

- Unofficial translation -

Energy Agency
of the Republic of Serbia
No: 311.01-2/2016-C-I
Date: December 12, 2016
Belgrade, Terazije 5/V

Acting upon the application of the Limited Liability Company „Yugorosgaz-transport“, Niš with headquarters in Niš, 6 Zetska Street, Company Registration Number: 20884665, Tax Identification Number: 10785961, of August 12, 2016 for certification of natural gas transmission system operator as an independent system operator, in line with Article 39, paragraph 1 and Article 49, paragraph 3 in connection with Articles 240 and 241 of the Energy Law (“Official Gazette of RS”, No. 145/14), Article 24 of the Rulebook on Energy Licence and Certification (“Official Gazette of RS”, No. 52/05), on the 12th extraordinary session held on December 12, the Council of the Energy Agency of the Republic of Serbia adopted:

DECISION

1. A certificate is issued to the Limited Liability Company „Yugorosgaz-transport“, Niš with headquarters in Niš, 6 Zetska Street, Company Registration Number: 20884665, Tax Identification Number: 10785961 (hereafter: “Yugorosgaz-transport“, LLC, Niš) as an independent system operator.

2. “Yugorosgaz-transport“, LLC, Niš is obliged to:

- take all necessary actions with authorised bodies of the Republic of Serbia in order to harmonise the Law on Ratification of the Agreement between the Federal Government of the Federal Republic of Yugoslavia and the Government of the Russian Federation on Cooperation on Construction of Gas Pipeline on the Territory of the Federal Republic of Yugoslavia (“Official Gazette of FRY – International Treaties”, No. 4/96), the Law on Ratification of the Treaty establishing the Energy Community between the European Community and the Republic of Albania, Republic of Bulgaria, Bosnia and Herzegovina, Republic of Croatia, Former Yugoslav Republic of Macedonia, Republic of Montenegro, Romania, Republic of Serbia and the United Nations Interim Mission in Kosovo in line with the United Nations Security Council Resolution (“Official Gazette of RS”, No. 62/06) and the Energy Law (“Official Gazette of RS”, No. 145/14) so as to harmonise its organisation and operations in a manner providing compliance with conditions concerning the independence of the system operator in line with the model of independent system operator;
- submit a ten-year transmission system development plan adopted in line with the Energy Law (which was approved by the Energy Agency), programme for non-discriminatory behaviour adopted in line with the Energy Law (which was approved by the Energy Agency) and a legal document signed together with the transmission system owner providing guarantees for the financing of transmission system development.

3. “Yugorosgaz-transport“, LLC, Niš is obliged to act in line with item 2 hereof within a 12-month deadline since the day of adoption of the final decision on certification. Otherwise, in line with Article 242 of

the Energy Law, the Energy Agency of the Republic of Serbia will launch a new certification procedure in order to reevaluate the conditions for certification and adopt a decision on the withdrawal of the certificate referred to in item 1 hereof.

4. "Yugorosgaz-transport", LLC, Niš is obliged to inform the Energy Agency of the Republic of Serbia on the actions taken in order to comply with the conditions referred to in item 2 hereof once a month, until the 15th day of the month.

5. Upon receiving the opinion of the Energy Community Secretariat on the decision draft, a final decision will be adopted and it will be published along with the opinion of the Secretariat in the "Official Gazette of the Republic of Serbia" and on the websites of the transmission system operator and of the Agency.

Background

On August 12, 2016, "Yugorosgaz-transport", LLC, Niš with headquarters in Niš, 6 Zetska Street, (hereafter: "Yugorosgaz-transport", LLC, Niš) submitted an application for the certification of the transmission system operator as an independent system operator in line with Art. 227-231 of the Energy Law ("Official Gazette of RS", No. 145/14).

The provision of Article 245, paragraph 2 of the Law prescribes that the Agency informs the Ministry and the competent body in line with the obligations arising from ratified international treaties on the application for certification submitted by the transmission system owner or transmission system operator controlled by a person or persons from a third country or third countries without delay, as well as on all circumstances which may lead to having a person or persons from a third country or third countries take control over the transmission system or over the transmission system operator.

The provision of Article 245, paragraph 3 of the Law prescribes that the system operator is obliged to inform the Agency on all circumstances which may lead to having a person or persons from a third country or third countries take control over the transmission system operator or over the transmission system.

