

Energy Agency  
of the Republic of Serbia  
No: 312-3/2016-C-I  
Date: January 26, 2017  
Belgrade, Terazije 5/V

Acting upon the application of the Joint Stock Company "*Elektromreža Srbije*" with headquarters in Belgrade, 11 Kneza Miloša Street, Company Registration Number: 20054182, Tax Identification Number: 103921661, of October 25, 2016 for the certification of electricity transmission system operator, in line with Article 39, paragraph 1 and Article 49, paragraph 3 in connection with Articles 101, paragraph 1 and 102 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. 87/05) and Article 12 of the Statute of the Energy Agency of the Republic of Serbia ("Official Gazette of RS", No. 52/05), on its 360<sup>th</sup> session held on January 26, 2017, the Council of the Energy Agency of the Republic of Serbia adopted:

#### DECISION

1. A certificate is issued to the Joint Stock Company "*Elektromreža Srbije*" with headquarters in Belgrade, 11 Kneza Miloša Street, Company Registration Number: 20054182, Tax Identification Number: 103921661 (hereafter: "*EMS*" JSC Belgrade) as to the electricity transmission system operator.
2. "*EMS*" JSC Belgrade is obliged to:
  - take all necessary actions with authorised bodies of the Republic of Serbia in order to harmonise ruling regulations of the Republic of Serbia so as to comply with conditions concerning the independence of the transmission system operator;
  - take all necessary activities with authorised bodies of the Republic of Serbia in order to register ownership rights over facilities which constitute the electricity transmission system or submit other proofs of its rights over them in line with the law.
3. "*EMS*" JSC Belgrade is obliged to act in line with item 2 hereof within a 12-month deadline since the day of the 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 re-evaluate the conditions for certification and adopt a decision on the withdrawal of the certificate referred to in item 1 hereof.
4. "*EMS*" JSC Belgrade 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 in three months.
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 October 25, 2016, Public Enterprise "*Elektromreža Srbije*" with headquarters in Belgrade, 11 Kneza Miloša Street, Company Registration Number: 20054182, Tax Identification Number: 103921661

submitted an application for the certification of the electricity transmission system operator in line with the provision of Article 100 of the Energy Law ("Official Gazette of RS", No. 145/14).

The provision of Article 100 of the Energy Law prescribes that prior to having an entity awarded with a licence and thereby appointed as the transmission system operator, the entity must be certified in line with this law.

The provision of Article 101 of the given law prescribes that the act referred to in Article 27, paragraph 7 of the Law (Rulebook on Energy Licence and Certification) regulates the following in more detail: certification procedure, content of certification application, content of certification decision and documents accompanying the application, in particular: 1) data on the applicant, including data on equity, list of co-owners, annual financial reports with auditor reports, Memorandum of Association, i.e. Statute; 2) proofs of ownership rights and other rights over the network; 3) data on the control over the transmission system, bodies and persons with direct or indirect control over the system operator and 4) other documents and data necessary for the certification procedure.

Along with the certification application, the applicant submitted:

1. Statute of the Public Enterprise "*Elektromreža Srbije*" Belgrade and the Decision on the amendments of the Memorandum of Association of the Public Enterprise "*Elektromreža Srbije*" Belgrade;
2. Extract on the registration of the company of October 15, 2015;
3. Decision on harmonisation of operations of Public Enterprise "*Elektromreža Srbije*" Belgrade with the Law on Public Enterprises („Official Gazette of RS", No. 50/13);
4. Financial Report for 2015 with the auditor report: income statement for the period from January 1, 2015 to December 31, 2015; balance sheet on December 31, 2015; Report on modifications of equity for the period from January 1, 2015 to December 31, 2015; Report on cash flow for the period from January 1, 2015 to December 31, 2015; Statement on Other Comprehensive Income; remarks along with Financial Reports for 2015;
5. Documentation on ownership rights over power facilities for: Kruševac Substation, Belgrade Substation, Novi Sad Substation, Valjevo Substation, Bor Substation;
6. Statement on licences owned by Public Enterprise "*Elektromreža Srbije*";
7. Statement on the basis of Article 22, paragraph 1, item 5) and 6) of the Rulebook on Energy Licence and Certification;
8. Statement on persons/entities that are under direct or indirect control of the Public Enterprise "*Elektromreža Srbije*", Belgrade;
9. Decision on defining activities of the Executive Board of the Public Enterprise "*Elektromreža Srbije*", Belgrade;
10. Decision on the appointment of the Chairman and the members of the Executive Board of the Public Enterprise "*Elektromreža Srbije*", Belgrade;
11. Decision on the appointment of the Chairman of the Supervisory Board of the Public Enterprise "*Elektromreža Srbije*", Belgrade;
12. Decision on the appointment of the General Manager of the Public Enterprise "*Elektromreža Srbije*", Belgrade;
13. Rules of Procedure of the Executive Board of the Public Enterprise "*Elektromreža Srbije*", Belgrade;
14. Statement on the Manager and other persons authorised to represent the Public Enterprise "*Elektromreža Srbije*", Belgrade;

15. Rulebook on Trade Secret of June 18, 2015, No. 7302/11.1 adopted by the Supervisory Board of the Public Enterprise "Elektromreža Srbije", Belgrade;
16. Rulebook on Protection of Data Confidentiality in the Public Enterprise "Elektromreža Srbije", Belgrade of January 28, 2016, No. 9-3-1/1027 adopted by the General Manager of the Public Enterprise "Elektromreža Srbije", Belgrade;
17. Statement on employees who shifted to the legal person which is being certified and who used to perform management operations or who used to be the members of management bodies in companies performing electricity or natural gas production or supply in the period six months prior to the submission of certification application;
18. Statement on the representatives of public authorities who have either direct or indirect control over the certification applicant or who have shares in the applicant company.

