

LAW OF UKRAINE

On the natural gas market

This Law defines legal fundamentals of the functioning of the natural gas market in Ukraine founded on principles of free competition, due protection of consumers and security of supply as well as capable of integration with natural gas markets of the states parties of the Energy Community, including by means of creation of regional natural gas markets.

CHAPTER I. GENERAL PROVISIONS

Article 1. Definitions

1. In the present Law the following terms are used in the meaning prescribed herein:

1) ‘security of natural gas supply’ means reliable and uninterrupted supply of necessary volumes of natural gas to consumers which is ensured by available sources of natural gas supply as well as the due technical state of gas transmission systems, gas distribution systems, gas storages, and the LNG facility;

2) ‘vertically integrated organization’ means a legal person irrespective of its legal form and the type of property, an individual carrying out commercial activities including the one which controls a legal or physical person, or a group of such persons directly or indirectly linked by relations of control which performs at least one function of transmission, distribution, storage (injection, delivery) of natural gas or of LNG facility services and at least one function of supply or production of natural gas;

3) ‘free capacity’ means a part of technical capacity of a gas infrastructure object the right of use of which has not been provided to users or has not been realized by the user in accordance with the contract for provision of relevant services;

4) ‘vulnerable consumers’ means household consumers granted the right to state assistance in the order prescribed by the Cabinet of Ministers of Ukraine;

5) ‘congestion management’ means the taking of measures by a gas transmission system operator, gas distribution system operator, gas storage operator or an LNG facility operator with a view to ensure the maximum utilization of the capacity of the gas transmission system, the gas distribution system, the gas

storage or the LNG facility taking into account requirements of integrity of the gas transmission system;

6) 'gas distribution system' means a technological complex which consists of objects organizationally and technologically connected with each other and designated for distribution of natural gas from gas distribution stations directly to consumers;

7) 'gas transmission system' means a technological complex which consists of a separate main pipeline with all objects and installations connected thereto by a single technological process or a group of such main pipelines and is designated for transmission of natural gas from the entry point(s) to the exit point(s);

8) 'access' means the right of use of the capacity of a gas infrastructure object in the volume and pursuant to the rules established in the contract for provision of services of transmission, distribution, storage, or LNG facility services;

9) 'user' means a natural or legal person which pursuant to the contract orders provision of one or several of the following services:

connection to a gas transmission or distribution system;

transmission of natural gas;

distribution of natural gas;

storage (injection, delivery) of natural gas;

LNG facility services;

10) 'protected consumers' means household consumers connected to a gas distribution system, enterprises and organizations which provide important public services and are connected to a gas transmission or distribution system as well as producers of heat to meet the needs of such consumers or enterprises and organizations provided that heat generation for the needs of such consumers, enterprises and organisation takes place using objects not equipped for the change of fuel and connected to a gas transmission or distribution system;

11) 'gas transmission system code, gas distribution system code, gas storage code, LNG facility code' mean the rules of operation and access to a gas transmission system, gas distribution system, gas storage, and an LNG facility approved by the Regulator;

12) 'compliance officer' means a person responsible for monitoring and reporting on the status of performance of requirements of unbundling and independence of a gas transmission system operator;

- 13) ‘control’ means the decisive influence or the possibility to exercise the decisive influence on the commercial activities of the subject of the natural gas market, in particular by virtue of the title to or the right to use the entirety or the major part of assets of such a subject, of rights which ensure decisive influence on the composition, voting results or decisions of bodies of such a subject, etc;
- 14) ‘crisis situation with the supply of natural gas’ (hereinafter – crisis situation) means the occurrence of unexpected and unpredictable circumstances including the circumstances which may have been predicted but could not have been objectively prevented by the authorities, which has caused or may cause limitation or termination of supply of natural gas to the natural gas market of Ukraine or other obstacles for safe and uninterrupted work of a gas transmission system, gas distribution system, gas storage or an LNG facility;
- 15) ‘National action plan’ means a national plan of actions in case of a crisis situation adopted by the [*Ministry of Energy and the Coal Industry*];
- 16) ‘gas infrastructure objects’ means gas transmission systems, gas distribution systems, gas storages, and an LNG facility;
- 17) ‘gas distribution system operator’ means a subject of commercial activity which acts on the basis of a license and carries out activities of distribution of natural gas for the benefit of third parties (users) via a gas distribution system;
- 18) ‘gas storage operator’ means a subject of commercial activity which acts on the basis of a license and carries out activities of storage (injection, delivery) of natural gas for the benefit of third parties (users) via one or several gas storages;
- 19) ‘gas transmission system operator’ means a subject of commercial activity which acts on the basis of a license and carries out activities of transmission of natural gas for the benefit of third parties (users) via a gas transmission system;
- 20) ‘LNG facility operator’ means a subject of commercial activity which acts on the basis of a license and carries out activities of provision of the LNG facility services for the benefit of third parties (users);
- 21) ‘wholesale buyer’ means a subject of commercial activity which procures natural gas on the basis of a sale-purchase contract not for its own consumption;
- 22) ‘wholesale seller’ means a subject of commercial activity which sells natural gas under a sale-purchase contract to a wholesale buyer or a supplier;
- 23) ‘household consumer’ means a consumer which is an individual and procures natural gas to use it for its own household needs, including for cooking,

boiling water or heating its premises, which does not include professional or commercial activities;

24) ‘official of a legal person (gas transmission system operator, gas transmission system owner, gas distribution system operator, gas storage operator, LNG facility operator)’ means an individual which is a chairperson or a member of the supervisory board, executive body (chairperson or member of a collective executive body; person single-handedly in charge of the executive function), the revision commission, a revision officer, as well as a chairman and members of any other body of a legal person if the establishment of such a body is prescribed by the statute or other constituent document of the legal person;

25) ‘LNG facility services’ means commercial activity which is subject to licensing and consists of transformation of natural gas from the gaseous into liquid state (liquefaction) or transformation of the LNG from the liquid into gaseous state (re-gasification);

26) ‘last-resort supplier’ means a supplier designated by the Cabinet of Ministers of Ukraine which may not refuse to conclude a contract for supply of natural gas for a limited period time;

27) ‘natural gas supplier’ (hereinafter – supplier) means a subject of commercial activity which based on a license carries out natural gas supply;

28) ‘natural gas supply’ means commercial activity which is subject to licensing and consists of selling natural gas directly to consumers on the basis of concluded contracts;

29) ‘capacity’ means the maximum allowed flow of the volume of natural gas as expressed in units of energy per a unit of time which is provided to a user in accordance with the contract for provision of services of transmission, distribution, storage (injection, delivery) or of LNG facility services;

30) ‘connection’ means a set of organizational and technical measures, including works, directed at creation of the technical possibility for provision of services of transmission or distribution of natural gas which are taken in relation to physical connection of an object in construction or an existing object of the user to the gas transmission or distribution system;

31) ‘natural gas, petroleum gas, coal-bed gas (methane) and gas of shale layers, tight gas, gas of central basins’ (hereinafter – natural gas) means a mixture of hydrocarbon and non-hydrocarbon components in the gaseous state under

standard conditions (pressure at 760 mm of mercury, temperature at 20 degrees) which qualifies as a commodity;

32) 'Regulator' means the national commission performing state regulation in the energy and utilities sectors;

33) 'natural gas market' means the aggregate of legal relations which emerge in the process of sale-purchase, supply of natural gas, as well as of provision of services related to its transmission, distribution, storage (injection, delivery), LNG facility services;

34) 'capacity allocation' means the provision, setting of conditions and the order for realization as well as other procedures related to the right of use of the capacity of a gas infrastructure object;

35) 'distribution of natural gas' means commercial activity which is subject to licensing and relates to transfer of natural gas via gas distribution systems with a view to its physical delivery to consumers, but not including supply;

36) 'certification' means compliance of the subject of commercial activity with requirements of unbundling and independence of a gas transmission system operator prescribed by the present Law as confirmed by the Regulator's decision;

37) 'consumer' means an individual, individual entrepreneur or a legal person which procures natural gas on the basis of a natural gas supply contract for their own purposes and not for resale, or for use as a raw material;

38) 'reserve stock of natural gas' means the volume of natural gas which the supplier must maintain in gas storages in accordance with the legislation;

39) 'subject of the natural gas market' means a gas transmission system operator, gas distribution system operator, gas storage operator, LNG facility operator, user, wholesale buyer, wholesale seller, supplier, consumer;

40) 'storage of natural gas' (hereinafter – gas storage) means a technological complex created in a natural or artificial cavity for the purpose of accumulation of natural gas (including the tanks of the LNG facility destined for storage of natural gas) as well as buildings technologically connected to such a complex designated for storage (injection, delivery) of natural gas. For purposes of the present Law, the gas storage shall not be constituted by:

a tank of the LNG facility designated exclusively for industrial needs of such a facility;

cavities designated for performance of measures directed at ensuring integrity of the gas transmission system by the gas transmission system operator minding that cavities used by the gas transmission system operator for purposes of balancing shall qualify as gas storages for purposes of the present Law;

41) 'technical capacity' means the maximum possible flow of natural gas expressed in units of energy per a time unit the right of use of which a gas transmission system operator, gas distribution system operator, gas storage operator or an LNG facility operator may offer to users with the guarantee of its realization taking into account requirements of the gas transmission system integrity and requirements regarding proper operation of the gas transmission system, gas distribution system, gas storage or the LNG facility;

42) 'exit point' means a defined point in the gas transmission system to which a gas transmission system operator delivers natural gas from the gas transmission system to another gas transmission system, gas distribution system, gas storage, LNG facility or a consumer connected to the gas transmission system or to an object related to production of natural gas;

43) 'entry point' means a defined point in the gas transmission system in which natural gas is injected into the gas transmission system from objects related to production of natural gas, gas storage, LNG facility, as well as from another gas transmission or distribution systems;

44) 'interconnector' means a main pipeline which crosses the border of Ukraine and the neighbouring state and is destined for interconnection of gas transmission systems of Ukraine with gas transmission systems of that state;

45) 'transmission of natural gas' means a commercial activity which is subject to licensing and consists of transfer of natural gas via a gas transmission system with a view to its further delivery to another gas transmission system, a gas storage, LNG facility, to a gas distribution system or for delivery directly to consumers, but not including transfer via internal industrial pipelines (integrated networks) and supply of natural gas;

46) 'LNG facility' means a technological complex which consists of a terminal destined for liquefaction of natural gas or uploading, offloading and re-gasification of LNG as well as objects and buildings used for provision of ancillary services or temporary storage in the process of re-gasification up till the moment of delivery of natural gas to main pipelines but excluding the part of the LNG terminal which is used as a gas storage;

47) ‘gas transmission system integrity’ means the state of a gas transmission system during which the pressure and physical and chemical indicators of natural gas remains within the minimum and maximum levels as determined by the gas transmission system operator which technically guarantees transmission of natural gas.

Other terms are used in the meaning assigned thereto by laws of Ukraine “On Oil and Gas”, “On Pipeline Transport”, and other laws of Ukraine.

Article 2. Legal basis of the natural gas market

1. In pursuance of Ukraine’s obligations under the Treaty establishing the Energy Community and the [*Ukraine-EU Association Agreement*] the present Law is directed at implementation of the Energy Community *acquis* on energy, in particular: Directive 2009/73/EC concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC; Regulation (EC) 715/2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) 1775/2005; as well as Directive 2004/67/EC on measures to safeguard security of natural gas supply.

The legal basis of the natural gas market is constituted by the Constitution of Ukraine, Laws of Ukraine “On Pipeline Transport”, “On Natural Monopolies”, “On Oil and Gas”, “On Energy Saving”, “On Production Sharing Agreements”, “On Protection of Economic Competition”, “On coal-bed gas (methane)”, “On Protection of the Natural Environment”, international treaties of Ukraine to which the Verkhovna Rada of Ukraine has granted its consent, and other legislative acts of Ukraine.

2. Authorities as well as courts in applying provisions of the present Law shall take into account the law enforcement practice of the Energy Community and the EU, in particular judgments of the Court of Justice of the EU (the European Court of Justice, the General Court), case law of the European Commission and the Energy Community Secretariat regarding application of provisions of the EU *acquis* mentioned in para 1 of the present Article.

3. Decisions (measures) of authorities adopted in pursuance of the rules of the present Law shall comply with the principles of proportionality, transparency, and non-discrimination.

According to the proportionality principle, decisions (measures) of authorities shall be necessary and minimally sufficient for the achievement of an objective of general public interest.

According to the transparency principle, decisions (measures) of authorities shall be duly substantiated and notified to the subjects to which they shall apply within a reasonable time before their entry force or effect.

According to the non-discrimination principle, decisions, actions, inactions of authorities shall not lead to:

legal or actual scope of rights and obligations of a person which is different than the scope of rights and obligations of other persons in similar circumstances unless such difference is necessary and minimally sufficient for the achievement of an objective of general public interest;

legal or actual scope of rights and obligations of a person which is the same as the scope of rights and obligations of other persons in different circumstances unless such similarity is necessary and minimally sufficient for the achievement of an objective of general public interest.

The above-mentioned principles shall also apply to subjects of the natural gas market in cases provided by the present Law.

CHAPTER II. PRINCIPLES OF THE FUNCTIONING OF THE NATURAL GAS MARKET. THE ROLE OF THE STATE ON THE NATURAL GAS MARKET

Article 3. Principles of the functioning of the natural gas market

1. The natural gas market functions on the basis of free good faith competition, with the exception of the activity of subjects of natural monopolies, and on the following principles:

1) safeguarding of the high level of protection of rights and interests of consumers of natural gas, including safeguarding of the first-hand interest of the security of supply of natural gas, including through diversification of sources of natural gas supply;

2) free trade in natural gas and equal treatment of subjects of the natural gas market regardless of the state under the laws of which they are established;

3) free choice of supplier of natural gas;

4) equality in the right to carry out import and export of natural gas into/from Ukraine;

5) non-intrusion of the state into the functioning of the market with exception of cases when it is necessary for remedying market failures or safeguarding of

other general public interests to the extent this is justified and effected in the minimally sufficient manner;

6) safeguarding of equal rights of access to gas transmission systems, gas distribution systems, gas storages and the LNG facility;

7) prevention and remedy of restrictions to competition due to actions of subjects of the natural gas market, including of subjects of natural monopolies and state-owned companies;

8) observance of the established technical norms and safety standards;

9) protection of the natural environment and rational use of energy resources;

10) liability of subjects of the natural gas market for violations of rules governing activities on the natural gas market and contractual conditions.

Article 4. State regulation, formulation and enforcement of state policy on the natural gas market

1. The state regulation of the natural gas market shall be performed by the Regulator within the limits of its powers prescribed by the present Law and other legislative acts.

2. Principal tasks of the Regulator shall include:

1) in close cooperation with the Energy Community Regulatory Board and national energy regulators of other states parties of the Energy Community encouragement of the build-up of a single natural gas market within the framework of the Energy Community taking into account interests of the security of supply of natural gas and environmental sustainability, of effective opening of the natural gas market for all consumers and suppliers, wholesale buyers and wholesale sellers of the Energy Community as well as ensuring of due conditions for effective and reliable functioning of gas transmission and distribution systems, gas storages and the LNG facility in view of long-term development goals;

2) development of competition and due functioning of regional (international) markets within the framework of the Energy Community, in particular a single market of the Energy Community, with a view to achieve the goals set out in item 1) above;

3) elimination of obstacles and restrictions to trade in natural gas between states parties of the Energy Community, in particular ensuring due level of cross-border interconnection to satisfy demand and enhance integration of natural gas

markets of individual states parties of the Energy Community which shall encourage cross-border trade in natural gas within the framework of the Energy Community;

4) encouragement of safe, reliable and economic functioning of gas infrastructure (gas transmission and distribution systems, gas storages, the LNG facility) which shall allow to ensure non-discriminatory access thereto for all users, user-orientation, availability of capacity for needs of the natural gas market and energy efficiency, as well as the possibility for entering the natural gas market for producers of gas from alternative sources irrespective of volumes of production;

5) ensuring of simple and non-burdensome conditions of connection to gas transmission and gas distribution systems for new objects of users, ensuring simple and non-burdensome conditions for access to gas transmission and distribution systems, gas storages and the LNG facility for new users, in particular elimination of barriers which may prevent such access for new wholesale sellers or suppliers as well as for wholesale sellers and suppliers of gas from alternative sources;

6) stimulation of increase in efficiency of gas infrastructure and integration of the natural gas market by subjects of the natural gas market;

7) creation of pre-conditions for consumers to obtain economic benefits from effective functioning of the natural gas market, competition on the natural gas market and implementation of viable mechanisms for protection of their rights;

8) ensuring of the achievement of high standards of performance of special obligations to safeguard general public interests in the course of the functioning of the natural gas market, protection of vulnerable consumers and exchange of data necessary to realize the consumer's right to switch suppliers.

