

Unofficial translation

Energy Agency
of the Republic of Serbia
No: 311.01-2/2019-C-I
Date: February 21, 2020
Belgrade, 5/V Terazije St.
A.B.

Acting upon certification application of the Limited Liability Company "GASTRANS" LLC, Novi Sad (*Društvo sa ograničenom odgovornošću „GASTRANS” d.o.o. Novi Sad*), 12 Narodnog fronta St., company number 20785683, Tax Identification Number 107350223 of June 25, 2019, in line with Article 49, paragraph 3 and 232 of the Energy Law ("Official Gazette of RS", No. 145/14 and 95/18 – other law), Articles 20-23 of the Rulebook on Energy License and Certification ("Official Gazette of RS", No. 87/15), item 24, paragraph 1 of the Decision of the Energy Agency of the Republic of Serbia on Exemption of New Natural Gas Interconnector ("Official Gazette of RS", No. 15/19) and Article 12 of the Statute of the Energy Agency of the Republic of Serbia ("Official Gazette of RS", No. 52/05), on 85th regular session of February 21, 2020, the Council of the Energy Agency of the Republic of Serbia adopted

DECISION

1. A certificate is issued to the Limited Liability Company "GASTRANS" LLC, Novi Sad, 12 Narodnog fronta St., company number 20785683, Tax Identification Number 107350223 (hereafter: "GASTRANS" LLC Novi Sad) as to the independent transmission operator.
2. "GASTRANS" LLC Novi Sad is obliged to submit 6 months since the beginning of operational work at the latest:
 - certificate of occupancy or to register ownership rights over natural gas transmission system facilities and
 - evidence confirming that the company operates and manages the constructed transmission system independently in line with item 4, paragraph 1-3 of the Decision of the Energy Agency of the Republic of Serbia on Exemption of New Natural Gas Interconnector („Official Gazette of RS“, No. 15/19).

Otherwise, in line with Article 242 of the Energy Law, the Energy Agency of the Republic of Serbia will initiate a new certification procedure in order to reassess the certification conditions and adopt a decision on the revocation of the certificate referred to in item 1 hereof.

3. "GASTRANS" LLC Novi Sad is obliged to report to the Energy Agency of the Republic of Serbia twice a month on the activities taken in order to comply with the conditions referred to in item 2 hereof.
4. This Decision is published with the Energy Community Secretariat opinion in the "Official Gazette of the Republic of Serbia" and on the website of the transmission system operator and of the Energy Agency of the Republic of Serbia.

Background

I. LEGAL BACKGROUND FOR THE ADOPTION OF CERTIFICATION DECISION

The provision of Article 239 of the Energy Law („Official Gazette of RS”, 145/14 and 95/18 – other law) prescribes that prior to obtaining a license and thus being appointed a transmission system operator, an entity has to be certified in line with this Law.

The Decision of the Energy Agency of the Republic of Serbia on Exemption of New Natural Gas Interconnector No.:40/2018-D-03/62a of March 5, 2019 (“Official Gazette of RS”, No. 15/19) (hereafter: Decision on Exemption), item 24, paragraph 1 obliges the company “GASTRANS” LLC Novi Sad, prior the commencement of the operational work, to obtain a legal act on certification from the Agency which is issued and which is ruling if conditions set by that Decision are complied with, while, within the certification procedure, the Agency will consider the conditions arising from Art. 224, 225, paragraphs 1-4, 245 and Article 246 of the Energy Law as if they were complied with.

In addition, the provision of item 3 of the Decision on Exemption allows “GASTRANS” LLC Novi Sad to be still under control of one or several companies or to be a part of a group of companies, which are under control of one or several companies, which perform natural gas production or supply. Therefore, that Decision exempts “GASTRANS” LLC Novi Sad from the ownership unbundling obligation prescribed in Article 224, paragraph 2 and Article 225, paragraph 1, items 1) – 4) of the Law allowing:

- 1) a company to have control over a company performing natural gas production or supply either directly or indirectly and, simultaneously, have control or any right in “GASTRANS” LLC Novi Sad either directly or indirectly;
- 2) a company to have control over “GASTRANS” LLC Novi Sad either directly or indirectly and, simultaneously, have control or any right in an entity performing natural gas production or supply either directly or indirectly;
- 3) a company can appoint members of any management body including persons authorized to represent “GASTRANS” LLC Novi Sad and, simultaneously, directly or indirectly, have control or any other right in an entity performing natural gas production or supply and
- 4) members of a management body and persons authorized to represent a company performing natural gas production or supply can be members of a management body, i.e. can be persons authorized to represent “GASTRANS” LLC Novi Sad at the same time.

Article 224, paragraph 2 of the Energy Law which is considered to be complied with in line with the Decision on Exemption within certification procedure prescribes that a transmission system operator has to be an independent legal entity which is not a part of a vertically integrated company and it is independent from energy activities – natural gas production and supply.

Article 225, paragraph 1-4 of the Energy Law which is also considered to be complied with in line with the Decision on Exemption within certification procedure prescribes that the independence of the transmission system operator is secured by preventing from having the same person or persons being authorized to:

- 5) manage entities performing production or supply directly or indirectly and simultaneously manage or have any other rights in the transmission system operator or in the transmission system directly or indirectly;
- 6) manage the transmission system operator or the transmission system directly or indirectly and simultaneously manage or have any other rights in entities performing production or supply directly or indirectly;
- 7) appoint members of the supervisory board or of other management bodies, as well as legal representatives of the transmission system operator and, simultaneously, manage or have any other rights in entities performing production or supply directly or indirectly;
- 8) be members of the supervisory board or of other management bodies or legal representatives of the transmission system operator and of entities performing production or supply simultaneously.

Provisions of paragraph 1, items 1), 2) and 3) of this Article particularly relate to:

- 1) voting right;
- 2) right to appoint members of the supervisory board or of other management bodies or legal representatives;
- 3) major ownership share in the company.

In case an entity referred to in paragraph 1 hereof is the Republic of Serbia or a state body, the control over the transmission system operator on one hand and over entities performing natural gas production or supply on the other hand cannot be performed by the same entity, i.e. by the same state body. In case different entities perform control, i.e. different state bodies, they cannot be controlled by the same third party.

Articles 245 and 246 of the Energy Law refer to the certification of the transmission system operator related to third countries which are considered to be complied with in line with the Decision on Exemption within certification procedure prescribe that the provisions of Article 240, 241 and 246 of the Law are applied in case a certification procedure is initiated on the basis of a certification application filed by the transmission system owner or by the transmission system operator controlled by a person or persons from a third state or third states.

Upon receiving the application, without delay, the Agency informs the Ministry and a competent body on it in line with obligations arising from ratified international treaties and informs them on all circumstances which could cause having a person or persons from a third state or third states take over control over the transmission system or over the transmission system operator.

The transmission system operator is obliged to inform the Agency on all the circumstances which would lead to a fact that a person or persons from a third country or third countries could take control over the transmission system operator or over the transmission system.

In addition, Article 246 of the Energy Law prescribes that the Agency will deny the certification of a transmission system operator which is controlled by a person or several persons from a third country or from third countries in case:

- 1) transmission system operator does not comply with requirements referred to in Article 223 of the Law;

- 2) the award of the certificate endangers the security of natural gas supply in the Republic of Serbia and in the region.

When considering paragraph 1, item 2) of the Article, the Agency will particularly take into account the provisions of:

- 1) international law and obligations related to third countries, including agreements concluded with one or several third countries also signed by one of contracting parties from the contract referred to in Article 2, item 78) of this Law, which arise from ratified international treaties and relate to the security of supply issue;
- 2) rights and obligations of the Republic of Serbia related to this third country which arise from agreements signed with that country, as well as the contracts the Republic of Serbia signed within the European integration process;
- 3) other specific facts and circumstances related to the concrete case or the third country.

When adopting a certification decision, the Agency also takes into consideration the opinion of the Ministry on the impact to the security of supply of the Republic of Serbia or the region.

The Ministry may ask the Agency to adopt the final decision in line with the opinion in case the issuance of a certificate endangers the security of supply of the Republic of Serbia or of the region and represents a threat to the safety of the Republic of Serbia.

In case the final decision is not in line with the opinion of a competent body in accordance with obligations arising from ratified international treaties, the Agency is also obliged to publish the rationale for the adoption of such a decision in a manner prescribed by Article 241 of the Law.

The Agency has a right to deny a certification application in case the issuance of a certificate endangers the security of supply of the Republic of Serbia or of the region or if it represents a threat to the safety of the Republic of Serbia.