Upon consideration of the submitted application, in line with Article 49, paragraph 3 of the Energy Law ("Official Gazette of RS", No. 145/14) and starting from the fact that there was a modification of the legal form of the Public Enterprise "Elektromreža Srbije" Belgrade into a joint stock company („Official Gazette of RS", No. 88/16), following the submission of the application on which the Agency was informed in written by the applicant by act No. 271/23 of November 14, 2016, the applicant was invited to submit new documentation harmonised with the modification of the legal form by act No. 312-3/2016-C-I of November 18, 2016.

In addition to the above given, upon consideration of the submitted application and the documentation accompanying the application, it was acknowledged that the submitted documentation was not complete and the applicant was invited by the act No. 312-3/2016-C-I of November 18, 2016 to submit the following documents in line with Article 58, paragraph 1 and 2 and Article 127 of the Law on General Administrative Procedure:

- 1) Proof on ownership rights and other rights over the network (Article 22, paragraph 1, item 3) of the Rulebook);
- 2) Statement on compliance with the provision on independence in cases when the same representative of public authorities has either direct or indirect control over energy facilities which perform electricity or natural gas production or supply, and, at the same time, has either direct or indirect control or holds any other authorization over the transmission system operator or over the transport system (Article 22, paragraph 1, item 18) of the Rulebook);
- 3) Evidence confirming compliance with the conditions referred to in Article 98 of the Law (control and ownership over the transmission system operator – template OC2, item A) the first and the third indent, with the specification of the nature of the control and the way it is exercised, more closely defined in the given indents;
- 4) Specification of energy facilities constituting the transmission system (template OC1, item IV, sub-item 21);
- 5) proof of payment of Republic administrative fee amounting to RSD11,520 for the application for the adoption of a decision on certification and RSD115,170 for the decision on certification (Tariff number 140a) as well as the amount of 260 for the notice on fee payment (Tariff number 18) in line with Article 14, paragraph 2 of the Law on Republic Administrative Fees ("Official Gazette of RS", No. 6p.43/03 and 50/16 – harmonised RSD amount). The payment is made in favour of the budget of the Republic of Serbia – administrative fee to the giro account No. 840-742221843-57.

The applicant was invited to submit the above given in the period 15 days since the submission of the invitation. Otherwise, the application would have been considered as a non-existent, and a separate decision would have been adopted on this.

The provision of Article 98 of the Energy Law prescribes that the independence of the transmission system operator is exercised by not having the same person or persons authorised to:

- 1) exercise control directly or indirectly over energy entities performing electricity production or supply and, at the same time, exercise control directly or indirectly or hold any other authorization over the transmission system operator or transmission system;
- 2) exercise control directly or indirectly or hold any other authorization over the transmission system operator or transmission system and, at the same time, exercise control directly or indirectly over energy entities performing electricity production or supply;
- 3) appoint members of supervisory board or of other management bodies, as well as legal representatives of the transmission system operator and, at the same time, exercise control directly or indirectly over energy entities performing electricity production or supply and
- 4) be members of supervisory boards or other management bodies as well as legal representatives of the transmission system operator and of energy entities which perform electricity production or supply simultaneously.

The provision of Article 99 of the Energy Law prescribes that, in case that the Republic of Serbia or a state body is the person/entity referred to in Article 98 of the Law, control over the transmission system operator on one hand and over energy entities performing electricity production or supply on the other hand cannot be exercised by the same person, i.e. the same state body. In case different persons, i.e. state bodies exercise control, they cannot be controlled by the same third person.

The provision of Article 409 of the Energy Law prescribes that on the day the Law enters into force the property of the Public Enterprise "*Elektromreža Srbije*" Belgrade is established on the power network which is owned by the Republic of Serbia on the day this Law enters into force and which is used by the Public Enterprise. In the sense of this Article, network does not include the land (except the land under a facility constituting power network and the land used for the regular use of the facility), business buildings and other buildings, roads and other buildings, and other constructed facilities, apartments and other real estate which are located within or in the vicinity of power networks, but which do not represent a functional whole with the network, and the regime of which is regulated by separate regulations.

The system operator which was awarded with the property of the power network by Article 409, paragraph 1 of the Law which is not registered in the public real estate register is obliged to submit an application with the competent body for the entry of ownership rights in the period of two years since the day the Law enters into force.

