence of transmission system operators, other legislative and subordinate acts of Georgia, and the obligations assumed by Georgia under the treaty establishing the Energy Community.

4. The technical operation and cooperation relating to the simultaneous operation of electricity systems shall be performed in accordance with the agreement provided for by paragraph 2 of this article and the rules of the electricity transmission network.

5. The relationship arising on the basis of a contract of simultaneous operation of electricity systems shall not entail an import or export of electricity, and it shall not be subject to separate licensing or the issue of a permit.

### **Chapter XV – Operation and Management of Natural Gas Transmission System**

#### **Article 65 – Allowing access of a third person to natural gas transmission system**

1. A transmission system operator shall, in compliance with the rules of a natural gas transmission network, allow the non-discriminatory and unlimited access of system users to the natural gas transmission system. The fee for access to the natural gas transmission system shall be based on the tariff calculated and established by the Commission according to the relevant methodology.

2. For the purposes of paragraph 1 of this article, a transmission system operator shall offer system users a long-term and a short-term guaranteed or interruptible service relating to the access of a third person to a natural gas transmission system. In the case of an interruptible service, the cost of interruptible capacity shall reflect the possibility of the termination of service.

3. A transmission system operator shall offer the same service to various persons using a natural gas system on equal contractual terms, applying a harmonised contract of natural gas supply services and/or in accordance with the rules of a natural gas transmission network.



4. A transmission system operator shall publish on its website the procedure, rules and conditions of access to a natural gas transmission system, including the requirements established by the rules of a natural gas transmission network and the fees determined by the Commission, as well as the technical and quantitative data subject to regular updates which are required for access to and use of the natural gas transmission system.

5. Where necessary, the service relating to allowing the access of a third person to a natural gas transmission system may be rendered to a system user only after the provision of a relevant financial guarantee. This guarantee shall be provided for by the standard contractual terms worked out in accordance with Article 51(3) of this Law; it shall be non-discriminatory, transparent and proportional, and shall not create unjustified barriers for individuals intending to enter the market.

6. A contract on natural gas transmission that enters into force on an irregular date or that has been concluded for a period that is shorter than that of a standard annual transportation contract, may not result in an unjustifiably high or low tariff that does not reflect the market value of the service.

7. The provisions of this Law shall not interfere with the conclusion of long-term contracts, provided that these contracts comply with the competition procedures established by the legislation of Georgia and the Energy Community.

8. A transmission system operator, in accordance with the terms of bilateral or multilateral contracts, and/or other terms of cooperation, shall have access to the networks of transmission system operators of neighbouring countries, if required for the performance of its functions, including for the cross-border transmission of natural gas.

9. A transmission system operator, in accordance with the procedure established by the legislation of Georgia, shall be authorised to give priority to facilities which produce energy through renewable energy sources, or to other facilities of encouraged production.

#### **Article 66 – Refusal of access to a natural gas transmission system**

1. A transmission system operator shall not have the right to refuse, fully or partially, the access of a third person to a natural gas transmission system, except where this has been caused by the insufficient capacity or lack of points of connection in the requested period, or where the access of a third person to the natural gas transmission system prevents the transmission system operator from providing a public service under this Law, or endangers public health or safety. In the above-mentioned cases, a decision to refuse the access of a third person to the natural gas transmission system shall be adequately substantiated, with reference to its term of validity, in accordance with paragraph 3 of this article. The procedure and terms of refusal of the access of a third person to the system shall be determined by the rules of the natural gas network.

2. A transmission system operator may, except for the cases provided for by paragraph 1 of this article, refuse, fully or partially, a third person access to a natural gas transmission system, if the take-or-pay contracts applicable before receiving the request of the third person for access to the transmission system will cause major economic or financial difficulties.

3. A transmission system operator shall substantiate a decision refusing the access of a third person to a natural gas transmission system with an indication of the term of the validity of the decision, respective reasons for the refusal, and the measures to be taken for their elimination. In respect of all persons who were not granted access to a natural gas transmission system upon their request, the transmission system operator shall immediately, but not later than within 5 working days after the receipt of the request for access to the natural gas transmission system, notify in writing the relevant reasons for the refusal and provide impartial and non-discriminatory evidence based on technically and economically justified criteria.

4. In the case of a refusal of access to a natural gas transmission system due to insufficient capacity or lack of points of connection, a transmission system operator shall be obliged to take necessary measures to enhance the system, if such action is economically justified or the potential customer would cover the relevant costs.

5. Where appropriate, the Commission shall ensure that a transmission system operator provides a person concerned with relevant information on the measures provided for by paragraph 4 of this article for the purpose of the enhancement of a natural gas transmission system. A reasonable fee may be established to cover the costs for providing this information.

6. A person denied access to a natural gas transmission system or a person dissatisfied with the terms of access to a natural gas transmission system shall have the right to submit an application to the Commission in accordance with Article 155 of this Law.



## **Article 67 – Connection of natural gas facilities to a natural gas transmission network**

A transmission system operator shall, in accordance with the rules of a natural gas transmission network, ensure the connection of natural gas facilities to the natural gas transmission network. The cost for connecting natural gas facilities to a natural gas transmission network shall be established by the Commission as a result of a calculation that is performed on the basis of the methodology adopted by the Commission.

## **Article 68 – Rules of a natural gas transmission network**

1. A natural gas transmission network shall be operated and managed in accordance with the rules of the natural gas transmission network and in accordance with the procedures established by other legislative and subordinate acts of Georgia.

2. The rules of a natural gas transmission network shall establish:

- a) operating requirements necessary for the safety of the natural gas transmission network in compliance with the requirements for the technical quality of natural gas established by the technical rules determined by Article 97 of this Law;
- b) procedures of operation of the natural gas under regular and emergency conditions, in cases of malfunction, during force majeure circumstances and any other impediment, taking into consideration the rules for emergency management and safety of supply established by relevant legal acts;
- c) procedure, rules and conditions for access of a third person to the natural gas transmission system, including in accordance with Articles 65 and 66 of this Law, and the service to be provided by the transmission system operator with regard to the access of a third person to the natural gas transmission system;
- d) procedure and conditions for connection to the natural gas transmission network under Article 67 of this Law, including:
  - d.a) the preconditions for connecting to the natural gas transmission network;
  - d.b) the method of accounting natural gas, the functional requirements for a metering device, and the class of accuracy in accordance with the requirements determined by the technical rules provided for by Article 97 of this Law, and established by other legal acts;
  - d.c) the right to the property of a metering device present at the point of connection or any other specified settlement point;
  - d.d) the rights and obligations of the transmission system operator and a system user relating to the connection to the natural gas transmission network;
- e) the rules and conditions of dispatching, including services to be provided with respect to dispatching by the transmission system operator;
- f) the procedures for balancing the natural gas system under Article 69 of this Law;
- g) the procedures for the management of a capacity distribution mechanism and congestion management in accordance with Article 70 of this Law;
- h) the criteria, methods and rules for the procurement of ancillary services and the provision of natural gas system services;
- i) the procedure, criteria and methodology of operation and development of the natural gas transmission network;
- j) virtual (including virtual trade) point(s) existing within the natural gas transmission network;
- k) the marginal values of the quality, chemical composition and other characteristics of natural gas received in and transmitted from the natural gas transmission network in accordance with the requirements established by the technical rules and other legal acts which have been provided for by Article 97 of this Law;
- l) the procedure and rules for accounting capacity, as well as the volume of natural gas supplied to and transmitted from the natural gas transmission network;



- m) the procedure and conditions for exchanging data on the planned volume and actually supplied volume of natural gas when it is impossible to make a daily accounting of the volume of gas;
- n) rules for carrying out procedures relating to interruptions in the supply of natural gas through the natural gas transmission network;
- o) the rights and obligations of the transmission system operator and system users which are related to the operation and management of the natural gas transmission network;
- p) general rules and conditions of contractual relations with respect to the provision of transmission-related services, including connection to the natural gas transmission network (according to the terms of a standard contract on connection) and natural gas transmission (according to the terms of a standard contract of natural gas transmission);
- q) a procedure for reviewing and resolving complaints and disputes arising from contracts on natural gas transmission at the internal organisational level of the transmission system operator, or from other relationships dealing with the access, connection to or use of the natural gas transmission network;
- r) a method for publishing the data and information held by the transmission system operator necessary for the operation and management of the natural gas system and organisation of the natural gas market, including explanations of all relevant paragraphs, and a schedule of publishing of information provided for by Article 54 of this Law;
- s) a method of exchange of data and information with other operators of natural gas interconnected systems;
- t) a procedure for providing the transmission system operator with the data and information required for the operation and management of the natural gas transmission system in accordance with Article 55 of this Law;
- u) measures to be taken for enhancing energy efficiency within the competence of the transmission system operator and the requirements relating to the safety of supply of natural gas;
- v) other rules and conditions relating to the operation and management of a natural gas transmission network.

3. The natural gas transmission network regulations shall be developed by the transmission system operator and approved by the Commission. The transmission system operator shall ensure the taking of consultations from all interested persons and their adequate participation in the process of development of the rules of a natural gas transmission network. To establish the compliance of the draft natural gas transmission network rules with the legislation of the Energy Community, the transmission system operator shall be authorised to apply to the Energy Community Secretariat for recommendations. The transmission system operator shall act in accordance with the technical rules provided for by Article 97 of this Law and to other legislative and subordinate legal acts of Georgia.

4. The rules of a natural gas transmission network shall be published in the Legislative Herald of Georgia and on the website of the transmission system operator.

#### **Article 69 – Rules for balancing natural gas and imbalance charges**

1. The rules for balancing natural gas shall be based on fair, non-discriminatory, transparent and impartial criteria. The rules for balancing natural gas shall reflect the actual needs of the system, and shall take into account resources of minor value held by a transmission system operator and result from the principles of the natural gas market.

2. Imbalance charges shall reflect, to the extent possible, the costs incurred and provide appropriate incentives to balance the receipt and issue of natural gas. Imbalance charges shall not subject the users of the natural gas system to cross subsidising, and shall not create a barrier for new users of the natural gas system to enter the market. Imbalance charges shall be determined in accordance with the procedure established by a legal act of the Commission.

3. A transmission system operator shall publish electronically complete, timely and reliable information on the balancing status of the users of the natural gas system to allow system users to take measures in time for the elimination of imbalance. A transmission system operator shall fully publish the information on the balancing status of the users of the natural gas system that is available to it. No fee may be established for providing the information specified in this paragraph.

4. A transmission system operator shall publish the service fees relating to natural gas balancing.



5. A transmission system operator shall cooperate with the operators of the transmission systems of parties to the Energy Community in order to ensure that, with a view to promoting trade in natural gas, the modes of balancing of the natural gas systems are harmonised and the structure and levels of imbalance charges are simplified.

#### **Article 70 – Distribution of capacity in a natural gas transmission system and procedure for congestion management**

1. Natural gas market participants shall have access to the maximum capacity of all relevant points of a natural gas transmission system, including the points of receipt and issue of natural gas, taking into account the unity of the natural gas system and the efficient operation of a natural gas network.

2. A transmission system operator shall develop and publish non-discriminatory and transparent mechanisms for capacity distribution within a natural gas transmission system which:

a) provide appropriate economic signals for the efficient and maximum application of technical capacities, and promote the implementation of investments in the new infrastructure of natural gas and cross-border overflow of natural gas;

b) are compatible with market mechanisms, including spot markets and trade hubs, and are also flexible and adaptable to the environmental conditions of the developing natural gas market;

c) are compatible with the procedure of access to the systems of the parties to the Energy Community (in the case of physical connection of a transmission network, to a member country of the Energy Community).

3. A transmission system operator shall develop and publish non-discriminatory and transparent procedures for congestion management which facilitate the non-discriminatory cross-border overflow of natural gas and are based on the following principles:

a) in case of contractual congestion, offering the capacity not used by the transmission system operator on the primary market for at least one day in advance and in the form of interruptible capacity;

b) in the case of a request of a user of a natural gas system, or by a decision of a transmission system operator, resale on the secondary market, or the transfer to temporary ownership of unused contracted capacity, after notifying the transmission system operator in advance, and according to the rules of the natural gas network.

4. In the case of physical congestion, a transmission system operator, or where appropriate, the Commission, shall apply non-discriminatory and transparent mechanisms for capacity distribution.

5. A transmission system operator shall regularly assess the need for making investments in the natural gas market. When planning investments, the transmission system operator shall take into account the safety of supply and the demands of the natural gas market.

## **SECTION VI**

### **DISTRIBUTION**

#### **Chapter XVI – Status, Authorisation and Separation of Distribution System Operator**

#### **Article 71 – Status of Distribution System Operator**

1. Distribution is an activity assigned to the scope of public interests that covers the transportation of electricity or natural gas within a distribution network and the safe and reliable supply of electricity and natural gas to end users, as well as the operation, maintenance and development of a distribution network according to economic conditions, as well as other related activities required for the efficient operation of electricity and natural gas distribution systems.





2. Distribution activities, in accordance with the procedures established by this Law and other legislative and subordinate legal acts of Georgia regulating the energy sector, shall be carried out by a distribution system operator.
3. A distribution system operator shall be a special and independent energy undertaking that is a legal entity under private law established under the legislation of Georgia. When exercising its powers, a distribution system operator shall be independent from production, transmission, supply and trading activities, and from commercial interests relating to these activities. To ensure the independence of a distribution system operator, the latter shall be separated in accordance with the procedure provided for by Article 73 of this Law. It is permissible to create a combined operator with the function of operating transmission, distribution and/or a natural gas storage system, provided that the separation requirements of a transmission system operator are met.
4. A distribution system operator shall not be authorised to purchase and/or sell electricity or natural gas, except as directly provided for by this Law. A distribution system operator may purchase electricity or natural gas to compensate for losses in the distribution network, and purchase gas for its own consumption (for the operation of a compressor and preheating of gas).
5. In accordance with the procedure established by Article 72 of this Law, the authorisation of a relevant person as a distribution system operator shall authorise that person to carry out the activity of electricity or natural gas distribution.

#### **Article 72 – Authorisation of a distribution system operator**

1. A distribution system operator shall be authorised by the Commission by issuing a distribution licence to operate. A distribution licence to operate shall be issued according to the terms established by the Law of Georgia on Licences and Permits, Chapter V of this Law, and the licensing procedures approved by the Commission.
2. A distribution licence to operate shall be issued only in the case of compliance with the requirements for separation as provided for by Article 73 of this Law.

#### **Article 73 – Separation of a distribution system operator**

1. A distribution system operator which is part of a vertically integrated undertaking shall, at least in terms of legal form, organisational arrangement and decision-making, be independent from such other activity that is not related to distribution.
2. The requirement for independence of a distribution system operator determined by paragraph 1 of this article shall not result in the obligation of ownership unbundling of the assets of the distribution system operator from a vertically integrated undertaking.
3. The following minimum requirements shall be met to ensure the independence of a distribution system operator in accordance with paragraph 1 of this article:
  - a) the inadmissibility of the participation of persons responsible for the management of the distribution system operator in the commercial structures of an integrated undertaking which, directly or indirectly, are responsible for the daily activities of transmission, supply and/or trade of production;
  - b) taking appropriate measures to ensure that the professional interests of the persons responsible for the management of the distribution system operator are taken, provided that they are allowed to act independently;
  - c) the effective right of the distribution system operator to take a decision independently from the integrated undertaking with respect to the assets which are required for the operation, maintenance or development of a distribution network. For this purpose, a distribution system operator shall have all the adequate resources, including human, technical, material and financial resources.
4. Despite the independence of a distribution system operator, a vertically integrated undertaking shall be authorised to approve an annual financial plan for a distribution system or its equivalent document, and/or establish a debt level margin for a distribution system operator.
5. A vertically integrated undertaking may not provide directions with regard to the daily activities of a distribution system operator or with regard to the individual decisions which are related to the construction or improvement of distribution lines, and shall comply with the terms of the financial plan or its equivalent document approved by the distribution system operator.



6. A distribution system operator shall prepare a compliance programme that determines measures to be taken for the elimination of discriminatory practices and provides appropriate supervision over its implementation. The compliance programme for the elimination of discriminatory practices shall specify the particular obligations of the employees of the distribution system operator.
7. A compliance officer shall prepare an annual report on the measures taken by a distribution system operator for the implementation of the compliance programme, and publish it on the website of the distribution system operator following its approval by the Commission. The compliance officer shall be independent and, for the performance of his/her functions, have the right to request from a distribution system operator and/or related undertakings any required information.
8. A distribution system operator may not benefit from any advantage arising from vertical integration with a purpose of restriction of competition. In particular, a distribution system operator shall not cause confusion by his/her communications and/or branding in relation to the supply activities of a vertically integrated undertaking with a different identity of the part thereof carrying out the supply activity.
9. The compliance of a distribution system operator with the requirements for independence and separation established by this Law shall be supervised by the Commission.
10. To ensure the compliance with the requirements for independence established by paragraph 1 of this article, the Ministry shall be authorised to take additional measures with regard to the organisational arrangement and independence of a distribution system operator.
11. The Ministry, in agreement with the Commission, shall be authorised to exempt a vertically integrated energy undertaking serving not more than 100 000 customers, and connected to a network, from the obligation to comply with the requirements for the separation and independence of a distribution system operator determined by this article.
12. The requirements for separation shall not apply to a horizontally integrated electricity undertaking or a horizontally integrated natural gas undertaking.

## **Chapter VXII – Functions of a Distribution System Operator**

### **Article 74 – Functions of a distribution system operator**

1. A distribution system operator shall provide the long-term capacity of a system to meet the reasonable demand for electricity or natural gas distribution in the respective area of service provision, and operate, maintain and develop a safe, reliable and efficient distribution system according to economic conditions, taking into account issues relating to environmental protection and energy efficiency.
2. A distribution system operator shall ensure the provision of a reliable and efficient service relating to distribution in accordance with the rules of a distribution network, licence terms and conditions, and the technical rules provided for by Article 97 of this Law.
3. A distribution service shall be provided to system users on the basis of the standard terms of contract concluded with a distribution system operator, or those of a service contract. A distribution system operator shall develop standard terms of a service contract, including a service contract relating to connection to a distribution network and a distribution service contract, and publish them on its website after approval by the Commission. A contract shall be considered concluded on standard terms by signing up to the standard terms of the contract in accordance with the procedures established by the Commission.
4. Discrimination by a distribution system operator between system users or between different categories of system users shall not be permitted, including for the benefit of a related undertaking.
5. A distribution system operator shall provide to operators of other systems, including operators of transmission and distribution systems, and natural gas storage and liquefied natural gas systems, sufficient information to ensure the transportation of electricity and natural gas, or where appropriate, the storage of natural gas in accordance with the safe and efficient operation of interconnected systems.
6. A distribution system operator shall provide system users with detailed, understandable, quantifiable and easily available information on the services offered, the terms of providing those services, and the technical details required for efficient access to



a system, while maintaining confidentiality of information as approved by the Commission.

7. A distribution system operator shall purchase the energy required to perform its functions in accordance with transparent, non-discriminatory and market procedures.

8. A distribution system operator shall also perform other functions and obligations falling within its competence according to this Law and other legislative and subordinate normative acts of Georgia.

## **Article 75 – Development of the distribution network and investment decisions**

1. To ensure safe, reliable, continuous and quality supply through the distribution network, a distribution system operator shall elaborate a plan for distribution network development and investments. When drawing up the plan for distribution network development and investments, a distribution system operator shall take into account matters relating to environmental protection, energy efficiency, promotion of renewable energy development and demand management.

2. The plan for distribution network development and investments shall be prepared in accordance with the transmission network and distribution network rules as well as the system-related information published by a transmission system operator and the territorial planning documents relating to physical planning.

3. The plan for distribution network development and investments, among other issues, shall include the following:

a) a detailed description of the existing infrastructure of the distribution network, its condition, quality indicators of load, as well as information on the main infrastructure to be built during the time period provided for by the relevant plan;

b) an assessment of capacity-related needs, including a forecast of demand and supply;

c) potential scenarios of production, including through renewable energy sources, the development of smart meters, as well as measures to be taken for the improvement of energy efficiency;

d) a detailed description of the means to be applied and the investments to be made for meeting the forecast of demand for and/or supply of electricity and natural gas, including, if necessary, the construction of new parts of the distribution network and/or improvement of the current network, the improvement or construction of interconnectors for proper connection to the distribution networks, as well as information on necessary investments about which a decision on implementation has been made, and also a detailed description of the works to be carried out within the next 3 years, of the works and investments approved, and a schedule of implementation in respect of relevant projects;

e) target quality indicators, including the duration of interruptions in the distribution network and service quality, as well as potential investments in quality control and data exchange equipment;

f) the applicable and future environmental policy with respect to the planned development of the distribution network and related equipment;

g) a description of the network maintenance policy, the implementation of which shall ensure the efficiency, safety and availability of the existing distribution network and related equipment;

h) a list of urgent actions carried out during the previous calendar year or where relevant, in another specific period of time;

i) information on research on the application of a smart network and, where necessary, smart metering systems, and on the results thereof;

j) other information necessary for the efficient operation and management of the distribution system in compliance with the requirements established by this Law and the distribution network rules.

4. The plan for distribution network development and investments for a 5-year period shall be developed and renewed annually, for the next 5 years, by a distribution system operator.

5. A distribution system operator shall, after consulting the relevant transmission system operator, submit the plan for development and investments to the Commission for approval. With respect to the plan submitted, the Commission shall hold consultations with the relevant agencies, energy undertakings and current or potential system users. The results of the



consultations shall be published on the website of the Commission. The Commission shall check whether the investments planned by a distribution system operator are sufficient to meet all the needs identified during the consultations with interested parties.

6. If the Commission considers that the submitted plan for distribution network development and investments does not allow a distribution system operator to appropriately perform his/her tasks and functions, the Commission shall be authorised to require that the distribution system operator make specific changes to the plan for distribution network development and investments and determine a reasonable period for that purpose.