With reference to this and based on the fact that "Yugorosgaz-transport", LLC, Niš is a single member company with limited liability with the owner and the only member – Company for Construction of Natural Gas Pipeline Systems, Natural Gas Transmission and Trade „Yugorosgaz“ JSC Belgrade, 8-10 Zmaj Jovina Street with shares owned by an open joint stock company GAZPROM, Moscow, 16 Namjotkina Street with 50% of shares; CENTRAL ME ENERGY&GAS GMBH, 17 Wiedner Hauptstrasse Street, Vienna, Austria with 25% of shares and Public Enterprise "Srbijagas" Novi Sad, 12 Narodnog fronta Street, with 25% of shares, on September 14, 2016, the Energy Agency sent a legal act No. 311.01-2/2016-C-I asking the given entity to submit a notification to the Agency on all circumstances which may lead to having a person or persons from a third country or third countries take control over the transmission system operator or over the transmission system.

Acting upon the given legal act, on September 26, 2016, "Yugorosgaz-transport", LLC, Niš submitted a legal act No. I-90 of September 20, 2016, notifying the Agency that there are no circumstances which may lead to having a person or persons from a third country or third countries take control over the transmission system operator or over the transmission system.

In line with Article 245, paragraph 2, the Agency submitted a legal act No. 311.01-2/2016-C-I of September 28, 2016, to the Ministry of Mining and Energy, notifying the Ministry on the submitted application for the certification and, in line with Article 246, paragraph 3 of the Law which prescribes that when adopting a decision on certification, the Agency will also take into consideration the opinion of the ministry in charge of energy field on the impact to the security of supply of the Republic of Serbia or of the region, the Ministry of Mining and Energy was asked to deliver the opinion. The Ministry stated in its opinion (legal act No. 312-01-01319/2016-05 of October 12, 2016) that the certification of "Yugorosgaz-transport", LLC, Niš as an independent system operator will not affect the security of natural gas supply of the Republic of Serbia or of the region.

Along with the application for certification, the applicant submitted:

1. Decision on the establishment of the limited liability company "Yugorosgaz-transport", LLC, Niš, No. 0-53 of December 11, 2012;
2. Extract on the registration of the company of October 15, 2015;
3. Contract on delegation of activities of general interest of June 7, 2013;
4. Contract on lease of transmission system of „Yugorosgaz” JSC Belgrade concluded between „Yugorosgaz” JSC Belgrade and "Yugorosgaz-transport", LLC, Niš (registered in „Yugorosgaz” JSC Belgrade No. U-12 of February 5, 2014 and "Yugorosgaz-transport", LLC, Niš, No. UG-3 of February 6, 2014);
5. Balance sheet on December 31, 2014 and income statement for the period between January 1, 2014 and December 31, 2014;
6. Statement of the acting manager of "Yugorosgaz-transport", LLC, Niš confirming that the company holds an energy licence for natural gas transmission and transmission system operation, No. 311.01-50/2013-П-I of August 28, 2013 (No. I-88 of December 1, 2015);
7. Statement of the acting manager of "Yugorosgaz-transport", LLC, Niš confirming that the company operates as a single member company with limited liability, i.e. that „Yugorosgaz” JSC is its only member and confirming that "Yugorosgaz-transport", LLC, Niš has neither co-owners/shareholders nor legal persons which are under its direct or indirect control from third countries (No. I-89 of December 1, 2015);
8. Statement of the acting manager of "Yugorosgaz-transport", LLC, Niš confirming that the company is an independent legal person, with pipeline transmission as the main activity, while it performs natural gas transmission and transmission system operation; confirming that the company is entitled to perform all activities which do not require prior approval of a state body and that it performs foreign trade activities in the area it is entitled to and confirming that "Yugorosgaz-transport", LLC, Niš operates as a single member limited liability company and that the founder of the Company, i.e. its only member is „Yugorosgaz” JSC Belgrade (No. I-90 of December 1, 2015);

