

("Official Gazette of the Republic of Macedonia" no. 146/18)

Based on Article 24, paragraph (1), point 1), indent 5) of the Law on Energy ("Official Gazette of the Republic of Macedonia" no. 96/2018), the Energy Regulatory Commission of the Republic of Macedonia, in the session held on 1 August 2018, has adopted the following

## **RULEBOOK ON CERTIFICATION OF ELECTRICITY TRANSMISSION SYSTEM OPERATOR AND NATURAL GAS ELECTRICITY TRANSMISSION SYSTEM OPERATOR**

### **I. GENERAL PROVISIONS**

#### **Article 1**

- (1) This Rulebook on Certification of Electricity Transmission System Operator and Natural Gas Electricity Transmission System Operator (hereinafter: Rulebook) in accordance with the provisions from the Law on Energy and in accordance with the obligations of the Republic of Macedonia taken over with the ratified international agreements, regulates:
- 1) The procedure for determining the harmonization of the operation of the electricity transmission system operator and the natural gas transmission system operator (hereinafter: Transmission System Operator) with the requirements determined in the Law on Energy, that refer to:
    - The ownership of the means, by which the activities of electricity and natural gas transmission are carried out
    - Autonomy and independence of the transmission system operator and of the person that controls it, regarding the vertically integrated companies and the companies that perform energy activities which refer to electricity and/or natural gas generation, and electricity and/or natural gas trade and supply, i.e. the transmission system operator is not part of the vertically integrated company; and
    - Autonomy and independence of the transmission system operator and of the person that controls it, in terms of the Government of the Republic of Macedonia and other state authorities when adopting decisions, except for the cases determined in the Law on Energy.
  - 2) Documents, information and data that are submitted in the procedure and the manner and form of their submission;
  - 3) Certification audit procedure; and
  - 4) Certificate's form and content.
- (2) The control in the terms of paragraph (1), point 1), indent 2 and 3 of this Article consist of rights, agreements, and other means which separately or in combination, taking into consideration the factual or legal state, provide influence in decision-making upon the company, particularly through:
- 1) ownership or the right to use the whole or part of the company's property, or
  - 2) rights or agreements that enable decisive influence on the composition, voting or decision-making by company's authorities.

## Article 2

The certification procedure of the transmission system operator is carried out:

- 1) On demand of the transmission system operator, to whom a license on performing activity of electricity or natural gas transmission was issued, or
- 2) Ex officio by the Energy Regulatory Commission:
  - When the transmission system operator will not submit request for certification; or
  - When breach of the obligations on ownership separations, determined in Article 71 or Article 109 from the Law on Energy has occurred or can occur; or
  - After submitted explanatory request by the Energy Community Secretariat.

## II. REQUEST FOR CERTIFICATION AND ATTACHED DOCUMENTATION

### Article 3

- (1) The request for certification is submitted to the Energy Regulatory Commission of the Republic of Macedonia (hereinafter: Energy Regulatory Commission) in written or ~~electricity~~ ~~nice~~ ~~electronic~~ form and it contains the applicant's data and a statement with demand for certification procedure initiation in accordance with the Law on Energy and this Rulebook.
- (2) The form for the certification request is given in Annex 1 of this Rulebook.
- (3) The following is attached to the request referred to paragraph (1) of this Article:
  - 1) A list of documents and other data attached to the request;
  - 2) A certificate of current status issued by the Central Registry of the Republic of Macedonia not older than 15 days from the request submission day;
  - 3) The company's status and other acts that organize the company's operation and the authorizations of the administration authority are determined, i.e., the monitoring authority of the applicant;
  - 4) List of members of the management body, i.e., the monitoring body of the applicant; and
  - 5) Registry of stake-holders' shares and data on the number of shares and number of votes of each stake-holder;
  - 6) A list of state authorities that have control or have another right upon the transmission system operator, as well as explanation that it is not controlled by another state authority or a third party;
  - 7) Financial reports for the last three years by an authorized auditor for the revision that is carried out;
  - 8) List of companies that perform energy activities, related to the company-applicant in accordance with the provisions from the Law for trade companies;
  - 9) List of licenses and/or other authorizations issued to the applicants' shareholders for carrying out energy activities in the Republic of Macedonia and/or in other states;
  - 10) Notarized statements, by the members of the management body, i.e. the monitoring body stating that they are not members of an management body, i.e. of a monitoring body i.e. employed in company that performs electricity and/or natural gas generation, as well as electricity and/or natural gas trade and supply, or in a company that has a possibility to influence directly or indirectly upon the decision-making of that company;
  - 11) Notarized statements by the members of the management body and the monitoring body stating that in the decision-making procedures, in accordance with the law, they do not demand nor accept instructions or directions by the Government or another state authority, except for the cases determined in the Law on Energy.