3. The competence of the Regulator on the natural gas market shall include the following:

1) to issue licenses for the right to carry out activities on the natural gas market subject to licensing taking into account provisions of Article 9 of the present Law and supervision of observance of licensing conditions by licensees;

2) to take decisions on certification of gas transmission system operators or on refusal of certification;

3) to approve and promulgate in the prescribed order the methodology for determination of transmission tariffs for entry- and exit-points, methodologies

for determination of distribution tariffs, storage (injection, delivery) tariffs for storages to which the regulated access regime applies in accordance with Article 48 of the present Law as well as of LNG facility service tariffs which shall ensure necessary investments in gas transmission and distribution systems, gas storages, and the LNG facility;

4) to set the fee for connection to gas transmission and distribution systems in accordance with the methodology approved by the Regulator;

5) to approve rules for the last-resort supplier as part of the rules of natural gas supply, including rules for determination of the price of natural gas supplied by such a supplier in accordance with Article 15 of the present Law;

6) to approve codes of gas transmission systems, gas distribution systems, gas storages, the LNG facility;

7) to approve balancing rules as part of the code of the relevant gas transmission system (inclusive of the methodology for determination of payments related to balancing) which shall be fair, non-discriminatory, objectively motivated, and such as to create economic stimuli for users to balance their injection and off-take amounts;

8) to set tariffs for transmission services via interconnectors per the methodology for determination of transmission tariffs for entry- and exit-points;

9) to approve rules of capacity allocation and congestion management for interconnectors as part of the gas transmission system code;

10) to monitor application of tariffs, other payments related to access to gas transmission and distribution systems, gas storages, and the LNG facility or connection to gas transmission or distribution systems, as well as monitor application and observance of methodologies for determination of such tariffs and payments;

11) to ensure compliance of gas transmission and distribution system operators as well as of other subjects of the natural gas market (other than consumers) with their obligations under the present Law as well as other relevant legislation, including obligations regarding cooperation with subjects of the natural gas market of other states parties of the Energy Community;

12) to monitor the state of congestion management of gas transmission systems, including of interconnectors, and of application of congestion management rules;

- 13) to monitor compliance with criteria for determination of the access regime as applicable to each gas storage by the gas storage operator in accordance with Article 48 of the present Law;
- 14) to monitor performance of special obligations to safeguard general public interests in the course of the functioning of the natural gas market in accordance with requirements of the present Law and other legislation;
- 15) together with other authorities, to ensure effective application of measures of consumer protection, including those prescribed by the present Law;
- 16) to ensure the possibility to freely choose and switch supplier (wholesale seller) for consumers (wholesale buyers) on conditions specified in the present Law or other legislation;
- 17) to approve the rules of natural gas supply;
- 18) to supervise performance of requirements of unbundling and independence as prescribed by the present Law by gas transmission system operators, gas distribution system operators, gas storage operators, the LNG facility operator, owners of corporate rights of such subjects, and vertically integrated undertakings;
- 19) to approve and monitor compliance with development plans of gas transmission and distribution systems, gas storages, and the LNG facility, as well as to assess them in the annual report of the Regulator, including by providing indications of the need to amend such plans;
- 20) to approve reporting forms for subjects of the natural gas market (other than consumers) as well as the procedure for their filing and submission for independent audit which shall ensure the possibility to identify facts of cross-subsidization between different types of activities on the natural gas market;
- 21) to set minimum standards and requirements to the quality of consumer servicing and supply, specifically as regards the maximum term for connection or repair services;
- 22) to monitor compliance and analyse statistics of compliance with rules on safety and reliability of gas transmission and distribution systems;
- 23) to monitor the level of transparency of the activities of subjects of the natural gas market, in particular the level of wholesale prices, as well as to ensure compliance with their data placement obligations by subjects of the natural gas market (other than consumers);

24) to monitor the level and effectiveness of the opening of the natural gas market and competition on the wholesale and retail markets, including prices on gas exchanges, prices for households (including statistics of application of prepayment conditions), statistics of supplier switching, of disconnections, the level of prices and quality of service of maintenance, complaints by households, as well as of any practices leading to distortion or restriction of competition on the natural gas market;

25) to monitor application of contractual provisions which restrict competition on the natural gas market (in particular contractual provisions which obstruct conclusion of supply contracts with more than one supplier simultaneously by non-household consumers as well as which restrict them in their right to choose their supplier) without prejudice to contracts stipulating the possibility of temporary suspension of supply as well as contracts of sale-purchase or supply of natural gas concluded for 10 or more years provided that such contracts comply with the competition laws;

26) to issue, at least once a year, conclusions regarding compliance of the level of prices on the retail natural gas market with Article 11 of the present Law and with the legislation on consumer protection, as well as their notification to the Cabinet of Ministers of Ukraine and the Antimonopoly Committee of Ukraine;

27) to ensure access to information on volumes and other indicators of consumption of natural gas to consumers in the order and under conditions stipulated in the present Law and other legislation;

28) to monitor performance of their functions and obligations by subjects of the natural gas market in accordance with provisions of the present Law and other legislation relating to access to gas transmission and distribution systems, gas storages, and the LNG facility;

29) to promote data exchange for purposes of ensuring the development of the natural gas market;

30) to perform other functions as prescribed by the law.

4. In case of the ISO unbundling model is selected, the Regulator shall:

1) supervise compliance of the gas transmission system owner and the gas transmission system operator with their obligations established by the present Law as well as impose fines for non-compliance in accordance with item 5) of para 5 of the present Article;

2) monitor relations between the gas transmission system owner and the gas transmission system operator with a view to ensure compliance of the gas transmission system operator with its obligations as well as approve all contracts and settle disputes between the gas transmission system owner and the gas transmission system operator at the request of at least one of the subjects;

3) ensure that the level of tariffs for transmission services and other payments related to access or connection to the gas transmission system established for the relevant gas transmission system operator should take into account compensation for the gas transmission system owner for the right to use the gas transmission system (including the parts of the gas transmission system reconstructed or enhanced at the expense of the gas transmission system owner provided that such works were performed in an economically justified manner).

5. The Regulator shall have the right to:

1) request information needed for due performance of its functions as well as obtain it under conditions stipulated in the present Law or other legislation from any authority or subject of the natural gas market (other than consumers);

2) initiate consultations as well as public discussions;

3) initiate and conduct investigations as regards the functioning of the natural gas market in Ukraine, take measures to encourage effective competition on the natural gas market as well as ensure due functioning of the natural gas market following consultations with the Energy Community Secretariat;

4) issue decisions binding for subjects of the natural gas market (other than consumers);

5) impose sanctions on subjects of the natural gas market (other than consumers) which breached their obligations under the present Law and other legislation;

6) require from a gas transmission system operator, gas storage operator and an LNG facility operator amendments to the gas transmission code, the gas storage code or the LNG facility code, including as regards tariffs for the relevant services, with a view to comply with the principle of proportionality and non-discrimination;

7) set temporary tariffs for transmission, distribution, storage (injection, delivery) (as regards gas storage to which the regulated access regime applies in accordance with Article 48 of the present Law), and LNG facility services in case the gas transmission system operator, the gas distribution system operator, the gas storage operator or the LNG facility operator has not timely submitted

calculations of the relevant tariffs for their approval by the Regulator, as well as decide on the mechanism for compensation if final tariffs differ from the temporary ones; 8) consider claims and settle disputes in accordance with Article 58 of the present Law;

8) handle complaints and settle disputes pursuant to Article 58 of the present Law;

9) take measures to prevent abuse of dominance, in particular where such abuse may inflict economic harm to consumers, as well as any other behaviour directed at artificial price increase;

10) carry out field audits of subjects of the natural gas market (other than consumers).

6. Prices on the natural gas market regulated by the state (in particular tariffs for transmission, distribution, storage (injection, delivery), LNG facility services as well as other payments related to access to gas transmission and distribution systems, gas storages, and the LNG facility or connection to gas transmission and distribution systems) shall be:

1) non-discriminatory;

2) transparent;

3) established with consideration of requirements of integrity of the gas transmission system based on economically justified and transparent costs of the relevant subject of the natural gas market as well as taking into account the due level of return, and, where possible, established accounting for benchmarking with indicators of analogous regulated prices established by the Regulator for other subjects of the natural gas market, or with those effective on the natural gas market of other states.

Tariffs for transmission, distribution, storage (injection, delivery) services, LNG facility services shall encourage effective trade in natural gas and development of competition on the natural gas market, shall not lead to cross-subsidization among users, and shall create economic stimuli for investments and due maintenance of gas transmission and distribution systems, gas storages, the LNG facility as well as for increased interoperability and cooperation between them.

Tariffs for transmission, distribution, storage (injection, delivery) services, LNG facility services shall not restrict the liquidity of the market and distort cross-border trade in natural gas. Methodologies for determination of such tariffs shall

be approved by the Regulator at least 15 days before the date when the tariffs determined based on such methodologies shall enter into effect.

Any payments related to access to gas transmission and distribution systems, gas storages and the LNG facility or to connection to gas transmission and distribution systems (including tariffs for transmission, distribution, storage (injection, delivery) services, LNG facility services) shall be calculated irrespective of the physical course of the natural gas.

Tariffs for transmission and distribution services as well as other payments related to access to a gas transmission or distribution system or connection to a gas transmission or distribution system shall stimulate the gas transmission system operator and the gas distribution system operator to increase effectiveness of the gas transmission or distribution system, ensure integration of the natural gas market as well as security of natural gas supply, and to develop scientific and technical knowledge related to commercial activity of such subjects.

Tariffs for transmission services shall be established separately for each entry- and exit-point based on the methodology for determination of transmission tariffs for entry- and exit-points as approved by the Regulator.

If differences in transmission tariff structures or balancing rules applicable to a gas transmission system impede cross-border trade in natural gas, measures shall be taken to harmonise tariff structures and balancing rules applicable to this gas transmission system as well as gas transmission system (systems) of neighbouring states.

Decisions of the Regulator to set tariffs for gas transmission, distribution, storage (injection, delivery) services, LNG facility services shall be subject to official promulgation by way of their placement on the Regulator's website.

7. On the natural gas market the [*Ministry of Energy and the Coal Industry*] shall:

- 1) formulate and enforce the state policy in the oil and gas complex taking into account the Energy Strategy of Ukraine;
- 2) elaborate specialized state programs, specifically as regards diversification of sources of natural gas supply;
- 3) elaborate and coordinate compliance with the minimum standards of the security of natural gas supply in accordance with Article 5 of the present Law;

- 4) elaborate, approve, and implement the National action plan in accordance with Article 6 of the present Law;
- 5) monitor the security of natural gas supply of Ukraine in accordance with Article 7 of the present Law;
- 6) other powers as prescribed by laws of Ukraine and assigned thereto by the Cabinet of Ministers of Ukraine.

Article 5. Measures on the security of natural gas supply

1. The [*Ministry of Energy and the Coal Industry*] shall elaborate and approve the rules on the security of natural gas supply which shall be binding on all subjects of the natural gas market. The rules on the security of natural gas supply shall establish minimum standards of the security of natural gas supply and shall define the following:

- 1) the scope of consumers considered as protected consumers taking into account that gas consumption by non-household protected consumers shall not exceed 20% of the total gas consumption of Ukraine;
- 2) measures binding on all subjects of the natural gas market for safeguarding the security of natural gas supply to protected consumers, in particular in the following cases:
 - a) extreme temperatures during a 7-day peak period the statistical probability of which constitutes once in 20 years;
 - b) any period lasting for 30 or more days during which extremely high demand for natural gas is observed the statistical probability of which constitutes once in 20 years; and
 - c) the failure of one main pipeline under ordinary winter conditions – for the period of at least 30 days;
- 3) the scope of subjects of the natural gas market which are required to take measures prescribed in item 2) of the present para;
- 4) identification and classification of principal risks related to the security of natural gas supply (risk assessment);
- 5) measures to mitigate the impact of identified risks, in particular the risk of failure of an interconnector, the LNG facility or a gas storage or of interruption or substantial disruption of a source of natural gas while determining the scope of obligations of subjects of the natural gas market and terms for their performance;

6) the form and procedure for submission of a report by subjects of the natural gas market (other than consumers) regarding the state of performance of measures as prescribed by item 2) of the present para;

7) obligations of authorities regarding the security of natural gas supply.

2. In elaborating the rules prescribed in para 1 of this Article the [*Ministry of Energy and the Coal Industry*] shall take into account the economic effect of the relevant measures, their effectiveness and efficiency, implications for the functioning of the natural gas market and the impact on the environment and consumers.

Rules prescribed in para 1 of this Article shall be based on market principles, be transparent, non-discriminatory, such as not to imply the impossibility of their performance, shall not distort competition on the natural gas market and impede its development. These rules shall not create an excessive burden for subjects of the natural gas market and minimize negative consequences for the functioning of the natural gas market.

3. By 1 September of each year the [*Ministry of Energy and the Coal Industry*] shall ensure that the rules on the security of natural gas supply be updated for the next calendar year and shall publish them by way of placement on its website.

Article 6. National action plan

1. The [*Ministry of Energy and the Coal Industry*] shall elaborate and based on results of consultations with subjects of the natural gas market, representatives of consumers (including of household consumers) and upon agreement with the Regulator adopt the National action plan which shall be binding on all subjects of the natural gas market.

The National action plan shall determine measures for elimination or mitigation of the overall negative impact of a crisis situation.

By 1 September of each year the [*Ministry of Energy and the Coal Industry*] shall ensure that the National action plan be updated for the next calendar year and shall publish it by way of placement on its website.

2. In the National action plan the following shall be determined:

1) levels of a crisis situation, namely:

a) a crisis situation of the early warning level means the situation during which there is exact, verified and reliable information on the possibility of significant

deterioration of the situation with supplies of natural gas which is likely to lead to a crisis situation of the warning level or of the emergency level;

b) a crisis situation of the warning level means a situation during which there occurs suspension or limitation of a source of natural gas supply or extremely high demand for natural gas which leads to a significant deterioration of the situation with natural gas supplies, but supplies of natural gas to the Ukrainian market is still ensured without the need to resort to non-market measures;

c) a crisis situation of the emergency level means a situation during which there occurs extremely high demand for natural gas, suspension or limitation of an important source of natural gas or another significant deterioration of the situation with natural gas supplies against which all relevant market measures have been taken, but supplies of natural gas to the market are not sufficient to meet the demand which creates a need to resort to non-market measures, including to ensure supplies to protected consumers;

2) for each level of a crisis situation:

a) the system of measures to respond to the situation, including relevant procedures for information exchange; at that the measures must be market-based; if market-based measures do not allow to ensure the security of natural gas supply, in particular as regards protected consumers, other (non-market-based) measures shall be taken as stipulated in item 1) of the present para;

b) obligations of subjects of the natural gas market (taking into account the impact which the crisis situation has exerted on them), including their obligations as regards cooperation with the [*Ministry of Energy and the Coal Industry*];

c) duties and powers of the [*Ministry of Energy and the Coal Industry*] as well as of other authorities assigned to take part in the handling of the crisis situation;

3) the body, person or a group of persons responsible for management of the crisis situation;

4) mechanisms of cooperation with responsible bodies of other states (in particular, states parties of the Energy Community) in the case of a crisis situation;

5) the list of mandatory first-hand measures to be taken with a view to renew the natural gas supply, including, as the case may be, the mechanism and sources of compensation of expenses of the relevant subjects of the natural gas market.

3. In the case of a crisis situation or if there exists a threat to the safety of population, danger of destruction of a gas transmission system, gas distribution system, gas storage, the LNG facility or a threat to the gas transmission system integrity, the [*Ministry of Energy and the Coal Industry*] shall adopt a decision on the necessity to take temporary preventive measures and thus notify the Regulator. Immediately after the adoption of such a decision measures must be taken defined as first-hand by the National action plan.