7. A distribution system operator shall annually submit to a transmission system operator the plan for distribution network development and investments approved by the Commission.

#### **Article 76 – Provision of data and information to a distribution system operator**

Producers and end users owning the equipment connected to the distribution network shall, upon the request of a distribution system operator, be obliged to provide to that operator all the data and information necessary for the operation, management and development of the system, in accordance with this Law, the relevant distribution network rules and the rules for submission of information approved by the Commission.

#### **Article 77 – Annual report of a distribution system operator**

1. A distribution system operator shall be obliged to publish a report annually on the activities it has carried out in the previous calendar year, in the form and within the time limits established by the Commission.

2. A distribution system operator shall submit to the Ministry the annual report after it has been approved by the Commission, in consideration of which the Ministry shall prepare an annual report on the situation concerning the safety of supply in the country and on the forecasts of demand for electricity and natural gas.

3. The Commission shall, based on the annual report of a distribution system operator, have the right to request from the distribution system operator and/or, where appropriate, from another energy undertaking that it carry out specific actions in order to ensure:

- a) transparency, impartiality and non-discrimination;
- b) the adequate operation and management of the distribution system;
- c) the reduction of losses within the distribution network;
- d) the improvement of service quality within the distribution network;
- e) the improvement of safety of supply of electricity and natural gas.

### **Chapter XVIII – Operation and Management of the Distribution System**

#### **Article 78 – Allowing third-party access to the distribution system**

1. A distribution system operator shall, in compliance with the requirements of the distribution network rules, allow non-discriminatory and unlimited access of system users to the distribution system. The access fee for the distribution system shall be based on the tariff calculated and established by the Commission according to the relevant methodology.

2. Discrimination between the system users or between different categories of system users with respect to the distribution system by a distribution system operator shall not be permitted, including for the benefit of a related undertaking.



3. A distribution system operator shall offer the same service to different persons using the system on equal contractual terms, using standard terms for a contract of distribution services and/or in accordance with the distribution network rules.

4. During the dispatching of the production facilities, a distribution system operator shall, in accordance with the procedure established by the legislation of Georgia, be authorised to give priority to production facilities which produce energy from a renewable energy source, or to other facilities of encouraged production.

#### **Article 79 – Refusing third-party access to the distribution system**

1. A distribution system operator shall not have the right to refuse access, fully or partially, to a third party to the distribution system, except where a third party's access to the distribution system prevents the distribution system operator from providing a public service as provided for under this Law, or endangers public health or safety. In the above-mentioned cases, a decision on refusal shall be adequately substantiated, with reference to its term of validity in accordance with paragraph 3 of this article. The procedure and terms of refusal of access of a third party to the distribution system shall be determined by the distribution system rules.

2. A natural gas distribution system operator may, except for the cases referred to in paragraph 1 of this article, refuse access, fully or partially, to a third party to the natural gas transmission system, if the take-or-pay contracts applicable before receiving the request of a third party for access to the distribution system cause major economic and financial difficulties.

3. A distribution system operator shall provide substantiation for a decision to refuse a third party access to a distribution system, with a reference to its term of validity, the respective reasons for refusal, and the measures to be taken for their elimination. A distribution system operator shall, within the time limits established by the network rules, notify in writing all persons whose request for access to a distribution system has been refused of the reasons for refusal and provide them with evidence based on impartial, non-discriminatory, and technically and economically substantiated criteria.

4. To manage access to the distribution system, a distribution system operator shall keep a registry of points of access, including the points of receipt and issue, with an indication of specific identification numbers and all the data required for access management. This registry shall also indicate the active or inactive status of access points, suppliers using access points, and their respective users. The data kept at the registry shall be used for invoicing suppliers for using the system or for providing services related to access to the system.

5. A person refused access to a distribution system or a person disagreeing with the terms of access to a distribution system shall have the right to apply to the Commission under Article 155 of this Law.

#### **Article 80 – Connection to the distribution network**

1. A distribution system operator shall, in accordance with the distribution network rules, ensure the connection of electricity or natural gas facilities to the distribution network. The cost for connecting to the distribution network shall be established by the Commission based on a calculation performed in accordance with the methodology adopted by the latter. In addition, to encourage the use of renewable energy sources, the Commission shall be authorised to set different conditions for the connection of the points/stations for charging electricity-powered means of autonomous movement to the distribution network.

2. The metering equipment, including the ancillary installations present at the point of connection of the network or the equipment of a producer, of natural gas transportation licensees or customers regulated by the Law of Georgia on Oil and Gas to the distribution network, shall be the property of the distribution system operator. A distribution system operator shall be responsible for the maintenance and inspection of the metering equipment.

3. A producer or a customer connected to the distribution network which owns a metering device prior to the entry into force of this Law shall be obliged to transfer said metering device into the ownership of the distribution system operator, in compliance with the requirements of the distribution network rules. In addition, before the transfer of the metering device, they shall ensure its protection from unauthorised interference, as well as the unlimited access of the distribution system operator to the metering device.

#### **Article 81 – Distribution network rules**



1. The distribution network shall be operated and managed in accordance with the procedure established by the distribution network rules and other legislative and subordinate legal acts of Georgia.
2. Within a single sector, only the rules of a single distribution network (electricity distribution network rules and natural gas distribution network rules) can be approved.
3. The distribution network rules shall establish:
  - a) the operating requirements necessary for the safety of the distribution network in compliance with the requirements for technical quality established by the technical rules determined by Article 97 of this Law;
  - b) the procedures of operation of distribution networks under regular and emergency conditions, in case of malfunction, in force majeure circumstances, and during any other delays, taking into account the rules for emergency management and safety of supply established by the relevant legal acts;
  - c) the procedure, rules and terms for access of a third party to the distribution system, including the service to be provided by the distribution system operator with regard to a third party's access under Articles 78 of this Law;
  - d) the procedure and terms for connection to the distribution network under Article 80 of this Law, including:
    - d.a) preconditions for connecting to the distribution network;
    - d.b) the method of accounting electricity or natural gas, the functional requirements for a metering device, and the class of accuracy in accordance with the requirements established by the technical rules provided for by Article 97 of this Law and by other legal acts;
    - d.c) the right of ownership of the metering device present at the point of connection or at any other specified settlement accounting point;
    - d.d) the rights and obligations of a distribution system operator and a system user relating to the connection to the distribution network;
  - e) the rules and terms of dispatching of the distribution network, including the service to be provided by the distribution system operator;
  - f) where appropriate, the criteria and rules of purchase of ancillary services and of the provision of system service;
  - g) criteria for the planning of the operation and management of the distribution network;
  - h) the procedure and rules of accounting the capacity and volume of the electricity and natural gas supplied to and distributed within the distribution network;
  - i) the rules for performing these procedures relating to interruptions in the supply of electricity and natural gas through the distribution network;
  - j) the rights and obligations of system users related to the operation and management of the distribution network;
  - k) the general rules and terms of contractual relations dealing with distribution-related service provision, including connection to the distribution network (in accordance with the terms of a standard contract of connection) and electricity or natural gas distribution (in accordance with the terms of a standard contract for distribution services);
  - l) the procedure for reviewing and solving disputes based on distribution contracts and/or access to the distribution network or other relations related to the connection to or use of the distribution network;
  - m) a procedure for publishing the data and information held by a distribution system operator which is necessary for operating and managing the relevant systems, as well as for organising respective markets, including an explanation of all relevant paragraphs and a schedule of publishing of information;
  - n) method of exchange of data and information with other operators of the interconnected systems;



o) the rules for providing a distribution system operator with the data and information necessary for operating and managing the distribution network under Article 76 of this Law;

p) activities relating to energy efficiency and the safety of supply of electricity or natural gas to be carried out, within the scope of competences of a distribution system operator, in compliance with the rules of safety of supply established by the relevant legal acts;

q) other rules and terms relating to the operation and management of the distribution network.

4. The distribution network rules shall be developed and approved by the Commission. The Commission shall closely cooperate with distribution network operators, and ensure consultations with all interested persons, and their adequate participation in the process of developing the distribution network rules. The distribution network rules shall comply with the transmission network rules, and the technical rules provided for by Article 97 of this Law.

5. The distribution network rules shall be published in the Legislative Herald of Georgia and on the websites of distribution system operators.

## **Article 82 – The closed distribution system**

1. The system used for distribution of electricity or natural gas within the geographically confined industrial, commercial or shared service area of the country, without supplying household customers, may be granted a status of a closed distribution system by a decision of the Commission (except for the case provided for by paragraph 5 of this article), provided that one or several of the following conditions are met:

a) the activity of the system users or the process of production is integrated for security-related or technical reasons;

b) the system distributes electricity or natural gas primarily to the system owner, system operator or related energy undertakings.

2. The Commission shall be authorised to exempt a closed distribution system operator from:

a) the obligation to purchase the electricity, natural gas or the reserve capacity of a system necessary to cover the losses within the network in compliance with transparent, non-discriminatory and market procedures;

b) the obligation to approve the tariff or fee or the methodology for its calculation before the authority of the Commission becomes effective.

3. If a closed distribution system operator is exempted from the obligation under paragraph 2(b) of this article based on a request from the closed distribution system user, the relevant tariff or fee and the methodology for its calculation shall be revised and approved by the Commission.

4. The accompanying use of a closed distribution system by a small number of household customers present within the area of the closed distribution system shall not interfere with the exemption of the closed distribution system operator from the obligations in accordance with paragraph 2 of this **article**, if the above mentioned household customers have labour or similar relations with the closed distribution system owner.

5. The Commission shall revoke the status of a closed distribution system if the relevant system no longer meets at least one of the requirements established by paragraph 1 of this article. A system whose status as a closed distribution system has been revoked shall fully comply with the requirements established by this Law with respect to distribution systems.

## **SECTION VII**

### **STORAGE OF NATURAL GAS**

#### **Chapter XIX – Authorisation and Separation of a Natural Gas Storage System Operator**



### **Article 83 – Authorisation of a Natural Gas Storage System Operator**

1. The activity of natural gas storage shall be carried out by a natural gas storage system operator, in accordance with the procedure established by this Law and other legislative and subordinate legal acts of Georgia.
2. In accordance with the terms established by the Law of Georgia on Licences and Permits, this Law, and the licensing rules approved by the Commission, the Commission shall, by means of issuing a licence of operation of a natural gas storage system, authorise a natural gas undertaking (which owns a natural gas storage facility with the right of ownership and/or the right of disposal) as a natural gas storage system operator.
3. The operating licence for a natural gas storage system shall only be issued to a natural gas storage system operator separated in accordance with the procedure established by Article 84 of this Law.

### **Article 84 – Separation of a natural gas storage system operator**

1. A natural gas storage system operator which is a part of a vertically integrated undertaking shall, at least in terms of its legal form, organisational arrangement and decision-making, be independent from such other activities as are not related to transmission, distribution and/or storage.
2. The following minimum requirements shall be met to ensure the independence of a natural gas storage system operator under paragraph 1 of this article:
  - a) it shall be inadmissible for a person responsible for the management of natural gas storage system operator to participate in the corporate structure of an integrated undertaking that is directly or indirectly responsible for the daily activity of production and/or supply of natural gas;
  - b) it shall be necessary to take appropriate measures to accommodate the professional interests of a person responsible for the management of the natural gas storage system operator so as to allow such person to act independently;
  - c) the natural gas storage system operator shall have an effective right to make a decision with respect to the assets necessary for the operation, maintenance or development of the natural gas storage facility independently from an integrated undertaking. This does not preclude the existence of appropriate coordinating mechanisms for the purpose of protecting the economic and supervisory rights of the founding company with respect to the proceeds from the assets of a natural gas storage system operator, including the approval of the annual financial plan or equivalent document of the natural gas storage system operator by the founding company, and establishing general restrictions with regard to its debt level. The above said does not authorise the founding company to provide instructions with respect to the daily activities of the natural gas storage system operator or with regard to an individual decision that relates to the construction or improvement of the natural gas storage facility and complies with the terms of the approved financial plan or equivalent document;
  - d) the natural gas storage system operator shall develop a compliance programme that establishes the measures to be taken for the elimination of discriminatory practices and provides appropriate supervision over their implementation. The compliance programme for the elimination of discriminatory practices shall specify the particular obligations of the employees of the natural gas storage system operator. An annual report on the measures taken for the implementation of the compliance programme by the natural gas storage system operator shall be prepared by a person or authority responsible for control over the compliance programme and shall be submitted to the Commission. Publishing a report shall be mandatory.
3. This article shall only apply to natural gas storage facilities which, under Article 87 of this Law, are technically and/or economically necessary for allowing efficient access to the natural gas system for the purpose of supplying natural gas to customers.
4. The requirements for separation shall not apply to a horizontally integrated natural gas undertaking.

## **Chapter XX – Functions of a Natural Gas Storage System Operator**





## **Article 85 – Functions of a Natural Gas Storage System Operator**

1. A natural gas storage system operator shall ensure the operation, maintenance and development of a safe, reliable and efficient natural gas storage facility in accordance with the economic conditions in order to ensure the protection of the open market and provide the availability of the means necessary to fulfil obligations relating to its service, taking into account environmental issues.
2. A natural gas storage system operator shall perform a reliable and efficient service relating to natural gas storage in accordance with this Law, the natural gas storage rules, and the licence terms and technical rules provided for by Article 97 of this Law.
3. A natural gas storage system operator shall be obliged to:
  - a) prevent discrimination between system users or different categories of system users, including in favour of a related undertaking;
  - b) provide sufficient information to other natural gas system operators to ensure the transportation and storage of natural gas in accordance with the safe and efficient operation of interconnected systems;
  - c) provide system users with the information required for efficient access to the natural gas storage facility;
  - d) ensure that the information referred to in Article 86 of this Law is stored for the term of 5 years and is available to competent state agencies, including the Commission, the Competition Agency, and the Energy Community Secretariat;
  - e) take reasonable measures to promote free trade in capacity-related rights and the transparent and non-discriminatory performance of such trade;
  - f) develop harmonised contracts and procedures of use of natural gas storage facilities for the primary market, in order to promote secondary trade in capacity and the recognition of the alienation of primary rights relating to capacity where a system user notifies the system operator. The Commission shall be notified of the development of the said harmonised contracts and procedures.

## **Article 86 – Transparency of activity of a natural gas storage system operator**

1. A natural gas storage system operator shall publish detailed information on the service it offers and on the relevant terms, along with the technical information required for efficient access to the natural gas storage facility.
2. To provide the service, a natural gas storage system operator shall publish, and constantly update for customers, information on the volumes of contracted capacity and available capacity of natural gas storage, regularly and in a readily accessible and standard form.
3. The natural gas storage system operator shall publish the information specified in this Law and other legislative acts of Georgia in a comprehensible, quantifiable, easily accessible, and non-discriminatory manner.
4. For each natural gas storage facility (including a facility to which the obligation of third person access does not apply) and, in the case of offering a relevant method of access to system users, also for group of facilities, a natural gas storage system operator shall publish information on the volume of gas available in these facilities, the inflow and outflow, and available capacity of gas. This information shall also be provided to a natural gas transmission system operator which shall publish it in an aggregated form. The information shall be updated daily at least.
5. If a natural gas storage facility is used only by one person, the latter may apply to the Commission with a reasoned request to keep confidential the information provided for by paragraph 4 of this article. When reviewing the request of a system user, the Commission shall take into account the necessity to balance between the goal of establishing a domestic, competitive natural gas market on the one hand, and the need for the legal protection of a commercial secret on the other hand, if the disclosure of the commercial secret in question may adversely affect the common commercial strategy of the system user. If the Commission considers the request of a system user justified, the natural gas storage system operator may be released from the obligation to publish the information provided for by paragraph 4 of this article for a period of up to 1 year.
6. The application of paragraph 5 of this article shall not restrict the obligations established by paragraph 4 of this article relating to providing information to a natural gas transmission system operator and the publication of this information, except where the aggregated data is identical to the data of the natural gas storage system with respect to which the Commission has taken a



decision on the exemption from the obligation to publishing.

7. To establish transparent, impartial and non-discriminatory tariffs, and to ensure the efficient use of infrastructure, a natural gas storage system operator shall publish detailed information on the establishment of tariffs applicable in respect of regulated third party access to the natural gas storage facility, and on the methodology and structure thereof.

## **Chapter XXI – Operation and Management of a Natural Gas Storage Facility**

### **Article 87 – Allowing access to a natural gas storage facility and the pipeline for natural gas storage purposes**

1. To organise access to a natural gas storage facility and a pipeline for the purpose of storage of natural gas, an agreed and/or regulated access procedure shall be applied, if this is technically and/or economically necessary to ensure the organisation of efficient access to the system and the availability of ancillary services for the purpose of supplying natural gas to a customer.

2. The Commission shall determine and publish the criteria based on which the procedure for access to a natural gas storage facility and a pipeline for the purpose of storing natural gas is determined. These procedures shall be applied in an impartial, transparent and non-discriminatory manner.

3. A natural gas storage system operator shall publish information on a natural gas storage facility, or part thereof, which has been offered different access procedures, and a natural gas transmission system operator shall publish information on that part of the system used for storing gas which has been offered different access procedures.

4. In the case of agreed access, the Commission shall take all necessary measures in order to allow natural gas undertakings and qualified customers, within or outside the territory of an interconnected system, to agree on access to storage facilities and a pipeline for the purpose of storing natural gas, if this is technically and/or economically necessary to ensure the organisation of efficient access to the system, and the availability of ancillary services for the purpose of supplying natural gas to a customer. In order to store natural gas, the parties shall be obliged to negotiate, in good faith, on access to natural gas storage and a pipeline, as well as to other ancillary services.

5. To store natural gas, contractual terms for the purpose of allowing access to natural gas storage and a pipeline, as well as to other ancillary services, shall be agreed with the relevant natural gas storage system operator or natural gas undertaking. A natural gas storage system operator and a natural gas undertaking shall publish and update as necessary, but not less than once a year, the essential commercial terms related to the storing of natural gas in the storage or pipeline and to the use of other ancillary services. When developing such essential commercial terms, the natural gas storage system operator and the natural gas undertaking shall ensure consultations for the system users.

6. In the case of regulated access, the Commission shall take all necessary measures in order to allow natural gas undertakings and qualified customers, within or outside the territory of an interconnected system, access to natural gas storage and a pipeline for storing natural gas, as well as access to ancillary services, based on published tariffs and/or other terms and obligations relating to the use of natural gas storage and a pipeline for storing natural gas, if this is technically and/or economically necessary for efficient access to the system, and the availability of ancillary services for the purpose of supplying natural gas to a customer. When calculating tariffs and establishing the methodology for their calculation, the Commission shall provide consultations to the system users. The right of access of a qualified customer shall be exercised through empowering the customer to conclude a supply contract with a competitive natural gas undertaking that is not a system owner and/or operator or a related undertaking.

### **Article 88 – Service relating to third-party access to a natural gas storage facility**

1. A natural gas storage system operator shall:

a) offer a service to all system users without discrimination, for the purpose of meeting requirements which exist on the market. The same service shall be offered to different customers on equal contractual terms;

b) offer to a customer a service that is compatible with the use of a related natural gas system, and facilitates third-party access, in cooperation with a natural gas transmission system operator;



- c) under the supervision of the Commission, publish necessary information, including on the availability and use of the service, with the periodicity relevant to the reasonable commercial needs of the system users;
  - d) with respect to third-party access, offer both guaranteed and interruptible services. In the case of an interruptible service, the cost of the capacity shall reflect the possibility of terminating the service;
  - e) offer long-term and short-term services to the system users;
  - f) offer to the system users individual and combined services relating to the volume of natural gas storage, injection capacity and supply capacity.
2. A contract relating to a natural gas storage facility that enters into force on a non-standard date, or that has been concluded for a period of time shorter than that of a standard annual contract relating to a natural gas storage facility, shall not establish an unreasonably high tariff.
  3. A contractual term that establishes a restriction with respect to the minimum volume of capacity of natural gas storage shall be based on technical limitations and shall provide small system users with the right to receive services relating to natural gas storage.
  4. Where necessary, the service relating to allowing third-party access may be rendered to a system user only after the latter provides a relevant financial guarantee. Such guarantee shall be non-discriminatory, transparent, and proportional, and shall not impose an unjustified barrier for entry into the market.
  5. A natural gas storage system operator shall be authorised under Article 66 of this Law.

#### **Article 89 – Natural gas market rules**

1. A natural gas storage facility shall be operated and managed in compliance with the provisions established by the natural gas storage rules.
2. The natural gas storage rules shall determine the following:
  - a) the technical parameters of a natural gas storage facility;
  - b) technical and other requirements for the safe operation of a natural gas storage facility for the purpose of providing services relating to natural gas storage reliably and in compliance with established quality requirements;
  - c) the procedure, rules and terms of third-party access to a natural gas storage facility, including under Articles 87 and 88 of this Law, and the service to be provided by a natural gas storage system operator with respect to third-party access;
  - d) the mechanism for capacity distribution and procedures for congestion management under Article 90 of this Law;
  - e) the procedure and rules for measuring the capacity of natural gas storage facilities, as well as for accounting the volume of natural gas injected into and supplied from a natural gas storage facility;
  - f) the criteria of operation and, where appropriate, the planning of development of a natural gas storage facility, and infrastructure relating to natural gas;
  - g) the rights and obligations of system users relating to the use of a natural gas storage facility;
  - h) the general rules and terms of provision of service relating to a natural gas storage facility;
  - i) the procedure for reviewing and solving disputes based on a contract related to natural gas storage and/or from other relations associated with access to and the use of a natural gas storage facility;
  - j) the procedure for publishing the data and information held by a natural gas storage system operator which is required for the operation and management of the natural gas system, as well as for the organisation of the relevant natural gas market, including explanations of all relevant points and a schedule of publishing information;
  - k) the method of exchange of data and information with other operators of interconnected systems;



l) activities relating to energy efficiency and the safety of supply of natural gas within the competence of a natural gas storage system operator;

m) other rules and terms relating to the operation and management of a natural gas storage facility.

