

**The Czech Republic's National Report  
on the Electricity and Gas Industries  
for 2004**

July 2005

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# 1 Introduction

The present Report is the first report whereby the Czech Republic is meeting its reporting and notification obligations under Directives 2003/54/EC and 2003/55/EC, which set out the rules for the internal electricity and gas markets.

European energy markets' development, including the requirements for their further liberalisation, places new demands for improving the organisation of the internal electricity and gas markets and defining the legislative framework at a high level of quality, including the provisions on the position, and rights and obligations, of state administration and regulatory authorities.

Act No. 458/2000 on the Conditions for Business and Discharge of State Administration in the Energy Industries (hereinafter "the Energy Act") entered into force on 1 January 2001. As early as 2000, the Energy Act transposed the European Communities' directives and regulations as in force at that time into Czech law.

On 1 May 2004, when the Czech Republic acceded to the European Union, the European Communities' directives and regulations became directly binding also on the Czech Republic. From as early as 2003 the competent state administration authorities therefore focused on adjusting the key piece of legislation, the Energy Act, which defines the environment for business in the energy industries and conditions for regulation in the energy sector, so as to comply with the *acquis communautaire*.

In 2004 an amendment to the Energy Act was enacted, and subsequently the related regulations of secondary legislation.

In this context, the new Act No. 180/2005 on Support for Electricity Generation from Renewable Energy Sources should be mentioned; this law will enter into force on 1 August 2005.

## **2 Summary information on regulation in the electricity and gas industries; the key developments in the period under review**

### ***2.1 Background***

The key piece of legislation which provides for regulation in the electricity and gas industries is Act No. 458/2000 on the Conditions for Business and Discharge of State Administration in the Energy Industries and on Changes to Certain Laws, as amended in Act No. 151/2002, Act No. 262/2002, Act No. 278/2003, Act No. 356/2003 and Act No. 670/2004 (hereinafter “the Energy Act”). This fundamental piece of legislation is contained in the Appendix hereto.

The Energy Act as a whole creates the preconditions for safe and reliable supplies of electricity to all final customers, defines the business environment framework (a certain guarantee of certainty in business), provides a level playing field for all electricity market participants, and places such requirements on operators of electric facilities as to prevent such facilities from becoming a cause of public threat to persons and property. To achieve this objective, safeguards are contained in the Energy Act: it lays down the penalties for breaching the various provisions of the Energy Act; these penalties may amount up to CZK 50 million. The authority having the right to impose such penalties is the State Energy Inspectorate.

The Energy Act specifies administration authorities’ competencies in the discharge of state administration in the energy industries. The discharge of state administration is vested in the Ministry of Industry and Trade, the Energy Regulatory Office, and the State Energy Inspectorate. The competencies of the Ministry of Industry and Trade are specified in Section 16; the competencies of the Energy Regulatory Office are specified in Section 17; and the competencies of the State Energy Inspectorate are specified in Sections 93 and 94 of the Energy Act.

#### **The Ministry of Industry and Trade**

In addition to the competencies laid down in the Competencies Act (Act No. 2/1969, as amended) the Ministry is the authority responsible for developing the national energy policy, observing international commitments and treaties, and granting the State’s consent to the building of new capacities in the electricity industry and the heat supply industry, and the State’s consent to the building of direct lines and selected gas facilities in the gas industry, in accordance with the conditions laid down in a special part of the law.

Directives 2003/54/EC and 2003/55/EC set out the Member States’ new obligations to the Commission. These obligations concern universal service and public service, whereby a Member State is obliged to inform on matters of customer protection (supplies of last resort), electricity and gas balance overviews, measures adopted in the event of threat to the safety and integrity of the electricity or gas system, electricity imports from third countries (non-EU countries), rejections of applications for the award of State authorisations, and the condition of the electricity and gas markets. Under Czech law, the Ministry of Industry and Trade carries out the competencies in the energy sector stipulated in the law.

In addition, the Ministry of Industry and Trade is a state administration authority to be, in case of need, responsible for tendering processes for the construction of new energy capacities.

Section 16 of the Energy Act specifies the Ministry's competencies as a state administration authority in more detail.

### **The Energy Regulatory Office**

The Energy Regulatory Office was set up on 1 January 2001 by Act No. 458/2000, the Energy Act, as amended, as an administrative authority in charge of regulation in the energy sector.

The Energy Regulatory Office is an independent administrative authority with its own national budget title. The Energy Regulatory Office [hereinafter also referred to as "the ERO" or "the Office"] is headed by its Chairman, who is appointed for a term of five years (and dismissed) by the Government. The Energy Regulatory Office submits its Annual Report for approval to the Government and Parliament's House of Deputies through the Ministry of Industry and Trade<sup>1</sup>.

The Office's main tasks include market regulation with a view to substituting market mechanisms in the areas of energy industries in which competition is not feasible and in which there exists danger of abuse of a dominant position. The Energy Regulatory Office protects consumers against energy utilities' efforts to increase prices; oversees the observance of the conditions for these utilities' business; and, not least, creates the preconditions for the quality and reliability of energy supplies to final customers.

The Energy Regulatory Office is involved in the drafting of laws having a bearing on the energy sector. As part of its responsibilities, the Energy Regulatory Office is authorised to issue implementing regulations (primarily public notices and price decisions), whereby it regulates, *inter alia*, the following:

- a) the required quality of the supplies and services related to regulated activities in the electricity and gas industries, including the amount of compensations for failures to maintain such quality; the time limits applicable to lodging claims for compensations; and the procedure for reporting on the keeping of the quality of supplies and services;
- b) the method of regulation in the energy industries and price control procedures;
- c) the conditions for connecting electricity generating plants, distribution systems and final customers' supply points [demand take points] to the grid; the method for calculating the share of the costs incurred in connection; and the method of calculating damages in cases of unauthorised electricity loads.

The Energy Regulatory Office also issues the Electricity Market Rules, the principles of pricing the activities of the Electricity Market Operator, and the Gas Market Rules.

The Energy Regulatory Office is authorised to approve the Commercial Terms and Conditions of the Electricity Market Operator; the Rules of the Electricity Transmission

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<sup>1</sup> For more detailed information please see the ERO's website at [www.ero.cz](http://www.ero.cz), The 2004 Report on the Activities and Finances of the Energy Regulatory Office (in English)

System Operation (Grid Code); the Rules of the Electricity Distribution System Operation; the Rules of the Gas Transmission System Operation (Grid Code); and the Rules of the Gas Distribution System Operation.

The ERO's powers also include the opportunity to present suggestions to the State Energy Inspectorate to check the meeting of the obligations under the Energy Act and, as applicable, to propose the imposition of penalties, and to notify the Office for the Protection of Competition of cases of abuse of the dominant position on the market.

The Energy Regulatory Office decides on the award, change, or revocation of licences for business in the energy industries and for the Electricity Market Operator's activities; on imposing the obligation of supplies over and beyond licences; on imposing the obligation to provide, in urgent cases, energy facilities for meeting the obligation of supplies over and beyond licences; on price controls; etc.

It is also within the ERO's competencies to adjudicate disputes, for example, disputes between licence holders and their customers or those concerning failure to reach agreement on regulated access to the transmission or distribution system.

The Energy Regulatory Office does not carry out any activities overlapping with those of other state administration authorities, i.e. there are no duplicities as regards competencies.

The terms of reference of the Energy Regulatory Office are stipulated in more detail in Section 17 of the Energy Act.

## ***2.2 Major developments on the electricity and gas markets***

As regards **legislation**, in the period under review the relevant state administration authorities focused on the approximation of Czech law with the *acquis* in respect of the liberalisation of the electricity and gas markets and security of energy supplies. This task was carried out by preparing an amendment to the Energy Act, i.e. Act No. 670/2004, and by drafting Bill No. 180/2005 on support for electricity generation from renewable energy sources and changes to certain laws (law on support for the use of renewable sources).

The year 2004 was the third year of the gradual **opening of the electricity market**, which has not been completed to date (for more details please see chapter 3.1). The Energy Regulatory Office currently controls electricity prices for protected customers, the transmission and distribution charges, the system service charges, and also the prices or, as applicable, the contributions related to the State's support for electricity generated from renewable sources and combined heat & power generation. Furthermore, there was an amendment to Public Notice No. 614/2004, which lays down the rules for organising the electricity market.

**The opening of the gas market** was started on 1 January 2005 (for more details please see chapter 4.1). The activities carried out for eligible customers which are subject to price control include natural gas transmission and distribution. For protected customers, the price for natural gas supply is regulated. Because of the start of the gradual gas market opening, a new public notice, no. 673/2004 on gas market organisation, was issued.

In connection with the new rules and regulatory formulas for the second regulatory period (1 January 2005 to 31 December 2009), the Energy Regulatory Office amended its Public Notice No. 438/2001 in its Public Notice No. 575/2004. This public notice sets out the procedure for price control in the electricity, gas and heat supply industries. Public Notice

No. 575/2004 governs the methodology of price control in natural gas transmission, distribution and supplies for protected customers.

For the second regulatory period the Energy Regulatory Office has set, for the purpose of pricing, the initial values of the parameters that will be adjusted in accordance with the relevant implementing regulations during the regulatory period. The opening of the gas market required the development of a new methodology for the pricing of distribution, which helps to calculate the distribution charges for each of the offtake bands in each of the customer categories.

The amendment to the Energy Act and the above public notices are in force, while the law on support for the use of renewable sources will enter into force on 1 August 2005.

Under Section 8 of the Energy Act, the Energy Regulatory Office is obliged to award licences for business in the energy industries. This issue is further regulated by ERO Public Notice No. 154/2001, which lays down the details on the awarding of licences for business in the energy industries. According to the Licences Department's statistics, **66 new undertakings** entered the Czech market in the period under review (June 2004 to June 2005), i.e. 66 licences were issued, of which 17 in the electricity industry, three in the gas industry, and 46 in the heat supply industry.

The high level of the **transparency of balance overviews** is supported by the statistical evaluations made by the Energy Regulatory Office in the **electricity industry**. **On its website**, the Energy Regulatory Office continuously publishes technical information on the grid. Once a year, it publishes a report on the operation of the grid for the preceding calendar year. This report offers detailed information on generating capacities and transmission and distribution systems, electric energy generation and consumption, the development of the load in the Czech grid and, not least, electricity prices. On its website the Energy Regulatory Office also publishes similar information (to a lesser extent because of the lower degree of market opening) concerning the **gas market**.

## **3 Regulation and structure of the electricity market**

### **3.1 Regulatory issues**

#### **3.1.1 Key information**

The objects of business in the electricity industry include electricity generation, transmission, distribution, and trading and the electricity market operator's activities. Since these activities have a strong influence on the performance of the country's economy such business may only be carried on in the Czech Republic subject to the State's consent. Licences granted by the Energy Regulatory Office constitute the State's consent to carry on business in the energy industries.

Act No. 458/2000, the Energy Act, specifies the key principles of the electricity market. The Energy Act stipulates that in the Czech Republic, the electricity market shall be based on regulated access to the transmission system and distribution systems and that electricity generating capacities may only be built subject to the State's authorisation, on the granting of which the Ministry of Industry and Trade shall decide. The Ministry is the authority to grant the State's authorisations for the building of direct lines.

Regulated access to networks means that the relevant electricity transmission and distribution licence holders are obligated to connect the facilities of other electricity market participants to their systems and to make electricity transport possible for them at rates set by the Energy Regulatory Office.

The Energy Act also provides for exemptions from the above obligation if the facility in question poses danger to the reliability of the grid's operation (for example, states of emergency; the facility fails to meet legal regulations and technical standards; the facility jeopardises the reliability of supplies to other market participants) or in the case of unauthorised electricity loads. Electricity generated from renewable sources and secondary electricity sources and in combined heat & power units enjoys priority connection and transport (this right does not apply to electricity transport via cross-border interconnecting lines).

The Czech electric energy market has been gradually opening since 2002. Since 1 January 2005 all final customers, with the exception of households, have been eligible customers with the right to choose their electricity supplier, i.e. any entity holding an electricity generation or electricity trading licence. In 2005 the share of all eligible customers' electricity consumption accounts for approximately 74% of the total annual net electricity consumption in the Czech Republic. On 1 January 2006 all end users will become eligible customers with the right to choose their supplier, and the Czech electricity market will therefore be opened completely.

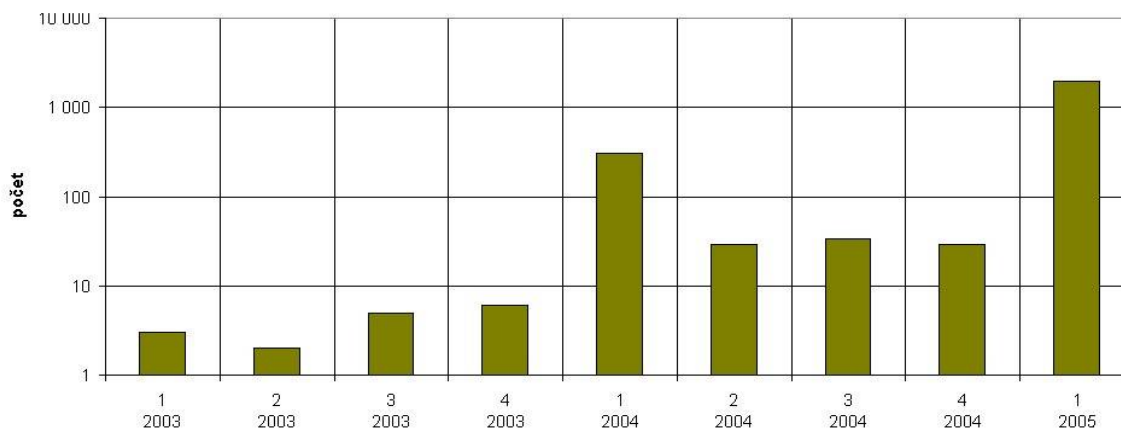
The generation of electricity, including the sale thereof by the generator, has been fully liberalised (both the energy and ancillary services). In electricity transmission and distribution the State has retained its influence – the transmission and distribution charges are set by the Energy Regulatory Office, which also sets the prices for system services and electricity selling prices to protected customers (but only until the full opening of the electricity market, i.e. 2006). The law declares electricity transmission and distribution to be activities in the public interest, and therefore not only specific rights but also specific obligations apply to them.

The basic preconditions for business in the electricity market are given by meeting the conditions for the granting of the State licence. Licence holders' general obligations are

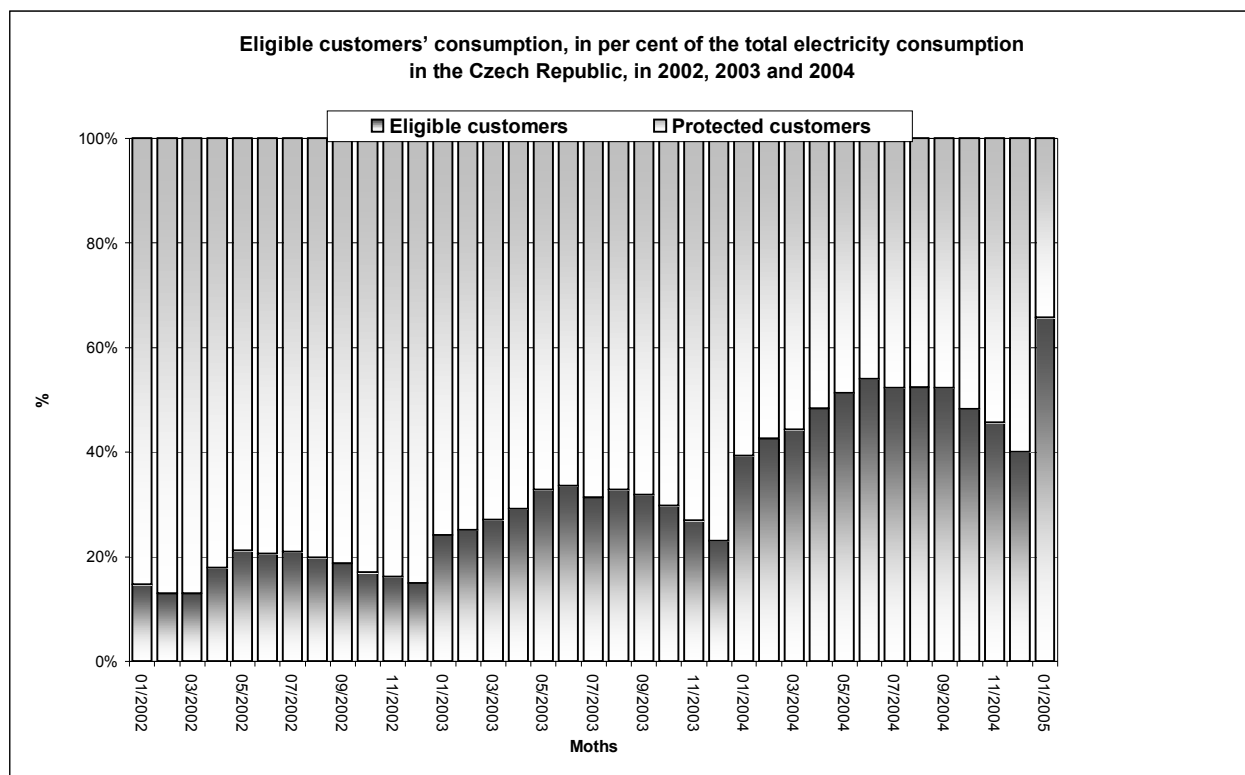


stipulated in Sections 11, 12 and 12a of the Energy Act. Some other provisions in a special part of the Energy Act (for example, Sections 23, 24, 25, etc.) stipulate the specific rights and obligations related to the quality of the electricity supplied, safety and reliability of the operation of the grid's various components, and service quality for all electricity market participants.

**Quarterly overview of approved requests for supplier change, from 1 January 2003 to 1 February 2005**



As the market develops, customers' requirements for supplier switching are growing. The largest number of supplier changes take place as of 1 January of the following year.



The chart shows the rise in eligible customers' consumption. A steep increase always occurs at the beginning of a calendar year.

### 3.1.2 *Cross-border capacity management and allocation*

There currently exist no bottlenecks in the transmission part of the Czech grid – the grid is capable of transmitting the required volumes of electricity; in general, there is therefore no need to adopt any measures vis-à-vis the electricity market participants (with the exception of extraordinary situations in the grid, which are covered by the relevant legislation).

As regards electricity exports/imports, and, as the case may be, transit, the quantity of traded values is limited by the limited capacities of the lines on cross-border interconnections. The size of free cross-border capacities depends on the physical electricity flows themselves and also on the commercial load at the respective border interconnection. The method of free capacity allocation is based on ETSO's (European Transmission System Operators) methodology based on the principle of explicit auctions<sup>2</sup>. The TSO offers all free cross-border line capacities (in the direction into and from the country) using non-discriminatory market mechanisms, i.e. annual, monthly and daily explicit auctions are organised for all interconnections. In the case of the Polish

<sup>2</sup> The TSO determines ex ante ATC considering security analysis accepts bids from potential buyers and allocates the capacity to the ones that value it the most. Price on the profiles reflects costs of using capacity to the social welfare. Explicit auctions present the same profit opportunity for participants and show efficient signals to market players for the operation and the value of the network.

interconnection, and a part of the German one (VE-T), coordinated explicit auctions are even organised in co-operation with the neighbouring TSOs. In accordance with Regulation 1228/2003 of the European Parliament, proceeds from these auctions are used for CBT compensation payments between TSOs and network maintenance and they are reflected in the calculation of the charges for using the transmission network. In 2005 successful preparations are under way for extending the joint coordinated auctions to include the remaining interconnections with Germany, Austria, and Slovakia.

The conditions for access to networks are specified in Section 5a of Public Notice No. 373/2001, which sets out the rules for electricity market organisation and the principles of pricing the market operator's activities.

### ***3.1.3 The transmission system operator and distribution system operators***

#### **Transmission system operator**

One transmission system operator is active in the Czech Republic; the TSO is responsible for electricity transmission at the level of the transmission system (400 kV and 220 kV lines) and for providing the system services that help to ensure the grid's safe and reliable operation. At lower voltage levels (110 kV and lower) electricity distribution is provided by seven regional distribution companies, whose facilities are connected directly to the transmission system. Besides these regional distributors there are also about 320 operators of local distribution systems, connected to regional distribution systems only, who supply electricity within areas specified in their distribution licences.

The transmission system operator is defined as a natural or juristic person responsible for the operation, maintenance and development of the transmission system in a particular area and its connection with other systems, and for ensuring that the system is able to satisfy reasonable demand for electricity transmission over the long term. A similar definition applies *mutatis mutandis* to distribution system operators.

Within the meaning of the above principles, the Energy Act lays down the Czech TSO's rights and obligations. These include and concern, in particular but without limitation, the creating of the preconditions for an open and non-discriminatory electricity market; special rights to third-party properties (the law stipulates that the transmission system shall be developed and operated in the public interest); and observance of the physical principles of a safe, reliable and efficient operation of the transmission system and, in turn, the whole grid. The law also creates the preconditions for the Czech transmission system not to become a source of problems in the transmission systems of the countries with which it is interconnected, and vice versa.

The right to operate the transmission system arises from obtaining a transmission licence from the Energy Regulatory Office. The transmission licence is exclusive and it is granted to a single entity with effect for the whole territory of the Czech Republic for a term of 25 years. Electricity transmission over the transmission system takes place under contracts between the respective market participants and the TSO.

The Czech transmission system is comprised of facilities at voltage levels 220 kV and 400 kV, and selected 110 kV lines and facilities, serving for electricity transmission within the Czech Republic and for interconnecting the Czech grid with those of the neighbouring countries, including the respective protective elements, I & C and safeguarding equipment and data and information transmission facilities. A part of the transmission system is also a technical dispatch centre with national competence (it is one of the TSO's obligations to set up this dispatch centre).

The TSO shall determine the categories and required volumes of ancillary services in accordance with the Czech grid's needs and UCTE rules and recommendations. The electricity generators who own the required facilities and hold a certificate for providing these services provide ancillary services. All electricity generators having an installed capacity of 30 MW or more are obligated to install, at their own cost, equipment for providing ancillary services in newly built facilities. However, they are not obligated to

offer such services to the TSO – the law gives them the right to offer and provide these services.

The TSO's basic obligations include the connection obligation. This means that the TSO shall connect to the transmission system the facilities of any electricity market participant who has requested such connection, and shall ensure the transmission of the power required by that participant, subject to the conditions stipulated in the law and implementing regulations (Ministry of Industry and Trade Public Notice No. 18/2002, on the conditions for connection and electricity transport in the electricity system, and the Rules of the Electricity Transmission System Operation [Grid Code]).

The TSO shall set up a technical dispatch centre to ensure balance between electricity generation and demand, and provide for the grid's safe and reliable operation (for example, voltage control and real-time power dispatch control). This dispatch centre is also responsible for compliance with the rules of interconnection with the other countries' grids and it is superior to the DSOs' dispatch centres in respect of real-time power transmission control. The TSO shall cooperate with the electricity market operator (among others, provides the latter with the list of eligible customers connected to the transmission system), the Ministry of Industry and Trade, and the Energy Regulatory Office.

The TSO's competencies are set out in Section 24 of the Energy Act.

### **Distribution system operators**

A distribution system is an integrated system of 110 kV lines and facilities, with the exception of selected 110 kV lines and facilities that form a part of the transmission system, and 0.4/0.23 kV, 3 kV, 6 kV, 10 kV, 22 kV or 35 kV lines and facilities serving for electricity distribution in a specified area. Protective, I & C, safeguarding, and ICT equipment is also included in the distribution system. Distribution systems shall be set up and operated in the public interest. They are therefore networked systems intended primarily for electricity transport to final customers or for electricity transport from local plants – CHP, hydroelectric power stations, and renewable and secondary electricity sources. A technical dispatch centre with regional competencies is also a part of a distribution system.

Distribution systems are important parts of the electricity system; the quality, safety and reliability of electricity supply to customers depend on their operation. Up to 31 December 2004, DSOs were subject to the obligation to supply electricity to protected customers. Since 1 January 2005 the following principle has been in place: an electricity trade licence holder (a trader) supplies electricity to protected customers and, in general, a DSO is no longer subject to this obligation; i.e. this obligation is not tied to holding an electricity distribution licence. Exceptions include cases of operators of the distribution systems that are not connected to the transmission system. These particular DSOs are subject to the obligation to supply electricity to protected customers, and their electricity sales to protected customers are subject to controlled prices and included in their electricity distribution licence. Since the electricity market will open to all customers – households – on 1 January 2006, this obligation will exist until 31 December 2005: on that day the protected customer category will cease to exist in the Czech Republic.

DSOs shall approach all users of its services in a non-discriminatory and even-handed manner: they are not allowed to discriminate between users or categories of users, in particular in favour of their own subsidiaries or shareholders; and, in accordance with the

requirements, they shall give priority to generating plants using renewable sources or secondary energy sources, and CHP facilities, as regards connection to their distribution systems. DSOs shall protect commercially sensitive confidential information they may receive in the course of their activities.

Pending legal unbundling, distribution companies have the nature of integrated undertakings required to keep separate books of account for generating, distributing and trading activities. Holders of multiple licences must keep separate books of account for each licensed activity and for non-licensed activities. For a distribution company this means separate books for generation, for distribution services, for electricity trading, and for the other activities (the rules for keeping separate records of sales, expenditure and revenues for the purposes of regulation are set out in ERO Public Notice No. 439/2001).

The conditions for connecting to a distribution system and for providing distribution services must be made public and non-discriminatory, and therefore must not put any electricity market participant at an advantage. The conditions are set out in the Rules of Distribution System Operation, Ministry of Industry and Trade Public Notice No. 18/2002 on the conditions for connection and electricity transport in the electricity system, and ERO Public Notice No. 297/2001 which lays down the conditions for connection to electricity distribution systems and electricity supplies to protected customers. There are some positive exemptions from this even-handed approach; they concern the connection of, and electricity distribution from, renewable energy sources, secondary energy sources, and cogeneration. The electricity generated in these plants (in the case of CHP, the electricity must be conclusively generated in connection with heat production) has a priority right to distribution.

A DSO's basic obligation is to ensure a safe and reliable operation and development of the distribution system in the area specified in the licence. Because of the complexity of distribution systems, the interconnections between their elements, and the physical basis of electricity, the law sets out specific conditions for DSOs to carry out their challenging and complicated obligations, i.e. activities in the public interest.

DSOs' competencies are set out in Section 25 of the Energy Act.

### **The electricity market operator**

In connection with the liberalisation of the energy market Act No. 458/2000 provides for the setting up of an electricity market operator, called Operátor trhu s elektřinou [OTE] [Electricity Market Operator]. The Electricity Market Operator is a juristic person – a public company established by the State. As an electric market participant it is authorised to carry out the activities set out in the said law under an exclusive licence for the entire Czech Republic, issued by the Energy Regulatory Office for 25 years. Under the law, the State holds OTE's shares representing at least 67% of this institution's registered capital.

OTE may not hold an electricity generation, transmission or distribution licence, or an electricity trading licence (with the exception of its own licence it may not hold any other licence specified in Section 4 of the Energy Act). OTE's activities are financed from fees paid by the other electricity market participants; the Energy Regulatory Office determines the principles of the pricing of OTE's activities in an implementing regulation (Public Notice No. 373/2001, as amended, laying down the rules for electricity market organisation and the principles of pricing the market operator's activities). The Energy Regulatory Office sets the prices for OTE's activities in its price decisions.

OTE's role is to register market participants, executed bilateral contracts, and supply [demand take] and delivery points; organise and ensure the carrying out of spot trades; and evaluate the imbalances between the actual electricity supplies and takes by the various parties subject to clearing and registered market participants on the one hand, and contracted supplies and takes on the other hand (for both bilateral contracts and spot trades) and provide for the clearing and settlement thereof between parties subject to clearing.

In co-operation with the TSO the electricity market operator organises the balancing market in control energy and is also responsible for the clearing of, and settlement of payments for, this energy. Its obligations also include to prepare, with the help of electricity supply/take contracts in place between market participants, a commercial electricity balance overview and provide it to the TSO and DSOs. OTE must also inform the TSO and DSOs about market participants defaulting on their payment obligations.

OTE prepares the Czech Republic's short-term, medium-term and long-term electricity balance overviews, i.e. outlines the expected demand and its meeting by energy capacities. It also produces reports on the expected developments in the electricity market. These documents are submitted to the Ministry of Industry and Trade and the Energy Regulatory Office. OTE also publishes summary information on the Czech energy market.

OTE's competencies are set out in Section 27 of the Energy Act.

### **Network tariffs**

To calculate average charges for electricity transmission and distribution the Energy Regulatory Office has used the revenue cap regulation method. This method consists in the regulator setting the cap on allowed revenues regulated companies may achieve irrespective of costs. By this separation of revenues from costs, regulated companies are motivated to reduce costs and improve efficiency. The revenue cap method will be applied throughout the second regulatory period, i.e. from 1 January 2005 to 31 December 2009.

Unlike the first regulatory period, when allowed revenues were indexed annually, in the second regulatory period the various components of allowed revenues in the *electricity industry* will be adjusted every year, and the change in each of the components will depend on different factors. The Energy Regulatory Office has adopted this approach as during the course of the regulatory period it makes it possible to take into account companies' investment in the development of the electricity system. The main principles for deriving rates from allowed revenues have been preserved. In 2005, when customers connected to the low voltage level (with the exception of households) became eligible customers thanks to the electricity market liberalisation, a structure of low voltage distribution tariffs was introduced for the small [low-demand] commercial customers category. The charges set for each of the tariff categories differ by the nature of the demand taken by groups of final customers.

The calculation of average transmission and distribution charges is based on allowed revenues, i.e. the regulatory formula and its parameters. Somewhat simplified, the formula

is as follows:  $PV = N + O + Z$  ( $PV$  – allowed revenues,  $N$  – costs,  $O$  – depreciation,  $Z$  – profit)<sup>3</sup>.

The various parameters are set in Public Notice No. 438/2001, which lays down the content of the financial information and procedures for price control in the energy sector. Following a formal check, the data received under the public notice is compared against comparable data of other companies. Financial and technical data is then analysed, primarily from the perspective of its impact on the parameters of the regulatory formula, or the ultimate impact on electric energy prices. Additional analyses of input data are made as needed by the Energy Regulatory Office.

The main instrument serving to motivate regulated entities to improve their efficiency is the efficiency factor  $X$ , which is included in the regulatory formula. The objective of factor  $X$  is to help to improve companies' efficiency throughout the regulatory period. The factor's effect is spread over a longer period of time, which makes it possible for the companies to improve their efficiency gradually, without jeopardising their financial stability. For companies operating in the electricity industry the Energy Regulatory Office has set a general efficiency factor by means of which overall costs should be reduced by 10% over five years.

The structure of prices is defined in ERO Public Notice No. 438/2001, which lays down the content of the financial information and procedures for price control in the energy sector. The regulator sets the parameters for the calculation of average prices of regulated activities for each of the licence holders and sends them to the regulated entities. On the basis of these parameters the regulated entities propose prices to customers by categories and bands. The Energy Regulatory Office reviews the proposals, approves the prices, and issues its price decision.

### **Supply quality indicators**

ERO Public Notices No. 18/2002, on the conditions for connection and electricity transport in the electricity system, and No. 306/2001, on the quality of supplies and related services in the electricity industry, provide for the TSO's and DSOs' obligation to connect customers and continuously supply them with electricity at a high level of quality.

An amendment to No. 306/2001 is currently being drafted; it will provide for benchmarking operators' performance on the basis of standardised rules, i.e., in particular, the recording and evaluating of the number and duration of interruptions per customer. The amendment, which will meet the EU's requirements on supply quality and reliability, is planned to be promulgated in the second half of 2005.

### **Information on tariffs, connection fees and connection conditions**

In the electricity industry, the Energy Regulatory Office's competencies include the regulation of all monopoly activities, i.e. primarily those related to electricity transmission and distribution. These prices, including the various distribution rates for eligible customers and resulting rates for protected customers, are published in ERO's price decisions every year in November, with effect for the following calendar year. The full text

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<sup>3</sup> Detailed information on the regulatory formula and its parameters can be found on the ERO's website at [www.ero.cz](http://www.ero.cz), in "Report on the approach to setting the key parameters of the regulatory formula and prices for the second regulatory period" (also in English).



of price decisions is published in the ERO's Gazette and also on its website and the websites of the respective DSOs/TSO.

The conditions for connecting a new customer/generator to the distribution or transmission system, including the method for calculating the applicant's share of the costs incurred in the connection and in bringing the required power, are stipulated in a public notice attached to the Energy Act. The technical conditions for connection are stipulated in the Rules of the Distribution System Operation and the Rules of the Transmission System Operation (the Grid Code). All of these documents are available on the respective companies' websites.

The structure of the resulting electricity price to each of the customer categories, including the network charges, is described in detail in part 3.2.2.

### **Imbalance clearing**

In the Czech Republic, Operátor trhu s elektřinou, a.s. [*Electricity Market Operator, plc; OTE*] is responsible for evaluating contracted and actual electricity supplies and for clearing imbalances. This company is independent of the TSO and other market participants.

### **Clearing interval**

There is a single electricity market, including imbalance clearing, in the Czech Republic, i.e. there is only one electricity system - balancing area. The basic interval for trading, an operation window, is one hour, for which also the clearing of imbalances between market participants takes place.

### **Gate closure**

Most electricity trades take place under bilateral contracts, the gate closure of which is at 1 p.m. on the day before. Another option is using the day-ahead market, organised by OTE. This market is based on supply and demand prices in each trading hour, generating a resulting marginal price of electricity and the quantity traded. The gate closure is again at 1 p.m. on the day before.

### **Options for intra-day trading**

Market participants can also adjust their trading position on the intra-day and balancing markets, also organised by OTE. The system of intra-day and balancing markets works on the principle of an offer/bid bulletin board. Unlike the day-ahead market, no marginal price is generated here; rather, each of the buying/selling bidders specifies their price. The prices at which trades take place on the balancing market serve as input to the calculation of the marginal price of the control energy. Both markets are operated round the clock yearlong.

The intra-day market works as an electronic bulletin board, on which participants offer, anonymously, to supply or take electricity. The gate closure is three hours before the respective trading hour and if the market participant does not annul his offer, this offer automatically passes to the balancing market, which closes 1.5 hours before the trading hour to which the offer applies, as a supply of positive or negative control energy.

On the balancing market in control energy, suppliers (entities subject to clearing) can use spare capacity (unsold volume of electric energy). In this case, the only buyer is the TSO, who may buy control energy also from entities that do not have capacities certified for the provision of ancillary services. This approach helps to use the control energy which is free in the system and which would not be usable without this market. Buying control energy on the balancing market, the TSO optimises its portfolio of instruments for covering the system imbalances in the electricity system.

### **Method and timing of imbalance clearing**

The principle of imbalance clearing is described in Public Notice No. 373/2001, which lays down the rules for electricity market organisation and the principles of pricing the market operator's activities. The imbalance clearing principle is the same for all entities that are subject to clearing ['cleared entities'], and its mechanism is as follows: OTE collects information on contracts from each of the cleared entities, i.e. ancillary service providers, the TSO, DSOs, eligible customers, and traders. It also collects metered values of electricity generation and consumption of all entities. The TSO meters the watt-hours of the controlling work supplied by each of the ancillary service providers, and transmits this information to OTE together with the price for which it buys it. On the basis of this information OTE determines the system imbalance for every hour, and also individual imbalances and the cost of balancing them for each of the cleared entities.

The imbalance clearing timing is as follows. Every working day by 2 p.m. OTE notifies each cleared entity of imbalance evaluation for the preceding day or, as applicable, for all immediately preceding non-working days. This evaluation contains for every trading hour: the imbalance, in MWh, the clearing price, in CZK/MWh, the share of extra costs in the electricity system, in CZK/MWh, and the payment to be made by the entity, in CZK. On its website OTE also publishes, for every hour, summed up values for all cleared entities.

The settlement itself takes place at three stages as follows: *daily settlement*, in the form of advance payments; *monthly settlement*, effected after the end of the month when invoices are rendered and daily settlement advance payments are accounted for; *final monthly settlement*, effected for all the respective cleared entities after the end of the three-month period allowed for raising complaints.

#### **3.1.4 Effective electricity market unbundling**

The provisions of Directive 2003/54/EC on common rules for the internal electricity market, which concern unbundling – legal, accounting and functional – have been implemented in Czech law through Act No. 670/2004 which amends Act No. 458/2000, the Energy Act; Act No. 670/2004 was passed on 14 December 2004 with effect from 30 December 2004.

In line with Article 10 of Directive 2003/54/EC, the Energy Act in its Sections 24a and 25a lays down that where the transmission system operator is a part of a vertically integrated undertaking, it shall be independent in terms of its legal form, organisation and decision-making from other activities not relating to transmission. Similarly, where a distribution system operator is a part of a vertically integrated undertaking, it shall be, from 1 January 2007, independent in terms of its legal form, organisation and decision-making from other activities not relating to distribution. At the same time, these two operators are not constrained by the Energy Act in respect of the ways of effecting legal unbundling; the Energy Act even stipulates that the requirement for legal unbundling does not create an

obligation to separate the ownership of the operator's assets intended for regulated and non-regulated activities. The essential requirement is that these activities be carried out by different juristic persons.

It is not allowed to effect legal unbundling in an arbitrary way; the only way is to effect a legal unbundling resulting in an independent juristic person carrying out a regulated activity, which will be prevented from participating in the management or control of any other person pursuing any of the incompatible activities as its object of business. Several provisions of the Energy Act serve to achieve this. The provisions prohibit the simultaneous holding by a system operator of a business authorisation for a regulated activity and an authorisation to carry on an incompatible activity as from the date set as the legal unbundling date. To prevent a system operator from controlling or managing, even indirectly, a juristic person pursuing an activity incompatible with the regulated activity the Energy Act stipulates that as from the legal unbundling date the system operator may not hold interests in other juristic persons who hold authorisations to pursue activities incompatible with the system operator's activity; from that same date the system operator may not enter into controlling agreements to subject such other persons to unified control, nor may it continue in such management under already existing controlling agreements.

### **Functional and organisational unbundling**

For the purpose of meeting in practice the Directive's requirements concerning the functional unbundling of operators and managerial unbundling of management within vertically integrated undertakings, the Energy Act in its Sections 24a and § 25a stipulates that the persons responsible for the system operator's management may not, directly or indirectly, participate in the organisational structures of the vertically integrated undertaking directly or indirectly responsible for the day-to-day operation of electricity generation, electricity distribution or electricity trading (in the case of the TSO), for the day-to-day operation of electricity generation, electricity transmission or electricity or gas trading (in the case of an electricity distribution system operator). This requirement is further specified so that the position of a statutory body or a member thereof, or of the authorised officer [*“der prokurist”* in German under German and Austrian law], or of a manager of the system operator, may not be held by any natural person who at the same time is a statutory body or a member thereof, or an authorised officer or manager of a holder of a licence for the above incompatible activities which is a part of the vertically integrated undertaking. Furthermore, the system operator shall take any and all appropriate measures to ensure that the professional interests of a statutory body or a member thereof, or an authorised officer, or managers responsible for the management of the distribution system operator, are taken into account in a manner that ensures that they act independently. The Energy Act explicitly stipulates that a statutory body or a member thereof, or an authorised officer or manager of the system operator may not receive any emoluments or other pecuniary consideration from any holders of licences for the above incompatible activities which are a part of the same vertically integrated undertaking, and further that emoluments for such persons may not be dependent on the results achieved by any other licence holders within the same vertically integrated undertaking. Part of these constraints on system operators' management is also a ban under which as from the date set for effecting legal unbundling, the above specified persons may not hold equity interests exceeding 1% of registered capital in any other juristic person within the same vertically integrated undertaking which [the juristic person] is a holder of a licence for activities incompatible with regulated activities.

As a crucial requirement the Energy Act stipulates that the system operator shall have effective decision-making rights in relation to the assets needed to operate, maintain and develop the distribution system, such rights being independent of the vertically integrated undertaking; the parent company may not issue to the system operator any instructions for the day-to-day operation and maintenance of the system and may not intervene in any other way in the decisions concerning the construction or modernisation of any part of the system, unless such a decision goes beyond the scope of the agreed financial plan or any other such instrument. Excluded, and preserved for the parent company, from the above limitations on the business management of subsidiaries that are system operators is the parent company's right to approve the system operator's annual financial plan or any other such instrument and approve its maximum debt limits.

### **Compliance programme, the role of the compliance officer**

Pursuant to the above Directives the Energy Act provides for the obligation to draw up and adopt a compliance programme, which should contain the following:

- a) Measures to exclude discriminatory behaviour to other market participants, in particular as regards access to the system operated by the entity and the use of its services;
- b) Rules for making available information on the operation and development of the system and access thereto; the system operator shall make available the information the provision of which to only some of the market participant might put these participants at an advantage at the expense of other participants, to the other market participants in a manner preventing disadvantage to any market participant;
- c) Measures to provide for the organisational and information unbundling of distribution activities from activities that are not, as per the above, compatible with distribution activities, pending the legal unbundling of activities (this point applies solely to electricity distribution system operators).

In their compliance programmes system operators have undertaken to adopt a package of measures conducive to the carrying out of these programmes. In line with the requirements of the Directives, operators are obligated to draw up and publish their compliance programmes, and they also have to furnish these programmes to the Energy Regulatory Office and the Ministry of Industry and Trade.

System operators are also obligated to prepare an annual report on the measures adopted and, in general, on the carrying out of their compliance programmes for each calendar year, and to publish such reports. Under the compliance programmes adopted, system operators have undertaken to set up the position of the compliance officer, whose core task will be to see to the implementation of the programme and to check that it is carried out in companies. Compliance officers will usually have the duty to submit proposals for the necessary amendments to the compliance programme to the system operator's directors, and they shall report to the directors, on a regular basis, on the way the programme is carried out. System operators are setting up this position voluntarily.

### **Whether ownership unbundling has been implemented**

As regards the transmission system operator, ČEPS, a.s., the obligation of legal unbundling has been carried out, because the TSO has been existing in the country as an independent juristic person since 1998; on 9 September 2004 the Czech Republic, and its instrumentalities and juristic persons, acquired 100% control over this company.

Distribution system operators Jihomoravská energetika, a.s. and Jihočeská energetika, a.s., in which E.ON had held majority interests, jointly established juristic persons called E.ON Distribuce, a.s. and E.ON Energie, a.s., to which they contributed, effective from 1 January 2005, the parts of their businesses which concerned the activity of distribution system operation and the activity of electric energy trading and supply to customers, respectively. Vertically integrated undertakings Jihomoravská energetika, a.s. and Jihočeská energetika, a.s. therefore carried out the legal unbundling obligation as of 1 January 2005.

The electricity distribution system operators in which ČEZ, a.s. holds majority interests (Středočeská energetická a.s., Západočeská energetika, a.s., Severočeská energetika, a.s., Východočeská energetika, a.s., and Severomoravská energetika, a.s.) are taking similar steps – they have established juristic persons called ČEZ Prodej, s.r.o. and ČEZ Distribuce, a.s., to which they are planning to gradually contribute the parts of their businesses which concern the activity of distribution system operation and the activity of electric energy trading and supply to customers so as to meet the legal unbundling obligation as of 1 January 2006.

The last electricity distribution operator, Pražská energetika, a.s., is at the stage of preparations for legal unbundling of regulated and unregulated activities.

The unbundling obligation applies only to the above distribution system operators. In addition to these distribution system operators, several dozen operators of the so-called local distribution systems operate in the Czech Republic, who are not subject to this obligation under the Energy Act.

**The ownership structure of the transmission system operator (TSO), and the distribution system operators (DSOs) to which more than 90,000 electricity supply points have been connected:**

**TSO - ČEPS, a.s.** came into existence in 1998 as a fully-owned subsidiary of ČEZ, a.s., through the demerger of an organisational component of ČEZ, a.s. and its establishment as an independent juristic person. On 31 May 2005 the shareholding structure of ČEPS, a.s. was as follows: 51% was held by Osinec, a.s. as a public company whose sole shareholder is the Czech Republic; 15% was held by the Czech Republic – Ministry of Labour and Social Affairs; and 34% was held by the Czech Republic – Ministry of Finance. This suggests that on that date ČEPS, a.s. was fully under the Czech Republic's control, 49% direct control and 51% indirect control through a public company whose sole shareholder is the Czech Republic.

**DSO - Pražská energetika, a.s.:** 50.78% held by Pražská energetika Holding, a.s.; 34% held by Honor Invest, a.s.; 14.19% held by the Czech Republic – Ministry of Labour and Social Affairs; and 1.03% held by other shareholders.

**DSO - E.ON Distribuce, a.s.:** 71.65% held by Jihomoravská energetika, a.s.; 28.34% held by Jihočeská energetika, a.s.; and 0.01% held by other shareholders.

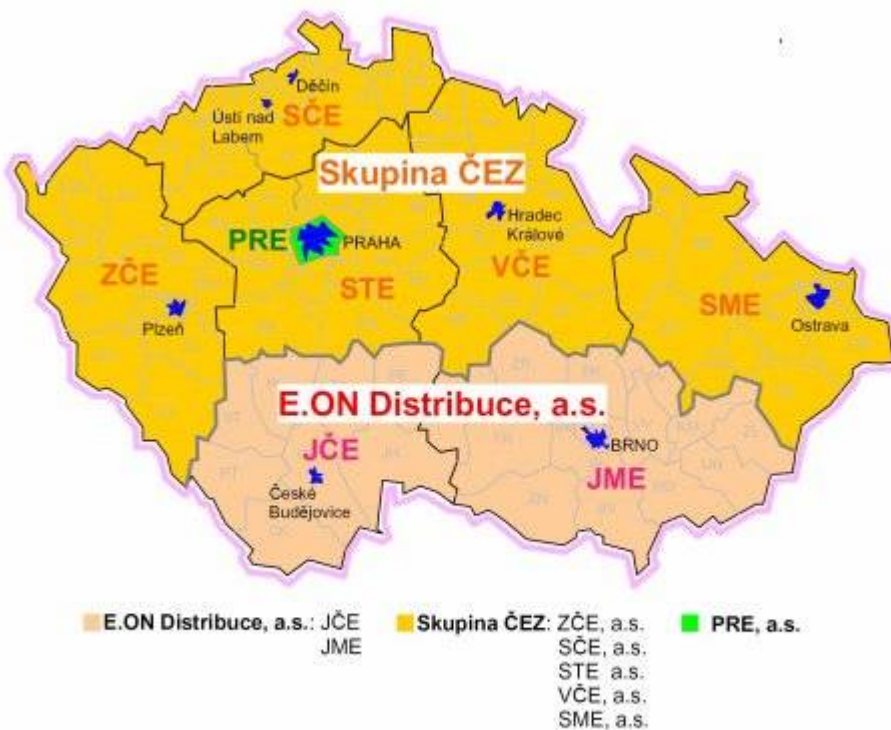
**DSO - Západočeská energetika, a.s.:** 99.13% held by ČEZ, a.s. and 0.87% held by other shareholders.

**DSO - Severočeská energetika, a.s.:** 56.93% held by ČEZ, a.s.; 29.15% held by Envia Mitteldeutsche Energie AG; 4.42% held by RWE Energy AG; 2.71% held by VNG-Erdgascommerz GmbH; 2.57% held by the Statutory City of Most; 1.54% held by the Statutory City of Teplice; and 2.68% held by other shareholders.

**DSO - Severomoravská energetika, a.s.:** 89.38% held by ČEZ, a.s.; 9.23% held by EDF International; and 1.39% held by other shareholders.

**DSO - Východočeská energetika, a.s.:** 98.78% held by ČEZ, a.s. and 1.22% held by other shareholders.

**DSO - Středočeská energetická a.s.:** 97.72% held by ČEZ, a.s. and 2.28% held by other shareholders.



### Územní působnost jednotlivých REAS



Areas served by each of regional distributors

### Organisational unbundling – whether the TSO and DSOs are physically located separately from both the production and supply affiliates

The DSOs that are controlled by ČEZ, a.s. (Středočeská energetická a.s., Západočeská energetika, a.s., Severočeská energetika, a.s., Východočeská energetika, a.s., and Severomoravská energetika, a.s.) continue to be juristic persons that carry on business in both electricity distribution and electricity trading, potentially also electricity generation. As such, they are not divided into separate parts of the vertically integrated undertaking which would carry out distribution and separate parts which would carry out the other activities. Prior to legal unbundling, the DSOs therefore have separate organisational units for distribution and separate units for electricity trading within the company (one juristic person) itself, i.e. separate units in terms of their internal organisational structure.

The same applies to E.ON Distribuce, a.s. and E.ON Energie, a.s., which are independent legal entities emerging from legal unbundling; they have the same registered office.

### The presentation of the TSO and DSOs to customers (company logos, websites)

Czech law does not place any restrictions as regards the registered offices of juristic persons etc. on system operators, or vertically integrated undertakings, before the effective date of the unbundling requirement, nor in fact after that date.

The only entity that presents itself to the other market participants independently, also as regards the name, logo, website etc., is the TSO, i.e. ČEPS, a.s. The reason is the 100% control by the State or companies controlled by the State.

DSOs controlled by ČEZ, a.s. as the dominant electricity generator in the Czech Republic have retained their original names, but with their parent company they share the same logo, and indicate their affiliation with ČEZ, a.s. (for marketing reasons they use the advertising designation “The ČEZ Group”). It is to be noted at this point that Czech commercial law does not define the term “group”.

Similarly, the same logo is used by the DSO E.ON Distribuce, a.s. and its sister company E.ON Energie, a.s. whose business is electricity trading. As mentioned above, the two companies emerged from the legal unbundling of former DSOs Jihomoravská energetika, a.s. and Jihočeská energetika, a.s., and through their shared name and logo they present their affiliation with the group of E.ON companies. They also use a marketing designation “The E.ON Group” and their websites offer links to the other companies in this group of companies.

### **Rules on the compilation of regulatory reports**

Section 20 of the Energy Act provides for separate bookkeeping. It contains guidelines for the bookkeeping of licence holders, and the energy facility lessor who is a member of the same group of businesses as the licence holder that uses this facility for its licensed activity. Section 20 also lays down licence holders’ obligation to compile and present regulatory reports to the Energy Regulatory Office; the content and structure of these reports, and the rules for their compilation, are specified in an ERO public notice. Licence holders whose activities are subject to price control must submit their financial statements to the Energy Regulatory Office.

In its chart of accounts, a system operator/vertically integrated undertaking must specify the accounts for recognising the costs, revenues and profit/loss for each of its licensed activities and its activity as a supplier of last resort, in accordance with the implementing legal regulation. In its chart of accounts, the TSO must also specify the accounts for recognising the assets of each of the licensed activities in accordance with the implementing legal regulation.

For the accounting period beginning on 1 January 2005, an electricity trader shall specify in its chart of accounts, the accounts for recognising the costs, revenues and profit/loss for electricity supply to protected customers and the accounts for recognising the costs, revenues and profit/loss for electricity supply to eligible customers if under the special part of the Energy Act it supplies electricity to protected customers. The same applies to gas traders. The particular traders who are, under the Energy Act or the ERO’s decision, obligated to carry out the activity of a supplier of last resort, shall specify in their chart of accounts the accounts for recognising the costs, revenues and profit/loss for their activity as a supplier of last resort. Furthermore, for the accounting period beginning on 1 January 2005 individual entities shall specify in their chart of accounts, the accounts for recognising the costs, revenues and profit/loss for the other activities they do not pursue under a licence granted by the Energy Regulatory Office.

For the purposes of price control, system operators and other entities whose business is subject to regulation by the Energy Regulatory Office, must compile regulatory reports and submit them to the Energy Regulatory Office by 30 April of the following calendar year for the preceding accounting period. An implementing legal regulation specifies the content and structure of the regulatory reports, including the model forms thereof, and the rules for compiling them.

The Energy Regulatory Office is authorised to promulgate implementing legal regulations relating to the provisions on the separation of accounts. Today, this implementing legal



regulation is ERO Public Notice No. 439/2001, which sets out the rules for keeping separate records of sales, expenditure and revenues for the purposes of regulation and the rules for allocating the costs, sales and return on capital employed in the energy sector. The Energy Regulatory Office is currently drafting a new public notice, which will reflect the changes stemming from the implementation of Article 19 of Directive 2003/54/EC in the Energy Act. The subject matter of the new implementing regulation will be the rules for recognising the costs, revenues and profit/loss for each of the activities pursued by the obligated entities and rules on the content and structure of regulatory reports, including the model forms thereof and the rules for compiling them.

The outcomes of accounting for the costs, revenues and profit/loss for vertically integrated undertakings' individual activities are not, separately as such, subject to the obligation of having an audit carried out by auditors in the sense of the examination of annual financial statements or consolidated annual financial statements, or annual reports or consolidated annual reports, under Czech legal regulations. They are included in the audit of annual financial statements or consolidated annual financial statements as a whole.

Similarly, there exists no obligation for publishing unbundled accounts. There only exists the obligation to publish annual reports containing results for the whole company, and this obligation applies to certain legal forms of juristic persons. However, in relation to the Energy Regulatory Office the respective system operator or a different obligated entity is obligated to compile regulatory reports and submit them by 30 April of the following calendar year for the preceding accounting period.

## **Inspections**

The allocation of competencies in the area of state administration in the energy sector between public administration authorities in the Czech Republic is rather different from most EU member states. The Energy Regulatory Office is conceived as an administrative authority that carries out regulation through the competencies vested in it; however, these competencies do not include penalisation competencies, and it only has marginal inspection competencies. The State Energy Inspectorate is the inspection and penalising authority. Where system operators or other obligated entities default on the provisions of the Energy Act which provide for the obligation of functional and accounting unbundling, such conduct is regarded as an administrative delict and as such can be penalised by a fine imposed by the State Energy Inspectorate. Depending on the nature and gravity of the administrative delict committed, a fine of up to CZK 50 million may be imposed under the Energy Act.

The State Energy Inspectorate will start a check of the meeting of the obligations relating to functional or accounting unbundling either on its own initiative or upon initiative of the Ministry of Industry and Trade or the Energy Regulatory Office.

Should the Energy Regulatory Office find that a system operator or some other entity obligated to observe the provisions on accounts unbundling in the carrying out of its activities seriously violates the legal regulations pertaining to such activities, it may revoke that entity's licence or, if the entity fails to remedy the situation by the time specified in a decision issued by the Energy Regulatory Office, the Energy Regulatory Office will impose a fine under Act No. 526/1990, the Price Act, as amended.

## ***3.2 Issues of the protection of competition***

### ***3.2.1 Structure of the wholesale market***

#### **Total consumption**

In 2004 total domestic net electricity consumption amounted to about 56.6 TWh, of which 34 TWh (60%) was taken by high-demand customers connected to the high voltage and extra high voltage levels, 8 TWh (14%) by low-demand commercial customers connected to the low voltage level, and 14.6 TWh (26%) by households. Total domestic electricity consumption, including network losses, amounted to 61.7 TWh.