The [*Ministry of Energy and the Coal Industry*] shall immediately notify the Energy Community Secretariat on the decision on the necessity to take temporary preventive measures and on the measures that the [*Ministry of Energy and the Coal Industry*] intends to take in accordance with the National action plan. Such measures – separately and in aggregate – shall comply with the following requirements:

- 1) shall be prescribed by the National action plan;
- 2) shall have a defined duration;
- 3) shall not create impediments to the flow of natural gas through a gas transmission system of Ukraine and gas transmission systems of other states parties of the Energy Community unjustified by necessity;
- 4) shall not create a likely serious threat to the security of natural gas supply of another state party of the Energy Community;
- 5) shall not restrict access to the gas transmission system or gas storages of Ukraine for users registered under the laws of another state party of the Energy Community provided that granting of such access is technically possible and safe.

In exceptional circumstances established by the law, the [*Ministry of Energy and the Coal Industry*] shall take measures not prescribed by the National action plan, of which it shall immediately notify the Regulator and the Energy Community Secretariat, including the reasons for taking the said measures.

4. In cases when taking temporary preventive measures at the national level should not lead to the settlement of the crisis situation, the [*Ministry of Energy and the Coal Industry*] shall notify the Chairman of the Energy Community Security of Supply Coordination Group for launching measures at the international level.

5. For purposes of paras 1 – 4 of the present Article market-based measures to be applied in case of a crisis situation regardless of its level shall include:

1) measures directed at increase of volumes of supply of natural gas:

increased possibility to react to a crisis situation of objects related to extraction of natural gas;

increased flexibility of imports of natural gas, securing of bidirectional flow of natural gas, diversification of sources of natural gas supply;

encouragement of access to gas transmission systems to suppliers of gas from alternative sources;

securing of sufficient capacity (including the delivery capacity) of gas storages and volumes of natural gas in gas storages;

securing of the necessary capacity of the LNG facility;

use of long-term and short-term contract of sale-purchase and supply of natural gas;

encouragement of investments into gas infrastructure objects;

conclusion of contract directed at ensuring the security of natural gas supply;

2) measures directed at reduction of volumes of consumption of natural gas:

use of contracts the terms of which stipulate interruption (suspension) of actual supply of natural gas in certain cases;

ensuring switching from natural gas as energy resource for industry and producers of electrical energy;

voluntary measures at reduction of load on gas infrastructure objects in peak times;

energy efficiency measures;

encouragement of consumption of gas from alternative sources.

6. For purposes of paras 1 – 4 of the present Article non-market-based measures to be applied in case of a crisis situation of the emergency level shall include:

1) measures directed at increase of volumes of supply of natural gas:

utilization of natural gas from strategic reserves of natural gas created and maintained in accordance with the law;

mandatory use of stocks of alternative fuels;

mandatory use of electrical energy produced from sources other than natural gas;

mandatory increase of production of natural gas;
mandatory increase of off-take of natural gas;
2) measures directed at reduction of volumes of consumption of natural gas:
mandatory use of energy resources other than natural gas;
mandatory application of contract terms which allow interruption (suspension) of actual supply of natural gas in certain cases;
mandatory reduction of volumes of natural gas consumption.

Article 7. Monitoring of the security of natural gas supply

1. The [*Ministry of Energy and the Coal Industry*] shall carry out monitoring of the security of natural gas supply:

- 1) the state of implementation of measures of the security of natural gas supply as prescribed by Article 5 of the present Law;
- 2) the balance of supply and demand of natural gas in Ukraine;
- 3) long-term cross-border sale-purchase and supply contracts concluded within the reporting year;
- 4) the state of availability of natural gas in the market (liquidity of the natural gas market);
- 5) the sufficient potential of interconnection between the gas transmission systems of Ukraine and gas transmission systems of other states;
- 6) the level of expected demand, available supplies and, respectively, the expected situation on the natural gas market taking into account the changes in demand, autonomy of sources of supply, and the possible change of such sources;
- 7) the volume of new capacity of gas transmission systems, gas distribution systems, gas storages, the LNG facility, the construction of which is planned or underway;
- 8) the technical state of gas transmission systems and gas distribution systems;
- 9) measures directed at meeting the peak demand and covering the temporary deficit of natural gas of one or several suppliers.

2. Before 31 July of each year the [*Ministry of Energy and the Coal Industry*] shall prepare and publish the report for the previous calendar year on the

outcome of monitoring of the issues specified in para 1 of this Article as well as on the measures taken or intended in relation to those issues.

The report must also contain the following information:

- 1) the impact of measures prescribed in Article 6 of the present Law on competition on the natural gas market;
- 2) gas storage capacity;
- 3) the duration and volume of long-term cross-border contracts for sale-purchase and supply of natural gas of which at least one of the parties is a subject of commercial activity of Ukraine, mentioning the duration of such contracts as well as the impact of such contracts on the liquidity of the natural gas market of Ukraine and, respectively, on the security of natural gas supply; and
- 4) mechanisms for stimulation of investments in production, transmission, distribution, storage of natural gas and provision of the LNG facility services as prescribed in the legislation of Ukraine.

3. The electronic version of the report prescribed by para 2 of the present Article alongside its translation into English shall within 45 days following its placement on the [*Ministry*]'s website be transmitted to the Energy Community Secretariat.

Article 8. Technical norms and safety standards on the natural gas market

1. Technical norms and safety standards which apply to gas transmission and distribution systems, gas storages, the LNG facility, including rules of technical safety, minimum technical requirements to design and exploitation, requirements to technical expertise, requirements regarding professional qualification and experience of individuals and legal persons performing construction, engineering and maintenance of gas transmission and distribution systems, gas storages, the LNG facility, shall be adopted by the [*Ministry of Energy and the Coal Industry*] and be published in the prescribed order.

Technical norms and standards shall be objectively necessary, non-discriminatory and shall ensure stable and uninterrupted functioning of gas transmission and distribution systems, gas storages, and the LNG facility.

2. The [*Ministry of Energy and the Coal Industry*] shall encourage implementation of technical norms and safety standards of the European Union.

Article 9. Licensing of commercial activities on the natural gas market

1. The commercial activity on the natural gas market related to transmission, distribution, storage of natural gas, provision of LNG facility services, supply of natural gas shall be carried out based on a license.

Activities of investors which are parties to production sharing agreements concluded under the Law of Ukraine “On Production Sharing Agreements” on the natural gas market shall be carried out taking into account Article 4 of the Law of Ukraine “On Production Sharing Agreements”.

2. Licensing conditions for the activities on the natural gas market related to transmission, distribution, storage of natural gas, provision of LNG facility services, supply of natural gas shall be approved by the Regulator upon consultations with the Energy Community Secretariat.

3. The license for transmission, distribution, storage of natural gas, provision of LNG facility services, supply of natural gas shall be issued by the Regulator in the order prescribed by the legislation.

4. The license for certain activities on the natural gas market may be refused exclusively based on grounds provided in the law, in a non-discriminatory manner and based on complete and objective assessment of documents submitted by the applicant taking into account all other relevant information at the disposal of the Regulator.

Reasons for such a refusal shall be notified to the applicant and the Energy Community Secretariat.

Article 10. Regional cooperation

1. The [*Ministry of Energy and the Coal Industry*] shall cooperate with responsible authorities of other states parties of the Energy Community with a view to launch mechanisms of bi- and multilateral solidarity.

This obligation in particular applies to situations which have led or are likely to lead to substantial disruption of natural gas supply to Ukraine or another state party of the Energy Community. In this case, the [*Ministry of Energy and the Coal Industry*] shall create necessary conditions for:

- 1) coordination of measures prescribed in Article 6 of the present Law;
- 2) identification of the need of construction or re-construction of interconnectors, including for purposes of launching a bidirectional flow of natural gas, and of performance of such construction or re-construction works;
- 3) provision of mutual assistance.

2. Information on measures of cooperation prescribed by the present Article shall be notified to the Energy Community Secretariat.

CHAPTER III. ORGANIZATIONAL AND LEGAL FUNDAMENTALS OF THE NATURAL GAS MARKET

Section I. General provisions on the natural gas market

Article 11. Special obligations to safeguard general public interests in the course of the functioning of the natural gas market

1. For purposes of safeguarding general public interests in the course of the functioning of the natural gas market in exceptional cases and for a defined time period special obligations may be imposed on subjects of the natural gas market the scope and conditions of which shall be defined by the Cabinet of Ministers of Ukraine following consultations with the Energy Community Secretariat.

These obligations must be clearly defined, transparent, non-discriminatory and such as not to imply the impossibility of their performance.

These obligations shall not restrict suppliers established under the laws of other states parties of the Energy Community in their right to supply to consumers of Ukraine.

These obligations may not be imposed on consumers of natural gas.

2. The scope and conditions of special obligations imposed by the Cabinet of Ministers of Ukraine must be necessary and proportionate to the objective of meeting a general public interest and the least restrictive for the development of the natural gas market.

3. General public interests in the course of the functioning of the natural gas market shall include:

- 1) national security, as well as the security of natural gas supply;
- 2) stability, due quality and affordability of energy resources;
- 3) protection of the environment, including energy-efficiency, the increase of the share of energy from alternative sources, and reduction of greenhouse gas emissions;
- 4) protection of health, life and property of the population.

4. The decision of the Cabinet of Ministers of Ukraine on the imposition of special obligations shall specify the following:

- 1) the general public interest in the course of the functioning of the natural gas market for the safeguard of which the special obligations are imposed on the subjects of the natural gas market;
- 2) the scope of the special obligations;
- 3) the scope of subjects of the natural gas market on which the special obligations are imposed;
- 4) the scope of rights granted to the subjects of the natural gas market on which the special obligations are imposed as necessary for the performance of such obligations;
- 5) categories of consumers related to the special obligations;
- 6) the territory and term of application of the special obligations;
- 7) sources of financing and the procedure for determination of compensation to subjects of the natural gas market on which the special obligations are imposed taking into account para 7 of the present Article.

5. The selection of the subject or subjects of the natural gas market on which special obligations are imposed pursuant to para 1 of the present Article shall be made in a transparent and non-discriminatory manner based on the criteria determined by the Cabinet of Ministers of Ukraine and shall not create obstacles to the realization of the right of consumers to a free choice of supplier.

6. For purposes of settlements for consumed natural gas suppliers of natural gas on which special obligations for safeguarding general public interests in the course of the functioning of the natural gas market are imposed, their structural subdivisions, as well as wholesale sellers which sell natural gas to such suppliers in pursuance of special obligations imposed on such sellers shall open in the institutions of authorized banks current accounts with the special regime of use for crediting receipts in the form of the consumer's fee for consumed natural gas.

Authorized banks which may service current accounts with the special regime of use shall be determined by the Cabinet of Ministers of Ukraine.

The procedure for opening (closing) current accounts with the special regime of use and the Procedure for carrying out settlements for natural gas shall be approved by the Cabinet of Ministers of Ukraine.

It shall be prohibited to credit payments for consumed natural gas supplied by suppliers of natural gas in pursuance of special obligations imposed on them by the Cabinet of Ministers of Ukraine on other accounts.

Suppliers of natural gas on which special obligations are imposed and their structural subdivisions shall provide in the relevant contract on the opening of a bank account the right of the bank to consented write-off (transfer) from current accounts with the special regime of use of receipts in the form of the consumer's fee for consumed natural gas. The list of current accounts with the special regime of use of suppliers of natural gas on which special obligations are imposed, their structural subdivisions, as well as of wholesale sellers which sell natural gas to such suppliers in pursuance of special obligations imposed on such sellers shall be submitted by the authorized bank to the Regulator for approval and shall be notified to all parties to the settlements. Suppliers of natural gas on which special obligations are imposed shall within 10 business days inform consumers on current accounts with the special regime of use opened in the authorized bank.

Suppliers of natural gas on which special obligations are imposed and their structural subdivisions in a two-month time shall conclude new contracts (additional contracts) with consumers indicating the relevant current account with the special regime of use for crediting payments for consumed natural gas to such an account exclusively.

Consumers shall pay the fee for consumed natural gas by way of transfer of money exclusively on the current account with the special regime of use for crediting of payments for consumed natural gas opened in institutions of authorized banks by suppliers of natural gas on which special obligations are imposed and their structural subdivisions.

Payments are made from current accounts with the special regime of use for crediting of payments for consumed natural gas opened in institutions of authorized banks by suppliers of natural gas on which special obligations are imposed and their structural subdivisions in accordance with the allocation algorithm approved by the Regulator exclusively on the following accounts:

- 1) current account with the special regime of use of a wholesale seller which sells natural gas to such a supplier in pursuance of special obligations imposed on such sellers;
- 2) current account of the gas transmission system operator;

- 3) current account of the gas distribution operator;
- 4) current account of the supplier of natural gas on which special obligations are imposed.

In the contract of sale-purchase of natural gas concluded between the supplier on which special obligations are imposed and the wholesale seller which sells natural gas to such a supplier in pursuance of special obligations imposed on such a seller and in the contract of supply concluded between such a supplier and the consumer shall determine terms of payments for sold and supplied natural gas as well as the opening of the current account with the special regime of use.

Money on current accounts with the special regime of use shall not be subject to collection pursuant to obligations of subjects of the natural gas market.

Money on such accounts shall not be subject to arrest, and transactions with such accounts may not be suspended.

7. A subject of the natural gas market on which special obligations are imposed in accordance with para 1 of the present Article has the right to compensation of costs borne by such a subject as reduced by the revenues generated in the process of carrying out such obligations and taking into account an allowed margin in the order approved by the Cabinet of Ministers.

8. The [*Ministry of Energy and the Coal Industry*] shall notify the Energy Community Secretariat on the measures taken in pursuance of the present Article, including on the possible implications of such measures on competition on the natural gas market of Ukraine or on the natural gas market of the Energy Community.

The updated information on measures taken in pursuance of the present Article shall be provided to the Energy Community Secretariat by the [*Ministry of Energy and the Coal Industry*] biennially.

Section II. Supply of natural gas

Article 12. Rules of supply of natural gas

1. Supply of natural gas shall be effected based on a contract pursuant to which the supplier undertakes to supply natural gas of due quality and quantity and in the order established in the contract to the consumer while the consumer undertakes to pay the price of the accepted natural gas in the amount, terms and order established by the contract. The quality and other physical and chemical

characteristics of natural gas are determined in accordance with the set standards and legislative acts.

The supply of natural gas to household consumers shall take place based on a standard contract adopted by the Regulator and published in the prescribed order.

The supply of natural gas by the last-resort supplier shall take place based on a standard contract adopted by the Regulator. A contract for supply by the last-resort supplier shall be deemed public.

2. The supply of natural gas shall be made based on prices freely determined by the supplier and the consumer except for cases specified in the present Law.

3. Rights and obligations of suppliers and consumers shall be determined by the present Law, the Civil and Commercial Codes of Ukraine, rules of supply of natural gas, other legislative acts and the supply contract.

4. The rules of supply of natural gas shall be adopted by the Regulator following consultations with the Energy Community Secretariat and shall be mandatory for all suppliers and consumers.

5. The supply contract shall contain the following mandatory terms:

1) the obligation of the supplier to provide the consumer with all necessary information on general conditions of supply (including prices), rights and obligations of the supplier and the consumer, current legislation governing relations between the supplier and the consumer, available means of out-of-court dispute settlement with such a supplier by way of placement of such information of the supplier's website;

2) the obligation of the supplier to ensure free access of the consumer to information on the volumes and other indicators of consumption of natural gas by such a supplier;

3) the obligation of the supplier to notify the consumer on the intention to amend the supply contract as regards conditions of supply before the entry into force of such changes and the guaranty of the right of the consumer to unilaterally terminate the supply contract if the new conditions are unacceptable thereto;

4) the obligation of the supplier to provide the consumer with a choice of payment methods to avoid discrimination;

5) the obligation of the supplier to provide the consumer with transparent, simple and affordable means of out-of-court settlement of disputes between the supplier and the consumer;

6) the order of reimbursement and calculation of the amount of losses caused as a result of violation of the supply contract.

6. Suppliers are required to maintain reserve stocks of natural gas in volumes and in the order prescribed by the Cabinet of Ministers of Ukraine while preventing excessive financial expenses of suppliers and in accordance with Article 11 of the present Law.

Article 13. Rights and obligations of the consumer

1. The consumer may in particular:

1) free choice of the supplier;

2) free-of-charge switching of the supplier except for cases provided in line 2 of para 1 of Article 14 of the present Law;

3) receive information on general conditions of supply (including prices), rights and obligations of the supplier and the consumer, specification of legislative acts governing relations between the supplier and the consumer, available means of out-of-court settlement of disputes with the supplier;

4) receive natural gas of due quality and quantity of which physical and chemical indicators conform to established norms in accordance with terms of concluded contracts except for cases of termination (limitation) of supply of natural gas according to requirements of the legislation and contractual terms;

5) receive on a free-of-charge basis information on volumes and other indicators of their own consumption of natural gas;

6) preliminary termination of the supply contract if the supplier has notified the consumer of the intention to introduce amendments to the supply contract as regards terms of supply and new terms of supply are not acceptable to the consumer.