3. The natural gas storage rules shall be established by a natural gas storage system operator and approved by the Commission. A natural gas storage system operator shall provide consultations for all interested persons and ensure their adequate participation in the process of the development of the natural gas storage rules.

4. The natural gas storage rules shall be published in the Legislative Herald of Georgia and on the website of a natural gas storage system operator.

#### **Article 90 – Capacity distribution and congestion management of natural gas storage**

1. The maximum capacity of natural gas storage shall be available for all natural gas market participants, taking into account the integrity and efficient operation of the system.

2. A natural gas storage system operator shall develop and publish non-discriminatory and transparent mechanisms for capacity distribution, which:

a) provide adequate economic signals for efficient and maximum use of capacity and promote investments in new infrastructure;

b) are compatible with the market mechanisms, including spot markets and trade hubs, and at the same time are flexible and adaptable to the environmental conditions of the developing market;

c) are compatible with the rules and terms of access to the system to which a natural gas storage facility is connected.

3. A contract relating to a natural gas storage facility shall consider measures to preclude those cases where the obtained right to use capacity is not used or is inefficiently used. These measures shall be applied during contractual congestion and are based on the following principles:

a) the obligation of a natural gas storage system operator to immediately offer the unused capacity of natural gas storage on the primary market;

b) the right of a system user to resell contracted capacity on the secondary market.

4. A natural gas storage system operator shall make an offer provided for by paragraph 3 of this article in the form of an interruptible service and at least 1 day prior to the service.

### **SECTION VIII**

#### **LIQUEFIED NATURAL GAS**

##### **Chapter XXII – Authorisation and Functions of a Liquefied Natural Gas System Operator**

#### **Article 91 – Authorisation of a liquefied natural gas system operator**

1. The activity related to the operation of a liquefied natural gas facility shall be carried out by a liquefied natural gas system operator, in accordance with the procedure established by this Law and other legislative and subordinate legal acts of Georgia.

2. In accordance with the terms established by the Law of Georgia on Licences and Permits, this Law, and the licensing procedures



approved by the Commission, the Commission shall, by means of issuing a licence for operating a liquefied natural gas facility, authorise a natural gas undertaking (which owns the liquefied natural gas facility with the right of ownership or the right of disposal) as a liquefied natural gas system operator.

#### **Article 92 – Functions of a liquefied natural gas system operator**

1. A liquefied natural gas system operator shall ensure the operation, maintenance and development of safe, reliable and efficient natural gas facilities according to economic conditions, in order to ensure the protection of the open market and provide the availability of the means necessary to fulfil obligations relating to its service, taking into account environmental issues.
2. A liquefied natural gas system operator shall, in accordance with the liquefied natural gas rules, licence terms, and the technical rules referred to in Article 94 of this Law, provide a reliable and efficient service relating to liquefied natural gas facilities that may cover the receipt, liquefaction and unloading of natural gas, and its regasification, as well as the temporary storage of the liquefied natural gas necessary for related ancillary services, and for the process of regasification.
3. A liquefied natural gas system operator shall be obliged to:
  - a) prevent discrimination between system users or different categories of system users, including in favour of related undertakings;
  - b) provide sufficient information to other natural gas system operators to ensure the transportation and storage of natural gas in accordance with the safe and efficient operation of interconnected systems;
  - c) provide system users with the information required for efficient access to natural gas facilities;
  - d) ensure that the information referred to in Article 93 of this Law is stored for the term of 5 years and is available to competent state agencies, including the Commission, the Competition Agency, and the Energy Community Secretariat;
  - e) take reasonable measures to promote free trade in capacity-related rights, and the transparent and non-discriminatory performance of such trade;
  - f) develop a harmonised contract and procedures of use of the liquefied natural gas facility for the primary market in order to promote secondary trade in capacity and the recognition of the alienation of the rights relating to capacity gained on the primary market where a system user has notified the system operator. The Commission shall be notified of the development of the said harmonised contracts and procedures.

#### **Article 93 – Transparency of a liquefied natural gas system operator**

1. A liquefied natural gas system operator shall publish detailed information about the services it offers and on the terms thereof, along with the technical information required for efficient access to liquefied natural gas facilities.
2. To provide its service, a liquefied natural gas system operator shall, regularly and in a readily accessible and standard form, publish and constantly update information for the customer on the volumes of contracted and available capacity of liquefied natural gas facilities.
3. A liquefied natural gas system operator shall publish the information specified in this Law and other legislative acts of Georgia in a comprehensible, quantifiable, easily accessible, and non-discriminatory manner.
4. A liquefied natural gas system operator shall publish information on the volumes of available gas for each liquefied natural gas facility, and, in the case of offering the relevant method of access to the system users, for a group of facilities. In addition, a liquefied natural gas system operator shall publish information on the inflow and outflow and available capacity, including with respect to a facility to which the obligation of third-party access does not apply. This information shall be provided to the natural gas transmission system operator which shall publish it in aggregate form for each system or subsystem specified in relevant paragraphs. The information shall be updated daily at least.
5. To establish transparent, impartial and non-discriminatory tariffs, and to ensure the efficient use of infrastructure, a liquefied natural gas system operator shall publish detailed information on the establishment of tariffs applicable under the conditions of regulated third-party access to liquefied natural gas facilities and on the relevant methodology and structure thereof.



## Chapter XXIII – Operation and Management of Liquefied Natural Gas Facilities

### Article 94 – Service relating to third-party access to a liquefied natural gas facility

1. A liquefied natural gas system operator shall:

a) for the purpose of meeting the demand of the market, offer a service to all system users without discrimination. The same service shall be offered to different customers on equal contractual terms;

b) offer to a customer a service that is compatible with the use of interconnected natural gas transmission systems, and promote third-party access in cooperation with a natural gas transmission system operator;

c) under the supervision of the Commission, publish the necessary information, including on the availability and use of the service, with the periodicity relevant to the reasonable commercial needs of the system users.

2. A contract relating to a liquefied natural gas storage facility that enters into force on a non-standard date, or that has been concluded for a period of time shorter than that of a standard annual contract relating to a liquefied natural gas storage facility, shall not establish an unreasonably high tariff.

3. A contractual term that establishes a restriction with respect to the minimum volume of capacity of a liquefied natural gas storage facility shall be based on a technical limitation only and shall provide small system users with the right to receive a service relating to the liquefied natural gas storage facility.

4. Where necessary, the service relating to allowing third-party access may be rendered to a system user only after the latter has provided a relevant financial guarantee. Such guarantee shall be non-discriminatory, transparent and proportional, and shall not impose an unjustified barrier for entry into the market.

5. A liquefied natural gas system operator shall, in accordance with the procedure established by Article 66 of this Law, be authorised to refuse third-party access to a liquefied natural gas facility.

### Article 95 – Liquefied natural gas rules

1. A liquefied natural gas facility shall be operated and managed in compliance with the provisions established by the liquefied natural gas rules.

2. The liquefied natural gas rules shall determine:

a) the technical parameters of a liquefied natural gas facility;

b) technical and other requirements for the safe operation of a liquefied natural gas facility for the purpose of providing services relating to liquefied natural gas reliably and in compliance with established quality requirements;

c) the procedure, rules and terms of third person access to a liquefied natural gas facility, including under Article 94 of this Law, and the service to be provided by a liquefied natural gas system operator with regard to third-person access;

d) the mechanism for capacity distribution and procedures of congestion management under Article 96 of this Law;

e) the procedure and rules for measuring the capacity of a liquefied natural gas facility, as well as for accounting the volume of natural gas loaded in and unloaded from the liquefied natural gas facility;

f) the criteria for operation and, where appropriate, for the development planning of a liquefied natural gas storage facility and of the infrastructure relating to natural gas;

g) the rights and obligations of the system users relating to the use of a liquefied natural gas facility;



- h) the general rules and terms of provision of services relating to a liquefied natural gas facility;
- i) the procedure for reviewing and solving disputes based on contracts related to a liquefied natural gas facility and/or from other relations related to access to and the use of a liquefied natural gas facility;
- j) the procedure for publishing the data and information held by a liquefied natural gas system operator which is required for the operation and management of the natural gas system, as well as for organisation of the natural gas market, including explanations of all relevant points and a schedule of publishing information;
- k) method of exchange of data and information with other operators of interconnected systems;
- l) activities relating to energy efficiency and the safety of supply of natural gas within the competence of a liquefied natural gas system operator;
- m) other rules and terms relating to the operation and management of a liquefied natural gas facility.

3. The liquefied natural gas rules shall be prepared by the liquefied natural gas system operator and approved by the Commission. The liquefied natural gas system operator shall provide consultations for all interested persons and ensure their adequate participation in the process of the development of the liquefied natural gas rules.

4. The liquefied natural gas rules shall be published in the Legislative Herald of Georgia and on the website of the liquefied natural gas system operator.

#### **Article 96 – Capacity distribution and congestion management of a liquefied natural gas facility**

1. The maximum capacity of a liquefied natural gas facility shall be available for all natural gas market participants, taking into account the integrity and efficient operation of the system.

2. The liquefied natural gas system operator shall develop and publish non-discriminatory and transparent mechanisms for capacity distribution which:

- a) provide adequate economic signals for the efficient and maximum use of capacity and promote investments in new infrastructure;
- b) are compatible with market mechanisms, including spot markets and trade hubs, and at the same time, are flexible and adaptable to the environmental conditions of the developing market;
- c) are compatible with the rules and terms of access to the system to which a liquefied natural gas facility is connected.

3. The contracts relating to liquefied natural gas facilities shall consider measures to preclude such cases where an acquired right to use capacity is not used or is inefficiently used. These measures shall be applied during contractual congestion and are based on the following principles:

- a) the obligation of a liquefied natural gas system operator to immediately offer the unused capacity of the liquefied natural gas facility on the primary market;
- b) the right of a system user to resell contracted capacity on the secondary market.

4. The liquefied natural gas system operator shall make an offer provided for by paragraph 3 of this article in the form of interruptible service and at least 1 day prior to the service.

### **SECTION IX**

#### **INTEROPERABILITY OF SYSTEMS AND NEW INFRASTRUCTURE**



**Article 97 – Interoperability of systems and technical rules**

1. The norms determining the technical requirements associated with energy devices and equipment shall, in compliance with the criteria of impartiality and non-discrimination, determine the rules and terms of the construction, operation and safety of devices and equipment used for electricity and natural gas production, transmission and distribution, for storing natural gas, and for carrying out activities related to liquefied natural gas, including the necessary technical standards and the minimum requirements for operational and technical specifications.
2. The energy devices and equipment referred to in paragraph 1 of this article, as well as the interconnectors and direct lines, shall comply with the relevant technical requirements for the purpose of the interoperability of systems.
3. Having regard to the purposes of this article, the technical requirements and functioning procedures (technical regulations) relating to energy devices and equipment, including the zones of protection of energy facilities, clearings in forests and plantations, the parameters of roads leading to zones of protection, restrictions applicable in the zones of protection, and the terms of the performance of work, shall be approved by a legal act of the Government of Georgia. When adopting a relevant legal act, the Government of Georgia shall take into account EU technical safety standards and regulations.
4. The requirements for the interoperability of two local or interconnected systems shall be determined by technical and relevant network rules.

**Article 98 – Direct lines. The use of a network facility owned by a third person**

1. Direct electricity or natural gas lines may be constructed in the following cases:
  - a) if an electricity producer and customer intend to conclude an electricity supply contract but fail to obtain access to the electricity transmission or distribution network;
  - b) if a natural gas undertaking and customer intend to conclude a natural gas supply contract but fail to obtain access to the natural gas transmission or distribution network.
2. The prior consent of the Commission shall be required for the construction and operation of a direct electricity or natural gas line. The Commission shall determine impartial and non-discriminatory criteria for authorisation.
3. An energy undertaking as referred to in paragraph 1 of this article shall be authorised to use direct lines for their business place in order to supply electricity or natural gas to subsidiary companies and customers.
4. The ability to supply electricity or natural gas through a direct line shall not affect the purchase and sale of electricity or natural gas under this Law through a bilateral contract or organised electricity or natural gas markets.
5. The Commission may authorise an energy undertaking as referred to in paragraph 1 of this article to construct a direct line, if there is a refusal to access to the transmission or distribution system, under Articles 58, 66 or 79 of this Law.
6. The Commission may refuse the authorisation of the construction of a direct line, if such authorisation impedes the fulfilment of a public service obligation, including the protection of the end user.
7. The owner of a transmission or distribution network or water supply system facility, which is not the system operator or a water supply licensee, shall, under the Civil Code of Georgia, tolerate the use of his/her equipment for the purpose of providing the service to customers. The procedure of operation and maintenance of this facility shall be determined by a normative administrative act approved by the Commission.
8. If the owner of an electricity or natural gas transmission or distribution network or water supply system equipment required for providing service to customers cannot be identified after reasonable measures have been taken, the procedure for the operation and maintenance of such facility shall be determined by a normative administrative act approved by the Commission.





## Chapter XXV – New Infrastructure

(Infrastructure not commissioned prior to 1 January 2007)

### Article 99 – Concessionary terms for new electricity interconnectors

1. Where an electricity undertaking so requests, the full capacity of a new interconnector of a direct current or part thereof may, for a limited period, be exempt from the obligations established on the basis of Articles 29(1)(b-g), 30(1)(b)(c) as well as by Articles 44, 57 and 63(9)(10) of this Law, provided that all of the following conditions are met:

- a) investments relating to the construction of interconnectors promote competition in the electricity supply activity;
- b) having regard to the accompanying risks, investments cannot be made without introducing the concessions provided for by this article;
- c) the owner of the interconnector is separated, at least in a legal form, from the transmission system operator and the operator of the system to which this interconnector is related;
- d) the users of the interconnector shall be charged;
- e) if any of the components of the charge imposed for using the electricity transmission or distribution system connected by the interconnector has not been used to cover capital or operational expenses of the interconnector or part thereof;
- f) the establishment of concessionary terms under this article does not undermine competition or domestic and regional electricity markets or the efficient functioning of the regulated system with which the interconnector is connected.

2. The concessionary terms referred to in paragraph 1 of this article may be applied with respect to an interconnector of alternating current as an exception, if the costs and risks associated with the investment to be considered significantly exceed the costs and risks normally incurred during the connection of two adjacent transmission systems with an alternating current interconnector.

3. The concessionary terms provided for by paragraph 1 of this article shall also apply in the case of a significant increase in the capacity of the existing interconnectors.

4. A decision on the establishment of the concessionary terms provided for by paragraphs 1, 2 and 3 of this article shall, for each individual case, be taken by the Commission and the competent regulatory body of a respective neighbouring country.

5. Before taking a decision on the establishment of concessionary terms, the Commission shall be authorised to submit the issue for review to the Energy Community Regulatory Board, and where appropriate, take its views into consideration.

6. When taking a decision on the establishment of concessionary terms, the need to establish the duration of the concessionary terms, and the terms relating to non-discriminatory access to the interconnector, shall be assessed for each specific case. For this purpose, the additional capacity to be constructed or a change to the existing capacity, as well as the period for the implementation of the project and other important circumstances, shall be taken into account.

7. Before the establishment of concessionary terms, the Commission shall determine the rules for the management and distribution of the capacity of interconnectors. The congestion management rules for interconnectors shall cover the obligation to offer unused capacity on the market and the right of the users of an interconnector to trade in contracted capacity on the secondary market. When assessing the criteria referred to in paragraphs (1)(a), (b) and (f) of this article, the results of the procedure for capacity distribution shall be taken into account.

8. If the Commission and the regulatory body of a neighbouring country take a decision on the establishment of concessionary terms within 6 months after the submission of a relevant request, the Commission shall notify the Energy Community Regulatory Board of such decision. The decision on the establishment of concessionary terms, including all the terms provided for by paragraph 6 of this article, shall be adequately substantiated and published.



9. The decision referred to in paragraphs 4-8 of this article shall be taken, on the basis of a review with the relevant regulatory bodies and applicants, by the Energy Community Regulatory Board, if:

- a) the Commission and the regulatory body of a neighbouring country have failed to take a decision on the establishment of concessionary terms within the time limit of 6 months from the date when the last of these regulatory bodies received the respective request;
- b) the Commission or the regulatory body of a neighbouring country has made a request that the Energy Community Regulatory Board take such decision.

10. Notwithstanding the provisions of paragraphs 4-9 of this article, the Commission shall, where necessary, be authorised to hold consultations with competent state agencies in accordance with the procedure established by Article 24 of this Law with respect to the establishment of concessionary terms. The opinions obtained from the consultation process shall be published along with the decisions.

11. The Commission shall immediately submit to the Energy Community Regulatory Board and the Energy Community Secretariat a copy of the received request concerning the establishment of concessionary terms and notify them of all decisions made, along with all the necessary information.

12. The information referred to in paragraph 11 of this article may be submitted to the Energy Community Secretariat in an aggregated form, in order to allow it to take a justified decision. Together with other data, this information shall include:

- a) detailed reasons for establishing or refusing to establish concessionary terms, including financial information conditioning the necessity to establish such terms;
- b) research into the impact of establishing the concessionary terms on competition and the efficient operation of the electricity market;
- c) the circumstances which have shaped the term of validity of the concessionary terms and the share of capacity of the interconnectors to which the concessionary terms apply;
- d) the results of consultation with the relevant regulatory bodies.

13. Within two months after providing the information referred to in paragraph 12 of this article, the Energy Community Secretariat shall be authorised to require that the relevant regulatory bodies make changes to or revoke a decision on the establishment of concessionary terms. The two-month time limit for decision-making may be extended by two more months, if:

- a) with respect to the issue to be discussed, the Energy Community Secretariat needs additional information;
- b) the Energy Community Secretariat and relevant regulatory bodies consent to said extension.

14. In the case of an extension to the period for taking a decision on the grounds established by paragraph 13(a) of this article, the additional period shall commence on the day following the receipt of the information requested by the Energy Community Secretariat in a complete form. If the requested information has not been provided to the Energy Community Secretariat within the time limit determined by the relevant request, a notification of the regulatory body concerning the concessionary terms shall be considered revoked, except where:

- a) before the expiration of the period determined by the request, the period for the provision of information is extended with the approval of the Energy Community Secretariat and the relevant regulatory bodies;
- b) the relevant regulatory bodies shall, by a substantiated notification, confirm to the Energy Community Secretariat the completeness of the information provided.

15. The request of the Energy Community Secretariat to make changes to or to revoke a decision on the establishment of concessionary terms shall be met within a month after the receipt of such request, and it shall be notified to the Energy Community Secretariat.

16. The approval issued by the Energy Community Secretariat with respect to the decision on the establishment of concessionary terms shall become void two years after its adoption, unless the construction of the interconnector is commenced within this period, or after 5 years from adoption, if the interconnector has not been commissioned within this period, except where the Energy Community Secretariat considers that the delay has been caused by reasons independent of the person requesting the



establishment of the concessionary terms.

17. The requirements referred to in paragraphs 5-16 of this article shall apply if a neighbouring country that is connected to Georgia through the given interconnector is a member country of the Energy Community or if it agrees to the application of said requirements.

#### **Article 100 – Concessionary terms for new natural gas infrastructure**

1. If a natural gas undertaking so requests, important new infrastructure relating to natural gas, including an interconnector, a natural gas storage facility, and a liquefied natural gas facility, may be exempt from the obligations established on the basis of Articles 29(1)(b-g), 30(1)(b)(c), as well as by Articles 44, 65, 78 and 87 of this Law for a limited period, provided that all of the following conditions are met:

- a) the investment relating to the construction of the infrastructure promotes competition in the area of activity of natural gas supply and improves the safety of supply;
- b) having regard to the accompanying risks, investments cannot be made without introducing the concessions provided for by this article;
- c) the owner of the infrastructure is, at least in a legal form, separated from the operator of the system within which the respective infrastructure shall be constructed;
- d) the users of the infrastructure will be charged;
- e) the establishment of concessionary terms under this article does not undermine competition in and the efficient functioning of the domestic gas market or the regulated system to which the relevant infrastructure is connected.

2. The concessionary terms provided for by paragraph 1 of this article shall also apply in the cases of a considerable increase and transformation of capacity in the current infrastructure, if this creates a possibility of developing new sources of natural gas supply.

3. The decision on the establishment of the concessionary terms provided for by paragraphs 1 and 2 of this article shall, for each individual case, be taken by the Commission, based on the criteria determined by this article.

4. If the infrastructure, with respect to which the establishment of concessionary terms has been requested, crosses the border of Georgia or any other party to the Energy Community, the Energy Community Regulatory Board may submit to the Commission and the regulatory body of the respective party to the Energy Community a recommendatory opinion on the establishment of concessionary terms that may serve as a basis for a decision on the establishment of concessionary terms. A recommendatory opinion of the Energy Community Regulatory Board shall be prepared within two months after the receipt of a request on the establishment of concessionary terms, which period shall commence on the date on which the latter of the Commission and the relevant regulatory body has received the relevant request.

5. If an agreement between the relevant regulatory bodies on the establishment of concessionary terms has been reached within six months after the receipt of the request, they shall notify the Energy Community Regulatory Board of the decision. This six-month period shall commence on the date when the latter of the Commission and the relevant regulatory body has received the relevant request.

6. The Energy Community Regulatory Board shall exercise powers relating to the establishment of concessionary terms of the regulatory bodies of relevant parties to the Energy Community by itself, if:

- a) the regulatory bodies fail to take a decision on the establishment of concessionary terms within six months after the receipt of the relevant request, which period shall commence on the date when the latter of the Commission and the relevant regulatory body has received the relevant request;
- b) a joint request from the relevant regulatory bodies for the exercise of the above mentioned powers by the Energy Community Regulatory Board exists.