On 1 January 2005 the total installed capacity of power stations in the Czech Republic was 17,434 MW, with approximately 58% of the power stations' output connected directly to the transmission system and 42% to the distribution system.

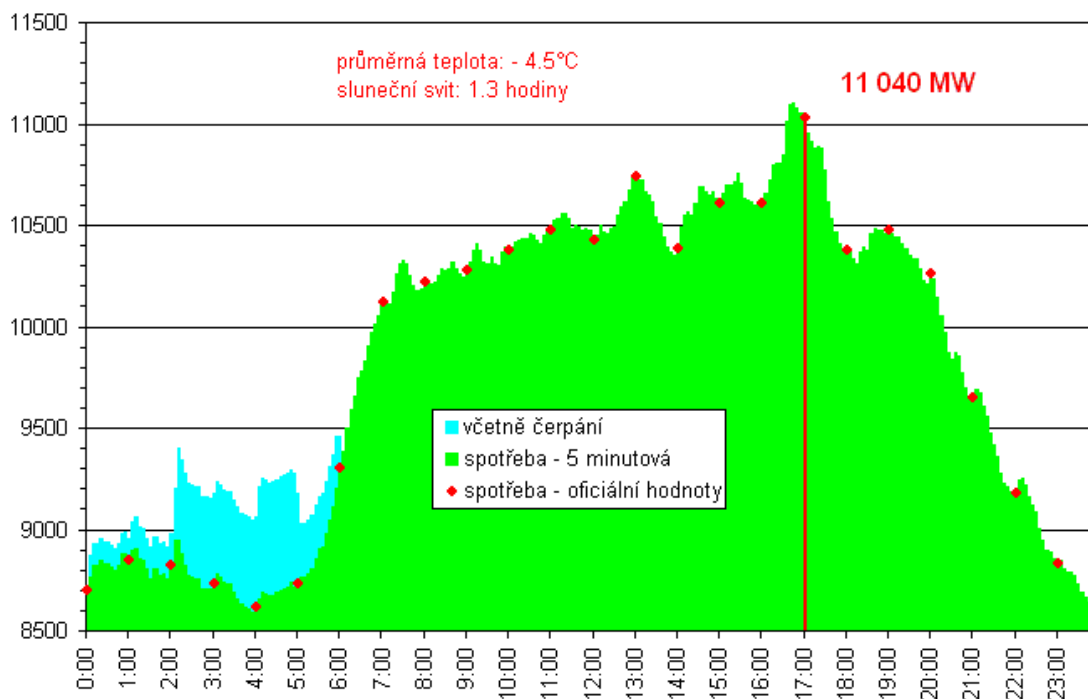
A map of generating capacities supplying the electricity system, having an aggregate installed capacity of more than 1 MW, is included in the Appendix.

#### **Maximum demand**

The system registered the annual maximum on 16 December 2004 at 5 p.m., with a net consumption of 10,157 MW (11,040 MW when losses are included). The system registered the annual minimum on 15 August 2004 at 5 a.m., with a net consumption of 4,117 MW (4,752 MW when losses are included).

On 1 January 2005 the total installed capacity of power stations in the Czech Republic was 17,434 MW, with approximately 58% of the power stations' output connected directly to the transmission system and 42% to the distribution system.

### MW Průběh spotřeby ve dni ročního maxima: 16.12.2004

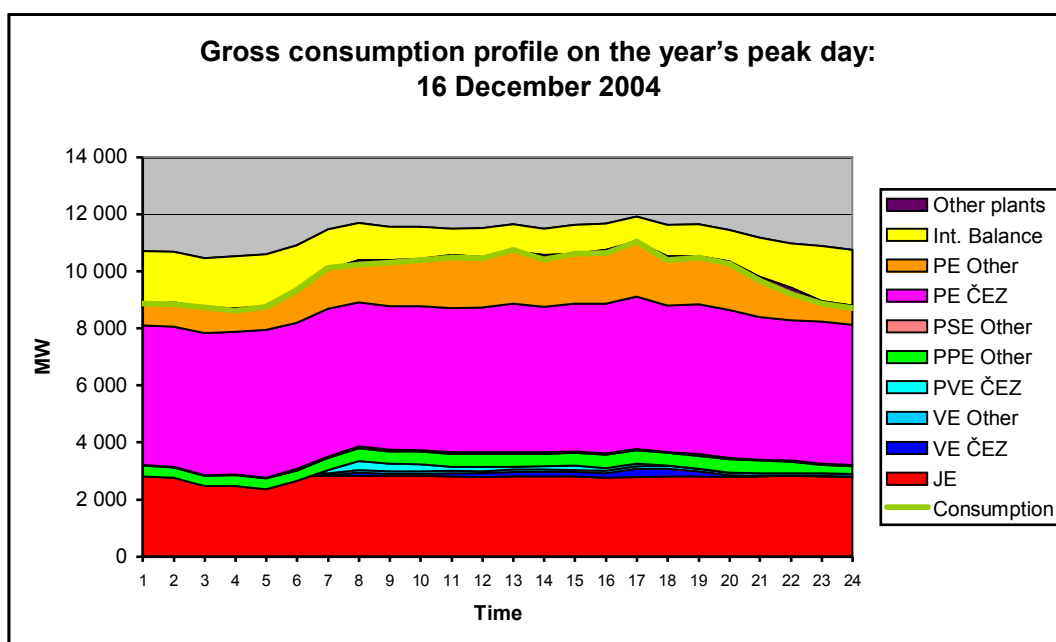


Consumption profile on the year's peak day: 16 December 2004

average temperature  $-4.5\text{ }^{\circ}\text{C}$

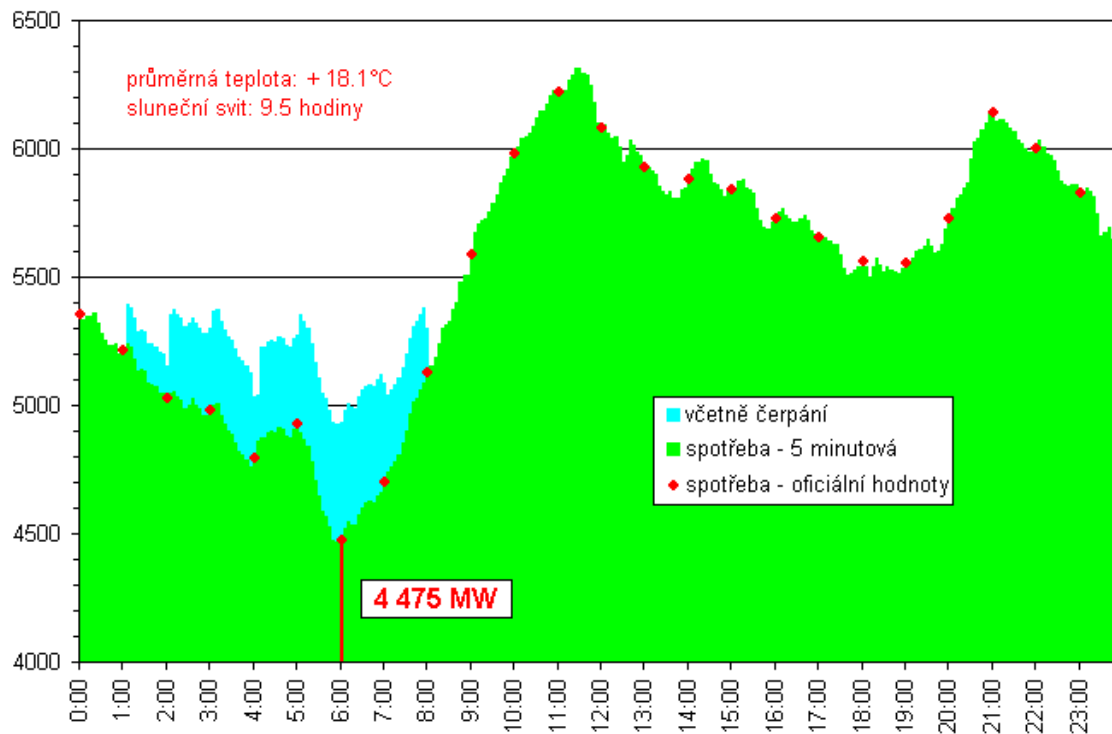
sunshine: 1.3 hrs

- including pumping
- 5-minute consumption
- official values of consumption



MW

### Průběh spotřeby ve dni ročního minima: 15.08.2004



Consumption profile on the year's minimum day: 15 August 2004

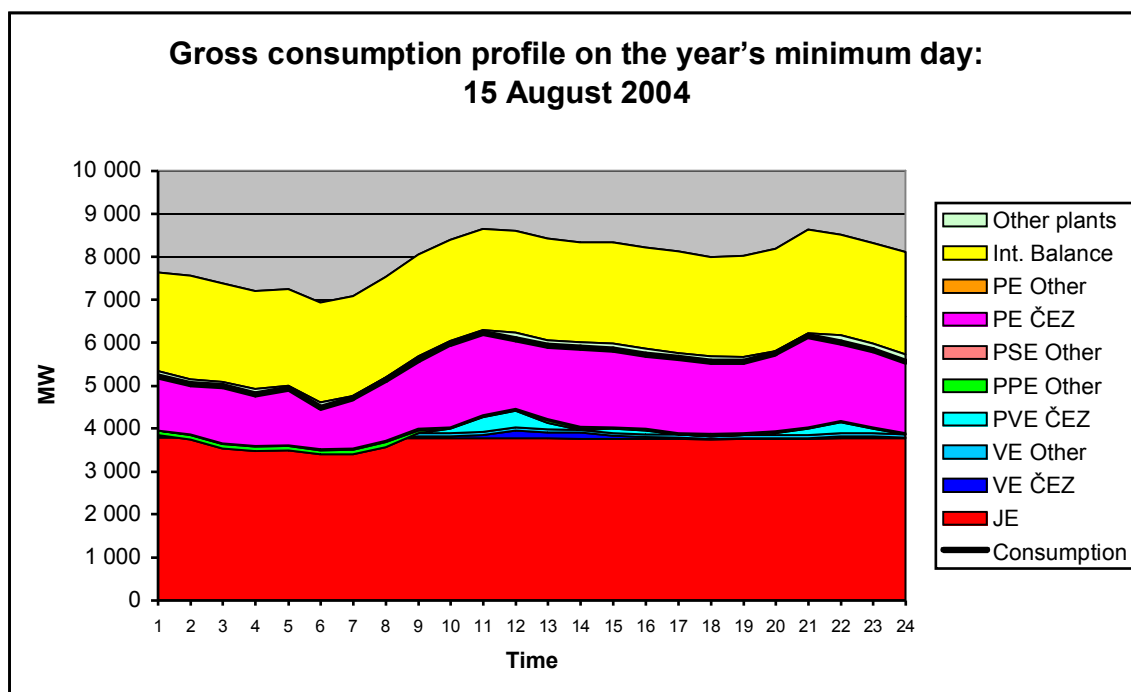
average temperature: +18.1 °C

sunshine: 9.5 hrs

including pumping

5-minute consumption

official values of consumption



Number of companies having at least a 5% share of the installed capacity

In the Czech Republic there is one dominant generator – ČEZ, a.s., whose share of the total installed capacity is approximately 70%. There are also some larger generators having an installed capacity of up to 500 MW (each of them has a share of less than 3%) and more than 1,300 medium-sized and small generators, including cogeneration units and renewable sources. The share held by the three largest generators accounts for about 75.5% of the total installed generating capacity in the system.

The details can be seen in the Electricity Flows in the Czech Grid in 2004 diagram, included in the Appendix.

*Electric energy generation and consumption in the Czech Republic*

	2002	2003	2004
Total generation (TWh)	76.35	83.23	84.02
ČEZ generation (TWh)	54.118	60.934	61.602
Other generation – IPPs	22.230	22.293	22.760
Total consumption (TWh)	53.67	54.81	55.97

*Market shares on the Czech electric energy generation market (in %)*

	2002	2003	2004
ČEZ, a.s.	70.9	73.4	73.0
Elektrárny Opatovice, a.s.	2.8	2.7	2.6
Dalkia Česká republika, a.s.	2.8	2.4	2.4
Sokolovská uhelná, a.s.	4.5	4.3	4.3
ECK Generating, s.r.o.	2.2	2.0	1.9
Energotrans, a.s.	1.7	1.7	1.7
Others	15.1	13.5	14.1

*Number of protected customers (PC) in the Czech Republic and number of electric energy supplier switches by PC*

Year	Total number of PC	Number of new customers	Number of changes by PC	Share of changes by PC
2002	70	70	23	33 %
2003	350	280	79	28 %
2004	3,026	2,676	105	4 %

**Electricity market structure from the perspective of the load**

The supply price of electricity on the wholesale market generally derives from the daily load profile and the merit order of the individual categories of plants. The base load is usually covered by nuclear power plants, cogeneration units and the least expensive coal-fired power plants, and mid-merit by the other coal-fired power plants and hydroelectric power stations, while the peak load is covered by combined cycle plants and pumped storage hydroelectric power stations. Furthermore, mandatory purchase of electricity from renewable sources is applied in the Czech Republic.

### **Description of the market for ancillary services**

The TSO procures ancillary services of all categories using market mechanisms; generators are not obligated to provide any ancillary services free of charge. The main ancillary services such as primary, secondary and tertiary control, fast start, and replacement reserve are procured via long-term (multi-annual and annual) and medium-term (usually quarterly) tender processes based on the providers' bid prices. In this way some 90% of the volume of balancing power is procured.

The remaining control reserves are bought on the day-ahead ancillary service market, also organised by the TSO. For every hour, the price on this market is derived from the marginal prices, i.e. the price of the highest accepted offer to provide a specific ancillary service. This price is paid to all accepted providers who have met their obligation to deliver the ancillary service. These are providers whose bid price for providing a specific ancillary service in a specific hour was lower or equal to the last accepted offer.

A precondition for participating in the tender processes and the day-ahead market is valid certification for the provision of the respective service, issued by an independent certification authority. At present eleven entities, which participate in the ancillary service market depending on their technical capabilities and business strategies, currently hold valid certifications for the provision of a particular ancillary service. The dominant generator's share in the provision of ancillary services is approximately the same as in the case of energy production and accounts for 70% of the volume of all ancillary services. The other providers' share is several per cent, depending on the ancillary service category and the ability of the various plants to provide such services.

In the case of certain specific ancillary services such as black start and islanding operation, and also local ancillary U/Q (reactive power) services, the TSO deals directly with the service provider and the price of the service bought usually reflects the customary cost of providing such service. The extent to which these services are provided and their costs are not important in comparison with the balancing reserves.

Most of electricity trades (more than 98% of the volume of electricity) take place under bilateral contracts. The term of such contracts generally varies; one-year contracts are usually executed between generators and traders. The remaining volume of electricity is traded on the short-term markets (day-ahead and intra-day markets), which accounts for about one per cent of the total electricity traded in the Czech Republic. All cleared entities, i.e. not only traders and generators but also the eligible customers who are responsible for imbalances, can go to the short-term markets to procure electricity.

*Shares of the market for ancillary services (in %)*

	2002	2003	2004
ČEZ, a.s.	78.4	75.0	69.6
ECK Generating, s.r.o.	7.8	8.4	10.3
Energotrans, a.s.	1.5	1.7	2.1
Elektrárny Opatovice, a.s.	2.1	1.7	1.3
Dalkia Česká republika, a.s.	1.7	1.8	2.2
Sokolovská uhelná, a.s.	6.0	6.2	7.1
Plzeňská teplárenská, a.s.	1.0	1.7	1.9
PPC Trmice a.s.	1.4	3.2	4.0
Teplárny Brno, a.s.	-	0.2	0.3
Plzeňská energetika, a.s.	-	0.1	1.2

*HHI index on the market for ancillary services*

	2002	2003	2004
HHI	6,256	5,756	5,033

The Czech ancillary service market is highly concentrated but the dominant undertaking's share is decreasing while the number of entities that provide ancillary services for ČEPS a.s. has been rising in recent years.

**Electricity volumes traded under bilateral contracts, long-term contracts, and on the short-term markets**

Most of electricity trades (more than 98% of the volume of electricity) take place under bilateral contracts. The term of such contracts generally varies; one-year contracts are usually executed between generators and traders. The remaining volume of electricity is traded on the short-term markets (day-ahead and intra-day markets), which accounts for about one per cent of the total electricity traded in the Czech Republic. All cleared entities, i.e. not only traders and generators but also eligible customers who are responsible for imbalances, can go to the short-term markets to procure electricity.

**Most important undertakings**

The most important undertakings in the electricity industry include ČEZ, a.s. ("ČEZ"), ČEPS, a.s. ("ČEPS"), and eight regional electricity distribution companies ("REAS").

ČEZ is an electricity utility pursuing a number of different activities, in particular electric energy generation and its sale to REAS, other electricity traders and eligible customers. In addition, ČEZ also provides different ancillary services to the Czech grid.

ČEPS operates under a licence granted by the Energy Regulatory Office, mainly in electric energy transmission and related services; it is regulated in accordance with the Energy Act. ČEPS is 100% controlled by the Czech Republic, and it is not affiliated with any of the electricity industry undertakings.

In mid-2003 this company was sold by ČEZ to the State under a Czech Government resolution and, to an extent, due to a decision of the Office for the Protection of Competition, which in its relevant decision permitted the merger of ČEZ with the earlier mentioned five REAS, subject to three restrictions imposed in the interest of preserving effective competition; one of the restrictions was an obligation imposed on ČEZ to sell all its ownership interests in ČEPS to a third party.

The core business of REAS includes electric energy purchase, distribution, and sale to final customers, both protected and eligible, and the provision of related services. Electric energy distribution has the nature of a monopoly because there is always only one REAS that serves a specified area. As regards distribution, each regional distributor operates in a different geographic environment. Five of REAS (Středočeská energetická a.s., Západočeská energetika, a.s., Severočeská energetika, a.s., Východočeská energetika, a.s., and Severomoravská energetika, a.s.) are controlled by ČEZ. Jihomoravská energetika, a.s. and Jihočeská energetika, a.s. are controlled by E.ON Distribuce, a.s. Pražská energetika, a.s. is, through Pražská energetika Holding, a.s., controlled by the majority shareholder of the Holding, i.e. the City of Prague.

#### **The degree of integration with the neighbouring Member States (national and transnational markets)**

The Czech electricity market is governed by national legislation, and only entities registered in a Companies Register are allowed to participate in it. Electricity may be exported/imported to/from other countries; however, in such a case the foreign entity must establish an 'organisational component' in the Czech Republic and register it in a Companies Register, and obtain a valid electricity trading licence. Czech and foreign entities operating in the electricity industry are subject to equal conditions. The situation is similar for Czech entities operating on foreign markets, which must observe the respective country's legislation. In the case of transit through the Czech Republic, the holding of an electricity trading licence, and in turn registration in a Companies Register, is not required, subject to certain conditions.

In the case of electricity exports/imports from/to the Czech Republic via the transmission system, the potential exporter/importer must buy the corresponding capacity on a cross-border interconnections in an auction organised by the TSO.



*Imports (in GWh)*

	2002	2003	2004
Total	5,193	4,095	2,718

*Imports – Share of the use of allocations of cross-border transmission capacities (in %)*

	Slovakia (SEPS)	Poland (PSE)	Austria (APG)	Germany		Total
				E.ON	VE-T	
2002	5	79.8	100	100	100	59.7
2003	98.6	100	80	96.8	95	94.4
2004	80	90	100	100	98.9	92.4

*Imports – Share of the use of published capacities in negotiated transmission (in %)*

	Slovakia (SEPS)	Poland (PSE)	Austria (APG)	Germany		Total
				E.ON	VE-T	
2002	9.6	24.8	0.8	11.4	64.2	22.4
2003	18.9	40.9	4.4	1.7	3.8	16.6
2004	25.9	49	0.4	0.4	0.8	16.5

Total transmission capacity for imports to the Czech Republic: 3,594 MW, or 31.6 TWh, which accounts for more than 50% of total demand for electricity in the Czech Republic.

*Exports (in GWh)*

	2002	2003	2004
Total	18,147	23,750	23,171

*Exports – Share of the use of allocations of cross-border transmission capacities (in %)*

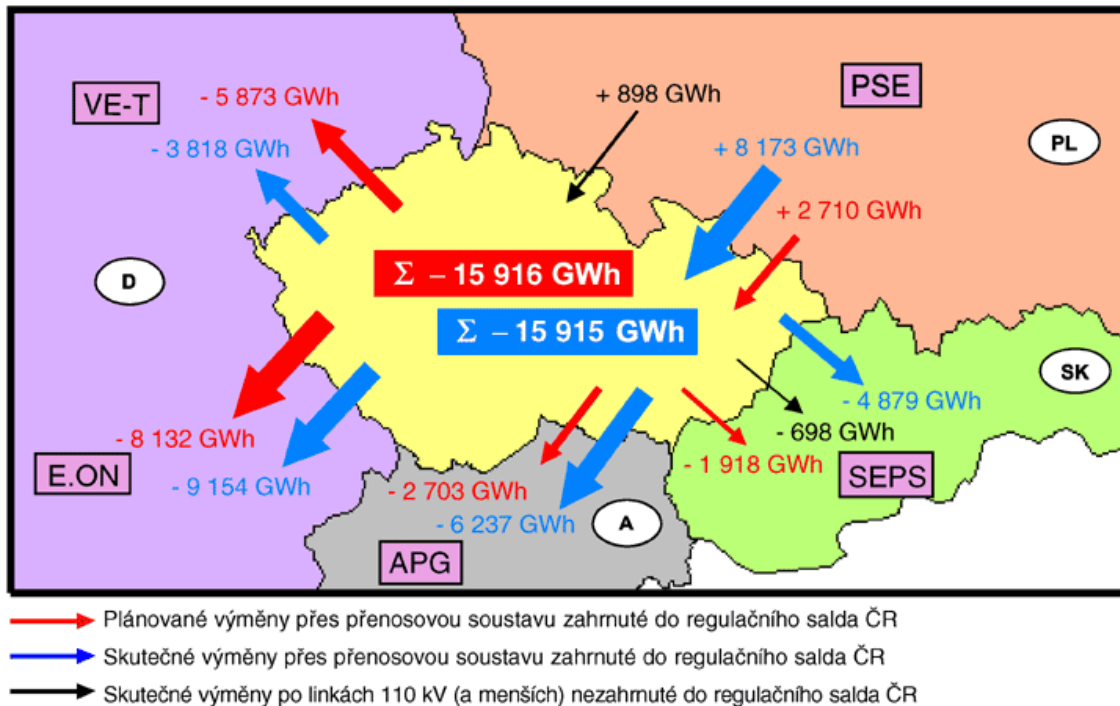
	Slovakia (SEPS)	Poland (PSE)	Austria (APG)	Germany		Total
				E.ON	VE-T	
2002	33	0	100	100	100	58.3
2003	95	75	100	99.3	100	76.5
2004	95	95.5	100	100	99.6	85.3

*Exports – Share of the use of published capacities in negotiated transmission (in %)*

	Slovakia (SEPS)	Poland (PSE)	Austria (APG)	Germany		Total
				E.ON	VE-T	
2002	20.8	0	85.3	90.3	82.1	54.1
2003	43.8	8.2	84.9	90.5	80.5	56.3
2004	46.5	7.0	77	97.1	94	60.2

Total transmission capacity for exports from the Czech Republic: 4,292 MW, or 36.8 TWh, which accounts for about 48% of all the electric energy generated in the Czech Republic.

**International co-operation – annual energy flows in 2004**



Planned exchanges over the transmission system included in the Czech Republic's balance of control energy

Actual exchanges over the transmission system included in the Czech Republic's balance of control energy

Actual exchanges over the 110 kV and lower voltage lines not included in the Czech Republic's balance of control energy

Thanks to the number and capacities of interconnecting lines and the rules applied as a result of the Czech Republic's accession to the European Union, the Czech grid is integrated with foreign countries to a high degree indeed. However, both the wholesale and retail electric energy markets are geographically limited by the territory of the Czech Republic: the reason is the significant differences between electricity prices in the Czech

Republic and electricity prices on markets in the neighbouring countries. Since with the exception of Poland electricity prices in the other countries are much higher, the actual imports account for less than 5% of total electricity consumption in the Czech Republic.

### 3.2.2 Structure of the retail market

#### Protected customers

The end price of electricity for protected customers (in 2005 only households) is set by the Energy Regulatory Office for each of the regional distribution companies. The resulting rates are composed of a standing monthly charge based on the circuit-breaker (CZK/A) and a variable part depending on consumption (CZK/kWh). The standing charge covers mainly the allowed revenues from distribution. The variable component covers mainly the price of the energy and losses; this component also includes the system service charge, contribution for the support of renewable sources and CHP, and the charge for the market operator's activity. The resulting electricity price is inclusive of 19% VAT.

#### Information on the current level of retail prices (regulated/unregulated items)

Each of the rates is construed on the basis of rate statistics, which continuously monitor the number of customers and consumption in each of the tariffs. The tariff system is based on characteristic demand groups. The basic structure includes groups of consumers using electricity mainly for lighting (and also cooking and refrigeration) and for space heating (breakdown by the predominant method of space heating, to direct electric heating, electric storage heating, and hybrid heating).

*The resulting regulated price of electricity for households (including VAT) is as follows:*

<b>Customer category</b>	<b>Households</b>	
Annual consumption	MWh/year	3.5
Voltage level connection	-	LV
<b><i>Average price for network services (transmission, distribution), without VAT</i></b>	<b><i>CZK/MWh</i></b>	<b><i>1,066.28</i></b>
<b><i>Other regulated prices for services related to electricity supply, without VAT</i></b>	<b><i>CZK/MWh</i></b>	<b><i>215.88</i></b>
Charge for clearing by the market operator	CZK/MWh	4.63
Contribution to renewables and cogeneration	CZK/MWh	39.45
System services	CZK/MWh	171.8
<b><i>Energy, including the profit margin</i></b>	<b><i>CZK/MWh</i></b>	<b><i>1,074.01</i></b>
<b><i>VAT (19%)</i></b>	<b><i>CZK/MWh</i></b>	<b><i>447.67</i></b>
<b><i>Total price</i></b>	<b><i>CZK/MWh</i></b>	<b><i>2,803.85</i></b>

### Electric energy supplies to eligible customers (in %)

	2002	2003	2004
ČEZ	77	63	62
E.ON	14.9	21.5	22.4
PRE	3.5	5.6	11.2
Others	4.6	9.9	4.4

In the case of breaking down the market of electric energy supplies to eligible customers to the individual segments by consumption (or by customers who fall within the individual stages of electricity market opening), it can be estimated that for all customer groups as per the Energy Act there are three companies (ČEZ, E.ON and PRE) in the Czech Republic, whose share exceeds 5%.

#### Eligible customers

Electricity prices to eligible customers (all customers with the exception of households) are composed of regulated and unregulated items. Every year, the Energy Regulatory Office sets the regulated items – charges for the monopoly activities related to electricity transport from the generators over the transmission and distribution systems to the final customers, i.e. transmission and distribution services, system services, contributions to support for renewables and CHP, and the market operator's service of imbalance clearing. Electricity generation and imports and commercial activities related to electricity supply to final customers are not regulated and are fully subject to market mechanisms.

#### Structure of payments by eligible customers

The structure of payments for distribution, or transmission if the eligible customer is connected directly to the transmission system, is also composed of a standing charge and a variable component. For customers connected to the extra high voltage and high voltage levels the standing charge is a standing monthly charge for booked capacity, depending on the respective voltage level, in CZK/MW, while for small [low-demand] commercial customers connected to the low voltage level the standing monthly charge depends on the size of the circuit breaker (CZK/A). The variable component, in CZK/MWh, covers the cost of losses; bills to eligible customers also show the following separate items: the system service charge, contribution to support for renewables and CHP, and the charge for the market operator's service of imbalance clearing.

Eligible customers have the right to select their energy supplier, i.e. any entity holding an electricity generation licence or an electricity trading licence. For small commercial customers connected to the low voltage level the structure of most suppliers' energy quotation corresponds with that of the distribution rates, i.e. on the basis of the selected distribution rate, the customer receives an offer of the respective energy product quoted usually at CZK 850 to 1,100 per MWh in the low tariff rate period, and CZK 1,200 to 1,500 per MWh in the high tariff rate period.

In the case of large [high-demand] customers connected to the extra high voltage and high voltage levels, suppliers usually do not publish their energy offers; the customers receive offers quoting personalised prices based on their load profile and the prices of energy in each of the time bands on the wholesale market. These prices range from CZK 750 to

1,650 per MWh, depending on the time band and the terms and conditions of the supply. VAT needs to be added to the total resulting electricity price to eligible customers.

*The regulated part of the electricity price to **eligible customers** is as follows:*

Customer category		Small commercial customers		Industrial customers		
Annual consumption	MWh/year	50	50	24,000	24,000	
Maximum capacity	kW	50	50	4,000	4,000	
Voltage level connection	-	LV	HV	HV	EHV	
<b><i>Average charge for network services (transmission, distribution), without VAT</i></b>		<b><i>CZK/MWh</i></b>	<b><i>1,066.28</i></b>	<b><i>149.36</i></b>	<b><i>73.24</i></b>	<b><i>40.92</i></b>
Capacity booking / standing charge	CZK/MWh	-	91,350	91,350	43,797	
Network use / energy	CZK/MWh	-	58.01	58.01	33.62	
<b><i>Other regulated prices for services related to electricity supply, without VAT</i></b>		<b><i>CZK/MWh</i></b>	<b><i>215.88</i></b>	<b><i>215.88</i></b>	<b><i>215.88</i></b>	<b><i>215.88</i></b>
Charge for clearing by the market operator	CZK/MWh	4.63	4.63	4.63	4.63	
Contribution to renewables and cogeneration	CZK/MWh	39.45	39.45	39.45	39.45	
System services	CZK/MWh	171.8	171.8	171.8	171.8	
<b><i>Total regulated price</i></b>	<b><i>CZK/MWh</i></b>	<b><i>1,282.16</i></b>	<b><i>365.24</i></b>	<b><i>289.12</i></b>	<b><i>256.80</i></b>	

### **The degree of integration (affiliation) of generators and suppliers on the electricity market**

Seven vertically integrated companies which hold distribution licences (regional distribution companies), and also electricity trading licences, are the largest electricity suppliers. These suppliers have the obligation to supply protected customers for controlled prices within the areas they serve, and they also offer electricity to eligible customers. So far, most of eligible customers have been selecting the above companies as their electricity suppliers; the reasons are the relatively small number of active independent traders on the Czech market and the negligible differences in the supply prices offered. The share held by each of the regional suppliers is about 1/7 of total consumption, and the share held by the three largest suppliers is about 45%. Five of these seven regional suppliers are subsidiaries of the dominant generator. In 2005 these five regional distributors are being merged into a single company; in 2006 three companies emerging by separation from the original vertically integrated companies – regional distributors (ČEZ Prodej, s.r.o., E.ON Distribuce, a.s., and PRE, a.s.) will be the largest suppliers in the Czech Republic.

### **Number of traders independent of the TSO and the DSOs, who have entered the market after its opening**

Several (about ten) more important traders independent of regional distributors also operate on the market; their total market share is currently only several per cent of eligible customers' total consumption. So far, these suppliers have been offering electricity bought from smaller generators or imported from other countries mainly to large industrial customers. The reason has been the gradual opening of the Czech electricity market. Going forward, these suppliers' share of the low-demand customers and households can be expected to grow. More than 200 electricity trading licences have been granted in the

Czech Republic; however, most of the licensed traders are not active, or their share of the domestic market is negligible.

### **Estimated number of customers who have switched suppliers**

399 customers switched their suppliers in 2004. In connection with the market opening to another customer category on 1 January 2005, as many as 1,945 entities switched their suppliers over the first quarter of 2005. Since the beginning of the liberalisation of the market (2002) a total of 2,360 customers have switched their suppliers. A more detailed allocation of these customers to the various categories by consumption is not monitored at present.

### **Supplier switching procedure**

Eligible customers may choose their suppliers of energy. However, the physical transport of electricity takes place through the distribution or, as applicable, transmission system to which the customer is connected. For this reason, an eligible customer usually has two contracts in place, i.e. one agreement on distribution/transmission and one agreement on electricity supply.

*The distribution agreement* is executed between the eligible customer and the respective operator of the distribution/transmission system to which the customer is connected. These agreements are usually signed in perpetuity (they apply for as long as the taking of electricity lasts), and supplier switching does not affect them.

*The supply agreement* is executed between the eligible customer and his electricity supplier, i.e. an entity holding an electricity generation licence or an electricity trading licence. The terms and conditions governing the supply and billing of electricity, as well as the terms and conditions governing contract termination (including the relevant time limits and potential penalisation) are subject to a contractual relationship entered into under the Commercial Code. Energy legislation (the public notice on the electricity market rules) sets out the obligations of the various market participants (the eligible customer, electricity supplier, DSO, TSO, market operator); for supplier switching, the sequence of the steps to be taken and the applicable time limits are set out. The overall supplier switching process may not exceed forty days from the moment the customer files an application for a supplier change. No fees are charged to the customer for such supplier switching.

### **3.2.3 Measures to prevent abuse of the dominant position**

Under the Energy Act, electric energy generation is not regarded as a monopoly activity, and it is therefore not subject to price control. Every generator – regardless of its size or market share – has the right to use its produced electricity for its own needs, or to offer it to a trader or eligible customer in line with the electricity market rules as set out in energy legislation. Nor is the generator obligated to inform the public about its business strategies (planned quantity of electricity generation or price). Generators are only required to provide the operator of the transmission/distribution system to which they are connected with information on the planned generation and unused generating capacities, broken down by months, weeks and days, for the purposes of scheduling and, if necessary, addressing states of emergency in the system. The above obligation does not apply to some categories of small plants (small cogeneration units, certain renewable sources), in respect of which the generator only provides the DSO serving the respective area with data on the planned generation, without any detailed breakdown by days or hours.

## **Rules governing conduct of suppliers – provision of information, transparency**

Suppliers, i.e. electricity generation licence holders and electricity trading licence holders, have the right to develop their business strategies, including the energy supply prices to each of the customer categories. The terms and conditions governing the supply and billing of electricity, as well as the terms and conditions governing contract termination (including the relevant time limits and potential penalisation) are subject to a contractual relationship entered into by the supplier and customer under the Commercial Code, and are not specifically set out in energy legislation.

### **The so-called virtual power plant**

In view of ČEZ's dominant position on the wholesale electricity market, and also in view of the non-existence of a sufficient alternative to the electricity produced by ČEZ, the Office for the Protection of Competition has changed – in line with the amendment to the law on the protection of competition – the restrictions imposed in the interest of preserving effective competition, subject to which it had permitted the merger of ČEZ and five REAS. In lieu of the restriction consisting of the divestiture of one of the five REAS acquired, it has imposed a restriction consisting in the creation of the so-called virtual power plant, with the following specifications.

In 2006 and 2007 ČEZ shall, in accordance with the following principles, allow independent third parties access to its own electric energy generating capacity totalling 400 MW and situated in the Czech Republic, and allow them to take the electric energy produced in this generating capacity, under individual contracts and on the terms determined by the party to the proceedings [ČEZ] in advance.

- 1) The total generating capacity offered has been set at 400 MW, to be reduced to 240 MW in summer months (June, July and August). This capacity will be offered for take in eight 50-MW blocks, in summer months 30-MW blocks. The minimum size of one offtake from each individual block shall be 30 MW, in summer months 20 MW.
- 2) One-year term of the individual contracts for taking electric energy from the offered generating capacity has been set, i.e. for 2006 and for 2007.
- 3) The generating capacity will be offered in an auction organised by an independent auction agency, provided that all electricity market participants registered with Operátor trhu s elektřinou, a.s., who are independent of ČEZ in terms of ownership, finances and personnel, shall have access to this auction.
- 4) At the same time, ČEZ shall publish information in the daily press on the options for taking electric energy from the generating capacity on offer.
- 5) The price for the generating capacity on offer which will result from the auction shall cover the fixed and capital costs of the power plant's generating capacity. ČEZ shall have the right to set the minimum cost-plus asking price.
- 6) A part of the terms and conditions of the auction under 3) above shall be the price for energy. The price for energy shall be set by ČEZ in advance, on the basis of the actual costs and separately for base load generation and for peak load generation so as to correspond to the actual variable costs of electricity generation in the relevant types of ČEZ's power stations, while: *the base load energy price* shall correspond to the actual average variable costs of electricity generation in power stations covering primarily the base load; and *the peak load energy price* shall correspond to the actual average variable costs of electricity generation in marginal plants working in the peak or mid-merit mode.



The impacts of this restriction cannot yet be evaluated because its outcomes will only be felt in 2006.

**Major international electricity utilities operating on Czech markets**

<i>Foreign entity</i>	<i>Entity in the Czech Republic</i>
Veolia	Dalkia Česká republika, a.s.
Atel	ECK Generating s.r.o., Entrade s.r.o.
Electrabel	Electrabel, organisational component
International Power	Energotrans, a.s., Pražská teplárenská a.s., Elektrárny Opatovice, a.s.
EnBW	EnBW spol. s r.o.
RWE	Harpen ČR, s.r.o.
E.ON	JME, JČE
Petro Carbo Chem GmbH	MORAVA-CHEM, spol. s r.o.
MVV Energie AG	MVV Energie CZ s.r.o.
Enel	Slovenské elektrárne ČR, s.r.o.
Horizon Energy Development	United Energy, a.s.

## 4. Regulation and structure of the natural gas market

### 4.1 Regulatory issues

#### 4.1.1 Key information

In 2004 the amendment to the Energy Act, effective from 30 December 2004, and ERO Public Notice No. 673/2004, which sets out the gas market organisation rules, created the basic preconditions for adjusting the organisation of the gas market and starting the liberalisation process in the Czech Republic.

The most important document to be followed in putting these prerequisites in place was Directive 2003/55/EC of 26 June 2003 on the common rules for the internal natural gas market, which repealed Directive 98/30/EC.

In the EU accession treaty, the Czech Republic was granted a transition period for gas market opening until 31 December 2004. However, some other circumstances had to be taken into account, in particular the following:

- In the EU accession treaty, the Czech Republic was granted a transition period for gas market opening until 31 December 2004;
- The timetable of the opening of the national gas markets, which is set out in Directive 2003/55/EC, is much faster and more extensive than the timetable of the opening envisaged in Directive 98/30/EC (which actually did not envisage an obligatory full opening of the national gas markets);
- Because of the above transition period and the slower timetable of market opening in Directive 98/30/EC, and the corresponding provisions on the then timetable in the original Energy Act, in the amendment to the Energy Act the Czech Republic was unable to provide for the opening of its domestic market from the effective date of the amendment to make all final customers, with the exception of households, eligible customers from as early as 1 January 2005 without precipitating the need to equip all final customers, with the exception of households, with continuous metering - final customers' typical load profiles were non-existent at that time; such continuous metering would have been necessary for this degree of market opening, but it would have become useless for large numbers of customers at a later point in time, i.e. after the compilation of the typical load profiles. Equipping large numbers of customers with so costly continuous metering instruments would have certainly been reflected negatively in the prices for gas distribution and, in turn, in the total costs of gas procurement for all final customers.

Under the Energy Act all final customers taking more than 15 million cubic metres [mcm] of gas annually and all holders of licences for electricity generation in gas-fired thermal power stations, and those generating electricity in CHP plants to the extent of their gas consumption for such generation, became *eligible customers* on 1 January 2005. Other important milestones on the way to market liberalisation include January 2006 when all final customers, with the exception of households, will become eligible customers, and January 2007 when all final customers will become eligible customers and the gas market will be fully opened up, i.e. six months earlier than required by Directive 2003/55/EC.

The above suggests that in 2004 the natural gas market was still completely regulated. Its gradual liberalisation was launched at the beginning of 2005. On 1 January 2005 more than forty final customers for natural gas became eligible customers. Their consumption should

account for about 25% of total annual natural gas consumption in the Czech Republic. Approximately one-half of eligible customers have proactively sought their natural gas supplier via tender processes. None of the eligible customers has been able to find a new supplier to date as no additional gas trader had emerged on the Czech market by mid-2005. The entry of competitors is being complicated chiefly by the *de facto* unfeasible access to the underground gas storage [UGS] facilities in the Czech Republic, which are owned and operated by the RWE energy group.

In considering the resulting shape to be taken by Czech energy legislation, gas experts discussed, for a relatively long time and intensively, which activities would be regulated and which would not be subject to regulation. The outcome from these debates is the provision of the Energy Act which lays down that the Energy Regulatory Office shall regulate the charges for gas distribution, gas transmission to final customers in the Czech Republic, line pack, gas supply to protected customers, and for supplies of last resort. The other prices are prices negotiated between gas market participants. The details of the allocation of activities to regulated and unregulated and the timetable of gas market opening can be found in Section 55 of Act No. 458/2000, the Energy Act, as amended.

In accordance with the relevant provisions of Directive 2003/55/EC, the Energy Act describes in detail, in its new separate Section 61a, the option for a suspension of the respective licence holder's obligation to allow third-party access to the transmission system, distribution systems, UGS facilities, and upstream gas pipelines; the basis for such suspension is the trader's problems with take-or-pay contracts. The Energy Regulatory Office shall decide on a suspension of the obligation to allow third-party access on the basis of an application, the required essentials of which are defined in detail by the law. The law also lays down the criteria the Energy Regulatory Office must take into account in its decision-making and who the obligated party to the proceedings is. In accordance with Directive 2003/55/EC, the ERO's affirmative decision can be changed upon the Commission's request within eight weeks of the day of the delivery thereof.

#### ***4.1.2 Cross-border capacity management and allocation***

Thanks to its favourable geographical position the Czech Republic is a very important transit country for Russian natural gas flowing to western European countries. Under Section 64 of the Energy Act, the Balancing Centre is responsible for monitoring the planning, supply and consumption of gas and the capacities and performance of the transmission system, distribution systems and UGS facilities, in the form of summary balance overviews of the gas system.

##### **Cross-border physical flows**

On its publicly accessible website the Balancing Centre has published the following data:

“In 2004 the total quantity of natural gas at points of entry into the Czech transmission system amounted to **43,736.9 mcm** at 20 °C. The gas quantity at points of exit from the Czech transmission system amounted to **34,567.3 mcm** at 20 °C. The Czech Republic is supplied with natural gas by imports from Russia under an agreement between the gas company RWE Transgas, a.s. and Gazexport, and by regular gas deliveries taking place under an agreement with a consortium of Norwegian companies. In 2004 total natural gas purchases (imports) to meet the Czech Republic's needs amounted to **9.014 bcm** at 20 °C.”

RWE Transgas, a.s., which holds the exclusive licence for gas transmission in the Czech Republic, provided for natural gas transmission across the Czech Republic under long-term

agreements in place with Gazexport Moscow, Verbundnetz Gas AG Leipzig, and Wintershall AG Kassel. The current capacity of the transmission system is such that neither physical nor commercial congestions occur.

Under the public notice on the gas market rules, the TSO is obligated to publish, and update at least once a month, the following information on its website:

- The annual plan of shutdowns of the various parts of the transmission system and a maintenance plan, which may have impacts on the size of transmission capacities;
- A long-term plan for the reinforcement of the transmission system, bringing about an increase in transmission capacities;
- The size, quantified, of the technical, total contracted, and free capacities for all pairs of entry/exit points.

Owing to sufficient transmission capacities, no secondary market has been set up in the Czech Republic. The gas market rules nevertheless define a procedure whereby it is possible to transfer, free of charge, contracted capacities between shippers, provided that such transactions must be notified to the TSO 15 days in advance.

#### **Capacity congestion (national/cross border)**

Should commercial capacity congestion occur at the transmission system entry points on the national border or at the transmission system exit points (which are also virtualised points of entry to the balancing zones), the public notice defines the following priorities for capacity allocation:

- 1) transmission capacities used for supplies to protected customers;
- 2) transmission capacities required in requests for the extension of existing gas transmission obligations, without increasing the contracted transmission capacity;
- 3) transmission capacities required in requests for the execution of a multi-annual gas transmission agreement, depending on the term of the agreement, provided that agreements for a term of more than five years are regarded as equal (this criterion may only be first applied in 2007).

In the case of capacity congestion in respect of requests having the same priority, the requirements are allocated on a *pro rata* basis. Requirements that are not, partly or wholly, met by firm capacity are further guaranteed by the TSO as partly or fully interruptible capacities. The TSO has the right to offer interruptible capacity only in cases of capacity congestion. Interruptible capacity is subject to the same charge as firm capacity. In the event of interruption the TSO grants a discount, which is specified in the TSO's Grid Code approved by the Energy Regulatory Office.

#### **Transit**

Once a year, the Energy Regulatory Office sets the rate for gas transmission in the Czech Republic for final customers in the Czech Republic, on the postage stamp principle; the remaining gas transmission is not included among the activities subject to regulation by the Energy Regulatory Office.

### **4.1.3 The TSO and the DSOs**

#### **Transmission system operator**

There is only one TSO in the Czech Republic, namely RWE Transgas, a.s. Connected to the transmission system are the eight gas distribution companies to whose facilities more than 90,000 final customers are connected. In addition, 128 smaller gas distribution licence holders operate on the Czech market.

The transmission system consists of an integrated set of very high pressure and high pressure gas pipelines, compressor stations and related process equipment and facilities, including the control and protection systems and facilities for data transmission for the operation of computers and information systems, which is interconnected with gas systems in other countries and with the help of which the gas transmission licence holder carries out gas transmission. Because of this system's strategic importance for the Czech gas industry only one gas transmission licence – under Section 4, subsection 3 of the Energy Act – has been granted as an exclusive licence covering the whole Czech Republic. Under this licence its holder – the TSO – is responsible both for transmitting the gas intended for final customers in the Czech Republic and for international gas transmission via the territory of the Czech Republic. While the transmission of the gas intended for final customers in the Czech Republic is a regulated activity, gas transmission across the Czech Republic is not subject to price control by the Energy Regulatory Office.

The TSO's basic obligations include, in particular, to ensure the operation and further development of this system; put in place non-discriminatory conditions for connection to the transmission system; ensure equal conditions for third-party access to the system (the law precisely defines the conditions under which the meeting of this obligation may be rejected and under which it may not be rejected); ensure gas transmission under executed agreements; keep separate accounts for gas transmission; draw up, submit to the Energy Regulatory Office for approval, and then publish the TSO's Grid Code; etc. Several final customers who had the status of protected customers until 31 December 2004 are connected to the transmission system, and the law therefore imposed on the TSO the obligation to supply these customers with gas at controlled prices and the prescribed level of quality. However, this obligation was limited in time to the end of 2004; since that date, the TSO has been obliged to make gas transmission for supplying these customers possible for the respective gas trading licence holders.

At the time of drafting the law an option was sought for making it possible in the future, after the completion of the process of the Czech gas industry's privatisation and the liberalisation of the Czech gas market, to ensure the diversification of gas supplies to the Czech Republic. A solution was found: to impose on the TSO the obligation to put in place the requisite technical infrastructure for importing gas from different sources.

Since unlike the electricity industry no independent market operator has been set up in the gas industry it is, under the law, the TSO who is responsible for clearing the imbalances between gas quantities entering the gas system and those exiting from the system.

The TSO's rights and obligations are described in Section 58 of Act No. 458/2000, the Energy Act, as amended. The details can be found in Sections 4, 5, 6, 7, and 8 of Public Notice No. 673/2004, which sets out the gas market organisation rules.

## **Distribution system operators**

DSOs have licences covering their respective delineated areas, in which they are obligated to provide for the safe and reliable operation and the further development of the distribution system, and to connect everyone who requests so and meets the statutory conditions for connection to the system. They are also obligated to allow, under the conditions stipulated in the law, third-party access to the system they operate. The law precisely defines the conditions under which the meeting of this obligation may be rejected and when this is not allowed. In setting out the conditions for connection to their distribution systems and for gas distribution over these systems, the DSOs must treat all gas market participants even-handedly and may not put any of them at an advantage (even if the operator is affiliated with a participant). As regards the DSOs' obligation to supply gas to protected customers under existing contracts for controlled prices and at the required level of quality, this obligation was limited by the last day of 2004. After 1 January 2005 it has therefore been necessary to define precisely the cases when a gas distribution licence holder may buy gas without the purchase being viewed as gas trading and when it must, for the purpose of ensuring supplies to the protected customers whose gas consuming equipment is connected to the system this licence holder operates, enter into an agreement on gas distribution with the respective gas trading licence holder. Another important obligation of the DSOs is to draw up, submit to the Energy Regulatory Office for approval, and publish their Rules of Distribution System Operation and the obligation to provide the TSO with the data required for imbalance clearing.

DSOs' rights and obligations are described in Section 59 of Act No. 458/2000, the Energy Act, as amended. The details can be found in Sections 9, 10, 11, 12, and 13 of Public Notice No. 673/2004, which sets out the gas market organisation rules.

## **Gas Dispatch Centres and the Balancing Centre**

Complying with the obligation imposed on them by Act No. 458/2000, in February 2001 the eleven most important Czech gas businesses set up a Central Gas Dispatch Centre [CGDC] under an association agreement. Since the CGDC carried out the function of a balancing statistical unit rather than that of dispatch control, in Act No. 670/2004 it was transformed into the Balancing Centre while preserving the principles on which it had been set up and working. The main activities of the Balancing Centre, which is not a gas market participant, include, under Section 64 of the Energy Act, the monitoring of gas supply and consumption planning with a view to drawing up overall balance overviews of the gas system and providing them to state administration authorities and gas undertakings. The details of the Balancing Centre's activities are specified in Public Notice No. 114/2005.

Under the law, the various gas undertakings are obligated to set up and operate technical dispatch centres; these cooperate with each other in line with the rules of the Czech Gas System Dispatch Rules with a view to ensuring a safe and reliable operation of the gas system and a balance between gas sources and gas consumption.

## **Network tariffs**

The key principles of the pricing of gas transmission for final customers in the Czech Republic and gas distribution; the data and information required from regulated entities; the method of evaluating such data; the basic instruments for supporting efficiency; and the

length of the regulatory period – all of these questions have been answered in the section on the electricity industry (see 3.1.3); they are the same for both industries.

The transmission rate has been designed on the postage stamp principle and applies to all routes (pairs of entry/exit points) in the transmission system, with the exception of transmission from the national border points to virtual UGS facilities of the respective operators (2) – this transmission is provided free of charge. In respect of contracted capacity, shippers are allowed a 2% tolerance within which exceeding the contracted capacity is not penalised. The transmission rate is comprised of one component only, and it relates to the contracted transmission capacity. The Energy Regulatory Office has set the transmission rate for inland transmission at CZK 23,059/1,000 cu m/day/year for 2005.

The distribution rates are double-component rates. One component, the standing charge, relates to the distribution capacity booked at the customer's gas supply point for the large- and medium-offtake customer categories. For the low-offtake and household categories, where the metering instruments cannot evaluate output, the standing charge has the form of the monthly standing charge. For all customer categories, the variable component of the distribution rate relates to the total quantity taken. Depending on the quantities they take, customers in a category are included in different offtake bands.

#### **Average prices for each of the Czech customer categories**

On the basis of the data known for 2004, the categories of Czech customers have been converted so as to match the Eurostat definitions (the prices are shown in CZK and without VAT) as follows: **I4-1** – CZK 499.79/MWh; **I1** – CZK 552.86/MWh; **D3** – CZK 665.85/MWh.

#### **Clearing imbalances**

The Energy Act and Public Notice No. 673/2004 set out the gas market organisation rules. From the functional point of view, the market model includes the following activities: gas transmission, gas distribution, gas storage, contracts, nominations, commercial balancing of imbalances, physical balancing of imbalances, metering and aggregation of readings, and imbalance evaluation and settlement.

The market model's characteristics are based on the following principles: regulated access to the transmission system and distribution systems, negotiated access to storage, eight balancing zones (notional exit points from the transmission system), entry points identical with the national border points, virtual storage facilities (one per operator), capacity contracting by pairs of entry/exit points, and the regime of daily balancing and physical balancing of the system by the TSO. The above public notice also contains a detailed description of the principles of nominations and renominations by the various balancing entities, and physical and commercial balancing, including the subsequent evaluation and settlement of imbalances.

The Czech Republic currently applies the regime of daily transmission system balancing, while at the level of the distribution companies, when constant pressures are maintained at the delivery points between the balancing zones and the transmission system, no balancing takes place.

Balancing entities send their nominations to the TSO for registration by 1 p.m. on every day before the beginning of the gas day on which the delivery is to take place. Subsequently, the TSO verifies the nominated values and by 2 p.m. notifies the balancing

entities whether their nomination has been accepted. If the TSO has not accepted the nomination the balancing entity has an opportunity to send an amending nomination by 3 p.m. After evaluation (by 5 p.m.) the TSO notifies the final nominations to the various distributors and UGS operators.

Balancing entities also have the right to send renominations of their daily profiles to the TSO by 7 p.m. and by 11 p.m. on day D-1. The TSO verifies the renominated values and notifies each of the balancing entities by 9 p.m. on day D-1 and by 1 a.m. on day D. Balancing entities may also send their requests for renominations to the TSO during the day on which the delivery is taking place, however, not later than two hours before the required change. Renominating after 9 a.m. on day D is subject to the renomination charge, which has been set by the Energy Regulatory Office at CZK 800.

The TSO is responsible for the physical balancing of the system; the TSO has a limited quantity of gas in excess of the line pack for physical balancing needs.

As regards commercial balancing, the balancing entities are responsible for balancing their supply to/take from the gas system within one gas day. A balancing imbalance arises upon a failure to maintain the balance between gas at the entry and gas at the exit.

In respect of contracted transmission capacity, the TSO allows all balancing entities a balancing tolerance, within which the balancing entity is not penalised and which is calculated using the following formula:

$$B_t = [0.0151 \times N_c + 0.0248 \times (K_{sc} - N_c)],$$

where

$K_{sc}$  is the sum of all daily booked firm or interruptible capacities of the balancing entity agreed in a contract (contracts) at each of the exit points, in MWh,

$N_c$  is the sum of all nominations of this balancing entity at each of the exit points for the respective gas day, in MWh.

When this tolerance is exceeded, the so-called off-tolerance balancing imbalance arises, which is subject to a charge set by the Energy Regulatory Office in its price decision.

The charge for an off-tolerance balancing imbalance,  $P_b$  is calculated using the following formula:

$$P_b = C_b \times (|V_s - V_y| - B_t),$$

where

$V_s$  is the sum of the actual gas quantities of the balancing entity at all transmission system entry points, in MWh, for the respective gas day,

$V_y$  is the sum of the actual gas quantities of the balancing entity at all transmission system exit points, in MWh, for the respective gas day,

$B_t$  is the balancing tolerance in MWh.