Items 4-7 of the Decision on Exemption prescribes the obligations which Company "GASTRANS" LLC Novi Sad has to comply with to the extent it does not conflict the exemption from the ownership unbundling obligation approved by this Decision, which is, in line with the provision of Item 24, paragraph 1 of the Decision, the condition for the issuance and validity of the certification decision. Therefore, in line with Item 4, paragraph 2 of the Decision on Exemption, the Company is obliged, at the latest until the day operational work of the new interconnector begins as well as during the whole period of exemption, to:

- 1) operate independently and operate the new interconnector and to be organized separately from associated persons;
- 2) have available financial, material and technical resources to perform transmission and transmission system operation, including independent information systems, equipment, devices and information protection systems from associated persons access and to have separate and different premises from associated persons;
- 3) have sufficient number of employees performing legal, economic, technical and other activities as well as information technology related activities independently;
- 4) apply the Programme for Non-Discriminatory Behaviour (hereafter: Programme) and recommendations of a Programme Compliance Officer and

- 5) secure that a Programme Compliance Officer performs the Programme compliance monitoring independently and separately from the impact of "GASTRANS" LLC Novi Sad and associated persons.

II. DECISION OF THE ENERGY AGENCY OF THE REPUBLIC OF SERBIA NO: 311.01-2/2019-C-I OF AUGUST 15, 2019 BY WHICH A CERTIFICATE IS ISSUED TO GASTRANS LLC NOVI SAD, 12 NARODNOG FRONTA AS TO AN INDEPENDENT TRANSMISSION SYSTEM OPERATOR (HEREAFTER: PRELIMINARY DECISION)

On June 25, 2019, "GASTRANS" LLC, Novi Sad, 12 Narodnog fronta St., company number 20785683, Tax Identification Number 107350223 submitted an application for certification of the transmission system operator in line with Article 24, paragraph 1 of the Exemption Decision No: 40/2018-D=03/62a of March 5, 2019.

Along with the certification application, the applicant submitted the following:

1. Power of Attorney No. 697 of June 25, 2019 authorising lawyers Jelena S. Gazivoda and Nikola B. Đorđević, lawyers from Belgrade, 16a Palmotićeveva Street to represent "GASTRANS" LLC , Novi Sad within the certification procedure;
2. Excerpt on company registration;
3. Copy of Memorandum of Association of the applicant;
4. Legal act on the entrustment of activities of general interest;
5. Annual Financial Report for 2018 with confirmation of the Business Registry Agency No. FIN 85098/2019 of March 8, 2019;
6. Statement No. 696 of June 25, 2019 about the evidence of network ownership;
7. Statement No. 696 of June 25, 2019 acknowledging that at the moment of certification application, the Company does not perform any activity either in the Republic of Serbia or in other countries which requires a licence, permit or an authorization for the performance of an energy activity;
8. Statement No. 696 of June 25, 2019 about the list of Company members;
9. Statement No. 696 of June 25, 2019 acknowledging that "GASTRANS" LLC Novi Sad is a single-member company with limited liability with the only member being South Stream Serbia AG Switzerland;
10. Statement No. 696 of June 25, 2019 acknowledging that, at the moment the Statement is given, there are no legal entities under indirect or direct control of the Company;

11. Statement No. 696 of June 25, 2019 on energy entities associated with the Company;
12. Statement No. 696 of June 25, 2019 on the list of licences, permits or other authorisations held by persons within the ownership structure of the Company;
13. Statement No. 696 of June 25, 2019 on the organization of Company Manager's work;
14. Statement No. 696 of June 25, 2019 on the list of Company management bodies members;
15. Statement No. 696 of June 25, 2019 on the appointment of Company management bodies members;
16. Statement No. 696 of June 25, 2019 on the appointment of the Company Manager;
17. Statement No. 696 of June 25, 2019 on the Company Manager;
18. Statement No. 696 of June 25, 2019 submitting a copy of Programme for Non-Discriminatory Behaviour No. 05-39 of March 7, 2019 approved by the Energy Agency of the Republic of Serbia by the Decision No. 155/2019-Д-I of March 8, 2019;
19. Statement No. 696 of June 25, 2019 acknowledging that the Company does not submit data on employees transferred to the Company;
20. Statement No. 696 of June 25, 2019 on the public authority representatives with direct or indirect control over or share within the certification applicant;
21. Statement No. 696 of June 25, 2019 on the manner of complying with the provision on independence;
22. Statement No. 696 of June 25, 2019 on energy facilities specification;
23. Statement No. 696 of June 25, 2019 on the Programme for Non-Discrimination Behaviour Compliance Officer.

Upon consideration of the submitted application and documentation filed along with the application, it was established that the submitted documentation was not complete and, therefore, by a legal act of the Agency No. 311.02/2019-C-I of July 12, 2019, in line with Article 59, paragraph 1 of the Law on General Administrative Procedure („Official Gazette of RS”, No.18/16 and 95/18-authentic interpretation), the applicant was invited to submit the following:

1. Act on Entrustment of Activities of General Interest, harmonized with the change of business name SOUTH STREAM d.o.o. Novi Sad into “GASTRANS” d.o.o. Novi Sad and all modifications following the conclusion of the Contract on Performance of Activities of General Interest between the Government of the Republic of Serbia and SOUTH STREAM d.o.o. Novi Sad of November 24, 2013 as well as harmonized with the Decision of the Energy Agency of the Republic of Serbia on Exemption of New Natural Gas Interconnector No.: 40/2018-D-03/62a of March 5, 2019 (Article 22, paragraph 1, item 1) of the Rulebook on Energy Licence and Certification);
2. Evidence on ownership rights and other rights over the network (Article 22, paragraph 1, item 3) of the Rulebook on Energy Licence and Certification);
3. Copies of legal acts regulating the organization of management bodies work (Article 22, paragraph 1, item 10) of the Rulebook on Energy Licence and Certification);
4. Decision on appointment of management bodies members of the legal entity which is being certified either in the form of original copy or of certified transcript (Article 22, paragraph 1, item 12) of the Rulebook on Energy Licence and Certification);
5. Statement on manager and other persons authorised to represent the company which includes: 1) competences and functions, 2) description of their positions, 3) statement that these persons do not participate in the performance of energy activities – electricity and/or natural gas production and/or supply (Article 22, paragraph 1, item 14) of the Rulebook on Energy Licence and Certification);
6. Legal act and procedures which prevent the reveal confidential or other commercially sensitive information to energy entities performing electricity and/or natural gas production and/or supply (Article 22, paragraph 1, item 15) of the Rulebook on Energy Licence and Certification);
7. Statement on employees who shifted into the legal entity which is being certified and who used to hold management positions or who used to be management bodies members in companies performing electricity or natural gas production or supply in the period six months prior to the submission of the certification application (Article 22, item 16) of the Rulebook on Energy Licence and Certification), as well as the Statement on the manner of compliance with the provision on independence (Article 22, paragraph 1, item 18) of the Rulebook on Energy Licence and Certification);

8. Specification of energy facilities which constitute the transmission system/another legal act (Form OS 1 Section IV – Evidence to be submitted, item 21 of the Rulebook on Energy Licence and Certification);
9. Evidence confirming the compliance with conditions referred to in Article 232 of the Energy Law, i.e. item 4 of the Decision of the Energy Agency of the Republic of Serbia on Exemption of New Natural Gas Interconnector No.: 40/2018-D-03/62a of March 5, 2019, i.e.:
 - a) Statement given by the applicant on the staff who will perform natural gas transmission and natural gas transmission operation who were hired directly and on their non-involvement in the work of other parts of the vertically integrated company;
 - b) Statement given by the applicant on the availability of financial, material and technical resources for the performance of natural gas transmission and transmission system operation;
 - c) Information provided by the applicant on its business identity, communication, trademark/logo and premises with a statement on their dissemblance from the ones of the vertically integrated company or of any part of it;
 - d) Statement given by the applicant on non-sharing common information systems or equipment, premises and information protection systems with any part of the vertically integrated company and non-engagement of the same persons in charge of information systems, equipment and information protection systems;
 - e) Statement given by the applicant confirming that the financial report audit of the independent system operator will not be performed by the same auditor who will be auditing financial reports of the vertically integrated company or of any of its parts.
(Form OS 3.3, Section I, Item 1, indents 1)-5) of the Rulebook on Energy Licence and Certification);
10. Evidence confirming the compliance with conditions referred to in Article 234 of the Energy Law, i.e. of Item 20 of the Decision of the Energy Agency of the Republic of Serbia on Exemption of New Natural Gas Interconnector No.:40/2018-D-03/62a of March 5, 2019, i.e.:
 - a) Statement given by the applicant confirming that all commercial and financial relations with the vertically integrated company are based on the principle of transparency and non-discrimination including a piece of information on how this is provided.
(Form OS 3.3, Section I, Item 2, indents 1)-5) of the Rulebook on Energy Licence and Certification);
11. Evidence confirming the compliance with conditions referred to in Article 235 of the Energy Law, i.e. of Item 20 of the Decision of the Energy Agency of the Republic of Serbia on Exemption of New Natural Gas Interconnector, i.e.:
 - a) Statement that management bodies members are not directly or indirectly hired by other parts of the vertically integrated company or by its major shareholders,
 - b) Statement that they were not directly or indirectly hired by other parts of the vertically integrated company or by its major shareholders in the period three years prior their appointment
(Form OS 3.3, Section I, Item 3, indents 1) and 2) of the Rulebook on Energy Licence and Certification) and