2. The consumer is obliged in particular to:

1) conclude a contract for supply of natural gas;

2) ensure timely and full payment of the fee for natural gas in accordance with the terms of the contract;

3) avoid unsanctioned off-take of natural gas;

- 4) ensure uninterrupted access of authorized representatives of the gas transmission system operator, gas distribution system operator to metering units and for purposes of establishing metering units;
 - 5) terminate (limit) consumption of natural gas in accordance with requirements of the legislation or terms of contracts.
3. In case of the violation or the failure to perform its duties the consumer shall bear the responsibility in accordance with the law.
4. Protection of rights of individual who are consumers of natural gas shall be governed by the present Law, the Law of Ukraine “On Protection of Rights of Consumers”, and other legislative acts.

Article 14. Special rules regarding the realisation of the right to switch supplier

1. To all consumers the right to choose their supplier shall be guaranteed.
It is prohibited to levy a fee or demand any other financial compensation in connection with the supplier switching (except for cases where such a fee or such compensation is explicitly provided in a supply contract with a non-household consumer).
The current supplier may not establish conditions for termination of the supply contract which may restrict the consumer’s right to change the supplier.
2. Provided the consumer has complied with its obligations under the supply contract:
 - 1) the change of the supplier at the instance of the consumer must be finished within a time period of not more than three weeks as of the date of notification by such a consumer of its intention to change the supplier provided rules for supplier switching, including the obligation to make a final settlement with the previous supplier, are complied with;
 - 2) until the supply contract is terminated, the current supplier is required to ensure natural gas supply to the consumer based on terms of the current contract.
A dispute between the current supplier and the consumer having expressed its intention to change the supplier may not be a reason for delay in implementation of a supply contract with a new supplier.
3. The Regulator performs regular monitoring of the state of compliance with the present Article.

Article 15. Last-resort supplier

1. In cases where the supplier goes bankrupt, his license is revoked or suspended or in other cases as prescribed by the rules for the last resort supplier, the supply of natural gas to consumers shall be made in the order specified in the rules for the last-resort supplier and based on terms of a standard contract of supply by the last-resort supplier as adopted by the Regulator.

The supply contract between the last-resort supplier and the consumer shall be deemed concluded as of the start of actual supplies of natural gas to such a consumer.

The last-resort supplier shall be determined by the Cabinet of Ministers of Ukraine for a three-year period based on a competitive procedure in the order established by the Cabinet of Ministers of Ukraine.

2. The last-resort supplier shall supply natural gas to the consumer within a time period which shall not exceed 60 days and shall last till the end of the calendar month following the one in which actual supply of natural gas to the consumer by the last-resort supplier has started.

After the lapse of this term the last resort supplier shall terminate the supply of natural gas to such a consumer. The last-resort supplier may terminate supplies of natural gas to a consumer before the lapse of the said time period if this consumer fails to comply with its obligation as regards full and timely payment of the natural gas supplied by the last-resort supplier in accordance with the standard contract of supply by the last-resort supplier.

3. The price of natural gas supplied by the last-resort supplier shall not impede competition on the natural gas market and shall be established based on the rules for determination of the price of natural gas supplied by the last-resort supplier as approved by the Regulator.

4. The Regulator shall adopt the rules for the last-resort supplier and the standard contract of supply by the last-resort supplier following consultations with the Energy Community Secretariat.

5. The supplier determined by the Cabinet of Ministers of Ukraine as a last-resort supplier shall maintain separate records of its activity of the last-resort supplier.

6. The last-resort supplier shall prepare and place on its web-site an annual report of the last-resort supplier, which shall contain information on the quantity

of consumers of the last-resort supplier, the general volume of supplied natural gas, as well as the average duration of supply.

Article 16. Protection of vulnerable consumers

1. The Cabinet of Ministers of Ukraine shall determine criteria for qualification of consumers as vulnerable.
2. Vulnerable consumers shall be entitled to receive subsidies to compensate for expenses on natural gas and other types of target support in the order determined by the Cabinet of Ministers of Ukraine.

The order of protection of vulnerable consumers shall:

- 1) determine categories of vulnerable consumers;
- 2) determine the order of accounting of vulnerable consumers;
- 3) determine measures regarding monitoring and state control over the belonging to the category of vulnerable consumers;
- 4) contain special measures of protection of vulnerable consumers regarding disconnection in critical times with a view to ensure natural gas needs of such consumers;
- 5) provide for volumes of target support for vulnerable consumers. Target support shall be provided to vulnerable consumers in a manner which must ensure its purposeful use.

Article 17. Obligation regarding information placement

1. Wholesale sellers are required to save during at least five years and submit at the request of authorities as well as of the Energy Community Secretariat the following information on all transactions based on sale-purchase contracts with wholesale buyers, suppliers, gas transmission system operators, gas storage operators, LNG facility operator: duration of the relevant contract, scope of the transaction, the date and time of execution, price, and general conditions of delivery and payment, requisites of the wholesale buyer or the supply, as well as the state of settlements.
2. The Regulator may decide to provide parts of this information at the request of subjects of the natural gas market provided that this will not lead to disclosure of information containing commercial value for subjects of the natural gas market or information on specific transactions.

Section III. Metering of natural gas

Article 18. Instrument metering of natural gas

1. Instrument metering of natural gas is conducted with a view to obtain and register reliable information on volumes and quality of natural gas during its transmission, distribution, supply, storage, and consumption.
2. Instrument metering of natural gas is effected with a view to determine, using a metering unit, the volume of consumption and/or sale of natural gas based on which settlements are made between subjects of the natural gas market.
3. The supply of natural gas to consumers is made provided there is a metering unit. Household consumers absent metering units shall be deemed to consume natural gas according to norms established by the legislation up to the dates specified in para 1 of Article 2 of the Law of Ukraine “On ensuring commercial metering of natural gas”.

Results of metering of a metering unit shall be used provided the traceability of measurements is ensured.

Requirements to parts of a metering unit, rules for exploitation of metering equipment, procedure for metering and determination of quality shall be determined by technical regulations and norms, rules and standards in the area of natural gas supply which are established and adopted by the [*Ministry of Energy and the Coal Industry*].

4. The state shall encourage implementation of new metering systems (inclusive of metering units), in particular those which ensure the possibility for consumers to actively manage their consumption.

The [*Ministry of Energy and the Coal Industry*] shall within its powers coordinate a complex study of long-term economic benefits and costs of these measures and their optimum combination. Based on results of the analysis, the [*Ministry of Energy and the Coal Industry*] shall approve a plan for implementation of the selected combination of measures.

CHAPTER IV. ACCESS TO GAS TRANSMISSION AND GAS DISTRIBUTION SYSTEMS, GAS STORAGE, AND THE LNG FACILITY

Article 19. General rules of access to gas transmission and gas distribution systems, gas storage and the LNG facility

1. Subjects of the natural gas market are equal in their right to be granted access to gas transmission and gas distribution systems, gas storages and the LNG facility as well as to connection to gas transmission and gas distribution systems.

Producers of biogas or other types of gases from alternative sources shall have the right to obtain access to gas transmission and distribution systems, gas storages, the LNG facility as well as to connection to gas transmission and distribution systems provided technical norms and safety standards are complied with in accordance with the legislation and physical and technical characteristics of biogas or other types of gases from alternative sources conform to standards applicable to natural gas.

2. Upon request of a subject of the natural gas market (user) a gas transmission system operator, gas distribution system operator, gas storage operator, LNG facility operator are required to ensure access to the gas transmission system, the gas distribution system, the gas storage or the LNG facility to such a subject.

Upon request of a subject of the natural gas market (user) a gas transmission system operator, a gas distribution system operator are required to ensure connection to the gas transmission or gas distribution system to such a subject.

Before concluding a contract with a subject of the natural gas market (user) a gas transmission system operator, gas distribution system operator, gas storage operator, LNG facility operator may demand confirmation from the user of his solvency in accordance with the gas transmission system code, gas distribution system code, gas storage code, or the LNG facility code. This requirement shall be proportionate and applied in a non-discriminatory manner.

3. A gas transmission system operator, gas distribution system operator, gas storage operator, LNG facility operator may refuse access to the gas transmission system, gas distribution system, gas storage, or the LNG facility to a subject of the natural gas market (user) only in one of the following cases:

1) absence or insufficiency of free capacity;

2) the granting of access will be an obstacle for performance by such an operator of the special obligations imposed thereon in accordance with Article 11 of the present Law;

3) the refusal of access is justified based on a decision taken in accordance with Article 55 of the present Law.

A gas transmission system operator, gas distribution system operator, gas storage operator, LNG facility operator shall notify the subject of the natural gas

market and the Regulator of the refusal of access (and reasons for such a refusal) within 5 business days.

In case of refusal of access based on item 1) of the present para a gas transmission system operator, gas distribution system operator, gas storage operator, LNG facility operator shall take all possible measures to increase capacity of the gas transmission or gas distribution systems, gas storage or the LNG facility provided that this is economically justified or the subject of the natural gas market (user) has agreed to cover expenses of the operator related to the increase of the capacity.

4. A gas transmission system operator, gas distribution system operator, gas storage operator, LNG facility operator shall be prohibited to discriminate among users.

5. A gas transmission system operator, gas distribution system operator, gas storage operator, LNG facility operator shall provide each other with information necessary to ensure safe and efficient flow of natural gas between the gas infrastructure objects of which they act as operators based on relevant legislation as prescribed by the present Law or on relevant contracts.

6. A gas transmission system operator, gas distribution system operator, gas storage operator, LNG facility operator shall provide users with information necessary for quick and efficient access to gas transmission or distribution system, gas storage or the LNG facility.

Information shall be granted by a gas transmission system operator, gas distribution system operator, gas storage operator, LNG facility operator in accordance with the legislation, in an understandable and clear form and in a non-discriminatory manner.

7. A gas transmission system operator, gas distribution system operator, gas storage operator, LNG facility operator shall ensure confidentiality of information containing commercial value which they have obtained in the course of commercial activity as well as take measures to prevent disclosure of information regarding their own activities which may contain commercial value for other persons in a discriminatory manner.

8. The methodology for determination of transmission tariffs for entry- and exit-points, methodologies for determination of distribution, storage (injection, delivery), LNG facility services as well as tariffs for transmission, distribution,

storage (injection, delivery), and LNG facility services shall be approved by the Regulator.

9. Technical and commercial conditions of connection to the gas transmission or distribution system shall be established in the gas transmission system code or the gas distribution system code.

Connection of an object of the user to the gas transmission or gas distribution system shall be made in the following order:

obtaining permission for connection from the gas transmission or gas distribution system operator;

obtaining of output data by the user or the designer;

development of project documentation and its examination in cases specified by the legislation;

approval of project documentation;

performance of preparatory and construction works;

connection of the object to the gas transmission or gas distribution system;

commissioning of the finished object;

registration of the title to the constructed object.

Design and construction of objects of a gas transmission or gas distribution system shall be made according to legislation on urban planning, as well as technical conditions of connection stipulated in the gas transmission system code or the gas distribution system code.

The user may at its own discretion choose the contractor for design and construction works of connection among subjects of commercial activity which may carry out the relevant type of activity in accordance with the legislation. At the same time, expenses of the user related to performance of design and construction works shall not be included in the fee for connection to the gas transmission or distribution system.

The fee for connection to the gas transmission or distribution system shall be determined based on a contract between the user and the gas transmission or gas distribution system operator based on the methodology approved by the Regulator.

The methodology for determination of the fee for connection to gas transmission and gas distribution systems shall specify types of connection taking into

account specificities of connection in different cases and set the maximum level of the fee for connection for each type of connection.

A gas transmission system operator, gas distribution system operator may refuse to grant permission for connection exclusively in case of the absence or insufficiency of free capacity of the gas transmission or distribution system.

At the instance of the user an independent examination of output data in terms of its compliance with current standards, norms and rules may be carried out. The examination shall be performed by independent organisations determined by the [*Ministry of Energy and the Coal Industry*] in the order established by the Cabinet of Ministers of Ukraine.

Section 4. Transmission of natural gas

Article 20. Gas transmission system operator

1. A gas transmission system operator shall be exclusively responsible for reliable and safe operation, maintenance, and development (including new construction and re-construction) of the gas transmission system for purposes of meeting the expected demand for transmission services with due account of gradual development of the natural gas market.

2. A subject of commercial activity which has obtained a license for gas transmission shall be deemed to be the gas transmission system operator.

The license for gas transmission shall be issued only to the applicant in respect of which there has been adopted a final decision on certification in accordance with Articles 24, 26 of the present Law except for applicants in respect of which the Regulator has adopted a decision on non-application of Article 23 of the present Law in accordance with Article 54 of the present Law.

Article 21. Special rules regarding realization of the state property rights to the gas transmission system

1. Only the subject of commercial activity the corporate rights of which belong to the state or the subject of commercial activity 100% of corporate rights of which belong to the state, or the state or the subject of commercial activity 100% of corporate rights of which belong to the state holding at least 51% of corporate rights of such an operator jointly with a legal person (persons) (hereinafter – GTS Partner) which conform to the following requirements may be the operator of the gas transmission system which is state property and is not subject to privatization:

1) control over the GTS Partner shall not be exercised by any person (persons) from a state (states) which is not a party of the Energy Community or which is not the United States of America;

2) the GTS Partner shall be the gas transmission system operator which has obtained a final decision on certification from the national energy regulator of the relevant state based on provisions of national legislation of the said state transposing Article 10 of Directive 2009/73/EC concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC and Article 3 of Regulation (EC) 715/2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) 1775/2005. At the same time, the final decision on certification of the GTS Partner must have been adopted by the national energy regulator of the relevant state taking into account the opinion of the European Commission as regards certification of the GTS Partner;

3) the GTS Partner shall have not less than five years of experience in management of a gas transmission system on the market of the EU or the USA.

Requirements of items 2) and 3) of para 1 of the present Article shall be deemed as fulfilled if the legal person which meets these requirements is the owner of 100% of corporate rights of another legal person, and that other legal person shall be deemed the GTS Partner provided it meets the requirement set in item 1) of para 1 of the present Article.

The Verkhova Rada of Ukraine upon submission by the Cabinet of Ministers of Ukraine shall approve the results of the competition and adopt the final decision on determination of one or several GTS Partners.

Terms of the competition shall be developed and approved by the Cabinet of Ministers of Ukraine. To participate in the competition, the candidate legal person shall disclose the structure of ownership which must enable to determine physical persons exercising control over such a person. Any changes in the structure of ownership of the GTS Partner shall be preliminarily agreed with the Cabinet of Ministers of Ukraine.

2. Based on the results of each five-year period of its activities the gas transmission system operator created with participation of the GTS Partner shall submit a report to the Verkhovna Rada of Ukraine.

Article 22. Rights and obligations of a gas transmission system operator

1. Rights and obligations of a gas transmission system operator shall be determined by the present Law, the gas transmission system code, other legislative acts as well as the transmission contract.

2. With a view to perform functions stipulated in para 1 of Article 20 of the present Law, a gas transmission system operator shall:

1) elaborate, submit for the Regulator's approval, and place on its website the gas transmission system code;

2) elaborate, annually by 31 October submit for the Regulator's approval, place on its website and implement the gas transmission system development plan for next 10 years taking into account development plans of gas distribution systems, gas storages, and the LNG facility;

3) take necessary measures to ensure the security of natural gas supply, including as regards uninterrupted work of the gas transmission system;

4) perform balancing as well as functions of operational dispatching of the gas transmission system in an efficient, transparent, and non-discriminatory manner;

5) elaborate and implement a compliance program as well as nominate a compliance officer in accordance with Article 31 of the present Law;

6) cooperate with other gas transmission system operators of Ukraine and operators of gas transmission systems of other states (in particular states parties of the Energy Community), including by means of operational arrangements, with a view to create regional (international) natural gas markets, cooperate with the Energy Community Regulatory Board and, in case of need, the national energy regulators of other states;

7) take necessary measures to increase rational use of energy resources and to protect the environment in the course of its activity;

8) provide information as required by the legislation;

9) ensure confidentiality of information obtained in the course of commercial activity as well as place on its website information which stimulates development of the natural gas market in a non-discriminatory manner;

10) take other measures necessary for safe and stable work of the gas transmission system as prescribed by the present Law or which do not contradict legislation.