**The fixed price** for an off-tolerance balancing imbalance,  $C_b$  is **CZK 106.60/MWh**.

Balancing entities must also keep the values nominated to the TSO within a gas day. A failure to keep the nominated gas quantity at the exit from the transmission system gives rise to a nomination imbalance. Nevertheless, the Energy Regulatory Office has set a nomination tolerance for these cases too. It is calculated as follows:



$$N_t = [0.0906 \times N + 0.1488 \times (K_s - N)],$$

where

$K_s$  is the sum of all daily booked firm or interruptible capacities of the balancing entity agreed in a contract (contracts) at the respective exit point, in MWh.

It applies at the same time that the charge for an off-tolerance nomination imbalance,  $P_o$  is calculated as follows:

$$P_o = C_o \times (|K_r - N| - N_t),$$

where

$K_r$  is the balancing entity's actual daily capacity at the respective exit point for the respective gas day, in MWh,

$N$  is the balancing entity's nomination for the respective exit point for the respective gas day, in MWh,

$N_t$  is the nomination tolerance in MWh.

**The fixed price** for an off-tolerance nomination imbalance,  $C_o$  is CZK **53.30/MWh**.

The Energy Regulatory Office has determined the coefficients for calculating the balancing and nomination tolerances on the basis of an analysis of the line pack in the transmission system.

For the physical balancing of the transmission system, fixed prices for the missing balancing gas and the excess balancing gas have been set for the first quarter of 2005 at CZK **890.24/MWh** and CZK **222.56/MWh**, respectively.

The details on the clearing of imbalances can be found in Sections 18 to 22 of Public Notice No. 673/2004, which sets out the gas market organisation rules.

#### ***4.1.4 Access to UGS facilities, line pack and other ancillary services***

##### **The gas storage regulation system**

The number of suitable sites is limited and the development of new underground gas storage facilities is a capital-intensive venture, and therefore the number of storage system operators will also be limited (for more details please see Section 60 of the Energy Act). Under the Energy Act, the Czech Republic applies negotiated access to storage. This is why the Energy Regulatory Office does not regulate gas storage prices, despite the fact that almost all storage capacities located in the Czech Republic are controlled by a single entity. The Energy Regulatory Office does not even have the competencies to exert any influence on its activities through approval of the SSO's Code.

Public Notice No. 673/2004, which sets out the gas market organisation rules, enjoins the operators of virtual storage facilities to offer "bundles" of services (SBU) for the whole virtual storage facility, to which the required injection and withdrawal capacities and their interruptibility or otherwise, and subsequently the opportunity for assigning capacities, are tied.

## **Types of the main gas storage facilities and services offered**

Since the maximum daily offtake on cold winter days exceeds two times the maximum daily volume of imported gas, customers in the Czech Republic are vitally dependent on storage service providers.

In 2004, **986** mcm of gas was stored in and **1,081** mcm of gas was withdrawn (20 °C) from foreign UGS facilities, while **1,322** mcm and **1,874** mcm (15 °C) was stored in and withdrawn from domestic storage facilities, respectively.

In terms of access to underground gas storage, one virtual storage facility has been introduced for each storage system operator. There are three types of UGS facilities in the Czech Republic: developed in aquifers, in depleted natural gas fields, and in a granite cavern. Their numbers are as follows: aquifer, 1; depleted fields, 5; and a cavern, 1.

## **Legal status of the underground gas storage operator**

RWE Transgas, a.s. owns and operates six underground gas storage facilities in the Czech Republic, and as a storage system operator (SSO) it is still a part of the vertically integrated gas company. The Uhřice UGS facility is owned and operated by Moravské naftové doly, a.s., but its capacity is fully and exclusively used by RWE Transgas, a.s. at present. The Dolní Bojanovice UGS facility, operated by SPP Bohemia, a.s., is fully used to meet the Slovak gas industry's needs, and works as a bonded warehouse. It is therefore not included in the above data on quantities.

### **The SSO's Code – rules and conditions**

An underground gas storage operator is also obligated to: draw up and publish its SSO's Code; once a year, by 1 March of the following calendar year, draw up a report on the quality and standard of maintenance of the UGS equipment and provide this report to the Ministry of Industry and Trade and the Energy Regulatory Office.

The rights and obligations of underground gas storage system operators are specified in more detail in Section 60 of Act No. 458/2000, the Energy Act, as amended. The details can be found in Sections 14, 15, and 16 of Public Notice No. 673/2004, which sets out the gas market organisation rules.

### **4.1.5 Effective gas market unbundling**

The provisions on unbundling of Directive 2003/55/EC on the common rules for the internal natural gas market have been implemented, *inter alia*, in Czech law similarly as in the electricity industry. They are primarily Articles 9, and 13 to 17 of Directive 2003/55/EC.

The Energy Act, as amended, lays down in its Section 58a that where the transmission system operator is a part of a vertically integrated gas undertaking, it shall be independent, in terms of its legal form, organisation and decision-making, of any other activities not relating to gas transmission, storage and distribution. Under Directive 2003/55/EC, these provisions were to be effective as from 1 July 2004, but at that time the Czech Republic did not have in place any legal regulation containing such a requirement; Act No. 670/2004 (the amendment to the Energy Act) entered into force as late as 30 December 2004 and therefore it would have been very difficult to demand the meeting of such a requirement, complicated in both legal and accounting terms, immediately from the above Act's effective date; for this reason, and also in view of certain ties of this requirement to the

beginning and end of an accounting period, the date of 31 December 2005 was set as the deadline for carrying out the requirement.

Similarly, under Section 59a of the amended Energy Act, where the distribution system operator is a part of a vertically integrated gas undertaking it shall, from 1 January 2007, be independent in terms of its legal form, organisation and decision-making of any other activities not relating to gas distribution, gas transmission and gas storage.

The Energy Act does not constrain any of these two operators in respect of the way of effecting their legal unbundling; the Energy Act even stipulates that this requirement shall not be deemed to mean a requirement to separate the ownership of the operator's assets intended for regulated and unregulated activities. The basic requirement therefore is that these activities, the simultaneous carrying out of which will henceforth be not allowed under the Energy Act, be carried out by different juristic persons.

Legal unbundling may not be effected arbitrarily; at the end of the unbundling process there must emerge an independent juristic person that carries out a regulated activity and that must be prevented from participating in the management of or control over a different person whose object of business is any of the incompatible activities. Several provisions of the Energy Act serve for achieving these limitations. These provisions prohibit the simultaneous holding by the system operator, of a business authorisation for the regulated activity and a business authorisation for the incompatible activity as from the date set as the effective date of the unbundling. To prevent a system operator from controlling or managing, even indirectly, a juristic person that carries out an activity incompatible with its regulated activity, the Energy Act lays down that as from the effective date of the legal unbundling the system operator may not hold interests in other juristic persons authorised to carry out activities incompatible with the system operator's activity; from that same date, it shall not enter into any controlling agreements aimed at subjecting such other persons to unified control, nor may it continue in such control under controlling agreements already executed.

With a view to the meeting in practice of the Directives' requirements for the functional unbundling of operators and organisational unbundling of management within vertically integrated gas undertakings the Energy Act lays down, in its Sections 58a and 59a, that the persons responsible for the system operator's management may not, directly or indirectly, participate in the organisational structures of the vertically integrated gas undertaking directly or indirectly responsible for the day-to-day operation of gas production, or gas or electricity trading. This requirement is further specified so that the position of a statutory body or a member thereof, or an authorised officer or manager of the system operator may not be held by a natural person who at the same time is a statutory body or a member thereof, or an authorised officer or manager of a holder of a licence for the above incompatible activities which is a part of the same vertically integrated gas undertaking. The system operator shall also take any and all appropriate measures to ensure that the professional interests of any statutory body or a member thereof, or an authorised officer or manager responsible for the management of the respective system operator are taken into account in a manner that ensures that they act independently. The Energy Act explicitly stipulates that a statutory body or a member thereof, or an authorised officer or manager of the system operator may not receive any emoluments or any other pecuniary consideration from holders of licences for the above incompatible activities which are part of the same vertically integrated gas undertaking; and further that the above persons' emoluments may not be dependent on the results achieved by any of those other licence holders within the same vertically integrated gas undertaking. Part of these constraints on system operators'

management is also a ban under which as from the date set for effecting legal unbundling, the above specified persons may not hold equity interests exceeding 1% of registered capital in any other juristic person within the same vertically integrated gas undertaking which is a holder of a licence for activities incompatible with regulated activities.

As a crucial requirement the Energy Act stipulates that the system operator shall have effective decision-making rights in relation to the assets needed to operate, maintain and develop the distribution system, such rights being independent of the vertically integrated gas undertaking; the parent company may not issue to the system operator any instructions for the day-to-day operation and maintenance of the system and may not intervene in any other way in the decisions concerning the construction or modernisation of any part of the system, unless such a decision goes beyond the scope of the agreed financial plan or any other such instrument. Excluded, and preserved for the parent company, from the above limitations on the business management of subsidiaries that are system operators is the parent company's right to approve the system operator's annual financial plan or any other such instrument and approve its maximum debt limits.

### **Compliance programme, the role of the compliance officer**

In line with the requirements of the Directives, operators are obliged to draw up and publish a compliance programme, and they are also obliged to provide it to the Ministry of Industry and Trade and the Energy Regulatory Office, however, not for the purpose of approval. A system operator shall also prepare, on an annual basis, reports on the measures adopted and on the general performance of the compliance programme for every calendar year, and to publish this report. Under their compliance programmes system operators have undertaken to set up the position of the compliance officer, whose main task will be to ensure that the compliance programme is implemented, and to check performance under the programme, in the companies.

### **Whether ownership unbundling has been implemented**

The Energy Act requires that the TSO, RWE Transgas, a.s., be unbundled as from 1 January 2006.

As regards the gas DSOs, they are all at the stage of preparations, and the legal unbundling of regulated and unregulated activities will be carried out in 2006 so that the obligation is carried out by 1 January 2007.

In respect of the obligation to unbundle DSOs, the lawmakers have used the option granted to the EU member states in Directive 2003/55/EC and limited the legal and functional unbundling obligation to only those operators to whose distribution system more than 90,000 gas supply points of final customers are connected.

### **Ownership structure of the TSO and DSOs to which more than 90,000 gas supply points of final customers are connected:**

#### **Transmission system operator:**

**RWE Transgas, a.s.** 100% held by RWE Gas International B.V.

**Operators of distribution systems to which more than 90,000 gas supply points of final customers are connected:**

**Pražská plynárenská, a.s.:** 50.20% held by Pražská plynárenská Holding, a.s.; 49.24% held by RWE Gas International B.V.; 0.56% held by other shareholders.

**Jihomoravská plynárenská, a.s.:** 47.65% held by RWE Gas International B.V.; 43.73% held by E.ON Czech Holding AG; 2.46% held by RWE Transgas, a.s.; 2.33% held by SPP Bohemia, a.s.; 3.83% held by other shareholders.

**Západočeská plynárenská, a.s.:** 47.87% held by E.ON Czech Holding AG; 45.81% held by RWE Gas International B.V.; 4.28% held by RWE Transgas, a.s.; 0.90% held by GDF International; 1.14% held by other shareholders.

**Středočeská plynárenská, a.s.:** 49.59% held by RWE Gas International B.V.; 30.96% held by Wintershall Erdgas Beteiligungs GmbH; 14.27% held by Ruhrgas Energie Beteiligungs AG; 1.71% held by GDF International; 1.60% held by RWE Transgas, a.s.; 1.87% held by other shareholders.

**Severomoravská plynárenská a.s.:** 40.06% held by RWE Gas International B.V.; 20.53% held by SPP Bohemia a.s.; 18.09% held by RWE Transgas, a.s.; 9.57% held by E.ON Czech Holding AG; 8.52% held by Slovenský plynárenský priemysel, a.s.; 3.23% held by other shareholders.

**Východočeská plynárenská a.s.:** 47.09% held by RWE Gas International B.V.; 18.83% held by SPP Bohemia a.s.; 16.52% held by E.ON Czech Holding AG; 9.99% held by Slovenský plynárenský priemysel, a.s.; 3.17% held by GDF International; 2.95% held by RWE Transgas, a.s.; 1.45% held by other shareholders.

**Severočeská plynárenská, a.s.:** 51% held by RWE Gas International B.V.; 25.62% held by VNG-Erdgascommerz GmbH; 20.20% held by Wintershall Erdgas Beteiligungs GmbH; 1.14% held by GDF International; 0.82% held by RWE Transgas, a.s.; 1.22% held by other shareholders.

**Jihočeská plynárenská, a.s.:** 46.66% held by RWE Gas International B.V.; 30.15% held by KVINTA podílnická plyn., s.r.o. České Budějovice; 12.87% held by E.ON Czech Holding AG; 5.64% held by Oberösterreichische Ferngas AG Linz; 3.29% held by Buderio a.s.; 1.39% held by other shareholders.

**Organisational unbundling – whether the TSO and DSOs are physically located separately from both the production and supply affiliates**

The gas companies that are controlled by RWE Gas International B.V. and RWE Transgas, a.s. therefore continue to be juristic persons that carry out both gas distribution and gas trading. As such, they are not legally unbundled; prior to legal unbundling they therefore have separate organisational units for gas distribution and gas trading within the company itself, i.e. in terms of their internal organisational structure. Basically the same applies to the TSO, RWE Transgas, a.s.

### **The presentation of the TSO and DSOs to customers (company logos, websites)**

As regards the TSO and the DSOs that are controlled by the RWE group, 1 April 2005 saw their re-branding. As part of the re-branding exercise there have been changes in the various distribution companies – since April 2005 they have ‘RWE’ in their name, and they are also changing their visual presentation. The unifying element of the RWE brand clearly identifies affiliation with the RWE group of businesses. These DSOs will therefore henceforth use the same logo as the TSO. This process has also involved a change in the name and logo of the TSO, at the same time a gas trader, which will henceforth use the name RWE Transgas, a.s. and the logo of its parent company, i.e. RWE Gas International B.V., which holds a 100% interest in the TSO.

Jihočeská plynárenská, a.s. and Pražská plynárenská, a.s., in which RWE does not hold majority interests, do not present themselves to the other market participants in a fashion that would clearly indicate the group with which they are affiliated. Nevertheless, each one of them continues to present itself as a single entity, because their distribution and trading parts have not yet been unbundled.

### **Rules on the compilation of regulatory reports**

Section 20 of the Energy Act provides for the obligations pertaining to keeping separate accounts and to reporting. Under these provisions the respective system operator must specify in its chart of accounts, the accounts for recognising the costs, revenues and profit/loss for each of its licensed activities and its activity as a supplier of last resort, in accordance with the relevant implementing legal regulation. In its chart of accounts, the TSO must also specify the accounts for recognising the assets of each of the licensed activities in accordance with the implementing legal regulation.

For the accounting period beginning on 1 January 2005, a gas trader shall specify in its chart of accounts, the accounts for recognising the costs, revenues and profit/loss for gas supply to protected customers and the accounts for recognising the costs, revenues and profit/loss for gas supply to eligible customers if under the special part of the Energy Act it supplies gas to protected customers. The particular traders who are, under the Energy Act or the ERO’s decision, obligated to carry out the activity of a supplier of last resort, shall specify in their chart of accounts the accounts for recognising the costs, revenues and profit/loss for the activity as the supplier of last resort. Furthermore, for the accounting period beginning on 1 January 2005 individual entities shall specify in their chart of accounts the accounts for recognising the costs, revenues and profit/loss for the other activities they do not pursue under a licence granted by the Energy Regulatory Office.

For the purposes of price control, system operators and other entities whose business is subject to regulation by the Energy Regulatory Office must compile regulatory reports and submit them to the Energy Regulatory Office by 30 April of the following calendar year for the preceding accounting period. An implementing legal regulation specifies the content and structure of the regulatory reports, including the model forms thereof, and the rules for compiling them.

The Energy Regulatory Office is authorised to issue implementing legal regulations relating to the provisions on accounting unbundling. Today, this implementing legal regulation is ERO Public Notice No. 439/2001, which sets out the rules for keeping separate records of sales, expenditure and revenues for the purposes of regulation and the rules for allocating the costs, sales and return on capital employed in the energy sector. The

Energy Regulatory Office is currently drafting a new public notice, which will reflect the changes stemming from the implementation of Article 17 of Directive 2003/55/EC into the Energy Act.

The outcomes of accounting for the costs, revenues and profit/loss for vertically integrated gas undertakings' individual activities are not, separately as such, subject to an obligation of audit carried out by auditors in the sense of the examination of annual financial statements or consolidated annual financial statements, or annual reports or consolidated annual reports, under Czech legal regulations. They are included in the audit of annual financial statements or consolidated annual financial statements as a whole.

Similarly, there exists no obligation for publishing unbundled accounts. There only exists the obligation to publish annual reports containing results for the whole company, and this obligation applies to certain legal forms of juristic persons. However, in relation to the Energy Regulatory Office the respective system operator or a different obligated entity shall compile regulatory reports and submit them by 30 April of the following calendar year for the preceding accounting period.

### **Inspections**

Similarly as in the electricity industry, inspection and penalisation powers are vested in State Energy Inspectorate, which may impose fines of up to CZK 50 million, depending on the gravity of the delict, in cases of a breach of the Energy Act's provisions that provide for the functional and accounting unbundling obligation.

Should the Energy Regulatory Office find that a system operator, or another entity obliged to observe the provisions on accounting unbundling in the carrying out of its activities, seriously violates the legal regulations pertaining to such activities, it may revoke that entity's licence or, if the entity fails to remedy the situation by the time specified in a decision issued by the Energy Regulatory Office, the Energy Regulatory Office will impose a fine under Act No. 526/1990, the Price Act, as amended.

## **4.2 Issues of the protection of competition**

### **4.2.1 Structure of the wholesale and retail markets**

The Energy Regulatory Office or the other state administration authorities are unable to provide a relevant analysis of the structure of the wholesale and retail natural gas markets, because in 2004 the gas market was still closed, and market participants therefore could not compete against each other.



## 5 Security of Supply

### 5.1 The electricity market in 2004

The grid experienced the annual peak demand in December 2004, with a net consumption of 10,157 MW (11,040 MW when network losses are included). The country's total electricity consumption in 2004, including network losses, was 61.7 TWh. No marked increase in consumption or peak demand can be expected in the next few years; retail customers' rising electricity consumption is compensated by savings and energy intensity reductions in industry. Annual increases in consumption between 2005 and 2010 are estimated at 1.2 to 1.7%.

On 1 January 2005 the installed capacity of power stations in the Czech Republic totalled 17,434 MW; approximately 58% of power stations' output is connected directly to the transmission system and 42% to the distribution systems.

The current structure of generation capacity by the size of installed capacities is as follows:

- 10,705 MW coal-fired power stations (61.4%),
- 3,760 MW nuclear power plants (21.6%),
- 2,159 MW hydroelectric power stations, including pumped storage (12.4%),
- 790 MW gas-fired and combined cycle power stations (4.5%),
- 20 MW alternative capacities – wind, photovoltaics, etc. (0.1%).

In comparison with 2003, the installed capacity of coal-fired power stations, including cogeneration, increased by 55 MW. Furthermore, the installed capacity of gas-fired and combined cycle power stations increased by 15 MW and the installed capacity of hydroelectric power stations and wind power stations increased each by 10 MW. The total annual increase in the installed generation capacity in the grid amounted to 90 MW.

There are no expectations of the building of a new major plant having an installed capacity of over 50 MW and firing fossil fuels or using nuclear energy in the next three years. However, in connection with the new law on renewable sources, which will enter into force in August 2005, the development of a larger number of plants using renewable sources and having smaller unit capacities can be expected. Under the conditions prevailing in the Czech Republic the development of biomass firing in local CHP plants has the most promising prospects; to a limited extent, new small hydroelectric power stations and wind power stations can also be expected. The Czech Republic does not have suitable conditions (potential) for the other renewable sources (photovoltaics, geothermal energy). On the whole, the construction of up to several hundreds of MW of capacity generating electricity from renewable sources can be expected in the next few years.

The building of a new electricity generating plant may be started upon obtaining a construction permit issued by the planning office having the relevant local jurisdiction. One of the main preconditions for issuing a construction permit is the submittal of an expert study proving that the new plant will not have negative environmental impacts. In the case of electricity generating plants having a total installed capacity of 30 MW and more, there is also the need to obtain an authorisation for the construction, which is issued by the Ministry of Industry and Trade in line with the National Energy Policy.

An electric energy generator has the right to connect its plant to the grid subject to obtaining an electricity generation licence from the Energy Regulatory Office, and subject to the connection conditions defined in the relevant energy legislation and the rules for the operation of distribution systems or, as applicable, the transmission system (the Grid Code). A precondition for obtaining an electricity generation licence is, in particular, obtaining the permit to commission the plant and proving the professional competence and financial standing to operate the energy generating plant.

In general, the national budget does not provide support for investment in new generating capacity; however, certain subsidies can be obtained from governmental and non-governmental agencies and funds, subject to the required conditions. For plants having an installed capacity of up to 1 MW the generator may benefit from tax holidays for the first five years of operation.

In respect of all renewable sources, with the exception of biomass and fossil fuel co-firing, and also for up to 5 MW CHP, support exists in the form of the minimum purchase prices for which the distribution system operator serving the respective area, or the transmission system operator, must buy the electricity generated. In respect of biomass and fossil fuel co-firing and also over 1 MW CHP units the operator can ask the distribution system operator serving the respective area, or the transmission system operator, for a premium to the market price of the electricity it has sold directly to an eligible customer or trader (1 to 5 MW CHP operators may choose between support in the form of minimum purchase prices or in the form of the premium to the electricity market price). The new law on support for renewable sources makes it possible from 2006 also for operators of renewable sources to opt between minimum purchase prices and the premium.

There are currently no bottlenecks in the Czech Republic's internal "backbone" electric grid, and the system is capable of transmitting the required quantities of electricity; there is therefore no need for building new lines at the transmission system level. It is only as a precautionary measure that the TSO is reinforcing the existing lines, for example replacing single-circuit lines with double-circuit lines or with high transmission capacity conductors.

However, the need to build lines for connecting new generating capacities, mainly at the distribution system level, can be expected in the future. An illustrative example is renewable sources, for example wind farms, the development of which is planned for areas currently having a relatively low density of networks.

In the next few years, the Czech TSO is not planning to build any **new cross-border lines; the reason is the neighbouring TSOs' insufficient domestic transmission capacities.**

An overview of planned investment is contained in the appendix.

## 5.2 The gas market in 2004

Supplying the Czech Republic with natural gas was smooth throughout 2004, continuously at the first gas offtake degree and the first heating profile as defined in Public Notice No. 167/2001 on states of emergency in the gas industry.

As regards natural gas sources, imports are of vital importance for the Czech Republic. RWE Transgas, a.s. imports gas from Russia and Norway under long-term, 15-year and 20-year, contracts. Production from indigenous sources accounts for only about 0.5% of the total volume of supplies.

### Natural gas sources and consumption in the Czech Republic

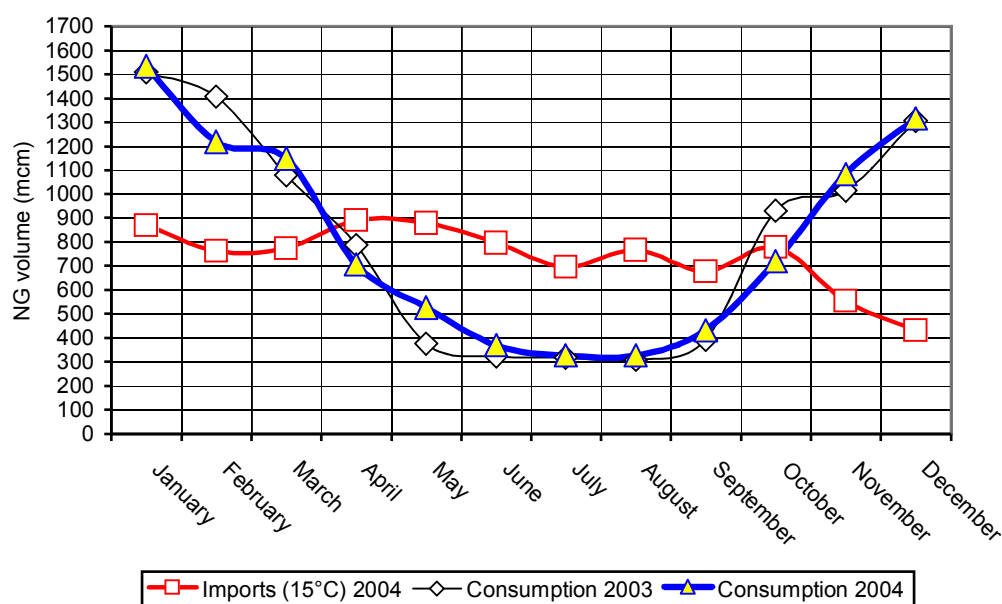
(Figures in mcm)	2004	2003
Total purchase (at 20 °C)	9,014.2	9,688.1
UGS facilities, withdrawal abroad (at 20 °C)	1,081.8	1,006.0
injection (at 20 °C)	-985.6	-966.9
Change in line pack (at 20 °C)	-10.5	19.6
Supplies for use in the Czech Republic (at 15 °C)	9,094.3	9,741.1
UGS facilities, withdrawal	1,873.5	1,498.4
injection	-1,322.5	-1,541.4
Supplies from MND Hodonín	40.5	33.3
Low quality gas exhausted from coal mines (near the surface)	5.3	7.9
Total sources	9,691.1	9,739.3
Losses, balancing difference	105.3	142.0
Total consumption	9,585.8	9,594.7

Overall natural gas consumption was influenced primarily by ambient temperatures during the heating season, which in 2004 covered the periods from 1 January to 31 May and from 23 September to 31 December.

The summer/winter supply and consumption swings are covered by underground gas storage facilities, which serve for gas storage in summer and gas production in winter when daily consumption exceeds the daily contract quantities imported from abroad.

## Natural gas imports and consumption

January - December 2004

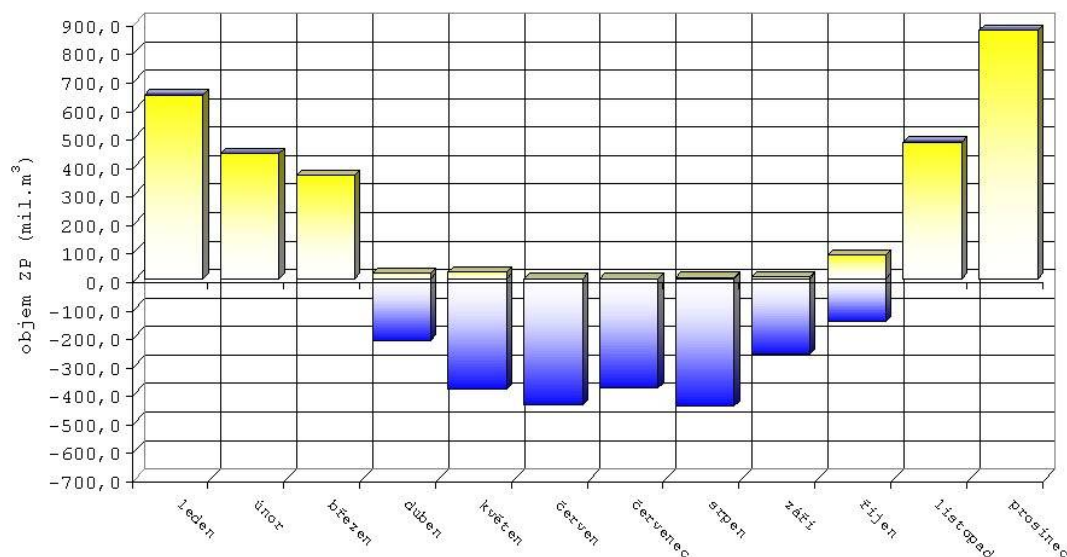


In 2004, 986 mcm and 1,081 mcm, at 20 °C, of gas was stored in and withdrawn from, respectively, foreign UGS facilities, while 1,322 mcm and 1,874 mcm, at 15 °C, of gas was stored in and withdrawn from, respectively, domestic UGS facilities. In addition to the seven UGS facilities situated in the Czech Republic, capacities secured in foreign UGS facilities under long-term contracts were also used for gas storage: the Láb UGS facility in Slovakia and the Rehden UGS facility in Germany. On 1 January 2004 the level of stores in the UGS facilities in the Czech Republic was 1,925 mcm, Láb and Rehden had a volume of 674 mcm for the Czech Republic, and the total volume in available UGS facilities was 2.599 bcm. Following the end of withdrawal in April the stores stood at 1.133 bcm, of which 23 mcm outside the Czech Republic.

Injection was started in April, and a total of 2,291.2 mcm of gas was stored in all UGS facilities from April to December, of which 1,063.3 mcm in facilities outside the Czech Republic from April to October. Before the 2004/2005 winter season the operating stores of gas accumulated in UGS facilities totalled 3,378 mcm, of which 992 mcm in foreign facilities. Withdrawal from UGS facilities for the 2004/2005 winter season was started in the Czech Republic at the beginning of the second October decade.

## Těžba a vtláčení zemního plynu pro ČR

leden - prosinec 2004



### Natural gas withdrawal and injection for the Czech Republic

x - January to December 2004

y - Gas volume (million cubic metres)

On 31 December 2004 the closing balance of gas stored in UGS facilities for the Czech Republic's needs was 1.953 bcm, of which the closing balance of gas stored in the Czech UGS facilities was 1.374 bcm while 581 mcm was available abroad.

The Czech UGS facilities' total initial available daily withdrawal capacity before the 2004/2005 winter season was 45.9 mcm, and together with the foreign facilities the figure totalled 56.9 mcm.

Actual consumption of natural gas has been stagnant in the Czech Republic in recent years. The annual variations have been only moderate in recent years.

Year	Consumption (mcm)	Average ambient temperature in the heating season
1994	6,934	3.5 °C
1995	8,075	3.1 °C
1996	9,306	1.0 °C
1997	9,441	2.3 °C
1998	9,390	3.3 °C
1999	9,427	3.2 °C
2000	9,148	4.8 °C
2001	9,773	2.9 °C
2002	9,542	3.6 °C
2003	9,739	3.6 °C
2004	9,691	3.1 °C
2005 forecast	9,820	
2006 forecast	9,850	
2007 forecast	9,900	

However, when looking at consumption adjusted to normal temperatures we can see that that natural gas consumption has been oscillating in a  $\pm 1\%$  band in the last five years. The reasons for the slower growth of consumption since 1997 include warmer weather as well as, for example, better and more modern boilers, thermal insulation on buildings, the use of dual-fuel systems (oils, coal, etc.), lower competitiveness of gas resulting from changes in gas prices, energy savings thanks to energy audits, and the almost complete gas penetration – connection of towns and villages to gas supplies from the perspective of return on investment.

#### **Number of gas supply points and natural gas consumption in the Czech Republic from 1996 to 2004**

CR	Natural gas consumption		No. of supply points
	Actual	Adjusted to normal temperature	
	[bcm]		[million]
1996	9.306	8.798	2.27
1997	9.441	9.416	2.37
1998	9.390	9.604	2.47
1999	9.427	9.702	2.53
2000	9.148	9.755	2.61
2001	9.773	9.818	2.65
2002	9.542	9.811	2.69
2003	9.739	9.706	2.73
2004	9.691	9.822	2.77

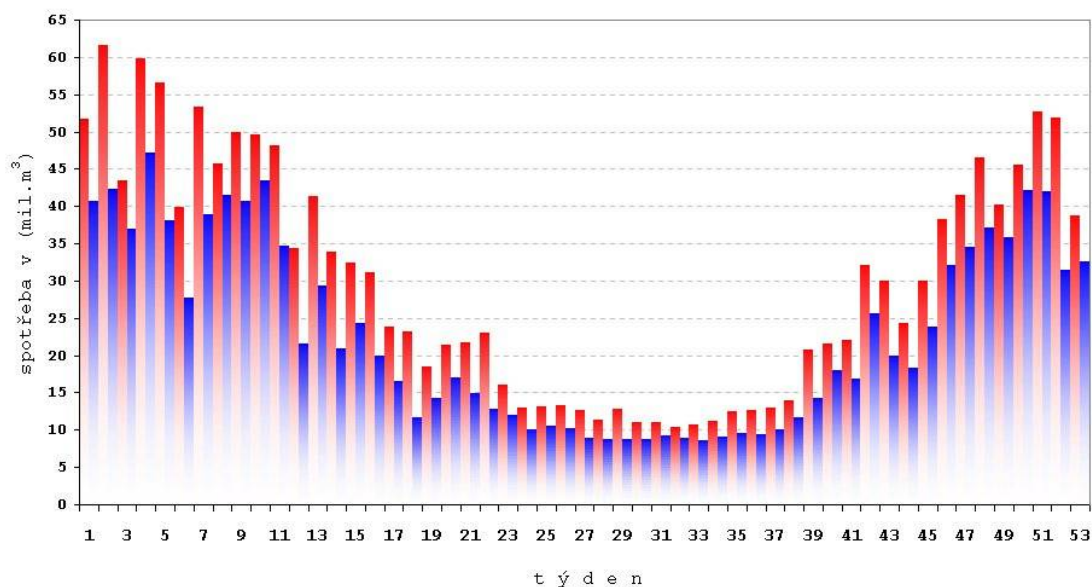
Projections until 2007 expect a year on year increase related to the long-term normal temperature of only about 0.5%. Consumption until 2007 is expected below 9.9 bcm/year.

We expect stagnant consumption mainly in the summer season and in periods of transition (April, May, September, October), when savings on the part of customers will be felt more strongly. On the other hand, at times of very low freezing temperatures we expect a higher overall consumption, caused by the growing numbers of customers taking gas for space heating, and in turn higher offtake for space heating.

Information which is carefully monitored and which enters into the balancing of daily natural gas offtakes in the Czech Republic is gas consumption at ambient temperatures of 0 °C and -12 °C (the co-called maximum day). The ‘daily temperature gradient’ (the change in natural gas consumption caused by a unit change in temperature) is used for the calculations.

In the summer season the minimum daily natural gas consumption drops to below 8 mcm/day, while the maximum daily consumption in the heating season (October to April) exceeds 63 mcm/day when the temperatures are extremely low. Converting daily consumption to -12 °C, we obtain a value of about 66 mcm. The winter/summer swing in terms of the maximum day/minimum day has been quite constant at the current 8: 1.

Maximální a minimální denní spotřeby v týdnech roku 2004  
v České republice



Consumption in million cubic metres

Maximum and minimum daily consumption  
in the Czech Republic in the weeks of 2004

In the light of the information received from all gas distribution companies and the experience with actual demand in recent seasons it can be expected that the maximum daily consumption of the Czech gas system will rise slightly over the next three years, up to 67 mcm. Consumption at 0 °C will amount to 47 to 48 mcm while preserving the average temperature gradient of 1.85 mcm/day/1 °C.

There is an effect of the use of the line pack in regional gas pipelines and the decreasing demand by certain customers on peak consumption days, which may amount to 2 to 3 mcm/day on the maximum consumption day for the whole Czech Republic.

Natural gas intended for supplying the Czech Republic is imported by RWE Transgas, a.s. from Russia and Norway under long-term (15-year and 20-year, respectively) contracts. In the period under review, gas imports from Russia can amount to 8 bcm/year at 20 °C until 2005, and to 8.5 bcm/year from 2006. Since 2003 annual imports from Norway have been 3 bcm. A comparison of the imported gas quantities, based on the above contracted volumes and expected consumption in the Czech Republic, suggests that they may be some surpluses in gas imports.

Indigenous production accounts for only about 0.5% of the total volume of supplies.

The above overview and forecasts suggest that natural gas consumption will continue to be constant and that the existing gas system has a sufficient capacity in the transmission system. The development of any major gas pipelines or UGS facilities is not expected in the future; certain investments are being considered in the area of new cross-border gas pipelines. For details please see the tables in the appendix.

## **6 Public Service Issues**

The Czech Republic has implemented the requirements placed on market participants by the European Commission as regards public service issues, in the amendment to the Energy Act and the law on support for electricity generation from renewable sources, and they are partly contained in the Price Act, which has been in force for some time.

Thus, the Energy Act provides for the supplier of last resort, which is obligated to supply electricity and gas for controlled prices (universal service) to the households and small customers that request so. The Energy Regulatory Office will decide on the supplier of last resorts for a certain specified area in a public tendering process. For the supplier of last resort to be able to sell electricity/gas to the customer categories specified, it shall have – in compliance with the Energy Act – to hold a licence for electricity/gas trade.

The Energy Act defines that in the electricity industry, a household is understood to be a final customer who does not buy electricity for any other purpose than for his own consumption in a household, and a small customer is understood to be a final customer that employs less than 50 employees under a contract of employment, the net turnover of which for the past accounting period does not exceed CZK 250 million and the supply point of which is connected to the LV network. In the gas industry, a household is understood to be a final customer who does not buy gas for any other purpose than for his own consumption in a household, and a small customer is understood to be a final customer that employs less than 50 employees under a contract of employment, the net turnover of which for the past accounting period does not exceed CZK 250 million.

The details on the institute of the supplier of last resort are set out in Section 12a of Act No. 458/2000 (the Energy Act), as amended.

### **Labelling of the primary sources used/guarantees of origin**

As regards the labelling of primary sources, these obligations have been imposed on certain electricity market participants by the amendment to the Energy Act. Under the amendment to the Energy Act, electricity generators are obliged to inform the market participants about the shares of the sources used for electricity generation, the share of CO<sub>2</sub> emissions and the amount of radioactive waste produced in electricity generation in the preceding year. In billing the electricity supply to final customers, electricity traders are obliged to include in the data shown in the billing document, data indicating each electricity source's share in the supplier's overall mix of fuels for the preceding year, and a reference to a public source of information on the impact of electricity generation on the environment. The issues related to guarantees of origin are also addressed in the law on support for electricity generation from renewable sources, which will enter into force on 1 August 2005. Under the provisions of this law, guarantees of origin shall be issued by the electricity market operator in compliance with a public notice promulgated by the Ministry of Industry and Trade.

The approach to customer disconnection does not differentiate between vulnerable and other customers. The various distribution companies keep the data on disconnected customers, and the Energy Regulatory Office currently does not require any differentiation.



### **Pricing for final customers on the electricity market**

In 2004, the price-setting for final customers was mainly influenced by the transfer of another large group of protected customers to the eligible customer category. In the electricity industry, this transfer prompted the necessary changes to the pricing principles in place for this customer category until then. The Energy Regulatory Office opted for the alternative of the differentiation of charges for distribution services at the low voltage level in relation to the nature of the demand. At the low voltage level approximately the original range of tariffs has therefore been maintained, which makes it possible for the customers to optimise their costs of the services related to electricity supply. A similar range of distribution tariffs is expected to be introduced also for the household category customers, who will become eligible customers on 1 January 2006.

For 2005, the resulting average price of electricity supplied to protected customers (households) has been set at CZK **2,356.17/MWh** (w/o VAT). In comparison with 2004 the average price to this customer category has increased by CZK **97.87/MWh**, i.e. 4.33%. Changes in the various components of the price contribute to the increase in the average price to protected customers as against 2004 to different degrees. The price components that are subject to direct control by the Energy Regulatory Office have risen 2.51% overall year on year.

### **Pricing for final customers on the gas market**

In the gas industry the Energy Regulatory Office sets the charges for gas transmission and gas distribution once a year, at all times effective from 1 January; the Energy Regulatory Office may change the prices of gas supply to protected customers once every three months. In 2004 the prices of natural gas supplies were reduced as from 1 April in response to a drop in the prices for which RWE Transgas, a.s. was buying gas. On the other hand, a marked rise in the prices of natural gas supplies was effected from 1 October in response to the growing prices of competing fuels, heavy fuel oil and gas oil. Eligible customers' ability to negotiate the services related to gas supply after 1 January 2005 brought about the task for the Energy Regulatory Office to set the gas transmission and gas distribution charges for this group of customers. The Energy Regulatory Office has developed a methodology for pricing these services on the basis of analyses carried out in the first half of 2004 and forecasts of the potential developments in the gas companies' behaviour in connection with gas distribution/transmission unbundling from gas trade. The calculations made in 2004 and the actual pricing of gas supplies to protected customers for the first quarter of 2005 were also based on the newly developed regulatory formulas.

The price charged by a trader who supplies gas to protected customers connected to regional distribution systems is, to the extent of supplies to protected customers, a double-component price. The basis for determining this price is forecasts of the development of natural gas import prices, which depend primarily on gas oil and heavy fuel oil prices on the world markets, and forecasts of the Czech currency's US dollar and euro rates. The price is also adjusted by the difference between the actual cost of gas purchase incurred by RWE Transgas, a.s. and the price set by the Energy Regulatory Office in the preceding closed quarter. This trader's price is reflected in the final price for supplies to protected customers.

The other factors that influenced pricing in 2004 also include an amendment to the law on the value added tax, effective from 1 May 2004, which required new Energy Regulatory Office price decisions respecting the changed VAT rates.

## Appendices:

### *The Energy Act, in English*

Source: COLLECTION OF LAWS year 2005, volume 26, 28 February 2005.

Considered by the Chamber of Deputies of the Parliament of the Czech Republic: Documents for discussion at a sitting

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THE PRIME MINISTER  
PROMULGATES

The full text of act no. 458/2000 Coll., on business conditions and public administration in the energy sectors and on amendment to other laws (the "energy act"), as amended by act no. 151/2002 Coll., ACT no. 262/2002 coll., act no. 309/2002 Coll., act no. 278/2003 coll., act no. 356/2003 coll. and act no. 670/2004 coll.

ACT

on business conditions and public administration in the energy sectors  
(the energy act)

The Parliament has passed the following act as a law of the Czech Republic:

part one  
business conditions and public administration in the energy sectors  
chapter I  
general part  
Section 1  
subject of regulation

This Act provides the conditions for business activity, the exercise of public administration, and non-discriminatory regulation in the energy sectors, including the electricity sector, the gas sector and the heat sector, as well as the rights and obligations of individuals and legal entities related thereto, in compliance with the law of the European Communities<sup>4</sup>.

Section 2  
definition of terms

(1) For the purposes of this Act, the following terms shall have the following meanings:

- a) "Non-discriminatory regulation" shall mean the organisation of business in the energy sectors while maintaining economic competition, satisfying customers' needs and licence holders' interests, and securing reliable, safe and stable supplies of electricity, gas and heat at reasonable prices.
- b) "State of emergency" shall mean limitation or interruption of energy supply all over the territory of the Czech Republic or any part thereof. The reasons for, and manner of, such limitation or interruption are defined herein.
- c) "Responsible representative" shall mean an individual appointed by the holder of a licence for electricity generation, transmission and distribution, gas transmission, distribution and storage, heat generation and distribution, and electricity or gas trading (hereinafter "licence holder") who bears responsibility for the performance of the licensed activities in compliance herewith.

(2) Furthermore, the following terms shall have the following meanings for the purposes hereof:

a) In the electricity sector

1. "Electricity distribution" shall mean transport of electricity through the distribution system.
2. "Distribution system" shall mean a complex of interconnected 110 kV lines and equipment, except selected 110 kV lines and equipment that constitutes a part of the transmission system, and 0.4/0.23 kV, 3 kV, 6 kV, 10 kV, 22 kV or

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<sup>4</sup> Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC.  
Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC.  
Regulation (EC) No. 1228/2003 of the European Parliament and of the Council of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity.  
Directive 2004/8/EC of the European Parliament and of the Council on the promotion of cogeneration based on a useful heat demand in the internal energy market.

35 kV lines and equipment serving to provide electricity distribution in the delineated territory of the Czech Republic, including systems of metering, protection, control, security, information, and telecommunication technology; the distribution system is established and operated in the public interest.

3. “Electricity supply main” shall mean equipment which starts at the electricity station at the branching from the switching elements or busbars and starts outside the station at the branching from the line of the distribution system and extends towards the buyer, and which is designed for the connection of electricity consumption facilities.

4. “Electricity station” shall mean a complex of buildings and equipment of the grid serving for the transformation, compensation, conversion or transmission and distribution of electricity, including facilities needed to secure the operation thereof.

5. “Grid of the Czech Republic” shall mean the complex of interconnected equipment for the generation, transmission, transformation and distribution of electricity, including electricity supply mains and direct lines, and the systems of metering, protective, control, security, information and telecommunication technology (hereinafter "Grid").

6. “Protected customer” shall mean an individual or legal entity enjoying the right to connection to the distribution system and to the supply of electricity at a defined quality and at regulated prices.

7. “Combined generation of electricity and heat” shall mean conversion of primary energy to electricity and useful heat in a joint process performed simultaneously in a single generating facility.

8. “End customer” shall mean any individual or legal entity only consuming the electricity taken.

9. “Measuring (metering) devices” shall mean any equipment to measure, transmit and process the values/readings obtained.

10. “Low voltage” shall mean phase voltages up to (and including) 1000 V.

11. “Electricity trader” shall mean any individual or legal entity buying electricity for resale, such an individual or legal entity being a holder of an electricity trading licence.

12. “Regulation energy compensatory market” shall mean the energy market settled and organised by the electricity market operator in collaboration with the transmission system operator.

13. “Buyer” shall mean any individual or legal entity consuming electricity.

14. “Supply point” shall mean electricity consumption facility of a single buyer, including transformers, where consumption is measured by a single metering device or in any other agreed manner.

15. “Difference” shall mean a sum of differences between actual and agreed electricity supplies or electricity consumption in a given period.

16. “Eligible customer” shall mean any individual or legal entity enjoying the right of access to the transmission system and distribution systems for the purpose of selection of electricity supplier.

17. “Support services” shall mean activities of individuals or legal entities whose equipment and devices are connected to the Grid, such activities being designed to provide system services, and after activation of which electricity supply is facilitated.

18. “Distribution system operation” shall mean any activities pursued by the distribution system operator relating to the provision of reliable electricity distribution.

19. “Transmission system operation” shall mean any activities pursued by the transmission system operator relating to the provision of reliable electricity transmission.

20. “Distribution system operator” shall mean any individual or legal entity holding an electricity distribution licence.

21. “Transmission system operator” shall mean any legal entity holding an electricity transmission licence.

22. “Transmission” shall mean electricity transport along the transmission system, including electricity transport along interstate lines.

23. “Transmission system” shall mean a complex of mutually interconnected 400 kV and 220 kV lines and equipment and selected 110 kV lines and equipment, as indicated in the Appendix to the Transmission System Operating Rules, serving to secure electricity transmission all over the territory of the Czech Republic and to secure interconnection with the grids of neighbouring countries, including systems of measuring, protection, control, security, information, and telecommunication technology; the transmission system shall be established and operated in the public interest.

24. “Direct line” shall mean the electricity line connecting the electricity generating plant that is not connected to the transmission system or to the distribution system and the supply point that is not connected by electricity lines to the transmission system or to the distribution system or the electricity line securing direct supplies to the generator’s own plants, to businesses controlled by the generator or to its eligible customers, such electricity line not being owned by the transmission system operator or the distribution system operator.

25. “Regulated access” shall mean the possibility to use the transmission system or distribution system for electricity transportation under conditions set out herein and at regulated prices determined by the Energy Regulatory Office.

26. “System services” shall mean activities performed by the transmission system operator or distribution system operators to secure reliable operation of the Grid of the Czech Republic with respect to operation within the interconnected grids.
27. “Delineated territory” shall mean the area where the electricity distribution licence holder is obliged to connect any buyer who applies to be connected and who meets the conditions laid down herein.
28. “Generator” shall mean any individual or legal entity generating electricity and holding an electricity generation licence.
29. “Electricity generating plant” shall mean electricity generation equipment for the conversion of various forms of energy into electricity, comprising the technological equipment for energy conversion, the building(s) and all the needed auxiliary equipment.
30. “Household” shall mean the end customer who does not purchase electricity for purposes other than for a household’s own consumption.
31. “Vertically integrated undertaking” shall mean an entrepreneur or a group of entrepreneurs, provided that their mutual relations correspond to the directly applicable regulation of the European Communities<sup>1a)</sup> and are holders of at least one licence for either electricity transmission or distribution and at least one licence for either electricity generation or trading.
32. “Secondary energy source” shall mean a usable energy source, the energy potential of which arises as a by-product of energy conversion and end consumption upon release from bituminous rock, or upon the use of waste for energy generation purposes, or the removal of waste and alternative fuel produced on the basis of waste, or as a result of another economic activity.
33. “Small customer” shall mean an end customer who employs less than 50 employees and whose net turnover for the most recent fiscal period does not exceed CZK 250 million and whose supply point is connected to the low voltage network.
34. “Entity performing settlement of differences” (hereinafter “settlement entity”) shall mean an electricity market participant for whom the electricity market operator performs the evaluation and settlement of differences under a settlement contract.
35. “Regulation energy” shall mean energy secured by activation of support services or in the regulation energy compensatory market.
36. “Electricity produced from combined generation of electricity and heat” shall mean electricity produced in a joint process combined with the production of useful heat.
37. “Total efficiency” shall mean the sum of the annual volume of electricity generated in the process of combined generation of electricity and heat and useful heat divided by energy of the input fuel used for the generation of useful heat, electricity and mechanical energy;
38. “Reference value of efficiency for the separate generation of electricity and heat” (hereinafter “reference value”) shall mean the total efficiency of the alternative separate generation of heat and electricity that may be used as a substitute for the combined electricity and heat.
39. “Proportion of electricity and heat energy” shall mean the numerical value expressing the share of electricity generation in useful heat generation in the electricity generating plant for combined generation of electricity and heat for a specific period.
- b) In the gas sector
1. “Gas distribution” shall mean transmission of gas via the distribution system, serving primarily to supply gas to end customers.
  2. “Distribution system” shall mean a complex of interconnected very high-pressure, high-pressure, medium-pressure and low-pressure gas lines and related technological facilities, including the control and security systems and information transfer equipment to support the functioning of computers and information systems, which complex is not directly connected to the compressor plants, and is used by the gas distribution licence holder to provide gas distribution; the distribution system shall be established and operated in the public interest.
  3. “Protected customer“ shall mean any end customer who/which is not an eligible customer.
  4. “End customer” shall mean any individual or legal entity purchasing gas for its own consumption or providing part of the purchased gas to another individual or legal entity in a way that such activity does not constitute a business activity as defined in the Commercial Code.
  5. “Gas trader” shall mean the holder of a gas trading licence purchasing gas for resale to other gas market participants.

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<sup>1a)</sup> Article 3 (2 and 3) of the Council Regulation (EC) No. 139/2004 of 20 January 2004 on the control of concentration between undertakings.

6. "Supply point" shall mean the place where the gas supply facility for a single end customer is installed, into which place the gas supply measured by a metering device is delivered.
7. "Gas supply facility" shall mean any equipment starting from the main shutoff valve and including equipment for the end use of the gas; the measuring (metering) device shall not be considered a gas supply facility.
8. "Eligible customer" shall mean any individual or legal entity entitled to select a gas supplier and enjoying the right of access to the transmission system, distribution systems, underground gas storage facilities, gas recovery lines and free accumulation.
9. "Gas system" shall mean a complex of interconnected facilities and equipment for gas generation, transmission, distribution and storage, including the control and security equipment and the information transfer equipment to support the functioning of computers and information systems which serve for the operation of the equipment.
10. "Gas undertaking" shall mean any individual or legal entity which, based on licence granted on the basis hereof, pursues gas generation, gas recovery, transmission system operation, distribution system operation or underground gas storage operation.
11. "Gas equipment" or "gas-related equipment" shall mean gas lines, service connections and related technological facilities.
12. "Gas" shall mean natural gas, town gas, pure coke-oven gas, degassing gas, generator gas, biogas, propane, butane and their mixtures, unless used for driving motor vehicles.
13. "Gas service connection" shall mean equipment that starts as a branching from the distribution system and ends before the main shutoff valve, after which the customer's gas supply facility continues.
14. "Gas industry facilities" or "gas facilities" shall mean equipment for gas generation and conditioning, underground gas storage facilities, tanks for liquefied gas storage, gas holders, filling stations, liquefying plants, evaporating plants, compressor plants and control stations, and low-pressure, medium-pressure, high-pressure, very high-pressure and direct gas lines, gas service connections and gas recovery lines
15. "Underground gas storage" shall mean a gas industry facility, including the related technological facilities and control and security systems and information transfer equipment to support the functioning of computers and information systems serving for gas storage; underground gas storage shall be established and operated in the public interest.
16. "Distribution system operation" shall mean any and all activities of the distribution system operator aimed at securing reliable gas distribution and supply to protected customers.
17. "Underground gas storage operation" shall mean any and all activities of the underground gas storage operator aimed at securing underground gas storage.
18. "Transmission system operation" shall mean any and all activities of the transmission system operator aimed at securing reliable gas transmission.
19. "Distribution system operator" shall mean any individual or legal entity operating a distribution system and holding a gas distribution licence.
20. "Underground storage operator" shall mean any individual or legal entity operating underground storage facilities and holding a gas storage licence.
21. "Transmission system operator" shall mean any individual or legal entity operating the transmission system and holding a gas transmission licence.
22. "Transmission system" shall mean a complex of interconnected very high-pressure and high-pressure gas lines and compressor plants and related technological facilities, including the control and security systems and information transfer equipment to support the functioning of computers and information systems interconnected with foreign gas systems with which the gas transmission licence holder provides gas transmission; the gas transmission system shall be established and operated in the public interest.
23. "Transmission" shall mean gas transport along the transmission system.
24. "Direct gas line" shall mean a pipeline which is not a constituent part of the transmission system or distribution system and which is specifically established for the supply of gas to an eligible customer and only serves for the eligible customer's own use.
25. "Delineated territory" shall mean the area, as specified in the gas distribution licence, where the licence holder has the obligations and rights laid down herein.
26. "Generator" shall mean any individual or legal entity generating or recovering gas and holding a gas generation licence.
27. "Gas generating plant" shall mean equipment for gas generation or recovery, including the buildings and the needed auxiliary equipment where the gas generation licence holder pursues its activities.
28. "Gas line" shall mean equipment for pipeline transport of gas via the transmission system or the distribution system and both direct gas lines and gas recovery lines.