7. The relevant regulatory bodies may jointly request a three-month extension to the term referred to in paragraph 6(a) of this article.



8. Before taking a decision on the establishment of concessionary terms, the Commission shall hold consultations with the relevant regulatory bodies and the applicants.

9. Concessionary terms may be established with respect to the full or partial capacity of new infrastructure, or of the existing infrastructure with a significantly increased capacity.

10. In each specific case, while taking a decision on the establishment of concessionary terms, the need to establish conditions for the duration of the concessionary terms and for non-discriminatory access to infrastructure shall be assessed. For this purpose, the additional capacity to be constructed or the change to the existing capacity, as well as the period for the implementation of the project and other important circumstances, shall be taken into account.

11. Before the establishment of concessionary terms, the Commission shall determine the rules for the management and distribution of the capacity of the infrastructure. The rules shall take into account the possibility to express one's own interest with regard to the conclusion of a contract on capacity by a potential user of the infrastructure, prior to the distribution of the capacity of new infrastructure, including for one's own consumption. The rules for congestion management of the infrastructure shall, in compliance with the request of the Commission, include the obligation to offer unused capacity on the market, and the right of a user of the infrastructure to trade in contracted capacity on the secondary market. The assessment of the criteria referred to in sub-paragraphs (a), (b) and (e) of paragraph 1 of this article shall take an account of the results of the procedure of capacity distribution.

12. A decision on the establishment of concessionary terms, including all the circumstances referred to in paragraph 11 of this article, shall be adequately substantiated and published in the Legislative Herald of Georgia. The decision shall indicate:

a) detailed reasons for the establishment of, or the refusal to establish, the concessionary terms, including the financial information conditioning the need to establish such terms;

b) research into the impact of establishing the concessionary terms on competition and the efficient functioning of the internal gas market;

c) the circumstances which have conditioned the validity period of the concessionary terms, and the share of capacity of the gas infrastructure to which the concessionary terms apply;

d) the results of consultations with other countries or relevant regulatory bodies, if the concessionary terms are established with respect to interconnectors;

e) the contribution of the infrastructure in terms of the diversification of gas supply.

13. Notwithstanding the provision of paragraph 3 of this article, before taking a decision on the establishment of concessionary terms, the Commission may apply to the Energy Community Regulatory Board with a request to submit an opinion. The opinion of the Energy Community Regulatory Board shall be published along with the decision.

14. The Commission shall immediately submit to the Energy Community Secretariat a copy of a received request concerning the establishment of concessionary terms and notify the Secretariat of the decision made, along with all the necessary information. This information may be provided to the Energy Community Secretariat in an aggregated form in order to allow it to take a justified decision.

15. Within two months after receiving the notification, the Energy Community Secretariat may call on the Commission to make changes to the decision on the establishment of concessionary terms or to revoke such decision. The two-month period may be extended for two more months, if:

a) with respect to the issue to be discussed, the Energy Community Secretariat needs additional information;

b) the Energy Community Secretariat and the Commission has approved the extension to the period.

16. Where the period for taking a decision on the grounds established by paragraph 15(a) of this article has been extended, the additional term shall commence on the day following the receipt of the information requested by the Energy Community Secretariat in a complete form. If the Energy Community Secretariat is not provided with the information requested within the determined time limit, the notification of the Commission on the establishment of the concessionary terms shall be considered revoked, except where:

a) before the expiration of the period determined by the request, the period for the provision of information is extended with the



approval of the Energy Community Secretariat and the Commission;

b) the Commission, by a substantiated notice, confirms to the Energy Community Secretariat the completeness of the information it has provided.

17. The Commission shall take into account the opinion of the Energy Community Secretariat on making changes to a decision on the establishment of concessionary terms or on revoking such decision. If the final decision of the Commission differs from the opinion of the Energy Community Secretariat, the Commission shall publish relevant substantiation along with the decision.

18. The applicability of the opinion of the Energy Community Secretariat on a decision to establish concessionary terms shall terminate two years after its adoption, unless the construction of the infrastructure is commenced within this period, or 5 years after its adoption, if the infrastructure has not been commissioned within this period, except where the Energy Community Secretariat considers that the delay has been caused by reasons independent of the party requesting the establishment of the concessionary terms.

## SECTION X

### SUPPLY

#### Chapter XXVI – Organising Supply

##### Article 101 – Activity of supply

1. Electricity and natural gas shall be supplied to a customer in accordance with the procedures established by this Law and the subordinate normative acts issued on its basis.
2. Electricity and natural gas shall be supplied at an unregulated, market price, except where directly determined by this Law, based on a supply contract concluded between a supplier and a customer.
3. Under Articles 108 and 109 of this Law, a household customer and a small undertaking may use electricity and natural gas supply services.
4. A supplier shall purchase electricity or natural gas based on a bilateral contract or in an organised energy market. Trade in electricity and natural gas shall be carried out in accordance with Chapters XXX and XXXI of this Law.
5. A supplier, on which the obligation of public service has been imposed under Chapter XXVII of this Law, may trade in electricity or natural gas without restriction in compliance with the requirements of paragraph 4 of this article if it performs the accounting separately for the activity of the public service delivery and for the activity of other types of supply and/or trade.
6. Having regard to the international obligations assumed by Georgia, the Commission shall ensure that the regulation of supply activities based on this Law and other legal acts is not discriminatory to the energy undertaking of any party to the Energy Community.

##### Article 102 – Notification of supply and other activities the authorisation of which does not require the issuance of a licence

1. A small power plant and energy undertaking carrying out, or willing to carry out, the activities of supply and/or trade shall notify the Commission thereof in compliance with the requirements of this Law and in a form approved by the Commission.
2. An energy undertaking as referred to in paragraph 1 of this article shall, in writing, notify the Commission of the commencement of the activity within not later than five working days. The commencement of the activity involves producing electricity (except for the case provided for by Article 36 of this Law), supplying electricity or natural gas to a customer based on a contract concluded with the latter, or starting trade in electricity or natural gas in an organised market. The notification submitted to the Commission shall be accompanied by additional information, including the registration data of the undertaking, legal and



factual addresses, a document issued by a competent authority that confirms the commissioning of the facility, and other types of contact information in the case of a small power plant, as well as information on the achieved or planned generation, supply and trade activities, the estimated annual turnover of the activities, and other data and documents referred to in a relevant legal act of the Commission.

3. The notification of activities provided for by this article that has been submitted to the Commission shall be informative in nature. The Commission may not prohibit any energy undertaking from implementing an activity provided for by this article. This provision does not apply to a small power plant for which no document confirming the commissioning of the facility has been issued.

4. Paragraph 3 of this article does not limit the power of the Commission to supervise the operation of an energy undertaking, appeal to the competent state authorities if there is any doubt regarding the compliance of the activities of a supplier with the requirements of the legislation of Georgian, and/or, where necessary, impose a fine on an energy undertaking in accordance with Article 153 of this Law.

5. If an energy undertaking terminates, or intends to terminate, activities, it shall notify the Commission in writing thereof within not later than five working days following the termination of the activities, in accordance with a legal act approved by the Commission.

6. The Commission shall keep a registry of small power plants, suppliers and traders carrying out activities in Georgia which, along with the contact details, shall be published on the website of the Commission.

### **Article 103 – Supply rules**

1. The rights and obligations of a supplier and an end user shall be determined by a supply contract.

2. Additional issues regarding the conclusion of a supply contract and its contents shall be dealt with by the Commission in compliance with the supply rules, approved in accordance with the requirements of this Law, which shall be complied with by all the suppliers. Supply rules shall be approved both for the electricity and natural gas sector.

3. For the purpose of regulating a supply contract, the supply rules shall determine:

a) the procedure for changing the terms of a supply contract;

b) the right of an end user to terminate a contract;

c) the procedure for providing relevant information to a customer before the supply price rises;

d) the procedure for providing information on the prices, and the standard terms and conditions applicable with regard to the availability and use of the service;

e) the obligation of an end user to make available, where necessary, information relating to the supply contract, calculations or receipts, including prices, a procedure for making changes to prices, and the data related to the accounting of the consumption;

f) the procedure for accruing and paying a fee for the service provided in accordance with the supply contract.

4. The supplier shall ensure the compliance of the terms of the supply contract offered to an end user with the supply rules. The contractual terms shall be explicitly and understandably formulated, and shall not include administrative and non-contractual impediments relating to the exercise of customer rights, including a request to provide unnecessary documents. A supplier shall ensure the protection of an end user from unfair and misleading methods.

5. A supplier shall develop and publish in a relevant form standard contractual terms, once they are approved by the Commission. A supplier shall also publish the service fee or, in respective case, the regulated tariff.

6. The supply rules shall provide for the right of an end user to:

a) conclude a contract with a supplier that covers:

a.a) the identification data of the supplier;



a.b) the service to be provided and its quality;

a.c) the means of obtaining updated information on applicable prices or, in respective cases, on regulated tariffs;

a.d) the term of validity of a contract, a procedure for extending the contract and term of service and for terminating its validity, as well as the right of unilateral termination of the contract, if any;

a.e) rules relating to compensation and refunds, if any, unless the service is delivered in accordance with the terms determined by the contract;

a.f) how to commence procedures for reviewing disputed issues in accordance with Article 155 of this Law;

b) receive prior notification of any changes to the contractual terms, as well as the information on his/her right of unilateral termination of the contract after the receipt of notification. The supplier shall, within the period established by the supply rules, be obliged to inform a customer in advance and directly about increased fees;

c) receive transparent information on access to services existing in the electricity or natural gas sector, and on applicable prices, tariffs, and standard contractual terms relating to the use of said services;

d) use a transparent, simple and free procedure for reviewing a claim. Such procedure shall allow the resolution of disputes in a fair and timely manner, using the reimbursement and/or compensation provided for by Article 105(1)(d) of this Law in respective cases;

e) obtain information on his/her rights relating to the receipt of electricity or natural gas of a specified quality at a publicly disclosed price or regulated tariff.

7. The provisions of a supply contract shall be fair and shall establish the rights and obligations of a supplier and an end user explicitly and unambiguously. If a supply contract has been concluded through a mediator, the information specified in paragraphs 5 and 6 of this article shall be provided to an end user before the contract is concluded.

8. It shall be inadmissible to restrict, under a supply contract, the right of early termination of the active supply contract in respect of an end user who wishes to replace a supplier, or to impose on an end user additional financial obligations, unless otherwise provided for by a contract between a supplier and a non-household end user.

9. The supply rules may also take an account of the requirements for ensuring the obligation of a supplier with regard to a customer and the system operator, unless these requirements have been determined by the relevant network rules.

#### **Article 104 – Standard terms of a supply contract**

1. The Commission shall approve the standard terms of a supply contract, which determine the terms of the continuous and reliable supply of electricity or natural gas to household customers and small undertakings.

2. A supplier shall be obliged to conclude a supply contract with a household customer and/or small undertaking in accordance with the standard terms of a supply contract approved by the Commission. A contract shall be considered concluded on standard terms by aligning with the standard terms of a supply contract in accordance with the procedure established by the Commission.

3. A supplier may refuse to provide a service to a customer, or may require that a relevant transmission or distribution system operator terminate the supply of electricity or natural gas to an end user, only in the following cases:

a) in cases relating to force majeure and security protection determined by the relevant legislation of Georgia;

b) if a customer, despite the warning of a supplier, fails to fulfil the obligations specified in the supply contract, including the obligations concerning the payment of fees of services received.

#### **Article 105 – Obligations of a supplier**



1. Each supplier shall be obliged to create an individual service point that informs an end user of his/her rights, applicable regulations, and methods of dispute resolution. The individual service point allows an end user to:

- a) obtain transparent information on prices, regulated tariffs and standard terms regarding access to and the use of the service;
- b) have a choice of several non-discriminatory payment methods. The early payment system shall be fair and shall adequately reflect estimated consumption. Any difference between the terms relating to various payment methods shall reflect the expenses of a supplier with regard to the relevant methods;
- c) obtain information on the possibility of replacement of a supplier free of charge;
- d) obtain information on a transparent, simple and reasonably priced procedure for reviewing claims. Each supplier shall provide to an end user the right to receive a service with appropriate standards and use a proper procedure for reviewing a dispute that considers resolving disputes in a fair and timely manner within 10 working days, by giving compensation and/or remuneration in respective cases;
- e) for the purpose of controlling consumption, receive systematic and accurate notification of actual consumption of electricity or natural gas and of relevant expenses. An end user shall be provided with this information with the periodicity determined by a legal act of the Commission, taking into account the technical data of the customer accounting device and the cost-effectiveness of providing such information. The information shall be provided to an end user free of charge;
- f) receive a final report (receipt) within not later than six weeks after the completion of the procedure for replacing a supplier.

2. With respect to an individual service point, a supplier serving household customers and small undertakings shall, except for the activities provided for by paragraph 1 of this article, ensure:

- a) the establishment of service centres which ensure the provision of information to end users by phone and email as well as in person, and the review of and responses to their requests and claims;
- b) the establishment of a claim reviewing commission for the purpose of protecting end users;
- c) the determination of the working hours of a service centre, according to the needs of customers, provided that this centre will operate until 20:00 at least once a week. It shall be possible to record an end user at a service centre through the phone or email;
- d) the provision of information and/or aid to transmission and/or distribution system operators with respect to claims dealing with issues provided for by a contract on transmission and/or distribution services.

3. A supplier shall publish on its website and deliver to an end user the information card of the energy user that shall contain practical information on the rights of the energy user.

4. A supplier shall notify an end user on changes made to the price of supply and other terms not less than one month before the relevant change enters into force, as well as on the right of early termination of the contract of an end user. The end user may terminate the contract, unless he/she agrees with the changed terms.

5. The supplier shall develop and publish an action programme that shall aim to:

- a) assist the end user in the adequate fulfilment of contractual obligations in order to avoid termination of supply;
- b) facilitate supply to a territorially remote end user.

6. A supplier shall be obliged to regularly provide information to an end user on measures for improving energy efficiency.

7. A supplier shall indicate the fees for electricity and natural gas, as well as fees for related services provided, in an invoice drawn up explicitly and intelligibly, the procedures for development and issuance of which shall be determined by the Commission.

8. A supplier shall, in accordance with the requirements established by the Commission, be obliged to regularly provide to an end user with information on electricity or natural gas supply, including with respect to environmental issues. An invoice and its annexes, as well as advertising materials sent by a supplier to an end user, shall include:

- a) information, if any, on the share of the energy source in the entire portfolio of supply used by a supplier, for the purpose of meeting the demand of an end user for electricity or natural gas;





b) the sources of information (including a website, if any), where the data on the environmental impact of the energy production sources used by the supplier during the previous year are publicly available;

c) information on the rights of an end user with regard to the means of reviewing disputed issues.

9. The Commission shall take appropriate measures to ensure the reliability, clarity and comparability of information provided by a supplier to an end user. The Commission shall be authorised to make some portion of this information available for all market participants, provided that information containing a commercial secret associated with specific participants or transactions will not be published.

10. A supplier shall be obliged to take appropriate measures to protect the interests of an end user and review appeals efficiently and free of charge, including by using alternative means for dispute resolution. The procedure for reviewing a claim by a supplier shall be supervised by the Commission in accordance with this Law and the procedures approved by the Commission.

11. In accordance with the procedures of providing information approved by the Commission, a supplier shall periodically submit to the Commission a report on the activity of supply, including on compliance with the requirements established by this Law and the supply rules.

### **Article 106 – Rules for replacing a supplier**

1. The Commission shall ensure the introduction of an efficient and simple procedure for a qualified customer to replace a supplier; the procedure will allow the qualified customer to replace the supplier within not more than three months after sending a notification thereto.

2. The rules for replacing a supplier shall be approved by the Commission. The rules for replacing a supplier shall determine the terms for replacing a supplier, including:

a) a procedure for replacing a supplier;

b) the conditions to be complied with by a new supplier, including those relating to balancing;

c) the obligations of a supplier with whom a supply contract is terminated;

d) obligations of a system operator to whose network the equipment of a qualified customer is connected;

e) the rights of a new supplier with respect to access to the transmission and distribution systems for the purpose of supplying a new qualified customer, and to the use of these systems;

f) a procedure for covering the debt of a qualified customer.

3. In accordance with the rules for replacing a supplier, the replacement of a supplier by a qualified customer shall be free of charge. A supplier shall be replaced at the request of a qualified customer.

4. A supplier, with whom a qualified customer terminates a concluded supply contract, may not establish additional terms of termination of the contract for the customer, and shall be obliged to ensure the supply of energy to the qualified customer prior to the termination of contract.

5. Compliance with the rules for replacing a supplier shall be supervised by the Commission. The Commission shall be authorised to approve the rules for replacing a supplier as a part of the supply rules.

6. The existence of a dispute shall not preclude the entry into force of a new supply contract or the performance of the procedure to replace a supplier.

### **Article 107 – Storing of information by a supplier**

1. A supplier shall ensure the storing of information on operations performed in the framework of supply contracts concluded with



traders, transmission and distribution system operators, and where appropriate, with natural gas storage and liquefied natural gas system operators, as well as those performed with the electricity or natural gas derivatives, for at least five years, and shall make such information available to state authorities, including the Commission, the Competition Agency and the Energy Community Secretariat.

2. The information referred to in paragraph 1 of this article shall include details of a relevant operation, such as duration, rules of supply and settlement, volume, date and time of performance, cost of the operation, identification data of relevant traders, and specific details of a supply contract and a derivative with respect to which no settlement has been performed.

3. The Commission shall be authorised to make available some portion of the information provided for by paragraph 1 of this article for all market participants, provided that information containing a commercial secret associated with specific participants or operations not be published.

4. With respect to operations performed with electricity or natural gas derivatives with traders, transmission and distribution system operators, and where appropriate, with natural gas storage and liquefied natural gas system operators, this article shall apply after the standing high level group of the Energy Community approves the relevant guidelines.

## **Chapter XXVII – Supply in the Form of Public Service**

### **Article 108 – Universal service**

1. Household customers and small undertakings may receive a universal service from a supplier in accordance with the procedure established by this Law.

2. Only one supplier may render a universal service to customers, as determined by paragraph 1 of this article, which are present in one area of the distribution service, and the supplier may have imposed upon it a public service obligation under Article 9 of this Law.

3. The Commission shall develop and approve the rules of operation of a universal service provider to regulate the activities of the universal provider, including the rights and obligations of the universal provider, the termination of the obligation to provide a public service, and other issues relating to the provision of a universal service. Within the time limit determined by the Commission, the universal service provider shall submit to the Commission an annual report on activities carried out within the framework of the universal service during the previous year. The annual report shall be accessible to authorised state agencies and the Energy Community Secretariat.

4. Having regard to the purposes of Article 9 of this Law, the Commission shall, based on the methodology it has approved, be authorised to determine an electricity tariff for an end user who is served by a universal service provider. The Commission shall ensure that the electricity tariff for end users is regulated only as necessary and for the purpose of providing a universal service to household customers and small undertakings.

5. When exercising the power provided for by paragraph 4 of this article, the Commission shall prepare a detailed justification and indicate the special circumstances relating to the electricity market which have caused the need to keep price regulation for the end user in the form of a public service obligation. This justification shall be accessible for the state agencies authorised under the legislation of Georgia and the Energy Community Secretariat.

6. When exercising the power provided for by paragraph 4 of this article, the Commission shall also determine a plan for the gradual revocation of price regulation for an end user, as well as the date of its completion, that shall clearly indicate the temporary nature of the regulation.

7. The Commission shall ensure that both the regulated price and the market price of electricity reflect the expenses, including the actual expenses of supply, necessary investments and related proceeds, as well as the expenses of importation and supply services.

8. A universal service provider shall:

a) ensure the supply of electricity in the form of the provision of a public service to end users who are entitled to use such a service under the legislation of Georgia;



- b) provide the universal service in compliance with the requirements established by this article;
  - c) take measures to supply electricity of a specified quality to the end users using the universal service in a safe and reliable manner;
  - d) take measures to establish prices which are most acceptable to the end users using the universal service.
9. The Commission shall ensure that different categories of customers which receive the universal service do not have the same terms of service and protection.

#### **Article 109 – Supply of natural gas in the form of a public service**

1. Household customers, small undertakings, and such thermal power stations as are a source of guaranteed capacity, may receive natural gas from a public service provider in accordance with the procedure established by this Law.
2. Only one supplier may render a universal service to customers, as determined by paragraph 1 of this article, which exist in one area of distribution service; under Article 9 of this Law, a public service obligation shall be imposed on this supplier.
3. The Commission shall develop and approve the rules for the activities of a supplier supplying natural gas in the form of a public service; these rules shall regulate the activities of a public service provider, including his/her rights and obligations, the termination of the obligation to provide a public service, and other issues relating to the supply of natural gas in the form of a public service. A public service provider shall, in accordance with the procedures and within the time limits established by a legal act of the Commission, prepare and submit to the Commission a report of activities for the previous year. The report shall be accessible to the state agencies authorised under the legislation of Georgia and the Energy Community Secretariat.
4. The price of supplying natural gas in the form of a public service shall be established by a public service provider in a transparent and non-discriminatory manner, except for the case provided for by paragraph 5 of this article. The cost of a public service shall be fair, market-based and adequate.
5. Having regard to the objectives of Article 9 of this Law, the Commission shall, on the basis of the methodology it has approved, be authorised to establish the price of natural gas for an end user who is provided with a service by a public service provider. The Commission shall ensure that the price for the end user is regulated only where necessary, and for the purpose of supplying natural gas to household customers and small undertakings in the form of a public service.
6. While exercising the power referred to in paragraph 5 of this Article, the Commission shall substantiate in detail and indicate the special circumstances relating to the natural gas market which have caused the need to maintain price regulation in the form of a public service obligation for an end user. This justification shall be accessible for the state agencies authorised under the legislation of Georgia and the Energy Community Secretariat.
7. When exercising the power referred to in paragraph 5 of this article, the Commission shall also determine a plan for the gradual revocation of price regulation for an end user, as well as the date of its completion, that shall clearly indicate the temporary nature of the regulation.
8. The Commission shall ensure that both the regulated price and the market price of natural gas shall reflect the expenses borne, including the actual expense of supply, investments and related proceeds, as well as the expenses of importation and supply services.
9. A public service provider shall:
  - a) ensure the supply of natural gas in the form of provision of public service to end users who are entitled to use such a service under the legislation of Georgia;
  - b) provide a public service in compliance with the requirements established by this article;
  - c) take measures to provide natural gas of a specified quality to an end user using the public service in a safe and reliable manner;
  - d) take measures to establish prices which are most acceptable to the end users using the public service.
10. The Commission shall ensure that different categories of customers which receive natural gas in the form of a public service do



not have the same terms of service and protection.