12. Evidence on payment of republic administrative fee of RSD 12,490 for the application for decision on certification and RSD 124,850 for certification decision (Tariff number 140a) as well as RSD 270 for the warning on fee payment (Tariff number 18) in line with the Law on Republic Administrative Fees („Official Gazette of RS“; No. 43/03... and 38/19 - harmonised Dinar amount). Payment is made to the benefit of the Budget of the Republic of Serbia – administrative fee on the account No. 840- 742221843-57.

Acting upon the submitted request for the completion of documentation, “GASTRANS” LLC Novi Sad sent additional documentation and by its legal act of July 30, 2019, of August 1, 2019, of August 8, 2019 and August 12, 2019, they submitted:

1. Conclusion of the Government of the Republic of Serbia 05 No. 312-7519/2019 of July 25, 2019 on the adoption of the text of the Annex to the Contract on Entrustment of Activity of General Interest between Government and Limited Liability Company “GASTRANS” LLC Novi Sad;
2. Construction permit for phase 1 of the section 1 with notary authentication, construction permit for phase 2 of the section 1 with notary authentication, construction permit for section 2 with notary authentication, construction permit for section 3 with notary authentication;
3. Statement of July 23, 2019 on the organization of work of management bodies of the applicant with the Minutes of the Meeting from the ordinary session of the Shareholders Assembly for the 2018 business year of the company South Stream Serbia AG held on June 24, 2019 and with the Rules of Procedure of the Board of Directors of the Company;
4. Statement of July 23, 2019 on company managers with a Decision on Appointment of General Manager of Public Enterprise “*Srbijagas*” Novi Sad 24, No. 119-8365/2012 of November 28, 2012;
5. Rulebook on Keeping Business Secret and Commercially Sensitive Data, No. 05-89 of July 29, 2019;
6. Statement of July 30, 2019 on Company staff, with table form review of employees and legal basis for their work in “GASTRANS” LLC, Novi Sad;
7. Statement of July 23, 2019 on Manner of Compliance with Provision of Independence, thus replacing the former Statement;
8. Statement of July 23, 2019 by which a specification of energy facilities constituting the transmission system is given;

9. Statement of July 30, 2019 on sufficient number of employees who perform legal, economic, technical and other activities as well as information technology-related activities independently;
10. Statement of July 23, 2019 on necessary financial, material and technical resources for the performance of transmission and transmission system operation including independent information systems, equipment, devices and systems for the protection of information from access of associated persons and on separate and different premises from the ones of associated persons;
11. Statement of July 23, 2019 on business identity, communication, logo and premises and on their dissemblance from the business identity, communication, logo and premises of the vertically integrated company or of any part of it;
12. Statement of July 23, 2019 on non-sharing common information systems, equipment, premises and information protection systems with any part of the vertically integrated company and on non-engagement of the same persons in charge of information systems, equipment, premises and information protection systems;
13. Statement of July 23, 2019 confirming that the financial reports audit of the Company is not performed by the same auditor who is auditing financial reports of the vertically integrated company or of any of its parts;
14. Statement of July 23, 2019 confirming that all commercial and financial relations with the vertically integrated company are based on the principle of transparency and non-discrimination including a piece of information on how this is provided;
15. Statement of July 23, 2019 confirming that management bodies members are not directly or indirectly hired by other parts of the vertically integrated company or by its major shareholders;
16. Statement of July 23, 2019 confirming that management bodies members were not directly or indirectly hired by other parts of the vertically integrated company or by its major shareholders in the period three years prior their appointment;
17. Evidence on payment of republic administrative fee of RSD 12,490 for the application for decision on certification and RSD 124,850 for certification decision (Tariff number 140a) as well as RSD 270 for the warning on fee payment;
18. Statement of August 5, 2019 on employees who shifted into the legal entity which is being certified and who used to hold management positions or who used to be management bodies members in

companies performing electricity or natural gas production or supply in the period six months prior to the submission of the certification application;

19. Statement of August 7, 2019 on the manner of compliance with the provision on independence thus replacing statements submitted in the former stages of the procedure and

20. Rules of Procedure of the Company Assembly of August 12, 2019.

Having insight into the company registration excerpt of June 19, 2019, it was established that the applicant is registered as a Limited Liability Company "GASTRANS" LLC, Novi Sad and that it was established and registered for the performance of pipeline transmission – activity code 4950, while, in addition to performing its core activity, it is allowed to perform all other activities in accordance with ruling regulations.

By the Decision of the Serbian Business Registry Agency of January 30, 2018, registration application was accepted and therefore, a modification of data and change of business name is made in the Company Registry thus deleting SOUTH STREAM Limited Liability Company, Novi Sad and registering "GASTRANS" Limited Liability Company Novi Sad.

Having insight into the Memorandum of Association (consolidated text) No.: 05-2 of January 26, 2018 it was established that the company management is organized in a one-tier form while the company bodies include the Company Assembly and managers, although the company may have other representatives as well who can act on behalf, i.e. represent the company in line with competences defined by the memorandum of association and/or relevant decision on the appointment or by other decisions of the Assembly. Since this is a single-member company, the function of the Company Assembly is performed by the founder which is represented in the capacity of the Company Assembly by the Board of Directors of the founder or by a person that is authorised by this body via a written authorization. The Company Assembly adopts amendments to the Memorandum of Association, adopts financial reports as well as auditors reports if financial reports are subject to audit; supervises the work of the Manager and adopts Manager Reports; decides on the increase and decrease of base capital of the Company, withdrawal and annulment of shares and obtaining own shares, as well as on each securities issue; decides on the allocation of profit and manner of loss recovery, including setting the day when the right to profit share is obtained and the day share in the Founder's profit is paid; decides on the appointment and discharge of managers and setting the compensation for their work, i.e. principles for setting these compensations; conclusion of contracts with managers, on regulation of their rights and obligations, decides on the appointment and discharge of other Company representatives as well as on award and revocation of the power of attorney, decides on the appointment of an auditor and sets the compensation for their work; decides on the launch of liquidation procedure as well as on the submission of proposal for the launch of bankruptcy by the Company; decides on the appointment of bankruptcy manager and adopts liquidation balance sheets and liquidation manager reports; decides on the obligation of the founder related to additional payments and paying back these payments; decides on foundation and shutting down of daughter companies, i.e. Company branches and the use of ownership rights in these daughter companies and branches; decides on status changes and change in legal form; decides on giving approval of legal activities when there is a personal interest of a member of the Company, Manager with the power of

attorney and other Company representatives, liquidation manager as well as of other persons who, in line with a separate decision adopted by the Company Assembly, have special duties towards the company; decides on giving approval to obtaining, sales, lease, pledge or other disposal of high-value property in line with the law and this memorandum of association as well as the performance of other duties and deciding on other issues in line with the memorandum of association and the law.

There are two Managers in the Company who are appointed and discharged by the Company Assembly in the following manner: one of Managers is selected by the Company Assembly upon the proposal of Gazprom as of a founder member while the other Manager is selected by the Assembly upon the proposal of the Public Enterprise "Srbijagas" Novi Sad as of a member of the Founder. Each Manager operates the Company independently in line with the competences given in the Memorandum of Association, decisions on the appointment and other decisions of the Company Assembly, while they cannot take the intended action but they are authorised to ask instructions of the Company Assembly to this end. The Manager appointed by the Assembly upon the proposal of Gazprom represents the company individually in transactions with a value below EUR 250,000. For the transactions of or over EUR 250,000, it is necessary to obtain prior written approval of the Assembly or a co-signature of the other Manager appointed by the Assembly upon the proposal of PE *Srbijagas*. The Manager appointed by the Assembly upon the proposal of PE *Srbijagas* may represent the Company only with the co-signature of the Manager appointed by the Assembly upon the proposal of Gazprom.