Upon consideration of the submitted application, of documentation accompanying the application and of all documents in the file, the following was acknowledged:

Having insight into the submitted extract on the registration of the company of December 26, 2016, it was established that the applicant was registered as the Joint Stock Company "*Elektromreža Srbije*" Belgrade and that it was established and registered for the performance of electricity transmission – activity code 3512 and, having insight into the Decision on Amendments of the Memorandum of Association of the Public Enterprise "*Elektromreža Srbije*" Belgrade, 05 No. 023-10175/2016 of October 27, 2016, it was established that, apart from performing the main activity, the company is entitled to perform all other activities in line with ruling regulations, general acts and decisions of the enterprise bodies.

Having insight into the Decision on Amendments of Memorandum of Association of Public Enterprise "*Elektromreža Srbije*", Belgrade, it was established that the company changed its legal form from the public enterprise to the joint stock company and that it continues to operate as a joint stock company in line with regulations defining legal status of companies and regulations defining operations of public enterprises. The founder and the only shareholder of the Company is the Republic of Serbia and the owner's rights are exercised by the Government. There is one-tier management organisation within the Company.

The Company bodies include Assembly and the Board of Directors with the General Manager. The Assembly function is exercised by the Founder via its authorised representatives.

Having insight into the Statement No. 2533 of December 21, 2016, the following was established: „EMS“ JSC, Belgrade is a company with registered headquarters in 11 Kneza Miloša Street, Belgrade, Serbia, registered in the Companies Registry kept by the Serbian Business Registry Agency under the Company Registration Number: 20054182 and Tax Identification Number: 103921661. The first decision on the establishment of the company for electricity transmission „Elektroistok“ as a company for electricity transmission in the Republic of Serbia was adopted by the Executive Council of the People’s Republic of Serbia on June 28, 1958. The management function within the power system of the Republic of Serbia was established within the Joint Serbian Power Company („Združena Elektriprivreda Srbije“) in 1965, which was later followed by the Public Enterprise „Elektriprivreda Srbije“, Belgrade.

In line with the 2004 Energy Law, the Public Enterprise „Elektromreža Srbije“, Belgrade was established by unbundling the Power System Operation Division from the Public Enterprise „Elektriprivreda Srbije“ and merging it with the Public Enterprise „Elektroistok“ so as the Enterprise could perform transmission and transmission system operation. The Enterprise started working on 01/07/2005 and, thereby, transmission system operation function was unbundled from the electricity production and supply function in line with the European Union regulation.

The Decision of the Serbian Business Registry Agency No. BD-88869/2016 of 08/11/2016 acknowledges the modification of the legal form of the Public Enterprise „Elektromreža Srbije“, Belgrade and the company functions as a joint stock company as of 08/11/2016. The founder and the only shareholder of the Enterprise is the Republic of Serbia and the owner’s rights are exercised by the Government.

The „EMS“ JSC Belgrade bodies include Assembly and the Board of Directors with the General Manager. The adoption of acts and decisions is within the jurisdiction of all bodies, in line with ruling regulations, Decision on Amendments of the Memorandum of Association of the Public Enterprise „Elektromreža Srbije“, Belgrade („Official Gazette of RS“, No. 88/16) and the Statute of the Joint Stock Company „Elektromreža Srbije“, Belgrade („Official Gazette of RS“, No. 88/16). The representatives in the Assembly (Assembly Chairman and members) and the General Manager are appointed by the Founder (Government).

The „EMS“ JSC Belgrade Assembly has five members and they adopt the following decisions: adopt reports on the level of realisation of business programme; adopt financial reports of the Company and consolidated financial reports with an authorised auditor report; decide on the change of headquarters and the business name of the Company; adopts decision on acquisition, alienation, encumbrance or lease of real estate and movable property with market value at the moment when the decision is made exceeds EUR 1,000,000.00 in RSD counter value in line with the average exchange rate defined by the National Bank of Serbia on the day the decision is adopted; adopts a decision on the Company property collaterals, provision of guarantees, avals (bills-of-exchange), pledge or pawns burdening the Company property, in the amount exceeding EUR 1,000,000.00 in RSD counter value in line with the average exchange rate defined by the National Bank of Serbia on the day the decision is adopted; adopts a decision on Company borrowing on the total annual level, in the amount exceeding EUR 1,000,000.00 in RSD counter value in line with the average exchange rate defined by the National Bank of Serbia on the day the decision is adopted; adopts reports of the Board of Directors; adopts the salary policy of the General Manager and Executive Managers and approves the text of the employment contract of the General Manager and Executive Managers; concludes employment contract with the General Manager and appoints the Assembly Chairman or another authorized representative in the Assembly who will adopt separate legal acts in the field or connected to rights, obligations and responsibilities of the General Manager arising from employment on behalf of the Company; adopts an act which regulates standards and prices of other services provided by the Company; decides upon establishment and closure of Company branches and appoints representatives of these branches; decides on issues related to due liabilities, i.e. approves debt-reprogramming scheme, debt write-off and similar issues, if the amount exceeds EUR 1,000,000.00 in RSD counter value in line with the average

exchange rate defined by the National Bank of Serbia on the day the decision is adopted; decides on expenditures and alienation of fixed assets, small tools and personal protection equipment with accounting value per item exceeding EUR 1,000,000.00 in RSD counter value in line with the average exchange rate defined by the National Bank of Serbia on the day the decision is adopted; decides on the adoption of the report on regular annual and extraordinary inventory of assets and commitments; decides on other issues in line with the Law, Statute and general acts of the Company.