## **Article 110 – Supply of last resort**

1. A supplier of last resort of electricity and natural gas shall be selected by the Government of Georgia, based on an open tender procedure. In addition, it shall be permissible to designate a universal service provider or a natural gas supplier as a supplier of last resort in the form of public obligation.
2. The terms of the tender provided for by paragraph 1 of this article shall be approved and the tender shall be announced by the Government of Georgia. The terms of the tender, along with other requirements, shall include criteria for the selection of a supplier of last resort, contractual terms, the time limit of the authorisation of the supplier of last resort, as well as directions regarding the procedure for supply of last resort, the determination of the price of electricity or natural gas, and the method of making changes to that price.
3. If the tender announced for selecting the supplier of last resort does not take place (including due to the absence of a bidder), the Government of Georgia shall be authorised to nominate an energy undertaking presented by the Ministry as a supplier of last resort without conducting the tender.
4. A supplier of last resort shall be authorised for not longer than five years.
5. If, due to the planned or unplanned termination of market activity, or a serious violation of obligations by an electricity or a natural gas supplier, an end user is deprived of the possibility to receive electricity or natural gas, the supplier of last resort shall ensure the supply of electricity or natural gas to such end user without the customer having to submit a special request.
6. If, in the cases referred to in paragraph 5 of this article, a supplier cannot supply electricity or natural gas to an end user, the supplier shall be obliged to notify, in a timely manner, the end user, the supplier of last resort, the Commission and the relevant transmission and distribution system operators, of the date of termination of supply, at least 30 days prior to the termination of said supply, or, if the supplier could not have been aware of said date, not later than the next working day following the day when the supplier became aware of the inability to supply. In such a case, a customer left without a supplier shall automatically be provided with electricity or natural gas by a supplier of last resort.
7. The Commission shall notify the end users, the supplier of last resort, and relevant transmission and distribution system operators, of the supplier specified in paragraph 5 of this article, by publishing the relevant information on the website of the Commission. The Commission shall publish information on the website not later than five working days from the day when it became aware of the circumstances causing the inability of the supplier to supply electricity or natural gas.
8. Transmission and distribution system operators shall, within 5 working days after the receipt of the notification provided for by paragraphs 6 or 7 of this article, submit to the supplier of last resort information on the customers to receive the supply of last resort.
9. The procedure for the termination of the market activities of an electricity/a natural gas supplier shall be determined by the market rules of the respective sector.
10. A supplier of last resort shall supply an end user for not longer than three calendar months. If the end user fails to conclude a contract with a new supplier within this period, the relevant system operator may discontinue supplying the customer with electricity or natural gas.
11. The Commission shall approve rules for the supply of last resort.
12. The tariff for the supply of last resort shall be established by the Commission in a transparent and non-discriminatory manner based on the methodology it has approved.
13. The Commission shall ensure that the price of the electricity or natural gas supplied by the supplier of last resort shall reflect expenses, including the actual expense of supply, necessary investments and related proceeds, as well as importation and supply expenses.
14. The tariff of the electricity or natural gas supplied by the supplier of last resort shall be established by the Commission according to the methodology it has approved. The Commission shall ensure that the tariff is higher than the average market price of the electricity or natural gas supplied to the same category of customers under ordinary conditions.



15. With respect to the activity of supply of last resort, a supplier of last resort shall ensure separation under this Law and a separate maintenance of financial accounting and financial accounts.

16. A supply contract between a supplier of last resort and an end user, in accordance with the rules for replacing a supplier and/or the rules established by other subordinate acts, shall be considered concluded from the day of commencement of supply of electricity or natural gas to the customer regardless of whether a request from the customer was made.

17. A supplier of last resort shall be obliged to send a written notification of the price and the maximum duration of supply to a customer within 8 days after the confirmation of the commencement of the supply of last resort.

18. A supplier of last resort may require that a relevant system operator terminate the supply of electricity or natural gas to a customer due to the failure of the customer to fulfil obligations.

19. A supplier of last resort shall, at least once a year, prepare an activity report in accordance with the procedure and within the time limits established by a legal act of the Commission and submit it to the Commission. The report shall be available for the Energy Community Secretariat.

## SECTION XI

### END USER

#### Chapter XXVIII – Status and Protection of an End User

##### Article 111 – Rights and obligations of an end user

1. An end user shall be protected in accordance with this Law, the subordinate legal acts issued on the basis of this Law, and other legislative and subordinate normative acts of Georgia regulating customer rights.

2. An end user shall pay the electricity and natural gas fees in accordance with the requirements of the supply rules and the relevant contractual terms. A procedure for charging the fees, and the settlement and collection of fees, shall be determined by the supply rules.

3. A qualified customer may freely choose and replace a supplier under Articles 101 and 106 of this Law. An end user may receive all the necessary information on the consumption of electricity and natural gas free of charge, and make accounting data available to any registered customer free of charge based on the contract and the legislation of Georgia. A person responsible for the management of accounting data shall be obliged to provide this data to a relevant energy undertaking. The format of the data and the procedure for the access of a supplier and a customer to that data shall be determined by the supply rules.

4. A large customer may conclude a supply contract with several suppliers simultaneously. The rules and procedure for exercising this right by a large customer shall be determined by the supply rules.

5. An end user may, in accordance with the transmission or distribution network rules, request the elimination of technical or other delays in electricity or natural gas supply within a short period, unless these delays are caused by his/her equipment and installations.

6. A delay caused by measures for suspension of supply taken to eliminate violations existing in the electricity or natural gas market shall not be considered an electricity or natural gas supply disruption for the purposes determined by paragraph 5 of this article, provided it complies with the terms determined by this Law or other legislative and subordinate legal acts of Georgia.

7. An end user shall consume electricity and natural gas in accordance with the terms and purposes established by this Law, the transmission and distribution network rules, other legislative and subordinate legal acts of Georgia, and a relevant contract.



## **Article 112 – Protection of a vulnerable customer**

To protect vulnerable customers, state and municipality bodies, on the basis of consultation with the Commission and other interested parties, shall implement special programmes/measures/privileges to ensure satisfaction of demand for, and/or increase in availability of, electricity and natural gas, and shall determine the relevant vulnerable customers using these programmes/measures/privileges.

*Law of Georgia No 7020 of 15 July 2020 – website, 28.7.2020*

## **Article 113 – Termination of supply to an end user**

A supplier shall be authorised to require that a relevant transmission or distribution system operator terminate the supply of electricity or natural gas to an end user due to the failure to fulfil obligations under the supply contract, in accordance with the procedure established by a normative act of the Commission.

## **SECTION XII**

### **ENERGY MARKET**

#### **Chapter XXIX – Opening and Functioning of an Energy Market**

## **Article 114 – Opening of an energy market**

1. A qualified customer may freely choose and replace a supplier.
2. To prevent an imbalance during the opening of an energy market, a supply contract may be concluded with a qualified customer within the system of another contracting party to the Energy Community, if that customer is considered a qualified customer for both systems.

## **Article 115 – Measures for encouraging the opening of an energy market**

1. Where necessary, the Commission, within its power, shall determine necessary and proportional measures to encourage market competition and thus ensure the proper operation of an energy market. The Commission shall, as necessary, implement these measures on its own initiative or at the request of the Energy Community Secretariat.
2. The measures referred to in paragraph 1 of this article shall be proportional, non-discriminatory, and transparent, and shall be carried out only after notifying the Energy Community Secretariat, and based on its opinion.
3. Unless the Energy Community Secretariat submits its opinion within two months after the receipt of the notification provided for by paragraph 2 of this article, the issue shall be considered agreed upon.

## **Article 116 – Supervising an energy market**

1. An energy market shall be supervised by the Commission in accordance with this Law and the energy market monitoring rules approved by the Commission.
2. Before 1 June of each year, the Commission shall publish a report on an energy market that, along with other information, shall include a detailed overview of the opening, functioning and organisation of the energy market, an analysis of the activities of



market participants and of market prices, the use of regulated tariffs, the prices available for end users, and the existing trends of development in the energy market. The Commission shall be authorised to publish separate reports on electricity and natural gas markets.

3. When performing the functions determined by Articles 122 and 128 of this Law, a relevant market operator shall:

- a) analyse the organisation of an energy market and offer measures for its improvement to the Commission;
- b) submit to the Commission and a relevant transmission system operator an opinion on the rules for balancing the system in accordance with the transmission network rules;
- c) submit to the Commission and a relevant transmission system operator an opinion on the distribution and use of cross-border capacity as established by the transmission network rules, as well as on the rules for congestion management;
- d) with respect to the supervision of the trade in electricity or natural gas throughout the entire territory of Georgia, perform other functions provided for by this Law and the rules for monitoring an energy market.

4. A market operator and a respective transmission system operator shall, within their competencies, provide to the Commission information on any violation or potential violation of the requirements established with respect to activities in an energy market.

### **Article 117 – Competition in an energy market**

1. The Commission shall ensure the provision of appropriate conditions for the availability and development of efficient competition in an energy market, as well as the timely detection and elimination of actions limiting an energy market.

2. To perform the tasks specified by paragraph 1 of this article, the Commission shall supervise, and where necessary, research an energy market:

- a) at the request of the Government of Georgia, the Ministry, the Competition Agency and the Public Defender of Consumers Interests;
- b) at the request of a participant in an energy market, if the latter suffers direct damage to property as a result of the restrictive action of the market, for which he holds a proof;
- c) on its own initiative.

3. The research of an energy market shall include:

- a) definition of an energy market (services, products supply, and/or geographical areas);
- b) analysis of efficiency of competition in an energy market, data and assessment of concentration (including an assessment of the market share of each energy undertaking and of the level of competition between several undertakings);
- c) information on the persons having significant influence on an energy market under Article 118 of this Law;
- d) results of research of an energy market and a decision or recommendations concerning the application of the regulatory measures referred to in paragraph 8 of this article.

4. The research of an energy market shall be carried out in accordance with the rules for monitoring an energy market approved by the Commission and with the decision of the Commission to conduct the research.

5. An energy market shall be subject to research in cooperation with competent state authorities, in accordance with the legislation of Georgia, and the regulations and/or recommendations of the Energy Community, taking into account international best practice.

6. To research an energy market, the Commission shall conduct the public consultations provided for by Article 24 of this Law. The Commission shall analyse the comments and recommendations received during public consultations and publish them on the website of the Commission in the form of an overall review along with relevant explanations.



7. The time limit for carrying out research of an energy market shall be seven months commencing on the day of taking a decision to research the energy market in question by the Commission. Where appropriately substantiated and reasonable, the Commission shall be authorised to extend this period for not more than four months. The Commission shall ensure the timely and efficient implementation and completion of research of an energy market.

8. The research of an energy market shall be completed by making a decision by the Commission that addresses the components of research of an energy market specified by paragraph 3 of this article. A decision or recommendation concerning regulatory measures may provide for the following:

- a) the revocation of a licence for energy activities;
- b) the imposition of a fine;
- c) the taking of measures to encourage the opening of a market in accordance with Article 115 of this Law;
- d) an appeal to competent state authorities regarding the compliance of the activities of a participant in an energy market with the requirements of the legislation of Georgia.

9. The results of research of an energy market and the relevant decisions of the Commission shall be submitted to the Government of Georgia, the Ministry, other competent state authorities, and shall be published on the website of the Commission.

### **Article 118 – Major impact on an energy market**

1. An undertaking shall be considered to have a significant impact on an energy market if it, independently or in agreement with one or more other undertakings, controls a market share that may be considered significant. A market share that grants to an undertaking or group of undertakings the economic power to carry out commercial activities independently of competitors, clients and/or customers, shall be considered significant. The amount of a significant market share in a relevant energy market and the procedure for its determination shall be established by a legal act of the Commission.

2. If an undertaking or group of undertakings is considered to have a significant impact in respect of a particular market, it may be considered to have a significant impact with regard to other, closely interconnected markets also, if the interconnection of those markets allows the said undertaking or group of undertakings to benefit from the impact on one of the markets with a view to increasing the impact on the other market.

3. If, by the decision of the Commission, an undertaking or group of undertakings is considered to have a significant impact on an energy market, it shall be considered as such until the Commission takes another decision with respect to the same undertaking or group of undertakings.

4. The relevant decision of the Commission on the existence of a significant impact on an energy market may lead to the application of the measures referred to in Article 115 of this Law which encourage the opening of an energy market.

### **Article 119 – Concentration**

1. The concentration, the value or the annual turnover of both the individual and joint assets of participating regulated undertakings which (according to the data of the previous financial year of the concentration), in the territory of Georgia and/or in any party to the Energy Community, exceeds a limit established by a normative act of the Commission, requires prior notification to the Commission. The rules for submitting a notification on concentration to the Commission and its review by the Commission shall be established by an ordinance of the Commission.

2. Following the receipt of a notification on concentration, the Commission shall prepare a conclusion on the competitive effect of the expected merger/consolidation.

3. The concentration that restricts effective competition in an energy market of Georgia, a part thereof, or any party to the Energy Community, shall be inadmissible.

4. If the concentration creates or enhances a dominant position, it shall be assumed that such concentration restricts effective competition in an energy market of Georgia, a part thereof, or any party to the Energy Community, unless a regulated undertaking





proves otherwise. A procedure for determining a dominant position shall be established by a legal act of the Commission.

5. For the registration of a merger of regulated undertakings, on which the obligation of notification provided for by paragraph 1 of this article is imposed, it is necessary to have a positive conclusion from the Commission on the competitive effect of the expected merger/consolidation. A negative assessment from the Commission shall serve as grounds for a refusal of the merger of the regulated undertakings issued by the Legal Entity under Public Law called the National Agency of Public Registry, operating under the Ministry of Justice of Georgia.

6. Concentration conducted in the energy sector restricting competition and/or a violation of the obligation to submit to the Commission a notification of the concentration in advance, shall result in the imposition of a fine as provided for by the legislation of Georgia on regulated undertakings participating in concentration.

7. From a regulated undertaking participating in concentration as specified by paragraph 1 of this article, the Commission has the authority to:

a) require the revocation of the concentration by merging, cancelling or alienating the acquired shares or assets in a manner that restores the conditions existing prior to the concentration. If the conditions existing prior to the concentration cannot be restored by means of revocation, the Commission may take any other appropriate measures to restore as much as possible the conditions that existed before the concentration;

b) impose sanctions in accordance with this Law;

c) require the taking of other measures to ensure that the regulated undertaking participating in the concentration revokes the concentration or restores the conditions existing before the concentration was carried out.

## **Chapter XXX – Organising the Electricity Market**

### **Article 120 – Electricity Market**

1. The electricity market comprises retail and wholesale electricity markets.
2. Operations between an end user and a supplier shall be performed in the retail electricity market.
3. The segments of a wholesale electricity market shall be determined according to the concept of the electricity market model.

### **Article 121 – Organising the electricity market**

1. Within the powers determined by this Law and/or the electricity market rules and according to the concept of a model of the electricity market, the electricity market operator shall ensure the organisation of relevant segment(s) of the organised electricity markets in Georgia for the purpose of trade in electricity, as well as for connection to neighbouring organised markets and for integration. The organisation of the electricity market shall be regulated by the electricity market rules.
2. The electricity market operator and other subjects shall have the right to establish a stock exchange of electricity derivatives.
3. The electricity market operator shall carry out the activity based on a licence issued according to the Law of Georgia on Licences and Permits, Chapter V of this Law and the licensing procedures approved by the Commission.
4. The electricity market operator shall carry out its activities in compliance with the principles of transparency, impartiality and non-discrimination. The activities of the electricity market operator shall be supervised by the Commission.
5. The fees for services provided by the electricity market operator shall be determined by the Commission according to the established methodology.



## **Article 122 – Functions of the electricity market operator**

1. In the segment(s) provided for by the licence, the electricity market operator shall:

- a) organise the electricity market within the competence determined by this Law and/or the electricity market rules;
- b) record data on contracts and contractual obligations in accordance with the electricity market rules;
- c) prepare a daily schedule of purchase and sale of electricity in and outside of Georgia, in accordance with the contractual obligations resulting from buying and selling of electricity on the day-ahead electricity market;
- d) submit a daily schedule of the purchase and sale of electricity referred to in sub-paragraph (c) of this paragraph to a relevant transmission system operator in time;
- e) register electricity market participants and keep a relevant registry;
- f) publish the information required for the unhindered organisation of the electricity market and carrying out of electricity activities;

2. Other rights and obligations relevant to its competences may also be imposed on the electricity market operator based on this Law, the concept of the model of the electricity market, and the electricity market rules.

3. The electricity market operator may not trade in electricity, except where this is carried out to ensure trade in electricity on the organised market and where the market operator is a party to a contract in the case provided for by the electricity market rules.

4. Electricity undertakings shall ensure the uninterrupted and unrestricted access of the electricity market operator to the information required for the organisation of the electricity market, in accordance with the electricity market rules.

## **Article 123 – Concept of the electricity market model and electricity market rules**

1. The concept of the electricity market model shall be developed, with the cooperation of the Commission, by the Ministry and approved by the Government of Georgia.

2. The concept of the electricity market model shall develop the guiding principles for the organisation and functioning of the electricity market in Georgia. The guiding principles shall form a general outline of the rights and obligations of market participants, and of the structure of the market within the scope necessary for determining the general essence of the structure of the electricity market. The concept of the electricity market model shall establish the mechanism for fulfilling obligations on the basis of the contracts concluded with electricity undertakings before the entry of this Law into force, in compliance with the requirements of Article 9 of this Law, and also the stages of transition to the target model, the organisation of a public service, and special requirements for the supply of electricity to the occupied territories of Georgia, may be determined. The organisation and operation of the electricity market, including all the procedures relating to any segment of the market determined by a concept of the electricity market model, shall be regulated according to the terms of the electricity market rules determined by the Commission.

3. The electricity market rules shall determine a procedure for the organisation and operation of the electricity market, as well as other related issues, including:

- a) an electricity market model in accordance with the concept of the electricity market model;
- b) the procedures, principles and standards of organisation and operation of the electricity market in accordance with the concept of the electricity market model;
- c) the methods of the identification and registration of electricity market participants;
- d) the types and samples of contracts to be concluded in the electricity market;
- e) the products purchased and sold in the electricity market;



- f) the standards and procedures for keeping a registry of the operations performed in the electricity market;
- g) the standards and procedures for creating and maintaining the data bases required for the functioning of the electricity market;
- h) the standards and procedures for the preparation, usage, verification and changes in the daily schedules of purchase and sale of electricity;
- i) the standards and procedures for purchasing electricity to eliminate losses within electricity transmission and distribution networks;
- j) the calculation of and responsibility for imbalance;
- k) the calculation of the imbalance indicator of the balancing group, and the financial settlement relating to the imbalance in the market by the persons responsible for the imbalance;
- l) the terms of organisation and operation of each market segment determined by the concept of the electricity market model;
- m) other terms for the organisation and operation of the electricity market, as well as for the regulation of other terms within the market.

#### **Article 124 – Electricity market participants**

1. Electricity undertakings and other legal entities and natural persons shall have the right to become electricity market participants for the purpose of the purchase and sale of electricity, in compliance with the terms determined by this Law and the electricity market rules.
2. All electricity market participants, including producers, traders, suppliers, parties supplying electricity in the form of a public service, and large customers, may trade in electricity on the organised market in compliance with this Law and the electricity market rules.
3. The electricity market operator shall execute the rights and obligations referred to in a contract according to the electricity market rules.
4. To cover the losses within the relevant network, transmission and distribution system operators shall represent special participants of the electricity market whose special characteristics are determined by the electricity market rules when carrying out the obligation to purchase electricity.
5. If, during trade in electricity on the organised market, the electricity market operator is a party of a contract under Article 122(2) of this Law, the operator shall be considered a special participant of the electricity market, and its special characteristics shall be determined by the electricity market rules.

#### **Article 125 – Responsibility of electricity market participants for imbalance**

1. Responsibility for imbalance shall lay upon all electricity market participants in accordance with the model of the balancing group, by achieving a balance between the production and consumption within the electricity system, and by the separation of physical supply from financial operations, to ensure an unhindered performance of the operations of purchase and sale on the electricity market, and related fair settlement.
2. The terms associated with the model of the balancing group, including the rights and obligations of the persons responsible for balancing, shall be established by the electricity market rules. The electricity market rules shall also determine the significance of persons responsible for balancing and their responsibility for imbalance.
3. Keeping the registry of persons responsible for balancing, and the need for balance electricity caused by an imbalance, as well as the calculation of the relevant volume, shall be ensured by the transmission system operator.
4. A registry of accounting points of settlement of each balancing group for the supply points of the transmission system shall be maintained by the transmission system operator. The transmission system operator shall use the registry data for the purpose of



determining the need for balance electricity caused by an imbalance of the persons responsible for balancing under paragraph 3 of this article, and for calculating the relevant volume.