Having insight into the Contract on Entrustment of the Activity of General Interest concluded between the Government, represented by the Minister of Mining and Energy and the South Stream LLC, Novi Sad represented by the Manager, which is registered in the Government under No. 05 No. 023-9975/013-1 of November 24, 2013 and in South Stream LLC Novi Sad under number 13-01/125 of November 24, 2013 and into the Annex 1 to the Contract on Entrustment of the Activity of General Interest concluded between the Government, represented by the Minister of Mining and Energy and "GASTRANS" LLC Novi Sad, which is registered in the Government under No. 05 No. 312-7519/2019-1 of July 31, 2013 and in "GASTRANS" LLC Novi Sad under number 06-177 of July 31, 2019, it was established that the performance of the activity of general interest – natural gas transmission and transmission system operation was entrusted to the Company.

Having insight into the annual financial report for 2018 with a confirmation of the Business Registry Agency No. FIN 85098/2019 of March 8, 2019, with the Balance Sheet and Income Statement, it was established that the company has available financial resources for the performance of natural gas transmission and transmission system operation.

Having insight into the Statement of July 23, 2019, it was established that there are two persons authorised to represent – company Managers.

Having insight into the Balance Sheet on December 31, 2018 and into the Income Statement for the period from January 1, 2018 until December 31, 2018, it was established that the applicant submitted the requested financial documentation it was assessed that they complied financial conditions in line with the Rulebook on Energy Licence and Certification („Official Gazette of RS", No. 87/15).

Having insight into the Statement of July 23, 2019, the specification of energy facilities constituting the transmission system was made (noting that the Company is beginning to construct a new interconnector) and it was established that it is planned to divide a new interconnector into 4 sections, i.e.:

- Section 1: from the Bulgarian – Serbian border (close to Zaječar) to Žabari (length of around 147 km). Gas pipeline DN 1200 (48 inches), block stations 2-3-4-6-7-8, forking of gas pipeline to metering station -2, block station 5 (including a branch up to the metering station-2), metering station-1 (including block station 1+launching/receiving pigging station), metering station-2, launching/receiving pigging station on the compressor station;
- Section 2: from Žabari to Kovin (length of around 48 km). Gas pipeline DN 1200 (48 inches), block stations 9-10;
- Section 3: from Kovin to Gospođinci (length of around 112km). Gas pipeline DN 1200 (48 inches), block stations 11-12-13-14, branch up to the metering station-4, entry anti-fire valve for the metering station-4, metering station-4, launching/receiving pigging station+block station 15;
- Section 4: from Gospođinci to the Serbian-Hungarian border (close to Horgoš) (length of around 92km). Gas pipeline DN 1200 (48 inches), block stations 16-17-18, launching-receiving pigging station+block station 19.

The following sections are planned to be separate:

- Section 5: compressor station near Žabari;
- Section 6: metering station 3 near Pančevo, branch up to the metering point-3, entry anti-fire valve for the metering station-3, metering station-3.

Gas stations are also planned, i.e.:

- GMS1 (km0+300) on the Bulgarian-Serbian border close to Zaječar (Cadastre Municipality Prlita);
- GMS2 (km83+884) on the branch towards the transmission system of PE “Srbijagas” close to Paraćin (Cadastre Municipality Bošnjanje);
- GMS3 (km217+711) on the branch towards the transmission system of PE “Srbijagas” close to Pančevo (Cadastre Municipality Pančevo);
- GMS4 (km309+603) on the branch towards the transmission system of PE “Srbijagas” close to Žabalj (Cadastre Municipality Žabalj).

Having insight into 1) construction permit No. 351-02-00084/2019-07 of April 25, 2019, it was established that the investor “GASTRANS” LLC Novi Sad, 12 Narodnog fronta Street is allowed to construct the section 3 of the Main (high-pressure) gas pipeline (interconnector) border with Bulgaria – border with Hungary, of km 198+000 (vertex V1) to km 310+204.85 (vertex V62), of length - 112072.16m, of diameter - DN 1200 and maximum operating pressure of MOP=74bar, 2) construction permit No. 351-02-00108/2019-07 of May 16, 2019, it was established that the investor “GASTRANS” LLC Novi Sad, 12 Narodnog fronta Street is allowed to construct the section of the Main (high-pressure) gas pipeline (interconnector) border with Bulgaria – border with Hungary, of km 150+000 (vertex V0) to km 197+768 (vertex V25), of length – 48000m, of diameter - DN 1200 and maximum operating pressure of MOP=74bar; 3) construction permit No. 351-02-00191/2019-07 of June 27, 2019, it was established that the investor “GASTRANS” LLC Novi Sad, 12 Narodnog fronta Street is allowed to construct the second phase of the section 1 of the Main (high-pressure) gas pipeline (interconnector) border with Bulgaria – border with

Hungary which includes the construction of the metering station MS1, i.e.: ground-floor building of the metering station with gross space of 373.70m² and net space of 353.36m², container for equipment for gas analysis of gross space of 21.60m², container for diesel generator of gross space of 21.60 m², CO₂ vessel storage of gross space of 14.40m², awning for vessel drainage of space - 83,50m², entry and exit gas pipeline of diameter - DN 1200, of capacity 34 million m³/day, inlet pressure/outlet pressure=65/65bar, up to the point of connection to the gas pipeline route with stationary points km 0+240.39 and km 0+272.83, plateau with accompanying equipment and internal roads, all of this within single fence with Block Station BS1 and Pigging Points; 4) construction permit No. 351-02-00184/2019-07 of June 11, 2019, it was established that the investor "GASTRANS" LLC Novi Sad, 12 Narodnog fronta Street is allowed to construct the first phase of section 1 of the Main (high-pressure) gas pipeline (interconnector) border with Bulgaria – border with Hungary.

Having insight into the Statement No. 696 of June 25, 2019, it was established that the Company expected the award of the occupancy permit for sections 1-4 (including all metering stations) until the end of 2019, while the occupancy permit for section 5 is expected until the end of November 2020. Since, according to the practice so far, registering of the new interconnector into the underground lines cadastre takes around 3 months, the Company expects the new interconnector to be registered in the relevant cadastre until the end of March 2020, while registering of easement on lots within the exploitation area of the new interconnector is ongoing and it is expected to be completed until the end of 2019 at the latest.

With reference to this, and starting from the fact that, on the basis of submitted construction permits, it was undoubtedly established that the investor of the future gas interconnector - "GASTRANS" LLC Novi Sad and which, in line with the Exemption Decision, is approved to be exempted in case it is the owner of the new interconnector with described features, it is certain that upon the construction of the given interconnector, after obtaining occupancy permit and taking other necessary actions, "GASTRANS" LLC Novi Sad will file an application with competent bodies in order to register the ownership rights over the given interconnector and thereby, comply with the condition related to the ownership rights over the network which is a condition set by Item 20 of the Exemption Decision.

Having insight into Statement No. 696 of June 25, 2019, it was established that, at the moment of application, in the Republic of Serbia or in other countries, the Company did not perform any activity implying a licence, permit or any other authorization for the performance of an energy activity. With reference to this, it is indicated that, in line with the Decision of the Energy Agency of the Republic of Serbia on Exemption of New Natural Gas Interconnector No.: 40/2018-D-03/62a of March 5, 2019, following the construction of the future interconnector, the Company will obtain necessary permits and other necessary prescribed authorisations.

Having insight into the Statement No. 696 of June 25, 2019, a list of co-owners/shareholders of the company was established, i.e.: South Stream Serbia AG owns 100% of "GASTRANS" LLC Novi Sad. The ownership structure of South Stream Serbia AG is the following: Public Enterprise "Srbijagas" Novi Sad owns 49% shares while 51% shares is owned by Gazprom Transgaz Krasnodar, which is 100% owned by PAO GAZPROM. In line with Article 24 of the Decision on Exemption of New Interconnector within the certification procedure, it is considered that the condition prescribed by Article 225, paragraph 1-4 of the Energy Law related to the independence of the system operator according to the ownership unbundling model is complied with. Since, basically, the conditions set in Article 225, paragraphs 1-4 of the Energy Law do not differ substantially from the conditions set for the establishment of the independence of the

independent transmission operator prescribed in Article 232, paragraph 6 of the Energy Law, i.e. that companies performing supply and production cannot have shares within an independent transmission operator, the Agency did not assess and analyse the given statement additionally, i.e. the Agency considered this condition as the one complied with.