The approval of the Founder is required for: the decision on the adoption of long-term and medium-term plan of business strategy and development; adoption of the business programme harmonized with long-term and medium-term plan of business strategy and development; decision on the allocation of profit, i.e. the method for loss coverage decision on amendment of Statute; decision on the increase and decrease of equity, as well as on each security issuance; act on the assessment of the Company capital value; decision on the change of main activity; decision on acquisition and disposal of property of high value (i.e. the property with buy rate and/or sell rate and/or market value at the moment decision is made amounts to 30% or more than the accounting value of the total equity of the company indicated in the last annual balance sheet, in line with the provision of the law regulating the legal status of companies); decision on collaterals based on Company property, provision of guarantees, avals (bills-of-exchange), pledge, pawns which burden the Company assets, when the collateral is provided for operations which are not within the scope of activity of general. With the prior approval of the Founder, the Assembly of "EMS" JSC Belgrade decides on status changes, establishment of other legal entities and investments of capital.

Having insight into the Statement No. 2533 of December 21, 2016, the following was established: "EMS" JSC Belgrade is a joint stock company which is 100% owned by the Founder, i.e. the Republic of Serbia.

"EMS" JSC Belgrade is a legal entity with rights, obligations and responsibilities prescribed by the law regulating the legal status of public enterprises and by the law regulating the legal status of companies (hereafter: laws), as well as by the Decision on Amendment of the Memorandum of Association of the Public Enterprise "Elektromreža Srbije", Belgrade („Official Gazette of RS“, No. 88/16) and the Statute of the Joint Stock Company "Elektromreža Srbije", Belgrade („Official Gazette of RS“, No. 88/16).

The "EMS" JSC Founder's rights are exercised by the Government, while the "EMS" JSC Belgrade bodies include: Assembly and Board of Directors with the General Manager. The Assembly Chairman and members are appointed by the Government and the Assembly scope of work is defined by the provisions of the laws and general acts of "EMS" JSC Belgrade. There are five members of the "EMS" JSC Belgrade Assembly.

The General Manager is appointed by the Government. The General Manager is a legal representative of "EMS" JSC Belgrade, representing it independently without limitations and performing other duties in line with general acts.

The Board of Directors is a seven-member body including the General Manager who is the Chairman of the Board of Directors and six Executive Managers who are appointed by the General Manager. The scope of their work is defined by general acts and provisions of the Decision on Establishment of Activities of the Executive Board of PE "Elektromreža Srbije", Belgrade, No. 12131/5 of 24/09/2014.

The Assembly, Board of Directors and the General Manager exercise direct or indirect control by fulfilling the management function, decision-making function, as well as by operational management of activities.

Assembly members and the members of the Board of Directors have no right to hold shares in "EMS" JSC Belgrade.

Having insight into documentation submitted by "EMS" JSC Belgrade (Template OC2 of the Rulebook on Energy Licence and Certification), it was established that the Government, as the Founder of

“EMS” JSC Belgrade, also exercises control over the Public Enterprise “*Elektroprivreda Srbije*”, Belgrade which has electricity supply as its main activity while it also performs electricity production.

The Agency, having direct insight in the Decision on Harmonisation of Operations of Public Enterprise “*Elektroprivreda Srbije*” (“Electric Power Industry of Serbia”), Belgrade with the Law on Public Enterprises 05, No. 023-12129/2016 of December 23, 2016 („Official Gazette of RS“, No. 105/16), it was established that the Government is the Founder of the Public Enterprise “*Elektroprivreda Srbije*”, Belgrade. The Government, which exercises the Founder’s rights in “EMS” JSC Belgrade also has control over the Public Enterprise “*Elektroprivreda Srbije*”, Belgrade which has electricity trade as its main activity (electricity supply is within the scope of this), and which, in addition to its main activity, also deals in: lignite and brown coal exploitation, electricity production, heat production, economic entity management and cable telecommunications. The bodies of the Public Enterprise include Supervisory Board, Manager and Executive Manager. The Government appoints the members of the Supervisory Board (Chairman and four members) and the General Manager. The Supervisory Board adopts long-term and medium-term plan of business strategy and development and it is responsible for their implementation; adopts annual, i.e. three-year business programme; adopts a report on the level of realization of the annual, i.e. three-year business programme; adopts three-month report on the level of harmonization between planned and realized activities; adopts financial reports and consolidated financial reports; monitors the work of the Manager; adopts the Statute; decides on status changes, establishment of other legal entities and investment of capital; adopts a decision on profit allocation, i.e. the method for loss coverage; appoints and dismisses the members of the Auditor’s Commission; adopt an act on payment of executive incentives to the Manager and Executive Managers; concludes employment contracts with the Manager, proposes an adoption of a decision on the change of legal form to the Founder; has other duties in line with the law and the statute. The Manager represents the public enterprise; organizes and manages the work process; manages public enterprise operations; is responsible for the lawfulness of work; proposes long-term and medium-term plan of business strategy and development and is responsible for their implementation; proposes annual, i.e. three-year business programme and is responsible for their implementation; proposes financial reports; submits three-month reports on the realization of annual, i.e. three-year business programme; implements the decision of the Supervisory Board; appoints Executive Managers, concludes employment contracts with Executive Managers; appoints Public Enterprise representatives within the Assembly of the Enterprise owned by the Public Enterprise only; proposes an act on payment of executive incentives to an Executive Manager; adopts an act on internal organization and job classification; has other duties prescribed by the law. The Executive Manager has duties within the scope of authorization defined by the Manager, in line with the Memorandum of Association and the Statute.