- 12) Notarized statements, from the employees who passed over to the applicant, and performed administrative functions or they were members of management bodies, i.e. monitoring bodies in companies that performed energy activity of electricity and/or natural gas generation, as well as electricity and/or natural gas trade and supply, in a period of two years before filing the request, stating that they shall not transmit business-sensitive information to companies that perform electricity and/or natural gas generation, as well as electricity and/or natural gas trade and supply;
  - 13) Notarized statements by representatives of state authorities who have direct or indirect influence or property rights in the applicant, stating that they shall not give instructions and influence upon decision-making of the transmission system operator;
  - 14) Compliance program in accordance with Article 73, i.e., Article 111 of the Law on Energy;
  - 15) The rules applied by the applicant and the person that controls the applicant to in order to prevent disclosure of confidential and other commercially sensitive information;
  - 16) A certificate, certifying that there is no bankruptcy or liquidation procedure against the company;
  - 17) List of licenses for performing energy activities that are issued to the applicant;
  - 18) Applicant's organizational structure and data with the number of separate sectors' executors, as well as data on the number, education and the professional qualification of the persons that administer and directly manage with the means and the plants by which the activity is performed;
  - 19) List of basic means through which the applicant performs the activity and which are owned by the applicant or which he uses on another legal basis;
  - 20) Evidence of the property rights, i.e., the right to use the basic means through which he performs the activity and/or evidence of initiated property right registration procedure and/or evidence of real estate through which the activity is performed in the Agency of Real Estate Cadaster of the Republic of Macedonia; and
  - 21) Statement of the authorized person, notarized, for accuracy of the data provided.
- (4) The request and the documents referred to in paragraph (3) of this Article are submitted in two copies of which one in original or a certified copy by a notary and the other copy is their translation in English by an authorized court translator.
  - (5) The Energy Regulatory Commission, as well as the engaged person in accordance with Article 4, paragraph (2) of this Rulebook, are obliged to save the business-sensitive data contained in the submitted documentation as confidential.

### **III. ACTING UPON REQUEST**

#### **Article 4**

- (1) The submitted certification request is registered in the Registry of the Energy Regulatory Commission and a minutes of meeting is composed for the received documentation.
- (2) In the certification procedure, the Energy Regulatory Commission can, if necessary, engage professional organizations, institutions, and professional entities, for which it adopts a decision which shall be submitted to the applicant.
- (3) In the certification procedure, the Energy Regulatory Commission, as well as the persons referred to in paragraph (2) of this Article, in case they are engaged, they have the right to check the accuracy of the provided documents, as well as to require additional documents and data, necessary for carrying out the procedure.
- (4) In case the request is incomplete and not all documents and data prescribed with this Rulebook are submitted, the Energy Regulatory Commission, within 15 days shall inform the applicant

with a decision and it shall determine an additional deadline of 30 days to submit the documents, i.e., to correct the flaws in the request.

- (5) If the applicant does not submit the requested documents, information, and data within the given deadline, the Energy Regulatory Commission shall adopt a decision to dismiss the request.
- (6) The Energy Regulatory Commission publishes the certification request from Article 3 of this Rulebook, the decision referred to in paragraph (4) of this Article, and the decision referred to in paragraph (5) of this Article on its web page.
- (7) All interested parties have the right to review the attached submitted documents.