29. "Common gas supply facility" shall mean gas supply facility located in the owner's real property through which the gas is supplied to end customers in this real property.
30. "Technology rule" shall mean rule expressing the status of technological knowledge and technology in the gas sector.
31. "Household" shall mean an end customer who does not consume gas for other purposes than the household's own consumption.
32. "Vertically integrated gas undertaking" shall mean any entrepreneur or a group of entrepreneurs whose mutual relations correspond to the directly applicable regulation of the European Communities<sup>1a)</sup> and who pursue at least one of the activities of either gas transmission, gas distribution or gas storage and at least one of the activities of either gas generation or gas trading.
33. "Free capacity" shall mean a difference between actual capacity of the transmission system or the distribution system or the underground gas storage or the gas recovery line and the sum of all capacities provided on a contractual basis for individual customers in a given period while complying with contractual pressures, together with the sum of all capacities provided for the purpose of compliance with statutory obligations related to the provision of capacity by the respective licence holder and the sum of capacities necessary for the respective licence holder in order to secure safety and reliability of the operation of the respective gas industry facility.
34. "Gas recovery line" shall mean the pipeline connecting the gas generating plant to the transmission system or to the distribution system.
35. "Pressure level" shall mean a maximum operating pressure for gas and gas supply facilities stipulated in technical standards or technical rules.
36. "Main shutoff valve" shall mean the stop valve of the gas supply facility that separates the gas supply facility from the gas service connection.
37. "Free accumulation" shall mean gas storage by means of its compression in the transmission or distribution system.
38. "Small customer" shall mean an end customer who employs less than 50 employees and whose net turnover for the last fiscal period does not exceed CZK 250 million.
39. "Planning" shall mean planning of gas generation, gas supplies, transmission, distribution and storage capacity of the respective systems or underground gas storage facilities on a long-term basis aimed at meeting the demand for gas and securing its continuous supply to end customers.
40. "Third party access right" shall mean the right of a gas market participant to conclude an agreement with the transmission system operator, the distribution system operator, the underground gas storage operator or the generator on securing the respective licensed activity hereunder; free accumulation access rights may be exercised solely simultaneously with the right of access to the transmission system or the distribution systems.
41. "Gas source" shall mean the country in the territory of which the gas has been recovered.
42. "Decisive gas source" shall mean the country in the territory of which more than 50 % of the total annual gas consumption in the Czech Republic has been recovered.
43. "Difference" shall mean the difference between actual and agreed gas supplies and consumption on a given trading day.

c) In the heat sector

1. "Heat energy distributor" shall mean freeholder or leaseholder of the heat distribution facility through which heat is transported or transformed and supplied for further use to another individual or legal entity.
2. "Heat energy supplier" shall mean any individual or legal entity supplying heat energy to another individual or legal entity. The heat energy generator, distributor, owner or owners' association providing heat energy as a utility for the use of residential or non-residential premises, or for technological use, may all be heat energy suppliers.
3. "Heat energy supply" shall mean supply of the energy of heat or cold for further use by another individual or another legal entity; heat energy supply for further use shall be provided in the public interest.
4. "End customer" shall mean any individual or legal entity who/which only consumes the heat energy supplied,
5. "Heat energy buyer" shall mean a distributor, an owner or an association of owners of a heat supply facility; a buyer may also be the end customer; heat energy supply directly to the end customer is conditional upon direct consumption for all end customers in centrally heated facilities.
6. "Heat energy consumption" shall mean intake of the heat energy supply from the generator or distributor for the purposes of end consumption or further use.
7. "Heat supply point" shall mean "supply point" as defined in the heat supply contract wherein heat energy passes from the ownership of the supplier to the ownership of the buyer.

8. "Heat supply facility" shall mean facilities connected to the heat energy source or distribution system designed for internal distribution and consumption of heat energy inside premises of the buyer or any part thereof, or inside a complex of premises owned by the buyer.
9. "Heat energy distribution" shall mean transmission, accumulation, parameter-transformation and supply of heat energy along the heat distribution facilities.
10. "Heat distribution facilities" shall mean equipment for the transport of heat energy, consisting of heat distribution networks and supply/consumption interface facilities. The heat network means the complex of equipment and facilities serving for heat energy transmission and/or for interconnection of heat energy sources; heat distribution facilities shall be established and operated in the public interest; heat supply facilities are not part of the heat distribution facilities.
11. "Heat energy" shall mean the energy of heat or cold as contained in the heat transfer medium.
12. "Delineated territory" shall mean the area where the heat energy supplier performs its licensed activities.
13. "Generator" shall mean any individual or legal entity generating heat energy from fuel or from other types of energy and supplying the heat energy so generated.
14. "Heat energy source" shall mean facilities in which fuels or energy types other than heat are used to generate heat energy that is transmitted to the heat transfer medium.
15. "Premises" shall mean coherent construction work technically interconnected through a single joint heat supply facility.
16. "Useful heat" shall mean generated heat serving for supplies to the centralised heat supply system or for direct supplies to individuals or legal entities for further use and for technological purposes other than consumption for the source's own use.
17. "Centralised heat supply system" shall mean a system consisting of heat energy sources and heat energy distribution equipment and heat supply facilities.

### Section 3

#### Business activities in the energy sectors

- (1) The subject of business activities in the energy sectors includes electricity generation, electricity transmission, electricity distribution and electricity trading, electricity market operator activities, gas generation, gas transmission, gas distribution, gas storage and gas trading, and heat energy generation and heat energy distribution.
- (2) Electricity transmission, gas transmission, electricity distribution, gas distribution, gas storage, heat energy generation and heat energy distribution are activities pursued in the public interest.
- (3) Under conditions set out herein, business activities in the energy sectors in the territory of the Czech Republic may only be pursued by individuals or legal entities on the basis of government authorisation in the form of a licence granted by the Energy Regulatory Office. Licences under this Act shall not be granted for trading in, generation, distribution and storage of Calor gas (propane and butane) and its mixtures, unless distribution via pipeline systems is involved, and for heat energy generation designed for delivery to end customers via one heat supply facility from a heat energy source located on the same premises. Also, a licence under this Act shall not be granted for an activity where the buyer provides electricity, gas or heat energy taken to another individual or legal entity through its own consumption (supply) facility or through a facility operated by it, while the settlement of costs of the purchased electricity, gas or heat energy merely allocates costs to these individuals on an agreed or defined basis and such an activity does not constitute a business activity.

### Section 4

#### Licences

- (1) Licences shall be granted for a maximum of 25 years and shall relate to:
  - a) Electricity generation;
  - b) Gas generation;
  - c) Electricity transmission;
  - d) Gas transmission;
  - e) Electricity distribution;
  - f) Gas distribution;
  - g) Gas storage;
  - h) Heat generation; and
  - i) Heat distribution.
- (2) Licences for electricity trading or gas trading shall be granted for a period of 5 years. Licences for activities of the electricity market operator shall be granted for a period of 25 years.
- (3) For the whole territory of the Czech Republic the following licences shall be exclusive:
  - a) Electricity transmission licences;
  - b) Gas transmission licences; and
  - c) Electricity market operator licences.

In the event that an applicant for granting a licence as defined in Subsection 1 provides documents proving its title or another right to use the energy-related equipment that should serve for the performance of the licensed activity for a period shorter than 25 years, a licence shall be granted for this period as a maximum.

#### Section 5 Conditions under which a licence may be granted

(1) Any individual to whom the licence is to be granted shall meet the following conditions:

- a) Minimum age of 21 years;
- b) Full legal capacity;
- c) Probity; and
- d) Professional competence or appointment of a responsible representative in compliance with Section 6.

(2) If a legal entity applies for the granting of a licence, the conditions referred to in Subsection 1 Clauses a) to c) above shall be met by the members of the legal entity's statutory body. The appointment of a responsible representative is another condition to be met if a licence is to be granted to a legal entity.

(3) Any individual or legal entity applying for the granting of a licence shall provide evidence of availability of sufficient funds and technical background to perform the licensed activities and evidence to prove that the performance of such activities will not lead to any threat to the lives and health of persons, damage to property, or to any environmental interests. Any individual or legal entity applying for the granting of a licence shall provide documents to prove its title or right to use the energy-related equipment to be used for performing the licensed activities. In cases where an individual or legal entity applying for the granting of a licence is not an owner of the energy-related equipment, it shall also provide documents to prove such an energy equipment owner's consent to the use of that equipment for purposes specified herein for a period not shorter than the time for which the licence is to be granted. The energy-related equipment shall meet technical standards and technical regulations in force. Availability of sufficient funds as referred to in Subsection 7 need not be proved by applicants for licences for electricity generation from renewable resources and applicants for licences for heat generation from renewable resources, unless the installed capacity of the electricity-generating equipment is higher than 200 kW or the installed capacity of the heat-generating equipment is higher than 1 MW<sub>t</sub>.

(4) Not considered as possessing probity for the purposes hereof shall be any person effectively convicted for:

- a) Any criminal offence committed wilfully that results in an unconditional sentence of imprisonment for a term of at least 1 year;
- b) Any criminal offence committed wilfully where the facts of the case pertain to the subject of its business activities and to which Clause a) does not apply; or
- c) Any negligent criminal offence where the facts of the case pertain to the subject of its business activities, unless it is qualified as not being convicted.

(5) Professional competence for granting a licence pursuant to Section 4 Subsection 1 shall mean complete university education in a technical area plus 3 years' experience in the area concerned or complete secondary vocational education in a technical area with the award of the General Certificate of Education plus 6 years of experience in the area concerned. For electricity or heat generation up to (and including) an installed capacity of 1 MW and for the operation of separate electricity distribution facilities or heat distribution facilities up to (and including) an installed capacity of 1 MW, the sufficient qualification shall be a certificate of apprenticeship and 3 years of experience in the area concerned or a certificate of retraining for the operation of small energy generating units or a similar certificate granted in another country. For electricity generation from renewable resources up to the installed capacity of the electricity generating plant of 20 kW<sub>e</sub> an applicant shall not be obliged to prove his/her professional competence. Professional competence for the granting of a licence pursuant to Section 4 Subsection 2 shall mean complete university education and 3 years' experience or complete secondary vocational education with the award of the General Certificate of Education plus 6 years of experience.

(6) Availability of sufficient funds shall mean the applicant's ability to provide sufficient funding to secure operation in respect of the activities for which the licence is required and ability to cover current and future liabilities for a period of at least 5 years. The applicant does not meet the requirement of availability of sufficient funds, if in the course of the past 3 years the court has cancelled the bankruptcy proceedings instituted against the applicant's assets as a result of compliance with the resolution to distribute the estate or the court has cancelled the bankruptcy proceedings due to the fact the bankrupt's assets are insufficient for covering of the costs of the bankruptcy proceedings or the court has dismissed the petition for bankruptcy due to insufficient assets. The applicant for a licence does not have sufficient funds available, if he/she has any registered tax arrears, underpayments of customs duties, social security contributions, state employment policy contributions or general health insurance contributions or penalties.

(7) Availability of sufficient funds shall be proved by submitting:

- a) Evidence of business assets;
- b) Evidence of net business assets;
- c) Evidence of the volume of available funds, including the balances of bank accounts and loans;
- d) Most recent audited financial statements, including long-form notes thereto, if the applicant has a statutory obligation to have his/her financial statements audited and has pursued business activities in the previous fiscal period; and
- e) a Business plan for the first 5 years of business activities in the energy sectors.

The business plan shall as a rule contain evidence of:



- a) The applicant's characteristics;
  - b) Ability to finance the business plan on a long-term basis;
  - c) Expected costs and revenues;
  - d) Property rights with respect to the equipment serving to perform the licensed activities;
  - e) Basic technical and material conditions for the activities to be performed, including, but not limited to, equipment capacity, raw material consumption, supply of products; and a
  - f) Balance of the applicant's finance.
- 9) Details of the availability of sufficient funds and technical background and the manner of proving them shall be defined, for the specific types of licences, in the relevant implementing legal regulation.
- (10) Approval by the State Office for Nuclear Safety shall be submitted if a licence is to be granted for electricity or heat generation using nuclear equipment.

## Section 6 Responsible representative

- (1) The responsible representative, if appointed, shall be responsible for the performance of the licensed activity in accordance herewith.
- (2) The responsible representative shall meet the conditions for the granting of a licence as specified in Section 5 Subsection 1 above.
- (3) Any responsible representative may hold that position for only one licence holder.
- (4) Any licence holder who is a legal entity shall appoint a responsible representative in any case. Any licence holder who is an individual shall appoint a responsible representative if the licence holder itself fails to meet the condition of professional competence.
- (5) No member of the supervisory board or any other such inspecting body of the legal entity concerned may be appointed responsible representative of such a legal entity.
- (6) Appointment of a responsible representative of the licence holder shall be approved by the Energy Regulatory Office.
- (7) If the responsible representative ceases to discharge his/her obligations as responsible representative in the course of the performance of the licensed activity or no longer meets the conditions for the discharge of his/her obligations as responsible representative, the licence holder shall propose a new responsible representative within 15 days. The licence holder shall be responsible for the performance of the licensed activity until a new responsible representative is approved.

## Section 7 Licence application

- (1) The licence shall be granted on the basis of a written application.
- (2) The application for the granting of a licence to an individual shall contain:
  - a) The first name and surname, permanent place of residence and the birth certificate number (if any; otherwise the date of birth); if the applicant appoints a responsible representative such information shall also be supplied in respect of the responsible representative;
  - b) The subject, place and scope of the business, a list of plants and, in the case of distribution licences, also the delineated territory;
  - c) The trade name, if the applicant has been entered in the Commercial Register, and the business identification number, if any;
  - d) The period required for which the licence is to be granted, and proposed date of commencement of performance of the licensed activities;
  - e) The domicile outside the territory of the Czech Republic, the place of residence in the Czech Republic, the location of a branch in the Czech Republic and information referred to in Clause a) pertaining to the head of the branch if the person is a foreign individual domiciled outside the territory of the Czech Republic who has his/her place of residence in the Czech Republic and he/she has obtained a residence permit; if the person who is the responsible representative or the head of the branch is an individual domiciled outside the territory of the Czech Republic, his/her place of residence in the Czech Republic, if such an individual resides in the territory of the Czech Republic.
- (3) The application for the granting of a licence to a legal entity shall contain:
  - a) The trade name or name and registered office of the legal entity; first name and surname, birth certificate number and business identification number, if any; and the domicile of a person or persons performing the function of a statutory body or its members and the capacity in which they act on behalf of the legal entity;
  - b) The subject, place and scope of business activities, a list of plants and, in the case of distribution licences, also the delineated territory;
  - c) The business identification number, if any;
  - d) Information on the responsible representative;

- e) The required period for which the licence is to be granted, and proposed date of commencement of performance of the licensed activities;
  - f) For a foreign legal entity the location of a branch in the Czech Republic and information referred to in Clause a) pertaining to the head of the branch; if a person domiciled outside the territory of the Czech Republic is the responsible representative or the head of the branch, also the place of his/her residence in the Czech Republic, if he/she resides in the territory of the Czech Republic.
- (4) Attached to the application as per Subsection 2 and 3 above shall be:
- a) An original or attested copy of the agreement or deed of establishment or incorporation of a legal entity, in the case of persons entered in the Commercial Register or a similar register, an extract from such register will be sufficient evidence; a foreign legal entity shall attach an extract from the Commercial Register or a similar register maintained in the country where its registered office is located and evidence proving that its branch in the territory of the Czech Republic has been entered in the Commercial Register, if it has been already recorded in the register, and evidence proving the operation of a business abroad
  - b) In the case of an individual, a person which is a statutory body or its member, and in the case of the responsible representative, an original or an attested copy of the no-criminal record certificate or any other such certificate maintained in a country where such person most recently resided for a period of at least 6 months, such a certificate shall not be older than 6 months;
  - c) Documents proving professional competence of an individual and the responsible representative;
  - d) Documents proving the availability of sufficient funds and technical background;
  - e) Documents proving title to or the right to use energy-related equipment;
  - f) A declaration of the responsible representative that he/she agrees to his/her appointment to the position and has not been appointed to perform the function of a responsible representative for the licensed activity for another licence holder;
  - g) For a foreign individual, the documents proving his/her permanent residence, unless this is an individual who is a national of a Member State of the European Union; for a foreign individual who establishes a branch in the territory of the Czech Republic, the document proving that such an individual has a business outside the territory of the Czech Republic and the documents proving its operation; and
  - h) Documents on the location of a plant or delineated territory.
- (5) The manner of determination of the delineated territory and the plant, proving the title or the right to use the energy-related equipment, requisites for the declaration of the responsible representative, and model applications for the granting, amendment and revocation of a licence, and the structure of licences for regulatory purposes, shall be laid down in the implementing legal regulation.
- (6) The applicant for a licence shall report to the Energy Regulatory Office without undue delay any changes to the information set out in the application for a licence and in documents attached to it that have occurred subsequent to the day of submission of the application for a licence.

#### Section 8 Granting of a licence

- (1) The Energy Regulatory Office shall make its decision on the granting of a licence on the basis of evaluation of how the conditions underlying the granting of a licence, specified in Section 5, are met. Unless the applicant proves his/her compliance with the conditions specified in Section 5, the Energy Regulatory Office will reject the application. The Energy Regulatory Office will also reject an application if the applicant fails to remedy the shortcomings of his/her application within the stipulated time limit or fails to supply supplementary information as requested.
- (2) The decision on the granting of the licence shall contain the following information:
- a) Trade name of the individual or legal entity to whom/which the licence is to be granted, if it is entered in the Commercial Register; first name and surname if the applicant is an individual; or a name if the applicant is a legal entity; business identification number, if any; registered office or domicile, birth certificate number and business identification number, if any, or date of birth;
  - b) The subject, place and scope of business activities; in the case of licences for electricity distribution, gas distribution and heat energy distribution also the delineated territory;
  - c) Technical conditions to be met by the licence holder while performing the licensed activities;
  - d) Date of commencement of the licensed activities;
  - e) Period for which the licence is being granted and the date of establishment of the right to perform the licensed activities;
  - f) Approval of the responsible representative as per Section 6 above;
  - g) A list of plants for which the licence is being granted or a list of delineated territories or specification of the distribution facilities for which the licence is being granted; and
  - h) For a foreign individual, the first name and the surname, birth certificate number and business identification number, if any, otherwise the date of birth, domicile outside the territory of the Czech Republic, place of residence in the Czech Republic, if he/she has obtained a residence permit, the location of a branch in the Czech Republic, if it has been established, and information on the responsible representative, if appointed; for a foreign legal entity, the name, registered office, business identification number, if any, location of its branch in the Czech Republic and information on the responsible representative.

(3) Only one licence may be issued in respect of one generating, transmission, transport, or distribution facility or one gas storage facility.

(4) A list of decisions on the granting, amending or revocation of licences and the contents of such decisions, except those subject to trade secret, shall be published by the Energy Regulatory Office in the Energy Regulatory Bulletin (*Energetický regulační věstník*).

#### Section 9 Changes in licence-granting decisions

(1) The licence holder shall notify the Energy Regulatory Office without undue delay of any changes in the licence-granting conditions referred to in Section 5 above, as well as any and all changes in the information and documents required to be attached to the licence application as referred to in Section 7 above. The licence holder shall submit the documents proving such changes within 15 days of the day of their occurrence and apply for a change in the decision on the granting of a licence.

(2) Based on the notification as referred to in Subsection 1 above, the Energy Regulatory Office will decide to make a change in the licence-granting decision or to revoke the licence pursuant to Section 10 Subsection 2 and Subsection 3.

(3) The Energy Regulatory Office may also decide on changes in the licence-granting decision upon its own initiative if the Energy Regulatory Office learns of any facts justifying such changes.

(4) Provisions of Section 8 shall apply to a decision on a change in the licence-granting decision. In the case of a decision on a change in the decision on the granting of a licence for activities referred to in Section 3 Subsection 2 above, which results in the reduction of the delineated territory, the reduction of the list of plants for which the licence has been granted, or the limitation of the scope of business activities, provisions of Section 10 Subsection 4 to 9 shall apply as appropriate.

#### Section 10 Expiry of the licence

(1) The licence shall lapse:

- a) If the licence holder is an individual, when such an individual dies or is declared dead;
- b) If the licence holder is a legal entity, when the legal entity is dissolved;
- c) When the time for which the licence was issued elapses; or
- d) Upon the Energy Regulatory Office's decision to revoke the licence.

(2) The Energy Regulatory Office shall revoke a licence if the licence holder:

- a) No longer meets the licence granting conditions as defined under this Act;
- b) Breaches the obligations hereby imposed, thus threatening the lives, health or property of persons;
- c) Seriously violates the legal regulations applicable to such activities while performing the licensed activities; or
- d) Has submitted a written application for licence termination.

(3) The Energy Regulatory Office may revoke a licence, having established that the licence holder:

- a) Failed to commence the licensed activities within the term specified in the licence-granting decision or fails to perform the licensed activities for a period longer than 24 months;
- b) Has been declared bankrupt or a petition to declare the licence holder bankrupt has been suspended owing to insufficient assets or the licence holder has been wound up; or
- c) Failed to pay the contribution to the fund referred to in Section 14.

(4) A holder of a licence for activities specified in Section 3 Subsection 2 that has applied for termination of the licence shall continue to perform the licensed activities for a period specified by the Energy Regulatory Office, such a period not exceeding 12 months of the application date. Such an obligation shall not apply if the licence holder proves unable to discharge its duties under the licence because of obstacles which occurred outside the licence holder's control and influence and which the licence holder is unable to manage by its own force and means.

(5) Decisions on any reduction of the period referred to in Subsection 4 above and on the date of termination of the licence shall be made by the Energy Regulatory Office.

(6) A licence holder applying for licence termination shall at the same time submit a proposal to resolve the situation and the documents evidencing that all market participants concerned with whom the licence holder has concluded contracts under this Act have been notified of the intended cessation of the licence holder's activities.

(7) In the case of urgent need for continuation of activities specified in Section 3 Subsection 2, the individual or the legal entity or its legal successor, whose licence for such activities has been revoked or such proceedings aimed at termination of the licence have been commenced, shall in the public interest, on the basis of the Energy Regulatory Office's decision, let another licence holder operate the energy facilities specified in the Energy Regulatory Office's decision for a consideration, in order to secure energy supply beyond the scope of such another licence holder's licence for a definite period of time which, however, shall not be longer than 12 months. Unless the licence holder is an owner of the energy facilities, this obligation shall apply to the owner of the energy facilities for a definite period, which shall not be longer than 12 months. Such other licence holder shall be given access to such facilities as may be needed for their full use. No legal remedy against the decision of the Energy Regulatory Office shall have a suspensory effect.

(8) The consideration for letting another licence holder operate the energy facilities pursuant to Subsection 7 above shall be determined by the Energy Regulatory Office on the basis of an expert opinion, unless otherwise agreed between the individuals and/or legal entities concerned.

(9) The individual or the legal entity whose licence has expired shall return to the Energy Regulatory Office the original copy of the licence-granting decision within 7 days after the receipt of the notification of the expiry of the licence. This provision shall not apply to cases referred to in Subsection 1 Clause a).

#### Section 11 Rights and obligations of licence holders

(1) The licence holder shall:

- a) Perform the licensed activities in such a manner to ensure reliable and constantly safe supply of energy, as far as such an obligation is imposed on the licence holder by the provisions of the special part of this Act;
- b) Supply energy exclusively on the basis of a contract with the buyer, such a contract containing all the requisites as specified in the special part of this Act;
- c) Ensure that technical facilities meeting the security and reliability requirements laid down in pertinent legal regulations and technical standards for the gas sector are used for the licensed activities;
- d) Ensure that the work relating to the performance of the licensed activities is done by professionally competent personnel;
- e) Provide the Ministry of Industry and Trade (hereinafter "Ministry"), the Energy Regulatory Office and the State Energy Inspection Board with true and complete information and supporting documents that they need to exercise their statutory authorities and give them access to the equipment serving for the performance of the licensed activities;
- f) Be an accounting unit under a special legal regulation and prepare and submit to the Energy Regulatory Office regulatory statements under this Act;
- g) Avoid disclosing any commercial, technical and financial information the licence holder may have learned of from customers;
- h) Maintain the prescribed quality parameters of the supplies and services; provide compensation specified by a decree in the event of failure to maintain such parameters.

(2) The licence holder shall submit for decisions to the Energy Regulatory Office any matters subject to dispute pertaining to the supply of energy, provision of support services, refusal to connect a buyer to the network, refusal of electricity transmission, gas transmission, electricity distribution, gas distribution or gas storage, refusal to allocate capacity of international interconnection lines of the transmission or distribution system, refusal to allocate capacity of gas lines connecting the gas system to foreign gas systems, refusal to conclude an energy sale contract or unjustified interruption of its supply.

(3) Other rights and obligations of licence holders in individual energy sectors are laid down in the special part of this Act.

#### Section 12 Obligations beyond the scope of the licence

(1) The obligation to supply heat energy and the obligation to distribute electricity and to distribute gas beyond the scope of the licence shall mean an obligation whereby another licence holder shall assume the obligations of a licence holder that has ceased to perform the licensed activities.

(2) In case of urgent need and in the public interest the heat energy generation or heat energy distribution licence holder shall supply energy beyond the scope of the licence on the basis of the Energy Regulatory Office's decision.

(3) In case of urgent need and in the public interest the electricity distribution or gas distribution licence holder shall ensure electricity distribution or gas distribution beyond the scope of the licence on the basis of the Energy Regulatory Office's decision.

(4) The Energy Regulatory Office's decision as per Subsections 2 and 3 shall be issued for a definite period of time which, however, shall not be longer than 12 months. No legal remedy against such a decision shall have a suspensory effect.

(5) Any provable loss suffered by the heat energy generation or heat energy distribution licence holder as a result of the assumption of the obligations to secure supplies beyond the scope of the licence shall be covered from the resources of the Energy Regulatory Fund (hereinafter "Fund") in accordance with Section 14. Any provable loss suffered by the electricity distribution or gas distribution licence holder or by the ultimate supplier is a reason for the adjustment of regulated prices.

(6) If the licence holder also performs activities other than fulfilment of the obligation to secure supplies beyond the scope of the licence, such a licence holder shall maintain separate accounts in respect of securing the supplies beyond the scope of the licence.

(7) The obligation to make energy facilities available in case of urgent need and in the public interest in order to secure obligations beyond the scope of the licence also applies to an individual or a legal entity who/which is not a licence holder and that has ceased to perform, or is in imminent threat of ceasing to perform, activities during the course of which

electricity, gas or heat energy supply is provided. The provisions of Section 10 Subsection 7 and 8 shall apply accordingly.

#### Section 12a Ultimate supplier

- (1) The ultimate supplier shall supply electricity or gas at prices determined by the Energy Regulatory Office to households and small customers who apply for it. The ultimate supplier shall not be obliged to secure the supply of electricity or gas if unauthorised consumption is ascertained.
- (2) The ultimate supplier is the electricity trading or gas trading licence holder, the selection of which is decided by the Energy Regulatory Office.
- (3) Until the Energy Regulatory Office decides on the selection of an ultimate supplier,
  - a) The ultimate supplier within the delineated territory of the electricity distribution licence holder, the equipment of which is connected to the transmission system, shall be a trader who is or was a part of the same vertically integrated undertaking, at a place where the supply point of the end customer concerned is located; and
  - b) The ultimate supplier within the delineated territory of the gas distribution licence holder, the equipment of which is connected to the transmission system, shall be a trader who is or was a part of the same vertically integrated undertaking, at a place where the supply point of the end customer concerned is located.
- (4) The criteria for the selection of an ultimate supplier and decisions on the selection of an ultimate supplier for a given territory will be announced by the Energy Regulatory Office in the Energy Regulatory Bulletin. A decision on the selection of an ultimate supplier will be delivered by the Energy Regulatory Office to the selected supplier and other candidates.
- (5) The criteria for the selection of an ultimate supplier determined by the Energy Regulatory Office include, in particular, the requirements for the availability of sufficient funds and professional competence of the candidates.
- (6) The ultimate supplier shall also supply electricity to other eligible customers who have exercised the right to select a supplier, but whose electricity supplier will cease to hold its licence in the course of performance of the licensed activity or will be deprived of the possibility to supply electricity to eligible customers and such eligible customers do not have their supply secured in any other manner as at the date of interruption or cessation of the supplier's activities. In such a case the ultimate supplier shall supply electricity to these eligible customers at prices determined by the Energy Regulatory Office for a period not longer than 3 months from the day when the electricity market operator in compliance with the rules for organisation of the electricity market (hereinafter "Electricity Market Rules") enables this supplier's participation in electricity markets organised by it. The ultimate supplier shall notify the eligible customers concerned of this fact without undue delay.

#### Section 13 Provable loss

- (1) Provable loss shall mean the difference between the economically justified costs incurred by the licence holder in discharging supply obligations beyond the scope of the licence and the revenues earned by the licence holder through discharging the supply obligations beyond the scope of the licence.
- (2) The method of calculation of the provable loss and the documents to be furnished to support the calculation of the provable loss shall be laid down in the implementing regulation.

#### Section 14 Fund

- (1) Money that is designated for compensation for provable losses suffered by licence holders according to Subsection 13 while fulfilling the heat supply obligations beyond the scope of the licence shall be held by the Energy Regulatory Office in a special current account. The income of this account is comprised of payments of the obligated entity, interest and penalties.
- (2) Licence holders referred to in Section 4 Subsection 1 Clauses h) and i) shall provide financial contributions to the fund. The money held in the fund shall be treated as "other funds of the state" and shall be specifically blocked for the purpose of compensation for the provable losses of any licence holder that fulfils heat energy supply obligations beyond the scope of its licence.
- (3) Licence holders shall become liable to contribute to the fund, unless the amount of contributions on the account at the end of the settlement period amounts to CZK 50,000,000. Contributions shall be assessed, determined, collected and exacted by the Energy Regulatory Office which also maintains the relevant records and controls contributions, including the settlement of overpayments and underpayments pursuant to a special legal regulation.<sup>1b)</sup> The settlement of overpayments and underpayments, including the additional assessed contribution, is without prejudice to the already determined amount of the licence holders' contributions. Contributions to the fund shall be assessed for the fund's fiscal period in which the fund's balance drops by at least CZK 5,000,000. The Energy Regulatory Office does not refund overpayments up to CZK 100.
- (4) The procedure for determination of the amount to be contributed by individual licence holders shall be defined as the product of their proportion of the total annual revenues from the licensed activities performed by them in the previous calendar year and the amount defined as described in Subsection 3 above for a given year. Exempt from the obligation to

pay contributions are those licence holders whose contributions are less than CZK 100. The total sum by which the total amount of revenues reported by licence holders has thus been reduced will be proportionally allocated to the licence holders to whom the exemption does not apply, and the assessed contribution that such licence holders pay to the fund will be increased by this proportion.

(5) Based on the results of the assessment proceedings, the Energy Regulatory Office will determine the amount of contribution to be paid by individual licence holders and will notify the relevant licence holder of the amount assessed. The licence holders shall pay their contributions to the fund not later than 31 October of a given calendar year. If the Energy Regulatory Office ascertains after the assessment of the contribution that the contribution assessed in this manner is lower than its statutory amount, it will assess this contribution subsequently in the amount of a difference between the originally assessed amount and the re-assessed one. The additional assessed contribution shall be payable within 30 days of the day of delivery of the payment assessment.

(6) The licence holder upon whom the obligation to provide heat energy supply beyond the scope of the licence has been imposed shall submit a provable loss settlement statement to the Energy Regulatory Office not later than 30 June of the calendar year. The statement so submitted shall apply to the provable loss incurred by the licence holder while fulfilling the supply obligation beyond the scope of the licence in the past calendar year. The Energy Regulatory Office shall check the provable loss settlement statement and specify the limit on the amount to be drawn from the fund as a compensation for the loss sustained.

(7) If the provable loss suffered by the licence holders is in excess of the total amount held in the fund, such a gap may be bridged by a returnable subsidy from the national budget repayable by the end of the following calendar year at the latest.

(8) The money remaining in the fund at the calendar year end shall be carried forward to the next calendar year.

(9) The licence holder upon whom the obligation to provide heat energy supply beyond the scope of the licence has been imposed shall be responsible for the use of the money drawn from the fund to cover the provable loss and for correct settlement of the provable loss for the calendar year concerned.

(10) If any money is drawn from the fund on the basis of incorrect or incomplete information furnished by the licence holder, the licence holder shall return to the fund any money drawn or withheld on such an unjustified basis, doing so not later than within 15 days of the date of being asked by the Energy Regulatory Office to do so or within 15 days of the date when the recipient of the contributions to the fund learns of such incorrect or incomplete information. The licence holder concerned shall at the same time pay a penalty of 1 *per mille* per day of the amount drawn or withheld on such an unjustified basis; however, the total penalty shall not exceed that amount. The penalty constitutes the fund's income. The Energy Regulatory Office may reduce or remit the penalty on the grounds of amelioration of harshness. The money drawn or withheld on an unjustified basis shall be collected and exacted by the Energy Regulatory Office.

(11) The Energy Regulatory Office shall submit the audit of the fund and publish an annual report on the management of the fund for the calendar year concerned in the Energy Regulatory Bulletin. The Report on the Balance of the Fund shall be submitted as an appendix to the National Closing Account Report under the "Energy Regulatory Office" chapter for the year concerned together with the fund's draft budget for the next calendar year.

(12) The procedure for the determination of individual licence holders' annual financial contributions to the fund, as referred to in Subsection 4 above, and the detailed rules for the payment of financial contributions shall be laid down in the implementing legal regulation.

#### Section 15 Exercise of Public Administration

Responsibility for the exercise of public administration in the energy sectors shall be borne by:

- a) The Ministry;
- b) The Energy Regulatory Office; and
- c) The State Energy Inspection Board.

#### Section 16 authority of the ministry

The Ministry as the central public administration body for the energy sector<sup>2)</sup> shall:

- a) Issue state approval to build new source facilities in the electricity and heat sectors and state approval to build direct lines and selected gas equipment in accordance with the conditions specified in the special part of this Act;
- b) Develop the energy policy of the state;
- c) Ensure fulfilment of obligations arising from the international agreements and treaties binding on the Czech Republic or obligations arising from membership in international organisations;
- d) Inform the Commission of the European Communities (hereinafter "Commission") about
  1. Measures taken to secure the fulfilment of the ultimate supply, protection of customers and environmental protection;
  2. Summary reports on the monitoring of electricity and gas balances prepared every 2 years, not later than 31 July;

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<sup>2)</sup> Act No. 2/1969 Coll., on the Establishment of Ministries and Other Central Authorities of the Czech Republic, as amended.

3. Protective measures taken in the event of an immediate crisis in the energy market, in the case of threat to the safety of persons and equipment and threat to the coherence of energy systems; it shall also inform all Member States of the European Union;
  4. Electricity imports from the viewpoint of physical flows that occurred during the previous 3 months from third countries, namely once in 3 months;
  5. Reasons for the rejection of applications for the granting of a public authorisation;
  6. Status of the electricity and gas market;
  7. Facts pertaining to the combined generation of electricity and heat;
  8. Annual statistics relating to the output of the combined generation and fuel used for this purpose and reporting primary energy savings accomplished by way of the combined generation; electricity market participants, the electricity market operator and the Energy Regulatory Office shall provide the Ministry with the information needed for this purpose;
- e) Organise a tender for new generating capacity, if such need arises; the details shall be laid down in the implementing legal regulation;
  - f) Be entitled, in order to secure the supply, to give an instruction to prefer the connection of those electricity and gas generating plants that are using local primary energy fuel sources, to an extent not exceeding 15% of the aggregate primary energy necessary for the electricity generation and gas generation in a given calendar year;
  - g) Decide on the reduction of electricity import as per Section 44 or gas import as per Section 75.

Section 17  
energy regulatory office and its authority

- (1) The Energy Regulatory Office is established as the administrative authority charged with the exercise of regulatory powers in the energy sector, having a special chapter in the national budget of the Czech Republic.
- (2) The seat of the Energy Regulatory Office shall be at Jihlava.
- (3) The mission of the Energy Regulatory Office is to support economic competition, to support the use of renewable and secondary energy sources, and to protect consumers' interests in those areas of the energy sector where competition is impossible, with the aim to meet all reasonable requirements for the supply of energy. The Energy Regulatory Office exercises the authority of the regulatory institution pursuant to the regulation<sup>2a)</sup> on conditions for access to the network applicable to the cross-border exchange of electricity (hereinafter "regulation").
- (4) The Energy Regulatory Office shall be headed by its chairperson, who shall be appointed for a period of 5 years and may be removed, by the Government of the Czech Republic. The chairperson of the regulatory office is an employee of this office.
- (5) The chairperson of the Energy Regulatory Office may be removed from his/her post by the government before the expiry of his/her term solely on the following grounds: sickness permanently preventing him/her from performing his/her duties, gross breach of his/her obligations as chairperson, effective conviction of a court for a criminal offence, or resignation.
- (6) The Energy Regulatory Office shall decide on the following matters:
  - a) The granting of a licence, amendment thereto or revocation thereof;
  - b) The holding of more than one licence by an individual or legal entity in compliance with the implementing legal regulation;
  - c) Imposition of the supply obligation beyond the scope of the licence;
  - d) Imposition of the obligation to let another licence holder use the energy facilities in cases of emergency to exercise the supply obligation beyond the scope of the licence, including any related decisions on an easement based on the provisions of special legal regulations<sup>3)</sup>;
  - e) Price regulation based on special legal regulations<sup>4)</sup>
  - f) Selection of an ultimate supplier; and
  - g) Temporary suspension of an obligation to enable third party access pursuant to Section 61a.
- (7) The Energy Regulatory Office shall lay down by the implementing legal regulation:
  - a) The required quality of the supplies and services relating to the regulated activities in the electricity sector and the gas sector, including the amount of compensation for non-compliance with quality standards, time limits for claiming the entitlement to receive compensation, and procedures for the reporting on compliance with the quality of supplies and services;

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<sup>2a)</sup> Regulation EC No 1228/2003 of the European Parliament and of the Council of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity.

<sup>3)</sup> Act No. 40/1964 Coll., Civil Code, as amended.

<sup>4)</sup> Act No. 526/1990 Coll., on Prices, as amended.

- b) The method of selection of the licence holder to exercise the supply obligation beyond the scope of the licence;
  - c) The method of regulation in the energy sectors and procedures for price regulation based on a special legal regulation<sup>4)</sup>;
  - d) Conditions for the connection of electricity generating plants, distribution systems and supply points of end customers to the Grid, method of calculation of the proportion of costs associated with the connection and provision of power demand, and the method of calculation of compensation to be paid in the case of unauthorised electricity consumption;
  - e) Rules for organising the electricity market, the principles of pricing in respect of the electricity market operator, and the rules for organising the gas market (hereinafter “Gas Market Rules”);
  - f) The method of calculation of the provable loss suffered while fulfilling the obligation to supply energy beyond the scope of the licence and documents to evidence and specify the calculation of the provable loss;
  - g) The rules to determine the amounts of the licence holders’ financial contributions to the fund and the rules for drawing money from the fund;
  - h) Conditions for supplies of electricity and gas for end customers, and conditions for supplies of electricity and gas by the ultimate supplier;
  - i) Details of proving the availability of sufficient funds and technical background for individual types of licences for regulated activities and details of proving professional competence;
  - j) Method of determination of the delineated territory and the location of a plant, proving the title or the right to use energy-related equipment, requisites of the declaration of the responsible representative, model applications for the granting, amendment and revocation of a licence, and the structure of licences for regulatory purposes;
  - k) Rules for the creation, allocation and use of model charts (load curves) for supplies of electricity and gas;
  - l) Conditions for connection of gas generating plants, distribution systems, underground gas storage facilities and supply points of end customers to the gas system, method of calculation of the proportion of costs associated with the connection and provision of the required supply, and the method of calculation of compensation to be paid in the case of unauthorised electricity consumption;
- (8) The Energy Regulatory Office shall further:
- a) Decide disputes arising from the failure to arrive at an agreement on the conclusion of a contract between individual licence holders and between licence holders and their customers or the failure to arrive at an agreement on essential elements of the contract, if such a contract is to be amended;
  - b) Decide on disputes arising from the failure to arrive at an agreement on an access to the transmission system or to the distribution system, transport system, underground gas storage facilities, free accumulation and gas recovery lines or the failure to arrive at an agreement on the allocation of the cross-border capacity for electricity transmission;
  - c) Request that the licence holder disclose the information specified by the Energy Regulatory Office, if such information is related to the regulated activities and is not a trade secret or is not confidential;
  - d) Perform the control of compliance with the obligations of licence holders under a special Act<sup>4)</sup> and for this purpose authorise its employees to enter the premises used for the performance of the licensed activities;
  - e) Authorise the Transmission System Operating Rules and the Distribution System Operating Rules for the electricity sector, business conditions of the electricity market operator, The Transmission System Operator Code and the Distribution System Operator Code for the gas sector;
  - f) Initiate the inspection of how the obligations resulting from the decisions based on Section 17 Subsection 6 are fulfilled and initiate the inspection to be performed by the State Energy Inspection Board based on the provisions of Section 93, Subsection 1 Clauses a) and c);
  - g) While exercising its regulating mission, impose on the licence holder the obligation to remedy any identified faults and submit a report on the measures taken within the time limit defined in the decision of the Energy Regulatory Office, and impose fines under a special Act<sup>4)</sup>;
  - h) Publish the annual report on the findings of the monitoring activities in the energy sectors and the annual and monthly report on the operation of the Grid.
- (9) For purposes of performing their regulatory mission, employees of the Energy Regulatory Office shall be entitled to:
- a) Enter the premises where the licensed activities are performed;
  - b) Inspect the accounting documents and other documents of licence holders and other individuals or legal entities whose activities are subject to regulation under this Act, and request their explanation as needed for regulation; any circumstances they may have learned of during their inspection work shall be treated by them as confidential while they are employees of the Energy Regulatory Office and two years thereafter.
- (10) The Energy Regulatory Office shall issue the Energy Regulatory Bulletin (*Energetický regulační věstník*) to publish information including, but not limited to:
- a) A list of licence holders; and
  - b) Decisions issued, including decisions relating to prices.
- (11) The Energy Regulatory Office shall submit a report on its activities to the government and to the Chamber of Deputies of the Czech Parliament on an annual basis.



## INSPECTION

(1) The State Energy Inspection Board is the inspection body to supervise the activities in the energy sectors.

Section 19  
repealed

Section 20  
Regulatory statements

(1) The licence holder will set out in the chart of accounts the accounts that are designed for the recording of costs and revenues and profit/loss of individual licensed activities and activities of the ultimate supplier in compliance with the implementing legal regulation. The gas transmission licence holder will further set out in the chart of accounts the accounts that are designed for the recording of assets of individual licensed activities in compliance with the implementing legal regulation.

(2) For the fiscal period commencing as at 1 January 2005, the electricity trading licence holder will set out in the chart of accounts the accounts designed for the recording of costs and revenues and the profit/loss for the supplies of electricity to protected customers and the accounts designed for the recording of costs and revenues and the profit/loss to be recorded in respect of supplies to eligible customers, provided that in compliance with a special part of this Act the licence holder supplies electricity to protected customers.

(3) For the fiscal period commencing as at 1 January 2005, the gas trading licence holder will set out in the chart of accounts the accounts designed for the recording of costs and revenues and the profit/loss for the gas supplies to protected customers and the accounts designed for the recording of costs and revenues and the profit/loss to be recorded in respect of gas supplies to eligible customers, provided that in compliance with a special part of this Act the licence holder supplies gas to protected customers.

(4) For the fiscal period commencing as at 1 January 2005 the electricity trading licence holder and the gas trading licence holder will set out in the chart of accounts the accounts designed for the recording of costs and revenues and the profit/loss for activities of the ultimate supplier, provided that it has been selected for activities of the ultimate supplier.

(5) For the fiscal period commencing as at 1 January 2005 the licence holder will set out in the chart of accounts the accounts designed for the recording of costs and revenues and the profit/loss for other activities that are not performed based on licence under this Act.

(6) For the fiscal period commencing as at 1 January 2005 the owner and lessor of the energy-related equipment who is a member of the same business grouping as the licence holder that uses for the performance of its licensed activities this energy-related equipment will set out in the chart of accounts also the accounts designed for the recording of revenues from the ownership of this energy-related equipment.

(7) The licence holder shall prepare for price regulation purposes regulatory statements which shall be submitted to the Energy Regulatory Office by 30 April of the following calendar year for the previous fiscal period. The requisites and structure of regulatory statements, including their model versions and rules for the preparation of regulatory statements shall be laid down in the implementing legal regulation.

(8) The licence holder whose activities are subject to the price regulation shall submit to the Energy Regulatory Office the financial statements by 30 June of the following calendar year for the previous fiscal period.

(9) For the fiscal period commencing as at 1 January 2005 the gas transmission licence holder will set out in the chart of accounts also the accounts designed for the recording of the purchase and sale of gas for the purposes of securing the balance between the gas entering and leaving the gas system pursuant to Section 58 Subsection 1 Clause j) and the accounts designed for the recording of activities performed pursuant to Section 58 Subsection 8.

Chapter II  
Special part  
Part 1  
Electricity sector  
Section 21  
electricity market

(1) To secure reliable and efficient supply of electricity while protecting the environment, the electricity market in the territory of the Czech Republic is based on regulated access to the transmission system and the distribution systems (hereinafter "regulated access") and on the possibility to build electricity generating plants and direct lines in accordance with the conditions specified herein; the prices for the transmission and distribution of electricity and for system services, as well as electricity prices for protected customers and electricity prices for the ultimate supplier shall be regulated by the Energy Regulatory Office; regulated access to the transmission system and the distribution systems shall begin to be provided on 1 January 2002.

(2) The electricity market shall be opened, step-by-step, as follows:

- a) Starting from 1 January 2002, eligible customers shall be the end customers whose electricity consumption related to one supply point, including electricity generation for the generator's own use, has exceeded 40 GWh in the year 2000 or in the one-year period from 1 July 2000 to 30 June 2001; the right of regulated access for the purpose of selling their output shall be enjoyed by electricity generation licence holders with an installed capacity in excess of 10 MW.

- b) Starting from 1 January 2003, eligible customers shall be the end customers whose electricity consumption related to one supply point, including electricity generation for the generator's own use, has exceeded 9 GWh in the year 2001 or in the one-year period from 1 July 2001 to 30 June 2002; the right of regulated access for the purpose of selling their output shall be enjoyed by all electricity generation licence holders.
- c) Starting from 1 January 2004, eligible customers shall be all end customers whose supply point is furnished with the continuous metering device for electricity consumption<sup>4a)</sup> other than households.
- d) Starting from 1 January 2005, all end customers, other than households, shall be eligible customers.
- e) Starting from 1 January 2006, all end customers shall be eligible customers.

(3) Until 31 December 2001, the distribution system operators whose equipment is connected to the transmission system shall be entitled to regulated access to the transmission system only in respect of electricity supply from the generators whose equipment is connected to the transmission system, this being so within the range of such generators' own-generated output.

(4) The contracts on simultaneous supply of electricity and gas may be concluded no sooner than on the day specified in Section 55 Subsection 3 Clause c).

## Section 22 Electricity market participants

(1) Electricity market participants include:

- a) Generators;
- b) The transmission system operator;
- c) Distribution system operators;
- d) The market operator;
- e) Electricity traders; and
- f) End customers.

(2) Electricity market participants enjoying the right of regulated access to the transmission system and the distribution system:

- a) Shall be responsible for any difference and are entities in charge of the difference settlement (hereinafter "settlement entities"); or
- b) Under a contract to this effect, may delegate responsibility for any difference to another settlement entity.

(3) The method of evaluation and settlement of differences is common for all settlement entities. Details on the assumption of responsibility for a difference and the method of evaluation and settlement of differences shall be laid down in the Electricity Market Rules.

## Section 23 Generator

(1) The generator shall be entitled to:

- a) Connect its equipment to the Grid, provided that the generator is the electricity generation licence holder and complies with the conditions for the connection to the transmission system or to the distribution systems as laid down in the implementing legal regulation, as well as business conditions specified in the Transmission System Operating Rules or the respective Distribution System Operating Rules;
- b) Offer the electricity generated in its own electricity generating plant on the short-term electricity market organised by the market operator;
- c) Supply electricity through the transmission system or the distribution system, provided that:

1. The generator has concluded an electricity supply contract and an electricity transmission and distribution contract, or a separate electricity transmission contract or distribution contract;

2. The electricity supply concerned is an electricity supply organised by the market operator on the short-term electricity market; or

3. The generator has been asked by the transmission system operator or the respective distribution system operator to supply electricity;

- d) Supply the electricity generated in its own electricity generating plant to meet its own needs or the needs of the businesses controlled by the company, as far as such supply is possible given the transmission system's and distribution systems' operating conditions;
- e) Offer and provide support services to secure the operation of the Grid under the conditions laid down in the Transmission System Operating Rules or the respective Distribution System Operating Rules.

(2) The generator shall:

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<sup>4a)</sup> Decree No. 218/2001 Coll., providing the details of electricity metering and technical data submitting, as amended.

- a) Secure at its own expense the connection of its equipment to the transmission system or the distribution system;
- b) Enable, and pay for, the installation of a metering device by the operator of the transmission system or the respective distribution system to which the generating plant is connected; the types of metering devices, method of their installation, their location and other details of the metering are set out in the Transmission System Operating Rules or the respective Distribution System Operating Rules;
- c) Make the metering device accessible to the operator of the transmission system or the respective distribution system to which the generating plant is connected;
- d) Install facilities for the provision of support services at the newly built electricity generating plants having a total installed electricity capacity of at least 30 MW, and operate such facilities; details relating to the type of facilities for the provision of support services to be installed shall be set out in the Transmission System Operating Rules or the respective Distribution System Operating Rules; details of the method of using the facilities for the provision of support services shall be set out in the Grid Code of the Electricity System (hereinafter "Grid Code ") which shall be laid down in the implementing legal regulations;
- e) Follow the instructions of the technical dispatching centre of the operator of the transmission system or the respective distribution system to which the electricity generating plant is connected in compliance with the Grid Code;
- f) Provide the market operator with the technical data referred to in the electricity supply contracts;
- g) Provide the operator of the transmission system or the respective distribution system to which the electricity generating plant is connected with the information needed for the operation and development of the transmission system or the distribution system in compliance with the Grid Code and the Transmission System Operating Rules or the respective Distribution System Operating Rules;
- h) Maintain the electricity supply quality parameters as required by the Transmission System Operating Rules or the Distribution System Operating Rules;
- i) Contribute to the covering of the justified costs incurred by the transmission system operator or the respective distribution system operator associated with the connection of the electricity generating plant; details of the calculation of such a contribution to the covering of the justified costs shall be laid down in the implementing legal regulation;
- j) Pay the operator of the transmission system or the distribution system according to the Electricity Market Rules for system services corresponding to the quantity of the electricity generated in its own electricity generating plant and consumed by the end customer without use of the energy facilities of another licence holder;
- k) Inform electricity market participants in a manner allowing remote access:
  1. About the proportion of electricity sources used for electricity generation in the past year;
  2. About the quantity of CO<sub>2</sub> emissions and the quantity of radioactive waste produced by electricity generation in the past year;
- l) In order to secure safety and reliability of Grid operation, for cases of prevention and solution of a state of emergency and under conditions laid down in the Transmission System Operating Rules or the respective Distribution System Operating Rules, on the instruction of the transmission system operator or the distribution system operator, offer its generating capacities, idle from the operating or commercial viewpoint;
- m) Follow the instructions of the technical dispatching centre of the operator of the transmission system or the respective distribution system to which the electricity generating plant is connected, in activities directly preventing a state of emergency, during a state of emergency, and removal of damage caused by a state of emergency.
- n) Register within 30 days from the granting of the electricity generation licence with the electricity market operator; by registering the generator becomes a registered electricity market participant (hereinafter "registered market participant").

#### Section 24

##### Transmission system operator

- (1) The transmission system operator shall:
  - a) Secure reliable operation and development of the transmission system;
  - b) Provide electricity transmission on the basis of contracts concluded;
  - c) Control the electricity flows within the transmission system while respecting electricity transmissions between the interconnected grids of other countries and co-operating with the operators of the distribution systems within the Grid; and
  - d) Be responsible for the provision of system services for the Grid at the level of the transmission system.
- (2) The transmission system operator may not be a holder of an electricity trading, electricity distribution and electricity generation licence. The acquisition of electricity aimed at securing the reliable operation of the transmission system is not considered to be electricity trading.
- (3) The transmission system operator shall be entitled to:
  - a) Establish and operate its own telecommunication network for the control, metering, security and automation of the transmission system's operation and for the information transfer to support the operation of computers and information systems;
  - b) Acquire, at the lowest cost, the support services and electricity needed to cover the losses from the transmission system and to meet its own needs; in order to prevent outages (breakdowns) and a state of emergency and to resolve outages (breakdowns) and a state of emergency, acquire electricity to the extent necessary, even abroad;
  - c) Limit or interrupt, to the extent necessary, electricity supply to buyers:

1. In cases of direct danger to the life, health or property of persons and in cases of removal of such dangers;
  2. In a state of emergency or activities directly preventing its occurrence and removal of the damage caused by a state of emergency;
  3. In the case of unauthorised electricity transmission as referred to in Section 53;
  4. If the buyer fails to grant the operator access to the metering device;
  5. If the unauthorised consumption is involved, as referred to in Section 51;
  6. When performing the planned work on the transmission system facilities, or on their protective zone, including, but not limited to, repairs, refurbishment, maintenance and inspection;
  7. In cases of defects in the transmission system facilities or the distribution system facilities and their removal;
  8. In cases of electricity consumption by facilities dangerous to the life, health or property of persons; or
  9. In cases of electricity consumption by facilities affecting the quality of electricity to the detriment of other buyers, and the buyer did not furnish such electricity consumption facilities with available technical devices to reduce such effects.
- d) Change or interrupt, to the extent necessary, electricity supply from the generating plants and electricity import from other countries or electricity export to other countries with a view to securing reliable operation of the transmission system:
1. In cases of direct danger to the life, health or property of persons and in cases of removal of such dangers;
  2. In a state of emergency or activities directly preventing its occurrence and removal of the damage caused by a state of emergency;
  3. In the case of unauthorised electricity transmission as referred to in Section 53;
  4. In the case of unauthorised electricity supply to the transmission system as referred to in Section 52;
  5. If the generator fails to grant the transmission system operator access to the metering device;
  6. When performing the planned work on the transmission system facilities, or on their protective zone, including, but not limited to, repairs, refurbishment, maintenance and inspection;
  7. In cases of defects in the transmission system facilities or the distribution system facilities and their removal;
  8. In cases of electricity supply by facilities dangerous to the life, health or property of persons; or
  9. In cases of electricity supply by facilities affecting the quality of electricity to the detriment of other electricity market participants, while the generator failed to furnish such facilities with available technical devices to reduce such effects.
- e) Establish and operate, in compliance with the conditions set out in the planning permission and building permission, transmission system facilities on other owners' property, cross such property with conductors, and locate electricity lines there;
  - f) Enter or drive on other owners' property for purposes of establishment and operation of transmission system facilities;
  - g) Remove and cut back trees and other growth; perform the disposal of such removed trees and other growth endangering safe and reliable operation of the transmission system facilities if this has not been done by the owner or user after having been asked to do so;
  - h) Enter, in accordance with special legal regulations, the closed areas and facilities used for the activities and services of the bodies of the Ministry of Defence, Ministry of Interior, Ministry of Justice, the Security Information Service and the operating property of the Railways, and likewise enter the property where special telecommunication facilities are located, the extent and manner of such entries being as needed for the performance of the licensed activities.
- (4) The transmission system operator shall create an easement allowing the use of other owners' property or its part for purposes referred to in Subsection 3 Clause e), on the basis of a contract concluded with the property's owner; in case the owner is not known or identified or is definitely inaccessible or inactive or no contract could be negotiated with such an owner, then the appropriate building authority shall issue, on the transmission system operator's proposal, a decision on the creation of an easement.