In line with the Law on Public Enterprises and the given decision, in order to secure the protection of general interest, the Government approves the following acts: long-term and medium-term plan of business strategy and development; annual, i.e. three-year business programme; about the allocation of profit, i.e. the way of loss coverage; statute; provision of guarantees, avals (bills-of-exchange), pledge, pawns and other security means for operations which are not within the scope of activity of general interest; tariff (decision on prices, tariff system, etc.) unless it was prescribed by another law that the approval of this is given by another state body; disposal (acquisition and alienation) of high value means which are publicly owned and transferred to the Public Enterprise property and which has the direct function in the performance of an activity of general interest, set by the Memorandum of Association; act on general conditions for the delivery of products and services; investment of capital; changes of status, act on the assessment of the value of the capital, as well as the program and the decision on ownership structure change; other decisions in line with the law which regulates the activities of general interest and with the Memorandum of Association.

It arises from the above given that “EMS” JSC Belgrade did not submit evidence on compliance with the condition implying the independence of the transmission system operator as prescribed in Article 98 of the Energy Law (in terms of independence from the management body of an entity performing electricity production or supply) since the Government exercises control both over the transmission system operator (in this case, “EMS” JSC Belgrade) and over an energy entity performing electricity production and supply (in

this case, Public Enterprise “*Elektroprivreda Srbije*”, Belgrade). However, the compliance with the given condition requires the amendment of relevant regulations of the Republic of Serbia (Law on Government, Law on Ministries, Law on Public Enterprises). The Ministry of Mining and Energy recognised the need to amend regulations related to the competences of the Government and the ministries that is necessary to provide conditions for the enforcement of the Energy Law in terms of certification and they stated it in the background of the Law draft which was submitted to the Government for consideration and which was adopted on December 29, 2014 by the National Assembly of the Republic of Serbia. With reference to this and bearing in mind that the amendment of these regulations does not depend on the applicant and is not in their jurisdiction, but it depends on and is strictly in the jurisdiction of relevant state bodies, the decision was made as it reads in the enacting terms of this Decision.

Having insight into the 2015 Financial Report, with the auditor's report: Income Statement for the period from January 1, 2015, Balance Sheet on December 31, 2015, Statement on Changes in Equity for the period from January 1, 2015 to December 31, 2015, Report on Cash Flow for the period from January 1, 2015 to December 31, 2015, Statement on Other Comprehensive Income, Notes to 2015 Financial Reports, it was established that the applicant submitted required financial documentation. The assessment of it confirmed that the applicant complied with the financial requirements in line with the Rulebook on Energy Licence and Certification (“Official Gazette of RS”, No. 87/05).

Having insight into submitted specification of energy facilities which constitute the transmission system: transmission lines, overhead and cables, transformer stations (TS), switching stations (SS) and meters on all delivery points from and into the transmission system, it was established that the applicant submitted the specification of energy facilities where it performs electricity transmission and transmission system operation.

Having insight into submitted specification of facilities, it was established that the transmission system includes:

- 1) Overhead lines (OHL), 449 of them in total with the total length of 9,408 km, divided in voltage levels:
  - 400 kV – 37, with the total length of 1,626 km;
  - 220 kV – 48, with the total length of 1,917 km;
  - 110 kV – 358, with the total length of 5,804 km;
  - 35 kV – 6, with the total length of 141 km;
- 2) Cables of 110 kV voltage level, 2 of them in total, with the total length of 6.1 km;
- 3) Transformer stations (TSs), 30 of them in total, with the total installed capacity of 15,396 MVA, divided in voltage levels:
  - 400/X kV/ kV – 14, with total installed capacity of 9,750 MVA;
  - 220/X kV/ kV – 13, with total installed capacity of 5,343 MVA;
  - 110/X kV/ kV – 3, with total installed capacity of 303,5 MVA and
- 4) Switching substations (SSs), 8 of them in total, divided in voltage levels:
  - 400 kV – 4;
  - 220 kV – 1,
  - 110 kV – 3.

In line with the provisions of Article 409 of the Energy Law, on the day the Law enters into force, the ownership of the “EMS” JSC Belgrade is established on the power network which is owned by the Republic of Serbia on the day this Law enters into force and which was used by the Public Enterprise. The provisions of Article 410 and 411 of the Law prescribe several methods to prove ownership rights over the network (contract on the transfer of ownership rights, contract on the construction, registry ownership excerpt, etc.),



as well as its obligation to submit an application with the competent body for the entry of ownership rights over facilities which have not been registered in the public real estate registry in the period of two years since the day the Law enters into force. The entry will be made based on the confirmation of the Founder, which is given by the ministry in charge of energy issues on behalf of the Government.