Having insight into the Statement No. 696 of June 25, 2019, it was established that "GASTRANS" LLC Novi Sad is a single-member company with limited liability with the only member being South Stream Serbia AG Switzerland with the above given structure. In line with Article 24 of the Decision on Exemption of New Interconnector within the certification procedure, it is considered that the condition prescribed by Articles 245 and 246 of the Energy Law related to the certification of the transmission system operator related to third countries is complied with and, therefore, the Agency did not assess these conditions additionally.

Having insight into the Statement No. 696 of June 25, 2019, it was established that, at the moment the Statement is made, there were no legal entities under direct or indirect control of the Company.

Having insight into the Statement No. 696 of June 25, 2019, it was established that, at the moment the Statement is made, the following legal entities are connected to the Company indirectly, i.e.: Public Enterprise "Srbijagas" Novi Sad, Company for Exploration, Production, Processing, Distribution and Trade in Oil and Oil Derivatives and for Exploration and Production of Natural Gas "Naftna industrija Srbije" JSC, Novi Sad, Limited Liability Company TRANSPORTGAS Srbija, Novi Sad, Limited Liability Company DISTRIBUCIJAGAS, Novi Sad, Underground Gas Storage "BANATSKI DVOR" Limited Liability Company, Novi Sad, Company for Construction of Gas Systems, Natural Gas Transmission and Trade YUGOROSGAZ JSC, Belgrade, Limited Liability Company YUGOROSGAZ-TRANSPORT, Niš, Distribution company LOZNICA-GAS LLC with mixed ownership Loznica, Limited Liability Company for Natural Gas Distribution GAS Bečej and Single-Member Limited Liability Company for Wholesale ENERGOGAS LNG LLC Belgrade – Novi Beograd.

Having insight into the Statement of June 25, 2019, a list of licences of the Public Enterprise "Srbijagas" Novi Sad was established. It was established that South Stream Serbia AG does not perform energy activities on the territory of the Republic of Serbia and in other countries; Gazprom transgaz Krasnodar does not perform energy activities on the territory of the Republic of Serbia (the given company performs energy activity – natural gas and gas condensate transmission and gas transmission system construction and operation on the territory of Krasnodar, Rostov oblast, Republic of Adygea in the Russian Federation; PAO Gazprom does not perform energy activities on the territory of the Republic of Serbia (The company performs the energy activity – natural gas and gas condensate transmission system construction and operation.)).

Having insight into the Rulebook on Keeping Business Secret and Commercially-Sensitive Data No.:05-89 of July 29, 2019, it was established that "GASTRANS" LLC Novi Sad submitted a legal act and procedures preventing revealing confidential or other commercially-sensitive information to energy entities performing electricity and/or natural gas production and/or supply.

Having insight into the Statement No. 696 of June 25, 2019, a list of Company management body members was established.

Having insight into the Rules of Procedure of the Company Assembly of August 12, 2019, it was established that the company has a legal act regulating the work organization of the management bodies of the legal entity that is being certified.

Having insight into the Statement of July 30, 2019, it was established that the Company confirmed that they had sufficient number of employees who perform legal, economic, technical and other activities as well as the information-technology related activities independently, as well as the employees performing natural gas transmission and transmission system operation. The Company highlights that, at this moment, the greatest number of activities of the Company is related to the construction of the new interconnector. Therefore, the Company plans to have at their disposal over 100 employees until the end of 2019 and they will work on activities related to the operation and maintenance of the new interconnector that will be constructed and on other activities. At this moment, the Agency did not make a detailed assessment of the compliance with the given condition, bearing in mind that the Company is not fully equipped to perform the activities of the transmission system operator and that the conditions for this will be created after the construction of the future new interconnector and after the beginning of operational work. Thereby, the conditions for the full assessment of prescribed conditions for the performance of the activities of the transmission system operator will be created.

Having insight into the Statement of July 23, 2019, it was established that the Company confirmed that they have necessary financial, material and technical resources for the performance of transmission and transmission system operation, including independent information systems, equipment, devices and systems for the protection of information from the access of associated persons, as well as premises separate and different from the ones of the associated persons. With reference to this evidence, too, the Agency did not make a detailed assessment of the compliance with the given condition at this moment bearing in mind that the Company is not fully equipped to perform the activities of the transmission system operator and that the conditions for this will be created after the construction of the future new interconnector and after the beginning of operational work. Thereby, the conditions for the full assessment of prescribed conditions for the performance of the activities of the transmission system operator will be created.

Having insight into the Statement of July 23, 2019, it was established that the Company operates under the business name "GASTRANS" Limited Liability Company Novi Sad, i.e. with an abbreviated business name "GASTRANS" LLC Novi Sad. The business name of the company, being the most distinct designation of the business identity of the Company obviously differs from the business name of the vertically integrated company i.e. of any its part. Therefore, the Company business name does not keep reference to the vertically integrated company. Another important designation of business identity is the trademark/logo of the Company, which is visible on the memorandum of the Company and which differs from the trademark of the vertically integrated company, i.e. of any of its part. The given trademark, as well as another 5 trademarks were protected by the seal with the Intellectual Property Office. The company also submitted an application for the international protection of its seals for the territory of Bulgaria, Hungary, Turkey and Romania. The trademark of the Company is posted in the premises of the Company in their headquarters at 12 Narodnog fronta Street as well as in all means of communication (e-mail, business letters, business cards and other representational resources). Apart from the above mentioned, the Company has a website – "GASTRANS".rs as well as an e-mail address @"GASTRANS".rs.

Having insight into the Statement of July 23, 2019, it was established that the Company confirmed that they do not share information systems, equipment, premises and information protection systems with any part of the vertically integrated company. The Company does not have the same persons hired to perform activities related to information systems, equipment and information protection systems. Similar to the case of above mentioned evidence related to the employees and financial, material and technical resources, the Agency did not make a detailed assessment of the compliance with the given condition at

this moment bearing in mind that the Company is not capable for operational work at the moment and bearing in mind that this will be possible only after the construction of the future new interconnector.

Having insight into the Statement of July 23, 2019, it was established that the audit of financial reports of the Company for 2018 was performed by KPMG LLC Belgrade. In addition, by giving this Statement, "GASTRANS" LLC Novi Sad states that the given auditor does not perform the audit of financial reports of the vertically integrated company or of any of its parts. In addition, the auditor for the 2019 Company Financial Reports is yet to be appointed in line with the Rulebook on procurements, and one of the criteria for the appointment will be a lack of conflict of interest and a fact that an auditor does not participate in the audit of the vertically integrated company or of any of its parts. The Agency will observe the appointment of the auditor for 2019 and the Agency is authorised to ask all necessary data and documentation from "GASTRANS" LLC Novi Sad to this end.

By giving the Statement of July 23, 2019, the Company confirms that all commercial and financial relations of the Company with the vertically integrated company are based on transparency and non-discriminatory principles, i.e. in line with the non-discriminatory behaviour programme. Article 7 of the programme prescribes that, apart from the activities related to offering credits and to realization of transmission system construction and maintenance, all contracts which serve as the basis for the provision of services, service provision contracts and other conditions concluded between "GASTRANS" LLC Novi Sad and members of "GASTRANS" LLC Novi Sad and/or Associated Entities will be based on market principles while prices that will be charged will be in line with the principle "at arm's length". In addition, in order to perform services of administrative and technical nature, "GASTRANS" LLC Novi Sad may conclude contracts which regulate the provision of services with "GASTRANS" LLC Novi Sad members and associated entities. The provisions of these contracts must not endanger the independence of activities – transmission and transmission system operation in line with the law and they must not be in any other manner in conflict with the Programme for Non-Discriminatory Behaviour in its segment which establishes the confidentiality of commercially sensitive data and principles which guarantee the equality of all transmission system users and natural gas market participants. The provisions of such contracts should provide the procurement leading to lower expenses, i.e. the procurement with realistic values, and they should provide for the transmission system operator to obtain a position which does not create unnecessary dependence on "GASTRANS" LLC Novi Sad members and associated entities.

By giving the Statement of July 23, 2019, the Company confirms that the Company Managers, as well as the members of the Board of Directors of South Stream Serbia AG are engaged either by the Public Enterprise „Srbijagas” or by Gazprom Group while it is noted that the Company does not apply for certification as an independent transmission operator, i.e. that an exemption from the ownership unbundling obligation arising from Articles 224 and 225, para. 1-4 of the Energy Law was approved to the Company by the Decision of the Energy Agency of the Republic of Serbia on Exemption of New Natural Gas Interconnector No.:40/2018-D-03/62a of March 5, 2019, among other things. Since the condition prescribed by Article 225, para.1-4 is basically the same as the condition for an independent transmission operator in terms of the engagement of Company management bodies members by other parts of the vertically integrated company, as prescribed in Article 235, paragraph 1, item 1) of the Energy Law, the Agency did not make an additional assessment and analysis of the given Statement, but the Agency considers the condition related to the engagement of Company management bodies members by other parts of vertically integrated company as the one complied with.