## **Chapter XXXI – Organising the Natural Gas Market**

### **Article 126 – Natural gas market**

1. The natural gas market comprises retail and wholesale natural gas markets.
2. Operations between an end user and a supplier shall be performed in the retail natural gas market.
3. Segments of the wholesale natural gas market shall be determined according to the concept of the natural gas market model.

### **Article 127 – Organising the natural gas market**

1. The natural gas market operator shall ensure the organisation of the natural gas market for the purpose of trade in natural gas as well as the connection to and integration with other organised natural gas markets. The organisation of the natural gas market shall be regulated by the natural gas market rules.
2. The natural gas market operator and other subjects shall have the right to establish a stock exchange of natural gas derivatives.
3. The natural gas market operator shall carry out its activities based on a licence issued according to the Law of Georgia on Licences and Permits, Chapter V of this Law and the licensing procedures approved by the Commission.
4. The natural gas market operator shall carry out activities in compliance with the principles of transparency, impartiality and non-discrimination. The activities of the natural gas market operator shall be supervised by the Commission.
5. The fees for services provided by the natural gas market operator shall be determined by the Commission according to the established methodology.

### **Article 128 – Functions of the natural gas market operator**

1. In the segment(s) provided for by the licence, the natural gas market operator shall:
  - a) ensure the organisation of the natural gas market;
  - b) register the natural gas market participants and maintain a relevant registry;
  - c) publish the information required for the unhindered organisation of the natural gas market and the carrying out of natural gas activities.
2. The responsibility to perform other rights and obligations relevant to its competence may also be imposed on the natural gas market operator based on this Law, the concept of the model of the natural gas market and the natural gas market rules.
3. The natural gas market operator may not trade in natural gas, except where this is carried out to ensure the trade in natural gas on the organised market, and where the market operator is a party to a contract as provided for by the natural gas market rules.
4. Natural gas undertakings shall ensure an uninterrupted and unrestricted access of the natural gas market operator to the information required for the organisation of the natural gas market, in accordance with the natural gas market rules.



## **Article 129 – Concept of the natural gas market model and natural gas market rules**

1. The concept of the natural gas market model shall be developed, with the cooperation with the Commission, by the Ministry and approved by the Government of Georgia.
2. The concept of the natural gas market model shall develop the guiding principles for the organisation and functioning of the natural gas market in Georgia. The guiding principles shall form a general outline of the rights and obligations of the market participants and of the structure of the market within the scope necessary for determining the general essence of the structure of the natural gas market. The concept may also determine the stages of transition to the target model. The organisation and operation of the natural gas market, including all the procedures relating to any market segment determined by the concept of the natural gas market model, shall be regulated by the Commission, in accordance with the terms determined by the natural gas market rules.
3. The natural gas market rules shall determine the rules for the organisation and operation of the natural gas market and other related issues, including:
  - a) a natural gas market model in accordance with the concept of the natural gas market model;
  - b) the procedures, principles and standards of organisation and operation of the natural gas market in accordance with the concept of the natural gas market model;
  - c) the methods of the identification and registration of natural gas market participants;
  - d) the types and samples of contracts to be concluded in the natural gas market;
  - e) the products purchased and sold in the natural gas market;
  - f) the standards and procedures for keeping a registry of operations carried out in the natural gas market;
  - g) the standards and procedures of creating and maintaining the data bases required for the functioning of the natural gas market;
  - h) the standards and procedures for the preparation, usage, verification and changes in daily schedules of trade in natural gas;
  - i) the standards and procedures for purchasing natural gas to eliminate losses within natural gas transmission and distribution networks in order to ensure the continuous, safe and reliable supply of natural gas;
  - j) the terms of organisation and operation of each market segment determined by the concept of the natural gas market model;
  - k) other terms necessary for the organisation and operation of the natural gas market, as well as for the regulation of other conditions within the market.

## **Article 130 – Natural gas market participants**

1. For the purpose of the purchase and sale of natural gas, natural gas undertakings and other legal entities and natural persons are authorised to become natural gas market participants, in compliance with this Law and the terms determined by the natural gas market rules.
2. All natural gas market participants, including producers, traders, suppliers, parties supplying natural gas in the form of a public service, and large customers, may trade in natural gas on the organised market in compliance with this Law and the natural gas market rules.
3. Natural gas market participants shall adhere to the bilateral rights and obligations provided for by a contract in accordance with the natural gas market rules.
4. To cover the losses within a relevant network, when carrying out the obligation to purchase natural gas, transmission and distribution system operators shall represent special participants in the natural gas market, whose special characteristics shall be determined by the natural gas market rules.
5. If, during trade in natural gas on the organised market, the natural gas operator is a party to a contract under Article 128(2) of



this Law, the operator shall be considered a special participant in the market, and its special characteristics shall be determined by the natural gas market rules.

### **Article 131 – Establishing concessionary conditions with respect to take-or-pay obligations**

1. A natural gas undertaking may apply to the Commission with a request for temporary relief from the obligation of access to the natural gas system in accordance with the terms determined by this Law, if this natural gas undertaking, as a result of a take-or-pay obligation based on one or more contracts of natural gas purchase, has faced or will likely face major economic and financial difficulties. The Commission, in each individual case, may be applied to before or after the refusal of access to the system. After the refusal of access to the system, the Commission shall be applied to immediately. The application of the natural gas undertaking shall include information on the essence and degree of the difficulty, as well as on the measures taken by the undertaking to deal with the difficulty.

2. The Commission shall satisfy the request of the natural gas undertaking provided for by the paragraph 1 of this article, unless there is another reasonable alternative for solving the economic and financial difficulties created by the take-or-pay obligation. The Commission shall immediately notify the Energy Community Secretariat of the decision, and present to the Secretariat all the necessary information related to the decision. Information may be submitted to the Energy Community Secretariat in an aggregated form to ensure that it takes a justified decision. In the case of the non-submission of an opinion by the Energy Community Secretariat within two months after the receipt of notification, the issue shall be considered agreed upon.

3. The Commission shall take a decision on the establishment of concessionary terms taking into account the following circumstances:

- a) the purpose of the formation of a non-discriminatory, transparent and competitive natural gas market;
- b) the need to ensure the fulfilment of the obligations of a public service and the safety of supply;
- c) the level of competition in the natural gas market and the condition of the relevant natural gas undertaking;
- d) the degree of economic and financial difficulty facing the natural gas undertaking, transmission system operator, or qualified customer;
- e) the date of signing of a relevant contract or contracts and the terms thereof, including the terms determining admissible scopes of adjustment to market changes;
- f) measures taken to solve the problem;
- g) the ability of the natural gas undertaking to reasonably assume the relevant probability of the emergence of major economic and financial difficulties while adopting the take-or-pay obligation;
- h) the level of connection of the system to other systems and of their compatibility;
- i) the impact of establishing concessionary terms on the adequate application of this Law, with respect to the proper functioning of the domestic natural gas market.

4. A decision taken on the establishment of concessionary terms with respect to a take-or-pay contract concluded before 1 July 2006, shall not lead to a situation where it is impossible to find an economically feasible, alternative solution. The case when natural gas sales are not less than the volume to be obtained by a buyer under a take-or-pay contract as guaranteed shall not be considered a major difficulty. Nor shall the case where the terms of a relevant take-or-pay contract can be adjusted to the altered circumstances, or a natural gas undertaking can find an alternative solution, be considered a major difficulty.

5. A natural gas undertaking denied the establishment of concessionary terms in accordance with paragraph 1 of this article may not refuse access to the system due to the take-or-pay obligation based on the natural gas purchase contract. For this purpose, the Commission shall ensure the access of a third party and the proper fulfilment of the provisions established by this Law with respect to gas supply contracts.

6. A substantiated decision of the Commission taken with respect to the establishment of concessionary terms shall be published and notified to the Energy Community Secretariat.



## SECTION XIII

### SAFETY OF SUPPLY OF ELECTRICITY AND NATURAL GAS

#### Chapter XXII – Protection of the Safety of Supply of Electricity and Natural Gas

##### Article 132 – Competences relating to the safety of supply of electricity and natural gas

1. The provision of safety of supply of electricity and natural gas shall be the competence of the Ministry, within the limits established by this chapter and respective legislation of Georgia.
2. The Ministry shall:
  - a) develop a strategy of action during a state of emergency in the electricity and natural gas sectors;
  - b) ensure the development and improvement of legislative and subordinate normative bases;
  - c) specify the energy potential of Georgia;
  - d) approve the rules for safety of supply of electricity and natural gas which regulate the functions and responsibilities of energy undertakings, market participants, system users, and customers, in the process of achieving a minimum level and standard of electricity and natural gas supply.
3. The norms provided for by paragraph 2 of this article shall primarily be based on market mechanisms, and shall take into account the economic impact and efficiency of these mechanisms, as well as their impact on the functioning of the energy markets, on the environment, and on the customer. The norms may not impose an unjustified burden on energy undertakings, and shall not have an adverse effect on the functioning of the energy markets.
4. The Commission and other state authorities shall, within their competences, facilitate the safety of supply in accordance with this Law and other legal acts.

##### Article 133 – Regional solidarity

1. To protect the safety of supply in domestic energy markets, and to promote regional and bilateral solidarity, the competent state authorities shall cooperate with the respective competent authorities of the parties to the Energy Community.
2. The cooperation referred to in paragraph 1 of this article shall also apply to cases which cause or may cause, within a short period, a large-scale breakdown of electricity or natural gas (when more than 20% of the total volume of natural gas supply is endangered and this situation may be less manageable at the national level) that affects both Georgia and another party to the Energy Community. In such cases, cooperation shall involve:
  - a) coordination of the activities provided for by Articles 134 and 136 of this Law with respect to the safety of supply of electricity;
  - b) coordination of the activities provided for by Articles 139 and 141 of this Law with respect to the safety of supply of natural gas;
  - c) the identification and, where necessary, development and upgrade of the interconnectors of electricity and/or natural gas, including the provision of the possibility of bilateral overflow of capacity in natural gas interconnectors;
  - d) terms and practical forms of mutual assistance.
3. The Energy Community Secretariat and the parties to the Energy Community shall be provided with information on the cooperation provided for by this article.



4. In order to ensure the achievement of the objectives provided for by this article, the Ministry shall also cooperate with the competent authorities of other neighbouring countries (which are not parties to the Energy Community), on the basis of relevant agreements.

## Chapter XXIII – Safety of Supply of Electricity

### Article 134 – Measures for safety of supply of electricity

1. The Ministry, during the development and entry into force of the norms for the safety of supply of electricity under Article 132 of this Law, as well as during the supervision of the safety of supply of electricity under Article 138 of this Law, shall take measures, in cooperation with the Commission and other competent state authorities, to ensure:

- a) the uninterrupted, safe and reliable supply of electricity to the end user;
- b) the creation of a transparent and stable regulatory framework for electricity activity, taking into account the clearly defined functions and liabilities of electricity market participants, and the formation of harmonised regulatory practices throughout the country;
- c) the efficient functioning, development and integration of the unified electricity market throughout the country, including the liquidity of domestic wholesale and retail trade in electricity, as well as unrestricted access to cross-border exchange in electricity;
- d) the adequate maintenance and, if necessary, upgrade of electricity transmission and/or distribution networks in order to keep them in a proper condition;
- e) quality standards in accordance with the technical rules established on the basis of Article 97 of this Law;
- f) unlimited and substantiated investments in electricity transmission and/or distribution networks in order to meet forecast demand on the market, including commercial investments for the development of the capacity of interconnectors;
- g) promotion of electricity generated through renewable energy sources, as well as through the combined production of electricity and thermal energy;
- h) the availability of sufficient reserve capacity of transmission and production for the stable operation of the electricity system;
- i) a balance between the demand for electricity and the availability of production capacities;
- j) the reduction of the long-term effect of growth of electricity-related requirements;
- k) the encouragement of the introduction of energy efficiency and new technologies, including demand management, renewable energy and smart metering technologies, and distributed electricity production, for the real-time management of the demand for electricity;
- l) the promotion of energy saving activities;
- m) the elimination of administrative barriers and the minimisation of administrative procedures impeding investments in electricity infrastructure designed to create new capacity in electricity production;
- n) the elimination of barriers impeding the conclusion of interruptible contracts and contracts of various durations for producers and customers.

2. All the measures taken or imposed with respect to the objectives provided for by paragraph 1 of this article shall be non-discriminatory and shall not restrict competition and price-related signals in the electricity market more than necessary. Furthermore, these measures shall not impose an unjustified burden on electricity market participants, including new participants and undertakings with a small market share. Taking such measures shall be justified with regard to their economic and social impact upon the end user and their potential effect on the price of electricity.





3. If a transmission system operator considers the construction of new interconnectors or the maintenance of the existing ones for the purpose of increasing the capacity of cross-border exchange, the measures provided for by paragraph 1 of this article may be carried out, taking into account at least the following circumstances:

- a) circumstances relating to the geographical location of Georgia and respective neighbouring countries;
- b) the maintenance of a reasonable balance between the cost of constructing new electricity interconnectors and the benefit obtained from these interconnectors by the end user;
- c) ensuring the maximum efficient use of existing electricity interconnectors.

4. If a guaranteed capacity for electricity production is required for the stability, security and reliability of the electricity system, as well as to ensure a balance between the supply of and demand for electricity, the Government of Georgia, where a relevant proposal is submitted by the Ministry, shall be authorised to impose on one or several electricity producers the obligation to maintain the guaranteed capacity of electricity production that can be efficiently used for balancing the system in the case of an accident within the electricity system or in a specified type of state of emergency. Such obligations shall be imposed in compliance with the criteria established by Article 9 of this Law for public service obligations, and with the requirements for consultations provided for by the same article. A decision on imposing an obligation to maintain a guaranteed capacity of electricity production, including compliance with the rules regulating competition and/or state aid, shall be substantiated. The rules for maintaining a guaranteed capacity of electricity production shall be established by the Government of Georgia. The dispatching of the guaranteed capacity of electricity production shall be performed by the transmission system operator to whose network the relevant electricity production facility is connected, in compliance with the electricity transmission network rules. The trade in electricity after the distribution of a guaranteed capacity of electricity production shall be performed in accordance with the procedure established by this Law and the relevant subordinate normative acts adopted on its basis. The price of the guaranteed capacity and/or the tariff of production of the electricity of the guaranteed capacity source shall be determined by the Commission in accordance with the methodology it has approved.

5. The technical and safety requirements for the safety of supply of electricity applying to the electricity equipment and the related installations, as well as a procedure for checking technical inspections of such installations and equipment, shall be determined by the technical rules adopted by the Government of Georgia under Article 97 of this Law.

6. The Government of Georgia shall be authorised to approve the list of those facilities which shall be considered priority during a state of emergency in terms of the provision of electricity, based on their strategic purposes.

### **Article 135 – Operational safety of the electricity network**

1. Operational rules and obligations relating to the security of an electricity transmission network shall be determined by a transmission system operator in accordance with this Law, the safety norms for the supply of electricity, electricity transmission network rules, the technical rules referred to in Article 97 of this Law, and other legislative and subordinate legal acts of Georgia.

2. The operational rules and obligations relating to the security of an electricity transmission network shall be established as a result of preliminary consultations with system users and other interested persons, and also with the transmission system operators of neighbouring countries, where appropriate. A transmission system operator shall ensure consultations with the Commission and the Ministry regarding the compliance of operational rules and obligations it has adopted with the legal acts referred to in paragraph 1 of this article.

3. The compliance of the transmission and, where appropriate, the distribution system operators, with the operational rules relating to the security of an electricity transmission network, the requirements for the quality of services rendered with regard to the transmission and/or distribution networks, as well as the maintenance of an appropriate level of operational safety of the electricity network, shall be supervised by the Ministry and the Commission, within their competence.

4. For the purpose of the operational safety of the electricity network, a transmission system operator shall be obliged to maintain an appropriate level of reserve technical capacity, and to cooperate with the operators of interconnected systems, and the systems of neighbouring and/or other countries. The degree of predictable circumstances under in which security shall be provided shall be determined by the operational rules and obligations related to the security of an electricity transmission network, in accordance with the legal acts referred to in paragraph 1 of this article.

5. A transmission system operator shall, in compliance with the operational requirements for the security of an electricity transmission network, ensure the timely and efficient exchange of information on the operation of the network with the relevant operators of interconnected systems.



6. A transmission system operator shall be obliged to carry out the tasks relating to the safe operation of the electricity network and, where appropriate, to the quality of electricity supply, in accordance with the operational rules and obligations relating to the security of an electricity transmission network.

7. Having regard to the purposes of cross-border exchange in electricity and the operational safety of the electricity network, it shall be inadmissible for a transmission system operator, an electricity market operator, and/or other relevant electricity undertakings, to discriminate between cross-border and local contracts.

### **Article 136 – State of emergency in electricity sector**

1. In the electricity sector, a state of emergency may be declared if the production, transmission, distribution, supply of and/or trade in electricity is hindered by unexpected circumstances, or circumstances beyond the control of a respective electricity undertaking, which endanger the overall security and reliability of the electricity system or the supply of electricity to end users in order to meet their demand.

2. A state of emergency in the electricity sector shall be declared by a decision of the Government of Georgia, or by a body designated by it. The procedure for declaring a state of emergency in the electricity sector shall be approved by the Government of Georgia.

3. The security measures and procedures to be performed during a state of emergency in the electricity sector shall be approved by the Government of Georgia through consultations and close coordination with the Commission, transmission and distribution system operators, parties to the Energy Community, and/or the competent authorities and operators of other respective countries.

4. The safety measures provided for by paragraph 3 of this article shall be exercised for a limited period, with minimum interference in the operation of the electricity market, and within the scopes required for the elimination of the safety hazards associated with humans, electricity equipment and/or installations.

5. The Government of Georgia shall immediately notify the Energy Community Secretariat of the security measures taken in the electricity sector during a state of emergency and shall submit all necessary information to it.

6. The application of this article shall not restrict the validity of the general rules of management of a state of emergency established by the Law of Georgia on State of Emergency, provided that the proper fulfilment of the special requirements for the management of a state of emergency in the electricity sector is ensured in a due manner, according to the terms determined by this article.

### **Article 137 – Restriction of supply of electricity**

1. The supply of electricity to an end user may be temporarily suspended only in cases necessitated by the protection of public interest, including according to Article 136 of this Law, by a state of emergency in the electricity sector, or by a technical need associated with the maintenance of a network or the connection of a new user to a network.

2. The supply of electricity may be suspended or restricted without prior notice to a customer only where it is necessary to prevent or eliminate accidents, including the circumstances provided for by paragraph 1 of this article in the electricity system and the facilities connected to the network, or in the case of the theft/illegal consumption of electricity. In such cases, the customer shall be immediately notified of the termination or restriction, as well as of the impact on, and the estimated duration of, electricity supply.

3. The restriction of supply of electricity to a customer because of planned repair works to electricity transmission and/or distribution networks shall be exercised with prior notice to customers. A customer shall be individually notified of such restriction, prior to the commencement of repair works, and within the time limits established by the relevant legislative acts.

4. Transmission and distribution system operators may, without restricting the provisions of paragraphs 1 and 2 of this article, terminate the supply of electricity to a customer which disrupts the operation of the network and/or deteriorates the quality of the supply of electricity, unless the relevant customer, within 5 days after the receipt of a written notification from the system operator, eliminates the violation that may cause an accident within the electricity system or otherwise adversely affect the safety and reliability of the electricity system.



5. After the submission of a prior written notification under paragraph 4 of this article, transmission and distribution system operators may terminate the supply of electricity to a customer who does not allow an authorised representative of the system operator to access to his/her territory to install, repair or check an electricity metering device.

6. The procedure for terminating the supply of electricity through the electricity transmission and distribution networks shall be determined in accordance with the electricity transmission and distribution network rules.

7. The terms established by this article shall not restrict the right to terminate the supply of electricity to the end user due to nonfulfillment of the contractual obligations relating to the electricity transmission, distribution or supply.

### **Article 138 – Supervising the safety of supply of electricity**

1. The safety of supply of electricity in Georgia shall be supervised by the Ministry within the competences granted to it under this Law, in cooperation with the Commission and, where appropriate, with other competent state authorities and an electricity transmission system operator. The safety of supply of electricity shall be supervised with regard to the following issues:

- a) the maintenance of a balance between supply and demand in the electricity market;
- b) a predictable level of demand for electricity and the planned or additional capacity under construction;
- c) network quality and maintenance level;
- d) measures to be taken to meet peak demand, and the elimination of electricity shortage for one or more suppliers.

2. Once in every 2 years, before 31 July, the Ministry shall prepare and publish a unified report on the safety of supply of electricity in the country that shall include information collected by the Ministry, the Commission and, where appropriate, by other competent state authorities, and a transmission system operator. The report shall reflect the results of supervision performed with respect to the issues referred to in paragraph 1 of this article, and the measures taken or to be taken. The report prepared by the Ministry shall immediately be submitted to the Energy Community Secretariat.

3. The report referred to in paragraph 2 of this article, shall, inter alia, reflect the unified capacity of the electricity system of the country to meet the existing or predictable demand for electricity, in particular:

- a) the operational safety of the electricity network;
- b) the forecast balance between the supply of and demand for electricity during the next 5 years;
- c) the prospective safety of supply of electricity within the period of 5 to 15 years from the date of preparing the report;
- d) the investment plans of a transmission system operator or other persons, information on whom is available, with respect to the capacity of interconnectors within the next 5 years or a longer period.

4. The section of the unified report on the safety of the supply of electricity that, under paragraph 3(d) of this article, concerns investment plans relating to the interconnectors, shall take into account:

- a) the principles of congestion management in the electricity transmission network provided for by Article 63 of this Law;
- b) existing and prospective electricity transmission lines;
- c) expected scenarios of electricity production, supply, cross-border exchange and consumption, as well as trade in electricity, that ensures the implementation of appropriate measures relating to energy efficiency and demand management;
- d) tasks for current sustainable development on the regional, national and European levels, including the priority infrastructure projects of the Energy Community.