9. Statement of the acting manager of "Yugorosgaz-transport", LLC, Niš confirming that „Yugorosgaz” JSC Belgrade, as the founder of the company, holds the energy licence for natural gas distribution, No. 311.01-32/2006-П-I, the energy licence for natural gas distribution system operation, No. 311.01-31/2006-П-I, the energy licence for natural gas public supply, No. 311.01-09/2013-П-I and the licence for natural gas trade in the open market, No. 006/06-ПГ-24 (No. I-91 of December 1, 2015);
10. Rulebook on organisation and systematisation of workplaces in "Yugorosgaz-transport", LLC, Niš, No. 0-1 of December 21, 2012;
11. Statement of the acting manager of "Yugorosgaz-transport", LLC, Niš confirming that "Yugorosgaz-transport", LLC, Niš operates as a single member limited liability company and that the founder of the company, i.e. its only member is „Yugorosgaz” JSC Belgrade; in line with the Law on Business Entities, the only member of the entity performs the function of the Assembly within a single member company; in case when the only member of the company is a legal person, a registered representative of the member performs the function of the Assembly on behalf of that member; the function of "Yugorosgaz-transport", LLC, Niš Assembly is performed by Vladimir Koldin as the registered legal representative of the founder; the function of the acting manager of "Yugorosgaz-transport", LLC, Niš is performed by Miroљub Antić (No. I-92 of December 1, 2015);
12. Decision on the appointment of the managing director (No. 0-54 of December 11, 2012);
13. Statement of the acting manager of "Yugorosgaz-transport", LLC, Niš confirming that "Yugorosgaz-transport", LLC, Niš is represented independently by the manager, both in internal and foreign trade, with the given list of activities (No. I-87 of December 1, 2015);
14. Statement of the acting manager of "Yugorosgaz-transport", LLC, Niš confirming that "Yugorosgaz-transport", LLC, Niš has no separate acts and procedures preventing disclosure of confidential or other commercially sensitive information to other energy entities, but they have trade secret regulated by the Memorandum of Association (No. I-94 of December 1, 2015);
15. Statement of the acting manager of "Yugorosgaz-transport", LLC, Niš confirming that "Yugorosgaz-transport", LLC, Niš has no employees who performed management activities or who were members of management bodies in companies performing natural gas production or supply in the period six months prior application for certification and confirming that "Yugorosgaz-transport", LLC, Niš has no representatives of public authority with direct or indirect control or shares in the company (No. I-93 of December 1, 2015);
16. Statement of the acting manager of "Yugorosgaz-transport", LLC, Niš confirming that "Yugorosgaz-transport", LLC, Niš with the Report of the Ministry of Energy, Development and Environment Protection No. 18-1/12-02 on the fulfillment of conditions in terms of expert staff performing energy

activity, i.e. natural gas transmission and transmission system operation; confirming that “Yugorosgaz-transport“, LLC, Niš has employees and available technical and material means for the performance of natural gas transmission, i.e. performance of activities of an independent operator in line with Article 227 of the Energy Law; confirming that “Yugorosgaz-transport“, LLC, Niš holds a licence issued by the Energy Agency of the Republic of Serbia for the performance of energy activity, i.e. natural gas transmission and transmission system operation No. 311.01-50/2013-П-I of August 28, 2013 (No. I-3 of January 25, 2016);

17. Statement of the acting manager of “Yugorosgaz-transport“, LLC, Niš confirming that “Yugorosgaz-transport“, LLC, Niš has available financial and material means for the performance of natural gas transmission in line with the Energy Law and that “Yugorosgaz-transport“, LLC, Niš holds a licence issued by the Energy Agency of the Republic of Serbia for the performance of energy activity, i.e. natural gas transmission and transmission system operation No. 311.01-50/2013-П-I of August 28, 2013 (No. I-5 of January 25, 2016);
18. Statement of the acting manager of “Yugorosgaz-transport“, LLC, Niš confirming that “Yugorosgaz-transport“, LLC, Niš will follow the ten-year plan for the development of the natural gas transmission system and that Yugorosgaz-transport“ LLC Niš holds a licence issued by the Energy Agency of the Republic of Serbia for the performance of energy activity, i.e. natural gas transmission and transmission system operation No. 311.01-50/2013-П-I of August 28, 2013 (No. I-6 of January 25, 2016);
19. Statement of the acting manager of “Yugorosgaz-transport“, LLC, Niš confirming that “Yugorosgaz-transport“, LLC, Niš will perform natural gas transmission and transmission system operation in line with the law and that “Yugorosgaz-transport“, LLC, Niš holds a licence issued by the Energy Agency of the Republic of Serbia for the performance of energy activity, i.e. natural gas transmission and transmission system operation No. 311.01-50/2013-П-I of August 28, 2013 (No. I-7 of January 25, 2016);
20. Statement of the acting manager of “Yugorosgaz-transport“, LLC, Niš confirming that “Yugorosgaz-transport“, LLC, Niš cooperates and exchanges information relevant for operations with the transmission system owner and that Yugorosgaz-transport“ LLC Niš holds a licence issued by the Energy Agency of the Republic of Serbia for the performance of energy activity, i.e. natural gas transmission and transmission system operation No. 311.01-50/2013-П-I of August 28, 2013 (No. I-4 of January 25, 2016);
21. Statement of the general manager of “Yugorosgaz“, JSC, Belgrade confirming that “Yugorosgaz“, JSC, Belgrade will enable financing investments defined in the ten-year plan for the development of the transmission gas pipeline system in line with the Plan for the Development of the Transmission System and in line with the decisions adopted by the Shareholders Assembly of the „Yugorosgaz“, JSC. The financing dynamics will be harmonised with the procedure for establishing and issuance of necessary permits and approvals in line with ruling laws (No. 23 of January 21, 2016);