Bearing in mind the given legal provisions and assessing the compliance with the conditions for certification in terms of submission of proofs of ownership rights and other rights over the network, after consideration of submitted specification with accompanying documentation which includes decisions on construction permit, certificates issued by the Ministry of Mining and Energy, excerpts from the real estate registry, applications for the entry of ownership rights over overhead lines and transformer stations, applications for legalisation of transformer stations and overhead lines, it was established that the applicant submitted applications for the entry of ownership rights over facilities where the ownership right was not registered in the favour of the applicant to the competent body within the prescribed deadline. However, "EMS" JSC Belgrade did not submit adequate evidence for the establishment of ownership rights and other rights over all power facilities constituting the transmission system since some facilities were not enlisted in the real estate inventory kept by the Republic Geodetic Authority – Real Estate Cadastre. For the given reason, and for the fact that the applicant does not hold certificate of occupancy for all facilities that are used for electricity transmission and transmission system operation, the ownership rights were not registered for the following facilities:

- 1) overhead lines (the following is indicated: voltage level, number of OHLs and TSs connected by it):
  - 400 kV: 451/2 TS Belgrade 20–TS Pančevo 2, 403 Bor 2 – Niš 2 (part I), 405 Đerdap 1 – Portile – Romania, 457 Đerdap 1 – HPP Đerdap 1, 458 Đerdap 1 – HPP Đerdap 1, 459 Đerdap 1 – HPP Đerdap 1, OHL No. 403, TS Bor 2 - border - TS Niš 2 400, OHL No. 404, TS Niš 2 - TS Sofia West, OHL No. 461, TS Leskovac 2 - TS Vranje 4, OHL No. 462, TS Vranje 4 - TS Štip;
  - 220 kV: 228 TS Belgrade 5 - TS Obrenovac A, 250 TS Belgrade 5 - TS Obrenovac A, 263A TS Obrenovac A - TPP Obrenovac A, 263B TS Obrenovac A - TPP Obrenovac A, 294A TS Belgrade 5-TS Obrenovac A, 294B TS Belgrade 5-TS Obrenovac A, OHL 220 kV No.217/1 TS Obrenovac A - TS Novi Sad 206/1 Bajina Bašta - Pljevlja 2, 209/1 Bajina Bašta – Sremska Mitrovica, 210 Bajina Bašta -HPP Bajina Bašta, 211 Bajina Bašta - HPP Bajina Bašta, 266 Požega - Pljevlja 2, OHL No. 205/2, TS Podujevo - TS Kruševac 1, OHL No. 214/1, TS Kruševac 1 - TS Kraljevo 3, OHL No. 214/2, TS Kraljevo 3 - TS Požega;
  - 110 kV: 101A/3 TS Smederevo 1-TS Smederevo 4, 101A/4 TS Smederevo 4 – TPP Kostolac, 102A/1 TPP Kostolac -TS Požarevac, 102A/2 TS Požarevac -TS Petrovac, 102B/1 TPP Kostolac - TS Požarevac, 102B/2 TS Požarevac -TS Petrovac, 104/1 TS Belgrade 2 - TS Belgrade 32, 104/2 TS Belgrade 32 - TS Belgrade 5, 104/3 TS Belgrade 5 - TS Belgrade 9, 104A/4 TS Belgrade 9 - TS Nova Pazova, 104B Hub TS Belgrade 9-TS Stara Pazova, 105/1 TS Petrovac– TPP Morava, 110A/1TS Smederevo 2 - TS Смедерево 3, 10Б/1TS Smederevo 2 - TS Smederevo 3, 117/1 TS Belgrade 2 - TS Belgrade 35, 117/2 TS Belgrade 35 –TPP Kolubara, 121/1+1180A TS Belgrade 22 - TS Belgrade 10, 10121/2 TS Belgrade 10-TS Obrenovac A, 121/3 TS Obrenovac A-Traction Substation Brgule, 21/4 Traction Substation Brgule - TPP Kolubara, 122 B TS Petrovac –TS Bor 1, 128/4 TS Neresnica-TS Petrovac, 129A/1 TS Belgrade 19- TS Belgrade 20, 129 B/1 TS Belgrade 19-TS Belgrade 20, 129A/2 TS Belgrade 3- TS Belgrade 20, 129 B/2 TS Belgrade 3 - TS Belgrade 20, 130/1 TS Belgrade 2 - TS Belgrade 21, 130/2 TS Belgrade 21- TS Belgrade 16, 130/3 TS Belgrade 16- TS Belgrade 3, 136A/2 TS Belgrade 11-TS Belgrade 17, 136 B/1 TS Belgrade 3 - TS Belgrade 13, 136 B/2 TS Belgrade 13-TS Belgrade 17, 137/1 TS Belgrade 3- Traction Substation Resnik, 137/2 Traction Substation Resnik- TPP Kolubara, 141 TS Belgrade 3-TS Pančevo, 146A TS Belgrade 5-TO Belgrade, 146 B TS Belgrade 5 - TO Belgrade, 51/2 TC Pančevo 2- TS Alibunar, 151/3 TS Alibunar -TS Vršac 1, 158/1 TS Mladenovac –TS Smederevska Palanka, 158/2 TS Smederevska Palanka -TS Velika Plana, 158/3 TS Velika Plana- Traction Substation Markovac, 158/4 Traction Substation Markovac-TPP Morava, 1002 TS Bela Crkva –TS Vršac, 2, 1159 SS