5. For the performance of the supervisory and reporting functions provided for by this article, the Ministry shall closely cooperate with other competent authorities and a transmission system operator. For this purpose:



- a) the Ministry, upon submitting a written request, shall be immediately provided with all the data and information obtained during the exercise of the regulatory powers by the Commission, as well as all the necessary information held by competent state authorities, with a reference to keeping the information containing a commercial secret confidential under Article 151 of this Law;
  - b) with regard to the capacity of interconnectors, a transmission system operator shall submit to the Ministry information on its investment plans or those of another person, information on whom has become known to the transmission system operator;
  - c) a transmission system operator shall provide to the Ministry information on those investments relating to the construction of domestic electricity transmission lines which significantly affect the availability of the capacity of interconnectors;
  - d) where appropriate, a transmission system operator shall hold consultations with the transmission system operators of the neighbouring and/or other relevant countries and provide to the Ministry information on any cross-border cooperation carried out.
6. To perform the supervisory and reporting functions determined by this article, the Ministry shall ensure the protection of information containing commercial secrets in compliance with the requirements of Article 151 of this Law.

## **Chapter XXXIV – Safety of Supply of Natural Gas**

### **Article 139 – Measures for safety of supply of natural gas**

1. In cooperation with the Commission and other competent state authorities, the Ministry, under Article 132 of this Law, shall develop the norms for the safety of the supply of natural gas, and shall supervise the safety of the supply of natural gas in accordance with Article 143 of this Law. The norms for the safety of the supply of natural gas shall, inter alia, take into account the following:

- a) the identification of protected customers;
- b) the tools used and the measures taken by a natural gas undertaking to ensure the supply of natural gas to protected customers, at least in the following cases:
  - b.a) in the case of extreme temperature during a 7-day peak period that, according to statistical probability, occurs only once every 20 years;
  - b.b) in the case of a particularly high demand for natural gas for not less than a 30-day period that, according to a statistical probability, occurs only once every 20 years;
  - b.c) in the case of the failure of the largest gas infrastructure under normal winter conditions for not less than a 30-day period;
- c) the identification of natural gas undertakings referred to in sub-paragraph (b) of this paragraph;
- d) the identification (risk assessment) of the various groups bearing major risks for the safety of the supply of natural gas;
- e) measures for reducing the risks identified under sub-paragraph (d) of this paragraph, including the modelling of expected scenarios of delays in supply of natural gas during particularly high demand, in cases relating to the failure of main infrastructure or the revocation of the means/source of natural gas supply;
- f) the contents of the report on the safety of the supply of natural gas developed by a natural gas undertaking;
- g) the obligations imposed on natural gas undertakings and other relevant authorities, including obligations relating to the safe operation of the natural gas system.

2. All the measures taken on the basis of the objectives of paragraph 1 of this article shall be non-discriminatory and shall not restrict competition or prices applicable in the natural gas market more than necessary. Furthermore, such measures shall not impose an unjustified burden on natural gas market participants, including new participants and undertakings with a small market share. Taking such measures shall be justified in terms of their economic and social impact upon the end user and their potential effect on the price of natural gas.



3. Technical safety requirements necessary for the safety of the supply of natural gas which apply to natural gas equipment and related installations, as well as a procedure for the technical inspection of such equipment and installations, shall be determined by the technical rules adopted by the Government of Georgia under Article 97 of this Law.

#### **Article 140 – National emergency management plan for the natural gas sector**

1. Without restricting the conditions provided for by Article 139 of this Law, the Ministry, by means of consultation with natural gas undertakings, organisations protecting the interests of household and industrial customers of natural gas, and the Commission, shall develop a national emergency management plan in the natural gas sector that determines the measures to be taken to mitigate or eliminate the consequences of a disruption in the supply of natural gas.

2. The national emergency management plan for the natural gas sector shall:

a) determine the levels of a crisis situation;

b) determine the functions and responsibilities of natural gas undertakings and industrial customers of natural gas, including relevant electricity producers, taking into account the various degrees of impact on them as a result of the termination of the natural gas supply, as well as the forms of interaction of said entities and persons with the Ministry at each level of a crisis situation;

c) determine the functions and responsibilities of the Ministry, and of those bodies, for each level of a crisis situation, to which power has been delegated;

d) ensure that natural gas undertakings and industrial customers have the appropriate opportunity to respond with respect to each level of a crisis situation;

e) where necessary, determine the measures and actions which need to be taken to mitigate the potential impact of the termination of the supply of natural gas on the natural gas supply for the purpose of central heating and electricity production through natural gas;

f) determine detailed procedures to be performed and measures to be taken during each level of a crisis situation, including relevant schemes for information exchange;

g) determine a person or group of persons to manage a crisis situation, as well as their roles in the process of crisis management;

h) determine the role of market mechanisms in the process of managing a state of emergency at a specific level;

i) determine the role of planned non-market mechanisms implemented or to be implemented during a state of emergency, and a procedure for their implementation, and also assess the extents of their application in order to overcome the crisis, and any relevant impacts. Non-market mechanisms for managing a state of emergency may only be used where the use of market mechanisms cannot ensure the supply of natural gas to a customer, including a protected customer;

j) determine the mechanisms of cooperation with other parties to the Energy Community with regard to each level of the crisis situation;

k) determine the reporting obligations of a natural gas undertaking at the alert phase and during a state of emergency;

l) determine the list of measures to be taken to ensure the availability of natural gas during a state of emergency, which includes the conclusion of commercial contracts between parties participating in these actions, and the payment of compensation to natural gas undertakings by maintaining confidentiality of the data containing commercial secret. The actions provided for by this subparagraph may also cover cross-border contracts between the parties to the Energy Community and/or between natural gas undertakings.

#### **Article 141 – State of emergency in the natural gas sector**

1. A state of emergency may be declared in the natural gas sector in the case of an unexpected crisis in the natural gas market, if



the production, transmission, distribution, supply and/or trade in natural gas is disrupted by unexpected circumstances, or by the circumstances beyond the control of a respective natural gas undertaking, that endangers the overall security and reliability of the natural gas system, or the supply of natural gas to customers in order to meet their demand, and/or the safety of humans, equipment, or the integrity of the system.

2. A state of emergency in the natural gas sector may be declared by a decision of the Government of Georgia or by a body designated by it. A procedure for declaring a state of emergency in the natural gas sector shall be approved by the Government of Georgia.

3. On the basis of a proposal of the Ministry, the Government of Georgia shall, based on the decision referred to in paragraph 2 of this article, and the actions determined by the national emergency management plan in the natural gas sector, be authorised to take appropriate security measures to eliminate a state of emergency.

4. The Government of Georgia shall ensure that:

a) the measures taken shall not unjustifiably restrict natural gas flows in the domestic natural gas market;

b) the security measures taken do not considerably endanger the gas supply to the territory of another party to the Energy Community;

c) cross-border access to infrastructure is allowed, if this can be done in compliance with technical terms and in a safe manner, according to the national emergency management plan in the natural gas sector.

5. During a state of emergency, any security measure in the natural gas sector shall be taken through consultations and in close cooperation with the Commission, transmission and distribution system operators, competent authorities and operators of the contracting parties to the Energy Community, and/or other relevant countries.

6. The security measures provided for by paragraph 3 of this article shall be implemented for a limited period, with minimum interference in the operation of the natural gas market, and within the scope that is required to eliminate any danger concerning the security of humans, and natural gas equipment and/or installations.

7. The Government of Georgia shall immediately notify the Energy Community Secretariat of the security measures taken during a state of emergency in the natural gas sector, and submit all necessary information to it.

8. If a state of emergency in the natural gas sector cannot be adequately managed using measures available on the national level, the Government of Georgia shall apply to the Head of the Security of Supply Coordination Group of the Energy Community which, for the purpose of examining the issue and, if necessary, assisting another contracting party to the Energy Community, shall immediately call a special session of the Security of Supply Coordination Group to ensure that these parties are able to eliminate the state of emergency in the natural gas sector by coordinating the measures taken on the national level.

9. The application of this article shall not restrict the validity of the general rules of management of a state of emergency established by the Law of Georgia on State of Emergency, provided that the special requirements for the management of a state of emergency in the natural gas sector is ensured in a due manner, according to the terms determined by this article.

#### **Article 142 – Restriction of supply of natural gas**

1. The supply of natural gas to an end user may be temporarily suspended only in cases necessitated by the protection of public interest, including according to Article 141 of this Law, by a state of emergency in the natural gas, or by technical needs associated with the maintenance of a network or the connection of a new user to a network.

2. The natural gas supply may be terminated or restricted without prior notice to a customer only where this is necessary to prevent or eliminate accidents, including the circumstances referred to in paragraph 1 of this article, within the natural gas system. In such cases, the customers shall be immediately notified of the termination or restriction of natural gas, as well as of the impact on the natural gas supply, and the estimated duration thereof.

3. The restriction of the natural gas supply because of repair works planned by natural gas transmission and/or distribution networks shall be exercised in accordance with a schedule published in advance. Customers shall be individually notified of such restriction, prior to the initiation of repair works and in compliance with the time limits established by the relevant legal acts.



4. Without restricting the provisions of paragraphs 1 and 2 of this article, transmission and distribution system operators may terminate the supply of natural gas to a customer which disrupts the operation of the network and/or degrades the quality of the supply of natural gas, unless the relevant customer, within 5 days after the receipt of a written notification of the system operator, eliminates the violation that may cause an accident within the natural gas system or otherwise adversely affect the safety and reliability of the natural gas system.
5. After submitting a prior written notification under paragraph 4 of this article, transmission and distribution system operators may terminate the supply of natural gas to a customer which does not allow an authorised representative of the system operator to access to his/her own territory to install, repair or check a natural gas metering device.
6. The procedure for terminating the supply of natural gas through the natural gas transmission and distribution networks shall be determined by the natural gas transmission and distribution network rules.
7. The terms established by this article shall not restrict the right to terminate the natural gas supply to an end user due to non-fulfilment of contractual obligations relating to natural gas transmission, distribution or supply.

#### **Article 143 – Supervising the safety of supply of natural gas**

1. The safety of the supply of natural gas in Georgia shall be supervised by the Ministry within the competences granted to it under this Law, in cooperation with the Commission and, where appropriate, with other competent state authorities and a natural gas transmission system operator. The safety of the supply of natural gas shall be supervised with regard to the following issues:

- a) appropriate compliance with the safety standards for natural gas supply referred to in Article 139 of this Law, including the measures taken and tools used for this purpose;
- b) the maintenance of a balance between supply and demand in the natural gas market;
- c) the scopes of new, long-term contracts of import of natural gas from third countries;
- d) the proper liquidity of natural gas reserves;
- e) the resources of natural gas in the natural gas storage and extraction capacity;
- f) the level of interconnections of the natural gas system of Georgia and that of the neighbouring countries which are parties to the Energy Community;
- g) a predictable level of demand and available sources for natural gas, as well as a predictable situation of the supply of natural gas, taking into consideration the demand for autonomy of supply and the existence of available supply sources;
- h) planned or additional capacity under construction;
- i) the condition of the natural gas system;
- j) measures taken to meet peak demand and the elimination of a deficiency of natural gas for one or more customers.

2. Once in every two years, before July 31, the Ministry shall publish a unified report on the safety of the supply of natural gas in the country that shall include information collected by the Ministry, the Commission, and where appropriate, by other competent state authorities, and a transmission system operator. The report shall reflect the results of supervision performed with respect to the issues referred to in paragraph 1 of this article, and the measures taken or to be taken. The report prepared by the Ministry shall immediately be submitted to the Energy Community Secretariat.

3. The report provided for by paragraph 2 of this article shall, along with other issues, include:

- a) the effect on competition of the measures taken under Article 141 of this Law on natural gas market participants;
- b) the levels of natural gas storage capacity;
- c) the time limits of long-term (more than 10 years) contracts of the supply of natural gas concluded by registered companies in Georgia, including the remaining period of validity of the contracts, in accordance with the information provided by the



companies, and keeping confidential the information containing commercial secrets, as well as the degree of liquidity of the natural gas market;

d) a regulatory framework encouraging new investments in natural gas extraction, production, transportation and storage.

4. For the performance of the supervisory and reporting functions provided for by this article, the Ministry shall closely cooperate with other competent authorities and a transmission system operator. For this purpose:

a) the Ministry shall, upon submitting a written request, immediately be provided with all data and information obtained during the exercise of regulatory powers by the Commission, as well as all the necessary information held by other competent state authorities, and keeping the information containing commercial secrets confidential as provided for by Article 151 of this Law;

b) with regard to the capacity of interconnectors, a transmission system operator shall submit to the Ministry information on its own investment plans, or those of another person, information on whom has become known to the transmission system operator;

c) a transmission system operator shall provide to the Ministry information on those investments relating to the construction of domestic natural gas transmission pipelines which substantially affect the availability of the capacity of interconnectors;

d) where appropriate, a transmission system operator shall hold consultations with the transmission system operators of neighbouring and/or other relevant countries, and provide to the Ministry information on any cross-border cooperation carried out.

5. The report of the Ministry provided for by paragraph 2 of this article shall be submitted to the Government of Georgia and the Energy Community Secretariat and published on the website of the Ministry.

## SECTION XIV

### WATER SUPPLY

#### Chapter XXXV – Organising and Regulating Water Supply

##### Article 144 – Water supply activity

A water supply licensee shall carry out the activity on the basis of a licence for water supply activity, in accordance with this Law and the subordinate normative acts issued on its basis.

##### Article 145 – Rights and obligations of a water supply licensee

1. A water supply licensee may fully exercise the rights granted to him/her by the licence for water supply activity, in accordance with the procedures of this Law, the rules of supply and consumption of potable water, and the relevant decisions of the Commission. A water supply licensee shall be obliged to properly perform the functions and obligations imposed on him/her.

2. A water supply licensee shall be obliged to:

a) provide services in accordance with this Law and the subordinate normative acts issued on its basis;

b) operate potable water supply and wastewater systems, supply potable water and/or operate a wastewater system;

c) ensure the provision of potable water relevant to the standards applicable in Georgia to the customers through the potable water supply system;

e) ensure the constant control of the quality of potable water;





- e) ensure the proper protection of water bodies and prevent external persons from having an impact on the potable water supply system and/or from polluting potable water;
- f) ensure the treatment of pollutants contained in wastewater and discharged in surface water bodies through wastewater systems, in accordance with the technical rules applicable in Georgia;
- g) develop plans for special measures to be implemented during a state of emergency, as well as conduct appropriate negotiations and conclude agreements with other persons regarding the potable water supply in a state of emergency;
- h) during a state of emergency, ensure compliance with the assigned potable water limits, established regimes, and privileged supply to facilities of particular importance, provided that they pay a water supply fee;
- i) in the case of the scheduled supply of water, provide information to the Emergency Management Service on the water supply schedule;
- j) allow for another water supply licensee to conduct potable water through its network at a charge established by the Commission;
- k) ensure the public availability of the following documents and information:
  - k.a) approved tariffs for water supply;
  - k.b) approved terms of water supply services;
- l) develop and submit to the Commission, and make available to the public, an investment programme and a working plan for the following year, as well as any information that the Commission considers necessary, except for the cases provided for by the legislation of Georgia;
- m) pay on time the regulatory fee established by the Commission.

3. If a water supply licensee fails to fulfil the obligations imposed upon him/her, he/she will incur the liability provided for by Chapter XXXVIII of this Law and the Law of Georgia on Licences and Permits.

#### **Article 146 – Principles of establishing a water supply tariff**

1. The Commission shall establish a tariff in accordance with the principles of establishing a tariff as determined by this Law.
2. When establishing a water supply tariff, the Commission may separately establish tariffs for potable water supply and wastewater systems.

### **SECTION XV**

#### **TRANSPARENCY AND SUBMISSION OF INFORMATION**

##### **Chapter XXXVI – Separation of Reports and Access Thereto**

#### **Article 147 – Access to the accounts of an energy undertaking**

1. The accounts of energy undertakings shall be accessible to the Commission and other competent state authorities entitled thereto on the basis of their activity and under the applicable legislation of Georgia.

2. The Commission and other competent state authorities provided for by paragraph 1 of this article shall be obliged to maintain



confidentiality in respect of information containing commercial secrets. Such information may be disclosed only in cases provided for by Law.

#### **Article 148 – Annual report. Separation of reports**

1. An energy undertaking shall be obliged, regardless of its ownership or legal form, and in accordance with the procedure established by the legislation of Georgia, to prepare, submit to an auditor for verification, and publish, an annual financial report.
2. An energy undertaking not obliged by Law to publish an annual financial report shall ensure the keeping of a copy of a relevant report at the head office, and present it to any interested persons if requested.
3. To avoid discrimination, cross subsidising and the restriction of competition, a transmission system operator and, where appropriate, a transmission system owner, shall be obliged, in the conduct of internal accounting, to have separate accounts for transmission-related activity. The revenues received from the ownership of a transmission system shall be indicated in the account.
4. Without restriction to paragraph 3 of this article, all energy undertakings shall be obliged to have separate accounts for energy, and where appropriate, non-energy activities. These accounts may be consolidated.
5. The internal accounts of an energy undertaking for each activity shall include a separate financial account.
6. The auditor referred to in paragraph 1 of this article shall, inter alia, check compliance with the provisions of paragraph 3 of this article regarding the inadmissibility of discrimination and cross subsidising.
7. This article, taking into account the relevant specifics, shall also apply to other regulated undertakings, including water supply licensees.

#### **Article 149 – Unified accounting system**

1. The unified accounting system is a system of accounting and reporting that includes:
  - a) the plan of accounts;
  - b) instructions for using the account plan and for keeping records;
  - c) the form and content of the periodic reports to be submitted for regulation purposes;
  - d) the periodicity of reporting;
  - e) in the case of carrying out more than one licenced activity by a person or another entrepreneurial activity together with the licenced activity, the procedures for performing a separate accounting of revenues, costs, assets, obligations, financial outcomes and capital.
2. Maintaining the unified accounting system shall be mandatory for a transmission licensee and distribution and water supply licensees which have not less than 50,000 customers.
3. If a person holds more than one licence and/or carries out other entrepreneurial activities in addition to the licensed activity, he/she shall be obliged to account the revenues, expenditures, assets, liabilities, financial outcomes and capital relating to the licensed activity separately, in accordance with the unified accounting system.
4. The unified accounting system shall be approved by the Commission.



## **Article 150 – Submission of information**

1. Having regard to their activities, the Government of Georgia, the Ministry, the Commission and other competent state authorities shall, in accordance with the procedures established by the legislation of Georgia, have the right to request from respective agencies and regulated undertakings any data and information about their activities.
2. The Commission may request from other competent state authorities and regulated undertakings any data and information required for supervising the activities referred to in this Law, including the data and information obtained from the bodies of and/or parties to the Energy Community or third countries.
3. A regulated undertaking shall submit the data and information specified by paragraph 2 of this article in accordance with the legislation of Georgia, including the rules for submitting information approved by the Commission.

## **Article 151 – Maintaining Confidentiality**

1. The Government of Georgia, the Ministry, the Commission and other competent state authorities shall be obliged to maintain the confidentiality of information containing commercial secrets that has been submitted by relevant agencies and regulated undertakings, and to use the obtained data and information only for the purposes referred to in the request of information. Confidential information may be disclosed in accordance with the terms established by law.
2. Without restricting the existing legal liabilities under Article 147 of this Law and those related to the disclosure of information, system and market operators shall be obliged to maintain the confidentiality of information containing commercial secrets that they have become aware of during the implementation of their activities. System and market operators shall also be obliged to preclude the discriminatory disclosure of such information about their activities which may create commercial gain. Such information may only be disclosed on the terms determined by the legislation of Georgia or where such disclosure is necessary to carry out an entrepreneurial operation.
3. To comply with the rules relating to information in a due manner, a transmission system owner and other structures comprising an integrated undertaking shall not use a common service, including a common legal service, except for a purely administrative service and a service relating to information technology.
4. When allowing third-party access to a system or conducting negotiations in respect of such access, a system operator shall not misuse the information containing commercial secrets for the purposes of the purchase and sale of electricity or natural gas by related undertakings.
5. Information necessary for competition and the efficiency of the functioning of the energy markets shall be published in compliance with the principle of confidentiality of information that contains commercial secrets.

## **SECTION XVI**

### **ADMINISTRATIVE LIABILITY AND DISPUTE SOLUTION**

#### **Chapter XXXVIII – Administrative Liability**

## **Article 152 – Liability of a regulated undertaking**

1. A regulated undertaking shall be responsible for the proper performance of its functions and tasks relating to each activity in accordance with the requirements and obligations established by this Law and by other legislative and subordinate legal acts of Georgia.
2. In accordance with the procedure established by this Law or other legislative acts of Georgia, regulated undertakings or other



respective persons may incur liability for a violation of their obligations or their fulfilment in a proper manner.

### **Article 153 – Fine sanctions**

1. Under the legislation of Georgia, including this Law and the Law of Georgia on Licences and Permits, the Commission shall be authorised to impose upon a natural person or legal entity a liability in accordance with the established procedures for a violation of the requirements of this Law or a legal act of the Commission.

2. In the case of the non-fulfilment of obligations relating to the separation of activities and/or to the independence of a transmission system operator, the Commission shall be authorised to issue a warning in writing to or impose a fine on the transmission system operator or a vertically integrated undertaking in an amount that does not exceed 10% of the annual turnover for the previous year of the transmission system operator or the vertically integrated undertaking respectively.