By the Statement of July 23, 2019, it is confirmed that the Company managers as well as the members of the Board of Directors of South Stream Serbia AG were engaged either by the Public Enterprise "Srbijagas" or by Gazprom Group in the period three years prior the appointment to the relevant

position while it is noted that the Company does not apply for certification as an independent transmission operator, i.e. that an exemption from the ownership unbundling obligation arising from Articles 224 and 225, para. 1-4 of the Energy Law was approved to the Company by the Decision of the Energy Agency of the Republic of Serbia on Exemption of New Natural Gas Interconnector No.:40/2018-D-03/62a of March 5, 2019, among other things. Since the condition prescribed by Article 225, para.1-4 is basically the same as the condition for an independent transmission operator in terms of the engagement of Company management bodies members by other parts of the vertically integrated company in the three-year period, as prescribed in Article 235, paragraph 1, item 2) of the Energy Law, the Agency did not make an additional assessment and analysis of the given Statement, but the Agency considers the condition related to the engagement of Company management bodies members by other parts of vertically integrated company in the three-year period as the one complied with.

Having insight into the Statement of August 5, 2019, it is noted that there is only one person who signed an employment contract in the Company as a manager, and six months prior to certification application, this person used to be a manager of the branch of the company OOO "Gasprom Export" in the Czech Republic. The Statement indicates another ten persons who do not work in the Company but they are engaged by the Company on different expert or management positions whereas they perform management duties or they are members of management bodies in companies performing electricity or natural gas production or supply. According to the Article 24 of the Decision on Exemption of New Interconnector, within the certification procedure, it is considered that the condition, prescribed by Article 225, paragraph 1-4 of the Energy Law referring to the independence of the system operator in terms of management rights of persons who directly or indirectly also manage both the transmission system operator and entities performing production or supply or, are simultaneously members of management bodies in all the above mentioned entities, is complied with. Therefore, the Agency did not make additional analysis or assessment of the data on employees acting on management positions in "GASTRANS" LLC Novi Sad. As far as the compliance with the condition related to the sufficient number of employees who perform legal, economic, technical and other activities as well as the activities related to information technologies are concerned, referred to in Items 4, paragraph 2, Item 3) of the Decision on Exemption of New Natural Gas Interconnector, No.: 40/2018-Д-03/62a of March 5, 2019, the Agency did not make a detailed analysis of the list of employees from the given Statement at this moment since the Company is not capable for operational work yet and bearing in mind that this will be possible for the Agency only after the construction of the future new interconnector.

Having insight into the Statement of August 7, 2019 on the manner of compliance with provisions on independence, it was established that the Company stated that the indirect member of the applicant – Public Enterprise "Srbijagas" which is founded by the Republic of Serbia and which is managed by the General Manager who is also one of the Company Managers. It was also established, that in line with Item 24 of the Decision on Exemption, within the certification procedure, the conditions referred to in Articles 224, 225, paragraphs 1-4, 245 and 246 of the Energy Law are considered as the ones complied with. Since the condition referred to in Article 225, paragraphs 1-4 of the Energy Law which relates to the independence of the system operator in terms of exercise of management and ownership rights of persons who directly or indirectly manage both the transmission system operator and entities performing production and supply or who are simultaneously members of management bodies in all the above given entities is considered as the one complied with, the Agency accepted this evidence. Whereas the Agency took into consideration, and this was also stated in the Company Statement of August 7, 2019, that, on March 7, 2019, the Company adopted a Programme of Non-Discriminatory Behaviour, which, among other things, prescribes an obligation of the Company to operate in legal and organizational terms independently from the members of "GASTRANS" LLC Novi Sad and associated entities. It also prescribes that the Company

should operate the natural gas transmission system independently and to perform contracted transmission services independently (to accept nominations, renominations, withdraw and deliver natural gas) and to contract capacities independently and separately from the members of "GASTRANS" LLC Novi Sad, in line with conditions prescribed by Article 234 of the Energy Law. Since the Company also appointed a programme compliance officer, who, according to the Programme for Non-Discriminatory Behaviour No. 05-39 of March 7, 2019, is obliged to monitor the realization of the Programme, submit annual reports to the Agency on the measures taken to realize the Programme and inform the Agency on any important breach of Programme provisions and other relevant data upon the request of the Agency, the Agency did not make a detailed assessment of the compliance with conditions in terms of realization of the Programme for Non-Discrimination Behaviour at the moment, bearing in mind that, at this moment, the Company is not capable for operational work yet and that this will be possible only after the construction of the future new interconnector, i.e. following the report of the Programme Compliance Officer.

Having insight into the Programme for Non-Discriminatory Behaviour of the Company, No. 05-39 of March 7, 2019 which was approved by the Agency by a legal act No. 155/2019-Д-I of March 8, 2019 and into the Decision on Appointment of Programme Compliance Officer which was approved by the Agency by a legal act No. 159/2019-Д-I of March 8, 2019, it was established that the certification conditions related to the adoption of these acts prescribed by Item 4 of the Decision on Exemption, i.e. by Article 237 of the Energy Law are complied with.

Having insight into the file, it was established that the applicant submitted evidence on the payment of the republic administrative fee of RSD 12,490 for the application for decision on certification and RSD 124,850 for certification decision (Tariff number 140a) as well as RSD 270 for the warning on fee payment (Tariff number 18) in line with the Law on Republic Administrative Fees („Official Gazette of RS“; No. 43/03... and 38/19 - harmonised Dinar amount). The payment was made to the benefit of the Budget of the Republic of Serbia – administrative fee on the account No. 840- 742221843-57.

Upon considering the submitted application, documentation submitted along with the submitted application, documentation submitted afterwards and all the files and assessing the compliance of conditions for the issuance of the certificate according to the independent transmission operator model prescribed by Articles 232-238 of the Energy Law as the only possible model (since the exemption from the ownership unbundling model is approved and since it is obvious, bearing in mind the organization of "GASTRANS" LLC Novi Sad that it cannot be certified according to the independent system operator model) and to the extent it is in compliance with the approved exemption, i.e. with conditions for the issuance and validity of certificate set by the Decision on Exemption of New Natural Gas Interconnector of March 5, 2019, on 60th session of August 15, 2019, in line with Article 39, paragraph 1 and Article 49, paragraph 3 and 232 of the Energy Law ("Official Gazette of RS", No. 145/14 and 95/18 – other law), Articles 20-23 of the Rulebook on Energy License and Certification ("Official Gazette of RS", No. 87/15), item 24, paragraph 1 of the Decision of the Energy Agency of the Republic of Serbia on Exemption of New Natural Gas Interconnector ("Official Gazette of RS", No. 15/19) 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 on the certification of "GASTRANS" LLC Novi Sad under the conditions defined by that decision.

Since, as an investor of the future interconnector, "GASTRANS" LLC Novi Sad obtained construction permits, which makes it certain that they will provide occupancy permits as well as register ownership rights into the relevant public registries, which does not depend exclusively on "GASTRANS" LLC Novi Sad, but on other competent bodies and institutions, and, since these activities take certain time,

a timeframe of six months was set for “GASTRANS” LLC Novi Sad to provide evidence related to the ownership rights to the network. The given deadline was set since, bearing in mind the timeframe for procedures with other competent bodies and institutions, the Agency assessed that the deadline of six months is realistic to obtain necessary permits or to register ownership rights on all facilities constituting the transmission system. In addition, the given deadline was set also to submit evidence on the compliance with conditions related to independent operation and new interconnector operation and this deadline was assessed to be the shortest time necessary for “GASTRANS” LLC Novi Sad to become capable of fully independent and operational work separately from associated entities, in line with Item 4 of the Decision on Exemption.

III. ENERGY COMMUNITY SECRETARIAT OPINION

In line with Article 241, paragraph 3 of the Energy Law, the Agency Decision on Certification of “GASTRANS” LLC Novi Sad of August 15, 2019 (hereafter: Preliminary Decision) was submitted by the act of the Agency No: 311.01-2/2019-C-I of August 26, 2019 to the body competent for it in line with obligations arising from ratified international treaties for opinion purposes.

The body competent for it in line with obligations arising from ratified international treaties is the body defined by the Energy Community Treaty and Ministerial Council Decisions until the accession of the Republic of Serbia to the European Union, i.e. the Energy Community Secretariat (hereafter: Secretariat).