(5) In cases referred to in Subsection 3 Clause c) Point 6 and Clause d) Point 6, the transmission system operator shall announce the start and end of the limitation or interruption of electricity supply in a manner commonly used in a given place, doing so not later than 50 days in advance.

(6) In cases referred to in Subsection 3 Clauses c) and d), the transmission system operator shall resume electricity supply as soon as the causes of the limitation or interruption are removed.

(7) In cases referred to in Subsection 3 Clauses c) and d), no title to damages and compensation for the loss of profit may be claimed. This provision shall not apply if the transmission system operator fails to comply with the reporting duty as referred to in Subsection 5 above, or if the quality of electricity supply defined in the implementing legal regulation fails to be maintained as referred to in Subsection 3 Clause c) Point 7 and Clause d) Point 7.

(8) While exercising its authority as referred to in Subsection 3 Clauses e) to g), the transmission system operator shall respect to the maximum possible extent the rights of the owners of the property concerned and shall immediately notify them of its entry onto their property. Upon completion of work, the transmission system operator shall bring the property to its previous state, and if that is impossible because of the type of work performed there, the transmission system operator shall bring the property concerned to a state adequate to its previous purpose or use, and shall immediately notify the owner of the property of this fact. Upon removing or cutting back of trees, the distribution system operator shall at its own expense perform the disposal of the trees and cuttings produced by the intervention.

(9) If the freeholder or leaseholder of the property concerned has suffered as a result of the exercise of rights of the transmission system operator as referred to in Subsection 3 Clauses e) and f) damage to the property or its use of the property is restricted, then it shall be entitled to receive an appropriate lump sum compensation.<sup>5)</sup> An entitlement to such compensation needs to be claimed from the transmission system operator who has caused such damage to the property or restriction of its use within 6 months of the day when the freeholder or leaseholder of the property concerned learned of this fact.

(10) Also, the transmission system operator shall:

- a) Connect to the transmission system the equipment of any individual or legal entity that applies for it and meets the conditions laid down in the implementing legal regulation and the business conditions specified in the Transmission System Operating Rules, except the cases of evidenced lack of capacity of the transmission equipment or cases of danger to the reliable operation of the transmission system;
- b) Provide equal conditions for all electricity market participants to connect their equipment to the electricity transmission system;
- c) Provide equal conditions for all electricity market participants to transmit electricity along the transmission system, except in the case of electricity generated from renewable sources, secondary energy and electricity sources that can be proved to be associated with heat generation in the combined generation of electricity and heat, as the electricity from the renewable sources and co-generation units enjoys priority right of transmission; such priority right does not apply to the allocation of capacity of international transmission connecting lines;
- d) Establish and operate the technical dispatching centre;
- e) Arrange for metering and measurements to be performed within the transmission system, including evaluation of the readings obtained, and submit to the electricity market operator the obtained and evaluated data and other key information needed for the discharge of its duties; the details shall be laid down in the implementing legal regulation;
- f) Prepare and issue and publish, upon approval by the Energy Regulatory Office, the Transmission System Operating Rules including, but not limited to:

1. Basic conditions for the use of the transmission system;

2. Operating rules, including maintenance;

3. Rules for planning the operation and development of the transmission system;

4. Contingency plans and emergency inventories;

5. Rules for communication of the data and information needed for reliable operation and development of the transmission system

- g) Provide any information as may be needed for effective co-operation to the operators of any other transmission systems or any distribution systems with which the operator's system is interconnected;
- h) Restrict electricity import on the basis of the Ministry's decision pursuant to Section 44;

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<sup>5)</sup> Act No. 151/1997 Coll., on the Valuation of Property and the Amendment to Certain Acts (The Property Valuation Act) as amended by Act No. 121/2000 Coll.  
Act No. 289/1955 Coll., on Forests;  
Decree No. 55/1999 Coll., on the means of calculating the extent of loss or damage caused to forests;

- i) Prepare and publish, in compliance with the Grid Code and in co-operation with the distribution system operators, an annual document on preparation for the operation of the transmission system, including, but not limited to, the extent and dates of the transmission system down time and the expected transmission limitations;
- j) Prepare and publish every year a rolling projection of the development of the transmission system for at least 5 years ahead, including interconnection with the grids of the neighbouring countries;
- k) Regularly publish information on the possibilities of electricity transmission via the transmission system, doing so in the manner specified in the Transmission System Operating Rules;
- l) Perform, in co-operation with the distribution systems operators, technical evaluation of the operation of the transmission system;
- m) Maintain separate accounts for electricity transmission and system services;
- n) Prepare the data needed for the Energy Regulatory Office's decision on the prices for transmission and prices for system services;
- o) Provide protection to any proprietary information having the nature of a trade secret which the distribution system operator may have learned of during the performance of its activities, including the protection of the data submitted to the market operator;
- p) Develop contingency plans within six months of the granting of the licence and update them on an annual basis thereafter;
- r) Maintain and publish the quality parameters of electricity supply and services as laid down in the implementing legal regulation;
- s) Prepare a list of eligible customers connected to the transmission system and submit it to the market operator;
- t) Inform the Ministry not later than by the end of the second week of the month following after the elapse of a quarter about physical flows of electricity import from countries other than Member States of the European Union;
- u) Prepare and submit to the Ministry and to the Energy Regulatory Office annually not later than 1 March a report on the quality and level of maintenance of the transmission system facilities and on measures aimed at covering the peak electricity consumption and solution of outages of electricity generating plants;
- v) Co-operate with the electricity market operator in the organisation of the intra-day electricity market and the regulation energy compensatory market;
- x) Register within 30 days of the granting of the electricity transmission licence with the electricity market operator, by the registration the transmission system operator becomes a registered market participant;
- y) Pay to the generators contributions to the prices of electricity from the combined generation of electricity and heat or generated from secondary energy sources to generators directly connected to the transmission system to the extent specified in the implementing legal regulation.

#### Section 24a

##### separate status of the transmission system operator

- (1) The transmission system operator, if it is a part of a vertically integrated undertaking, shall be in terms of its legal form, organisation and decision-making independent of other activities unrelated to electricity transmission. This requirement shall not be construed as a demand for a separate ownership of property.
- (2) In order to ensure the independent status of the transmission system operator as referred to in Subsection 1, starting from 1 January 2005, the following minimum criteria shall apply:
  - a) Persons responsible for the management of the transmission system operator are not allowed to participate, either directly or indirectly, in any organisational structures of the vertically integrated undertaking that is responsible, either directly or indirectly, for the ordinary operation of electricity generation, electricity distribution or electricity trading; the statutory body or its member, proxy or executive of the transmission system operator cannot be an individual who is at the same time the statutory body or its member, proxy or executive of the electricity generation, electricity distribution or electricity trading licence holder who is a part of the same vertically integrated undertaking.
  - b) Any and all appropriate measures must be taken in order to take into account professional interests of the statutory body or its member, proxy or executives responsible for the management of the transmission system operator in a manner that would ensure their independent conduct; the statutory body or its member, proxy or executive of the transmission system operator is not allowed to receive any emoluments or other property-related supplies from electricity generation, electricity distribution or electricity trading licence holders within the same vertically integrated undertaking; the remuneration of the statutory body or its member, proxy or executive of the transmission system operator must be independent of profit/loss reported by such other licence holders within the same vertically integrated undertaking.
  - c) The transmission system operator must dispose of actual decision-making rights in respect of the property needed for the operation, maintenance and development of the transmission system, the exercise of which is independent of the vertically integrated undertaking; the parent company is not allowed to give to the transmission system operator any instructions pertaining to the ordinary operation and maintenance of the transmission system and it is also not allowed to interfere in any other manner with the decision-making on the building or refurbishment of parts of the transmission system, unless such a decision exceeds the scope of the approved financial plan or another similar instrument; this is without prejudice to the parent company's right to approve the annual financial plan or any similar instrument used by the transmission system operator and to approve its maximum debt limits.
  - d) The transmission system operator shall adopt by way of the internal regulation a programme whereby it will determine:
    - 1.

Measures to eliminate discriminatory conduct with respect to other electricity market participants, in particular as regards access to the transmission system operated by it and the use of its services; and

2.

Rules for making accessible the information on the operation and development of the transmission system and access to it; the transmission system operator shall make accessible on equal terms also to other electricity market participants the relevant information the provision of which to certain market participants only might be advantageous for such participants to the detriment of other participants.

e) The transmission system operator shall inform the statutory body or its members, proxy and all employees about the programme referred to in Clause d) and ensure the control of compliance with such programme. The transmission system operator shall submit the programme and amendments thereto to the Energy Regulatory Office and to the Ministry without undue delay upon their receipt and also publish them in a manner allowing remote access.

The transmission system operator shall prepare annually a report on the measures taken to comply with the programme for the past year, send it to the Energy Regulatory Office and to the Ministry by 30 April of the following year, and publish it in a manner allowing remote access.

(3) Starting from 1 January 2005, the transmission system operator may not acquire interests in another legal entity that is an electricity generation, electricity distribution or electricity trading licence holder. If the transmission system operator already holds such an interest, it shall sell it or otherwise alienate it within 6 months of the effective date hereof.

(4) The statutory body or its member, proxy or executive of the transmission system operator may not, starting from 1 January 2005, acquire or hold interests in another legal entity within the same integrated undertaking which is an electricity generation, electricity distribution or electricity trading licence holder. If an individual to whom the prohibition applies, as defined in this Subsection, already holds such an interest, he/she shall within 6 months of the effective date hereof sell or otherwise alienate at least such a portion of his/her interest that would ensure that he/she continues to hold an interest that does not exceed 1% of the registered capital of a given licence holder.

(5) Starting from 1 January 2005, the transmission system operator also may not conclude controlling contracts aimed at making it subject to the single control (management) exercised by another electricity generation, electricity distribution or electricity trading licence holder, nor will it be allowed to continue such control (management) under controlling contracts already concluded.

(6) The Energy Regulatory Office may decide on inclusion in the regulated prices of provable minimum justified costs that have been incurred by the electricity transmission licence holder in connection with its discharge of the obligation to maintain the separate status of the transmission system operator.

#### Section 25

#### Distribution system operator

(1) The distribution system operator shall:

- a) Provide reliable operation and development of the distribution system in the territory delineated by the licence;
- b) Enable electricity distribution on the basis of concluded contracts; and
- c) Control the electricity flows within the distribution system while respecting electricity transmissions between other distribution systems and the transmission system, doing so in co-operation with operators of other distribution systems and the transmission system operator.

(2) The distribution system operator may not be a holder of an electricity transmission licence.

(3) The distribution system operator to whose system more than 90,000 end customer supply points are connected may not be from 1 January 2007 onwards simultaneously a holder of an electricity generation, electricity transmission, electricity trading or gas trading licence, otherwise such other simultaneously held licences shall lapse as at 1 January 2007.

(4) The distribution system operator is entitled to:

- a) Establish and operate its own telecommunication network for the control, metering, security and automation of the distribution system's operation and for the transfer of information to support the operation of computers and information systems;
- b) Select the holder of a licence for electricity generation or electricity trading for electricity supply to protected customers if the aggregate electricity consumption of these customers corresponds to the electricity consumption of the eligible customer as referred to in Section 21 Subsection 2;
- c) Buy, at the lowest cost, support services and the electricity needed to cover losses in the distribution system and for the generator's own use;
- d) Limit or interrupt, to the extent necessary, electricity supply to buyers:
  1. In cases of direct danger to the life, health or property of persons and in cases of removal of such dangers;

2. In a state of emergency, during activities directly preventing its occurrence, and during the removal of damage caused by a state of emergency;
  3. In the case of unauthorised electricity distribution as referred to in Section 53;
  4. If the buyer fails to grant the operator access to the metering device;
  5. If unauthorised consumption is involved, as referred to in Section 51;
  6. When performing planned work on the distribution system facilities or on their protective zone, including, but not limited to, repairs, refurbishment, maintenance and inspection;
  7. In cases of defects in the distribution system facilities and transmission system facilities and their removal;
  8. In cases of electricity consumption by facilities in a way dangerous to the life, health or property of persons; or
  9. In cases of electricity consumption by facilities affecting the quality of electricity to the detriment of other buyers, where the buyer did not furnish such electricity consumption facility with available technical devices to reduce such effects;
- e) Change or interrupt, to the extent necessary, electricity supply from generating plants, electricity import from other countries, or electricity export to other countries in order to secure reliable operation of the distribution system.
1. In cases of direct danger to the life, health or property of persons, and in cases of removal of such dangers;
  2. In a state of emergency, during activities directly preventing its occurrence, and during removal of the damage caused by a state of emergency;
  3. In the case of unauthorised electricity distribution as referred to in Section 53;
  4. If the generator fails to grant the distribution system operator access to the metering device;
  5. In the case of unauthorised electricity supply to the distribution system as referred to in Section 52;
  6. When performing planned work on distribution system facilities or on their protective zone, including, but not limited to, repairs, refurbishment, maintenance, and inspection;
  7. In cases of defects and removal of defects in distribution system facilities and the transmission system facilities;
  8. In cases of electricity supply by facilities dangerous to the life, health or property of persons, or
  9. In cases of electricity supply by facilities affecting the quality of electricity to the detriment of other electricity market participants where the generator failed to furnish such facilities with available technical devices to reduce such effects;
- f) Establish and operate, in compliance with the conditions set out in the planning permission and the building permission, the distribution system facilities on other owners' property and premises, cross such property with conductors, and locate electricity lines there;
- g) Enter and drive on other owners' property for the purposes of establishment and operation of the distribution system facilities;
- h) Remove and cut back trees and other growth; perform the disposal of the removed trees and cuttings from such trees and other growth endangering safe and reliable operation of the distribution system if this has not been done by the owner or user after having been asked to do so; and
- i) Enter or drive in, in accordance with special legal regulations, the closed areas and facilities used for the activities and services of the bodies of the Ministry of Defence, Ministry of Interior, Ministry of Justice, the Security Information Service and the operating property of the Railways, and likewise enter property where special telecommunications facilities are located, the extent and manner of such entries being as needed for the performance of licensed activities.

(5) The respective distribution system operator shall create an easement allowing the use of other owners' property or its part for purposes referred to in Subsection 4 Clause e) on the basis of a contract concluded with the property's owner; in the case that the owner is not known or identified or is definitely inaccessible or inactive, or no contract could be negotiated with such an owner, then the appropriate building authority shall issue, upon the distribution system operator's proposal, a decision on the creation of an easement.

(6) In cases referred to in Subsection 4 Clause d) Point 6 and Clause e) Point 6, the distribution system operator shall announce the start and end of the limitation or interruption of electricity supply in a manner commonly used in a given place, doing so not later than 15 days in advance. This provision shall not apply to routine operating handling when the limitation or interruption does not exceed 20 minutes.

(7) In cases referred to in Subsection 4 Clauses d) and e), the distribution system operator shall resume the supply of electricity as soon as the causes of the limitation or interruption are removed.

(8) In cases referred to in Subsection 4 Clauses d) and e), no title to damages and compensation for the loss of profit may be claimed. This provision shall not apply if the distribution system operator fails to comply with the reporting



duty as referred to in Subsection 6 above, or if the quality of electricity supply defined in the implementing legal regulation fails to be maintained as referred to in Subsection 4 Clause d) Point 7 and Clause e) Point 7.

(9) While exercising its authority as referred to in Subsection 4 Clauses f) to h) the distribution system operator shall respect to the maximum extent possible the rights of the owners of the property concerned and shall notify them immediately of its entry onto their property. Upon completion of the work the distribution system operator shall bring the property to its previous state, and if that is impossible because of the type of work performed there, the distribution system operator shall bring the property concerned to a state adequate to its previous purpose or use, and shall immediately notify the owner of the property of this fact. Upon removing or cutting back the trees the distribution system operator shall at its own expense perform the disposal of the trees and lopping produced by the intervention.

(10) If the freeholder or leaseholder of the property concerned has suffered as a result of the exercise of rights of the distribution system operator as referred to in Subsection 4 Clauses f) and g) damage to the property or its use of the property is restricted, then it shall be entitled to receive an appropriate lump-sum compensation.<sup>5)</sup> An entitlement to such compensation needs to be claimed from the distribution system operator who has caused such damage to the property or restriction of its use within 6 months of the day when the freeholder or leaseholder of the property concerned learned of this fact.

(11) Also, the distribution system operator shall:

- a) Connect to the distribution system any individual or legal entity that applies for it and meets the conditions laid down in the implementing legal regulation and the business conditions specified in the Distribution System Operating Rules, except in cases of evidenced lack of capacity of the distribution equipment or cases of danger to the reliable operation of the distribution system;
- b) By 31 December 2004, based on the request of a protected customer or distribution system operator not enjoying the right to select an electricity supplier according to Subsection 4 Clause b), conclude an electricity supply contract with them in compliance with Section 50 and supply them with electricity at regulated prices on that basis; this obligation shall apply to the distribution system operators to whose equipment less than 100,000 end customer supply points are connected until 31 December 2005;
- c) Provide equal conditions for all electricity market participants to connect their equipment to the distribution system; in the case of customers taking electricity from low-voltage networks who are not furnished with a continuous metering device, assign an appropriate model chart for supplies (load curve) in compliance with the implementing legal regulation;
- d) Provide equal conditions for all electricity market participants to distribute electricity along the distribution system, except in the case of electricity generated from renewable sources, secondary energy, and electricity sources that can be proved to be associated with heat generation in the combined generation of electricity and heat, as the electricity from the renewable sources and co-generation units enjoys priority right of distribution; such priority right does not apply to the allocation of capacity of international distribution connecting lines;
- e) Establish and operate a technical dispatching centre if operating equipment at a voltage of 110 kV;
- f) Secure metering in the distribution system, including its evaluation, and submit metered and evaluated data and other information needed for compliance with its obligations to the electricity market operator; the details shall be laid down in the implementing legal regulation;
- g) Prepare, issue, and publish, upon approval by the Energy Regulatory Office, Distribution System Operating Rules including, but not limited to:
  1. Basic conditions for use of the distribution system
  2. Operating rules, including maintenance;
  3. Rules for planning the operation and development of the distribution system;
  4. Contingency plans and emergency inventories;
  5. Rules for communication of the data and information needed for reliable operation and development of the distribution system;
- h) Provide any information as may be needed for effective co-operation to the operators of the transmission system or any other distribution systems with which the operator's system is interconnected;
- i) Restrict electricity import on the basis of the Ministry's decision pursuant to Section 44;
- j) Prepare and publish, in compliance with the Grid Code and in co-operation with other distribution systems operators and the transmission system operator, an annual document on preparations for the operation of the distribution system, including, but not limited to, the extent and dates of the distribution system down time and expected distribution limitations;
- k) Prepare and publish every year a rolling projection of the development of the distribution system for at least 5 years ahead;
- l) Regularly publish information on the possibilities of electricity distribution via the distribution system, doing so in the manner specified in the Distribution System Operating Rules;
- m) Perform technical evaluation of the operation of the distribution system;
- n) Maintain separate accounts for electricity distribution and for electricity supply to protected customers;
- o) Prepare the data needed for the Energy Regulatory Office's decision on the prices for electricity distribution;

- p) Prepare background data and information for decisions to be made by the Energy Regulatory Office on the prices of electricity for protected customers;
- r) Provide protection to any proprietary information having the nature of trade secret which the distribution system operator may have learned of during the performance of its activities, including the protection of data submitted to the market operator;
- s) Develop contingency plans within six months of the granting of the licence and update them on an annual basis thereafter;
- t) Buy electricity from electricity generation licence holders not enjoying the right of regulated access to the distribution system as referred to in Section 21 Subsection 2 Clause a);
- u) Maintain and publish the quality parameters of electricity supply and services as laid down in the implementing legal regulation;
- v) At its own expense, provide connection of its equipment to another distribution system and contribute to the covering of the respective distribution system operator's justified costs relating to the connection of its equipment to such a distribution system; details of the calculation of the contribution to the covering of the justified costs shall be specified in the implementing legal regulation;
- x) Pay the transmission system operator or the respective distribution system operator for system services according to the Electricity Market Rules; and
- y) Until 31 December 2005, supply electricity to protected customers based on the electricity distribution licence, provided that less than 100,000 end customer supply points are connected to its equipment.

(12) Also, the distribution system operator shall:

- a) Inform the Ministry, not later than by the end of the second week of the month following after the elapse of a calendar quarter, about physical flows of electricity import from countries other than Member States of the European Union;
- b) Prepare and submit to the electricity market operator the metering data needed for the creation of model charts for supplies (load curves); the details shall be laid down in the implementing legal regulation;
- c) Prepare and submit to the Ministry and the Energy Regulatory Office every year not later than 1 March of the following calendar year a report on quality and level of maintenance of the distribution system equipment;
- d) Register within 30 days of the granting of the electricity distribution licence with the electricity market operator, by the registration the distribution system operator becomes a registered market participant; and
- e) Follow the instructions given by the transmission system operator in the course of activities directly preventing a state of emergency and in the course of a state of emergency as referred to in Section 54 Subsection 2 and in removal of the damage caused by a state of emergency.

(13) The operator of the distribution system directly connected to the transmission system shall pay to the generators directly connected to its distribution system contributions to the price of electricity generated from the combined generation of electricity and heat or generated from secondary sources of energy in quantities specified in the implementing legal regulation.

#### Section 25a

##### Separate status of distribution system operators

(1) The distribution system operator, if it is a part of a vertically integrated undertaking, shall be, starting from 1 January 2007, in terms of its legal form, organisation and decision-making, independent of other activities unrelated to electricity distribution. This requirement shall not be construed as a demand for a separate ownership of property.

(2) In order to ensure the independent status of the distribution system operator as referred to in Subsection 1, starting from 1 January 2007 the following minimum criteria shall apply:

- a) Persons responsible for the management of the distribution system operator are not allowed to participate, either directly or indirectly, in any organisational structures of a vertically integrated undertaking that is responsible, either directly or indirectly, for ordinary operation of electricity generation, electricity transmission, and electricity or gas trading; the statutory body or its member, proxy, or executive of a distribution system operator cannot be an individual who is at the same time the statutory body or its member, proxy, or executive of an electricity generation, electricity transmission, electricity trading, or gas trading licence holder that is a part of the same vertically integrated undertaking.
- b) Any and all appropriate measures must be taken in order to take into account professional interests of the statutory body or its member, proxy, or executives responsible for the management and control of the distribution system operator in a manner that would ensure their independent conduct; the statutory body or its member, proxy or executive of the distribution system operator is not allowed to receive any emoluments or other property-related supplies from electricity generation, electricity transmission, electricity trading, or gas trading licence holders within the same vertically integrated undertaking; the remuneration of the statutory body or its member, proxy, or executive of the distribution system operator must be independent of profit/loss reported by such other licence holders within the same vertically integrated undertaking.
- c) The distribution system operator must dispose of actual decision-making rights in respect of the property needed for the operation, maintenance and development of the distribution system, the exercise of which is independent of the vertically integrated undertaking; the parent company is not allowed to give the distribution system operator any instructions pertaining to the ordinary operation and maintenance of the distribution system and it is also not allowed to interfere in any other manner with the decision-making on the building or refurbishment of parts of the distribution

system; unless such a decision exceeds the scope of the approved financial plan or another similar instrument; this is without prejudice to the parent company's right to approve the annual financial plan or any similar instrument used by the distribution system operator and approve its maximum debt limits.

- (3) The distribution system operator shall adopt by way of the internal regulation a programme whereby it will determine:
- a) Measures to eliminate discriminatory conduct with respect to other electricity market participants, in particular with regard to access to the distribution system operated by it and the use of its services;
  - b) Rules for making accessible the information on the operation and development of the distribution system and access to it; the distribution system operator shall make accessible on equal terms to other electricity market participants the relevant information the provision of which to certain market participants only might be advantageous for such participants to the detriment of other participants; and
  - c) Measures to secure separation of electricity distribution from electricity generation, electricity trading and gas trading in organisational and informational terms, if it is at the same time a vertically integrated undertaking, until the moment of legal separation of activities as referred to in Subsection 1.
- (4) The distribution system operator shall inform the statutory body or its members, proxy, and all employees about the programme referred to in Subsection d) and ensure the control of compliance with such programme. The distribution system operator shall submit the programme and amendments thereto to the Energy Regulatory Office and to the Ministry without undue delay upon their receipt and also publish them in a manner that allows remote access. The distribution system operator shall prepare annually a report on the measures taken to comply with the programme for the past year, send it to the Energy Regulatory Office and to the Ministry by 30 April of the following year, and publish it in a manner allowing remote access.
- (5) The distribution system operator must not, starting from 1 January 2007, hold interests in another legal entity that is an electricity generation, electricity transmission, electricity trading or gas trading licence holder.
- (6) A statutory body or its member, proxy, or executive of the distribution system operator must not, starting from 1 January 2007, hold interests exceeding 1% of the registered capital of another legal entity within the same vertically integrated undertaking that is an electricity generation, electricity transmission, electricity trading, or gas trading licence holder.
- (7) Starting from 1 January 2007, the distribution system operator also may not conclude controlling contracts aimed at making it subject to the single control (management) exercised by another electricity generation, electricity transmission, electricity trading or gas trading licence holder, nor will it be allowed to continue such control (management) under the controlling contracts already concluded.
- (8) If the obligation to separate the activities as defined under this Act is implemented by the lease of the business or its part, the lessee shall be obliged to include reports on the leased business or its part in its bookkeeping. If the obligation to separate the activities as defined under this Act is implemented by the lease of individual assets, the lessor shall provide the lessee with information on the value of the leased assets to the extent required by the Energy Regulatory Office for price regulation purposes.
- (9) The separation of activities as defined under this Act needs to be implemented not later than 31 December 2006, except for vertically integrated undertakings that provide services to less than 90,000 connected end customers.
- (10) The Energy Regulatory Office may decide on inclusion in regulated prices of provable minimum justified costs that have been incurred by the electricity distribution licence holder in connection with its discharge of the obligation to maintain the separate status of the distribution system operator.
- (11) A vertically integrated undertaking may ask the Commission for an exemption from the obligation to ensure the separate status of the distribution system operator as defined under this Act if, based on a report prepared by the undertaking and approved by the Energy Regulatory Office, the undertaking proves fully operational and grants access to its distribution system to all electricity market participants on equal terms pertaining to the conditions of connection and distribution of electricity, including transparent price-setting for services provided by the undertaking.

## Section 26

### Technical dispatching centres

- (1) Dispatching centres shall be responsible for maintaining an equilibrium between the sources of, and need for, electricity and the secure and reliable operation of the Grid.
- (2) The transmission system operator's dispatching centre performs the central control of transmission within the transmission system and the central control of sources within the transmission system, as well as the control of sources providing support services to secure system services within the distribution system in collaboration with the distribution system operator. The transmission system operator's dispatching centre shall be responsible for compliance with the rules of interconnection with the grids of other countries.
- (3) The distribution system operator's dispatching centre shall be responsible for the central control of electricity generation and distribution in the distribution system in compliance with Subsection 2.
- (4) The dispatching centres of the distribution systems operators shall co-operate with the dispatching centre of the transmission system operator.

(5) In the central control of the transferred power in real time, the transmission system operator's dispatching centre shall be superior to the dispatching centres of the distribution system operators.

(6) If a state of emergency is imposed over the whole territory of the country in accordance with Section 54 Subsection 2, and if activities directly preventing its occurrence are pursued, and if the damage caused by a state of emergency is removed, the instructions of the transmission system operator's dispatching centre shall be superior to the instructions of the distribution systems operators' dispatching centres and the distribution systems operators' dispatching centres shall follow the instructions of the transmission system operator's dispatching centre.

#### Section 27 Electricity market operator

(1) The electricity market operator is a joint-stock company, founded by the government, with registered shares.

(2) The government holds shares of the electricity market operator, the total nominal value of which accounts for at least 67 % of the registered capital of the electricity market operator.

(3) The electricity market operator is the holder of a licence. Neither the electricity market operator nor legal entities in which the electricity market operator holds a capital interest are allowed to hold another licence referred to in Section 4.

(4) Under the licence the electricity market operator shall:

- a) Prepare, according to information submitted by electricity market participants, an electricity trading balance and submit it to the transmission system operator and to distribution system operators;
- b) Organise the short-term electricity market and the regulation energy compensatory market in collaboration with the transmission system operator;
- c) On the basis of the electricity supply contracts of settlement entities or registered market participants and on the basis of actual readings of electricity supplies and consumption by registered market participants, prepare an assessment of differences and submit these assessments to individual settlement entities;
- d) On the basis of the assessment of differences, secure the settlement of differences between settlement entities that are obliged to cover such differences;
- e) Inform the transmission system operator or the respective distribution systems operators about any case of the market supplies and consumption;
- f) Prepare and publish monthly and annual reports on the electricity market in the Czech Republic;
- g) At least once a year prepare and submit to the Ministry and the Energy Regulatory Office a report on future anticipated electricity consumption and the manner of its coverage by electricity sources and anticipated developments in the electricity market;
- h) Provide protection to any third party proprietary information having the nature of trade secret which the electricity market operator may have learned of during its activities;
- i) Inform the Energy Regulatory Office and the Ministry of electricity supplies that might be subject to import restrictions as per Section 44;
- j) Prepare background information for the draft Electricity Market Rules, including the rules governing the settlement of differences and justified extra costs caused to electricity market participants during activities directly preventing a state of emergency, in a state of emergency and in the removal of damage caused by a state of emergency and submit them to the Energy Regulatory Office;
- k) Provide the respective electricity market participants with actual values of electricity supplies and consumption and other necessary information associated with the exercise of rights of eligible customers;
- l) Prepare and publish upon approval by the Energy Regulatory Office business conditions of the electricity market operator;
- m) Secure in collaboration with the distribution system operators the preparation of model charts for supplies (load curves) for categories of customers specified in the implementing legal regulation, based on information from the distribution systems operators pursuant to Section 25 Subsection 12 Clause b);
- n) Based on information submitted by the transmission system operator, secure the billing and settlement of regulation energy;
- o) Maintain separate accounts for activities performed under this Subsection and Subsection 8; and
- p) Conclude a contract on the settlement of differences and enable trade in electricity in markets organised by the electricity market operator to anyone who applies for it and complies with the business conditions of the electricity market operator.

(5) The electricity market operator may:

- a) Require from settlement entities and registered market participants data from their electricity supply contracts, including but not limited to data on output and its change over time (time schedule), even for the electricity generating plants of the electricity market participant on behalf of whom the settlement entity has assumed responsibility for a difference; and
- b) Require from the transmission system operator and the distribution system operators readings of measurements and the processed and interpreted data and other necessary information as the market operator may need to be able to discharge its obligations.

(6) The details pertaining to the activities of the electricity market operator referred to in Subsection 4 and the rights of the electricity market operator referred to in Subsection 5 shall be laid down in the Electricity Market Rules. The details

on electricity metering and the submission of technical information shall be laid down in the implementing legal regulation.

(7) The prices charged for the electricity market operator's activities pursuant to Subsection 4 and the method of billing and payment by individual electricity market participants shall be laid down in the implementing legal regulation.

(8) The electricity market operator shall be entitled, upon approval by the Ministry and the Energy Regulatory Office, to perform other activities, the prices of which are not subject to regulation.

(9) The electricity market operator shall prepare and submit to the Energy Regulatory Office for approval the business conditions that shall contain:

- a) Procedures for settlement of differences;
- b) Procedures for organisation and settlement of electricity markets organised by the electricity market operator;
- c) Methods of determination of payments, forms for securing financial payments, and conditions for their use;
- d) Methods for the issue of tax invoices;
- e) Procedures for making warranty claims;
- f) Procedures for changing the eligible customer's supplier;
- g) Procedures for the provision of supporting documents for the billing of an eligible customer who has changed his supplier;
- h) Details on the method of registration; and
- i) Details on the readings of measurements and the interpreted data and other information necessary for the performance of activities of the electricity market operator.

#### Section 28 Eligible customer

(1) The eligible customer shall be entitled:

- a) To have its electricity supply facility connected to the transmission system or distribution system insofar as it meets the conditions laid down in the implementing legal regulation and the Transmission System Operating Rules or the respective Distribution System Operating Rules;
- b) To buy electricity at a quality specified by the implementing legal regulation from electricity generation licence holders and electricity trading licence holders;
- c) To buy electricity on the short-term electricity market organised by the market operator;
- d) To have an agreed electricity volume transported at a quality specified by the implementing legal regulation, as long as the eligible customer has concluded an electricity transmission and distribution contract, or an electricity transmission contract, or an electricity distribution contract, and as long as the technical conditions of the transmission system or the respective distribution system allow for it;
- e) To receive information on the aggregate mix of the supplier's fuels and information on environmental impact;
- f) In the case of small customers and households, to receive electricity supply at a quality specified by the implementing legal regulation at regulated prices from the ultimate supplier, provided that the eligible customer applies for it; and
- g) To a free change of the electricity supplier in compliance with the Electricity Market Rules.

(2) The eligible customer shall:

- a) Have its electricity supply facility connected at its own expense to the transmission system or the respective distribution system;
- b) Follow the Grid Code in compliance with contracts concluded and with the Transmission System Operating Rules or the respective Distribution System Operating Rules;
- c) Enable the operator of the transmission system or the operator of the respective distribution system to which the eligible customer is connected to install a metering (measuring) device; the type of metering device, method of its installation, its location, and other details shall be contained in the Transmission System Operating Rules or the respective Distribution System Operating Rules;
- d) Provide access to the metering (measuring) devices for the operator of the transmission system or the operator of the respective distribution system;
- e) Maintain its electricity supply facility in a state of repair consistent with applicable legal regulations and technical standards;
- f) During activities directly preventing a state of emergency, during a state of emergency, and during the removal of damage caused by a state of emergency, follow the instructions of the technical dispatching centre of the operator of the transmission system or the respective distribution system to which the eligible customer's equipment is connected;
- g) If the operator is a settlement entity, submit technical information from electricity supply contracts to the market operator;
- h) Implement appropriate technical measures to prevent impact on electricity quality to the detriment of other buyers;
- i) Contribute according to the level of the power demand taken to the payment of justified costs of the transmission system operator or the respective distribution system operator associated with the connection of the eligible customer's equipment and securing of the power demand in the amount calculated in the manner laid down in the implementing legal regulation;

- j) When a change is made to the electricity parameters laid down in the implementing regulation, adjust the eligible customer's electricity supply facility at its own expense so that the equipment's parameters can match the changes;
  - k) Pay the transmission system operator or the respective distribution system operator for system services in accordance with the Electricity Market Rules; and
  - l) Register with the electricity market operator not later than 30 days prior to the realisation of electricity supply from another electricity generation licence holder or another electricity trading licence holder, provided that the operator is the settlement entity; by registration the eligible customer becomes a registered market participant.
- (3) In electricity supply facilities through which non-metered electricity passes, no interventions may be made without prior consent of the transmission system operator or the respective distribution system operator.
- (4) If an eligible customer has a substitute electricity source of its own that is interconnected with the transmission system or distribution system, then such a substitute source may only be operated by the eligible customer subject to an agreement with the transmission system operator or the respective distribution system operator.
- (5) The owner of the property to which electricity is supplied to eligible customers under the contract shall
- a) Allow such supply to be provided to eligible customers;
  - b) Maintain the shared electrical facilities serving for such supply in a state of repair complying with legal regulations and technical standards;
  - c) Provide the electricity distribution licence holder with technical data relating to such facilities; and
  - d) Enable the electricity distribution licence holder adequate access to such electrical facilities.
- (6) Shared electrical facilities serving for the supply of electricity to eligible customers in a single property shall be treated as part of such a property.

#### Section 29 Protected customer

- (1) The protected customer shall be entitled:
- a) To have its electricity supply facility connected to the distribution system in compliance with a concluded contract insofar as it meets the conditions for connection laid down in the implementing legal regulation;
  - b) To electricity supplies at regulated prices and at a quality laid down in the implementing legal regulation; until 31 December 2004, the electricity supply to a protected customer will be performed under an electricity distribution licence and from 1 January 2005 it will be performed under an electricity trading licence, with the exception referred to in Section 25 Subsection 11 Clause y); and
  - c) To receive information on the aggregate mix of the supplier's fuels and information on environmental impact.
- (2) The protected customer shall:
- a) Follow the conditions for connection and supply of electricity laid down in the implementing legal regulation and the respective Distribution System Operating Rules;
  - b) Follow the instructions of the transmission system operator's or the respective distribution system operator's technical dispatching centre;
  - c) Implement available technical measures to prevent deterioration of the quality of electricity to the detriment of other buyers, doing so upon notification by the distribution system operator;
  - d) Enable the operator of the distribution system to install a metering (measuring) device and provide access thereto;
  - e) Maintain its electricity supply facility in a state of repair in compliance with legal regulations and technical standards;
  - f) Depending on the volume of electricity consumption, participate in covering the justified costs incurred by the distribution system operator in providing connection and in securing the supply of the power demand at a level calculated in the manner laid down in the implementing legal regulation; and
  - g) When a change is made to the electricity parameters laid down in the conditions for connection and supply to protected customers, adjust the protected customer's electricity supply facility at its own expense so that the equipment's parameters can match the changes.
- (3) The owner of the property to which electricity is supplied to protected customers under the contract shall:
- a) Allow such supply to be provided to protected customers;
  - b) Maintain the shared electrical facilities serving for such supply in a state of repair complying with technical standards and legal regulations;
  - c) Provide the electricity distribution licence holder with technical data relating to such facilities; and
  - d) Enable the electricity distribution licence holder adequate access to such electrical facilities.
- (4) Shared electrical facilities serving for the supply of electricity to protected customers in a single property shall be treated as part of such a property.
- (5) In electricity supply facilities through which non-metered electricity passes, no interventions may be made without prior consent of the respective distribution system operator.
- (6) If a protected customer has a substitute electricity source of its own that is interconnected with the distribution system, such a substitute source may only be operated subject to an agreement with the respective distribution system operator.

**Section 30**  
**Electricity trader**

(1) The electricity trader shall be entitled:

- a) To have an agreed electricity volume transported, as long as the electricity trader has concluded an electricity transmission or an electricity distribution contract;
- b) To buy electricity in the territory of the Czech Republic from electricity generation licence holders and electricity trading licence holders and sell it to other electricity market participants, except protected customers; this is without prejudice to the obligation referred to in Subsection 2 Clause g);
- c) To buy electricity in other countries and sell electricity to other countries, unless the electricity trader is subject to an import restriction under Section 44 below;
- d) To receive information from the electricity market operator necessary for the settlement of electricity supplies to end customers; and
- e) To terminate or interrupt electricity supply to end customers in the case of unauthorised electricity consumption.

(2) The electricity trader shall:

- a) Follow the Electricity Market Rules, the Grid Code and, in compliance with a concluded contract, the Transmission System Operating Rules or the Distribution System Operating Rules;
- b) Submit to the market operator technical data from the electricity supply contracts, provided that the operator is a settlement entity;
- c) Offer to end customers fair and non-discriminating selection of the manner of payment for the electricity supplied;
- d) Notify small customers and households not later than 2 months in advance of its intention to change contractual conditions;
- e) Specify upon settlement of the electricity supplied to end customers as part of supporting documents:
  - 1. Information on the proportion of each electricity source in the aggregate supplier's mix of fuels for the previous year; and
  - 2. References to the public source of information on the environmental impact of electricity generation;

- f) Conclude an electricity supply contract and supply electricity to protected customers at regulated prices, provided that this is an electricity trader that is a part of a vertically integrated undertaking or that has been established as a result of its separation under this Act; this trader's obligation applies to its protected customers whose supply points are connected to the distribution system within the delineated territory of the vertically integrated undertaking or the distribution system operator that has been established by separation from the same vertically integrated undertaking under this Act;
- g) Supply electricity to protected customers at regulated prices;
- h) Maintain separate accounts relating to the ultimate electricity supply, electricity supply to protected customers, and electricity supply to eligible customers;
- i) Maintain the quality parameters of the supplies of electricity and services as laid down in the implementing legal regulation;
- j) Register within 30 days of the granting of the electricity trading licence with the electricity market operator; by registration the electricity trader becomes a registered market participant;
- k) Perform the activities of the ultimate supplier if appointed by the Energy Regulatory Office to do so; and
- l) Prepare and submit to the Energy Regulatory Office information needed for decisions on prices charged for electricity supply to protected customers or for activities of the ultimate supplier.

**Section 31**  
**Renewable resources**

(1) For the purposes hereof, "renewable sources" shall mean renewable non-fossil natural energy sources such as wind energy, solar energy, geothermal energy, water energy, soil energy, air energy, biomass energy, landfill gas energy, sludge gas energy, and biogas energy.

(2) Generators producing electricity from renewable sources shall, as long as they apply for that and as far as they meet the conditions laid down in the implementing legal regulation, conditions contained in the Transmission System Operating Rules and Distribution System Operating Rules, enjoy the right of preferential connection of their electricity generating plant to the transmission system or the distribution systems for the purpose of electricity transmission or distribution.

(3) Differences in the output of renewable electricity sources resulting from the intrinsic nature of these sources may not be a reason to reject the right pursuant to Subsection 2.

**Section 32**  
**Combined generation of electricity and heat and generation of electricity from secondary energy sources**

(1) In order to increase the efficient use of the combined generation of electricity and heat and reduce the production of greenhouse gases, the heat energy generator must consider pursuant to a special legal regulation<sup>11)</sup> the option of introducing the combined generation of electricity and heat.

(2) The generators operating a facility for the combined generation of electricity and heat or a facility for the generation of electricity from secondary energy sources have the right, if they request it and if technical conditions allow it, of preferential provision of electricity transport via the transmission system and distribution systems, with the exception of allocation of capacity of international transmission or distribution connecting lines. Further, they have the right of preferential connection of their generating facility to the transmission or distribution system if they request it and if they meet the conditions governing the connection and transmission of electricity stipulated by the implementing legal regulation.<sup>6)</sup> These rights apply to electricity:

- a) Produced in facilities using secondary energy sources in the quantities corresponding to the proportion of the energy potential of secondary energy sources entering the production process; and
- b) Produced in facilities for the combined generation of electricity and heat in a single process in quantities that may be proved to be associated with the quantity of the heat energy supplied to the centralised heat supply systems or direct supplies to individuals or legal entities for further use and for technological purposes, except the energy generator's own consumption.

(3) A basic condition of the combined generation of electricity and heat is the supply of useful heat for further use. A criterion for the assessment of the combined electricity and heat are the savings of primary fuel arising from the difference between the total efficiency of the combined generation of electricity and heat and the reference value. The total efficiency of the combined generation of electricity and heat must comply with the values of minimum efficiency of the use of energy under a special legal regulation<sup>6a)</sup> and at the same time the total efficiency of the combined generation of electricity and heat shall be, for the classification of electricity as electricity from the combined generation of electricity and heat, at least 10 % higher than the reference value. This condition need not be met in the case of combined generation of electricity and heat up to an installed capacity of 1 MW.

(4) Contributions to the price of electricity from the combined generation of electricity and heat or generated from secondary energy sources will be paid to the generators by operators of the distribution systems directly connected to the transmission system to which they are connected or by the transmission system operator, provided that the generator is directly connected to the transmission system. The amount of the contribution will be determined by the Energy Regulatory Office.

(5) The quantity of electricity from the combined generation of electricity and heat and secondary energy sources shall be recorded by the Energy Regulatory Office.

(6) Details on the manner of determination of the quantity of electricity from the combined generation of electricity and heat based on the proportion of heat energy and electricity and the determination of electricity from secondary energy sources shall be laid down by the Ministry in the implementing legal regulation.

(7) The certificate of origin of electricity from the combined generation of electricity and heat or secondary energy sources (hereinafter "certificate"), which is a necessary prerequisite for the realisation of electricity from the combined generation of electricity and heat and electricity from secondary energy sources on the electricity market, shall be issued by the Ministry based on an application for the issuing of a certificate that shall contain identification data of the applicant, identification data of the electricity generating plant, description and organisation chart of the generating facility and the technological process of the combined generation of electricity and heat or the generation of electricity from secondary energy sources, information on the fuel used, the previous and anticipated total efficiency, and reference value and the method of determination of the proportion of heat energy and electricity. In the event that the information set out in the application is inconsistent with reality, the Ministry will not issue the certificate, or if it has already been issued, it will terminate its validity. Details on the application and model format of an application for the issuing of a certificate shall be laid down in the implementing legal regulation. The application shall be submitted by the operator of the combined generation of electricity and heat and the generation of electricity from secondary energy sources not later than 6 months of the effective date hereof.

(8) Electricity traders shall buy and supply on a preferential basis electricity that was offered by generators of electricity from the combined generation of electricity or heat or generators of electricity from secondary energy sources. Details on the manner of determination of and trading in electricity from the combined generation of electricity and heat and from secondary energy sources shall be laid down in the implementing legal regulation.

(9) Any differences in the capacity of the equipment due to the intrinsic nature of the combined generation of electricity and heat shall not be a reason for non-compliance with the obligations as referred to in Subsections 4 and 8.

### Section 33

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<sup>6)</sup> Decree No. 18/2002 Coll., on conditions of connection and electricity transmission in the grid, as amended by Decree No. 300/2003 Coll.

<sup>6a)</sup> Decree No. 150/2001 Coll., specifying the minimum energy utilisation efficiency in electricity and heat energy generation.



(1) Building of electricity generating plants with a total installed electricity capacity of at least 30 MW is possible only based on government authorisation (hereinafter "authorisation"), the granting of which is decided by the Ministry; the total installed electricity capacity is considered to be the sum of installed capacities of generating units at the place of connection to the Grid.

(2) The following circumstances shall be evaluated if authorisation for the construction of an electricity generating plant is to be granted:

- a) Use of fuel or other sources;
- b) Energy efficiency of the electricity generating plant;
- c) Effect of the electricity generating plant on the safety and reliability of operation of the Grid;
- d) Compliance with the requirement for the availability of sufficient funds to finance the construction of the electricity generating plant;
- e) Effect of the electricity generating plant on environment, including air pollution, if any;
- f) Effectiveness and economy parameters of available energy sources; and
- g) Protection of public health and safety.

(3) In matters relating to the granting of authorisation for the construction of electricity generating plants, the Ministry shall be party to the planning permission proceedings and shall also be the state body involved in the building permission proceedings in accordance with a special legal regulation.<sup>7)</sup>

#### Section 34

##### Authorisation for the construction of electricity generating plants

(1) Decision on the granting of the authorisation for the construction of an electricity generating plant shall be made by the Ministry on the basis of a written application.

(2) There shall be no automatic legal title to the granting of authorisation for the construction of an electricity generating plant.

(3) The authorisation for the construction of an electricity generating plant shall not be transferable to any other individual or legal entity and may be granted for the period indicated in the application, which, however, shall not be longer than 5 years from the date of granting. The authorisation may be extended if the authorisation holder applies for such an extension. The application for extension shall be filed at least 6 months before the expiry of the authorisation.

#### Section 35

##### Application for the granting of authorisation for the construction of an electricity generating plant

(1) The written application for the granting of authorisation for the construction of an electricity generating plant shall contain:

- a) The trade name of the individual or legal entity, permanent residence or registered office, and business identification number (İÇÖ); if the applicant is an individual, the application shall also contain the first name, surname, and birth certificate number (if any; otherwise the date of birth); if the applicant is a legal entity, the application shall also contain such data on its statutory body;
- b) The period for which the authorisation for the construction of the electricity generating plant is required to remain in effect, the commencement and completion dates of construction, including the date the plant is expected to be put into operation;
- c) Basic information on the electricity generating plant, including the installed capacity and energy efficiency;
- d) The planned location of the electricity generating plant;
- e) Opinion on the environmental impact assessment based on the pertinent special legal regulation<sup>8)</sup>;
- f) Consent of the clear air protection body<sup>9)</sup>;
- g) Information on fuel and/or other energy sources;
- h) Opinion of the transmission system operator or the respective distribution system operator on compliance with the conditions laid down in the implementing legal regulation on securing system services and on impact on safety and reliability of the operation of the Grid; and
- i) Documents to prove the availability of sufficient funds for the construction of the electricity generating plant.

(2) Availability of sufficient funds shall mean the ability of the individual or legal entity applying for the granting of authorisation to ensure that the construction of the electricity generating plant is commenced and completed as planned, and the ability to ensure that the commitments arising from such project are fulfilled.

(3) Availability of sufficient funds shall be proved by evidence of business assets and the volume of available finance, the audited financial statements, including long-form notes thereto, provided that the individual or the legal entity concerned performed business activities in the previous fiscal period.

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<sup>7)</sup> Act No. 50/1976 Coll., on Town and Country Planning and the Building Code (Building Act), as amended.

<sup>9)</sup> Act No. 309/1991 Coll., on Air Protection Against Polluting Substances (Clean Air Act), as amended.

(4) The requisites of the application for the granting of authorisation for the construction of an electricity generating plant, its amendment, extension or revocation, including the model format of the application and also the details on the conditions for the process of assessment of such an application, shall be laid down in the implementing legal regulation.

(1) The decision on the granting of authorisation for the construction of an electricity generating plant shall contain:

- a) The trade name of the individual or the legal entity, permanent place of residence or registered office, and the business identification number (İÇÖ); if the applicant is an individual, the application shall also contain the first name, surname, and the birth certificate number (if any; otherwise the date of birth);
- b) The period for which the authorisation is to remain in effect;
- c) Commencement and completion dates of the construction of the electricity generating plant, including the date the plant is expected to be put into operation;
- d) Basic information on the electricity generating plant, including the installed capacity and energy efficiency;
- e) Information on the location of the electricity generating plant;
- f) Conditions for environmental protection, including clean air requirements;
- g) Information on the fuels and/or other energy sources; and
- h) Compliance with the conditions laid down in the implementing legal regulation and the provision of support services, including the impact of the electricity generating plant on the safe and reliable operation of the Grid.

(2) The holder of the authorisation for the construction of an electricity generating plant shall notify the Ministry without undue delay of any change in the data contained in the application for authorisation or other important information relating to the authorisation granted.

(3) The Ministry shall maintain records of all granted authorisations for the construction of an electricity generating plant.

#### Section 37

##### Expiry of authorisation for the construction of an electricity generating plant

The authorisation for the construction of an electricity generating plant shall lapse:

- a) With the expiration of the time for which it was granted, unless the period is extended on the basis of the authorisation holder's application for such an extension;
- b) If an individual, upon the death of the electricity generating plant construction authorisation holder or upon his/her being declared dead;
- c) If a legal entity, upon declaration of bankruptcy of the authorisation holder or dismissal of its bankruptcy petition for insufficient assets;
- d) If a legal entity, upon the dissolution of the legal entity that is the plant construction authorisation holder;
- e) On the basis of the authorisation holder's application for revocation of the authorisation granted; or
- f) By the Ministry's decision to revoke the electricity generating plant construction authorisation on the grounds of gross violation of the conditions under which the authorisation was granted, including the authorisation holder's commencement of liquidation.

#### Section 38

##### Construction of a direct line

(1) Construction of a direct line shall only be possible on the basis of an authorisation. The decision on the granting of such an authorisation shall be made by the Ministry.

(2) Authorisation for the construction of a direct line may be granted upon the assessment of:

- a) The effect of the direct line on the safety and reliability of operation of the Grid;
- b) The availability of sufficient funds to finance the construction of the direct line;
- c) The environmental effects of the direct line; and
- d) Protection of public health and safety.

(3) In matters relating to the granting of authorisation for the construction of a direct line, the Ministry shall be party to the planning permission proceedings and shall also be the state body involved in the building permission proceedings in accordance with the pertinent special legal regulation.<sup>7)</sup>

#### Section 39

##### Authorisation for the construction of a direct line

(1) Decisions on the granting of authorisation for the construction of a direct line shall be made by the Ministry on the basis of a written application.

(2) There shall be no automatic legal title to the granting of authorisation for the construction of a direct line.

(3) Authorisation for the construction of a direct line shall not be transferable to any other individual or legal entity and may be granted for the period indicated in the application which, however, shall not be longer than 5 years of the date of granting. The authorisation may be extended if the authorisation holder applies for such an extension. The application for extension shall be filed at least 6 months before the expiry of the authorisation.

(4) In the event that authorisation for the construction of a direct line is not granted, the applicant shall be notified of the reason why the authorisation was not granted and of the steps to be taken in the event of appellate proceedings.

#### Section 40

#### Application for authorisation for the construction of a direct line

- (1) The written application for the granting of authorisation for the construction of a direct line shall contain:
- a) The trade name of the individual or the legal entity, permanent residence or registered office, and the business identification number (İÇÖ); if the applicant is an individual, the application shall also contain the first name, surname, and birth certificate number (if any; otherwise the date of birth); if the applicant is a legal entity, then the application shall also contain such data on its statutory body;
  - b) Documents providing evidence of refusal of access to the transmission system or distribution system;
  - c) The period for which the authorisation for the construction of a direct line is required to remain in effect and the commencement and completion dates of the construction of a direct line;
  - d) Basic information on the direct line in accordance with the Transmission System Operating Rules or the respective Distribution System Operating Rules;
  - e) Planned location of the direct line;
  - f) Opinion on the environmental impact assessment, based on a special legal regulation<sup>8)</sup>;
  - g) Opinion of the transmission system operator or the respective distribution system operator on compliance with the conditions laid down in the implementing legal regulation; and
  - h) Documents to prove the availability of sufficient funds to construct the direct line.
- (2) Availability of sufficient funds shall mean the ability of the individual or legal entity applying for the granting of authorisation to ensure that the construction of the direct line is commenced and completed as planned, and the ability to ensure that the commitments arising from it are fulfilled.
- (3) Availability of sufficient funds shall be proved by audited financial statements, including long-form notes thereto, that demonstrate evidence of business assets and the volume of available finance, provided that the individual or the legal entity concerned conducted business in the previous fiscal period.
- (4) The requisites of the application for the granting of authorisation for the construction of a direct line, its amendment, extension and revocation, including the model format of the application for authorisation and the details of the process of assessment of such an application, shall be laid down in the implementing legal regulation.

#### Section 41

##### Decision on the granting of authorisation for the construction of a direct line

- (1) Decisions on the granting of authorisation for the construction of a direct line shall contain:
- a) The trade name of the individual or the legal entity, permanent residence or registered office, and the business identification number (İÇÖ); if the applicant is an individual, the application shall also contain the first name, surname, and birth certificate number (if any; otherwise the date of birth); if the applicant is a legal entity, the application shall also contain such data on its statutory body;
  - b) The period for which the authorisation is to remain in effect;
  - c) The commencement and completion dates of the construction of a direct line, including the date the line is expected to be put into operation;
  - d) Basic information on the direct line in accordance with the Transmission System Operating Rules or the respective Distribution System Operating Rules;
  - e) Information on the location of the direct line;
  - f) Environmental protection conditions; and
  - g) Compliance with the conditions laid down in the implementing legal regulation, including the impact of the direct line on the safety and reliability of operation of the Grid.
- (2) The direct line construction authorisation holder shall notify the Ministry without undue delay of any change in the data contained in the application for the granting of authorisation or any other important information relating to the authorisation granted.
- (3) The Ministry shall maintain records of all direct line construction authorisations granted.