3. In each case of violation of the requirements of this Law, the Commission shall be authorised to issue a warning in writing to a regulated undertaking or impose on it a fine in the amount of GEL 5 000 to GEL 75 000, if the regulated undertaking:

a) carries out several economic activities without ensuring the separation and availability of accounts, with one or more of the activities being an energy activity;

b) does not submit to the Commission a report on activities;

c) does not provide to the Commission, and a system and/or market operator, the data and information they request, and which is connected to its activities as a regulated undertaking, and/or which are necessary in order for them to perform relevant functions as determined by the legislation of Georgia;

d) in violation of the requirements of the legislation of Georgia, refuses to allow access to a system falling within the scope of its operation;

e) violates the licence conditions;

f) fails to comply with the requirements submitted by the Commission based on the legislation of Georgia;

g) violates other requirements determined by this Law and the normative acts approved by the Commission.

4. The Commission may impose a sanction, in accordance with the procedure provided for by paragraph 2 of this article, on a person/entity who carries out an activity referred to in this Law without a licence or a final positive decision on certification in a respective case, except for the cases provided for by this Law, or if it does not notify the Commission of the commencement of an activity provided for by this Law.

5. In the case of repeated violations of the obligations referred to in paragraph 3 of this article, the Commission may, along with applying a fine, also apply a ban on carrying out energy and professional activities for up to one year against the regulated undertaking

6. A fine imposed by the Commission shall be indicated, along with the relevant justification, in a decision taken by the Commission in accordance with the procedure established by this Law.

7. In the case of the failure to rectify a violation within a year, or a repeated violation, the Commission may impose a fine of double the original amount on a regulated undertaking.

### **Article 154 – Imposing a sanction**

1. A procedure for imposing sanctions referred to in Article 153 of this Law shall be established by the Commission in accordance with the terms determined by this article.

2. When imposing sanctions on a regulated undertaking or other person/entity, the Commission shall take into account the following circumstances:



a) the gravity and duration of the illicit conduct;

b) the consequences of the illicit conduct;

c) mitigating or aggravating circumstances.

3. The actions of a regulated undertaking or other relevant person/entity aiming to minimise the negative consequences of a violation, or to immediately terminate a violation and promote an investigation by the Commission, shall be considered mitigating circumstances.

4. The actions of a regulated undertaking or other relevant person/entity aiming to impede an investigation being conducted by the Commission with regard to a violation of requirements provided for by this Law, or in order to conceal such violation or its consequences, or the continuation of illicit actions or the repeated commission thereof, shall be considered aggravating circumstances.

5. When imposing sanctions, the Commission shall, in addition to the circumstances provided for by paragraphs 3 and 4 of this article, take into consideration other mitigating or aggravating circumstances.

6. The Commission shall take a decision on imposing a sanction within 6 months after it has become aware of a violation. The provisions relating to monetary sanctions may not be applied if at least 5 years have elapsed since a violation or the disclosure of the consequences of a violation. Only one sanction may be applied to the same person/entity for the same violation.

7. A fine imposed shall be paid within the time limit determined by a decision of the Commission on imposing the fine. The payment shall be transferred to the State Budget of Georgia.

8. In the case of a failure on the part of a violating regulated undertaking or other person/entity to comply with a decision of the Commission on the imposition of a sanction, the Commission may, for the enforcement of the decision, apply to the competent agencies of Georgia.

## **Chapter XXXIX – Review of Disputed Issues and Appeal of a Decision of the Commission**

### **Article 155 – Review of disputed issues**

1. The Commission shall review within its competence an application (complaint) on the review of a disputed issue lodged with the Commission, in accordance with this Law and the dispute review rules approved by the Commission.

2. The Commission shall review a disputed issue in a simple administrative proceeding, without an oral hearing, except where the Commission takes a decision to hold an oral hearing on its own initiative.

3. When exercising the power to review a disputed issue, the Commission shall take a decision within 2 months after the receipt of the relevant application (complaint), including full documentation and information. This time limit may be extended for 2 months if the Commission needs additional time to obtain further information. It shall be mandatory to comply with the decision of the Commission.

### **Article 156 – Appeal**

A decision of the Commission may be appealed in a court in accordance with the procedures established by the legislation of Georgia.

## **SECTION XVII**

### **TRANSITIONAL AND FINAL PROVISIONS**



## Chapter XL – Transitional Provisions

### Article 157 – Cross-border trade

1. The requirements of this Law shall not apply to the functioning, operation and management of the South Caucasian pipeline and North-South main pipeline, as natural gas systems, until 31 August 2026.
2. Prior to the immediate physical interconnection of the electricity and/or natural gas systems of Georgia to the relevant systems of a party to the Energy Community, the requirements of this Law shall not apply to cross-border exchange in electricity and/or natural gas.
3. The relations of cross-border trade in electricity and/or natural gas with the countries which are not parties to the Energy Community shall be regulated by respective international agreements, having regard to the specifics of the existing relations, and relevant stipulations whose performance is reflected in the market rules and/or network rules adopted on the basis of this Law. In addition, the requirements of this Law shall be taken into consideration in such cases too, to the extent that they may affect trade between the parties to the Energy Community.
4. The transitional provisions specified by this article shall apply, unless they restrict the obligations of cross-border and/or regional cooperation between the Commission, other competent authorities of Georgia, and a transmission system operator.

### Article 158 – Electricity transit

1. Before the immediate physical interconnection of the electricity system of Georgia to the system of a party to the Energy Community, electricity transit shall be regulated under this article.
2. To carry out electricity transit in the territory of Georgia, a person/entity interested in transit (the transit ordering party) shall be obliged to ensure the conclusion of a contract on the technical provision of electricity transit with a transmission system operator.
3. During electricity transit, a fee for the regulation of its implementation shall not be paid. When providing electricity transit, the relevant tariffs established by the Commission shall not apply to the service of electricity transmission.
4. The electricity transit fee shall be determined by the contract on the technical provision of electricity transit provided for by paragraph 2 of this article. Any losses of electricity resulting from the technical provision of electricity transit in the transmission network of Georgia may also be reimbursed by the appropriate compensation amount, or supplying the relevant electricity (compensatory electricity) determined on the basis of the said contract or with the supply of electricity (compensation electricity) if there is a relevant contract between the transmission system operator and the transit customer.
5. The amount of transit electricity in the territory of Georgia shall be calculated taking into account the concurrent total amounts of electricity imported into and exported from the territory of Georgia based on a contract on the technical provision for electricity transit during the reporting period provided for by the market rules (the Reporting Period). Furthermore, the amounts of transit electricity imported into Georgia during separate days and/or hours within the technical provision of transit of electricity during the reporting period, and exported from Georgia during the same period to the country of final destination of transit, may not concur with each other. After the completion of the reporting period, equal portions of the total amounts of transit electricity imported into and exported from Georgia to the country of final destination of transit shall be considered electricity transit.
6. The calculation of the amount of transit electricity shall not take an account of the electricity (compensatory electricity) additionally supplied by the transit ordering party according to the market rules for reimbursement of losses within the transmission network of Georgia during the performance of electricity transit, if any.
7. Applications on the supply and receipt of transit electricity prepared on the basis of a contract on technical provision for electricity transit according to separate days and/or hours may include unequal portions of the import of electricity into and export from Georgia to the country of final destination of transit at the same time, provided that by the end of the reporting period equal portions of the amount of electricity imported into and exported from Georgia during the performance of the transit shall be



considered transit, and at the same time, other necessary requirements of the contracts on the simultaneous operation (interconnection) of the systems of Georgia and relevant neighbouring systems, as well as the requirements of a transmission system operator, shall be met.

8. Cases of the import of transit electricity from two or more countries during a single reporting period by the transit ordering party where, one country is that of the final destination of transit, shall be considered as unified transit. In such cases, the amount of the transit shall be determined taking into account the total amount of the electricity imported into Georgia within the frameworks of transit (regardless of whether the electricity has been transited from one, two or more countries), in accordance with the terms indicated in paragraphs 5, 7 and 9 of this article.

9. The amount/share of transit electricity within the full amount of electricity imported by a specific interconnector into Georgia from a neighbouring country and/or exported from Georgia to a neighbouring country shall be established in accordance with the terms determined by a contract on the technical provision of electricity transit.

9<sup>1</sup>. The electricity transmission tariff shall ensure the reimbursement of the costs of the relevant services (including within the framework of the provision of electricity transit), taking into account the quantity of transit electricity, in accordance with the rules and conditions established by the tariff methodology.

10. Other issues not specified by this Law relating to the performance of electricity transit shall be regulated by the market and/or network rules, and/or the contract on the technical provision of electricity transit as referred to in paragraph 2 of this article.

*Law of Georgia No 6788 of 14 July 2020 – website, 21.7.2020*

#### **Article 159 – Separation of a transmission system operator**

1. The requirements for independence and separation of a transmission system operator provided for by this Law shall be adequately complied with after the approval of a procedure for certification of a transmission system operator provided for by Article 162(2)(b) of this Law:

- a) not later than 1 July 2021 – for electricity transmission system operators;
- b) not later than 31 December 2021 – for natural gas transmission system operators.

2. For compliance with the requirements of paragraph 1 of this article, after the approval of a procedure for certification of a transmission system operator provided for by Article 162(2)(b) of this Law:

- a) within 2 months, the electricity dispatching licensee shall prepare and submit to the Commission and the Ministry a separation plan with an agreement with the transmission licensees, that includes a proposed model of separation, as well as detailed measures, actions and a time limit for its implementation;
- b) within 9 months, the natural gas transportation licensee shall prepare and submit to the Commission and the Ministry a separation plan that includes a proposed model of separation, as well as detailed measures, actions and a time limit for its implementation.

3. The Commission and the Ministry shall review the separation plan proposed under paragraph 2 of this article and hold consultations with the Energy Community Secretariat. When discussing the separation plan, the Commission and the Ministry shall be authorised to require from the relevant licensees to provide additional information or amend the separation plan.

4. The Commission shall confirm the relevance of the separation plan within 2 months after the receipt of the plan and submit it for approval to the Government of Georgia that shall approve it within 2 months after the submission. The Ministry shall be authorised to submit a dissenting opinion to the Government of Georgia when considering the issue.

5. After the approval of the separation plan by the Government of Georgia, the dispatching licensee, the transmission licensee, the transportation licensee or another company which, according to the separation plan, shall be granted the status of the transmission system operator or which shall be determined as the transmission system owner, shall implement the separation plan approved by the Government and notify the Commission on the status of implementation of the separation plan in accordance with the terms established by the Commission.

6. The Commission shall perform the monitoring of the status of the separation of a transmission system, and continue to perform



regulatory functions in cases of the improper implementation of the measures referred to in this article.

7. A properly separated transmission system operator, which applies to the Commission for certification and to obtain a licence, shall be certified in accordance with the terms provided for by Article 50 of this Law. The Commission shall take a final decision on the certification of a relevant transmission system operator and on the issuance of the relevant licence not later than within the time limits determined by paragraph 1 of this article.

8. Licences for electricity dispatching and transmission issued prior to the entry into force of this Law, as well as natural gas transportation licences, shall temporarily remain in force, and until the completion of separation under the procedures established by this Law, their holders shall continue providing services in respect of the transmission and dispatching of electricity or the transportation of natural gas, in accordance with the normative acts referred to in Article 168 of this Law, however in the case of the revocation of said licenses, in accordance with related normative acts adopted on the basis of this Law. The validity of such licences shall automatically be terminated upon entry into force of a new licence provided for by paragraph 7 of this Article.

9. Within 6 months after taking a decision as referred to in paragraph 7 of this article, a relevant transmission system operator shall develop and submit to the Commission for approval the transmission network rules or amendments to the current rules, in order to take into account the requirements of this Law.

*Law of Georgia No 82 of 5 January 2021 – website, 6.1.2021*

### **Article 160 – Separation of a distribution system operator**

1. The requirements for independence and separation of a distribution system operator provided for by this Law shall be adequately complied with after the approval of the market rules provided for by Article 162(2)(a.a) of this Law:

- a) not later than 1 July 2021 – for the electricity distribution system operator;
- b) not later than 31 December 2021 – for the natural gas distribution system operator.

2. To comply with the requirements of paragraph 1 of this article, after the approval of the market rules provided for by Article 162(2)(a.a) of this Law:

- a) within 2 months, each electricity distribution licensee shall prepare and submit to the Commission a separation plan, including detailed measures, actions and the time limits for their implementation;
- b) within 9 months, each natural gas distribution licensee shall prepare and submit to the Commission a separation plan, including detailed measures, actions and the time limits for their implementation;

3. The Commission shall approve a separation plan within 2 months after receiving all the necessary information.

4. The procedures for the separation of distribution licensees shall be completed within the time limits referred to in paragraph 1 of this article.

5. The Commission shall perform the monitoring of the status of the separation of a distribution system operator and continue to apply regulatory functions in cases of the improper implementation of the measures referred to in this article.

6. Distribution licences issued before entry into force of this Law shall temporarily remain in force, and before the completion of separation under the procedures established by this Law, their holders shall continue to provide the services of distribution, supply and storage of electricity or natural gas to persons registered as customers before and after the entry into force of this Law, namely during the transitional period, in accordance with the normative acts referred to in Article 168 of this law, however in the case of the revocation of said licenses, in accordance with the relevant normative acts adopted on the basis of this Law. The validity of these licences shall automatically be terminated upon entry into force of a new licence for the authorisation and distribution of an appropriate distribution system operator on the basis of this Law.

7. Paragraphs 1-5 of this article shall not apply, if the exception referred to in Article 73(11) of this Law applies to the separation of a distribution system operator.

8. Each distribution system operator shall ensure compliance with the requirements provided for by the distribution network rules of its distribution networks (including operating systems, metering units) and the interconnection between the points of





connection to the equipment of other interconnected systems and end users, within the time limits established by the distribution network rules.

*Law of Georgia No 82 of 5 January 2021 – website, 6.1.2021*

### **Article 161 – Authorisation**

1. Any undertaking carrying out activities as specified in this Law by virtue of authorisation obtained before the entry into force of this Law may continue to carry out such activities in accordance with the conditions prescribed by the authorisation, until the issue of a new authorisation under the conditions provided for by this Law. In addition, such undertakings (except for production licensees, in the cases provided for by paragraph 2 of this article and Articles 159 and 160 of this Law) shall, within 2 months after the entry into force of this Law, be obliged to apply to the Commission for authorisation under the procedures established by this Law.

2. The commercial operator of a system, before the formation of a respective market operator according to the concept of the electricity market model and before the issuance of the relevant licence, and before or after the entry into force of this Law, during the transitional period, the persons/entities participating in the trade in electricity or natural gas, the regulated undertakings shall exercise their rights and comply with their obligations in accordance with the normative acts referred to in Article 168 of this Law, however in the case of the revocation of their license, in the accordance with the relevant normative acts adopted on its basis.

3. After the entry into force of this Law, the Commission shall review any new request in accordance with the conditions provided for by this Law.

### **Article 162 – Concept of a market model, authorisation of public service providers, market rules, supply rules**

1. The Government of Georgia shall ensure:

a) after the entry into force of this Law:

a.a) within 3 months – the approval of the concept of the electricity market model;

a.b) within 10 months – the approval of the concept of the natural gas market model;

a.c) within 12 months – the adoption of relevant subordinate acts and/or amendments to the applicable acts to reflect the requirements of this Law;

b) not later than 1 July 2021 – the authorisation of a supplier of last resort of a universal service in the electricity sector, and when necessary, of undertakings providing other public services;

c) not later than 31 December 2021 – the authorisation of a public service provider and a supplier of last resort in the natural gas sector.

2. The Commission shall ensure:

a) within 4 months after the approval of the concept of the relevant market model referred to in paragraph 1 of this article, taking into account the requirements of this Law and of the concept of the market model approved by the Government of Georgia, the approval of:

a.a) the market rules of a relevant sector;

a.b) the supply (including the universal service and the supply of last resort) rules of a relevant sector;

a.c) the making of appropriate amendments to network rules and other relevant subordinate acts;

b) the approval of a procedure for the certification of a transmission system operator within 3 months after the entry into force of this Law.

3. Within a month after the entry into force of this Law, the Commission and the Ministry shall ensure that, with respect to the



revocation of the regulation of the tariff on electricity imports, appropriate amendments are made to the relevant subordinate normative acts falling within their competence which existed before the entry into force of this Law and which are applicable during the transitional period.

4. Before 31 December 2020, the Government of Georgia and the Commission shall develop an action plan for the regulation of the collection of fees for electricity consumed in the regions of Georgia and submit same to the Parliament for approval.

*Law of Georgia No 82 of 5 January 2021 – website, 6.1.2021*

### **Article 163 – Individual tariffs for water supply and procedure for their imposition in the transitional period**

1. When establishing a tariff for water supply, the Commission shall be authorised to disregard, before 1 January 2027, the requirement of Article 146(1) of this Law, and to allocate the cost of water supply and wastewater system services to customers of various categories proportionately.

2. Before the full regulation of the water supply systems, the Commission shall be authorised to determine a procedure for charging metered household and non-household customers with a fee for water supply in a distinct manner, and taking into account seasonality.

### **Article 164 – Integrated and coordinated provision of a unified administration of services relating to electricity, natural gas, water supply and cleaning**

1. Services relating to electricity, natural gas, water supply and cleaning (the Services) and the payment of relevant costs/fees, shall be based upon a unified integrated and coordinated system of administration (the Unified Administration System), on terms determined by a decision of the Commission.

2. The Commission shall determine the area (territorial frameworks) of the application of the Unified Administration System by a decision of the persons/entities providing the Services under said System. One of the persons/entities providing the Services (the Administrator), as determined by a decision of the Commission, shall administer service costs/fees through the Unified Administration System.

3. The administration of the Services through the Unified Administration System shall be performed on the basis of contracts concluded between the administrator and persons providing the Services. When concluding contracts, the parties shall be obliged to be guided by the principle of minimum value, and conclude the contracts on a non-discriminatory and fair basis. In cases of disagreement between the parties, a decision shall be made by the Commission.

4. During the provision of the Services through the Unified Administration System, the administrator shall, in the case of non-payment or incomplete payment of one of the costs and/or fees indicated in the receipt, terminate the provision of the Service to the relevant customer, which shall not comprise a violation of contractual obligations by the administrator. In addition, the responsibility for the accuracy of information provided by the service provider to the administrator shall lay with the provider of the information.

5. Service providers shall be obliged to ensure the permanent harmonisation of the data bases they hold with the data bases of the Legal Entity under Public Law called the Public Service Development Agency, operating within the governance of the Ministry of Justice of Georgia.

### **Article 165 – Separation of reports**

1. The requirements established by Article 148 of this Law shall be met:

- a) not later than 31 December 2020 by electricity undertakings;
- b) not later than by 31 December 2021 by natural gas or other regulated undertakings.

2. The supervision of compliance with the requirements of this article, and where necessary, the use of relevant regulatory



measures, shall be ensured by the Commission.

3. Before 31 December 2023, the Commission shall ensure the approval of the unified accounting system for the transmission and distribution licensees referred to in paragraph 1(b) of this article in the natural gas sector. The approval of the unified accounting system for water supply licensees shall be ensured by the Commission before 31 December 2024.

#### **Article 166 – Registration of an end user as a qualified customer**

1. All end users shall be authorised to register as qualified customers.

2. To implement a relevant stage of market opening, and/or the relevant concept of the market model, the Government of Georgia shall be authorised to determine mandatory criteria and time limits, the compliance with which shall entitle an end user to be considered a qualified customer, and to be registered there as under a mandatory procedure.

3. A customer registered as a customer (subscriber) of the holder of a distribution licence which, upon the separation of a distribution system operator, will not have concluded a contract with a supplier in accordance with the procedures provided for by this Law, may receive the service of the supply of electricity from a universal supplier, and the service of the supply of natural gas from a relevant public service provider, in accordance with the procedure and conditions established by the Commission. Furthermore, this shall not restrict the right of these customers to subsequently choose the supplier of their preference, if they wish to, in accordance with the procedure established by the legislation of Georgia.

#### **Article 167 – Safety of supply**

1. The first report on monitoring of the safety of supply as provided for by Article 138 of this Law shall be prepared before 31 March 2021.

2. The first report on the monitoring of the safety of supply as provided for by Article 143 of this Law shall be prepared before 31 March 2022.

3. Within the time limits referred to in paragraphs 2 and 3 of Article 170 of this Law, the Government of Georgia and the Ministry shall ensure the development and approval of appropriate subordinate normative acts regulating the safety of relevant supply, and/or making amendments to applicable subordinate normative acts, in order to take into account the requirements of this Law.

4. Within 6 months after the publication of this Law, the Commission shall ensure the development of recommendations on the use of natural gas and/or carbon monoxide detectors and the publication of information in relation thereto on its website.

### **Chapter XLL – Final Provisions**

#### **Article 168 – Validity of subordinate normative acts before the entry into force of this Law**

Subordinate normative acts adopted and applicable before the entry into force of this Law, in the sectors regulated by this Law, on the basis of the Law of Georgia of 27 June 1997 on Electricity and Natural Gas (the Parliamentary Gazette, No 33, 31 July 1997, p. 20), shall retain legal force, and the bodies adopting said normative acts shall be authorised to make appropriate changes to them on the basis of this Law, before the entry into force of the relevant regulatory subordinate normative act(s) provided for by this Law.

#### **Article 169 – Invalidated normative act**

Upon the entry into force of this Law, the Law of Georgia of 27 June 1997 on Electricity and Natural Gas (the Parliamentary Gazette, N 33, 31 July 1997, p. 20) shall be declared invalid.



## **Article 170 – Entry into force of this Law**

1. This Law, except for Chapters XXXIII and XXXIV and Article 148 (with respect to a water supply licensee) shall enter into force upon promulgation.
2. Chapter XXXIII of this Law shall enter into force on 30 September 2020.
3. Chapter XXXIV of this Law shall enter into force on 30 September 2021.
4. Article 148 of this Law (with respect to water supply licensees) shall enter into force on 1 January 2025.

**President of Georgia**

**Salome Zourabichvili**

**Tbilisi**

**20 December 2019**

**N5646-სს**