## **Article 5**

- (1) Based on the attached documentation to the request, the Energy Regulatory Commission checks if the prescribed requirements are met in accordance with the Law on Energy. If the requirements prescribed with the Law on Energy and this Rulebook are fulfilled, within four months from the day of request submission, the Energy Regulatory Commission prepares a draft-certification decision for the transmission system operator.
- (2) During the certification procedure, the Energy regulatory Commission can require from the transmission system operator, electricity or natural gas generators, electricity distribution system and natural gas distribution system operators, as well as from electricity or natural gas suppliers and traders, additional documents, data, and information, necessary to carry out the procedure, particularly:
  - 1) a certificate of current status issued by the Central Registry of the Republic of Macedonia not older than 15 days from the day when it is required;
  - 2) List of members of the management body, i.e., the monitoring body of the state-owned company;
  - 3) Registry of stake-holders' shares and data on the number of shares and number of votes of each stake-holder; and
  - 4) A list of state authorities that control or have another right upon the companies that perform the energy activity of electricity or natural gas generation, trade, or supply.
- (3) The Energy Regulatory Commission immediately submits the prepared draft-decision referred to in paragraph (1) of this Article, with the request and the submitted documents attached to the request in English and in Macedonian, to the Energy Community Secretariat.
- (4) The Energy Regulatory Commission keeps official records of realized correspondence with the Energy Community Secretariat, regarding the certification procedure of the transmission system operator. The official records are placed to the system operator, that required certification and to the concerned state authorities for review.

## **Article 6**

- (1) Within 60 days from the reception of the opinion from the Energy Community Secretariat, the Energy Regulatory Commission, adopts a certification decision, i.e., a decision to dismiss the certification request.
- (2) With the certification decision, the applicant is entitled as operator of the adequate transmission system and it contains an explanation regarding the fulfillment of terms prescribed with the Law on Energy concerning the ownership of the means for performing the activity, the independence and autonomy in performing the activity and the technical and staff qualifications for performing the activity.

- (3) When adopting the decision referred to in paragraph (1) of this Article, the Energy Regulatory Commission takes into consideration the opinion of the Energy Community Secretariat.
- (4) If the Energy Community Secretariat does not deliver an opinion within 60 days after submitting the draft-decision, the Energy Regulatory Commission shall inform the Energy Community Secretariat that in case it does not receive the opinion within 15 days, the decision referred to in paragraph 1 of this Article shall be adopted.
- (5) In case the Energy Regulatory Commission evaluates that the opinion of the Energy Community Secretariat is not completely or partially acceptable, it shall indicate the deviations, as well as the reasons for the deviations from the opinion of the Energy Community Secretariat, in the explanation of the decision referred to in paragraph 1 of this Article.
- (6) The Energy Regulatory Commission shall adopt a decision for rejection of the certification request in case the transmission system operator does not prove that it fulfills the terms prescribed in Article 71, paragraph 2) and 4), or in Article 109 paragraph 2) and 4) of the Law on Energy.
- (7) The Energy Regulatory Commission publishes the decision referred to in paragraph (1) of this Article in the "Official Gazette of the Republic of Macedonia" and on its web page, where it publishes the opinion submitted by the Energy Community Secretariat.