3. A gas transmission system operator has the right of unimpeded and free-of-charge access to land plots regardless of the title thereto on which objects of

such an operator or of the gas transmission system owner are located for performance of service duties prescribed by the rules of safety of main pipelines approved by the Cabinet of Ministers of Ukraine and other legislation.

4. A gas transmission system operator shall grant unimpeded access to officials of state supervision authorities to objects of such an operator or of the gas transmission system owner.

5. Taking into account forecasted indicators of demand for transmission services and technical potential of the transmission system, a gas transmission system operator shall take all reasonable and possible measures to ensure the due level of interconnection of gas transmission systems of Ukraine with gas transmission systems of other countries, in particular states parties of the Energy Community.

6. A gas transmission system operator shall cooperate with other gas transmission system operators as well as with gas transmission system operators of other states parties of the Energy Community with a view to harmonize balancing rules and elimination of obstacles to cross-border trade in natural gas as well as to create conditions for exchange trade in natural gas.

7. A gas transmission system operator shall purchase energy resources necessary for carrying out of its activities in a non-discriminatory and transparent manner and on market conditions.

Article 23. General requirements of unbundling and independence of a gas transmission system operator (unbundling model OU)

1. The gas transmission system operator shall be a separate legal person which is not part of a vertically integrated undertaking and carries out its commercial activities independent from activities of production, distribution, supply of natural gas, activities of wholesale sellers.

The gas transmission system operator may not carry out activities of production, distribution or supply of natural gas.

2. Only the owner of the gas transmission system may be its operator, except for the case specified in para 1 of Article 27 of the present Law.

3. To ensure independence of the gas transmission system operator an individual or a legal person shall not simultaneously:

1) directly or indirectly exercise sole or joint control over at least one subject of commercial activity (including a foreign one) carrying out production and/or supply of natural gas and/or electricity, and directly or indirectly exercise sole or

joint control over the gas transmission system operator (including be the gas transmission system owner) or exercise any right over the gas transmission system operator (including any rights in respect of the gas transmission system itself);

2) directly or indirectly exercise sole or joint control over the gas transmission system operator (including be the gas transmission system owner), and directly or indirectly exercise sole or joint control over at least one subject of commercial activity (including a foreign one) carrying out production and/or supply of natural gas and/or electricity or exercise any right over at least one subject of commercial activity (including a foreign one) carrying out production and/or supply of natural gas and/or electricity;

3) appoint at least one official of the gas transmission system operator, and directly or indirectly exercise sole or joint control over at least one subject of commercial activity (including a foreign one) carrying out production and/or supply of natural gas or exercise any right over at least one subject of commercial activity carrying out production and/or supply of natural gas; and

4) be an official of the gas transmission system operator and of at least one subject of commercial activity (including a foreign one) carrying out production and/or supply of natural gas.

4. The right referred to in para 3 of the present Article shall be understood as:

1) the voting right in the bodies of a legal person if the establishment of such a body is provided by the statute or other constituent document of the legal person;

2) the power to appoint officials of a legal person;

3) the holding of 50% or more of corporate rights of a legal person.

5. The gas transmission system operator which was part of a vertically integrated undertaking and the staff of such an operator shall not transfer information containing commercial value and held at their disposal to subjects of commercial activity carrying out production and/or supply of natural gas.

6. A gas transmission system operator shall ensure performance of its functions specified in para 1 of Article 20 of the present Law using its own financial, material, technical, human and other resources.

Article 24. Certification of a gas transmission system operator

1. In the course of the certification procedure the Regulator shall review compliance of the subject of commercial activity which has submitted a request for certification with requirements of unbundling and independence of a gas transmission system operator as stipulated for the selected unbundling model by the present Law.

If a request for certification is submitted by a subject of commercial activity control over which is exercised by a person (persons) from state (states) not party of the Energy Community or by the very state (states) not party of the Energy Community, the certification procedure shall be carried out pursuant to the requirements of this Article taking into account the specific rules provided in Article 26 of the present Law.

2. The procedure of certification, which shall contain requirements to notifications, documents, data and information to be submitted by the subject filing a request for certification, the timeframe for their filing, the fee and the procedure for levy of the fee for certification, the time of validity of the decision on certification, shall be adopted by the Regulator.

3. In the course of the certification procedure, the Regulator may request any necessary information pertaining to the functions of the Regulator under the present Article from a subject of the commercial activity which has submitted a request for certification as well as from subjects of commercial activity carrying out production and/or supply of natural gas. The Regulator is obliged to maintain the confidentiality of such information.

4. Within four months from the date of receipt of a request for certification in accordance with the procedure for certification the Regulator shall take a preliminary decision on certification or refusal of certification.

5. The Regulator shall immediately transmit to the Energy Community Secretariat the following information:

1) information on the receipt of a request for certification;

2) preliminary decision on certification or on refusal of certification, together with all the relevant information with respect to that decision.

6. Within two months from the date of receipt of an opinion of the Energy Community Secretariat on the preliminary decision on certification, the Regulator shall adopt its final decision on certification or refusal of certification.

7. Where the Regulator takes a final decision on certification or on refusal of certification which takes into account the opinion of the Energy Community

Secretariat on the preliminary decision on certification or on refusal of certification, such a final decision together with an opinion of the Energy Community Secretariat shall be officially promulgated by way of its placement on the Regulator's website.

Where the Regulator takes a final decision on certification or on refusal of certification which does not take into account the opinion of the Energy Community Secretariat on the preliminary decision on or on refusal of certification, such a final decision and the opinion of the Energy Community Secretariat as well as the Regulator's reasons for not taking into account the opinion shall be officially promulgated by way of their placement on the Regulator's website.

Article 25. Monitoring of compliance with requirements of unbundling and independence of a gas transmission system operator

1. The Regulator shall regularly monitor compliance of gas transmission system operators with requirements of unbundling and independence of a gas transmission system operator stipulated by the present Law.

2. The Regulator shall initiate an audit of compliance of the gas transmission system operator with requirements of unbundling and independence of a gas transmission system operator stipulated by the present Law in the following cases:

1) upon receipt of notification by the gas transmission system operator pursuant to para 3 of the present Article;

2) upon a reasoned assumption that a planned change in control or rights of other persons over the gas transmission system operator may lead or has led to an infringement of requirements of unbundling and independence of a gas transmission system operator stipulated by the present Law;

3) upon receipt of a reasoned request from the Energy Community Secretariat.

3. The gas transmission system operator shall notify the Regulator on any planned transaction which may lead to an infringement of requirements of unbundling and independence of a gas transmission system operator stipulated by the present Law.

4. The audit of compliance of the gas transmission system operator with requirements of unbundling and independence of a gas transmission system operator stipulated by the present Law shall be carried out in accordance with

Articles 24, 26 of the present Law taking into account specific rules stipulated by the present Article.

5. The Regulator shall carry out the audit of compliance of the gas transmission system operator with requirements of unbundling and independence of a gas transmission system operator stipulated by the present Law during four months following:

1) receipt of the relevant notification from the gas transmission system operator – in case of item 1) of para 2 of the present Article;

2) notification of the gas transmission system operator on the start of the audit at the instance of the Regulator – in case of item 2) of para 2 of the present Article;

3) receipt of the relevant request – in case of item 3) of para 2 of the present Article.

6. The Regulator shall notify the gas transmission system operator of the identified infringements of requirements of unbundling and independence of a gas transmission system operator stipulated by the present Law.

The gas transmission system operator shall eliminate the identified infringements during a reasonable time period determined by the Regulator, which may not exceed two months, and shall submit documents, data and information to prove elimination of such infringements.

7. If the gas transmission system operator fails to eliminate the identified infringements of requirements of unbundling and independence of a gas transmission system operator stipulated by the present Law, the Regulator shall take a decision to that effect. In this case, the Regulator shall subject the gas transmission system operator to a sanction in the form of either revocation of its license or financial sanctions (fines) referred to in Article 59 of the present Law.

In case of revocation of the license for transmission of natural gas, the subject of commercial activity shall not be relieved from the obligation to perform in full and in due quality its undertakings before users as regards transmission of natural gas before a license is obtained by a new gas transmission system operator.

8. The Regulator shall notify the Energy Community Secretariat without delay of any circumstances that would result in a person (persons) from a state (states) not party of the Energy Community or a state (states) not party of the Energy Community acquiring control of the gas transmission system operator.

The gas transmission system operator shall notify the Regulator of any circumstances that would result in a person (persons) from a state (states) not party of the Energy Community or a state (states) not party of the Energy Community acquiring control of the gas transmission system operator.

Article 26. Certification a subject of commercial activity control over which is exercised by a person (persons) from a state (states) not party of the Energy Community or by the state (states) not party of the Energy Community

1. If a request for certification is submitted by a subject of commercial activity control over which is exercised by a person (persons) from a state (states) not party of the Energy Community or by a state (states) not party of the Energy Community, the Regulator shall thus notify the Energy Community Secretariat.
2. The Regulator shall take a decision on refusal of certification of a subject of commercial activity control over which is exercised by a person (persons) from a state (states) not party of the Energy Community or by a state (states) not party of the Energy Community if:
 - 1) such a subject does not comply with the requirements of unbundling and independence of a gas transmission system operator stipulated by the present Law;
 - 2) taking a decision on certification of such a subject will put at risk the security of natural gas supply of Ukraine or the Energy Community while considering:
 - a) the rights and obligations of the Energy Community with respect to the relevant state not party of the Energy Community arising under international law, including any agreements to which the Energy Community and the relevant state are parties and which addresses issues of security of natural gas supply;
 - b) the rights and obligations of Ukraine with respect to the relevant state not party of the Energy Community arising under agreements concluded with it, insofar as they are in compliance with the Treaty establishing the Energy Community;
 - c) the rights and obligations resulting from the [*EU-Ukraine Association Agreement*]; and
 - d) other facts and circumstances which are relevant to such a subject or the state not party of the Energy Community and impact on determination of

compliance of such a subject with requirements of unbundling and independence of a gas transmission system operator stipulated by the present Law.

3. The Regulator may request from the [*Ministry of Energy and the Coal Industry*] and other authorities their opinions on the questions referred to in para 2 of the present Article. The Regulator shall take into account such opinions while adopting the decision on certification or on refusal of certification.

4. A final decision on certification of a subject of commercial activity control over which is exercised by a person (persons) from a state (states) not party of the Energy Community or by a state (states) not party of the Energy Community shall be made public pursuant to para 7 of Article 24 of the present Law.

5. The Regulator shall take a final decision on refusal of certification of a subject of commercial activity control over which is exercised by a person (persons) from a state (states) not party of the Energy Community or by a state (states) not party of the Energy Community, without taking into account the opinion of the Energy Community Secretariat where the adoption of a decision on granting certification to such a subject puts at risk the security of supply in Ukraine or threatens the public security interests of Ukraine.

Article 27. Special requirements of unbundling and independence of a gas transmission system operator (ISO unbundling model)

1. The requirement of para 2 of Article 23 of the present Law shall not apply if as of or on 6 October 2011 the gas transmission system was part of a vertically integrated undertaking and the gas transmission system owner has determined the subject of commercial activity entitled to submit a request for certification.

2. The certification of the gas transmission system operator (ISO unbundling model) under the conditions stipulated in this Law shall be performed by the Regulator following the procedure prescribed in Articles 24, 26 of the present Law.

3. A gas transmission system operator (ISO unbundling model) shall:

- 1) comply with requirements of paras 1, 3 of Article 23 of the present Law;
- 2) maintain at its disposal financial, technical, material and human resources necessary to carry out its tasks under Articles 28 of the present Law, including as regards cooperation with gas transmission system operators of neighbouring states.

4. If the ISO unbundling model is selected, the gas transmission system owner shall comply with requirements of para 2 of Article 28 of the present Law.

During the certification procedure the gas transmission system owner shall provide to the Regulator all draft contracts with the subject of commercial activity which has submitted a request for certification and with any other relevant person.

Article 28. Duties of a gas transmission system operator (ISO unbundling model) and a gas transmission system owner

1. If the ISO unbundling model is selected, a gas transmission system operator shall perform the following functions:

1) granting of access to the gas transmission system, including collection of fees for services of transmission of natural gas as well as of other payments related to access or connection to the gas transmission system;

2) operation, maintenance and development of the gas transmission system, as well as ensuring the long-term ability of the gas transmission system to meet reasonable demand through investment planning in accordance with Article 30 of the present Law. When developing the gas transmission system, the gas transmission system operator (ISO unbundling model) shall be responsible for investment planning (including procurement of authorisation documents), construction and commissioning of new gas infrastructure objects and their parts. For this purpose, provisions of Articles 20 and 22 of the present Law shall apply to the gas transmission system operator (ISO unbundling model).

2. If the ISO unbundling model is selected, the gas transmission system owner shall:

1) provide all necessary cooperation and support to the gas transmission system operator (ISO unbundling model) for the fulfilment of its functions, including all necessary information;

2) finance investments stipulated in the gas transmission system development plan for next 10 years or consent to financing of such an investment by any interested party including by the gas transmission system operator (ISO unbundling model);

3) ensure performance of financial liabilities related to the gas transmission system assets, excluding the liabilities relating to the functions of the gas transmission system operator (ISO unbundling model); and

4) attract investments for purposes of development of the gas transmission system with the exception of those investments where pursuant to item 2) of this para it has consented to their financing by any interested party including the gas transmission system operator (ISO unbundling model).

Article 29. Independence of the gas transmission system owner

1. If the ISO unbundling model is selected, the gas transmission system owner which is a part of a vertically integrated undertaking shall be legally and organizationally independent from other activities of the vertically integrated undertaking not relating to transmission, distribution and storage.

2. In order to ensure the independence of the gas transmission system owner as referred to in para 1:

1) officials of the gas transmission system owner shall not participate in activities of bodies of a subject of commercial activity forming part of a vertically integrated undertaking which are directly or indirectly responsible for the day-to-day activity of the production and/or supply of natural gas;

2) the gas transmission system owner shall establish a compliance programme which sets out measures to ensure that discriminatory conduct and influence on the activities of the gas transmission system operator is excluded and to monitor their observance. The compliance programme shall set out the specific obligations of employees to meet those objectives. An annual report setting out the measures taken shall be submitted by the person or body of the gas transmission system owner responsible for monitoring the compliance programme to the Regulator and shall be placed on the Regulator's website.

Article 30. Investment planning as regards a gas transmission system

1. The gas transmission system operator shall elaborate and annually by 31 October submit for the Regulator's approval a gas transmission system development plan for next 10 years based on actual and forecasted indicators of supply and demand for transmission services. The gas transmission system development plan for next 10 years shall ensure conformity of the gas transmission system to needs of the natural gas market and interests of the security of supply.

2. The gas transmission system development plan for next 10 years shall define in particular:

1) main objects the construction or reconstruction of which is justified in the next 10 years;

2) confirmed investments as well as a list of new investments to be executed in the next 3 years; and

3) timelines of completion for all investment projects.

3. When elaborating the gas transmission system development plan for next 10 years, the gas transmission system operator shall take into account possible changes in volumes of the production, sale-purchase, supply, consumption of natural gas (including volumes of cross-border trade in natural gas) as well as development plans for gas transmission systems of neighbouring states, gas distribution systems, gas storages and the LNG facility.

4. The Regulator shall assess whether measures provided in the gas transmission system development plan for next 10 years comply with the requirements of the present Law.

5. The Regulator shall in a transparent and non-discriminatory manner carry out public consultations with existing and potential users as regards the gas transmission system development plan for next 10 years.

The Regulator shall place on its website the report on results of the consultations in which needs for investments must be identified.

6. The Regulator shall monitor and evaluate implementation of the gas transmission system development plan for next 10 years.

Article 31. Compliance programme and compliance officer

1. A gas transmission system operator shall establish a compliance programme setting out measures to ensure that discriminatory conduct is excluded on the part of the gas transmission system operator and to monitor compliance with that programme. The compliance programme shall set out specific obligations of employees of the gas transmission system operator to meet those objectives and shall be subject to approval by the Regulator. Implementation of the compliance programme shall be monitored by a compliance officer.

2. The compliance officer shall be appointed by:

1) a supervisory board of the gas transmission system operator;

2) if such body is not formed, by a collective executive body of the gas transmission system operator.