22. Statement of the general manager of “Yugorosgaz“, JSC, Belgrade confirming that “Yugorosgaz“, JSC, Belgrade will enable financing investments in line with the Plan for the Development of the Transmission System and in line with the decisions adopted by the Shareholders Assembly of the „Yugorosgaz“, JSC. (No. 24 of January 21, 2016).

Upon consideration of the submitted application and documents submitted along with it, it was established that the documentation was not adequate, and therefore, in line with Article 58, paragraph 1 and 2 and Article 127 of the Law on General Administrative Procedure, the applicant was asked by the act No. 311.01-2/2016-C-I of November 14, 2016 to submit the following:

- 1) proof on compliance with conditions prescribed by Article 225, paragraph 1 of the Law;
- 2) proposal of the transmission system owner for the appointment of an independent system operator (Article 227, paragraph 1 of the Law), signed by the registered legal representative;
- 3) ten-year transmission system development plan (Article 229, paragraph 1, item 2) in connection with Article 250 of the Law);
- 4) proofs referred to in Article 230, paragraph 2, items 1) and 2) confirming the independence of the transmission system owner;
- 5) non-discriminatory behaviour program of the transmission system owner (Article 230, paragraph 2, item 3);
- 6) decision on the appointment of members of management bodies (minutes of the extraordinary session of Shareholders Assembly of “Yugorosgaz“, JSC, Belgrade held on July 18, 2016 were submitted);
- 7) act/agreement with the transmission system owner securing guarantees which will enable financing transmission system development;
- 8) annual financial report for 2015;
- 9) description of the procedure for the protection of confidential information of the independent system operator and the transmission system owner (Article 229 of the Law);
- 10) proof confirming that the system operator provides third party access to the system (template of the contract on system access, etc.);

11) proof of payment of Republic administrative fee.

Acting upon invitation to complete the documentation, the applicant submitted the following documents by submitting act No. I-107 on November 25, 2016:

- 1) statement of the manager of "Yugorosgaz-transport", LLC, Niš, No. I-78;
- 2) decision of "Yugorosgaz", JSC, Belgrade on the appointment of an independent system operator;
- 3) ten-year transmission system development plan adopted by "Yugorosgaz-transport", LLC, Niš which has not been approved by the Agency (ongoing procedure);
- 4) programme for non-discriminatory behaviour of the transmission system owner "Yugorosgaz", JSC, Belgrade which was not approved by the Agency;
- 5) decision on the appointment of management body;
- 6) agreement between "Yugorosgaz", JSC, Belgrade and "Yugorosgaz-transport", LLC, Niš, registered with „Yugorosgaz“ JSC Belgrade under No. U-44 of May 11, 2016 and with "Yugorosgaz-transport", LLC, Niš under number UG-7 of May 9, 2016;
- 7) annual financial report for 2015;
- 8) procedure for the treatment of confidential information adopted by the general manager of „Yugorosgaz“ JSC Belgrade;
- 9) contract on natural gas transmission;
- 10) proof of payment of Republic administrative fee.