The provision of Article 241, paragraph 7 of the Energy Law prescribes that in case when the final decision of the Agency deviates from the opinion of the body competent in line with obligations arising from the ratified international treaties, the Agency publishes the decision, opinion of the Secretariat and the background for such decision.

On December 18, 2019, the Secretariat submitted the opinion No. 5/19 on the Preliminary Decision (hereafter: Opinion) where they indicated that they considered the submitted decision in line with Article 3(1) of the Regulation (EC) No. 715/2009 and Article 10 (6) of the Directive 2009/73/EC and that they obtained the opinion of the Energy Community Regulatory Board of December 10, 2019 within the opinion-giving procedure (the ECRB stated that they had no specific comments to the Preliminary Decision).

The Secretariat indicated that “GASTRANS” LLC Novi Sad applied for certification of the Transmission System Operator in line with Article 24(1) of the Exemption Decision which obliges the company prior to the commencement of the operational work, to obtain a certification from AERS. The certification shall be issued if the conditions set out by the Exemption Decision under items 4-7 are complied with, namely to permanently protect the confidentiality of commercially sensitive information of system users and apply measures to this end; operate the pipeline and be organized independently, to possess the necessary financial, material and technical means for transmission and the operation of the transmission system, and to have a sufficient number of employees who independently perform legal, economic, technical and other tasks, including IT; to adopt and implement a compliance program; to appoint a compliance officer and ensure that the compliance officer performs its duty separately and independently.

However, in the Opinion ECS-1/19 on the Exemption of the Construction Project of the “GASTRANS” LLC Novi Sad from certain requirements of the Directive 2009/73/EC by the Energy Agency

of the Republic of Serbia, the Secretariat pointed out that the Project does not fulfill the conditions under Article 36 of the Gas Directive and should therefore not have been exempted from the unbundling regime enshrined in Article 9 of the Gas Directive.

In particular, the Secretariat recalls that the investment does not enhance competition, as required under Article 36(1)(a) of the Gas Directive, but that the exemption granted is detrimental to competition: Due to the monopolistic and/or dominant positions of the shareholders of the Project at different levels of the Serbian gas market, the Project is not expected to make new capacity effectively available to new market entrants and/or competitors, but will strengthen the market position of its owners, and further foreclose the markets. Furthermore, the exemption from third-party access and the exclusive allocation of the originally envisaged 88% or more of the capacity will further restrict competition, in particular because the new capacity is not available to new market entrants and/or competitors of the dominant undertakings but only to the already dominant market players themselves.

The Exemption Decision did not require “GASTRANS” LLC Novi Sad to implement the proposed liquidity measures¹⁴ or any substitute to it. Also, unbundling of the system operator Transportgas Srbija from Srbijagas was not made a condition for the exemption. Without the safeguarding and liquidity measures stated in the Secretariat’s Opinion ECS-1/19, the Project will constitute an additional and persistent obstacle to market opening, transparency and the development of competition, which is currently almost non-existent and needs regulatory support. This is even more so as the authorities have failed to address serious violations of Energy Community law by or attributable to the shareholders of the Project such as lack of unbundling of Srbijagas and Yugorosgaz Transport or the refusal to grant third-party access on the only existing interconnector with Hungary.

As a consequence, the Project has not been lawfully exempted from Article 9 of the Gas Directive. It therefore must comply with the unbundling regime of the Third Energy Package.

Therefore, the Secretariat is of the opinion that the certification cannot be based on a *sui generis* model of unbundling, such as the one established by the conditions imposed in the Exemption Decision (items 4-7), but that “GASTRANS” LLC Novi Sad has to comply with Article 9 of the Gas Directive.

Since “GASTRANS” LLC Novi Sad applied for certification under the conditions imposed by the Exemption Decision, its application for certification should be rejected in the Secretariat’s opinion.

The Secretariat indicates that the Third Energy Package as well as the Serbian Energy Law require unbundling of TSOs according to one of the three models: ownership unbundling, independent system operator or independent transmission operator. Since the Project has not been lawfully exempted from these provisions, “GASTRANS” LLC Novi Sad needs to comply with this unbundling regime.

In this respect, the Secretariat notes that according to Article 9(8) of the Gas Directive, the ITO model may only apply “where on 6 October 2011, the transmission system belongs to a vertically integrated undertaking”. AERS certifies “GASTRANS” LLC Novi Sad under the ITO model in the operative part of the Preliminary Decision.

The Secretariat recalls that the European Commission clarified that “New transmission systems, in

particular systems which did not yet exist on [date], will have to follow the ownership unbundling regime.”¹⁵ Since the Project concerns new infrastructure, the system was not operated at all on the cut-off date, and therefore, “GASTRANS” LLC Novi Sad is generally not eligible to be certified under the ITO model.

Therefore, the Secretariat is of the opinion that the certification cannot be based on the ITO model, but it must be based on the assessment of the conditions of ownership unbundling as defined in Article 9 of the Gas Directive.

Although “GASTRANS” LLC Novi Sad applied for certification under the conditions imposed by the Exemption Decision and not under the ITO model, AERS certifies “GASTRANS” LLC Novi Sad under this model. However, since the company is not eligible to apply under the ITO model, the Secretariat is of the view that no such certification should be granted.

IV. FINAL DECISION ON CERTIFICATION OF “GASTRANS” LLC, NOVI SAD, 12 NARODNOG FRONTA ST. WITH BACKGROUND OF REMARKS FROM THE ENERGY COMMUNITY SECRETARIAT OPINION

The Article 241 of the Energy Law prescribes that in case when the final decision of the Agency deviates from the opinion of the body competent in line with obligations arising from the ratified international treaties, the Agency publishes the background for such decision along with the decision.

The Agency considered the submitted opinion and considers that the remarks related to granting exemption to the “GASTRANS” LLC Novi Sad (Decision of the Energy Agency of the Republic of Serbia on Exemption of New Natural Gas Interconnector No. 40/2018-D-03/62a of March 5, 2019 (“Official Gazette of RS”, No. 15/19) are not a subject matter of this Decision and cannot be considered within this procedure. The Secretariat submitted their opinion No. 1/19 on the given Decision and this opinion was considered and the background for it was elaborated within the Decision on Exemption.

With reference to this, it is indicated that when adopting the Decision on Exemption, the Agency accepted the following conditions given in the Secretariat Opinion:

1. Maximum capacity scope which is exempted and which may be allocated during the binding phase to the Gasrpmexport and the Public Enterprise “Srbijagas” as project investors and all “third parties” by the application of the criteria “willingness to pay” is accepted, and, therefore:
 - a) Approved priority allocation to investors to the amount of:
 - 70% of technical capacity on the entry point (interconnector Serbia-Hungary);
 - 55% of technical capacity on exit points in Serbia;
 - 75% of technical capacity on the Horgos exit (interconnector Serbia-Hungary);
 - b) Approved allocation to all third parties to the amount of:
 - 20% of capacity on the interconnector Bulgaria – Serbia;
 - 35% on the exit points in Serbia;
 - 15% on Horgos exit point (interconnector Serbia-Hungary);
 - c) It is approved to book at least 10% of technical capacity for short-term allocation (following the construction of the pipeline) while minimum 10% of technical capacity has to be provided in case the investor decides to change the technical design of the project.

The requirement of the Secretariat implying that 10% of technical capacity which is booked for short-term allocation (quarterly, monthly, daily and intraday capacity) should be increased before each allocation for the whole amount of contracted capacity and which is not nominated for the following day (application of “day ahead UIOLI” mechanism) and for the whole amount of contracted capacity which is flowed back to Gastrans by users for allocation purposes (application of “Capacity Surrender” mechanism) is accepted.

In the exemption act, the application of provisions related to the contracted congestion management from the PHLG Decision No. 2018/01/PHLG-EnC of 12/01/2018 which amends congestion management rules in the EU (Annex I Regulation (EU) 715/2009) is accepted.

The Secretariat’s requirement related to the auction method and ranging offers in line with the so-called “willingness to pay” criterion if the demand for long-term capacity extends the level of offered capacity is accepted (“willingness to pay” method is the common long-term capacity allocation on interconnectors in the binding-phase (Open Season) which is applied in Hungary, Austria, Romania, Croatia...).

2. The Secretariat’s requirement implying that in case the whole amount of capacity is not allocated to “third parties” within the binding phase, this capacity is booked for short-term allocation (following the construction of the pipeline) and to thereby increase the level of already booked 10% referred to in subitem c) was not accepted.