The compliance officer's candidacy is subject to the Regulator's approval. The Regulator may refuse to approve the compliance officer's candidacy only for reasons of lack of independence or of professional qualities.

The compliance officer may be an individual or a legal person.

The compliance officer shall be independent in his or her work and actions.

3. The independence of the compliance officer shall be ensured in the following manner:

1) the compliance officer shall have no other professional position or powers, economic interest or business relationship, directly or indirectly, with any subject of commercial activity forming part of a vertically integrated undertaking or with a controlling shareholder (shareholders) of such an organization or with any subject of commercial activity carrying out activity on the natural gas market other than transmission;

2) the compliance officer shall exercise no professional position or powers, economic interest or business relationship, directly or indirectly, with the vertically integrated undertaking or any part thereof (other than the transmission system operator) or with its controlling shareholders for a period of three years before the date of appointment;

3) upon termination of contractual relation with the gas transmission system operator, the compliance officer shall have no professional position or responsibility, economic interest or business relationship directly or indirectly with any subject of commercial activity forming part of the vertically integrated undertaking or with a controlling shareholder (shareholders) of such an organization or with any subject of commercial activity carrying out activity on the natural gas market other than transmission for a period of not less than four years;

4) the compliance officer shall hold no economic interest in activities of or receive any financial benefit, directly or indirectly, from any subject of commercial activity forming part of the vertically integrated undertaking or from any subject of commercial activity carrying out activity on the natural gas market other than transmission of natural gas.

4. The gas transmission system operator shall notify the Regulator of the compliance officer's candidacy and the proposed terms of a contract between the compliance officer and the gas transmission system operator, including those related to commencement, duration and termination of duties of the compliance officer, remuneration for services of the compliance officer, substantive and other rights.

5. Within three weeks from the day of receipt of the information referred to in para 4 of the present Article the Regulator may object to the proposed candidacy or conditions of the contract between the compliance officer and the gas transmission system operator where:

- 1) requirements of para 3 of the present Article are not met; or
- 2) in the case of premature termination of contractual relations with the compliance officer, there are grounds to believe that such premature termination occurred with a violation of requirements of unbundling and independence of a gas transmission system operator stipulated by the present Law.

6. The compliance officer shall be in charge of:

- 1) monitoring the implementation of the compliance programme of the gas transmission system operator;
- 2) elaborating an annual report, setting out the measures taken in order to implement the compliance programme and submitting it to the Regulator;
- 3) reporting to the responsible bodies of the gas transmission system operator and issuing recommendations on the compliance programme and its implementation;
- 4) notifying the Regulator on any substantial breaches with regard to the implementation of the compliance programme;
- 5) reporting to the Regulator on any commercial and financial relations between the vertically integrated undertaking and the gas transmission system operator.

7. The compliance officer shall submit proposals as regards decisions on the gas transmission system development plan for next 10 years at the latest by the moment when the respective decision is adopted by the responsible body of the transmission system operator.

8. Conditions of a contract between the compliance officer and the gas transmission system operator governing powers of the compliance officer, including the duration of his/her duties, shall be subject to approval by the Regulator. Those conditions shall ensure the independence of the compliance officer, including by providing him/her with all the resources necessary for fulfilling his or her duties.

9. The compliance officer shall report to the Regulator regularly in writing and shall have the right to report regularly, either orally or in writing, to the bodies of the gas transmission system operator, namely the general assembly of

participants/shareholders, supervisory bodies, the executive body. The compliance officer shall submit an annual report to the Energy Community Secretariat.

10. The compliance officer may attend all meetings of the bodies of the gas transmission system operator, including the general assembly of participants/shareholders, supervisory bodies, the executive body, which have the obligation to inform the compliance officer of scheduled meetings and to provide him with all necessary materials to participate in the meeting. The compliance officer shall attend all meetings that address the following matters:

- 1) conditions for access to the gas transmission system, in particular prices for services related to access or connection to the gas transmission system, capacity allocation and congestion management of a gas transmission system, obligations on information placement, balancing and transfer of rights of access to the gas transmission system between subjects of the natural gas market (users);
- 2) activities as regards operation of the gas transmission system, its maintenance and development, including investments in construction or reconstruction of interconnectors;
- 3) sale-purchase of energy resources necessary for the functioning of the gas transmission system, including ancillary services and balancing.

11. The compliance officer shall monitor compliance of the gas transmission system operator with the provisions of the present Law regulating confidentiality in the activities of the gas transmission system operator.

12. The compliance officer shall have access to all relevant data and to the offices of the gas transmission system operator and to all the information necessary for the fulfilment of his or her duties. The compliance officer shall have access to the offices of the gas transmission system operator without prior announcement.

13. With prior approval of the Regulator, the compliance officer may be dismissed by:

- 1) a supervisory board of the gas transmission system operator;
- 2) if such a body is not formed, a collective executive body of the gas transmission system operator.

14. The relevant body shall dismiss the compliance officer for reasons of the lack of independence or professional capacity upon request of the Regulator.

Article 32. Transmission services

1. Transmission of natural gas shall be performed on the basis of and under conditions stipulated in the transmission contract and in the order stipulated by the gas transmission system code and other legislative acts.

Under the transmission contract, the gas transmission system operator undertakes to ensure transmission services to the user for the period and under conditions provided in the transmission contract while the user undertakes to pay a determined fee for transmission services to the gas operator transmission system.

2. A standard transmission contract shall be approved by the Regulator.

A gas transmission system operator shall ensure observance of the principle of non-discrimination in concluding transmission contracts with the users.

3. A gas transmission system operator shall ensure provision of services responding to the needs of the natural gas market, namely: transmission services with or without the guarantee of realization of the right of use of the capacity, transmission services for different time periods, etc.

Article 33. Gas transmission system code

1. A gas transmission system operator shall elaborate a gas transmission system code following consultations with subjects of the natural gas market and submits it for the Regulator's approval. Following its approval by the Regulator, a gas transmission system operator shall publish a gas transmission system code on its website.

2. A gas transmission system code shall contain the following provisions:

1) conditions of reliable and safe operation of the gas transmission system, main rules of technical operation of the gas transmission system, of design, operational management and development of the gas transmission system as well as mechanisms to control their implementation;

2) conditions, including commercial and technical ones, of access to the gas transmission system, including the list of transmission services offered by the gas transmission system operator as well as conditions of connection of new objects of users to the gas transmission system;

3) specification of entry- and exit-points in respect of which the gas transmission system operator shall publish information in accordance with Article 36 of the

present Law as well as a detailed list of such information and a timetable for its update;

4) rules of metering of natural gas;

5) rules of exchange of information regarding contemplated and actual volumes of natural gas being transmitted through the gas transmission system if daily metering is not possible;

6) specification of virtual trading points of the gas transmission system, of entry- and exit points;

7) norms of quality, physical and chemical and other characteristics of natural gas which is accepted for transmission through the gas transmission system;

8) capacity allocation as well as congestion management rules for the gas transmission system taking into account basic principles prescribed in Article 34 of the present Law;

9) physical and commercial balancing rules taking into account basic principles prescribed in Article 35 of the present Law;

10) rules of exchange of data with other gas transmission system operators, gas distribution system operators, gas storage operators, LNG facility operator;

11) order of provision and the scope of information to be submitted by subjects of the natural gas market to the gas transmission system operator based on the present Law and other legislative acts;

12) rules of conduct in the case of the failure in the work of the gas transmission system as well as in case of disruption of the security of natural gas supply;

13) procedure for settlement of disputes with users, including with subjects of the natural gas market which were refused access to the gas transmission system;

14) other issues relevant to the operation of the gas transmission system.

Article 34. Basic principles of capacity allocation and congestion management of a gas transmission system

1. A gas transmission system operator shall take all possible and justified measures to ensure the maximum volume of capacity of the gas transmission system for needs of users.

2. Rules of capacity allocation of a gas transmission system shall in a non-discriminatory manner create economic stimuli for effective utilization of the

technical capacity of the gas transmission system, development of new gas infrastructure objects and the increase in volumes of cross-border trade in natural gas.

These rules shall not create obstacles to the development of the natural gas market. They shall conform to the needs of subjects of the natural gas market, in particular of requirements of organised gas markets as well as be comparable with the activity of organized points of trade in natural gas.

These rules shall be elaborated taking into account rules on access to gas transmission systems of states parties of the Energy Community.

3. Congestion management rules of a gas transmission system shall be non-discriminatory and such as not to impede cross-border trade in natural gas. They shall be based on the following principles:

1) in case of the lack of free capacity due to contractual congestion (prevalence of demand for transmission services with the guarantee of realization of the right of use of the gas transmission system's capacity over the volume of the technical capacity of the gas transmission system) the gas transmission system operator shall offer to subjects of the natural gas market (users) transmission services using the capacity the right of use of which was granted but not realised by users in accordance with transmission contracts at least one day ahead of the actual transaction;

2) the user which has concluded a transmission contract shall be granted the right to transfer rights as regards access to the gas transmission system to other subjects of the natural gas market provided notification is made to the gas transmission system operator in the order and per the terms provided in the gas transmission system code;

3) in case of the lack of free capacity due to physical congestion (prevalence of demand for transmission services over the volume of the technical capacity of the gas transmission system) the gas transmission system operator and, in exceptional cases provided in the gas transmission system code, the Regulator shall ensure application of transparent and non-discriminatory capacity allocation rules.

4. The gas transmission system operator shall perform regular monitoring of demand for transmission services among subjects of the natural gas market and take into account results of such monitoring upon elaboration and adoption of the gas transmission system development plan for next 10 years.

Article 35. Basic principles of balancing

1. Rules on balancing shall be fair, non-discriminatory, transparent, and conditioned by objective factors.

These rules shall reflect real demands of the gas transmission system taking into account resources at the disposal of the gas transmission system operator.

These rules shall be based on market principles.

These rules shall create economic stimuli for balancing volumes of injection and off-take of natural gas by users themselves.

2. The amount of the fee for imbalances of users shall be determined based on justified and real expenses of the gas transmission system operator related to balancing. In determining the amount of the imbalance fee, cross-subsidization among user shall be prohibited, including by means of the increased price of connection of new objects of users to the gas transmission system.

3. The gas transmission system operator shall provide users with free, sufficient, timely and reliable information on their balancing status based on information at the operator's disposal in a particular moment. Such information must be provided to the relevant user in an electronic form.

Article 36. Obligation regarding information placement

1. A gas transmission system operator shall place on its website the following information:

1) the list of services offered by such an operator, information on tariffs and other conditions of provision of such services, including technical conditions for access and connection to the gas transmission system;

2) methodology for determination of transmission tariffs for entry- and exit-points and the methodology for determination of the fee for connection to the gas transmission system;

3) numeric information on volumes of the technical capacity, the capacity the right of use of which was granted to users under current transmission contracts, as well as of the available capacity of the gas transmission system as regards entry- and exit-points– on a monthly basis;

4) data on planned and actual volumes of natural gas being transported through the gas transmission system in the amount at the disposal of the operator.

2. The gas transmission system operator shall obtain information provided in para 1 of the present Article from relevant subjects of the natural gas market in the order and under conditions provided in the gas transmission system code.

3. The gas transmission system operator shall store information provided in para 1 of the present Article during five years from the date of its placement and shall produce it at the request of the authorities and the Energy Community Secretariat.

Section 5. Distribution of natural gas

Article 37. Gas distribution system operator

1. A gas distribution system operator shall be responsible for reliable and safe operation, maintenance, and development (including new construction and reconstruction) of the gas distribution system which it uses on lawful grounds.

Gas distribution systems owned by the state may not be used by gas distribution system operators on the right of commercial operation unless such operators belong to subjects of commercial activity of the state sector of economy.

2. A gas distribution system operator shall carry out its activities based on a license issued by the Regulator.

3. A gas distribution system operator shall ensure performance of its functions under the present Law at the expense of its own financial, material, technical, human and other resources.

Article 38. Rights and obligations of a gas distribution system operator

1. Rights and obligations of a gas distribution system operator shall be determined by the present Law, the gas transmission system code, the gas distribution system code, other legislative acts as well as the distribution contract.

2. With a view to perform functions stipulated in para 1 of Article 37 of the present Law, a gas distribution system operator shall:

1) elaborate, annually by 31 July submit for the Regulator's approval, publish and implement the gas distribution system plan for next 10 years;

2) take necessary measures to ensure the security of natural gas supply, including as regards uninterrupted work of the gas distribution system;

3) elaborate and implement a compliance program in accordance with Article 39 of the present Law;

- 4) take necessary measures to increase rational use of energy resources and to protect the environment in the course of its activity;
 - 5) provide information as required by the legislation;
 - 6) ensure confidentiality of information obtained in the course of its commercial activity as well as place on its website in a non-discriminatory manner information which stimulates development of the natural gas market;
 - 7) take other measures necessary for safe and stable work of the gas distribution system as prescribed by the present Law or are do not contradict legislation.
3. A gas distribution system operator has the right of unimpeded and free-of-charge access to land plots regardless of the title thereto on which objects of such an operator are located for performance of duties prescribed by the legislation.
 4. A gas distribution system operator shall grant unimpeded access to officials of state supervision authorities to objects of such an operator.
 5. A gas distribution system operator shall purchase energy resources necessary to perform its activities in a non-discriminatory and transparent manner.

Article 39. Principle of unbundling and independence of a gas distribution system operator

1. A gas distribution system operator may not perform production, transmission or supply of natural gas.
2. A gas distribution system operator shall be legally and organizationally independent from other activities on the natural gas market not related to distribution of natural gas.
3. Officials of a gas distribution system operator may not simultaneously be engaged in the commercial activities of any subject of commercial activity (including a foreign one) which carries out production and/or supply of natural gas.
4. The executive or other body of a gas distribution system operator responsible for operation, maintenance and development of a gas distribution system shall be independent in its activities (in particular in the right to take decisions based on interests of the gas distribution system operator) from the influence of shareholders of the gas distribution system operator which is part of a vertically integrated undertaking. The right to approve an annual financial plan of the gas distribution system operator and the right to establish the general level of

indebtedness of such an operator shall not be considered as such kind of influence by the shareholders.

5. A gas distribution system operator shall elaborate and implement a compliance program which must apply to all its employees. This program must include measures for uninterrupted performance of duties prescribed in para 1 of Article 37 of the present Law by the gas distribution system operator. The report on implementation of the compliance program shall be submitted to the Regulator by the official or body of the gas distribution system operator responsible for monitoring of implementation of the compliance program and shall be placed on the Regulator's website. Such an official or members of such a body shall have no professional position or responsibility, economic interest or business relationship, directly or indirectly, with a vertically integrated undertaking or any subject of commercial activity forming part thereof (other than the gas distribution system operator). Such an official or members of such a body shall be fully qualified and experienced to perform the relevant activities and unbiased as well as have access to all necessary information of the gas distribution system operator and persons related thereto by relations of control. The candidacies of such an official or members of such a body must be approved by the Regulator.

6. In the course of carrying out of the licensed activity for identification of itself or distribution services the gas distribution system operator shall not use the IP objects, corporate outlook identical or similar to the ones of the supplier from the vertically integrated undertaking.

7. If the gas distribution system operator has less than 100 000 connected consumers, the Regulator may take a decision to exempt such an operator from the requirement to comply with the present Article.

Article 40. Distribution services

1. Distribution of natural gas shall be performed on the basis of and under conditions stipulated in the distribution contract and in the order stipulated by the gas distribution system code and other legislative acts.

Under the distribution contract, a gas distribution system operator undertakes to ensure distribution services to the user for the period and under conditions provided in the distribution contract while the user undertakes to pay a determined fee for distribution services to the operator.

2. A standard distribution contract shall be approved by the Regulator.

A gas distribution system operator shall ensure observance of the principle of non-discrimination in concluding distribution contracts with the users.

A distribution contract shall be deemed public.

Article 41. Gas distribution system code

1. The Regulator shall adopt the gas distribution system code following consultations with subjects of the natural gas market. A gas distribution system operator shall place a gas distribution system code on its website.

2. A gas distribution system code shall contain the following provisions:

- 1) main rules of technical exploitation of the gas distribution system, of design, operational management and development of the gas distribution system as well as mechanisms to control their implementation;
- 2) conditions, including commercial and technical, of access to the gas distribution system, including commercial and technical conditions of connection of new objects of users to the gas distribution system;
- 3) rules of metering of natural gas (including of instrument metering);
- 4) rules of conduct in case of the failure in the work of the gas distribution system;
- 5) rules on exchange of data with other subjects of the natural gas market;
- 6) other issues relevant to the operation of the gas distribution system.