The provision of Article 226 of the Energy Law prescribes that if the transmission system was a part of a vertically integrated company prior to the deadline defined in line with the obligations of the Republic of Serbia assumed by ratified international treaties, the transmission system operator may either be organised as an independent system operator in line with Art. 227-231 of the Law or as an independent transmission operator in line with Art. 232-238 of the Law.

The provision of Article 416, paragraph 2 of the Energy Law prescribes that the provisions of Article 226 may be applied if the transmission system was a part of a vertically-integrated company on October 6, 2011.

The provision of Article 227 of the Energy Law prescribes that if the transmission system was a part of vertically-integrated company prior to the deadline defined in line with the obligations of the Republic of Serbia assumed by ratified international treaties, upon the proposal of the transmission system owner, an independent system operator may be appointed and the latter is obliged to:

- comply with the conditions prescribed by Article 225, paragraph 1 of the law (independence of the transmission system operator is exercised by not having the same person or persons authorised to:
 - 1) directly or indirectly manage entities performing production or supply and simultaneously directly or

indirectly managing or exercising any other rights over the transport, i.e. transmission system operator or over the transport, i.e. transmission system; 2) directly or indirectly manage transport, i.e. transmission system operator or transport, i.e. transmission system and simultaneously directly or indirectly manage or exercise any other rights over entities performing production or supply; 3) appoint members of supervisory board or other management bodies, as well as legal representatives of the transport, i.e. transmission system operator and simultaneously directly or indirectly manage or exercise any other rights over entities performing production or supply and 4) simultaneously be members of supervisory boards or other management bodies, or legal representatives of the transport, i.e. transmission system operator and of entities performing production or supply);

- have employees, financial, material and technical means necessary for the performance of natural gas transmission;
- follow ten-year transmission system development plan;
- perform transmission and transmission system operation in line with the law.

Upon consideration of the submitted application, documentation submitted along with the application and all documents within the file, the following was established:

Having insight into act No. I-90 of September 20, 2016, whereby “Yugorosgaz-transport“, LLC, Niš submitted a notification that there are no circumstances which could lead to having a person or persons from a third country or third countries take control over the transmission system operator or over the transmission system, the notification was accepted since both the applicant and the founder “Yugorosgaz“, JSC, Belgrade when performing their activities comply with the Energy Law which is harmonised with the so-called Third Package of European Union Directives (they set prices in line with methodologies adopted by the Agency, comply with the Transmission Network Code which was adopted by “Yugorosgaz-transport“, LLC, Niš and approved by the Agency and with the Distribution Network Code which was adopted by “Yugorosgaz“, JSC, Belgrade and approved by the Agency, etc.).

Having insight into the Decision of “Yugorosgaz“, JSC, Belgrade No. 0-20 of May 12, 2016, it was established that vertically-integrated company submitted proposal for the appointment of an independent natural gas system operator in line with Article 232, paragraph 1 of the Energy Law.

Having insight into the submitted Memorandum of Association of “Yugorosgaz-transport“, LLC, Niš, it was established that this company was founded on December 18, 2012 and that, therefore, on October 6, 2011, transmission system was a part of a vertically-integrated company „Yugorosgaz“, JSC, Belgrade, and, therefore, it was estimated that in this case provisions of the Article 226 of the Law, enabling organisation of an independent system operator, are applicable.

Having insight into the submitted extract on the registration of the company, it was established that the applicant was founded and registered for the performance of pipeline transmission – activity code 4950 and having insight into the Decision on the Establishment of the Limited Liability Company “Yugorosgaz-transport“, LLC, Niš of December 2012, it was established that, apart from performing the main activity, the company is entitled to perform all activities which do not require prior approval of a state body and to perform activities within foreign trade field in the area of its activity.

Having insight into the Decision on the Establishment of the Limited Liability Company “Yugorosgaz-transport“, LLC, Niš of December 2012, it was established that the company was founded and

it operates as a single member limited liability company with the owner, i.e. its only member – Company for Construction of Gas Pipeline Systems, Natural Gas Transmission and Trade „Yugorosgaz“, JSC, Belgrade. In line with the Law on Business Entities (“Official Gazette of RS”, No. 36/11, 99/11, 83/14-other law and 5/15) there is one-tier governance over the company (company bodies include assembly and manager). The only member or person authorised in writing by the member has the jurisdiction of the assembly which appoints the manager and relieves the manager of duty and sets the level of compensation for his work. Pursuant to Article 37 of the Decision, the jurisdiction of the assembly, in line with the law and memorandum of association, is performed by the only member or person authorised in writing by the member. Having insight into the Decision of the Shareholders Assembly of „Yugorosgaz“, JSC, Belgrade No. C-III-2/2016 of July 18, 2016, it was established that the function of the Assembly of “Yugorosgaz-transport“, LLC, Niš is performed by Sergej Anikijev, who is not the manager.