#### **IV. CERTIFICATION PROCEDURE FOR PERSONS FROM THIRD COUNTRIES**

##### **Article 7**

- (1) At the request of the transmission system operator or owner, the Energy Regulatory Commission shall conduct the certification procedure for the transmission system operator that is controlled by an person or group of persons from a third country or third countries.
- (2) The provisions from Article 3 of this Rulebook are adequately applied to the content of the request and the attached documentation.
- (3) The Energy Regulatory Commission, regarding the request referred to in paragraph (1) of this Article, immediately informs the authorized Ministry for the operations in the field of energy (hereinafter: Ministry) and the Energy Community Secretariat.
- (4) Within four months from the day of the reception of the request referred to in paragraph (1) of this Article, the Energy Regulatory Commission prepares a draft-decision for certification, i.e., for rejecting of the certification request.
- (5) The Energy Regulatory Commission immediately submits the prepared draft -decision referred to in paragraph (4) of this Article, to the Ministry and to the Energy Community Secretariat, with the attached documentation, based on which the decision is adopted, in Macedonian and English, in order to receive opinion referred to in Article 76 paragraph (7) of the Law on Energy.
- (6) Within 60 days from the day of the opinion submission from the Ministry, i.e., from the Energy Community Secretariat, the Energy Regulatory Commission adopts a certification decision, i.e., a decision for rejection of the certification request.
- (7) If the Ministry, i.e., the Energy Community Secretariat does not submit an opinion within 60 days after submitting the draft-decision, the Energy Regulatory Commission shall inform them that in case it does not receive the opinion within 15 days, the decision referred to in paragraph 6 of this Article shall be adopted.
- (8) The Energy Regulatory Commission adopts a decision for rejection of the certification request if:
  - 1) the transmission system operator does not prove that it fulfills the terms prescribed in Article 71, paragraph 2) and 4), or in Article 109 paragraph 2) and 4) of the Law on Energy, or

2) the issuance of the certificate risks the safety of electricity/ natural gas supply in Republic of Macedonia and/or the safety of supply of a contractual party or member-state of the European Community, taking into consideration:

- The rights and obligations of the Energy Community regarding the third country that result from the international law or from the signed international contracts where the Energy Community and the third country participate, which regulate issues regarding the energy supply safety,
- The rights and obligations in the Republic of Macedonia that result from the signed contracts with a third country, in case they are in accordance with the Energy Community Agreement, and
- Other particular facts and circumstances related to a third country.

(9) When adopting the decision referred to in paragraph (6) of this Article, the Energy Regulatory Commission is obliged to take completely into consideration the opinion of the Ministry and the opinion of the Energy Community Secretariat.

(10) The Energy regulatory Commission publishes the decision referred to in paragraph (6) of this Article with the attached opinion delivered by the Energy Community Secretariat, in the "Official Gazette of the Republic of Macedonia" and on its web page.

(11) In case the decision referred to in paragraph (6) of this Article of the Energy Regulatory Commission is not in line with the opinion of the Energy Community Secretariat, the decision is published in the "Official Gazette of the Republic of Macedonia" and on the web page of the Energy Regulatory Commission, with an explanation where the deviations, as well as the reasons for the deviations from the opinion of the Energy Community Secretariat are laid down.

## **V. CERTIFICATE**

### **Article 8**

- (1) After adopting the certification decision from Article 6 paragraph (1) or Article 7 paragraph (6) of this Rulebook, the Energy Regulatory Commission issues a certificate to the transmission system operator.
- (2) As an Annex to the certificate referred to in paragraph (1) of this Article, is the certification decision.
- (3) The form and content of the certificate are given in Annex 2 of this Rulebook.

## **VI. CERTIFICATION REVISION**

### **Article 9**

- (1) The Energy Regulatory Commission initiates a revision procedure of the certification, if during the monitoring of the transmission system operator's operation, or if it was informed by the operator or the official for harmonization entitled in accordance with the Article 74, or Article 112 respectively of the Law on Energy, or in any other way reveals that a change in the ownership structure of the

operator or another change that can influence the realizations of its obligations determined with the Law on Energy, has occurred or is planned to occur.