Article 42. Development of a gas distribution system

1. With a view to ensure security, reliability, regularity, and quality of supply of the gas distribution system and taking into account legislation on environmental protection and energy-efficiency, the gas distribution system operator shall elaborate and annually before 31 July submit for the Regulator's approval a gas distribution system development plan for next 10 years.

2. Following its approval by the Regulator, the gas distribution system operator shall forward to the gas transmission system operator information contained in the gas distribution system plan in the amount necessary to the gas transmission system operator for development of the gas transmission system development plan for next 10 years.

Article 43. Obligation regarding information placement

1. A gas distribution system operator is required to place the following information on its website:

- 1) the list of services provided by such an operator, information on tariffs and other conditions of provision of such services, including technical conditions of access and connection to the gas distribution system;
 - 2) the methodology for determination of tariffs for services of distribution of natural gas and the methodology for determination of the fee for connection to a gas distribution system;
 - 3) data on planned and actual volumes of natural gas transported through the gas distribution system in the amount available to the operator.
2. The gas distribution system operator shall store information provided in para 1 of the present Article during five years from the date of its placement and produce it at the request of the authorities and the Energy Community Secretariat.

Section 6. Storage (injection, delivery) of natural gas

Article 44. Gas storage operator

1. A gas storage operator shall be responsible for reliable and safe operation, maintenance, and development (including new construction and re-construction) of one or several gas storages which it uses on lawful grounds.
2. A gas storage operator shall carry out its activities of storage (injection, delivery) based on a license issued by the Regulator.

Article 45. Special rules regarding realization of the state property rights to underground gas storages

1. Only the subject of commercial activity the corporate rights of which belong to the state or the subject of commercial activity 100% of corporate rights of which belong to the state, or the state or the subject of commercial activity 100% of corporate rights of which belong to the state holding at least 51% of corporate rights of such an operator jointly with a legal person (persons) (hereinafter – UGS Partner) may be the founder and the owner of the corporate rights of the operator of gas storages which belong to the state property and are not subject to privatization provided that control over the UGS Partner shall not be exercised by any person (persons) from a state (states) which is not a party of the Energy Community or which is not the United States of America.

The Verkhova Rada of Ukraine upon submission by the Cabinet of Ministers of Ukraine shall approve the results of the competition and adopt the final decision on determination of one or several UGS Partners.

Terms of the competition shall be developed and approved by the Cabinet of Ministers of Ukraine.

To participate in the competition, the candidate legal person shall disclose the structure of ownership which must enable to determine physical persons exercising control over such a person. Any changes in the structure of ownership of the UGS Partner shall be preliminarily agreed with the Cabinet of Ministers of Ukraine.

2. Based on the results of each five-year period of its activities the gas storage operator created with participation of the UGS Partner shall submit a report to the Verkhovna Rada of Ukraine.

Article 46. Rights and obligations of a gas storage operator

1. Rights and obligations of a gas storage operator shall be determined by the present Law, other legislative acts, the gas transmission system code, the gas storage code as well as the storage (injection, delivery) contract.

2. A standard storage (injection, delivery) contract shall be approved by the Regulator. The gas storage operator shall ensure observance of the principle of non-discrimination in concluding storage (injection, delivery) contracts with the users.

3. A gas storage operator shall offer services which meet the demands of the natural gas market in accordance with the gas storage code. For that purpose the storage operator shall cooperate with the gas transmission system operator.

4. With a view to perform functions stipulated in para 1 of Article 44 of the present Law, a gas storage operator shall:

1) elaborate, submit for the Regulator's approval and place on its website the gas storage code;

2) elaborate, annually by 31 October submit for the Regulator's approval, place on its website and implement the gas storage development plan for next 10 years taking into account development plans of gas transmission system operators, gas distribution system operators, and the LNG facility operator;

3) take necessary measures to ensure the security of natural gas supply, including as regards uninterrupted work of the gas storages;

4) take necessary measures to increase rational use of energy resources and to protect the environment in the course of its activity;

5) provide information as required by the legislation;

- 6) ensure confidentiality of information obtained in the course of its commercial activity as well as place on its website in a non-discriminatory manner information which stimulates development of the natural gas market;
 - 7) provide information necessary for the functioning of the gas transmission system in an order prescribed by the legislation;
 - 8) elaborate and implement a compliance program in accordance with Article 47 of the present Law;
 - 9) agree the system of management and exchange of data necessary for safe exploitation of gas storages with a gas transmission system operator;
 - 10) take other measures necessary for safe and stable operation of gas storages as prescribed by the present Law or which do not contradict legislation.
5. A gas storage operator shall purchase energy resources necessary for performance of its activities in a non-discriminatory and transparent manner.

Article 47. Requirements of unbundling and independence of a gas storage operator

1. A gas storage operator may not perform production or supply of natural gas.
2. A gas storage operator shall be legally and organizationally separate from other activities on the natural gas market not related to transmission and storage of natural gas.
3. Officials of a gas storage operator may not simultaneously be engaged in the commercial activities of any subject of commercial activity (including a foreign one) which carries out production and/or supply of natural gas.
4. An executive or other body of a gas storage operator responsible for operation, maintenance and development of a gas storage shall be independent in its activities (in particular in the right to take decisions based on interests of the gas storage operator) from the influence of shareholders of the gas storage operator which is part of a vertically integrated undertaking.

The right to approve an annual financial plan of the gas storage operator and the right to establish the general level of indebtedness of such an operator shall not be considered as these types of influence by the shareholders.

5. A gas storage operator shall elaborate and implement a compliance program which must apply to all its employees. This program must include measures for uninterrupted performance of the duties prescribed by para 1 of Article 44 of the present Law by the gas storage operator. The report on implementation of the

compliance program shall be submitted to the Regulator by the official or body of the gas storage operator responsible for monitoring of implementation of the compliance program and shall be placed on the Regulator's website.

Article 48. Special rules to determine the price of storage (injection, delivery) services

1. Under the negotiated access regime, the price of storage (injection, delivery) services shall be freely decided between a gas storage operator and a user. During the negotiations regarding conclusion of a storage (injection, delivery) contract in respect of gas storages to which the negotiated access regime applies, the parties shall act in good faith.

A gas storage operator shall place on its website and regularly, as often as at least once per year, update information on general commercial conditions of access to gas storages to which the negotiated access regime applies. In elaborating such conditions the gas storage operator is obliged to conduct consultations with the interested subjects of the natural gas market.

The Regulator is obliged to take measures necessary to ensure access to gas storages to which the negotiated access regime applies.

2. Under the regulated access regime, tariffs for storage (injection, delivery) services shall be approved by the Regulator.

3. The Regulator shall approve and publish criteria according to which the negotiated or regulated access regime is assigned to each gas storage.

Based on these criteria, a gas storage operator shall in a transparent and non-discriminatory manner determine the access regime applicable to each gas storage and place this information on its website.

Article 49. Gas storage code

1. A gas storage operator shall elaborate a code as regards one or several gas storages of which it acts as operator following consultations with subjects of the natural gas market and submit it for the Regulator's approval. Following its approval by the Regulator, a gas storage operator shall publish a gas storage code on its website.

2. A gas storage system code shall contain the following provisions:

1) conditions of reliable and safe exploitation of the gas storage, main rules of technical exploitation of the gas storage, of design, operational management and

development of the gas storage as well as mechanisms to control their implementation;

2) conditions, including commercial and technical, of access to the gas storage, including the list of services offered by the gas storage operator;

3) rules of metering of natural gas;

4) rules on exchange of information regarding planned and actual volumes of natural gas in storage;

5) norms of quality, physical and chemical and other characteristics of natural gas which is accepted for storage in the gas storage;

6) order of provision and scope of information to be submitted by subjects of the natural gas market to the gas storage operator;

7) rules of capacity allocation as well as congestion management for the gas storage taking into account basic principles prescribed in Article 51 of the present Law;

8) rules of conduct in case of a failure in the work of the gas storage as well as in case of a disruption of the security of natural gas supply;

9) rules of exchange of data with gas transmission system operators, gas distribution system operators, other gas storage operators, LNG facility operator;

10) determination of entry- and exit-points;

11) procedure for settlement of disputes with users, including with subjects of the natural gas market to which access to the gas storage was refused;

12) other issues relevant to operation of the gas storage.

Article 50. Gas storage development plan

1. A gas storage operator shall elaborate and annually by 31 October submit for the Regulator's approval a gas storage development plan for next 10 years compiled based on the data on actual and forecasted balance of supply and demand for storage (injection, delivery) services. A gas storage development plan for next 10 years shall ensure compatibility of the gas storage with the needs of the market and interests of the security of natural gas supply.

2. A gas storage development plan for next 10 years shall determine:

1) a list of main objects related to provision of storage (injection, delivery) services the construction or re-construction of which is reasonable in the next 10 years;

2) a list of confirmed investment projects regardless of the sources of financing, as well as a list of investments which are reasonable in next three years;

3) contemplated timelines of investment projects.

3. The Regulator shall assess the compatibility of measures specified in the gas storage development plan for next 10 years to the requirements of the present Law.

4. The Regulator shall in a transparent and non-discriminatory manner carry out public consultations with interested subjects of the natural gas market as regards the gas storage development plan.

The Regulator shall place on its website the report on results of the consultations.

5. The Regulator shall perform regular monitoring and assessment of implementation of the gas storage development plan for next 10 years.

Article 51. Basic principles of capacity allocation and congestion management of a gas storage

1. A gas storage operator shall take all possible and justifiable measures to ensure the maximum volume of capacity of the gas storage for needs of users.

2. Rules of capacity allocation of a gas storage shall in a non-discriminatory manner create economic stimuli for effective utilization of the technical capacity of the gas storage and development of new infrastructure.

These rules shall not create obstacles to the development of the natural gas market. They shall conform to the needs of subjects of the natural gas market, in particular of the organised markets in natural gas, as well as be comparable to the activity of organized points of trade in natural gas.

These rules shall be elaborated taking into account rules on access to gas transmission systems of states parties of the Energy Community.

3. Congestion management rules of a gas storage shall contain rules to prevent artificial congestion based on the following principles:

1) the gas storage operator shall offer to subjects of the natural gas market storage (injection, delivery) services using the capacity the right of use of which has been granted but not realised by users based on storage (injection, delivery) contracts at least one day ahead of the actual transaction;

2) users which have concluded a storage (injection, delivery) contract shall be granted the right to transfer rights as regards access to the gas storage to other subjects of the natural gas market.

Article 52. Obligations regarding information placement

1. A gas storage operator shall place on its website the following information:

1) the list of services offered by such an operator, in particular information on prices or tariffs and other conditions of provision of such services;

2) numeric information on volumes of capacity the right of use of which has been granted to users under current storage (injection, delivery) contracts as well as of free capacity of a gas storage;

3) information on volumes of natural gas in each gas storage, volumes of injection and delivery as well as volumes of free capacity of a gas storage – on a daily basis.

A gas storage operator shall provide information specified in item 3) of para 1 of the present Article to the gas transmission system operator in the order and under conditions specified in the gas transmission system code.

2. Where a gas storage operator has concluded a contract with only one user, such a user may apply to the Regulator with a request to forbid placement of information specified in item 3) of para 1 of the present Article. If the Regulator concludes that such a request is justified considering the need to protect information containing commercial value, the Regulator may oblige the gas storage operator not to disclose such information for a period of up to one year.

3. A gas storage operator shall store information specified in this Article during five years from the date of its publication and produce it at the request of authorities and the Energy Community Secretariat.

Section 7. LNG facility services

Article 53. LNG facility operator

1. An LNG facility operator shall be responsible for reliable and safe operation, maintenance and development (including new construction and re-construction) of the LNG facility which it uses on lawful grounds.

2. An LNG facility operator shall carry out its activities based on a license issued by the Regulator.

3. Provisions of Articles 47, 49-52 of the present Law shall by analogy apply to the LNG facility operator.

Section 8. Special rules of access in specific cases

Article 54. Special rules of access to new infrastructure

1. Upon request of an investor, the Regulator may adopt a decision on non-application of one or several requirements of paras 1-3, 8 of Articles 19, Articles 23, 56 of the present Law - as regards a new gas infrastructure object (interconnector, LNG facility or gas storage) or in case of non-application of Article 23 of the present Law - as regards the investor in the new object if all the following conditions are met:

- 1) the investment in the new object encourages development of competition on the natural gas market as well as the security of natural gas supply;
- 2) as a result of the level of commercial risk the investment will not be made in the absence of a decision on non-application of certain requirements of the present Law in accordance with the present Article;
- 3) the investor and the operator of the gas transmission or gas distribution system to which the new object will be connected are separate legal person;
- 4) access to the new object is made on a paid basis;
- 5) the decision on non-application of certain requirements of the present Law in accordance with the present Article should not make a negative impact on the competition or the effective functioning of the natural gas market or the due functioning of the gas transmission or gas distribution system to which the new object is connected.

2. Based on para 1 of the present Article, the Regulator shall take a decision on non-application of one or several requirements of paras 1-3, 8 of Article 19 or of Article 23 of the present Law – as regards the whole or a part of the capacity of the new object.

3. The decision of the Regulator on non-application of certain requirements of the present Law in accordance with the present Article shall contain a defined term of validity. It shall be placed on the Regulator’s website.

In the decision on non-application of certain requirements of the present Law in accordance with the present Article the Regulator shall stipulate rules of capacity allocation and congestion management of the new object (or a part of capacity thereof as provided in para 2 of the present Article). Such rules shall

contain the obligation of the owner (owners) of the new object to ensure that access thereto (in particular by way of transfer of rights as regards access to the new object to other subjects of the natural gas market) if the right of use of the capacity of the new object has not been realised. For that purposes the Regulator shall conduct a procedure for preliminary collection of applications from subjects of the natural gas market interested in obtaining access to the new object.

4. Under para 1 of the present Article the Regulator may take a decision on non-application of certain requirements of the present Law in accordance with the present Article as regards a reconstructed object (or a part of capacity thereof as provided in para 2 of the present Article) or, in case of non-application of Article 23, as regards the investor into such a new object provided that as a result of such reconstruction the capacity of the said object is substantially increased or a new source of natural gas supply is ensured.

5. If it is anticipated that the new object is located in the territory of more than one state party of the Energy Community, in taking the decision under para 1 of the present Article the Regulator shall cooperate with national energy regulators of such states (hereinafter – interested national energy regulators).

If in the course of six months as of the date of the latest application to the interested national energy regulator (including the Regulator) based on a provision of national legislation transposing Article 36 of Directive 2009/73/EC, the Regulator shall consider the investor's application taking into account the conclusion of the Regulatory Board of the Energy Community.

If during the said term the Regulator does not reach consensus with interested national energy regulators as regards the common decision on issues specified in paras 1-4 of the present Article, the Regulator shall take a decision which conforms to the decision of the Regulatory Board of the Energy Community as regards the particular investor's application.

Together with interested national energy regulators, the Regulator may solicit extension by the Energy Community Regulatory Board of the term for reaching a common decision for additional three months.

6. The Regulator shall notify the Energy Community Secretariat regarding all applications made pursuant to para 1 of the present Article.

The decision of the Regulator adopted in accordance with para 1 of the present Article shall be notified to the Energy Community Secretariat together with supporting information per the following list:

- 1) detailed legal justification of the decision made;
- 2) financial and other information based on which the decision was taken;
- 3) the reasons for establishing a particular term of validity of the decision;
- 4) information on the share of the capacity to which the decision applies in the overall technical capacity of the gas transmission system, gas distribution systems, gas storages, or the LNG facility;
- 5) in relation to an interconnector – the report on consultations with the national energy regulator of a neighbouring state;
- 6) information on the role of the new object in the diversification of sources of supply of natural gas.

7. Within two months from the date of receipt of a notification from the Regulator per para 6 of the present Article, the Energy Community Secretariat shall forward an opinion on the necessity to amend or repeal the decision of the Regulator adopted in accordance with para 1 of the present Article taken by the Regulator. The term for forwarding the opinion by the Energy Community Secretariat may be extended for two additional months if additional information is requested by the Energy Community Secretariat. The running of the additional term shall start on the date of receipt by the Energy Community Secretariat of the necessary information in full scope. The initial two-month period for adoption of the opinion by the Energy Community Secretariat may be extended upon consent of the Regulator.