#### Section 42

##### Expiry of authorisation for the construction of a direct line

Authorisation for the construction of a direct line shall lapse:

- a) With the expiration of the time for which it was granted, unless the period is extended on the basis of the authorisation holder's application for such an extension;
- b) If an individual, upon the death of the direct line construction authorisation holder or upon his/her being declared dead;
- c) If a legal entity, upon declaration of bankruptcy of the authorisation holder, or dismissal of its bankruptcy petition for insufficient assets;
- d) If a legal entity, upon the dissolution of the legal entity that is the direct line construction authorisation holder;
- e) On the basis of the authorisation holder's application for revocation of the authorisation granted; or

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<sup>8)</sup> Act No. 244/1992 Coll., on Environmental Impact Assessment.

- f) By the Ministry's decision to revoke the direct line construction authorisation on the grounds of gross violation of the conditions under which the authorisation was granted, including the authorisation holder's commencement of liquidation.

#### Section 43

##### Obligations of the direct line owner

(1) The direct line owner shall:

- a) In compliance with the signed contract, follow the Transmission System Operating Rules, the respective Distribution System Operating Rules, and the Grid Code;
- b) Have the direct line connected to the transmission system or distribution system at its own expense;
- c) Enable the operator of the transmission system or the operator of the respective distribution system to which the direct line is connected to install the metering (measuring) device and pay for the installation; the types of the metering devices, method of installation, location and other details of metering shall be contained in the Transmission System Operating Rules of the respective Distribution System Operating Rules;
- d) Implement available technical measures to prevent impact on electricity quality to the detriment of other electricity market participants;
- e) Provide technical information on the direct line to the transmission system operator or the respective distribution system operator; and
- f) In a state of emergency, make it possible for the transmission system operator or the respective distribution system operator to use the direct line for their purposes and follow the instructions of the respective technical dispatching centre.

(2) Decisions on the method of connection of the direct line to the transmission system or distribution system shall be made by the transmission system operator or the respective distribution system operator.

#### Section 44

##### Electricity imports restriction

(1) The Ministry may decide to restrict electricity imports from other countries to individuals or legal entities in the event that:

- a) Persons or assets in the territory of the Czech Republic may be exposed to direct or indirect danger;
- b) The rights and obligations of electricity generators and eligible customers in the country from which electricity is imported are not comparable with the rights and obligations of electricity generators and eligible customers in the Czech Republic; if these are electricity imports from countries other than Member States of the European Union or
- c) The environmental effects of electricity generators in the country from which electricity is imported are not comparable with such effects of electricity generators in the Czech Republic, if these are electricity imports from countries other than Member States of the European Union.

(2) Based on notification by the market operator or the transmission system operator, the Ministry may decide on the restriction of electricity imports from other countries to individuals or legal entities or temporarily take necessary protective measures in the case of danger to the coherence of the Grid, danger to its safety and reliability of operation, or danger to the physical safety or protection of persons.

#### Section 45

##### Supply main

(1) The supply main must be installed and operated in compliance with a contract and with the Transmission System Operating Rules or the respective Distribution System Operating Rules.

(2) The costs of installation of the supply main shall be paid by the party for whom it was installed. The installation of low voltage supply main up to a length of 50 metres serving for electricity supply to households for residential purposes shall be paid by the respective distribution system operator.

(3) The party that paid for the installation of the supply main shall be the owner of the supply main.

(4) The owner of the electricity supply main shall secure its operation, maintenance, and repairs so as to prevent it from causing danger to the life and health of persons or danger to damage property.

(5) The distribution system operator shall operate, maintain and repair the supply main for a consideration if the owner so requests in writing.

(6) If an electricity supply facility is connected via a loop, such a connection shall not be deemed to be a supply main.

(7) A low-voltage electricity supply main serves to connect one real property; more properties may also be connected if the owner of the supply main or the respective distribution system operator so agrees. The low-voltage overhead electricity supply main ends at the service entrance fuse box; the low-voltage cable electricity supply main ends at the service entrance cable box. These boxes are considered to be part of the electricity supply main. The service entrance fuse box or the service entrance cable box is located on the buyer's premises or at the border of the buyer's property or near such a border.

(8) If there is no service entrance fuse box on the buyer's premises, the overhead low-voltage supply main shall end at the last anchorage point located on those premises or at the terminal of the main circuit breaker on the premises. The anchorage point shall be deemed to be part of the supply main.

(9) If there is no service entrance cable box on the buyer's premises, the cable low-voltage supply main shall end at the terminal of the main circuit breaker on the premises or in the cable box inside the premises.

(10) Any electricity supply main other than low-voltage, if an overhead line, shall end at the guy insulators at the buyer's station and, if a cable, at the cable terminal at the buyer's station. The guy insulators and cable terminals shall be deemed to be part of the supply main.

(11) Shared in-house installations serving to connect more buyers from one supply main shall not be deemed to be part of the supply main. The shared in-house installations shall be deemed to be part of the premises.

#### Section 46 Protective bands

(1) The protected range of the equipment of the Grid is the area in the immediate vicinity of the equipment. The protected range is designed to secure reliable operation and protect persons' life, health and property. The protected range shall arise on the effective date of the planning permission.

(2) Protective bands are set up to protect overhead lines, underground lines, electric stations, electricity generating plants, and the lines of the metering (measuring), protective, control, security, information and telecommunication systems.

(3) The protected range of the overhead line is a continuous band delineated by the vertical planes along both sides of the line at a horizontal distance measured perpendicularly to the line. This distance from the marginal line on both sides shall be as follows:

a) For voltages above 1 kV and up to 35 kV (inclusive): 7 m

1. For bare conductors: 7 m ;
2. For conductors with basic insulation: 2 m;
3. For suspension cable lines: 1 m;

b) For voltages above 35 kV and up to 110 kV (inclusive)

1. For bare conductors: 12 m ;
2. For conductors with basic insulation: 5 m;

c) For voltages above 110 kV and up to 220 kV (inclusive): 15 m;

d) For voltages above 220 kV and up to 400 kV (inclusive): 20 m;

e) For voltages above 400 kV: 30 m;

f) For suspension cable lines 110 kV: 2 m; and

g) For the licence holder's own telecommunication network equipment: 1 m.

(4) In forest rides the transmission system operator or the respective distribution system operator shall at its own expense maintain a clear band of land 4 m wide on one side of the footings of the support points of the overhead lines as referred to in Subsection 3 Clause a) Point 1 and Clauses b), c), d) and e), insofar as such a clear band of land is needed; the owners or users of the property concerned shall enable the transmission system operator or the respective distribution system operator to perform the work to that effect.

(5) The protected range of the underground lines of the Grid up to (and including) 110 kV and the lines of the control, metering, and security systems shall be 1 m along both sides of the marginal cable; above 110 kV the protected range shall be 3 m along both sides of the marginal cable.

(6) The protected range of an electric station shall be delineated by vertical planes at a horizontal distance of:

- a) 20 m from the fence or the outer face of the outer walls of outdoor electric stations and of stations in buildings at voltages higher than 52 kV;
- b) 7 m from mast-type electric stations and tower-type electric stations with external leads and with voltage conversion to a low-voltage level from a level higher than 1 kV and lower than 52 kV;
- c) 2 m from compact and masonry electric stations with voltage conversion from a level higher than 1 kV and lower than 52 kV to a low-voltage level; and
- d) 1 m from the enclosure wall of built-in electric stations.

(7) The protected range of an electricity generating plant is delineated by vertical planes at a horizontal distance of 20 m measured perpendicularly to the fence or the outer face of the outer wall of the electric station.

(8) It is not allowed in the protected range of the overhead and underground line, electricity generating plant or any electric station to:

- a) Erect any buildings or install any structures or locate any other objects or store any flammable and explosive materials without the consent of the owner of the respective electrical equipment;
- b) Perform any earthwork without consent of the owner of the respective electrical equipment;
- c) Perform any activities potentially threatening to affect the reliability and safety of operation of the electric equipment or the life, health, and property of persons; or
- d) Perform any activities that may lead to the blocking or substantial limitation of access to the respective electrical equipment

(9) It is not allowed in the protected range of the overhead line to plant hop gardens and to let anything grow to a height above 3 m.

(10) It is not allowed in the protected range of the underground line to plant permanent crop stands and ride over the line with machines having a total weight above 6 tonnes.

(11) If the technical and safety conditions allow, and if there is no danger to the life, health or safety of persons, then the individual or the legal entity operating the respective part of the Grid or the direct line operator may issue written permission allowing activities to be performed in the protected range. The permission, which must contain the conditions under which it was granted, shall be attached to the motion for a planning permission or the application for a building permission; the building authority shall not review the conditions for permission.

(12) If equipment fed with direct current is installed in the immediate vicinity of the protected range where stray currents may arise and affect underground lines, then the individuals or legal entities installing such equipment shall notify the transmission system operator or the respective distribution system operator of this fact and shall take measures to control such stray currents.

#### **Section 47 Relocation of the equipment**

(1) Relocation of the equipment of the transmission system or equipment of the distribution system shall mean a partial diversion of the line run or the moving of some components of the equipment.

(2) Relocation of the equipment of the transmission system or equipment of the distribution system shall be arranged by the owner of the equipment at the expense of the individual or entity for whom/which the relocation is provided.

(3) The ownership of the equipment of the transmission system or equipment of the distribution system shall not change after relocation.

#### **Section 48 Contact of equipment**

(1) The equipment of the transmission system, distribution systems and supply mains may cross any roads, railways, water courses, telecommunication lines, any piping systems and other equipment, or, provided that no danger to the life, health and property of persons is involved, may run parallel with roads, railways, water courses, telecommunication lines, piping systems and other equipment. Any such crossing or parallel run shall be adequate in respect of environmental protection and shall prevent any greater adverse effect on the interest of the owners concerned. "Parallel run" shall mean a situation where the protected range of certain equipment overlaps with the protected range, or safety zone, of another equipment.

(2) In the event of any repairs of defects or structural adaptations of the equipment, the operator of the equipment shall fully respect the views expressed by all the other users of the route, especially the prescribed technological process of the earthwork, to avoid any greater adverse effect on the interests of the owners of the equipment and property concerned.

#### **Section 49 Metering**

(1) Metering in the transmission system shall be provided by the transmission system operator. Metering in the distribution system shall be provided by the respective distribution system operator. By metering the quantity of the supplied or taken active or wattless energy and its time schedule is measured. In the case of end customers taking electricity from low-voltage networks, the time schedule may be replaced by a model chart for supplies (load curve). Details on the determination of the model chart for supplies (load curve) and the rules for its allocation to the end customer shall be laid down in the implementing legal regulation.

(2) Generators and end customers shall at their expense prepare the supply point or consumption point for installation of the metering devices in compliance with the conditions contained in the Transmission System Operating Rules or the respective Distribution System Operating Rules upon previous discussion with the transmission system operator or the respective distribution system operator.

(3) Generators, end customers and traders may with the consent of the transmission system operator or the respective distribution system operator install control metering devices for their own use and at their own expense. Such metering devices must be clearly labelled.

(4) Generators and end customers shall notify the transmission system operator or the respective distribution system operator without undue delay of any faults in the metering devices, including any damage to the features protecting the metering device against tampering. Any intervention in the metering device without the consent of the transmission system operator or the respective distribution system operator shall be prohibited.

(5) The transmission system operator or the respective distribution system operator is entitled to secure individual parts of the metering device against tampering.

(6) Generators or end customers shall enable access for the transmission system operator or the respective distribution system operator to the metering device and the non-metered parts of the electricity supply facility to perform inspection, reading, maintenance, replacement or removal of the metering device.

- (7) The transmission system operator or the respective distribution system operator shall provide installation of its own metering device at the generator's or eligible customer's expense and shall provide maintenance and regular checking of the correctness of metering at its own expense.
- (8) The generator or eligible customer or trader having any doubt as to the correctness of the meter readings, or having found a fault on the metering device, shall be entitled to having the metering device tested. The transmission system operator or the respective distribution system operator shall, if so requested in writing by the generator or eligible customer or trader, replace the metering device or check whether the metering is correct within 15 days of receiving such a request.
- (9) If a fault is found on the metering device that is owned by the transmission system operator or the distribution system operator, the costs relating to the testing of the metering device and checking of the correctness of the meter readings shall be borne by the transmission system operator or the respective distribution system operator. If no fault is found, the costs shall be borne by the individual or entity who/which requested in writing the testing of the metering device and checking of the correctness of the meter readings.
- (10) Metering of electricity consumption for the protected customer shall be secured by the operator of the respective distribution system, including regular checks of the correctness of meter readings.
- (11) The protected customer having any doubt as to the correctness of meter readings, or having found a fault on the metering device, shall be entitled to have the metering device tested. The distribution system operator shall, if so requested in writing by the protected customer, replace the metering device or check the correctness of meter readings within 15 days of receiving such a request.
- (12) If a fault is found on the metering device for the protected customer that is owned by the transmission system operator or the distribution system operator, the costs relating to the replacement, testing of the metering device, or checking of the correctness of the meter readings shall be borne by the distribution system operator. If no fault is found, the costs shall be borne by the protected customer. The types of metering devices, the manner of their installation, and their location shall be specified in the Distribution System Operating Rules.

#### Section 50

##### Contracts between electricity market participants

- (1) Under an electricity supply contract, the supplier undertakes to supply electricity defined by capacity, quantity and time schedule to another electricity market participant, and such other electricity market participant undertakes to pay an agreed price for the supply, or the regulated price, if this other electricity market participant is a protected customer or an end customer using an ultimate supplier. The electricity supply contract must specify the contract's duration. Business conditions are an integral part of the contract on electricity supplies to households and small customers. Such conditions shall specify the details of the commencement, time schedule and end of electricity supply, metering of electricity consumption, settlement, the manner of payment, and procedures for dispute solution.
- (2) Under a contract on comprehensive electricity supply services, the generator or electricity trader undertakes to supply electricity and secure in its own name and on its own account electricity transmission, electricity distribution and system services, and the eligible customer undertakes to pay the agreed price.
- (3) Under a connection contract, the transmission system operator or the distribution system operator undertakes to connect to the transmission or distribution system the equipment of the generator, operator of another distribution system or the end customer and enable them to receive electricity supply; the generator, operator of another distribution system or end customer undertakes to pay its part of justified costs of the connection. The contract shall specify the conditions for the connection of the equipment, including the amount of the reserved power demand, date and place of connection.
- (4) Under an electricity transmission contract, the transmission system operator undertakes to transport for the generator, electricity trader, or eligible customer the agreed quantity of electricity, and the generator, electricity trader or eligible customer undertakes to pay the regulated price.
- (5) Under an electricity distribution contract, the distribution system operator undertakes to transport for the generator, electricity trader, or eligible customer the agreed quantity of electricity, and the generator, electricity trader or eligible customer undertakes to pay the regulated price.
- (6) Under a regulation energy supply contract, the electricity market operator undertakes to perform the financial settlement of the regulation energy supply realised to the extent determined by the transmission system operator to the provider of the regulation energy at a price determined in accordance with the Electricity Market Rules. The approved business conditions of the electricity market operator are an integral part of the contract.
- (7) Under a contract on access to the organised short-term electricity market, the electricity market operator undertakes to enable the electricity market participant to take part in the organised short-term electricity market and perform the settlement of deals made in accordance with the Electricity Market Rules, and the electricity market participant undertakes to pay the price determined in accordance with the Electricity Market Rules. The approved business conditions of the electricity market operator are an integral part of the contract.
- (8) Under a contract on access to the regulation energy compensatory market, the electricity market operator undertakes to enable the electricity market participant free access to the regulation energy compensatory market and perform the financial settlement of deals made in accordance with the Electricity Market Rules. The approved business conditions of the electricity market operator are an integral part of the contract.

(9) Under a contract on the provision of support services, the provider of support services undertakes to deliver the agreed quantity of support services at a defined quality, and the transmission system operator undertakes to pay the price for such services.

(10) Under a contract on the delivery of technical data, the transmission system operator and the distribution system operator undertake to deliver for nil consideration to the electricity market operator the data needed for the assessment and settlement of differences in respect of settlement entities, data pertaining to the consumption points and supply points of electricity market participants, and data relating to actual electricity supplies and consumption, and the electricity market operator undertakes to accept these data. The approved business conditions of the electricity market operator are an integral part of the contract.

(11) Under a contract on the settlement of differences, the electricity market operator undertakes, on the basis of assessment of actual and agreed electricity supplies and consumption, to perform for the electricity market participant the assessment and settlement of differences, and the electricity market participant undertakes to pay the regulated price. Upon signing a contract on the settlement of differences, the electricity market participant becomes a settlement entity. The approved business conditions of the electricity market operator are an integral part of the contract.

#### Section 51

##### Unauthorised consumption of electricity from the grid

(1) The following shall be deemed to be unauthorised consumption of electricity:

- a) Consumption without a valid electricity supply contract or consumption contrary to the electricity supply contract in force;
- b) Consumption in a situation where the customer repeatedly failed to comply with the agreed manner of payment for the electricity consumed, including prepayments;
- c) Consumption in a situation where the customer fails to comply with the payment obligations arising from the results of the assessment and settlement of actual consumption;
- d) Consumption outside the metering device, unless consumption outside the metering device was agreed;
- e) Connection to, or consumption from, electrical equipment through which unmetered electricity runs;
- f) Consumption through a metering device:

1.

Which fails to record consumption, or records consumption incorrectly to the detriment of the generator, trader, distribution system operator or transmission system operator as a result of an unauthorised intervention in the metering device or in any of its part or accessories;

2.

Which was not connected by the transmission system operator or the respective distribution system operator, or which fails to meet the conditions contained in the Transmission System Operating Rules or the respective Distribution System Operating Rules; or

3.

On which the elements of protection against tampering were damaged, causing the metering device to make errors in the readings in favour of the buyer;

- g) Consumption directly resulting from an unauthorised intervention in the direct line or the distribution system equipment or transmission system equipment; and
- h) Consumption without a contract concluded for the transmission, distribution or consumption of electricity or contrary to a contract so concluded.

(2) In the event of unauthorised consumption, the buyer shall cover the actual damage so caused. In instances where the actual damage cannot be effectively determined, the compensation for the damage shall be calculated in the manner laid down in the implementing legal regulation.

#### Section 52

##### Unauthorised supply of electricity to the grid

(1) The following shall be deemed to be unauthorised supply of electricity:

- a) Supply without a valid electricity supply contract or supply contrary to the electricity supply contract in force;
- b) Supply outside the metering device, unless supply outside the metering device was agreed;
- c) Supply to electricity equipment through which unmetered electricity runs;
- d) Supply through a metering device:

1.

Which fails to record supply, or records supply incorrectly as a result of an unauthorised intervention in the metering device or in any of its parts or accessories;

2.

Which was not connected by the transmission system operator or the respective distribution system operator, or which fails to meet the conditions contained in the Transmission System Operating Rules or the respective Distribution System Operating Rules; or

3.

On which the elements of protection against tampering were damaged; and



- e) Supply directly resulting from an unauthorised intervention in the direct line or the distribution system equipment or transmission system equipment.

(2) In the event of unauthorised supply, the generator shall cover the actual damage so caused. In instances where the actual damage cannot be effectively determined, the compensation for the damage shall be calculated in the manner laid down in the implementing legal regulation.

#### Section 53

##### Unauthorised electricity transmission and unauthorised electricity distribution

“Unauthorised electricity transmission and unauthorised electricity distribution” shall mean electricity transport performed contrary to the conditions included in the Transmission System Operating Rules or the respective Distribution System Operating Rules, or contrary to the Grid Code; or electricity transport taking place in connection with unauthorised electricity supply or unauthorised electricity consumption; or electricity transmission and distribution without licence; and electricity transport without a valid electricity transport contract.

#### Section 54

##### State of emergency

(1) Situation directly preventing a state of emergency or the removal of the damage caused by a state of emergency shall mean the status that has arisen in the Grid as a result of

- a) Natural disasters;
- b) Measures adopted by public administration authorities during a state of emergency, national emergency or a state of war<sup>10)</sup>;
- c) Breakdown of electricity generating, transmission and distribution facilities;
- d) Smog situations according to special regulations;
- e) Terrorist attack; or
- f) Danger to the coherence of the Grid, danger to its safety and reliability of its operation and danger to the physical safety or protection of persons.

(2) A state of emergency or a situation directly preventing a state of emergency for the whole territory of the country shall be declared by the transmission system operator through the media of mass communication and through the central control facilities, and the Ministry shall be notified without undue delay to this effect.

(3) If a state of emergency or a situation directly preventing a state of emergency applies to a certain part of the territory of the country, the respective distribution system operators shall declare such a state through the regional media and through the central control facilities, and shall notify without undue delay the transmission system operator and the Ministry to this effect.

(4) In a state of emergency and during activities directly preventing the occurrence of such a state, all electricity buyers and all individuals or legal entities doing business in the electricity sector shall accept the limitation of electricity consumption or electricity supply.

(5) In activities directly preventing the occurrence of a state of emergency, in a state of emergency and in the removal of the damage caused by a state of emergency, the transmission system operator and the distribution system operator shall be entitled to use to the extent necessary the buyers' generating and supply facilities regardless of the contracts concluded between the electricity market participants.

(6) Removal of the damage caused by a state of emergency within the Grid shall be managed and controlled by the transmission system operator.

(7) Removal of the damage caused by a state of emergency in specific parts of the territory of the country shall be managed and controlled by the respective distribution system operators.

(8) The steps to be taken in the case of imminent or existing state of emergency and the steps to be taken to prevent a state of emergency or remove the damage caused by a state of emergency within the Grid shall be laid down in the implementing legal regulation.

(9) When a state of emergency is declared or measures are taken to prevent the occurrence of such a state, or the damage caused by a state of emergency is being removed, no title to damages and the compensation for the loss of profit may be claimed.

#### Part 2

##### Gas sector

#### Section 55

##### Gas market

(1) To secure a reliable and efficient supply of gas while protecting the environment, the gas market in the territory of the Czech Republic shall be organised on the basis of the third party right of access to the transmission system and to the

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<sup>10)</sup> Constitutional Act No. 110/1998 Coll., on the Security of the Czech Republic.

distribution systems, including free accumulation, underground gas storage facilities, and gas recovery lines for all gas market participants who have the right of access under this Act and authorisation access to the construction of selected gas equipment, subject to the conditions laid down in this Act, with a view to ensure reliable and economical gas supplies while securing the environmental protection.

(2) Prices charged for gas distribution or gas transmission to end customers in the territory of the Czech Republic, free accumulation, gas supply to protected customers, and the ultimate supply shall be regulated by the Energy Regulatory Office.

(3) The gas market shall be opened, step-by-step, in the following manner:

- a) Starting from 1 January 2005, under the conditions laid down in this Act, all end customers whose annual electricity consumption related to one supply point exceeded 15 million m<sup>3</sup> of natural gas in 2003 (and all electricity generation licence holders combusting gas in thermal power plants or in the combined generation of electricity and heat to the extent of their consumption for this generation) shall be eligible customers;
- b) Starting from 1 January 2006, under the conditions laid down in this Act, all end customers other than households shall be eligible customers; and
- c) Starting from 1 January 2007, under the conditions laid down in this Act, all end customers shall be eligible customers.

#### **Section 56** **Gas market participants**

Gas market participants include

- a) Generators;
- b) The transmission system operator;
- c) Distribution system operators;
- d) Underground gas storage facilities operators;
- e) Gas traders; and
- f) End customers.

#### **Section 56** **Generator**

(1) The generator shall be entitled:

- a) To have its gas recovery lines established, operated, and connected to the transmission system or distribution system, provided that these gas lines comply with the connection conditions specified in the Transmission System and Distribution Systems Operating Rules in the Gas Sector (hereinafter "Operating Rules") laid down in the implementing regulation;
- b) Sell gas at the consumption point under contract to the transmission system operator, respective distribution system operator or, gas trader;
- c) Limit or interrupt the operation of the gas generating plant and gas recovery lines to the extent necessary in the following cases:
  1. In cases of direct danger to the life, health or property of persons and in cases of removal of such dangers;
  2. In a state of emergency and during activities directly preventing its occurrence;
  3. In cases of defects and their removal in gas recovery lines or facilities serving for gas generation or recovery; or
  4. In cases where the planned refurbishment and repair of gas recovery lines or facilities serving for gas generation or recovery is performed;
- d) Refuse access to the gas recovery line on the grounds of provable lack of free capacity, except for cases pertaining to that part of the capacity of the gas recovery line that was used for the purpose of securing supply to the eligible customer concerned in the last year when such customer had the status of a protected customer, provided that this customer itself or through a gas trader authorised by the customer continues to show its interest in further use of such capacity by the filing of an application for the conclusion of the relevant contract, as follows:
  1. For customers who will become eligible customers as of 1 January 2005, not later than within 30 days of the effective date hereof;
  2. For customers who will become eligible customers as of 1 January 2006 or 1 January 2007, at least 30 days prior to the day when they become eligible customers; and
  3. For all eligible customers, at least 30 days prior to the date when the validity of their contract expires;
- e) Enter and drive on other owners' property in connection with the establishment and operation of gas recovery lines or the gas generating plant, including cases of refurbishment and repairs; and
- f) Remove and cut back trees and other growth and perform the disposal of such removed trees and cuttings and other growth endangering safe and reliable operation of the gas recovery lines or the gas generating plant if this has not been done by the owner or user after having been asked to do so.

(2) The respective generator shall create an easement allowing the use of other owners' property or its part for purposes referred to in Subsection 1 Clauses e) and f) on the basis of a contract concluded with the property's owner; in case the owner is not known or identified or is definitely inaccessible or inactive or no contract could be negotiated with such an owner, then the appropriate building authority shall issue, on the respective generator's proposal, a decision on the creation of an easement.

(3) In the event that, exercising its rights as referred to in Subsection 1 Clauses e) and f), the generator causes damage to the property held by a freeholder or leaseholder, or the generator limits such a freeholder or leaseholder in respect of the normal use of the property, then such a holder shall be entitled to a lump sum compensation<sup>5</sup>, including the payment of the costs of an expert opinion. The claim for such compensation shall be filed with the generator that caused the damage to the property or the limitation of its use within six months of the date on which such a freeholder or leaseholder first learned of such a damage or limitation.

(4) In cases referred to in Subsection 1 Clauses e) and f), the generator shall respect to the maximum extent possible the rights of the owners of the property concerned and shall immediately notify them of its entry onto their property. Upon completion of work, the generator shall bring the property to its previous state, and if that is impossible because of the type of work performed there, the operator shall bring the property concerned to a state adequate to its previous purpose or use and shall immediately notify the owner of the property of this fact. Upon removing or cutting back trees, the generator shall at its own expense perform the disposal of the trees and cuttings produced by the intervention.

(5) In cases referred to in Subsection 1 Clause c) Point 4, the generator shall notify its customers in writing of the commencement and end of any limitation or interruption of gas supply, and shall do so at least 30 days in advance.

(6) In cases referred to in Subsection 1 Clause c), the generator shall resume gas supply as soon as the causes of the limitation or interruption are removed.

(7) In cases referred to in Subsection 1 Clause c) no title to damages and the compensation for the loss of profit may be claimed. This provision shall not apply if the generator fails to comply with its reporting duty referred to in Subsection 5.

(8) The generator shall also:

- a) Have its gas recovery line connected at its own expense to the transmission system or distribution system;
- b) Ensure that its gas generating plant and gas recovery line operates safely and reliably and ensure equal conditions for access to the gas recovery line;
- c) Provide the operator of the transmission system or distribution system to which its gas recovery lines are connected with any information needed to mutually facilitate the operability of the systems;
- d) Have a metering device installed at its own expense subject to prior consent of the operator of the transmission system or the distribution system to which the generator is connected;
- e) Secure conditions for the metering of gas supplied to the transmission system or distribution system and submit the data necessary for the settlement of differences to the transmission system operator; the details shall be laid down in the Gas Market Rules;
- f) Prepare the daily, monthly, annual and five-year balance of generation, assess it and submit it to the Balance Centre;
- g) Within 6 months of being granted a gas generation licence, prepare contingency plans for gas generating plants, send them to the Ministry, and update them on an annual basis;
- h) Set up and operate a technical dispatching centre to be responsible for the central control of gas generation. Such a technical dispatching centre shall follow the Grid Code of the Gas System of the Czech Republic that shall be laid down in the implementing legal regulation;
- i) Declare a state of emergency within the gas generating plant and gas recovery lines;
- j) Refuse access to the gas recovery line

1.

In cases that are contrary to the Operating Rules or Gas Market Rules; refusal of access shall be in writing and shall be justified; or

2.

Based on the Ministry's decision in cases referred to in Section 75; refusal of access shall be in writing and shall be justified; and

- k) Maintain separate accounts for gas generation and for regulation purposes in accordance with the implementing legal regulation.

#### Section 58

##### Transmission system operator

(1) The transmission system operator shall be entitled to:

- a) Refuse access to the transmission system on the grounds of provable lack of free capacity, except for cases pertaining to that part of the capacity of the transmission system that was used for the purpose of securing supply to the eligible customer concerned in the last year when it had the status of a protected customer, provided that this customer itself or through a gas trader authorised by the customer continues to show interest in further use of such capacity by the filing of an application for the conclusion of the relevant transmission contract, as follows:
  1. For customers who will become eligible customers as of 1 January 2005, not later than within 30 days of the effective date hereof;
  2. For customers who will become eligible customers as of 1 January 2006 or 1 January 2007, at least 30 days prior to the date when they become eligible customers;
  3. For all eligible customers, at least 30 days prior to the date when the validity of their transmission contract expires;
- b) Enter underground gas storage facilities under the conditions laid down in this Act for the purposes of handing over or taking over gas for customers for whom the operator secures transmission in order to secure the equilibrium between the quantity of gas entering the gas system and the quantity of gas leaving the gas system;

- c) Establish and operate its own telecommunications network to control, measure, secure, and automate the operation of the gas system, and to transmit the information needed for the functioning of the computers and information systems;
- d) In compliance with the conditions specified in the planning permission and the building permission, set up and operate gas equipment on other owners' property;
- e) Enter and drive on other owners' property for purposes of setting up, refurbishing, repairing, and operating the transmission system;
- f) Remove and cut back trees and other growth, perform the disposal of such removed trees and cuttings and other growth endangering safe and reliable operation of the transmission system if this has not been done by the owner or user after having been asked to do so;
- g) Enter, in accordance with special regulations, closed areas and facilities used for the activities and services of the bodies of the Ministry of Defence, Ministry of Interior, Ministry of Justice, the Security Information Service, and the operating property of the Railways, and likewise enter property where special telecommunication facilities are located, the extent and manner of such entries being as needed for the performance of licensed activities;
- h) In a state of emergency, use to the extent necessary the gas equipment of customers for whom gas is transported;
- i) Limit or interrupt gas transmission or supply based on a concluded contract in the following cases:
  1. In cases of direct danger to the life, health or property of persons, and in cases of removal of such dangers;
  2. In a state of emergency and activities directly preventing its occurrence;
  3. When planned refurbishment and planned repairs are made in transmission system facilities;
  4. When defects occur and are being removed in transmission system facilities;
  5. When gas is taken in facilities in a way likely to cause danger to the life, health and property of persons;
  6. In cases of unauthorised gas consumption or unauthorised gas transmission;
  7. In cases specified by the transmission contract; and
- j) Buy and sell gas to cover the losses in the transmission system or for its own consumption or for purposes of securing equilibrium between the quantity of gas entering and leaving the gas system in compliance with the Gas Market Rules; this is not considered to be gas trading.
  - (2) The transmission system operator shall create an easement allowing the use of other owners' property or its part for purposes referred to in Subsection 1 Clause d) on the basis of a contract concluded with the property's owner; in case the owner is not known or identified or is definitely inaccessible or inactive or no contract could be negotiated with such an owner, then the appropriate building authority shall issue, on the transmission system operator's proposal, a decision on the creation of an easement.
  - (3) In the event that, exercising its rights as referred to in Subsection 1 Clauses c) to h), the transmission system operator causes damage to the property held by a freeholder or leaseholder, or the transmission system operator limits such a freeholder or leaseholder in respect of the normal use of the property, then such a holder shall be entitled to a lump sum compensation<sup>5</sup>, including payment of the costs of an expert opinion. The claim for such a compensation shall be filed with the transmission system operator which caused the damage to the property or the limitation of its use within six months of the date on which such a freeholder or leaseholder first learned of such a damage or limitation.
  - (4) In cases referred to in Subsection 1 Clauses c) to h), the transmission system operator shall respect to the maximum extent possible the rights of the owners of the property concerned and shall immediately notify them of its entry onto their property. Upon completion of work, the transmission system operator shall bring the property to its previous state, and if that is impossible because of the type of work performed there, the operator shall bring the property concerned to a state adequate to its previous purpose or use and shall immediately notify the owner of the property of this fact. Upon removing or cutting back trees, the transmission system operator shall at its own expense perform the disposal of the trees and cuttings produced by the intervention.
  - (5) In cases referred to in Subsection 1 Clause i) Point 3, the transmission system operator shall notify the customers for whom the operator transports gas of the commencement and end of the limitation or interruption of gas transmission, doing so no later than 30 days in advance.
  - (6) In cases referred to in Subsection 1 Clause i), the transmission system operator shall resume gas transmission as soon as the causes of the limitation or interruption of gas transmission are removed.
  - (7) In cases referred to in Subsection 1 Clause i), no title to damages and the compensation for the loss of profit may be claimed. This provision shall not apply if the transmission system operator fails to comply with its reporting duty referred to in Subsection 5.
  - (8) The transmission system operator shall be responsible for the settlement of differences in the quantity of gas entering and leaving the gas system.
  - (9) The transmission system operator also shall:
    - a) Secure the safe and reliable operation and development of the transmission system;
    - b) By 31 December 2004, secure to the extent of consumption of their protected customers a supply based on concluded contracts at regulated prices and at a defined quality for each supply point in accordance with requests of protected customers or distribution system operators whose equipment is connected to the transmission system;

- c) Starting from 1 January 2005, conclude gas transmission contracts with gas trading licence holders that have been established by the separation of the simultaneous holder of a licence for gas transmission and the holder of a licence for gas trading pursuant to Section 58a for the purpose of securing gas supplies for:
1. Protected customers whose supply facilities are connected to the transmission system;
  2. Simultaneous holders of a licence for gas trading and a licence for gas distribution operating a distribution system directly connected to the transmission system that secures gas supplies for protected customers whose consumption (supply) facilities are directly connected to this distribution system;
  3. The gas trading licence holder that has been established by the separation of a simultaneous holder of a licence for gas trading and a licence for gas distribution that operates the distribution system directly connected to the transmission system pursuant to Section 59a that supplies gas to protected customers whose gas supply facilities are connected to this distribution system, or, in the case that such gas trading licence holder has not been established, with another gas trading licence holder that, based on a contractual relation with the respective gas distribution licence holder, supplies gas to protected customers whose gas supply facilities are connected to this distribution system;
- d) Provide gas transmission on the basis of signed contracts;
- e) Connect to the transmission system any applicant who/which so requests and meets the connection conditions laid down in the Operating Rules;
- f) Provide equal conditions to enable access to the transmission system under the conditions laid down in this Act; the details shall be specified in the Operating Rules, Gas Market Rules, and business conditions laid down in the Transmission System Operator Code;
- g) Provide information needed to mutually secure the operability of their systems to the operators of the distribution systems with which the transmission system is interconnected;
- h) Maintain and publish the quality parameters of gas supply and related services as laid down in the implementing legal regulation;
- i) Prepare and submit to the Energy Regulatory Office the data needed for decisions on prices charged for gas transmission and the data needed for decisions on prices charged for gas supply to protected customers;
- j) Maintain for regulatory purposes in accordance with the implementing legal regulation separate accounts for gas transmission and gas supply to protected customers;
- k) Prepare the daily, monthly, annual and five-year balance of the distribution system, assess it, and submit it to the Balance Centre;
- l) Prepare contingency plans for the transmission system within 6 months of being granted a gas transmission licence, send them to the Ministry, and update them on an annual basis;
- m) Notify sufficiently in advance market participants whose gas equipment is directly connected to the transmission system of the extent and dates of down time for gas transmission facilities, and inform them about expected reductions of transmission capacity;
- n) Set up and operate a technical dispatching centre to be responsible for the central control of the transmission system; the technical dispatching centre shall follow the Grid Code of the Gas System of the Czech Republic;
- o) Establish and operate quality monitoring points;
- p) Create technical prerequisites for the provision of gas import from various sources;
- q) Declare a state of emergency in the gas system of the Czech Republic or in the transmission system facilities;
- r) Control and manage the gas system of the Czech Republic in a state of emergency;
- s) Provide protection to any proprietary information having the nature of a trade secret that the transmission system operator may have learned of during the performance of its activities, including the protection of the data submitted to the Balance Centre;
- t) Prepare and publish every year a rolling projection of the development of the transmission system for at least 5 years ahead, including interconnection with the gas systems of neighbouring countries;
- u) Prepare the Transmission System Operator Code, submit it to the Energy Regulatory Office for approval, and ensure its publication;
- v) Refuse access to the transmission system or to free accumulation:
1. In cases that are contrary to the Operating Rules or the Gas Market Rules or the Transmission System Operator Code; refusal of access shall be in writing and shall be justified;
  2. Based on the Ministry's decision in cases referred to in Section 75; refusal of access shall be in writing and shall be justified;
  3. Based on the decision of the Energy Regulatory Office in cases referred to in Section 61a; refusal of access shall be in writing and shall be justified;
- x) Prepare a gas system contingency plan, update it on an annual basis, and submit it to the Ministry;  
and
- y) Prepare and submit to the Ministry and the Energy Regulatory Office every year not later than 1 March of the following calendar year a report on the quality and level of maintenance of the transmission system equipment.

#### Section 58a

##### Separate status of the transmission system operator

- (1) The transmission system operator, if it is a part of a vertically integrated gas undertaking, shall be, starting from 1 January 2006, in terms of its legal form, organisation and decision-making, independent of activities unrelated to gas

transmission, gas storage and gas distribution. This requirement shall not be construed as a demand for a separate ownership of property.

(2) In order to ensure the independent status of the transmission system operator as referred to in Subsection 1, starting from 1 January 2006, the following minimum criteria shall apply:

- a) Persons responsible for the management and control of the transmission system operator are not allowed to participate, either directly or indirectly, in any organisational structures of a vertically integrated gas undertaking that is responsible, either directly or indirectly, for the ordinary operation of gas generation or gas trading or electricity trading; the statutory body or its member, proxy, or executive of the transmission system operator cannot be an individual who is at the same time the statutory body or its member, proxy, or executive of a gas generation or gas trading or electricity trading licence holder that is a part of the same vertically integrated gas undertaking.
- b) Any and all appropriate measures must be taken in order to take into account professional interests of the statutory body or its member, proxy, or executives responsible for the management and control of the transmission system operator in a manner that would ensure their independent conduct; the statutory body or its member, proxy, or executive of the transmission system operator is not allowed to receive any emoluments or other property-related supplies from gas generation or gas trading or electricity trading licence holders within the same vertically integrated gas undertaking; the remuneration of the statutory body or its member, proxy, or executive of the transmission system operator must be independent of profit/loss reported by such other licence holders within the same vertically integrated gas undertaking.
- c) The transmission system operator must dispose of actual decision-making rights in respect of the property needed or the operation, maintenance, and development of the transmission system, the exercise of which is independent of the vertically integrated gas undertaking; the parent company is not allowed to give the transmission system operator any instructions pertaining to the ordinary operation and maintenance of the transmission system, and it is also not allowed to interfere in any other manner with decision-making about the building or refurbishment of parts of the transmission system, unless such a decision exceeds the scope of the approved financial plan or another similar instrument; this is without prejudice to the parent company's right to approve the annual financial plan or another similar instrument used by the transmission system operator and to approve its maximum debt limits.

(3) The transmission system operator shall adopt by way of internal regulation a programme whereby it will determine

- a) Measures to eliminate discriminatory conduct with respect to other gas market participants, in particular with regard to access to its transmission system and the use of its services; and
- b) Rules for making accessible the information on the operation and development of the transmission system and access to it; the transmission system operator shall make accessible on equal terms also to other gas market participants the relevant information the provision of which to certain market participants only might be advantageous for such participants to the detriment of other participants

(4) The transmission system operator shall inform the statutory body or its members, proxy, and all employees about the programme referred to in Subsection 3 and ensure the control of compliance with such programme. The transmission system operator shall submit the programme and amendments thereto to the Energy Regulatory Office and to the Ministry without undue delay upon their receipt and shall publish them in a manner allowing remote access. The transmission system operator shall prepare a report annually on measures taken to comply with the programme during the past year, send it to the Energy Regulatory Office and to the Ministry by 30 April of the following calendar year, and publish it in a manner allowing remote access.

(5) The statutory body or its member, proxy, or executive of the transmission system operator may not, starting from 1 January 2006, acquire or hold interests in another legal entity within the same integrated gas undertaking that is a gas generation, gas distribution, or gas trading or electricity trading licence holder. If an individual to whom the prohibition applies as defined in this Subsection already holds such an interest, he/she shall by 1 January 2006 sell or otherwise alienate such a portion of his/her interest that would ensure that he/she continues to hold an interest that does not exceed 1% of the registered capital of a given licence holder.

(6) Starting from 1 January 2006, the transmission system operator also may not conclude controlling contracts aimed at making it subject to the single control (management) exercised by another gas generation or gas trading or electricity trading licence holder, nor will it be allowed to continue such control (management) under the controlling contracts already concluded.

(7) If the obligation to separate the activities as defined under this Act is implemented by the lease of the business or its part, the lessee shall be obliged to include reports on the leased business or its part in its bookkeeping. If the obligation to separate the activities as defined under this Act is implemented by the lease of individual assets, the lessor shall provide the lessee with information on the value of the leased assets to the extent required by the Energy Regulatory Office for price regulation purposes.

(8) The Energy Regulatory Office may decide on inclusion in regulated prices of provable minimum justified costs that have been incurred by the gas transmission licence holder in connection with its discharge of the obligation to maintain the separate status of the transmission system operator.

#### Section 59

#### Distribution system operator

(1) The distribution system operator is entitled to:

- a) Refuse access to the distribution system on the grounds of provable lack of free capacity, except for cases pertaining to that part of the capacity of the distribution system that was used for the purpose of securing supply to the eligible customer concerned in the last year when it had the status of the protected customer, provided that this customer itself or through a gas trader authorised by the customer continues to show interest in further use of such capacity by the filing of an application for the conclusion of the relevant distribution contract, as follows:
1. For customers who will become eligible customers as of 1 January 2005, not later than within 30 days of the effective date hereof;
  2. For customers who will become eligible customers as of 1 January 2006 or 1 January 2007, at least 30 days prior to the date when they become eligible customers; and
  3. For all eligible customers, at least 30 days prior to the date when the validity of their distribution contract expires;
- b) Enter underground gas storage facilities under the conditions for gas storage laid down in this Act for the purpose of covering losses in the distribution system and its own use;
- c) Establish and operate its own telecommunication network to control, measure, secure and automate the operation of the distribution system and transmit information needed for the functioning of computers and information systems;
- d) In compliance with conditions specified in planning permission and building permission, set up and operate gas equipment on other owners' property;
- e) Enter and drive on other owners' property for purposes of setting up, refurbishing, repairing, and operating the distribution system and gas service connections;
- f) Remove and cut back trees and other growth, perform the disposal of such removed trees, cuttings, and other growth endangering safe and reliable operation of the distribution system, if this has not been done by the owner or user after having been asked to do so;
- g) Enter, in accordance with special regulations, the closed areas and facilities used for the activities and services of the bodies of the Ministry of Defence, Ministry of Interior, Ministry of Justice, the Security Information Service, and the operating property of the Railways, and likewise enter property where special telecommunication facilities are located, the extent and manner of such entries being as needed for the performance of licensed activities;
- h) In a state of emergency, use to the extent necessary the gas equipment of customers for whom gas is distributed and supplied;
- i) Limit or interrupt gas distribution or supply based on a concluded contract in the following cases:
1. In cases of direct danger to the life, health or property of persons and in cases of removal of such dangers;
  2. In a state of emergency and during activities directly preventing its occurrence;
  3. When planned refurbishment, relocation and planned repairs are made in distribution system facilities;
  4. When defects occur and are being removed in distribution system facilities;
  5. When gas is taken in facilities in a way likely to cause danger to the life, health, and property of persons;
  6. In the case of unauthorised gas consumption or unauthorised gas distribution; and
  7. In cases specified by the distribution contract;
- j) Buy gas to cover the losses in the distribution system or for its own consumption; this is not considered to be gas trading;
- k) To receive by 31 December 2004, gas supply at a defined quality at regulated prices from the transmission system operator, if the distribution system is connected directly to the transmission system or from the distribution system operator, if the distribution system is only connected to another distribution system, to the extent of gas supplies to protected customers connected to this distribution system.
- l) Shut the main shut-off valve when averting the threat of immediate danger to the life, health, or property of persons.
- (2) The distribution system operator shall create an easement allowing the use of other owners' property or its part for purposes referred to in Subsection 1 Clause d), e) on the basis of a contract concluded with the property's owner; in case the owner is not known or identified or is definitely inaccessible or inactive or no contract could be negotiated with such an owner, then the appropriate building authority shall issue, on the distribution system operator's proposal, a decision on the creation of an easement.
- (3) In the event that, exercising its rights as referred to in Subsection 1 Clause c) to h), the distribution system operator causes damage to the property held by a freeholder or leaseholder or the distribution system operator limits such a freeholder or leaseholder in respect of the normal use of the property, then such a holder shall be entitled to a reasonable lump sum compensation<sup>5)</sup>, including the payment of the costs of an expert opinion. The claim for such compensation shall be filed with the distribution system operator that caused the damage to the property or the limitation of its use within six months of the date on which such a freeholder or leaseholder first learned of such a damage or limitation.
- (4) In cases referred to in Subsection 1 Clauses c) to h), the distribution system operator shall respect to the maximum extent possible the rights of the owners of the property concerned and shall notify them of its entry onto their property. Upon completion of work, the distribution system operator shall bring the property to its previous state, and if that is impossible because of the type of work performed there, the operator shall bring the property concerned to a state adequate to its previous purpose or use and shall immediately notify the owner of the property of this fact. Upon removing or cutting back trees, the distribution system operator shall at its own expense perform the disposal of the trees and cuttings produced by the intervention.
- (5) In cases referred to in Subsection 1 Clause i) Point 3, the distribution system operator shall notify customers for whom the operator distributes and supplies gas of the commencement and end of the limitation or interruption of gas distribution and supply, doing so no later than 30 days in advance. Planned refurbishment, relocation, and repairs in the

period between 1 October and 30 April of the following calendar year may be performed exclusively upon written notification to this effect to the customers concerned.

(6) In cases referred to in Subsection 1 Clause i), the distribution system operator shall resume gas distribution and supply as soon as the causes of the limitation or interruption of gas distribution are removed.

(7) In cases referred to in Subsection 1 Clause i), no title to damages and compensation for the loss of profit may be claimed. This provision shall not apply if the distribution system operator fails to comply with its reporting duty referred to in Subsection 5.

(8) The distribution system operator also shall:

- a) Secure safe and reliable operation and development of the distribution system in the area delineated in the licence;
- b) Provide gas distribution and, by 31 December 2004, gas supply to protected customers on the basis of concluded contracts at regulated prices and at a defined quality, the contracts being concluded separately for each supply point;
- c) Starting from 1 January 2005, unless the distribution system operator is simultaneously a holder of a licence for gas trading, conclude, for the purpose of the provision of gas supply to protected customers, a distribution contract with
  1. A gas trading licence holder that has been established by the separation of a simultaneous holder of a gas trading licence and a gas distribution licence pursuant to Section 59a, or, in case such a gas trading licence holder has not been established, with another gas trading licence holder that, from this system, based on contractual relations with the respective gas distribution licence holder, supplies gas to protected customers whose gas supply facilities are connected to this distribution system.
  2. A simultaneous holder of a licence for gas trading and a licence for gas distribution operating the distribution system interconnected only with the distribution system operated by it that supplies gas to protected customers whose gas supply facilities are connected to this system, or, in the case that such a simultaneous holder of a licence for gas trading and a licence for gas distribution has not been established, with another gas trading licence holder that from this distribution system, based on a contract with the respective gas distribution licence holder, supplies gas to protected customers whose gas supply facilities are connected to this distribution system;
- d) Connect to the distribution system any applicant who/which requests it and meets the connection conditions laid down in the Operating Rules;
- e) Provide equal conditions to enable access to the distribution system under the conditions laid down in this Act; the details shall be specified in the Gas Market Rules and business conditions laid down in the Distribution System Operator Code;
- f) Maintain and publish the quality parameters of gas supply and related services as laid down in the implementing legal regulation;
- g) Provide the transmission system operator and the operators of the distribution systems with which its own system is interconnected with information needed to mutually secure the operability of their systems;
- h) Ensure metering at the level of the distribution system, including assessment of readings, and submit the data necessary for the settlement of differences to the transmission system operator; the details shall be laid down in the Gas Market Rules;
- i) Prepare and submit to the Energy Regulatory Office the data needed for decisions on prices charged for gas distribution;
- j) Prepare and submit to the Energy Regulatory Office data needed for decisions on prices charged for gas supply to protected customers;
- k) Maintain separate accounts in respect of gas distribution and supply for regulation purposes according to the pertinent implementing legal regulation;
- l) Prepare the daily, monthly, annual, and five-year balance of the distribution system and the balance of the coverage of supplies to protected customers, assess it, and submit it to the Balance Centre;
- m) Within 6 months of being granted a gas distribution licence, prepare contingency plans for the distribution system, send them to the Ministry, and update them on an annual basis;
- n) Announce the extent and dates of gas distribution facilities' down time and report the expected reduction of distribution capacity;
- o) Set up and operate a technical dispatching centre to be responsible for the central control of the distribution system; the technical dispatching centre shall follow the Grid Code of the Gas System of the Czech Republic;
- p) Set up and operate gas quality monitoring points, unless the monitoring points set up and operated by the transmission system operator are sufficient to serve the purpose of monitoring gas quality;
- r) Secure the reliability and quality of supplies to protected customers;
- s) Declare a state of emergency within the respective distribution system;
- t) Prepare and publish every year a rolling projection of the development of the distribution system for a period of at least 5 years;
- u) To have its electricity supply facility connected at its own expense to another distribution system;
- v) Provide protection to any proprietary information having the nature of a trade secret which the distribution system operator may have learned of during the performance of its activities, including the protection of the data submitted to the Balance Centre;
- x) Prepare the Distribution System Operator Code, submit it to the Energy Regulatory Office for approval, and ensure its publication;
- y) Refuse access to the distribution system or to free accumulation;



1. In cases that are contrary to the Operating Rules or Gas Market Rules or the Distribution System Operator Code; refusal of access shall be in writing and shall be justified;
  2. Based on the Ministry's decision in cases referred to in Section 75; refusal of access shall be in writing and shall be justified; and
  3. Based on the decision of the Energy Regulatory Office in cases referred to in Section 61a; refusal of access shall be in writing and shall be justified;
- z) Prepare and submit to the Ministry and the Energy Regulatory Office every year not later than 1 March of the following calendar year a report on the quality and level of maintenance of the distribution system equipment;

#### Section 59a

#### Separate status of the distribution system operators

- (1) The distribution system operator, if it is a part of a vertically integrated gas undertaking, shall be, starting from 1 January 2007, in terms of its legal form, organisation and decision-making, independent of other activities unrelated to gas distribution, gas transmission, and gas storage. This requirement shall not be construed as a demand for a separate ownership of property.
- (2) In order to ensure independent status of the distribution system operator as referred to in Subsection 1, starting from 1 January 2007, the following minimum criteria shall apply:
  - a) Persons responsible for the management and control of the distribution system operator are not allowed to participate, either directly or indirectly, in any organisational structures of a vertically integrated gas undertaking that is responsible, either directly or indirectly, for the ordinary operation of gas generation or gas trading or electricity trading; the statutory body or its member, proxy, or executive of the distribution system operator cannot be an individual who is at the same time the statutory body or its member, proxy, or executive of the gas generation or gas trading or electricity trading licence holder who is a part of the same vertically integrated gas undertaking.
  - b) Any and all appropriate measures must be taken in order to take into account professional interests of the statutory body or its member, proxy, or executives responsible for the management and control of the distribution system operator in a manner that would ensure their independent conduct; the statutory body or its member, proxy, or executive of the distribution system operator is not allowed to receive any emoluments or other property-related supplies from gas generation or gas trading or electricity trading licence holders within the same vertically integrated gas undertaking; the remuneration of the statutory body or its member, proxy, or executive of the distribution system operator must be independent of profit/loss reported by such other licence holders within the same vertically integrated gas undertaking.
  - c) The distribution system operator must dispose of actual decision-making rights in respect of the property needed for the operation, maintenance and development of the distribution system, the exercise of which is independent of the vertically integrated gas undertaking; the parent company is not allowed to give the distribution system operator any instructions pertaining to the ordinary operation and maintenance of the distribution system, and it is also not allowed to interfere in any other manner with the decision-making on the building or refurbishment of parts of the distribution system, unless such a decision exceeds the scope of the approved financial plan or another similar instrument; this is without prejudice to the parent company's right to approve the annual financial plan or another similar instrument used by the distribution system operator and approve its maximum debt limits.
- (3) The distribution system operator shall adopt by way of internal regulation a programme whereby it will determine:
  - a) Measures to eliminate discriminatory conduct with respect to other gas market participants, in particular with regard to access to the distribution system it operates and the use of its services;
  - b) Rules for making accessible the information on the operation and development of the distribution system and access to it; the distribution system operator shall make accessible on equal terms also to other gas market participants the relevant information the provision of which to certain gas market participants only might be advantageous for such participants to the detriment of other gas market participants.
  - c) If it is at the same time a vertically integrated undertaking, measures to secure separation of gas distribution from gas generation, gas trading or electricity trading in organisational and informational terms until the moment of legal separation of activities as referred to in Subsection 1.
- (4) The distribution system operator shall inform the statutory body or its members, proxy and all employees about the programme referred to in Subsection 3 and ensure the control of compliance with such programme. The distribution system operator shall submit the programme and amendments thereto to the Energy Regulatory Office and to the Ministry without undue delay upon their receipt and also publish them in the manner allowing remote access. The distribution system operator shall prepare annually a report on the measures taken to comply with the programme for the past year, send it to the Energy Regulatory Office and to the Ministry by 30 April of the following year, and publish it in a manner allowing remote access.
- (5) The distribution system operator must not, starting from 1 January 2007, hold interests in another legal entity that is a gas generation, gas trading, or electricity trading licence holder.
- (6) A statutory body or its member, proxy, or executive of the distribution system operator must not, starting from 1 January 2007, hold interests exceeding 1% of the registered capital of another legal entity within the same vertically integrated gas undertaking that is a gas generation, gas trading, or electricity trading licence holder.