From the above given, it is concluded that “Yugorosgaz-transport“, LLC, Niš did not submit a proof of compliance with the requirement on the independence of the transmission system operator prescribed by Article 225 of the Energy Law (as regards the independence of the management body of the entity performing natural gas production or supply and natural gas transmission), but that its organisation corresponds to the requirements of the Second Package of the European Union regulations which were implemented in the 2011 Energy Law as well as to the provisions of the Law on Ratification of the Agreement between the Federal Government of the Federal Republic of Yugoslavia and the Government of the Russian Federation on Cooperation on Construction of Gas Pipeline on the Territory of the Federal Republic of Yugoslavia. Since the compliance with requirements for the certification according to the independent system operator model asks for complete reorganization of the founder of “Yugorosgaz-transport“, LLC, Niš, i.e. that an independent system operator may also be a company out of a vertically-integrated company with precondition, i.e. harmonisation of the Law on Ratification of the Agreement between the Federal Government of the Federal Republic of Yugoslavia and the Government of the Russian Federation on Cooperation on Construction of Gas Pipeline on the Territory of the Federal Republic of Yugoslavia, Law on Ratification of the Treaty establishing the Energy Community between the European Community and the Republic of Albania, Republic of Bulgaria, Bosnia and Herzegovina, Republic of Croatia, Former Yugoslav Republic of Macedonia, Republic of Montenegro, Romania, Republic of Serbia and the United Nations Interim Mission in Kosovo in line with the United Nations Security Council Resolution and the Energy Law, therefore, it was estimated that the given issue does not depend solely on the applicant but it also includes the engagement of state bodies.

Having insight into the Statement of the acting manager of “Yugorosgaz-transport“, LLC, Niš on the compliance with conditions in terms of expert staff for the performance of natural gas transmission and transmission system operation, along with the Report of the Ministry of Energy, Development and Environment Protection No. 18-1/12-02 which is a constituent part of the Statement (No. I-3 of January 25, 2016), and having insight into the agreement on the delegation of activities of general interest concluded between “Yugorosgaz-transport“, LLC, Niš and the Government of the Republic of Serbia on June 7, 2013 and into the energy licence for natural gas transmission and transmission system operation No. 311.01-50/2013-JI-I of August 28, 2013, it was established that “Yugorosgaz-transport“, LLC, Niš submitted proof on employment of two persons for natural gas transmission, i.e. activities of an independent operator in line with Article 227 of the Energy Law.

Having insight into the Contract on lease of transmission system of „Yugorosgaz“, JSC, Belgrade concluded between „Yugorosgaz“, JSC, Belgrade and Yugorosgaz-transport“ LLC Niš (registered in „Yugorosgaz“ JSC Belgrade No. U-12 of February 5, 2014 and “Yugorosgaz-transport“, LLC, Niš, No. UG-3

of February 6, 2014), into the Statement of the acting manager of “Yugorosgaz-transport“, LLC, Niš (No. I-3 of January 25, 2016) with the Report of the Ministry of Energy, Development and Environment Protection No. 18-1/12-02 on the fulfillment of conditions in terms of expert staff performing energy activity, i.e. natural gas transmission and transmission system operation stating that “Yugorosgaz-transport“ LLC Niš has employees and technical and material means for the performance of natural gas transmission, i.e. activities of an independent operators in line with Article 227 of the Energy Law, into the the Statement of the acting manager of “Yugorosgaz-transport“, LLC, Niš that “Yugorosgaz-transport“, LLC, Niš has available financial and material means for the performance of gas transmission in line with the Energy Law (No. I-5 of January 25, 2016), it was established that “Yugorosgaz-transport“, LLC, Niš submitted proof on employees and technical means necessary for natural gas transmission and that the company has available financial and material means for natural gas transmission, i.e. for the activities of an independent operator in line with Article 227 of the Energy Law.