Drmno – TPP Kostolac A, 1196/1 TS Rudnik 1-TS Rudnik 3, 196/2 TS Rudnik 3 -TS Veliko Gradište, 1211A TS Belgrade 2- TS Belgrade 38, 1223 TS Smederevo 3 - TS Smederevska Palanka, 1239A+1203/1 TS Belgrade 20 - TS Belgrade 14,1239B+1234 TS Belgrade 20 - TS Belgrade 28,1240A TS Belgrade 1- TS Belgrade 20,1240B TS Belgrade 1 - TS Belgrade 20,122A/3 Žagubica – Krst 110 (35), 122A/4 Krst – Fr.barake 110(35),122A/5 Fr.barake – Bor 1110(35), 122B Petrovac – Bor 1, 128/1 Majdanpek 1 – Majdanpek 2, 128/2 Majdanpek 2 – Majdanpek 3,128/3 Majdanpek 3 - Neresnica, 147/1 Bor 1 – Bor 2, 150 Bor 1 – Majdanpek 1, 165 Negotin – Prahovo, 1207 Sip – Đerdap – Gura Van – Romania, 1230 Đerdap 2 – HPP Đerdap 2, 1241 Majdanpek 2 – Mosna, 1162 Šabac 3 – Šabac 5, 1176 Krupanj – Ljubovija, 1177 Šabac 2 - Šabac 5, OHL No. 109/2, TS Kraljevo 3 - TS Vrnjačka Banja, OHL No. 109/3, TS Vrnjačka Banja - TS Trstenik, OHL No. 154/1, TS Niš 1 - TS Niš 8, OHL No. 154/2, TS Niš 2 - TS Niš 5, OHL No. 154/4, TS Niš 8 - TS Niš 2, OHL No. 155/2, TS Novi Pazar 2 - TS Valač, OHL No. 168A/2, TS Vranje 2 - TS Vranje 4, OHL No. 168B/1, TS Vranje 4 - TS Vranje 2, OHL No. 186A, TS Kragujevac 2 - TS Crvena Zastava, OHL No. 186B, TS Kragujevac 2 - TS Kragujevac 8, OHL No. 187, TS Niš 2 - TS Niš 3, OHL No. 188, TS Niš 2 - TS Niš 3, OHL No. 193/1, TS Knjaževac - TS Svrlijig, OHL No. 193/2, TS Svrlijig - TS Niš 2, OHL No. 1123, HPP Vrla 1 – Hub Lisina – Pumped Storage Plant (PSP) Lisina, OHL No. 1171, TS Kragujevac 2 - TS Lapovo, OHL No. 1174A, TS Leskovac 2 - TS Leskovac 6, OHL No. 1174B, TS Leskovac 2 - TS Leskovac 6, OHL No. 1219/1, HPP Vrla 3 - TS Vladičin Han, OHL No. 1219/2, TS Vladičin Han - TS Vranje 4, OHL No. 1222, TS Aleksandrovac - TS Kuršumljija, OHL No. 1238, TS Kragujevac 1 - TS Kragujevac 8, OHL No.1278, TS Leskovac 2 - TS Niš 2;

- 35 kV: 122A/1 TS Petrovac-TS Krepoljin and 122A/2 TS Krepoljin -TS Žagubica;
- 2) cables:
  - 110 kV: 1203/1 TS Belgrade 14 - TS Belgrade 1 (part) and 1234 TS Belgrade 28 -TS Belgrade 1 (part);
- 3) Transformer stations (transmission ratio and transform capacity are indicated):
  - 400/x kV/kV: TS 400/220 kV/kV Obrenovac and TS Jagodina 4;
  - 220/x kV/kV: TS Smederevo 3 and TS Valjevo.
- 4) Switching substations, divided in voltage levels:
  - 400 kV: SS TENT B, SS Mladost, SS Drmno;
  - 220 kV: SS TENT B;
  - 110 kV: SS Đerdap 2, SS Pančevo 1.

With reference to this and starting from the fact that in line with the Energy Law, the applicant is obliged to file an application for the entry of ownership rights to the competent body in the period of two years since the day the Law enters into force, and bearing in mind that the applicant complied with this but the given entry was not done for all the facilities and since the entry procedure is ongoing with the competent body, the decision was made as it reads in the enacting terms of the Decision.

Having insight into the Rulebook on Trade Secret No. 7302/11.1 of June 18, 2015, Rulebook on Protection of Data Confidentiality in the Public Enterprise “*Elektromreža Srbije*” Belgrade No. 1027 of January 28, 2016, Statement on Protection of Trade Secret and Adequate Treatment of Confidential Data and Documents, it was established that “*EMS*” JSC Belgrade submitted the act and procedures which prevent the reveal of confidential and other commercially-sensitive information to energy entities dealing in electricity and/or natural gas production and/or supply.

Having insight into the Statement No. 2533/2 of December 21, 2016, it was established that “*EMS*” JSC submitted a statement on the manager and other persons authorized to represent it and the statement includes: jurisdiction and functions, descriptions of their positions, statement on not having those persons involved in electricity and/or natural gas production and/or supply.