- (2) The Energy Regulatory Commission carries out the procedure referred to in paragraph (1) of this Article at request of the Energy Community Secretariat as well.
- (3) The Energy Regulatory Commission submits a notification to the operator of the adequate transmission system for initiating the procedure referred to in paragraph (1) of this Article, that obliges the operator to provide the necessary documentation, data and information that confirm the planned or occurred change, as well the deadline for its submission which cannot be longer than 15 days.
- (4) Within 60 days from the reception of the required data, information, and documentation, the Energy Regulatory Commission prepares a draft-decision for issuing a new certificate or taking away the existing one, and delivers it for opinion to the Energy Community Secretariat.
- (5) Within 60 days from the reception of the opinion from the Energy Community Secretariat, the Energy Regulatory Commission adopts a decision for issuing a new certificate or taking away the existing certificate.
- (6) If the Energy Community Secretariat does not deliver an opinion within 60 days after submitting the draft-decision, the Energy Regulatory Commission shall inform the Energy Community Secretariat that in case it does not receive the opinion within 15 days, it shall adopt a decision for issuing a new certificate or for taking away the existing one.
- (7) When adopting the decision referred to in paragraph (5) of this Article, the Energy Regulatory Commission is obliged to take completely into consideration the opinion of the Energy Community Secretariat.
- (8) The Energy Regulatory Commission publishes the decision referred to in paragraph (5) of this Article in the "Official Gazette of the Republic of Macedonia" and on its web page.
- (9) In case the decision referred to in paragraph (5) of this Article of the Energy Regulatory Commission is not in line with the opinion of the Energy Community Secretariat, the Energy Regulatory Commission shall name the deviations as well as the reasons for the deviations from the opinion of the Energy Community Secretariat, on its web page.

## **VII. FINAL PROVISION**

### **Article 10**

This Rulebook enters into force in the eighth day of its publication in the "Official Gazette of the Republic of Macedonia".

**No. 01-1538/1**  
**1 August 2018**  
**Skopje**

**PRESIDENT**  
**Marko Bislimoski**

**ANNEX 1**

To: Energy Regulatory Commission of the Republic of Macedonia  
Makedonija str. no. 25, Palata Lazar Pop Trajkov, 1000 Skopje, Macedonia  
email: erc@erc.org.mk

## **APPLICATION FOR CERTIFICATION OF THE ELECTRICITY TRANSMISSION SYSTEM OPERATOR/ NATURAL GAS TRANSMISSION SYSTEM OPERATOR**

*[to be submitted in a memorandum to the applicant]*

I, the undersigned, representative of *[name of the applicant]*, submit to the Energy Regulatory Commission of the Republic of Macedonia, the certification request of *[name of the applicant]* as electricity transmission system operator/ natural gas transmission system operator of the Republic of Macedonia.

Attached to the request, I submit the necessary documentation, in accordance with the Law on Energy and the Rulebook on Certification of electricity transmission system operator and natural gas transmission system operator.

With this request, (name of the applicant) is obliged to perform the duties and obligations of the electricity transmission system operator/ natural gas transmission system operator of the Republic of Macedonia, in line with the license for performing the energy activity of electricity/natural gas transmission and requires from the Energy Regulatory Commission of the Republic of Macedonia to issue a certificate that entitles (name of the applicant) as the electricity transmission system operator/ natural gas transmission operator of the Republic of Macedonia.

Annex: *[List of submitted documents attached to the request]*

**Date:**

**Name and Surname of the applicant's representative:**

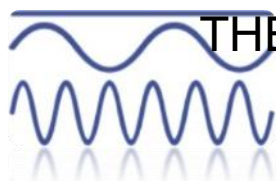
**Place:**

**Signature of the applicant's representative:**

LS.



Annex 2



THE ENERGY REGULATORY COMMISSION  
OF  
THE REPUBLIC OF MACEDONIA



# *C E R T I F I C A T E*

for entitling an electricity transmission system operator/ natural gas  
transmission system operator of the Republic of Macedonia

**CERTIFICATE HOLDER:**

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**SEAT:**

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**UNIQUE COMPANY IDENTIFICATION  
NUMBER:**

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**DATE OF CERTIFICATE ISSUANCE:**

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This certificate confirms that the certificate holder fulfills the terms regarding the ownership separation and the independence, as well as the terms regarding the financial-material capability and the technical and staff qualification, as well as other terms prescribed with the Law on Energy.

PRESIDENT

MARKO BISLIMOSKI