Having insight into the submitted Plan for the Development of the Transmission System of “Yugorosgaz-transport“ LLC Niš for the period 2015-2025, it was established that the approval of the Energy Agency of the Republic of Serbia has not been obtained as prescribed by Article 250 of the Energy Law (the approval procedure is ongoing). Having insight into the Statement of the acting manager of “Yugorosgaz-transport“, LLC, Niš that “Yugorosgaz-transport“, LLC, Niš will follow the ten-year natural gas development plan in line with the Energy Law and that “Yugorosgaz-transport“, LLC, Niš holds an energy licence for natural gas transmission and transmission system operation, issued by the Energy Agency of the Republic of Serbia, No. 311.01-50/2013-Ј-I of August 28, 2013 (No. I-6 of January 25, 2016), it is established that the applicant submitted proof that the applicant will follow the ten-year transmission system development plan.

Having insight into the Agreement (registered with „Yugorosgaz“, JSC, Belgrade under No. U-44 of May 11, 2016 and with “Yugorosgaz-transport“, LLC, Niš under number UG-7 of May 9, 2016), it was established that the parties agreed on financing investments defined by the ten-year transmission system development plan in a way that “Yugorosgaz“, JSC, Belgrade will finance further construction of the main gas pipeline RG 11-02 from its own funds, in line with the decision of the Management Board of “Yugorosgaz“, JSC, Belgrade. On the other hand, in line with the law and the ten-year transmission system development plan, “Yugorosgaz-transport“, LLC, Niš will adopt a decision on the continuation of construction of the main gas pipeline RG 11-02 and submit it to “Yugorosgaz“, JSC, Belgrade for realisation; “Yugorosgaz“, JSC, Belgrade committed to settle the liabilities relevant for the transmission system, i.e. obligations in terms of equity guarantees from its own funds; “Yugorosgaz-transport“, LLC, Niš committed to settle liabilities arising from current transactions from its own funds. Assessing the submitted agreement, it was established that the agreement did not regulate the guarantees which would provide for the financing of the transmission system development and they should be submitted so as they could be assessed by the Agency.

Having insight into the Statement of the acting manager of “Yugorosgaz-transport“, LLC, Niš No. I-7 of January 25, 2016 confirming that “Yugorosgaz-transport“, LLC, Niš will perform natural gas transmission and transmission system operation in line with the law, it is established that the applicant submitted the proof that the applicant will perform transmission and transmission system operation in line with the law.

The provision of Article 230 of the Energy Law prescribes that the transmission system owner has to be independent in terms of its legal form, organisation and decision-making process from other activities

which are not related to natural gas transmission. The independence of the transmission system owner is provided by having: 1) members of the management bodies of the entity which is the transmission system owner must not be the members of the management bodies or employees in the company dealing with natural gas production or supply; 2) members of management bodies of the entity which is the transmission system owner independent in terms of decision-making procedure and 3) the owner adopt and follow the programme for non-discriminatory behaviour.

Having insight into the Contract on Organisation of "Yugorosgaz" JSC Belgrade (the founder and the single member of "Yugorosgaz-transport", LLC, Niš), it was established that the shareholders of the company are the following: GAZPROM, Moscow, 16 Namjotkina Street, CENTRAL ME ENERGY&GAS GMBH, 17 Wiedner Hauptstrasse Street, Vienna, Austria and Public Enterprise "Srbijagas" Novi Sad, 12 Narodnog fronta Street. The company bodies include: Assembly, Supervisory Board and Executive Board.

"Yugorosgaz", JSC, Belgrade was established on the basis of the Law on Ratification of the Agreement between the Federal Government of the Federal Republic of Yugoslavia and the Government of the Russian Federation on Cooperation on Construction of Gas Pipeline on the Territory of the Federal Republic of Yugoslavia ("Official Gazette of FRY – International Treaties", No. 4/96). By signing this Agreement, the contracting parties supported the establishment of a joint stock company in the Federal Republic of Yugoslavia by the Russian joint stock company "Gazprom" (RAO "Gazprom") and Yugoslav enterprises which are appointed by the Yugoslav party in order to design, construct and finance works, exploitation of given gas pipelines and sales of natural gas which is transmitted via those gas pipelines to customers in the Federal Republic of Yugoslavia and possible transit through the territory of the Federal Republic of Yugoslavia.