Having insight into the Government Decision 24 No. 119-8253/2013 of September 30, 2016 on the appointment of the Chairman and members of the Supervisory Board of Public Enterprise “*Elektromreža Srbije*”, Belgrade and into the Government Decision 24 No. 119-9378/2012 of 2012 on the appointment of the General Manager of the Public Enterprise “*Elektromreža Srbije*”, Belgrade, it was established that the applicant submitted the decision on the appointment of the member of management bodies of the natural person which is being certified and the decision of the management body on the appointment of the manager of the legal person which is being certified in line with the Decision on the Amendment of Memorandum of Association of Public Enterprise “*Elektromreža Srbije*”, Belgrade. Namely, Article 28 of the Decision prescribes that the Chairman of the Supervisory Board of the Public Enterprise “*Elektromreža Srbije*”, Belgrade, appointed by the Decision on the Appointment of Supervisory Board Chairman of the Public Enterprise “*Elektromreža Srbije*”, Belgrade („Official Gazette of RS”, No. 10/16) and the members of the Supervisory Board of the Public Enterprise “*Elektromreža Srbije*”, Belgrade appointed by the Decision on the Appointment of Supervisory Board Chairman and members of Public Enterprise “*Elektromreža Srbije*”, Belgrade („Official Gazette of RS”, No. 86/13) will fulfil the function of Assembly Chairman and members, i.e. Founder's representatives within the Assembly of Joint Stock Company “*Elektromreža Srbije*” Belgrade until the moment new representatives are appointed by the Founder, in line with the law. The Manager of the Public Enterprise “*Elektromreža Srbije*”, appointed by the Decision on Appointment of General Manager of Public Enterprise “*Elektromreža Srbije*” („Official Gazette of RS”, No. 120/12), will fulfil the function of the General Manager of the Joint Stock Company “*Elektromreža Srbije*” until the end of his term, i.e. until December 21, 2016 and the General Manager will verify this Decision, in line with the law. Executive Managers of the Public Enterprise “*Elektromreža Srbije*” Belgrade, appointed by the Decision of the Supervisory Board of the Public Enterprise “*Elektromreža Srbije*”, Belgrade, No. 2218/3 of March 4, 2014, i.e. by the decisions of the Supervisory Board of the Public Enterprise “*Elektromreža Srbije*”, Belgrade, No. 320/5.1 and 320/5.2 of January 15, 2015, will continue fulfilling the function of executive managers within the Board of Directors of the Joint Stock Company “*Elektromreža Srbije*” Belgrade. The General Manager will appoint the Board of Directors within the deadline of 90 days since the day of registration of the change in legal form of the Company.

Having insight into the Statement No. 13560 of October 10, 2016, it was established that “*EMS*” JSC Belgrade submitted a statement on employees who shifted to the legal person which is being certified and who either worked in management or were members of management bodies which deal in electricity or natural gas production or supply.

Having insight into the Statement No. 13560/2 of October 10, 2016, it was established that “*EMS*” JSC Belgrade submitted a list of licences, permits or other authorizations awarded so as to perform energy activities in the Republic of Serbia and/or other countries. Namely, “*EMS*” JSC Belgrade holds a licence for electricity transmission awarded on the basis of the Decision of the Energy Agency of the Republic of Serbia No. 312-277/2006-П-I of September 7, 2006 and the licence for electricity transmission system operation awarded on the basis of the Decision of the Energy Agency of the Republic of Serbia No. 312-278/2006-П-I of September 7, 2006. By the Government Decision 05 No. 312-12308/2016-1 of December 23, 2016, a decision was made to have “*EMS*” JSC continue performing the activity of general interest – electricity transmission and transmission system operation in line with the Energy Law until licences are awarded for these activities.

Having insight into the Statement 13560/3 of October 10, 2016, it was estimated that “*EMS*” JSC Belgrade submitted the list of legal entities which are under direct or indirect control of the legal person which is being certified.

Having insight into the Statement 13560/4 of October 10, 2016, it was estimated that “*EMS*” JSC Belgrade submitted the list of Company owners, as well as that the given Company does not have co-owners/shareholders from third countries.

Having insight into the Statement 13560/5 of October 10, 2016, it was estimated that “EMS” JSC Belgrade submitted a statement on the representatives of public authorities which have direct or indirect control or shares with the certification applicant.

Based on all the above given, and since it was established during the certification procedure that the compliance with some of conditions does not depend on the applicant and since the applicant cannot meet those requirements without amendments of relevant regulations, the decision was made as it reads in the enacting terms of the Decision.

The twelve-month deadline referred to in paragraph 2 of the enacting terms of the Decision was defined since the Agency considers that amendments of relevant regulations of the Republic of Serbia are required so as to comply with some of the above given requirements, as well as since this deadline will allow the applicant to meet conditions for the entry of ownership rights of “EMS” JSC Belgrade over all facilities constituting the transmission system.

Based on all the above mentioned, on 360<sup>th</sup> session, held on January 26, 2017, in line with Article 39, paragraph 1 and Article 49, paragraph 3 in connection with Articles 101, paragraph 1 and 102 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. 87/05) 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 adopted the decision as it reads in the enacting terms of the Decision.

Decision submitted to:

PRESIDENT OF THE COUNCIL

- 1) Applicant;
- 2) Ministry of Mining and Energy and
- 3) Archive

Ljubo Mačić