8. Based on the Energy Community Secretariat's opinion, the Regulator shall take a decision to amend or repeal the decision of the Regulator adopted in accordance with para 1 of the present Article except for cases where the Regulator has motivated reasons not to agree with the Energy Community Secretariat's opinion.

If following receipt of the Energy Community Secretariat's opinion on the need to amend or repeal the decision of the Regulator adopted in accordance with para 1 of the present Article the Regulator does not make the proposed amendments or does not repeal the decision, reasons for the failure to take account of the Energy Community Secretariat's opinion shall be published by way of placement on the Regulator's website.

Article 55. Special rules of access in case of “take-or-pay” obligations

1. Rules of the present Article shall apply in cases of obligations as regards the mandatory payment by a wholesale buyer, supplier or consumer of the price of volumes of natural gas determined by a contract with a wholesale seller or supplier regardless of whether the relevant volume of natural gas has been off-taken by such a wholesale buyer, supplier, or consumer in the relevant period (the “take-or-pay” obligation) as established by a contract of sale-purchase or supply of natural gas which was concluded before the entry into force of the present Law.

2. If a subject of the natural gas market (hereinafter – the applicant) is facing or is likely to face significant economic and financial difficulties as a result of non-compliance with the “take-or-pay” obligation stipulated in a contract of sale-purchase or supply of natural gas concluded by the applicant, the latter may apply to the Regulator with a request on temporary non-application of provisions of paras 1-3 of Article 19 of the present Law.

The application shall be submitted before or immediately after the receipt of a refusal of access to the gas transmission or distribution system, gas storage or the LNG facility. The application shall be accompanied by all necessary information to support the significance of economic and financial difficulties of the application caused by the non-compliance with the “take-or-pay” obligation as well as the description of measures taken by the application to resolve the situation.

3. In adopting the decision on the basis of a request submitted by the applicant pursuant to para 2 of the present Article, the Regulator shall take into account the following factors:

1) the primary goal of creation of the fully-fledged market in natural gas founded on free competition;

2) the need to ensure due conditions for performance of special obligations by subjects of the natural gas market in accordance with Article 11 of the present Law and the security of supply;

3) the actual state of competition on the natural gas market and the place of the applicant thereon;

4) the significance of economic and financial difficulties of the applicant caused by non-compliance with the “take-or-pay” obligation;

- 5) the time and conditions for signing the relevant contract or contracts, including mechanisms stipulated for the possible change of the situation;
- 6) measures taken by the applicant to resolve the situation;
- 7) the likelihood with which the applicant could have foreseen the occurrence of difficulties when it was undertaking the “take-or-pay” obligation in view of provisions of the present Law;
- 8) the level of development and interconnection between gas transmission systems and gas distribution systems, gas storages and the LNG facility, in particular with gas infrastructure objects of other states; and
- 9) consequences of the decision on the law enforcement practice under the present Law.

4. It shall not be regarded that the applicant is facing or is likely to face significant difficulties if:

- 1) the applicant has access to gas transmission or gas distribution systems, gas storages or LNG facility which ensures the possibility to receive natural gas in the volume which equals or is higher than the minimum contract amount for purposes of the “take-or-pay” obligation in the relevant contract;
- 2) there are real ways to amend the relevant contract;
- 3) the applicant possesses alternative ways to sell natural gas, and access to gas transmission or gas distribution systems, gas storages or the LNG facility which was denied is not necessary for this purpose.

5. If in view of the abovementioned factors the Regulator reaches a conclusion that in the current situation there are no due alternatives to the non-application of paras 1-3 of Article 19 of the present Law, it shall adopt a decision on temporary non-application of paras 1-3 of Article 19 of the present Law. This decision shall be placed on the Regulator’s website and duly reasoned.

6. The decision of the Regulator taken in accordance with para 5 of the present Article shall be notified to the Energy Community Secretariat alongside the due supporting documents. Within eight weeks as of the date of receipt by the Energy Community Secretariat of such a notification the latter shall forward its opinion as regards the need to amend or repeal the Regulator’s decision.

Article 56. Access to pipelines which form part of infrastructure of an oil and gas field

1. The [*Ministry of Energy and the Coal Industry*] upon agreement with the Regulator shall take measures with a view to establish rules of access of subjects of the natural gas market to pipelines which form part of infrastructure of an oil and gas field or are destined for transfer of extracted natural gas from the field to a processing station. Pipelines used in the industrial process of extraction of oil and gas at a particular field shall not be considered as such pipelines.
2. Measures specified in para 1 of the present Article shall be notified to the Energy Community Secretariat.

Section 9. Reporting of subjects of the natural gas market

Article 57. Special rules of accounting and reporting of subjects of the natural gas market

1. In case of carrying out of several activities on the natural gas market subject to licensing, a subject of the natural gas market (other than a consumer) shall maintain separate accounting of each type of activity and approve rules for allocation of assets and obligations, revenues and expenses among different types of activities.
2. Subjects of the natural gas market (other than consumers) shall keep records as approved by the Regulator of each type of commercial activity on the natural gas market subject to licensing and submit them to the Regulator alongside annual financial statements in the order established by the legislation.
3. Annual statements per each type of commercial activity of subjects of the natural gas market (other than consumers) shall be placed on the website of such subjects in the order established by the legislation.
4. Annual financial statements of a gas transmission system operator, gas distribution system operator, gas storage operator, LNG facility operator as well as of the last-resort supplier shall be subject to mandatory audit by an independent auditor and placed on the website of such subjects per the order established by the law.

During the audit an independent auditor shall review the statements in terms of the absence of discrimination and cross subsidization among users.

Subjects of the natural gas market (other than consumers) which are not required to place their annual financial statements on their website by the law shall grant access to such statements at the place of their state registration.

CHAPTER V. DISPUTE SETTLEMENT PROCEDURE

Article 58. Procedure of complaint handling and dispute settlement

1. The Regulator shall ensure handling of complaints regarding actions of subjects of the natural gas market (other than consumers) and settlement of disputes between subjects of the natural gas market in the order adopted by the Regulator.

2. In accordance with the order of complaint handling and dispute settlement the Regulator shall within an established time period take a decision which must be binding on all subjects of the natural gas market to which it concerns.

This decision shall be placed on the Regulator's website except for parts of the decision containing confidential information. The scope of confidential information not subject to disclosure shall be determined by the Regulator at the request of the interested parties.

3. The decision of the Regulator specified in para 2 of the present Article may be appealed in court.

CHAPTER VI. RESPONSIBILITY OF SUBJECTS OF THE NATURAL GAS MARKET

Article 59. Responsibility for violations of legislation governing the functioning of the natural gas market

1. Subjects of the natural gas market which have breached the legislation governing the functioning of the natural gas market shall bear the responsibility as provided by the law.

2. The following, inter alia, constitute violations on the natural gas market:

1) violation of the relevant licensing conditions by licensees;

2) unauthorised off-take of natural gas;

3) use of natural gas in volumes which exceed those confirmed with the supplier in due course;

4) non-submission or late submission of statements as required by the Law as well as submission of false information in such statements;

5) use of metering equipment unchecked or unattested in due course;

6) unjustified refusal of access to a gas transmission or distribution system, gas storage or the LNG facility or of connection to a gas transmission system or a gas distribution system;

7) unauthorised intrusion into the work of gas infrastructure;

- 8) unauthorized connection to the system, tearing-off or damaging of seals, marks of certification, cover plugs, etc. which affects the security of natural gas supply or results of metering;
- 9) refusal to grant access for authorized employees of the gas transmission system operator, gas distribution system operator, supplier to residences and adjacent premises where gas metering equipment is located if the obligation to provide such access is established in the legislation;
- 10) failure to perform lawful resolutions, directions, decrees, decision or instructions of authorities on the natural gas market as well as creation of obstacles to performance of service duties by representatives of such authorities;
- 11) non-submission or late submission of information to a gas transmission system operator, gas distribution system operator, gas storage operator, LNG facility operator or authorities as required by the legislation or submission of knowingly false information;
- 12) impeding works related to maintenance of gas consumption objects and taking measures to completely or partially stop the natural gas supply to consumers;
- 13) violation of technical regulations, norms, rules and standards;
- 14) unsubstantiated refusal to compile and execute acts of acceptance of natural gas;
- 15) failure to observe requirements of the Law of Ukraine “On ensuring commercial metering of natural gas” regarding installation of metering units and/or termination of distribution of natural gas to consumers using natural gas without metering units.

3. In case of a violation on the natural gas market, subjects of the natural gas market shall be subject to the following sanctions:

- 1) a warning on the need to eliminate the violation;
- 2) a fine;
- 3) suspension of a license;
- 4) annulment of a license.

4. The Regulator in case of a violation on the natural gas market shall within its powers adopt a decision on imposition of sanctions on subjects of the natural gas market (other than consumers) in the following amounts:

- 1) up to 10% of the annual income (revenues) of a vertically integrated undertaking to be determined as the sum of income (revenues) from sales of produce (goods, works, services) by all legal and physical persons forming part of such an organization – on a vertically integrated undertaking for non-compliance with requirements of unbundling and independence of a gas transmission system operator stipulated by the present Law;
- 2) up to 10% of the annual income (revenues) of a gas transmission system operator – on a gas transmission system operator for non-compliance with requirements of unbundling and independence of a gas transmission system operator stipulated by the present Law;
- 3) up to 10% of the annual income (revenues) of a gas transmission system owner – on a gas transmission system owner for non-compliance with requirements of unbundling and independence of a gas transmission system operator stipulated by the present Law;
- 4) from 900 to 3 000 untaxed income minimums – on officials of the vertically integrated undertaking or of a gas transmission system operator for non-compliance with requirements of unbundling and independence of a gas transmission system operator stipulated by the present Law;
- 5) from 3 000 to 50 000 untaxed income minimums – on subjects of the natural gas market conducting activities on the natural gas market subject to licensing:
 - a) for conducting activities on the natural gas market subject to licensing without a license, including carrying out of activities on the natural gas market without a final decision on certification adopted in respect of the relevant subject;
 - b) for violation of licensing conditions;
 - c) for violation of statutory accounting rules and rules of financial accounting stipulated by the present Law;
 - d) for non-submission of information to the Regulator, a gas transmission system operator or another subject of the natural gas market if the relevant obligation is established in the legislation;
 - e) for refusal of access in cases not prescribed by the law;
 - f) for the failure to observe established technical norms and safety standards;
- 6) from 20 to 900 untaxed income minimums – on officials of subjects of the natural gas market which carry out activity subject to licensing for violations of item 5) of the present para.

5. In determining sanctions for violations specified in the present Article the Regulator shall take into account the seriousness and duration of the violation, consequences of the violation on interests of the natural gas market and its subjects, extenuating and exacerbating circumstances.

The violator's conduct directed at mitigation of negative consequences of the violation, immediate termination of the violation after its discovery, assistance to the Regulator in identifying the violation shall qualify as extenuating circumstances.

The violator's conduct directed to conceal the violation or its negative consequences, to continue the violation as well as repeated violation on the natural gas market shall qualify as exacerbating circumstances.

6. The decision of the Regulator on imposition of sanctions for violations specified in the present Article shall be issued within five days following the discovery of the violation by the Regulator.

Imposition of sanctions specified by the present Article is not allowed if the violation has been identified three or more years after its commission (in case of a lasting violation – after its termination) or discovery of its consequences.

7. For one violation on the natural gas market only one type of a fine or a fine together with suspension of a license may be applied.

8. The decision on imposition of sanctions by the Regulator may be appealed in court.

9. Fines shall be credited to the State Budget of Ukraine.

Fines if not paid shall be levied in a judicial procedure.

CHAPTER VII. FINAL AND TRANSITORY PROVISIONS

1. The present Law shall enter into force as of the day following the day of its promulgation but shall be effective as of 1 October 2015, except for:

item 1) of para 2 of Article 22, Article 33, which apply as of the date of entry into force of the present Law taking into account para 10 of the present Chapter;

item 5) of para 2 of Article 22, Articles 23-31, which apply as of 1 April 2016;

item 3) of para 2 of Article 38, Article 39, which apply as of 1 January 2016.

Para 6 of Article 11 of the present Law shall expire on 1 April 2017.

2. The Law of Ukraine “On Fundamentals of the Functioning of the Natural Gas Market” (Gazette of the Verkhovna Rada of Ukraine, 2010, No.48, p.566 with subsequent amendments) shall cease to apply as of 1 October 2015.

3. Before 1 June 2016 sanctions for violations of requirements of item 5) of para 2 of Article 22, Articles 23-31 of the present Law shall not apply, while in case of the subject of commercial activity control over which is exercised by a person (persons) from a state (states) not party of the Energy Community or by a state (states) not party of the Energy Community sanctions for violation of the said requirements shall not apply before 1 January 2017.

4. As of 1 October 2015 till 1 January 2016 the following regime shall apply to subjects of commercial activity which carry out activities of distribution of natural gas:

1) subjects of commercial activity which carry out activities of distribution of natural gas shall be prohibited from carrying out production, supply, storage and transmission of natural gas;

2) if a subject of commercial activity which carries out activities of distribution of natural gas forms part of a vertically integrated undertaking, it shall be legally and organisationally independent from other types of activities of the vertically integrated undertaking not related to distribution of natural gas;

3) subjects of commercial activity which carry out activities of distribution of natural gas shall be guided by the following main principles which determine independence from the commercial activities of such a subject from a vertically integrated undertaking:

a) prohibition to simultaneously occupy positions within a vertically integrated undertaking;

b) autonomy in taking decisions on current financial transactions, operation, construction or enhancement of objects of the gas distribution system for carrying out the relevant licensed activities;

4) a subject of commercial activity which carries out activities of distribution of natural gas shall annually prepare a plan of actions to ensure its unbundling and independence of its commercial, including licensed, activities from the activities of a vertically integrated undertaking; such a plan of actions and reports on its implementation shall be submitted to the Regulator.

5. As of 1 October 2015 till 1 April 2016 the following regime shall apply to subjects of commercial activity which carry out activities of transmission of natural gas:

1) subjects of commercial activity which carry out activities of transmission of natural gas shall be prohibited from carrying out production and supply of natural gas;

2) if a subject of commercial activity which carries out activities of transmission of natural gas forms part of a vertically integrated undertaking, it shall be legally and organisationally independent from other types of activities of the vertically integrated undertaking not related to transmission of natural gas;

3) subjects of commercial activity which carry out activities of transmission of natural gas shall be guided by the following main principles which determine independence from the commercial activities of such a subject from a vertically integrated undertaking:

a) prohibition to simultaneously occupy positions within a vertically integrated undertaking;

b) autonomy in taking decision on current financial transactions, operation, construction or enhancement of objects of the gas transmission system for carrying out the relevant licensed activities;

4) a subject of commercial activity which carries out activities of transmission of natural gas shall annually prepare a plan of actions to ensure its unbundling and independence of its commercial, including licensed, activities from the activities of a vertically integrated undertaking; such a plan of actions and reports on its performance shall be submitted to the Regulator.

6. Activities of supply and storage of natural gas shall be carried out based on current licenses issued before the start of application of the present Law during three month following adoption of licensing conditions for relevant activities in accordance with the present Law.

The activity license for transmission of natural gas issued before the entry into force of the present Law shall last until the license is issued to the current gas transmission system operator in accordance with the present Law.

The activity license for storage of natural gas issued before the entry into force of the present Law shall last until the license is issued to the current gas storage operator in accordance with the present Law.

7. The first report for 2015 on the outcomes of monitoring of issues specified in para 1 of Article 7 of the present Law as well as of implemented and planned measures related to these issues shall be prepared and published by 1 October 2015.

8. The Cabinet of Ministers of Ukraine within 2 months following entry into force of the present Law shall submit to the Verkhovna Rada of Ukraine the draft amendments to legislative acts as deriving from the present Law.

9. By 1 October 2015 the Cabinet of Ministers of Ukraine, the [*Ministry of Energy and the Coal Industry*], the [*Regulator*] shall:

ensure the adoption and approval of legislative acts prescribed by the present Law (except for the procedure of certification of gas transmission system operators);

ensure revision and cancellation of current legislative acts which contradict the present Law.

10. The [*Regulator*] shall approve the transmission system code of the existing gas transmission system operator during 60 days following submission of the draft code by such an operator.

11. By 1 January 2016 the Regulator shall adopt the procedure for certification of gas transmission system operators.

President of Ukraine

P. Poroshenko

Kyiv

9 April 2015

No. 329-VIII

[The Law entered into force on 8 May 2015.]