Having insight into the Decision on the appointment of a person who will give the jurisdiction of the Assembly of "Yugorosgaz-transport", LLC, Niš, it was established that the function of the Assembly is performed by Sergej Anikijev on behalf of "Yugorosgaz", JSC, Belgrade.

Having the above given in mind, it is concluded that this company, being the owner of the transmission system, is not independent in terms of legal form, organisation and decision-making process from other activities which are not related to natural gas transmission (Article 230 of the Law). In addition, there is no functional independence of management bodies' members of "Yugorosgaz", JSC, Belgrade. In this context, since the compliance with conditions for certification in line with the model – independent system operator requires full reorganisation of the founder of "Yugorosgaz-transport", LLC, Niš, i.e. independent system operator may also be a company out of a vertically-integrated company, which preresquires the harmonisation of the Law on Ratification of the Agreement between the Federal Government of the Federal Republic of Yugoslavia and the Government of the Russian Federation on Cooperation on Construction of Gas Pipeline on the Territory of the Federal Republic of Yugoslavia, the Law on Ratification of the Treaty establishing the Energy Community between the European Community and the Republic of Albania, Republic of Bulgaria, Bosnia and Herzegovina, Republic of Croatia, Former Yugoslav Republic of Macedonia, Republic of Montenegro, Romania, Republic of Serbia and the United Nations Interim Mission in Kosovo in line with the United Nations Security Council Resolution and the Energy Law, it is estimated that the above given procedures do not depend solely on the applicant, but it includes the involvement of state bodies. Therefore, decision reads as referred to in item 2 hereof. Having particularly in mind the provisions of Article 227, paragraph 2 of the Energy Law which prescribe that the appointment of an independent system operator is organised in line with obligations assumed on the international level which, in this concrete case, not only arise from the Treaty establishing the Energy

Community but also from the Agreement between the Federal Government of the Federal Republic of Yugoslavia and the Government of the Russian Federation on Cooperation on Construction of Gas Pipeline on the Territory of the Federal Republic of Yugoslavia.

With reference to the Programme for Non-Discriminatory Behaviour, in line with Article 237, in connection with Article 280 of the Energy Law, it is estimated that the drafting of the Programme is possible only after the realization of activities aiming at the compliance with conditions prescribed in Article 230 of the Energy Law. Therefore, the decision reads as given in item 2 hereof.

With reference to this and considering that the given company, as the founder of the certification applicant, was established on the basis of the agreement between two governments and that in line with Article 227 of the Energy Law, the appointment of an independent system operator is realized in line with obligations assumed on the international level and that the Energy Agency of the Republic of Serbia is obliged to monitor continuously whether the certified system operator complies with the conditions referred to in Article 223 of this Law, the Agency estimated that it is possible to certify "Yugorosgaz-transport", LLC, Niš provided that the company complies with the conditions prescribed by Articles 225 and 230 of the Energy Law in terms of independence, submission of the Programme for Non-Discriminatory Behaviour and ten-year development plan, which should be adopted in line with the Law, as well as an act signed with the transmission system owner which provides guarantees which will enable financing of the transmission system development. The deadline for the compliance with these conditions is 12 months since the day of adoption of the final decision.

The twelve-month deadline referred to in paragraph 2 of the text of the Decision is given since this Agency estimated that it is necessary to amend certain regulations of the Republic of Serbia in order to enable compliance with some of the above given conditions and estimated that the procedure of approval of development plan and the programme for non-discriminatory behavior will be completed.

On the basis of all the above given, on the 12th extraordinary session on December 12, 2016, in line with Article 39, paragraph 1 and 49, paragraph 3 in connection with Articles 240 and 241 of the Energy Law ("Official Gazette of RS", No. 145/14), Article 24 of the Rulebook on Energy Licence and Certification ("Official Gazette of RS", No. 87/15) and Article 12 of the Statute of the Energy Agency of the Republic of Serbia ("Official Gazette of RS", No. 52/05), the Council of the Energy Agency of the Republic of Serbia decided as stated in the text of the decision.

Decision submitted to:

- 1) the applicant;
- 2) Ministry of Mining and Energy;
- 3) archive

PRESIDENT OF THE COUNCIL

Ljubo Mačić