(7) Starting from 1 January 2007, the distribution system operator also may not conclude controlling contracts aimed at making it subject to the single control (management) exercised by another gas generation, gas trading, or electricity trading licence holder, nor will it be allowed to continue such control (management) under the controlling contracts already concluded.

(8) If the obligation to separate the activities as defined under this Act is implemented by the lease of the business or its part, the lessee shall be obliged to include reports on the leased business or its part in its bookkeeping. If the obligation to separate the activities as defined under this Act is implemented by the lease of individual assets, the lessor shall provide the lessee with the information on the value of the leased assets to the extent required by the Energy Regulatory Office for price regulation purposes.

(9) The separation of activities as defined under this Act needs to be implemented not later than 31 December 2006, except for vertically integrated gas undertakings that provide services to less than 90,000 connected end customers.

(10) The Energy Regulatory Office may decide on inclusion in regulated prices of provable minimum justified costs that have been incurred by the gas distribution licence holder in connection with its discharge of the obligation to maintain separate status of the distribution system operator.

(11) A vertically integrated gas undertaking may request the Commission to grant an exemption from the obligation to ensure the separate status of the distribution system operator as defined under this Act if, based on a report prepared by the undertaking and approved by the Energy Regulatory Office, the undertaking proves fully operational and grants access to its distribution system to all gas market participants on equal terms pertaining to the conditions of connection and distribution of gas, including transparent price-setting for services provided by the undertaking.

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## **Section 60**

### **Operator of underground gas storage facilities**

(1) The underground gas storage facilities operator shall be entitled to:

- a) Set up and operate its own telecommunication network to control, measure, secure and automate the operation of underground gas storage facilities and to transmit the information needed for the functioning of computers and information systems;
- b) Set up and operate gas equipment on other owners' property within the scope of the conditions specified in the zoning and planning decision and the building permission;
- c) Enter another owner's property with personnel and vehicles for purposes of setting up and operating underground gas storage facilities;
- d) Remove and cut back trees and other growth threatening the safe and reliable operation of the underground gas storage facility, and remove such trees and cuttings if this has not been done by the owner or user after having been asked to do so;
- e) Enter, in accordance with special regulations, closed areas and facilities used for the activities and services of the Ministry of Defence and Ministry of Justice, the operating property of the Railways, and property where special telecommunication facilities are located, the extent and manner of such entry being as needed for the performance of the licensed activities;
- f) Restrict or suspend to the necessary extent activities relating to the underground storage of gas in the following cases:
  1. In cases of direct danger to the life, health or property of persons and in cases of removal of such dangers;
  2. In states of emergency or in activities immediately relating to the prevention of the rise of such states;
  3. When planned refurbishment and planned repairs to gas storage facilities are made;
  4. When defects occur and are removed from gas storage facilities; and
  5. In cases of unauthorised gas consumption or storage;
- g) Provide connection of its facility to the transmission system or the distribution system at its own cost and under the conditions specified by the Service Rules;
- h) Deny access to the underground gas storage facility due to a provable lack of capacity, except for situations concerning the part of the underground gas storage facility capacity that was used to supply the affected eligible customer within the last year in which the customer was protected, if the customer, whether directly or through a gas trader authorized by him, shows interest in its further use by submitting an application for gas storage contracting, namely:
  1. Within 30 days of the entry into effect hereof for customers that become eligible customers starting from 1 January 2005;
  2. At least 30 days before the day they become eligible for customers that will become eligible customers starting from 1 January 2006 or 1 January 2007;
  3. At least 30 days before the expiration of their gas storage contract for all eligible customers; and
- i) To purchase gas to cover losses in the underground gas storage facility or its own consumption or to create and maintain the basic content of the underground gas storage facility; this is not considered gas trading.

(2) If it is impossible to sign a written contract with the owner of the property to place the underground gas storage facility on his/her property because the owner is not known or identified, or is definitely inaccessible or inactive, or no

contract could be negotiated with such an owner, then the appropriate Building Authority shall issue, upon the underground gas storage facility operator's proposal, a decision on the establishment of easement, thus providing the possibility to use such property or any part thereof for the purposes referred to in Subsection 1 Clause b).

(3) In the event that, when exercising its rights as referred to in Subsection 1 Clause a) to e) the underground gas storage operator causes damage to the property held by a freeholder or leaseholder, or the operator limits such a freeholder or leaseholder in respect of the normal use of the property, then such a holder shall be entitled to a reasonable lump-sum compensation<sup>5)</sup>, including the payment of the costs of an expert opinion. The claim for such compensation shall be filed with the underground storage operator that caused the damage to the property or the limitation of the use thereof within six months of the date on which such a freeholder or leaseholder first learned of such a damage or limitation.

(4) In cases referred to in Subsection 1 Clauses a) to e), the underground gas storage facilities operator shall respect to the maximum possible extent the rights of the owners of the concerned property and shall notify them of its access to their property. Upon completion of work, the underground gas storage facilities operator shall bring the property back to its previous state, and if that is impossible because of the nature of work performed there, the underground gas storage facilities operator shall bring the concerned property to a state adequate to its previous purpose or use, and shall immediately notify that to the owner of the property. After removing or cutting back trees, it shall remove the lopping and logging remains at its own expense.

(5) In cases referred to in Subsection 1 Clause f) Point 3, the underground gas storage operator shall notify in writing customers for whom the operator stores gas about the beginning and the end of the limitation or suspension of activities relating to underground gas storage, doing so no later than 30 days in advance.

(6) In cases referred to in Subsection 1 Clause f), the underground gas storage operator shall resume activities relating to underground gas storage as soon as the causes responsible for the restriction or suspension of such activities are removed.

(7) In cases referred to in Subsection 1 Clause f), no title to damages and lost profit compensation may be claimed. This provision shall not apply if the underground gas storage facilities operator fails to discharge the notification duty referred to in Subsection 5.

(8) The underground gas storage operator shall:

- a) Ensure safe and reliable operation of the underground gas storage facilities;
- b) Provide gas storage on the basis of signed contracts;
- c) Provide to the operator of the transmission system or the operator of the distribution system to which its underground gas storage facility is connected information needed to mutually secure the interoperability of their systems and facilities;
- d) Ensure the metering of the outgoing and incoming gas and submit the data necessary for the settlement of differences to the transmission system operator; detailed specification shall be provided in the Gas Market Rules;
- e) Maintain separate accounts for the underground storage of gas for regulation purposes according to the implementing legal regulation;
- f) Prepare the daily, monthly, annual and five-year balance of capacities and output of the underground gas storage facility, review it, and submit it to the Balance Centre;
- g) Within 6 months of being granted the underground gas storage licence, prepare contingency plans for the underground gas storage facilities, send them to the Ministry, and update them on an annual basis;
- h) Announce the extent and dates of down time at underground gas storage facilities and state the expected reduction of storage capacity;
- i) Set up and operate a technical dispatching centre to be responsible for the central control of underground gas storage facilities; the technical dispatching centre shall respect the Grid Code of the Gas System of the Czech Republic;
- j) Allow access to underground gas storage facilities under conditions set out herein; details are specified in the Gas Market Rules and in business conditions set out by the Underground Gas Storage Facility Operator Code;
- k) Declare emergency states within the underground gas storage facilities;
- l) Prepare and publish every year a rolling projection of the development of the underground gas storage facilities for the next 5 years or more;
- m) Provide protection to any proprietary information that the operator may have obtained during its activities, including the protection of data submitted to the Balance Centre;
- n) Deny access to underground gas storage facilities
  1. In cases where access would contradict the Operating Rules or Gas Market Rules or the Underground Gas Storage Facility Operator Code; denial of access shall be in writing and sustained;
  2. If so decided by the Ministry in cases specified in Section 75; denial of access shall be in writing and sustained;
  3. If decided so by the Energy Regulatory Office in cases specified in Section 61a; the access denial shall be in writing and sustained;
- o) Prepare and publish the Underground Gas Storage Facility Operator Code;
- p) Prepare and submit to the Ministry and the Energy Regulatory Office on an annual basis, by 1 March of the subsequent calendar year at the latest, a report on the quality of the underground gas storage facility and its level of maintenance; and
- q) Maintain the quality parameters and disclose the quality indicators of gas supply and related services as laid down in the implementing legal regulation.

Section 61  
Gas Trader

(1) The gas trader shall be entitled:

- a) To purchase gas and sell it to other gas market participants, except to protected customers; this exception expires on 1 January 2005;
- b) To be supplied with gas at regulated prices in order to supply protected customers;
- c) To transport, distribute and store the agreed gas volume, provided that written contracts are signed for these activities with the appropriate operators;
- d) To access the transmission system, distribution systems, underground gas storage facilities or free gas accumulation under conditions set out herein, provided that a written contract on gas supply is signed; detailed specification shall be provided in the Gas Market Rules, Transmission System Operator Code and Distribution System Operator Codes as well as the Underground Gas Storage Facility Operator Codes; and
- e) To terminate or interrupt the supply in case of unauthorized gas consumption.

(2) The gas trader shall:

- a) Observe the Operating Rules and the Gas Market Rules, the Grid Code of the Gas System of the Czech Republic, Transmission System Operator Code, Distribution System Operator Codes, and Underground Gas Storage Facility Operator Codes;
- b) Prepare daily, monthly, annual and five-year balances of gas trading, including information on gas export from and gas import to the Czech Republic including gas sources specified, review them and submit to the Balance Centre;
- c) Observe the instructions issued by the dispatching centres of the appropriate operators, when a state of emergency is declared;
- d) Maintain the balance between the volume of gas entering the gas system and the volume of gas leaving the gas system at the same moment; detailed specification shall be provided in the Gas Market Rules, Transmission System Operator Code and Distribution System Operator Codes and the Underground Gas Storage Facility Operator Codes;
- e) Ensure safe and reliable gas supply to end customers to which the trader supplies gas while observing safety standards laid down in the implementing legal regulation;
- f) Submit to the transmission system operator, the appropriate distribution system operator or the underground gas storage facility operator information necessary to ensure safe and reliable operation of the gas system;
- g) Notify households and small businesses to which the trader supplies gas on a contractual basis about the intent to change the contractual conditions of supply and inform them about the proposed changes at least one month before the date the amended contractual conditions are expected to become effective;
- h) Prepare and submit to the Energy Regulatory Office information needed for deciding the prices of gas supply to the protected customers or deciding the ultimate supply;
- i) Maintain separate accounts of gas supply to eligible customers, of gas supply to protected customers, and of the ultimate supply; and
- j) Maintain the quality parameters and disclose the quality indicators of gas supply and related services as laid down in the implementing legal regulation.

(3) A gas trading licence holder formed by separating from a simultaneous gas transmission and gas trading licence holder according to Section 58a shall supply gas at prices regulated by the Energy Regulatory Office starting 1 January 2005:

- a) To protected customers, whose gas supply facilities are connected to the transmission system;
- b) To the simultaneous gas trading and gas distribution licence holder operating a distribution system directly connected to the transmission system supplying gas to protected customers whose gas supply facilities are connected to such a distribution system; and
- c) To a gas trading licence holder formed according to Section 59a by separating from a simultaneous gas trading and gas distribution licence holder operating a distribution system directly connected to the transmission system that distributes gas to protected customers whose gas supply facilities are connected to such a distribution system, or, in case when such a simultaneous gas trading and gas distribution licence holder did not originate, to another gas trading licence holder which, on the basis of a contract with the appropriate distribution licence holder, via the appropriate system, supplies gas to protected customers whose gas supply facilities are connected to such a distribution system.

(4) A gas trading licence holder that concurrently holds a gas distribution licence shall supply gas at prices regulated by the Energy Regulatory Office starting from 1 January 2005:

- a) To protected customers whose gas supply facilities are connected to the transmission system; and
- b) To a simultaneous gas trading and gas distribution licence holder operating a distribution system connected only to this distribution system and distributing gas to protected customers whose gas supply facilities are connected to such a distribution system, or, in cases where such a simultaneous gas trading and gas distribution licence holder did not originate, to another gas trading licence holder which, on the basis of a contract with the appropriate distribution licence holder, supplies gas to protected customers whose gas supply facilities are connected to such a distribution system.

(5) A gas trading licence holder which, on the basis of a contract with an appropriate gas distribution licence holder, after 1 January 2005 supplies gas to protected customers whose gas supply facilities are connected to this distribution system, shall supply gas at prices regulated by the Energy Regulatory Office.

#### Section 61a

##### Temporary suspension of an obligation to allow third party access

(1) If there is a danger of major business and financial difficulties for a gas trader resulting from a contract in which the gas trader undertakes to pay for the agreed volume of gas irrespective of whether that volume was actually taken or not ("take or pay" contract), which may arise from the application of the provisions herein concerning the obligation of the gas production, transmission, distribution, and storage licence holders to allow third party access to facilities in which the licensed activity is performed, the gas trader is entitled to submit an application to the Energy Regulatory Office to issue a decision on the temporary suspension of the obligation of the transmission system operator, the distribution system operator, the underground gas storage facility operator, or the generator to enable third party access to the transmission system, distribution system, underground gas storage facilities or gas recovery line ("temporary suspension").

(2) The written application for temporary suspension shall contain:

- a) The trade name of the legal entity, its registered office, identification number (IČ) and information about its statutory body; for an individual, the first name and surname or the trade name, birth certificate number and identification number (if any; otherwise the date of birth), and residential address;
- b) The specification of the facility or the delineated territory for which the decision on temporary suspension is requested, extent to which the decision on temporary suspension is requested for the specified facility or delineated territory, and the requested duration of the decision on temporary suspension;
- c) An authenticated copy of the take-or-pay contract;
- d) Specification of business and financial problems resulting or potentially resulting to the applicant for temporary suspension from the take-or-pay contract; and
- e) A description of steps taken by the applicant for temporary suspension before the application was submitted to avert the danger of business and financial problems resulting or potentially resulting to the applicant from the take-or-pay contract.

(3) The applicant for temporary suspension shall submit to the Energy Regulatory Office the written application according to Subsection 2 above at least 4 months before the requested date of commencement of temporary suspension. After reviewing the application, the Energy Regulatory Office can make only one decision about the temporary suspension for each take-or-pay contract. If, however, serious business or financial problems of a different nature arise or can arise with their origin in the same take-or-pay contract for which temporary suspension has already been granted, the Energy Regulatory Office can decide on temporary suspension for one take-or-pay contract several times.

(4) There shall be no automatic legal title to the granting of temporary suspension. When reviewing the application, the Energy Regulatory Office shall always take into account the following:

- a) Compliance with the energy policy of the state;
- b) Seriousness of the business and financial problems faced by the applicant for temporary suspension;
- c) The goal of creating a competitive environment in the gas market of the Czech Republic, the real situation of business competition in this market, and the effect, if granted, that the temporary suspension could have on the process of opening the gas market in the Czech Republic;
- d) The position in the gas market of the applicant for the temporary suspension;
- e) The date of signing and terms and conditions of the relevant take-or-pay contract, including the extent to which this contract takes into account possible changes in the gas market in the Czech Republic;
- f) Steps taken by the applicant for temporary suspension to avert the danger of business and financial problems resulting from the take-or-pay contract;
- g) The extent to which, upon signing the take-or-pay contract, the applicant for temporary suspension could expect the rise of serious business or financial problems resulting from the contract;
- h) The degree of technical and operational connection of the affected system or underground gas storage facilities or gas recovery line with the other parts of the gas system of the Czech Republic; and
- i) Statements of the Ministry, the Office for the Protection of Competition and the operators of affected systems, underground gas storage facilities and gas recovery lines, which are non-excludable parties to the administrative proceedings on temporary suspension.

(5) The decision on granting temporary suspension shall be made in the form of an administrative decision and shall contain information including, but not limited to:

- a) The trade name of the legal entity, its registered office, its identification number (IČ), if any, and information about its statutory body; for an individual, the first name and surname or the trade name, birth certificate number and identification number (if any; otherwise the date of birth), and residential address;
- b) The duration of temporary suspension;
- c) The extent of temporary suspension application; and
- d) Reasons for the temporary suspension.

(6) The Energy Regulatory Office notifies the parties to the proceedings and the Commission about the decision to grant temporary suspension.

(7) If the Commission asks for a change or revocation of the decision on granting temporary suspension within 8 weeks of its delivery, the Energy Regulatory Office shall change or revoke such a decision on granting temporary suspension. When cancelling or revoking the decision, the Energy Regulatory Office shall ensure that rights acquired in good faith are affected as little as possible.

## Section 62 Eligible customer

(1) The eligible customer shall be entitled:

- a) To have its supply facility connected to the transmission system or the respective distribution system in compliance with the conditions specified in the Operating Rules;
- b) To select its gas supplier;
- c) To have an agreed volume of gas transported, as long as the eligible customer holds a signed contract with the transmission system operator or a distribution system operator and as long as the technical conditions of the transmission system or the respective distribution system allow for it;
- d) To the establishment of a direct gas line under terms and conditions specified herein;
- e) To access the transmission system, distribution system, underground gas storage facilities and free accumulation under the terms and conditions specified herein; detailed specification shall be provided in the Gas Market Rules, Transmission System Operator Code and Distribution System Operator Codes as well as the Underground Gas Storage Facility Operator Codes;
- f) In the case of small customers and households, to be supplied by an ultimate supplier with gas in a quality as laid down in the implementing legal regulation, if the customer asks so; and
- g) To change the gas supplier free of charge; details shall be laid down in the Gas Market Rules.

(2) The eligible customer shall:

- a) Provide connection of its gas supply facility to the transmission system or the respective distribution system at its own cost;
- b) With respect to connection to the transmission system or the respective distribution system, observe the Operating Rules;
- c) Make it possible for the operator of the transmission or distribution system to which the eligible customer is connected to install a metering device, and pay for the installation; the types of metering device, the method of installation thereof, and other details shall be as specified in the Operating Rules;
- d) Provide access to the metering device for the operator of the system to which the eligible customer is connected;
- e) Follow the instructions of the technical dispatching centres;
- f) Deliver to the Balance Centre monthly data on gas supply, if the customer acquires gas by its own means, including gas import from abroad;
- g) Maintain the gas supply facility in a state of repair in which it cannot become a cause of danger to the life, health or property of persons, and if a defect is found, to remove it without undue delay;
- h) Observe the Operating Rules and the Gas Market Rules, the Grid Code of the Gas System of the Czech Republic, Transmission System Operator Code, Distribution System Operator Codes and Underground Gas Storage Facility Operator Codes;
- i) When the distribution system including connection lines is reconstructed, respect the new place of connection as set out by the relevant distribution system operator, including a transfer of the main shutoff valve and metering device to a publicly accessible place; and
- j) If the customer acquires gas by its own means and is not a household or small customer, provide the transmission system operator, distribution system operator or underground gas storage facility operator with information necessary to ensure the safe and reliable operation of the gas system; details shall be laid down in the Gas Market Rules.

(3) An eligible customer that exercises its right to change its gas supplier shall

- a) Inform the Balance Centre about each change in the gas supplier; details shall be laid down in the implementing legal regulation; and
- b) If the customer acquires the gas by its own means, maintain the balance between the quantity of gas entering the gas system and the quantity of gas leaving the gas system at the same time; detailed specification shall be provided in the Gas Market Rules, Transmission System Operator Code and Distribution System Operator Codes as well as the Underground Gas Storage Facility Operator Codes.

The owner of an affected property to which gas is supplied on a contractual basis to eligible customers located therein shall:

- a) Allow such a supply to be provided to eligible customers;
- b) Maintain the common gas supply facility used for this supply in a state of repair compliant with legal regulations, technical standards and technical rules facilitating the safe and reliable gas supply so that it cannot become a cause of danger to the life, health or property of persons, and if a defect is found, remove it without undue delay; the principles for creating technical rules shall be laid down in the implementing legal regulation; and
- c) Allow access to such a gas supply facility for the relevant distribution system operator.

A common gas supply facility designed for gas supply within one building (property) shall be treated as part of that building (property).

Section 63  
Protected Customer

(1) The protected customer shall be entitled to:

- a) Have its gas supply facility connected to the distribution system, provided that the protected customer complies with the terms and conditions of connection and supplies for protected customers specified in the Operating Rules;
- b) Be supplied with gas at regulated prices; until 31 December 2004 the supply to the protected customer is carried out based on a gas transmission licence or a gas distribution licence, while from 1 January 2005 it is carried out pursuant to a gas trading licence; and
- c) Be supplied with gas at the quality level laid down in the implementing legal regulation.

(2) The protected customer shall:

- a) Follow the Operating Rules with respect to connection to the distribution system;
- b) Maintain the gas supply facility in a state of repair in which it cannot become a cause of danger to the life, health or property of persons, and remove any defect without undue delay;
- c) Allow the operator of the distribution system to which the protected customer is connected to install a metering device and provide access thereto; and
- d) When the distribution system including connection lines is reconstructed, respect the new place of connection as set out by the relevant distribution system operator, including a transfer of the main shutoff valve and metering device to publicly accessible places; the cost of reconstruction is to be paid by the party initiating the reconstruction.

(3) The owner of the property to which gas is supplied on a contractual basis to protected customers located therein shall:

- a) Allow such supply to be provided to the protected customers;
- b) Maintain the common gas supply facility used for such supply in a state of repair compliant with legal regulations, technical standards and technical rules facilitating safe and reliable gas supply so that it cannot become a cause of danger to the life, health or property of persons, and remove any defect without undue delay; and
- c) Allow access to such a gas supply facility for the distribution system operator concerned.

The common gas supply facility for gas supply within one building (property) shall be treated as part of that building (property).

Section 64  
Gas Dispatching Centres and the Balance Centre

(1) The Balance Centre shall provide data processing in the form of aggregate gas system balances and the monitoring of planning, generation, supply and consumption of gas as well as the capacity and output of the transmission system, distribution systems, underground gas storage facilities, and free accumulation.

(2) The Balance Centre shall be created by the transmission system operator, underground gas storage facility operators, and the operators of such distribution systems to which gas supply facilities of more than 90,000 customers are connected. The Balance Centre shall be a legal entity with individuals allowed as members of this association, the origination and dissolution of which shall be governed as appropriate by the applicable provisions of the Civil Code<sup>10a)</sup>.

(3) The Balance Centre shall

- a) Monitor the planning of supplies and capacities within the gas system;
- b) On the basis of the daily, monthly, annual and five-year balances of gas transmission, distribution, generation, supplies, storage, as provided by the transmission system operator, underground gas storage operators, generators and gas traders, gas suppliers and on the basis of the Balance Centre's own analyses, prepare overall balances of the gas system and the assessment and interpretation thereof, and submit them to the Ministry and the Energy Regulatory Office; simultaneously, it shall publish gas system balances;
- c) Prepare a statistical review of gas import and export; and
- d) Prepare a statistical review of eligible customers that changed their gas supplier.

(4) The Balance Centre is entitled to demand:

- a) Balances from gas industry undertakings and gas traders, including assessment and interpretation, according to Subsection 3 clause b) above;
- b) Information about changes in gas suppliers from eligible customers; and
- c) Annual or semi-annual background information for the preparation of the gas system inspection reading and information on consumption from gas industry undertakings.

(6) The Balance Centre shall:

- a) Provide protection to any proprietary information having the nature of a trade secret
- b) If so requested by the Ministry or the Energy Regulatory Office, provide information needed by the Ministry and the Energy Regulatory Office to exercise their rights and discharge their obligations as indicated herein
- c) Inform the Ministry at least once a month about gas imports into the Czech Republic and gas exports from the Czech Republic, including sources of gas

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<sup>10a)</sup> Section 20f and subs. Of the Civil Code;

- d) Prepare and submit to the Ministry a report on gas system balances at least once a month.
- (6) Details of the activities of the Balance Centre, including the content of the incoming and outgoing balances, shall be laid down in the implementing legal regulation.
- (7) The balance between gas resources and gas consumption and the safe and reliable operation of the gas system shall be maintained by the Dispatching Centres of the gas undertakings.
- (8) The gas undertakings' Dispatching Centres shall cooperate pursuant to the Grid Code of the Gas System of the Czech Republic.
- (9) In states of emergency declared for the whole Czech Republic pursuant to Section 73 and during activities directly averting the rise thereof, the instructions issued by the Dispatching Centre of the transmission system operator shall be superior to the instructions of Dispatching Centres of the distribution system operators and the underground storage operators.

#### Section 65 Direct Gas Line

- (1) Gas may be supplied to an eligible customer directly from the transmission system or from a gas generator or from gas equipment outside the gas system of the Czech Republic using a direct gas line.
- (2) Eligible customers can only build direct gas lines if they were denied access to the distribution system or to the transmission system.
- (3) The direct gas line operator shall:
  - a) Have the construction of the direct gas line authorised by the state in accordance herewith;
  - b) Follow the Operating Rules and Gas Market Rules;
  - c) Install a metering device at its own cost upon prior consent of the operator of the system concerned;
  - d) Follow the instructions of the technical dispatching centres;
  - e) Submit to the Balance Centre data from the technical parts of the contracts; and
  - f) Ensure the operation, maintenance and repairs of the direct gas line so as to avoid its becoming dangerous to the life, health or property of persons.

#### Section 66 Gas Service Connection

- (1) A gas service connection must be installed and operated in compliance with the gas connection contract and the Operating Rules.
- (2) The costs of installation of the gas service connection shall be paid by the individual or legal entity in whose favour the gas service connection was installed, unless agreed otherwise. The party that paid for the installation of the service connection shall be the owner of the connection.
- (3) The owner of the gas service connection shall secure its operation, maintenance and repairs so as to avoid the connection's becoming dangerous to the life, health or property of persons.
- (4) The operator of the distribution system concerned shall operate, maintain and repair the gas service connection for a consideration if so requested in writing by the owner of the service line connection.

#### Section 67 Restricted Gas Equipment Construction

- (1) Construction of restricted gas equipment is only allowed upon government authorisation ("authorisation"). The decision to grant the authorisation shall be made by the Ministry.
- (2) Restricted gas equipment includes:
  - a) Direct gas lines;
  - b) Underground gas storage facilities;
  - c) Gas lines connecting the gas system with other countries' gas systems;
  - d) Gas lines at a pressure above 0.4 Mpa; and
  - e) Liquefied natural gas storage facilities of a volume over 10 m<sup>3</sup>.
- (3) The authorisation shall be non-transferable to any other legal entity or individual. The authorisation shall be granted for the period indicated in the application, which, however, shall not be longer than 5 years of the date of granting. The duration of the authorisation may be renewed upon the holder's request. The application for renewal shall be filed at least 6 months before the expiry of the authorisation
- (4) There shall be no automatic legal title to the granting of authorisation for the construction of restricted gas equipment. The factors to be considered before such an authorisation is granted shall include, without limitation, the effectiveness and efficiency of available energy sources.<sup>11)</sup>

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<sup>11)</sup> Act No. 406/2000 Coll., on Energy Management, as amended;



(5) In matters relating to the granting of authorisation, the Ministry shall be a party to the zoning and planning proceedings and shall also be the state body involved in the building permission proceedings pursuant to a special legal regulation.<sup>7)</sup>

(6) The written application for authorisation to be submitted to the Ministry by the applicant for authorisation shall contain:

- a) The trade name of the legal entity, registered office, the business identification number (IČ) (if any) and information about its statutory body; if the applicant is an individual, the application shall contain the first name and surname or the trade name, business identification number (IČ), birth certificate number (if any; otherwise the date of birth), and per
- b) The required duration of the authorisation;
- c) The required characteristics of the selected gas equipment;
- d) The planned location of the selected gas equipment;
- e) A statement of the Ministry of Environment indicating that the gas equipment complies with, if so specified by a special legal regulation, environmental protection regulations<sup>8)</sup>;
- f) A statement of the concerned transmission system operator or distribution system operator indicating that the conditions of connection to the system have been agreed;
- g) Evidence of having been denied access to the transmission or distribution system in the case of direct gas line construction; and
- h) Documents to prove availability of sufficient funds to build the selected gas equipment.

(7) In exceptional situations, when the selected gas equipment increases the safety and reliability of gas supply, and when the danger of serious business or financial problems associated with the construction of such equipment is on a level prohibiting the realization of its construction under the condition that prices of gas distribution and gas transmission to end customers in the Czech Republic have to be regulated by the Energy Regulatory Office, the applicant for authorization can update its application according to Subsection 6 above with a request for temporary exemption of the selected gas equipment operator from the duty to allow third-party access to the gas equipment at regulated prices ("temporary exemption"). The application update shall include:

- a) A detailed description of the contribution of the selected gas equipment to increasing gas supply safety and reliability;
- b) A specification of business or financial problems arising for the applicant from the construction of the selected gas equipment;
- c) The duration and extent of the temporary exemption;
- d) A statement of the Energy Regulatory Office and the Office for the Protection of Competition, which are non-excludable parties to the administrative proceedings; the Office for the Protection of Competition gives its opinion on the real situation of business competition in the gas market in the Czech Republic and gives its opinion on the effect that the decision on temporary exemption could have thereon, if granted; and
- e) If a gas line connecting the gas system with international systems is involved, a statement issued by the appropriate state administration authority of the affected country.

(8) Availability of sufficient funds shall mean the ability of the individual or legal entity applying for the granting of authorisation to ensure that the construction of the selected gas equipment is started and completed as planned and the ability to ensure that the commitments resulting thereof are carried out.

(9) Provided that the individual or the legal entity engaged in business activity during the previous year, availability of sufficient funds shall be proved by audited financial statements (including long-form footnotes thereto) that provide evidence of business assets and the volume of available finance.

(10) The authorisation holder shall notify the Ministry without delay of any change in the information shown in the decision on granting the authorisation and/or any other important information relating to the authorisation.

(11) The decision on the granting of authorisation shall have the form of an administrative decision and shall contain information including, but not limited to:

- a) The trade name of the legal entity, registered office, the business identification number (IČ), if any, and information about its statutory body; if the applicant is an individual, the application shall contain the first name and surname or the trade name, business identification number (IČ) and birth certificate number (if any; otherwise the date of birth) and place of residence;
- b) The period for which the authorisation is to remain in effect;
- c) The time of construction and the expected date of commissioning;
- d) The basic data on the gas equipment;
- e) The location of the gas equipment; and
- f) The duration of temporary exemption, if an application was submitted thereto.

(12) The Ministry shall maintain records of the authorisations granted. If an authorization to build restricted gas equipment is granted to an applicant requesting temporary exemption, the Ministry shall notify the Commission about its decision including all the necessary information relating to the application. If the Commission asks for the revocation of an authorization within three months after delivery of the decision on granting the authorization, the Ministry shall revoke such a decision. If the authorization is revoked, the Ministry shall see to it that the rights acquired in good faith are affected as little as possible.

(13) The authorisation shall lapse:

- a) With the expiration of the time for which it was granted, unless the period is extended on the basis of the authorisation holder's application for such an extension;
- b) If the authorisation holder is an individual and if such an individual dies or is declared dead;
- c) Upon declaration of bankruptcy of the authorisation holder, or rejection of its bankruptcy petition for lack of assets;
- d) With the dissolution of the legal entity which is an authorisation holder;
- e) On the basis of the authorisation holder's application for revocation of the authorisation granted; and
- f) By the Ministry's decision to revoke the authorisation on the grounds of gross violation of the conditions under which the authorisation was granted, including the authorisation holder's entry into liquidation.

(14) The contents of the application for authorisation, change, renewal, and revocation, including the master format of the application and the details of the process of assessment of such applications, shall be specified in the implementing legal regulation.

#### Section 68 Protected ranges

(1) Protected ranges shall serve to protect gas equipment and ensure its safe and reliable operation. The protected range shall arise on the effective date of the zoning and planning decision.

(2) For purposes hereof, the protected range shall mean a compact space in the immediate vicinity of the gas equipment delineated by vertical planes running at certain horizontal distances from the ground plan of the gas equipment.

(3) The protected ranges shall be as follows:

- a) For low- and medium-pressure gas lines and gas service connections by which gas is distributed in the built-up parts of urban areas, 1 m on both sides of the ground plan;
- b) For other gas lines and service connections, 4 m on both sides of the ground plan; and
- c) For technological facilities, 4 m on all sides of the ground plan

(4) In special cases, particularly in the vicinity of mining operations, waterworks, and extensive underground structures which might affect the stability of gas equipment installation, the Ministry may declare that the protected ranges shall be up to 200 m.

(5) In the protected ranges of facilities serving for gas generation, transmission, distribution, and storage, as well as outside such protected ranges, it is prohibited to perform activities that might eventually threaten such facilities, their reliability, and the safety of their operation.

(6) If the technical and safety conditions allow, and if no danger to the life, health or safety of persons may arise, the individual or the legal entity operating the respective gas system or underground gas storage facility, direct gas line or gas service connection may issue written permission allowing building activities, location of structures or earthworks, setting up of waste dumps, and storage of material to be performed in the protected range. The permission, which must include conditions under which it was issued, is attached to the zoning decision proposal or to the application for building permission; the Building Authority does not review the conditions of permission.

(7) In forest rides, the transmission system operator or the respective distribution system operator shall maintain at its own expense a clear strip of land 2 m on both sides of the axis of the gas line; the owners or users of that property shall make it possible for the operators to perform such activities.

#### Section 69 Security zones

(1) Security zones are designed to prevent or alleviate the consequences of accidents occurring in the gas equipment, if any, and to protect the lives, health and property of persons. A security zone shall arise on the effective date of the zoning and planning decision.

(2) For purposes hereof, the security zone shall mean a space delineated by the horizontal distance from the ground plan of the gas equipment, as measured perpendicularly to the outline thereof.

(3) Where adequate technical and safety conditions exist and the lives, health or safety of persons are not exposed to danger, structures may only be built in the security zones with the prior written consent of the individual or the legal entity responsible for the operation of the gas equipment concerned.

(4) The extent of the security zones is shown in a schedule hereto.

#### Section 70 Gas equipment relocation

(1) For purposes hereof, relocation of gas equipment shall mean a partial diversion of the gas line or gas service connection or the moving of the gas equipment or any element thereof.

(2) Relocation shall be effected by the owner of the gas equipment at the expense of the individual or legal entity responsible for the rise of the need for such relocation, unless otherwise agreed on a contractual basis.

(3) The ownership of the gas equipment shall not change upon relocation.

Section 71  
Metering

- (1) Gas consumption shall be measured by a metering device.
- (2) The transmission system operator and distribution system operators shall equip all the end customers whose gas supply facilities are connected to the system operated by such operators with metering devices. For eligible customers, real-time development of metering is also monitored.  
  
By 31 December 2004, the transmission system operator and distribution system operators shall equip all the end users whose gas supply facilities are connected to the systems operated by such operators and whose gas consumption at the relevant gas supply point exceeded 15 mil. m<sup>3</sup> in the preceding calendar year, with continuous metering with remote data transmission.
- (4) By 31 December 2005, the transmission system operator and distribution system operators shall equip all the end users whose gas supply facilities are connected to the systems operated by such operators and whose gas consumption at the relevant gas supply point exceeded 400 thousand m<sup>3</sup> in the preceding calendar year, with continuous metering.
- (5) All end customers, except for households, shall be entitled to ask the respective transmission or distribution system operator to equip them with continuous metering with remote data transmission or with continuous metering. The operator of the system shall satisfy such a request if it is technically feasible. Unless end customers specified in Subsection 3 above for continuous metering with remote data transmission or end customers specified in Subsection 4 above for continuous metering are considered, the end customers shall reimburse the relevant operator for the costs of installing such metering.
- (6) The metering device and its installation must be in compliance with the Operating Rules.
- (7) Generators, end customers, and underground gas storage facility operators shall, at their own cost, prepare the supply point for the installation of the metering device pursuant to the Operating Rules after having discussed the matter with the transmission system operator or the respective operator of the distribution system to which they are connected.
- (8) Any handling of the metering device without the consent of the respective transmission system operator or the operator of the distribution system to which the metering device is connected is prohibited.
- (9) Generators, end customers and underground gas storage facilities operators shall enable access to the metering device for the transmission system operator or distribution system operator to perform inspection, reading, maintenance, replacement or removal of the metering device at any time.
- (10) The transmission system operator or distribution system operator shall be entitled to secure the individual parts of the metering device against tampering. If the customer finds that the metering device or its protection against tampering is damaged, the customer shall immediately notify the transmission system operator or the respective distribution system operator.
- (11) The transmission system operator or distribution system operator shall provide installation of its own metering device at the expense of the generator, eligible customer, or underground gas storage operator and shall, at its own cost, provide maintenance thereof and check regularly the correctness of metering.
- (12) If the generator, end customer or underground gas storage operator has any doubt as to the correctness of the readings or finds a defect on the metering device, then the generator, end customer, or underground gas storage operator shall be entitled to have the metering device tested. The transmission system operator or the respective distribution system operator shall, upon a written request received from the generator, end customer or underground gas storage operator, replace the metering device or check the readings for correctness within 15 days of the delivery of such a request.
- (13) If the metering device has any defect, the costs relating to the testing thereof and to the checking of readings for correctness shall be paid by the transmission system operator or the respective distribution system operator. In the absence of defects, such costs shall be borne by the generator, end customer or underground gas storage facilities operator.
- (14) The operator of a system to which a protected customer's gas supply facility is connected shall measure gas consumption by such a customer using the operator's own metering device. The operator shall provide the installation, connection and maintenance of the metering device and regularly check readings for correctness at its own expense.
- (15) In the event of a defect in the metering device, the volume of gas consumed shall be determined as specified in the Operating Rules.
- (16) In a gas supply facility through which non-metered gas passes, no interventions may be made without prior written consent of the respective distribution system operator.
- (11) Unless continuous metering is installed at such customers, real-time development of metering is replaced with a type diagram of gas supply for eligible customers whose annual gas consumption at one gas supply point does not exceed 400 thousand m<sup>3</sup>. Detailed specification of the type diagram of gas supply and the rules of its assignment to the end customer shall be laid down in the Gas Market Rules.

Section 72  
Contracts Between Gas Market Participants

(1) By a gas supply contract, the supplier undertakes to supply another gas market participant with gas as specified by the amount and time development of gas consumption, or alternatively by a type diagram, and such other gas market participant undertakes to pay the agreed price for the gas, or alternatively the regulated price, if the customer is a protected customer or end customer using the services of an ultimate supplier. The gas supply contract shall further contain the method of payment for consumed gas, duration of the contract, terms of unilateral contract termination, gas supply interruption or termination, method of dispute resolution, method of consumed gas metering, and, if a new gas supply facility is to be installed, the consent of the owner of the affected property. Approved business conditions are an integral part of the contract on gas supply to households and small customers.

(2) By a contract on comprehensive services of gas supply, a generator or a gas trader undertakes to supply gas and provide, in its own name and on its own account, gas transmission, distribution, and storage, and an eligible customer undertakes to pay the agreed price.

(3) By a contract on connection, a transmission system operator, distribution system operator, or underground gas storage facility operator undertakes to connect to the transmission system, distribution system or underground gas storage facility the equipment of a generator, distribution system operator, underground gas storage facility operator or end customer in order to facilitate gas supply; the other distribution system operator, underground gas storage facility operator, or end customer undertakes to cover a share in the justified costs of connection. The contract shall contain terms and conditions of equipment connection, precise identification of the equipment, date and place of connection.

(4) By a contract on gas transmission to end customers in the Czech Republic, the transmission system operator undertakes to deliver for a generator, gas trader or eligible customer in the Czech Republic an agreed amount of gas, and the generator, gas trader or eligible customer in the Czech Republic undertakes to pay the regulated price for this service.

(5) By a contract on gas distribution, a distribution system operator undertakes to deliver for a generator, gas trader or eligible customer an agreed amount of gas; the generator, gas trader or eligible customer undertakes to pay the regulated price for that.

(6) By a contract on gas storage, an underground gas storage facility operator undertakes to store for a transmission or distribution system operator, gas trader or eligible customer an agreed amount of gas for an agreed period of time; the transmission or distribution system operator, gas trader or eligible customer undertakes to pay the contracted price for the storage.

(7) Details on contract conclusion shall be laid down in the Gas Market Rules.

#### Section 73 State of emergency

(1) An imminent state of emergency or state of emergency is a state originating in the gas system or any part thereof as a result of:

- a) Natural disasters;
- b) Measures adopted by public authorities during national emergency or state of war<sup>10)</sup>;
- c) A breakdown of equipment for gas generation, transmission, distribution and storage;
- d) Long-term lack of gas sources;
- e) A terrorist attack; and
- f) A danger to the gas system integrity, safety and reliability.

(2) The commencement and end of a state of emergency for the whole territory of the Czech Republic shall be announced by the transmission system operator through the media of public communication or in any other suitable manner, and the Ministry and the State Material Reserves Administration Board shall be notified in writing.

(3) If a state of emergency applies only to a part of the territory of the Czech Republic, the commencement and end of a state of emergency shall be announced by the respective distribution system or underground gas storage facility or gas generator operator through the media of public communication, or in any other suitable manner, and the Ministry, the transmission system operator, and the State Material Reserves Administration Board shall be immediately notified in writing.

(4) In states of emergency and during activities immediately preventing the rise of such states, all customers and licence holders in the gas sector shall accept the reduction of gas consumption in accordance with the instructions of the transmission system operator in cases referred to in Subsection (2) above and in accordance with the instructions of the distribution system operator in cases referred to in Subsection (3) above.

(5) In order to prevent and address a state of emergency, gas traders supplying gas to end customers and such end customers, except households and small customers, which acquire gas by their own means, shall maintain the safety standards of the required supply as specified by the implementing legal regulation.

(6) If a major breach of the gas supply occurs in a state-of-emergency situation, particularly in cases of extensive accidents in the facilities for gas generation, transmission, distribution and storage, then gas undertakings that have appropriate technical conditions shall take part in the removal of accidents and resumption of supplies, regardless of the contracts signed between gas market participants.

(7) Immediately following any accident or announcement of a state of emergency, gas undertakings shall start removing the consequences thereof in accordance with contingency plans.

(8) If a major breach of the gas supply occurs in a state-of-emergency situation, particularly in cases of extensive accidents in the facilities for gas generation, transmission and distribution, then gas undertakings that have appropriate technical conditions shall take part in the removal of accidents and the resumption of supplies.

(9) The removal of accidents and resumption of supplies as referred to in the previous Subsection shall be co-ordinated by the transmission system operator in cases referred to in Subsection (2) above or by the distribution system operator in cases referred to in Subsection (3) above.

(10) Details of the actions of prevention of states of emergency, actions to be taken when a state of emergency occurs, and actions to be taken to remove the consequences thereof, as well as the extent and method of restriction of gas consumption and the contents of contingency plans, shall be set forth in the implementing legal regulation.

(11) When a state of emergency is declared or measures are taken to prevent the rise of such a state, no title to damages and lost profit compensation may be claimed.

#### Section 74

##### Unauthorized Gas Consumption, Transmission, Distribution and Storage

(1) Unauthorised gas consumption shall mean:

- a) Consumption in the absence of any signed gas supply contract, or consumption in violation of a signed gas supply contract;
- b) Consumption with a repeated failure to pay agreed prepayments or a failure to pay a bill for gas consumed;
- c) Consumption in the absence of any metering device;
- d) Connection to, or consumption from, a part of the facility where the passing gas is not metered;
- e) Consumption though a metering device:
  1. Which does not register the consumption or does so incorrectly to the detriment of the gas undertaking or gas trader, owing to the tampering of the metering device or any part thereof or any accessories thereto;
  2. Which was not connected by the appropriate gas undertaking or whose connection was not approved by the appropriate gas undertaking; and
  3. On which protection against tampering was broken and the duty according to Section 71, Subsection 10, was not fulfilled; and
- f) Consumption directly relating to tampering of the direct gas line or a distribution system facility, transmission system facility, gas generation or recovery facility, or gas storage facility.

(2) Unauthorised gas transmission shall mean:

- a) Transmission in the absence of any signed gas transmission contract, or transmission in violation of a signed gas transmission contract;
- b) Consumption in a situation where the customer repeatedly failed to comply with the agreed terms of payment for gas transmission, including prepayments.

(3) Unauthorised gas distribution shall mean:

- a) Distribution in the absence of any signed gas distribution contract, or in violation of a signed gas distribution contract; and
- b) Consumption in a situation where the customer repeatedly failed to comply with the agreed terms of payment for gas distribution, including prepayments.

(4) Unauthorised gas storage shall mean:

- a) Storage in the absence of any signed gas storage contract, or in violation of a signed gas storage contract; and
- b) Consumption in a situation where the customer repeatedly failed to comply with the agreed terms of payment for gas storage, including prepayments.

(5) Upon unauthorised gas consumption, transmission, distribution, or storage, the customer shall compensate the damage actually caused. In instances where the actual damage cannot be effectively determined, the compensation for the damage shall be calculated pursuant to the Operating Rules.

#### Section 75

##### Gas Import And Export Restriction

(1) The Ministry may decide to restrict gas imports from other countries to individuals or legal entities in the event that:

- a) Persons or assets in the Czech Republic may be exposed to direct or indirect danger, or the gas system's safe and reliable operation may become exposed to danger; or
- b) If the gas is imported from non-EU member countries, the rights and obligations of gas suppliers and eligible customers in the country from where gas is imported are not comparable with the rights and obligations of gas suppliers and eligible customers in the Czech Republic.

(2) The Ministry may decide to restrict gas export to other countries by individuals or legal entities in the event that a state of emergency was declared pursuant to Section 73, Subsection 1, Clause d) all over the country or a part thereof if a state of emergency covers the territory of at least 3 regions.

#### PART 3

## HEAT SECTOR

### Section 76

#### Heat Energy Generation and Distribution

(1) The heat energy generation or distribution licence holder shall provide heat energy supply, as far as technically feasible, to any customer that:

- a) Applies for it and the heat energy supply is in compliance with the zoning energy management conception<sup>11)</sup>;
- b) Has heat energy distribution equipment or a heat energy service connection and heat energy consumption facility complying with technical and safety regulations;
- c) Meets the conditions relating to the place, method and date of connection required by the licence holder;
- d) Signed a heat energy supply contract.

(2) Heat energy may only be supplied to another individual or another legal entity upon the basis of a heat energy supply contract or as a supply provided under another contract.

(3) The licence holder shall further conclude a heat energy supply contract with any individual or any legal entity that applies for such a contract and satisfies the heat energy generation or distribution conditions according to Subsection 1 above and Section 77 Subsection 1 or Section 80. The heat energy supply contract shall be made in writing and shall contain the following information for each heat energy supply point:

- a) The capacity, quantity and time schedule of heat consumption and the heat delivery/supply point;
- b) Key parameters of the heat transfer medium supplied and returned, such as temperature, pressure, and the flow rate in terms of weight and volume;
- c) The site and method of measurement and the substitute method of measurement to assess heat energy supply if any defect occurs in the metering device, and the arrangement of access to the metering and controlling facilities;
- d) The price determined at the point of measurement or the method of its determination, and the schedule and method of payment for the consumed heat energy, including prepayments; and
- e) The method of allocation of the costs of heat energy supply to the individual supply points, including the collection and checking of the input data for such cost allocation; in the event of metering, the aggregate amount of heat energy consumed to prepare hot service water for several supply points. If a contract on the method of cost allocation to individual supply points is not reached, the costs will be allocated by the supplier in a way laid down in the implementing legal regulation.

(4) The supplier may, to the necessary extent and for an absolutely necessary period of time, restrict or suspend heat energy supply in the following cases:

- a) In cases of a direct danger to the life, health or property of persons and removal of such a danger;
- b) In a state of emergency or during activities directly preventing the rise of a state of emergency;
- c) When performing planned refurbishment, repair, maintenance and inspection work, if such work is announced at least 15 days in advance;
- d) When performing the necessary operational interventions: supply may be interrupted for a maximum period of 4 hours;
- e) In accidents involving an interruption, or restriction of, the necessary operating supplies of heat transfer medium or fuel and energy provided by other suppliers;
- f) If the customer fails to observe its duties pursuant to Section 77, Subsection 4;
- g) In the case of occurrence and removal of accidents and defects in heat energy generating and distribution facilities for a period of time that is absolutely necessary;
- h) In cases of use, by the buyer, of facilities dangerous to the life, health or property of persons or affecting the quality of supplies to the detriment of other buyers; and
- i) In cases of unauthorised consumption.

(5) The heat energy distribution licence holder shall be entitled to:

- a) Within the scope of the conditions laid down in the zoning decision and building permission<sup>7)</sup>, set up and operate in the public interest heat distribution facilities on other owners' property, build support points, and cross such property with pipelines;
- b) Enter other owners' property for purposes related to the setting up and operation of distribution facilities;
- c) Remove growths endangering the operation of the distribution systems, if this has not been done by the owner or user after having been asked to do so;
- d) Enter and drive, in accordance with special regulations, in the closed areas and facilities used for the activities and services of the Ministry of Defence, Ministry of Interior, Ministry of Justice, the Security Information Service and the operating property of the Railways, and enter property where special telecommunication facilities are located, the extent and manner of such entry being as needed for the performance of the licensed activities;
- e) Require the protection of heat energy distribution facilities where any work endangering such facilities' safe operation is performed; if any damage is suffered, request compensation for any costs that might be incurred in immediate repair and resumption of operation;
- f) Be compensated for any damage suffered if the heat energy supply fails to maintain the key parameters specified in Subsection 3 Clause b) above; and

g) Establish and operate its own telecommunication network for the control, metering, security and automation of the heat network's operation and for the transmission of information needed for the operation of computers and information systems

(6) Any damage claimed pursuant to Subsection 5 Clause f) must be proved by adequate evidence. No title to compensation for damage may be claimed in cases of interruption of heat energy generation or distribution as referred to in Subsection 4 above.

(7) The heat distribution system operator shall create an easement providing the possibility to use someone else's property or any part thereof for the purposes referred to in Subsection 5 Clause a) on a contractual basis with the owner of the property; if the owner is not known or identified, or is definitely inaccessible or inactive, or no contract could be negotiated with such an owner, then the appropriate Building Authority shall issue, upon the heat energy distribution facilities operator's proposal, a decision on the establishment of easement.

(8) While exercising its rights as referred to above, the heat energy distribution licence holder shall respect to the maximum possible extent the rights of the owners of the property concerned and shall notify them of its access to their property. Upon completion of work, the heat energy distribution licence holder shall bring the property concerned, or any affected part thereof, to its previous state, and if that is impossible because of the type of work performed there, the heat energy distribution licence holder shall bring the property concerned to a state adequate to its previous purpose or use.

(9) The heat energy generation licence holder and heat energy distribution licence holder shall:

- a) Perform activities relating to the licence and requiring professional competence in accordance with special regulations, such activities being undertaken only by professionally qualified personnel;
- b) Install, operate and maintain facilities used for heat energy supply so as to comply with the requirements for securing safe and reliable operation and environment protection;
- c) Upon request, provide authorised officials of the Ministry, the Energy Regulatory Office, and State Energy Inspection Board with true information they may need to exercise their rights and obligations, and give them access to the facilities serving for the performance of the licensed activity;
- d) Maintain balances, in respect of each heat transfer medium, of heat energy generation performance, costs, losses, own consumption and supplies, such balances being maintained separately for heat energy generation and heat energy distribution, and submit such data as may be needed for the purposes of regulation in accordance herewith and for statistical purposes;
- e) Lay down the conditions of connection to the heat energy distribution facilities or a heat energy source;
- f) In cases referred to in Subsection 4 above, resume heat energy supply as soon as the causes for the restriction or suspension thereof are removed; and
- g) Prepare a contingency plan to prevent and address states of emergency within 6 months of being granted the licence; this requirement shall not apply to heat energy supply systems up to 10 MW.

(10) If, while exercising its rights, the supplier causes damage to the property held by a freeholder or leaseholder, or the supplier limits such a freeholder or leaseholder in respect of the normal use of the property, then such a holder shall be entitled to a lump-sum compensation.<sup>5)</sup> The right to this compensation shall be exercised within 6 months from the day the freeholder or leaseholder learn learns of the supplier-caused damage.

(11) If there is no danger to the reliability or safety of operation and no danger to the life, health and property of persons, then heat distribution facilities or any part thereof may cross any roads, railways, water courses, telecommunication lines, piping systems and other equipment, or may run parallel with the roads, railways, water courses, telecommunication lines, piping systems and other equipment. Any such crossing or parallel run shall be performed in a way adequate to protect the environment and minimize the effects on the interests of owners involved. A parallel run shall mean a situation where the protected range of certain equipment overlaps with the protected range or safety zone of other equipment. During repairs of defects and during structural adaptations of equipment, the heat energy distribution facility operator shall respect the statements of other users of the same route, especially the prescribed technological procedure of earthwork, to minimise any effect on the interests of the owners involved.

#### Section 77 Heat Energy Buyer

(1) The heat energy buyer shall be entitled to be connected to a heat source or heat distribution facilities provided that:

- a) It is located where the licensed activities are carried out;
- b) A heat service connection and heat consumption facilities are in place and comply with technical regulations;
- c) It satisfies conditions concerning heat output demand, location, mode of connection, basic parameters of the heat transfer medium, and connection date specified by the supplier; and
- d) The heat energy supply complies with the approved zoning energy conception.

(2) The buyer is entitled to be compensated for any damage suffered if the heat energy supplied to the buyer fails to show the key parameters as specified in Section 76 Subsection 3, Clause b). Such damage shall be duly evidenced. No title to compensation for damage may be claimed in cases of interruption of heat energy generation or distribution specified in Subsection 76 Clause 4 above.

(3) If the heat transfer medium hitherto used is replaced by another heat transfer medium in order to reduce the consumption of energy, the buyer shall either modify at its own expense its heat energy consumption facilities to match such changes or terminate the heat energy supply contract. Other modifications of the heat consumption facilities shall be

provided by the owner thereof at the expense of the individual or legal entity responsible for the rise of the need for such modifications, upon prior discussion with the licence holder. Any change in parameters that requires an adaptation of heat consumption facilities shall be provided in writing by the licence holder at least 12 months in advance.

(4) The buyer may operate its own standby or other heat energy source which may be interconnected with the distribution facilities, as well as supply heat energy to such facilities, but may only do so upon contract with the licence holder.

(5) Any change in the delivery or change in the heating method may only be effected on the basis of regular planning proceedings with the consent of the environmental protection authorities and in compliance with the zoning energy conception. Any and all one-off costs thus incurred, as well as any costs relating to disconnection from the heat energy distribution facility, shall be paid by the individual or legal entity requiring such a modification or disconnection.

(6) Owners of the property where a heat distribution facility is located, or any part thereof as may be needed for heat supply to third parties, shall continue to allow the location and operation of such a facility.

(7) In a heat energy supply facility or any parts thereof through which non-metered heat energy passes, no interventions may be made without prior consent of the heat energy generation or distribution licence holder.

#### Section 78

##### Metering

(1) The heat energy generation licence holder and the heat energy distribution licence holder shall provide measurement, interpret readings, and charge customers for heat energy supply in accordance with the actual parameters of the heat transfer medium and the readings obtained from its own metering devices, which shall be installed, connected and maintained by such a licence holder at its own cost. The licence holder shall also regularly check the correctness of the readings in compliance with a special legal regulation.<sup>12)</sup> The buyer shall be entitled to have the correctness of the reading of measured values verified.

(2) If the buyer has any doubt as to the correctness of the readings or finds a defect on the metering device, then the buyer shall be entitled to have the device tested. Upon a written request received from the buyer, the licence holder shall check the metering device within 30 days and replace it if a defect is found. The buyer shall provide assistance as needed for the replacement of the metering device. If the metering device is defective, then the costs of the testing and replacement of the device shall be borne by the licence holder. In the absence of any defect, such costs shall be borne by the buyer.

(3) Any handling of the metering device without the consent of its owner shall be prohibited.

(4) The licence holder shall be entitled to install the metering device, secure it against tampering, and carry out regular readings, and the buyer shall allow the licence holder to do so. If the buyer finds any defect on the metering device or on its protection against tampering, the buyer shall immediately notify the supplier of such a finding.

(5) The meter readings determined by the supplier, together with the prices at the site of metering, shall constitute the heat energy costs, which shall be allocated among the end users, i.e. the users of residential and non-residential premises. The cost allocation rules in respect of the services of heat and hot service water supply shall be laid down in the implementing legal regulation.

(6) If hot service water jointly prepared for several supply points is supplied, the licence holder shall, within 5 years of the entry into effect hereof, provide metering of hot service water supplied at each such supply point for the purpose of proportional allocation of heat energy generation and distribution costs to individual supply points in accordance with Section 76, Subsection 3, Clause e). If a contract on the allocation of costs to individual supply points is reached between all the buyers and the supplier, this metering duty shall not apply.

(7) If the licence holder, in addition to metering pursuant to Subsection 6, installs at each supply point the metering of heat energy supplied in hot service water or the aggregate metering of heat energy supplied for heating and hot service water preparation, the heat energy supply to each such supply point is billed according to the readings of such metering.

(8) If hot service water is jointly prepared for several buyers, metering installed by the buyers cannot be used for the assessment of heat energy supplied. Values received from the buyers can be used by the supplier as a tool for the allocation of heat energy supply needed for the central preparation of hot service water.

#### Section 79

##### Heat Service Connection Line

(1) The heat service connection line is a facility conducting the heat transfer medium from the heat energy distribution facility to the heat consumption facility for a single buyer.

(2) The heat service connection line starts at the heat energy source or at the branching from the distribution facilities and ends at the point of entry into the heat energy consumption facility.

(3) Repair and maintenance of the heat service connection line shall be provided by the owner thereof.

(4) The supplier shall operate, maintain and repair the heat service connection line for consideration, provided that the supplier is so requested by the owner thereof.

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<sup>12)</sup> Act No. 505/1990 Coll., on Metrology, as amended by Act no. 119/2000 Coll.;



(5) The costs of installation of the heat service connection line shall be paid by the individual or legal entity to the benefit of which the heat service connection line was set up, unless otherwise agreed between such an individual or legal entity and the supplier.

#### Section 80 Heat Energy Purchase

(1) The heat energy distribution licence holder having suitable technical facilities to do so shall purchase

a) Heat energy

1. Recovered from renewable sources as per Section 31 Subsection 1 and from heat pumps; or
2. Recovered from secondary energy sources; and

b) Heat energy from combined electricity and heat generation.

(2) This obligation shall not arise:

- a) If the need for heat energy is satisfied as referred to in Subsection 1 above;
- b) If this would be conducive to an increase in the total costs of heat energy purchase to be paid by the current customers; or
- c) If the heat transfer medium's parameters do not correspond to the parameters in the heat energy distribution facilities at the point of connection.

(3) The costs incurred in the heat energy source connection as per Subsection 1 shall be paid by the owner of such a source.

#### Section 81 Construction of Heat Energy Sources

(1) New heat energy sources to supply heat to the heat energy distribution facilities at a total installed capacity of 30 MWt or more may only be built on the basis of government authorisation ("authorisation"), issued by the Ministry.

(2) For the purposes hereof, new heat energy sources shall mean:

- a) Construction of an entirely new generation unit, or
- b) Reconstruction of the technological part of an already existing source, bringing about a change in the fuel or the basic technical parameters, the installed capacity or type of output heat transfer medium.

(3) No authorisation is granted for the construction of heat energy sources for individual heating and hot service water preparation in apartments or family houses.

(4) The granting of authorisation shall not be subject to any automatic legal title.

(5) State authorization is not required for the construction of sources temporarily built in states of emergency.

#### Section 82 Authorization to Build Heat Energy Sources

(1) The decision on granting the authorisation shall be made by the Ministry against a written application, pursuant to Section 81.

(2) Authorisation to build a heat energy source shall be granted upon the assessment of:

- a) Compliance with the zoning energy conception<sup>1)</sup>;
- b) Impact of the heat source on the environment;
- c) Utilisation of domestic and local fuels and other energy sources;
- d) Energy efficiency;
- e) Availability of sufficient funds needed for construction; and
- f) Effectiveness and economy parameters of the available energy sources.<sup>11)</sup>

(3) Authorisation shall be granted for a period of 5 years at the maximum but its duration may be renewed upon the authorisation holder's request. The renewal of the authorisation to build a heat energy source shall be applied for at least 6 months prior to the expiration thereof; the application shall include the statement of reasons for such a renewal.

(4) The Ministry shall be party to the planning proceedings and shall also be the state body involved in the building permission proceedings in accordance with a special legal regulation.<sup>7)</sup>

(5) The authorisation for the construction of a heat energy source shall not be transferable or assignable to any other individual or legal entity.

(6) In the event that authorisation for the construction of a new heat energy source is not granted, the applicant must be informed about the reasons for such a refusal and must be advised on appeal.

#### Section 83 Application for Authorization

(1) The written application for the granting of authorisation shall contain:

- a) The trade name of the individual or the legal entity, permanent residence or registered office, and the business identification number (IC); if the applicant is an individual, the application shall also contain the first name, surname, and birth certificate number or the date of birth; if the applicant is a legal entity, then the application shall also contain information about its statutory body;
- b) Basic technical data on the source, including the technical conception, installed capacity, energy efficiency and projected heat energy consumption;
- c) The planned location of the heat energy source;
- d) The required duration of the authorisation, the date of commencement and end of construction and the planned date of commissioning;
- e) Assessment of environmental effects<sup>8)</sup> and compliance with the zoning energy conception<sup>11)</sup>;
- f) The consent of the clean air protection body<sup>9)</sup>;
- g) Information on fuels and/or other energy sources;
- h) Assessment of the use of local and domestic fuels and other energy sources, particularly renewable ones; and
- i) Evidence of availability of sufficient funds for the construction of the heat energy source.

(2) Attached to the application shall be a statement of the administration authority exercising public administration power in the area where the new structure is to be located and responsible for the zoning energy conception<sup>11)</sup> of the respective region.

(3) Availability of sufficient funds shall mean the ability of the individual or legal entity applying for authorisation to ensure that the construction of the heat energy source is started and completed as planned, and the ability to ensure that the commitments resulting thereof are carried out. Availability of sufficient funds shall be proved by evidence of business assets and the volume of available finance as demonstrated by financial statements verified by an auditor, including long-form footnotes thereto, provided that the individual or the legal entity performed business activities in the previous year.

(4) The contents of the application for authorisation, renewal, and revocation, including the master format of the application and the details of the process of assessment of such applications, shall be specified in the implementing legal regulation.

#### Section 84

##### Decision to Grant Authorization

(1) The decision to grant authorisation for the construction of a heat energy source shall contain, in particular:

- a) The trade name of the individual or the legal entity, permanent place of residence or registered office, and an identification number (IC); if the applicant is an individual, the application shall also contain the first name, surname, and birth certificate number or date of birth;
- b) Basic technical data on the source, including the technical conception, installed capacity, energy efficiency and the projected heat energy consumption, and their binding force;
- c) The location of the heat energy source
- d) The duration of the authorisation, the date of commencement and end of construction and the planned date of commissioning;
- e) Environmental protection conditions;
- f) Information on the fuels and/or other energy sources; and
- g) Conditions for the use of local and domestic fuels and other energy sources, particularly renewable ones.

(2) The holder of authorisation for the construction of a heat energy source shall immediately notify the Ministry of any change in the information indicated in the application for authorisation as well as any other important information that may have an impact on the authorisation granted.

(3) The Ministry and the administration authority responsible for public administration in the respective region shall maintain records of the heat energy source construction authorisations granted.

#### Section 85

##### Expiration of Authorisation

Authorisation for the construction of a source plant shall lapse:

- a) With the expiration of the time for which it was granted;
- b) For an individual, if such an individual dies or is declared dead;
- c) Upon declaration of bankruptcy of the authorisation holder, or rejection of its bankruptcy petition for lack of assets;
- d) With the dissolution of a legal entity that is an authorisation holder;
- e) On the basis of the authorisation holder's application for revocation of the authorisation granted;
- f) By the decision of the issuer of the authorisation to revoke the energy source construction authorisation on the grounds of gross violation of the conditions under which the authorisation was granted; and
- g) With the authorisation holder's entry into liquidation.

#### Section 86

##### Relocation of the Heat Energy Distribution Facilities

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<sup>9)</sup> Act No. 309/1991 Coll., on Air Protection Against Polluting Substances (Clean Air Act), as amended;

- (1) Relocation of a heat energy distribution facility shall mean a partial diversion of the line run or the moving of any unit or element of that equipment.
- (2) Relocation of the heat energy distribution facility shall be effected by the owner thereof at the cost of the individual or legal entity responsible for the rise of the need for such relocation, unless otherwise agreed.
- (3) The ownership of the distribution facility shall not change upon relocation.

#### Section 87

##### Protected ranges

- (1) "Protected range" shall mean a compact space in the immediate vicinity of the heat energy generation or distribution facilities. The protected range is designed to secure reliable operation of the facilities concerned and to protect the life, health and property of persons. The protected range shall arise on the effective date of the zoning and planning decision.
- (2) The width of the protected ranges is delineated by vertical planes along both sides of the heat energy generation or distribution facility at a horizontal distance of 2.5 m measured perpendicularly to the facility concerned.
- (3) In exchanger plants designed to change the parameters of the heat transfer medium, which are located in separate buildings, the protected range shall be delineated by vertical planes running at a horizontal distance of 2.5 m perpendicularly to the ground plan of such plants.
- (4) In the protected range of the facilities serving for heat energy generation or distribution, as well as outside such a zone, it is prohibited to perform activities that might eventually lead to a threat to such facilities, their reliability and the safety of their operation. Construction activities, location of structures, earthworks, storage of material, establishment of waste dumps and the planting of permanent crop stands in the protected ranges are only allowed with prior written consent of the operator of the facilities concerned. The permission, which must include conditions under which it was issued, is attached to the zoning decision proposal or to the application for building permission; the Building Authority does not review the conditions of permission.
- (5) If the heat energy distribution facility passes through buildings, no protected range is set up. When construction work is done at such sites the owner of the structure shall see to it that the safety of the facility is secured.
- (6) Owners of buildings shall provide access for the operator to perform regular inspection and necessary work on the heat energy distribution facilities located within their property. Before any such work is commenced, if the technical and safety conditions allow for it and if no danger to the life, health and property of persons is involved, the facilities operator shall notify the owner or manager of the property about the extent and duration of the work and shall bring the property to its previous state upon completion of the work, and if that is impossible because of the nature of work performed there, the operator shall bring the property concerned to a state adequate to its previous purpose or use.

#### Section 88

##### State of emergency

- (1) A state of emergency or a situation directly preventing a state of emergency in the heat sector shall mean limitation or suspension of heat energy supply as a result of:
  - a) A natural disaster;
  - b) Measures adopted by public authorities during a national emergency or state of war<sup>10)</sup>;
  - c) A breakdown of generation or distribution facilities;
  - d) A long-term shortage of primary resources, including fuels, electricity and water;
  - e) Smog situations according to special regulations; or
  - f) A terrorist attack.
- (2) During states of emergency or in situations directly preventing the rise of a state of emergency, all the licence holders, buyers and end customers shall conform to consumption restrictions for the necessary period of time, regardless of signed contracts. No title to damages and lost profit compensation may be claimed in such situations. The licence holders may, to the necessary extent, use the buyers' and end customers' equipment.
- (3) The commencement of a state of emergency and the end thereof shall be declared for the whole territory of the Czech Republic by the Ministry and for any part thereof by the administration authority responsible for public administration in the region affected, and shall be so declared through the media or in any other effective manner. The authority declaring a state of emergency shall immediately inform the Ministry of Interior and the relevant fire departments of the regions about the expected duration of heat energy supply restrictions.
- (4) The procedures to be pursued to prevent a state of emergency, during such a state, and when the consequences thereof are removed shall be set out in the implementing legal regulation.
- (5) For heat networks supplied over 50% from one source, the heat energy distribution licence holder shall review the effects of such a source being out of service and, depending on the results thereof, provide entry points to the heat network to enable standby sources to be connected.

#### Section 89

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<sup>10)</sup> Constitutional Act No. 110/1998 Coll., on the Security of the Czech Republic;

## Unauthorized Consumption

(1) Unauthorized heat consumption shall mean

- a) Consumption without the supplier's consent or in violation of a signed contract;
- b) Consumption after repeated failure to pay the agreed prepayments or a failure to pay a bill for the consumed gas;
- c) Consumption in the absence of any metering device or through a metering device which, due to the buyer's intervention, does not record the consumption at all or records lower-than-actual consumption;
- d) Consumption through a metering device relocated without the supplier's consent; or
- e) Consumption through a metering device on which protection against tampering was broken and the duty according to Section 78 Subsection 4 was not fulfilled

(2) The method of calculating the damage caused to the licence holder by unauthorized consumption shall be laid down in the implementing legal regulation.

### **PART 3 PENALTIES**

#### **Section 90 Administrative Infractions**

(1) An individual shall commit an administrative infraction, if he/she fails to observe the obligations, prohibitions and restrictions or transgresses a licence according to Section 3 Subs. 3, Section 7 Subs. 6, Section 10 Subs. 7 and 9, Section 12 Subs. 7, Section 28 Subs. 2, 3, 4 and 5, Section 29 Subs. 2, 3, 5 and 6, Section 32 Subs. 1, Section 38 Subs. 1, Section 41 Subs. 2, Section 43 Subs. 1, Section 45 Subs. 1 and 4, Section 46 Subs. 4, 8, 9, 10 and 12, Section 48 Subs. 2, Section 49 Subs. 2, 4 and 6, Section 51, 52, 53, Section 54 Subs. 4, Section 62 Subs. 2, 3 and 4, Section 63 Subs. 2 and 3, Section 65 Subs. 2 and 3, Section 66 Subs. 1 and 3, Section 67 Subs. 1 and 10, Section 68 Subs. 5, 6 and 7, Section 69 Subs. 3, Section 71 Subs. 7, 8, 9, 10 and 16, Section 72 Subs. 1, Section 73 Subs. 4, Section 74 Subs. 1, 2, 3 and 5, Section 76 Subs. 2 and 4, Section 77 Subs. 3, 4, 5, 6 and 7, Section 78 Subs. 3 and 4, Section 79 Subs. 3 and 4, Section 87 Subs. 4, 5 and 6, Section 88 Subs. 2, Section 89 Subs. 1 and Section 98 Subs. 11.

(2) A fine of up to CZK 100,000 may be imposed for the administrative infraction according to Subsection 1 above.

#### **Section 91**

##### **Administrative Offences of Legal Entities and Individuals Registered as Undertakings**

(1) A fine of up to CZK 50,000,000 may be imposed for administrative offences of the following legal entities and individuals registered as undertakings

- a) To licence holders for a failure to observe obligations specified in Section 6 Subs. 3, 4, 5 and 7, Section 9 Subs. 1 and 4, Section 10 Subs. 4, Section 11 Subs. 1, Section 12 Subs. 6, Section 14 Subs. 2, 5, 6 and 10, Section 20 Subs. 7 and 8, Section 50, Section 54 Subs. 4, Section 64 Subs. 8, Section 72 Subs. 1, Section 72a Subs. 3, Section 73 Subs. 4, 6, 7 and 8, Section 76 Subs. 3 and Section 78 Subs. 6;
- b) To electricity and gas generation licence holders for a failure to observe obligations or the transgression of licences according to Section 23 Subs. 1 and 2, Section 49 Subs. 2, 4 and 6, Section 57 Subs. 1, 4, 5, 6 and 8, Section 71 Subs. 7 and 9 and Section 72 Subs. 1;
- c) To transmission system operation licence holders for a failure to observe obligations or the transgression of licences according to Section 24 Subs. 3, 5, 6, 8 and 10, Section 24a, Section 46 Subs. 4, Section 47 Subs. 2, Section 49 Subs. 7 and 8, Section 50 Subs. 3, Section 54 Subs. 4, Section 58 Subs. 1, 4, 5, 6 and 9, Section 58a, Section 64 Subs. 2, Section 71 Subs. 2, 3, 4, 5, 6, 10, 11 and 12 and Section 72 Subs. 1 and 3;
- d) To underground gas storage licence holders for a failure to observe obligations or the transgression of licences according to Section 60 Subs. 1, 4, 5, 6 and 8, Section 64 Subs. 2, Section 71 Subs. 7 and 9 and Section 72 Subs. 1;
- e) To distribution system operation licence holders and heat energy distribution system licence holders for a failure to observe obligations or the transgression of licence according to Section 12 Subs. 2 and 3, Section 25 Subs. 4, 6, 7, 9, 11, 12 and 13, Section 25a, Section 26 Subs. 2, 3, 4 and 6, Section 45 Subs. 5, Section 46 Subs. 4, Section 47 Subs. 2, Section 49 Subs. 7, 8, 10 and 11, Section 50 Subs. 3, Section 54 Subs. 3 and 4, Section 59 Subs. 1, 4, 5, 6 and 8, Section 59a, Section 64 Subs. 2, Section 66 Subs. 4, Section 71 Subs. 2, 3, 4, 5, 6, 10, 11 and 12, Section 72 Subs. 1 and 3, Section 76 Subs. 1, 2, 4, 5, 8, 9 and 11, Section 78 Subs. 1, 2 and 4, Section 80 Subs. 1 and Section 88 Subs. 2;
- f) To heat energy generation licence holders for a failure to observe the obligations or the transgression of licence according to Section 12 Subs. 2, Section 32 Subs. 1, Section 76 Subs. 1, 2, 4 and 9, Section 78 Subs. 1 and 2 and Section 88 Subs. 2;
- g) To the electricity market operator for a failure to observe the obligations or the transgression of licence according to Section 27 Subs. 4, 5, 8 and 9 and Section 50 Subs. 6;
- h) To the Balance Centre for a failure to observe obligations or the transgression of licences according to Section 64 Subs. 4 and 5; and
- i) To the transmission system operator for a failure to observe the terms and conditions of network access for cross-border electricity exchange according to the Directive.

(2) A fine of up to CZK 1,000,000 may be imposed on generators, distribution system operators and heat energy distribution operators with an output up to 2 MW for a failure to observe the obligations according to Subsection 1 Clause a) to f) above.

(3) A fine of up to CZK 10,000,000 may be imposed on electricity and gas trading licence holders for a failure to observe obligations or the transgression of licences according to Section 12a Subs. 1 and 6, Section 30, Section 32 Subs. 8, Section 61, Section 72 Subs. 1 and Section 73 Subs. 5.

(4) A fine of up to CZK 50,000,000 may be imposed on legal entities and individuals registered as undertakings for a failure to observe obligations, prohibitions and restrictions according to Section 3 Subs. 3, Section 7 Subs. 6, Section 10 Subs. 7 and 9, Section 12 Subs. 7, Section 28 Subs. 2, 3 and 4, Section 33 Subs. 1, Section 38 Subs. 1, Section 45 Subs. 1 and 4, Section 46 Subs. 4, 8, 9, 10 and 12, Section 48 Subs. 2, Section 51, 52, 53, Section 54 Subs. 4, Section 62 Subs. 2, 3 and 4, Section 66 Subs. 1, Section 67 Subs. 1, Section 68 Subs. 5, 6 and 7, Section 69 Subs. 3, Section 71 Subs. 7, 8, 9, 10 and 16, Section 72 Subs. 1, Section 73 Subs. 4 and 5, Section 74 Subs. 1, 2, 3 and 4, Section 76 Subs. 2 and 4, Section 77 Subs. 7, Section 78 Subs. 3 and 4, Section 79 Subs. 3 and 4, Section 81 Subs. 1, Section 87 Subs. 4, Section 88 Subs. 2, Section 89 Subs. 1 and Section 98 Subs. 11 and according to the Directive, except for the failure to observe those provisions of the Directive for which a fine is imposed by the Commission.

(5) A fine of up to CZK 10,000,000 may be imposed on legal entities and individuals registered as undertakings for a failure to observe the obligations or the transgression of licence according to Section 62 Subs. 2 and 3, Section 65 Subs. 2 and 3, and Section 73 Subs. 4.

(6) A fine of up to CZK 5,000,000 may be imposed on legal entities and individuals registered as undertakings for a failure to observe obligations or the transgression of licences according to Section 29 Subs. 2, 5 and 6, Section 36 Subs. 2, Section 41 Subs. 2, Section 43 Subs. 1, Section 49 Subs. 2, 4 and 6, Section 63 Subs. 2, Section 65 Subs. 3, Section 66 Subs. 3, Section 67 Subs. 10, Section 71 Subs. 7 and 10, Section 74 Subs. 5, Section 77 Subs. 3, 4 and 5, Section 78 Subs. 4, Section 84 Subs. 2 and Section 88 Subs. 2..

(7) A fine of up to CZK 1,000,000 may be imposed on legal entities and individuals registered as undertakings for a failure to observe obligations or the transgression of licence according to Section 28 Subs. 5, Section 29 Subs. 3, Section 32 Subs. 1, Section 62 Subs. 4, Section 63 Subs. 3, Section 77 Subs. 6 and Section 87 Subs. 5 and 6.

#### **PART FOUR** **THE STATE ENERGY INSPECTION BOARD** Section 92

(1) The State Energy Inspection Board is an administrative authority subordinated to the Ministry. It is structured into the Central Inspectorate and Regional Inspectorates. The seats and regional authority of the Regional Inspectorates shall be defined by the seats and territorial authority of the regional governments and the Magistrate of the Capital City of Prague.

The Central Inspectorate shall be headed by the Central Director, who shall be appointed to, and discharged from, his/her office by the Minister of Industry and Trade. The Regional Inspectorate shall be headed by the Regional Director, who shall be appointed to, and discharged from, his/her office by the Central Director.

The State Energy Inspection Board shall be a state body with its seat in Prague.

#### Section 93 Range of Authority

(1) The State Energy Inspection Board shall, upon the Ministry's or the Energy Regulatory Office's proposal or on its own initiative, oversee compliance with:

- a) This Act;
- b) The Energy Management Act<sup>11</sup>);
- c) The Act on Prices<sup>4</sup>) within the range as laid down in the Act on the Authority of the Bodies of the Czech Republic in the Pricing Area<sup>13</sup>);
- d) Directives<sup>2a</sup>); and
- e) The Act on the Support of the Use of Renewable Sources.

(2) The State Energy Inspection Board imposes fines for breaches of law pursuant to Subsection 1 above on the basis of its own findings.

(3) In carrying out its inspection tasks, the State Energy Inspection Board shall be follow the provisions of a special legal regulation.<sup>14</sup>)

#### Section 94

(1) The State Energy Inspection Board shall be entitled to:

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<sup>13</sup>) Act No. 265/1991 Coll., on Jurisdiction of Authorities of the Czech Republic in the Field of Prices, as amended;

<sup>14</sup>) Act No. 511/1991 Coll. on State Inspection, as later amended.

- a) Request written proposals in respect of the actions and dates to remove the identified faults, and a written report about the removal of the faults to be filed within a given deadline;
  - b) Decide on the obligation to take measures as proposed by the energy audit, and on the dates thereof; and
  - c) Inspect whether subsidy recipients under the National Programme of Efficient Energy Utilisation, including renewable and secondary energy sources, enter true information in their applications and assessments.
- (2) The State Energy Inspection Board shall be party to the planning proceedings and shall also be the public administration body involved in the protection of interests protected on the basis of special legal regulations.<sup>15)</sup>
- (3) If the State Energy Inspection Board initiates an inspection upon the Ministry's or the Energy Regulatory Body's proposal, it shall provide the results of the investigation to the Ministry and the Energy Regulatory Body, respectively.

**Section 95**  
**Imposition of Fines**

- (1) When the amount of a fine is determined, the seriousness of the breach of obligations shall be taken into account including, but not limited to, the manner of the breach and the consequences thereof, and the circumstances in which the breach occurred.
- (2) A legal entity or an individual registered as an undertaking shall not be held responsible for an administrative offence if it proves that it made all efforts that could be reasonably expected to prevent the breach of duty.
- (3) The Rules of Administrative Procedure shall apply to the proceedings relating to the imposition of fines. Fines are imposed by Regional Inspectorates. Appeals against a fine imposed by a Regional Inspectorate shall be resolved by the Central Inspectorate.
- (4) The proceedings to impose a fine may be initiated within one year of the date on which the Regional Inspectorate first learned of the breach, but not later than within two years of the date on which the breach occurred. No fine may be imposed if three years have elapsed from the breach.
- (5) Fines shall represent national revenue income and shall be managed by the State Energy Inspection Board pursuant to special legal regulations.<sup>16)</sup>

**CHAPTER FIVE**  
**JOINT, TRANSITORY AND CLOSING PROVISIONS**  
**Section 96**  
**Joint Provisions**

- (1) In proceedings to which this Act applies, the provisions of the Rules of Administrative Procedure shall be followed, unless otherwise set out herein.
- (2) An appeal against decisions issued by the Energy Regulatory Office shall be resolved by the Chairperson of the Energy Regulatory Office. No appeal may be filed against the decision of the Chairperson of the Energy Regulatory Office.
- (3) The period within which the appeal to the Energy Regulatory Office shall be filed in the event of denial to connect an electricity facility to the transmission system or distribution system or in the event of denial to transport electricity shall be 90 days of the date of delivery of such a denial by the transmission system operator or the respective distribution system operator.

**Section 97**  
**Revoked**

**Section 98**  
**Transitory Provisions**

- (1) Individuals or legal entities doing business in the energy sectors according to current legal regulations shall apply for an award of licence within one year of the effective date hereof, otherwise their authorisation shall lapse.
- (2) The protected ranges defined in the electricity and heat sectors on the basis of the current legal regulations shall remain unchanged upon the effective date hereof. Exceptions to the provisions on the protected ranges that are granted in accordance with current legal regulations shall remain in effect after the effective date hereof.
- (3) The protected ranges of gas industry facilities defined according to the current legal regulations, as well as the previous approvals of the setting up of structures at such places, shall remain in effect after the effective date hereof.
- (4) Authorisations relating to other owners' property and any limitations on the use thereof that arose before the effective date hereof shall remain unaffected.
- (5) If the individuals or legal entities performing the purchase, sale and storage of hydrocarbon gases in pressure vessels, including the transport thereof, fail to apply for the issue of a business authorisation for such activities within one year of the effective date hereof, their authorisation for such trading shall lapse.

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<sup>15)</sup> Section 126 Subsection 1 of Act No. 50/1976 Coll. on Town Planning and the Building Code (the Building Act), Section 13 of Act ...../2000 Coll. on Energy Management

<sup>16)</sup> Act No. 337/1992 Coll. on Taxes and Fees Management, as later amended

(6) The Ministry shall issue a decree to implement Section 23 Subsection 1, Clause a) and Subsection 2 Clause d), Section 24 Subsection 10 Clause e), Section 25 Subsection 11 Clause f) and Subsection 12, Section 27 Subsection 7, Section 35 Subsection 4, Section 40 Subsection 4, Section 54 Subsection 8, Section 55 Subsection 3, Section 57 Subsection 1 Clause a), Section 57 Subsection 5 Clause j), Section 64 Subsection 7, Section 67 Subsection 13, Section 73 Subsection 8, Section 76 Subsection 3 Clause e), Section 77 Subsection 2, Section 83 Subsection 4, Section 88 Subsection 4 and Section 89 Subsection 2.

(7) The Energy Regulatory Office shall issue a decree to implement Section 5 Subsection 9, Section 7 Subsection 5, Section 13 Subsection 2, Section 14 Subsection 11, Section 17 Subsection 7, and Section 19.

(8) The Ministry of Regional Development shall issue a decree to implement Section 78 Subsection 5.

(9) In cases of any change in electricity voltage, any change in the pressure or type of gas or change in the heat transfer medium or the parameters thereof, which change was initiated before the effective date hereof, procedures shall be applied pursuant to currently existing legal regulations.

(10) Authorisation for construction shall be applied for by any individual or any legal entity who or which applies for issuance of the zoning and building permission for a new construction upon the effective date hereof.

(11) The performance of inspection:

- a) Pursuant to Section 93 in the premises and facilities of the Ministry of Interior, Ministry of Justice and the Security Information Service, shall be effected by the State Energy Inspection Board in a manner agreed by the Ministry with the respective ministries and in compliance with special legal regulations<sup>18)</sup>; and
- b) Pursuant to Section 93 Subsection 1 Clause a), with a bearing on the provisions of Sections 46, 68, 69 and 87 and Section 93 Subsection 1 Clause b) in military premises, military units, military facilities, military rescue units, and the legal entities set up or established by the Ministry of Defence, shall be effected by the Energy Inspection Board of the Ministry of Defence in a manner agreed with the Ministry, and by the Ministry of Defence in compliance with special legal regulations.<sup>18)</sup>

(12) Inspection pursuant to Act No. 222/1994 Coll. on the Conditions of Business and Performance of State Administration in the Energy Services and on the State Energy Inspection, as amended by Act No. 83/1998 Coll., shall be the State Energy Inspection in accordance herewith.

(13) Proceedings relating to the imposition of a fine that were initiated before the effective date hereof shall be finished in accordance with current legal regulations.

**Section 99**  
**Closing provisions**

This is to revoke:

1. Act No. 222/1994 Coll. on the Conditions of Business and Performance of State Administration in the Energy Services and on State Energy Inspection; and
2. Subsection V of Act No. 83/1988 Coll., amending Act No. 50/1976 Coll., on Town and Country Planning and the Building Code (Building Act), as amended, and amending some other acts.

**PART FIVE**  
**REVOKED**

**PART SIX**  
**EFFECT**  
**Section 104**

This Act shall come into effect on 1 January 2001.

.....  
Act No. 151/2002 Coll., amending some acts with respect to the passing of the Rules of Administrative Procedure, came into effect on 1 January 2003.

Act No. 262/2002 Coll., amending Act No. 458/2000 Coll. on the Conditions of Business and Performance of State Administration in the Energy Services and on Amendment to Other Laws ("Energy Act"), came into force on the day of its announcement (28 June 2002).

Act No. 278/2003 Coll., amending Act No. 458/2000 Coll. on the Conditions of Business and Performance of State Administration in Energy Services and on Amendment to Other Laws ("Energy Act"), came into force on the day of its announcement (28 August 2003).

Act No. 356/2003 Coll., on Chemical Substances and Chemical Preparations and on the Amendment of Other Laws, came into effect upon the entry into force of the Agreement on the Accession of the Czech Republic to the European Union (1 May 2004).

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<sup>18)</sup> Act No. 222/1999 Coll. on Securing the Defence of the Czech Republic

Act No. 670/2004 Coll., amending Act No. 458/2000 Coll. on the Conditions of Business and Performance of State Administration in the Energy Services and on Amendment to Other Laws ("Energy Act"), as amended, came into force on the day of its announcement (30 December 2004).

Prime Minister  
JUDr. Gross v. r.

(Schedule is not available in an electronic form)

**Schedule to Act no. 458/2000 Coll.**

**Security zones of gas supply facilities**

Type of facility:	Size of the zone:
Underground gas storage facilities	250 m
Liquefied gas pressure storage facilities of the inner volume over 5 m <sup>3</sup> up to 20 m <sup>3</sup>	20 m
over 20 m <sup>3</sup> up to 100 m <sup>3</sup>	40 m
over 100 m <sup>3</sup> up to 250 m <sup>3</sup>	60 m
over 250 m <sup>3</sup> up to 500 m <sup>3</sup>	100 m
over 500 m <sup>3</sup> up to 1 000 m <sup>3</sup>	150 m
over 1 000 m <sup>3</sup> up to 3 000 m <sup>3</sup>	200 m
over 3 000 m <sup>3</sup>	300 m
Gas holders up to 100 m <sup>3</sup>	30 m
Over 100 m <sup>3</sup>	50 m
Gas filling stations (distance from technological facilities)	100 m
Compressed gas liquefying plants	100 m
Liquefied gas evaporating plants	100 m
Compressor plants (distance from technological facilities)	200 m
High pressure control stations	10 m
Ultra high pressure control stations	20 m
High pressure gas lines	
up to DN 100	15 m
up to DN 250	20 m
over DN 250	40 m
ultra high pressure gas lines	
up to DN 300	100 m
up to DN 500	150 m
over DN 500	200 m

**CHAPTER II**

**TRANSITORY AND CLOSING PROVISIONS**

1. The electricity market operator shall apply for a licence within six months after the entry into effect thereof.
2. The rights and duties of the Balance Centre as laid down herein shall be executed by the Gas Dispatching Centre until 31 December 2004.
3. Entities established in relation to the separation of distribution system operators pursuant to Section 25 Subsection 3 or Section 59a Subsection 3 of Act. no. 458/2000 Coll., as amended by this Act, or the transmission system operator pursuant to Section 58a Subs. 4 of Act No. 458/2000 Coll., as amended by this Act, shall apply for a licence within 30 days after their establishment. Rights and duties as laid down herein are executed by the current licence holders until such a licence is granted or such entities are established, if they are established at a later date; the simultaneously held licences of distribution system operators expire as of the same day, except for the electricity distribution licence and gas distribution licence; for the transmission system operator, simultaneously held licences expire as of the same day, except for the gas transmission licence.
4. The rights and duties resulting from electricity supply contracts and contracts on comprehensive electricity supply services signed by a simultaneous electricity distribution and electricity trading holder are transferred to the electricity trading licence holder established in relation with the separation according to Section 25 of Act no. 458/2000 Coll., as amended by this Act.
5. The rights and duties resulting from gas supply contracts and contracts on comprehensive gas supply services signed by a simultaneous gas distribution and gas trading holder are transferred to the gas trading licence holder established in relation with the separation according to Section 59a of Act no. 458/2000 Coll., as amended by this Act.



6. The transmission or distribution system operator shall prepare and deliver to the Energy Regulatory Office and the Ministry the program pursuant to Section 24a Subsection 2 Clause d), Section 25a Subsection 2 Clause d), Section 58a Subsection 2 Clause d), Section 59a Subsection 2, Clause d) for the first time within 90 days of the entry into effect hereof.

7. A vertically integrated gas undertaking which is a gas transmission licence holder shall select the method of separation pursuant to Section 58a and inform the Ministry and the Energy Regulatory Office about such a decision in writing within 30 days of the entry into effect hereof.

8. If a protected customer pursuant to Section 21 or Section 55 becomes an eligible customer, the electricity or gas supply contract signed according to the current legislation is not prejudiced and is still regarded as a contract on comprehensive electricity or gas supply, and the price specified in the electricity or gas supply contract specified by a reference to a gas or electricity price statement is replaced with a reference to the electricity or gas supplier price list which has to be announced at least 30 days before the entry into effect of prices specified therein; if the eligible customer does not agree with the price, such a customer can terminate the contract with one-month notice. The notice period commences on the first day of the following month.

9. The rights and duties resulting from connection contracts signed by a simultaneous electricity distribution and electricity trading holder are transferred to the electricity distribution licence holder established in relation with the separation according to Section 25a of Act no. 458/2000 Coll., as amended by this Act.

10. The rights and duties resulting from connection contracts signed by a simultaneous gas distribution and gas trading holder are transferred to the gas distribution licence holder established in relation with the separation according to Section 59a of Act no. 458/2000 Coll., as amended by this Act.

11. The rights to other owners' property as well as restrictions of their use resulting from contracts signed by a simultaneous electricity distribution and electricity trading holder pursuant to the current legislation are transferred to the electricity distribution licence holder established in relation with the separation according to Section 25a hereof.

12. The rights to other owners' property as well as restrictions of their use resulting from contracts signed by a simultaneous gas transmission and gas trading holder pursuant to the current legislation are transferred to the gas transmission licence holder established in relation with the separation according to Section 58a hereof.

13. The rights to other owners' property as well as restrictions of their use resulting from contracts signed by a simultaneous gas distribution and gas trading holder pursuant to the current legislation are transferred to the gas distribution licence holder established in relation with the separation according to Section 59a hereof.

14. If the Energy Regulatory Office makes a decision to replace an ultimate supplier, the rights and duties resulting from the contracts signed between the original ultimate supplier and the end customer are transferred to the new ultimate supplier. The original ultimate supplier shall collaborate with the new ultimate supplier and shall provide the necessary information to the new supplier.

15. The Energy Regulatory Office may decide on the possibility of including justified minimum costs incurred by the electricity transmission, electricity distribution, gas transmission and gas distribution licence holders in relation with the opening of the electricity or gas market, respectively, into the regulated prices.

16. (13) Administrative proceedings initiated before the effective date hereof shall be finished in accordance with the current legal regulations. Authorization to perform business activities in the energy sectors issued pursuant to the current legal regulations shall expire as of 31 March 2005.

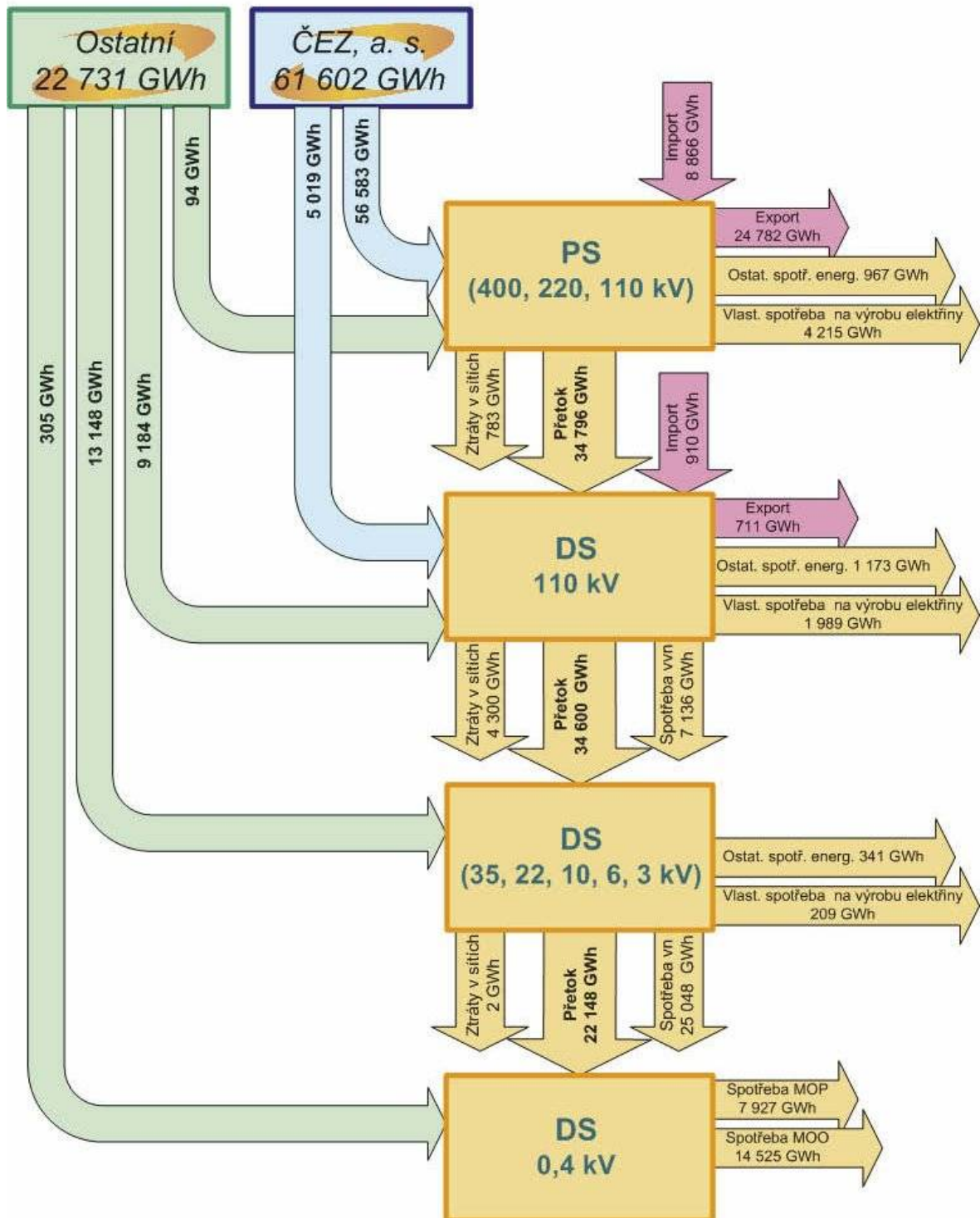
17. (6) The Ministry of Industry and Trade shall issue a Decree to implement Section 16 Clause e) Section 25 Subsection 12 Clause b), Section 32 Subsection 6, Section 49 Subsection 1, Section 57 Subsection 8 Clause h), Section 61 Subsection 2 Clause e), Section 62 Subsection 3 Clause a), Section 62 Subsection 4 Clause b), Section 64 Subsection 6, Section 67 Subsection 14, Section 73 Subsection 5, Section 73 Subsection 10.

18. (20) The Energy Regulatory Office shall issue a Decree to implement Section 20 Subsection 7 and Section 27 Subsection 7.

19. Pursuant to Section 57 Subsection 1 Clause a), the Ministry of Industry and Trade and the Energy Regulatory Office shall issue a Decree to implement the Transmission System and Distribution System Operating Rules in the Gas Sector.



## Electricity flows in the Czech grid in 2004





## **INVESTMENT IN ELECTRICITY SECTOR - PRODUCTION (E1)**

Member State: Czech Republic										Situation on 1 January 2005	
Type of installation	Number of installations and nominal power (MW)										Supplementary information
	Capacity ( <sup>A1</sup> )		Capacity ( <sup>A2</sup> )		Additional Capacity ( <sup>B1</sup> )		Additional Capacity ( <sup>B2</sup> )		Withdrawal ( <sup>C</sup> )		
	Number	Power	Number	Power	Number	Power	Number	Power	Number	Power	
<b>Conventional Thermal Power Stations ( ≥ 200 MW ) capable of burning:</b>											
Coal	4	800	-	-	No	No	No	No	No	No	
Petrol	No	No	-	-	No	No	No	No	No	No	
Gas	No	No	-	-	No	No	No	No	No	No	
Lignite	19	4 150	-	-	No	No	No	No	No	No	
Mixed./.	No	No	-	-	No	No	No	No	No	No	
Mixed( <sup>1</sup> )	No	No	-	-	No	No	No	No	No	No	
Others	No	No	-	-	No	No	No	No	No	No	
<b>Nuclear Power Stations ( ≥ 200 MW ) of type:</b>											
PWR	9 ( <sup>0</sup> )	2 760	-	-	1 ( <sup>**</sup> )	1 000	No	No	No	No	
BWR	No	No	-	-	No	No	No	No	No	No	
GGR	No	No	-	-	No	No	No	No	No	No	
FBR	No	No	-	-	No	No	No	No	No	No	
Others	No	No	-	-	No	No	No	No	No	No	
<b>Hydro–electric Power Stations ( ≥ 50 MW ) of the category:</b>											
Seasonal stockage ( S )	6	484	-	-	No	No	No	No	No	No	
Short-term stockage ( ST )	No	No	-	-	No	No	No	No	No	No	
Run-of River ( R )	No	No	-	-	No	No	No	No	No	No	
Pumped storage only ( P )	6	1 100	-	-	No	No	No	No	No	No	
Mixed pumped and others	No	No	-	-	No	No	No	No	No	No	

( <sup>A1</sup> ) Total capacity in service on 1 January of the year of the Communication (installations or parts of existing installations).

( <sup>A2</sup> ) Total capacity in service since the previous Communication (installations or part installations).

( <sup>B1</sup> ) Capacity expected to be used in the course of the year of the Communication (for each installation or part installation being built or planned).

( <sup>B2</sup> ) Capacity expected to be used in the course of the following four years (for each installation or part installation being built or planned).

( <sup>C</sup> ) Capacity expected to be withdrawn from service in the course of the year of the Communication or the following two years (for each installation or part installations).

(<sup>1</sup>) For installations capable of burning more than one fuel, please indicate the power at total level and for each fuel separately.

**Note:**

( <sup>0</sup> ) Nine blocks are in service on 1 January 2005 with total capacity 2 760 MW.

( <sup>\*\*</sup> ) In course of the 2005 year another block with capacity of 1 000 MW will be put in service. This block is at present time in the test service.

## INVESTMENT IN ELECTRICITY SECTOR - TRANSPORT (E2)

Member State: Czech Republic										Situation on 1 January 2005	
Type of installation	Number of installations and length (km)										Supplementary information
	Capacity ( <sup>A1</sup> )		Capacity ( <sup>A2</sup> )		Additional Capacity ( <sup>B1</sup> )		Additional Capacity ( <sup>B2</sup> )		Withdrawal ( <sup>C</sup> )		
	Number	Length	Number	Length	Number	Length	Number	Length	Number	Length	
Lines (≥ 345 kV) of a voltage of:											
345	No	No	-	-	No	No	No	No	No	No	
380	No	No	-	-	No	No	No	No	No	No	
400	62	2 899.7	-	-	No	No	No	No	No	No	
420	No	No	-	-	No	No	No	No	No	No	
Other	No	No	-	-	No	No	No	No	No	No	
Underground cables (≥ 100 kV) of a voltage of:											
220	No	No	-	-	No	No	No	No	No	No	
250	No	No	-	-	No	No	No	No	No	No	
380	No	No	-	-	No	No	No	No	No	No	
400	1	0.35	-	-	No	No	No	No	No	No	
420	No	No	-	-	No	No	No	No	No	No	
Other	No	No	-	-	No	No	No	No	No	No	
Submarine cables (≥ 100 kV) of a voltage of:											
220	No	No	-	-	No	No	No	No	No	No	
250	No	No	-	-	No	No	No	No	No	No	
380	No	No	-	-	No	No	No	No	No	No	
400	No	No	-	-	No	No	No	No	No	No	
420	No	No	-	-	No	No	No	No	No	No	
Other	No	No	-	-	No	No	No	No	No	No	

(<sup>A1</sup>) Total capacity in service on 1 January of the year of the Communication (installations or parts of existing installations).

(<sup>A2</sup>) Total capacity in service since the previous Communication (installations or part installations).

(<sup>B1</sup>) Capacity expected to be used in the course of the year of the Communication (for each installation or part installation being built or foreseen).

(<sup>B2</sup>) Capacity expected to be used in the course of the following four years (for each installation or part installation being built or foreseen).

(<sup>C</sup>) Capacity expected to be withdrawn from service in the course of the year of the Communication or the following two years (for each installation or part installations).

## G1 – INVESTMENT IN GAS PIPELINES

Member State: Czech Republic		Position at 1 January 2005			
	Capacity ( <sup>A</sup> )	Additions ( <sup>B</sup> )	Additions ( <sup>C</sup> )	Withdrawals ( <sup>D</sup> )	
Route (city & country)- from ( * ) - to ( * )	1. Lanžhot (SK/CZ) – Hora sv. Kateřiny (CZ/D) 2. Lanžhot (SK/CZ) – Waidhaus (CZ/D) 3. Zábοří (CZ) – Spáleníště (CZ/A) 4. Třanovice (CZ) – Chotěbuz (CZ/PL) 5. Břeclav (CZ) – Reintal (CZ/A)	1. No 2. No 3. No 4. No 5. No	1. No 2. No 3. Yes 4. Yes 5. Yes	1. No 2. No 3. No 4. No 5. No	
Classification MP: main pipeline E: extension	1. MP/MP/E 2. MP/MP/MP 3. No 4. No 5. No	1. No 2. No 3. No 4. No 5. No	1. No 2. No 3. E 4. E 5. E	1. No 2. No 3. No 4. No 5. No	
Length (km)	1. 376/379/323 2. 403/403/402 3. No 4. No 5. No	1. No 2. No 3. No 4. No 5. No	1. No 2. No 3. 80 4. 25 5. 13	1. No 2. No 3. No 4. No 5. No	
Internal diameter (inches)	1. 35/35/39 2. 31/39/55 3. No 4. No 5. No	1. No 2. No 3. No 4. No 5. No	1. No 2. No 3. 31 4. 19 5. 27	1. No 2. No 3. No 4. No 5. No	
Pressure (bar)	1. 59.8/61.8/73.5 2. 73.5/73.5/73.5 3. No 4. No 5. No	1. No 2. No 3. No 4. No 5. No	1. No 2. No 3. 73.5 4. 63.0 5. 73.5	1. No 2. No 3. No 4. No 5. No	
Capacity - max. annual (bcm) - foreseen annual (bcm)	1. 16/16** 2. 28/28** 3. No 4. No 5. No	1. No 2. No 3. No 4. No 5. No	1. No 2. No 3. 4.4 4. 2.3 5. 5.6	1. No 2. No 3. No 4. No 5. No	
TEN project (Yes/No) If yes, project ref. N° Other remarks:	1. No 2. No 3. No 4. No 5. No	1. No 2. No 3. No 4. No 5. No	1. No 2. No 3. No 4. No 5. No	1. No 2. No 3. No 4. No 5. No	

(<sup>A</sup>) Position at 1 January of current calendar year of total capacity in service.

(<sup>B</sup>) Pipelines under planning or construction (in service within three calendar years).

(<sup>C</sup>) Pipelines under planning or construction (in service after three calendar years).

(<sup>D</sup>) Pipelines expected to come off stream within three calendar years.

(\*) Main junction closest to border.

(\*\*) Total annual capacity of pipelines listed above in column A amounts to 54 bcm. From this volume 10 bcm is consumed by customers in the Czech Republic, whence total transit capacity 44 bcm results of.

(A) Austria

(CZ) Czech Republic

(D) Federal Republic of Germany

(SK) Slovak Republic

(PL) Poland



## ***G2 – INVESTMENT IN LNG PLANTS***

Member State: Czech Republic	Position at 1 January 2005			
	Capacity ( <sup>A</sup> )	Additions ( <sup>B</sup> )	Additions ( <sup>C</sup> )	Withdrawals ( <sup>D</sup> )
Geographical location (city – region)	No	No	No	No
Max. storage capacity (m <sup>3</sup> of LNG)	No	No	No	No
Max. regasification capacity (m <sup>3</sup> of LNG/h)	No	No	No	No
Foreseen annual volume (bcm/year)	No	No	No	No
TEN project (Yes/No) If yes, project ref. No Other remarks:	No	No	No	No

( <sup>A</sup> ) Position at 1 January of current calendar year of total capacity in service.

( <sup>B</sup> ) Plants under planning or construction (in service within three calendar years).

( <sup>C</sup> ) Plants under planning or construction (in service after three calendar years).

( <sup>D</sup> ) Plants expected to come off stream within three calendar years.

**Note:**

In the Czech Republic are not LNG plants.

### G3 – INVESTMENT IN STORAGE CAPACITY

Member State: Czech Republic		Position at 1 January 2005			
Geographical location (city – region)	Capacity ( <sup>A</sup> )	Additions ( <sup>B</sup> )	Additions ( <sup>C</sup> )	Withdrawals ( <sup>D</sup> )	
1. Dolní Dunajovice – Jihomoravský kraj	1. 0.700 (bcm)	1. No	1. 0.200 (bcm)	1. No	
2. Tvrdonice – Jihomoravský kraj	2. 0.460 (bcm)	2. No	2. 0.240 (bcm)	2. No	
3. Lobodice - Olomoucký kraj	3. 0.150 (bcm)	3. No	3. No	3. No	
4. Štramberk – Moravskoslezský kraj	4. 0.435 (bcm)	4. 0.100 (bcm)	4. No	4. No	
5. Třanovice – Moravskoslezský kraj	5. 0.240 (bcm)	5. 0.070 (bcm)	5. No	5. No	
6. Háje – Středočeský kraj	6. 0.055 (bcm)	6. 0.007 (bcm)	6. No	6. No	
7. Uhřice – Jihomoravský kraj	7. 0.260 (bcm)	7. 0.020 (bcm)	7. 0.030 (bcm)	7. No	
8. Dolní Bojanovice – Jihomoravský kraj	8. Note see below	8. Note see below	8. Note see below	8. Note see below	
Total capacity	2.300 (bcm)	0.197 (bcm)	0.470 (bcm)	No	
Useful capacity	2.170 (bcm)	0.197 (bcm)	0.470 (bcm)	No	
Max. daily extraction	0.052 (bcm)	0.0025 (bcm)	0.0065 (bcm)	No	
TEN project (Yes/No)	1. No	1. No	1. No	1. No	
If yes, project ref. No	2. No	2. No	2. No	2. No	
Other remarks:	3. No	3. No	3. No	3. No	
	4. No	4. No	4. No	4. No	
	5. No	5. No	5. No	5. No	
	6. No	6. No	6. No	6. No	
	7. No	7. No	7. No	7. No	

( <sup>A</sup> ) Position at 1 January of current calendar year of total capacity in service.

( <sup>B</sup> ) Capacity under planning or construction (in service within three calendar years) - extension of capacity.

( <sup>C</sup> ) Capacity under planning or construction (in service after three calendar years) - extension of capacity.

( <sup>D</sup> ) Capacity expected to come off stream within three calendar years.

**Note:**

Geographical location (city – region – country)	Capacity ( <sup>A</sup> )	Additions ( <sup>B</sup> )	Additions ( <sup>C</sup> )	Withdrawals ( <sup>D</sup> )
Dolní Bojanovice – Jihomoravský kraj – Czech Republic				
Total capacity:	0.924 (bcm)	0.010 (bcm)	No	No
Useful capacity:	0.566 (bcm)	0.010 (bcm)	No	No
Max. daily extraction:	0.009 (bcm)	0.000 (bcm)	No	No
TEN project (Yes/No):	No	No	No	No

SPP Bohemia, a. s. is the owner of underground gas storage. The underground gas storage is not connecting with the gas network of the Czech Republic but with the gas network of the Slovak Republic. The underground gas storage is not included in the total storage capacity of the Czech Republic