In opposition to the Secretariat’s requirement, the Agency approved that if the whole capacity is not allocated to third parties in the binding phase, “GASTRANS” LLC Novi Sad may allocate this capacity only to third parties and investors whose requests were not fully accepted within the previous allocation phases as well as to those whose bids were denied since they required a capacity with the duration shorter than 20 years and, based on bids ranging in line with criteria “willingness to pay”, such bid was denied.

Such a decision was made bearing in mind that if, within the binding phase, in the long-term, there was only 70% of the gas pipeline contracted, as it was required by the Secretariat, it would imply a high level of project realization since the banks may deny financing the project due to a relatively low usage-rate and due to the fact that the project realization is not assisted from other sources, e.g. by the EU or similar funds. The Agency also had in mind that:

- the price for gas pipeline usage will be more competitive in comparison to other gas pipelines if 90% of the gas pipeline capacity is contracted on the long-term basis, while the transmission fee would be increased by 30% if only 70% of the gas pipeline capacity is contracted on long-term basis.
- long-term booking of 90% of gas pipeline capacity is the common practice for interconnectors in the EU countries in the neighbourhood.
- the ratio between 90% of long-term contracted capacities and 10% short-term contracted capacities is in line with Article 30 of the NC CAM (capacity allocation network code) which was also applied with the neighbouring system operator Bulgartransgaz EAD in the capacity allocation procedure on interconnectors between Turkey and Bulgaria and Bulgaria and Serbia.

3. All Secretariat’s requirements related to the method of transmission system management (capacity allocation and congestion management following the gas pipeline construction) which relate to the obligation of application of network codes adapted in the Energy Community, i.e.: PHLG Decision No.

2018/6/PHLG-EnC of 28/11/2018 implementing the Regulation (EU) 2017/459 of 16/03/2017, Capacity Allocation Mechanism Network Code (hereafter: CAM NC) and Annex 1 to the Regulation (EU) 715/2009 regulating congestion management rules (hereafter: CMP NC) are accepted.

Therefore, all Secretariat's requirements related to the obligation of "GASTRANS" LLC Novi Sad related to the following are implemented:

- The allocation of all available capacity following the construction is to be performed in line with CAM NC which implies the application of the auction model where short-term capacity is allocated in line with "willingness to pay" criterion
 - Starting price of capacity in the auction is set by the application of tariff charged by GASTRANS to long-term capacity users with the application of season coefficients from network codes regulating tariff structure (annual tariff for exempted capacity multiplied with multipliers and seasonal factors from TAR NC);
 - Short-term capacity is allocated on the auctions with the use of selected operational electronic platform;
 - Short-term capacity is allocated as quarterly, monthly, daily and intraday in line with CAM NC and capacity is offered as bundled capacity in case an agreement is concluded with the neighbouring system operators;
 - Every two years, "GASTRANS" LLC Novi Sad investigates the market interest for additional capacity in line with CAM NC in its segment referring to incremental capacity;
 - In case congestion is set on certain entries/exits of the gas pipeline of "GASTRANS" LLC Novi Sad in the annual report of the Energy Community, a part of contracted continuous capacity which is not nominated for the next day is taken away from the capacity owners and offered as a continuous capacity on the auctions to all interested users for the following day (FDA UIOLI);
 - Secondary capacity market is provided where long-term and short-term capacity users may participate;
 - Capacity contracted and flowed back by users is allocated again on the auction (surrendered again for the purpose of new allocation – "Capacity Surrender to TSO");
 - Offers intermittent capacity for day-ahead if the whole amount of continuous capacity is contracted and
 - Provides sending intraday nominations as intermittent capacity nominations.
4. The Secretariat's request for GASTRANS LLC Novi Sad to allocate and contract:
- Commercial reverse capacity on the interconnector Hungary-Serbia, Serbia-Bulgaria and the request to
 - Provide physical flow of gas in the opposite direction Serbia-Bulgaria in case of gas shortage.

The Agency did not accept the requirement of the Secretariat implying the decision on the exemption should include an obligation of PE "Srbijagas" to perform legal unbundling of "Transportgas Srbija" since the Agency cannot impose such an obligation by the Exemption Act to a third person. Only rights and obligations of a facility which is a file applicant in this procedure can be a subject matter of such a document.

In addition, the issue of unbundling Public Enterprise "Srbijagas" Novi Sad and "Yugorosgas" JSC, Beograd which was mentioned in the Secretariat's Opinion on the Decision on Certification of "GASTRANS" LLC Novi Sad cannot be the subject matter of this decision and cannot be considered within this legal matter, i.e. within the procedure of certification of "GASTRANS" LLC Novi Sad. Within the

certification procedure, the Agency can decide only on rights and obligations of the file applicant, i.e. "GASTRANS" LLC Novi Sad while the Agency cannot decide on rights and obligations of an entity which is not a file applicant in this procedure.

Concerning the remark implying that the certification of "GASTRANS" LLC Novi Sad cannot be based on ITO model but on the assessment of conditions prescribed for ownership unbundling which are defined in Article 9 of the Gas Directive, the Agency considers that the issuance of the certificate in line with the independent transmission operator model as prescribed by Articles 232-238 of the Energy Law is the only possible model (since the exemption from the ownership unbundling model is approved, and since it is obvious, bearing in mind the organization of the "GASTRANS" LLC Novi Sad that it cannot be certified in line with an independent system operator model) to the extent it is in line with the approved exemption, i.e. in line with conditions for the issuance and validity of certificate defined by the Decision on Exemption of New Natural Gas Interconnector of March 5, 2019. In line with Article 232 of the Energy Law, the transmission system operator can be organized as: 1) transmission system operator in line with Art. 224 and 225 of the Law; 2) independent system operator in line with Art.227 and 231 of the Law and 3) independent transmission operator in line with Art. 232 and 238 of the Law. Since the Decision on the Exemption defines that "GASTRANS" LLC Novi Sad is exempted from the ownership unbundling obligation, in the opinion of the Agency, there is no basis for certification in line with ownership unbundling model.

Therefore, by the Preliminary Exemption Act, the Agency approved a right to be exempted from ownership unbundling obligation to "GASTRANS" LLC Novi Sad, while this right was limited by the obligation to implement specific measures aiming at the provision and control of independence in their operation and of protection of commercially-sensitive data (adoption of Non-Discrimination Programme, monitoring its implementation by a compliance officer, setting conditions for the appointment of this officer and regular reporting on the realization of the Programme by the Board of Directors and employees). These measures were set by the Agency in the Preliminary Decision as well as in the Final Exemption Decision with a condition implying that their compliance is the condition for the issuance and validity of the certificate which "GASTRANS" LLC Novi Sad is obliged to obtain from the Agency within the certification procedure in order to provide a possibility to the Agency to control the unbundling and independence referred to in the conditions of the given exemption from the ownership unbundling.

The measures defined in such a manner correspond to the Energy Law which prescribes these measures for the certification in line with ITO model and which are, in line with this model, defined by the Exemption Act (*ad hoc* ITO) which is also as a whole in line with the best practice of the European Union.

The Secretariat had no objections within their Opinion submitted to the Agency within the exemption procedure to the measures defined in such a manner and aimed at the prevention of discriminatory behaviour in line with ITO model and to requirements for certification prior to the commercial operation of the gas pipeline.

Since the Secretariat considers that the Agency did not accept all the measures required by the Secretariat in terms of competition protection and unbundling of "Transportgas Srbija" which we understand that, in line with the Secretariat's assessment, makes the approved exemption legally ineffective in the Energy Community, therefore, it makes the certification in line with ITO model without legal grounds, it is indicated that, both in line with the Energy Law and the EnC MC Decision 20011/2, the Agency has a right to take the into account to the greatest possible manner and that within the exemption procedure, the Agency almost fully complied with the Secretariat's Opinion, while giving clear justification for deviations.

Deviations in terms of competition protection measures and unbundling of Transportgas Srbija LLC which are not within the jurisdiction of the Agency and out of the scope of administrative exemption procedure are used by the Secretariat to prejudice the validity of measures defined when approving exemption from ownership unbundling. Such Secretariat's actions and position are in opposition to the former Secretariat's Opinion given upon the exemption procedure, since the Secretariat had no objections to the ownership unbundling conditions in that opinion, therefore, they had no objections to the certification model either.

The Secretariat's objections in terms of deviations of the Agency related to the imposed measures for competition protection and unbundling of Transportgas Srbija cannot be used as the grounds for contesting the decision adopted within the certification procedure since neither of the two conditions can be met by "GASTRANS" LLC Novi Sad which is why such conditions cannot be imposed in this procedure and, therefore, the grounds of certification in line with ITO model cannot be contested as well.

The Preliminary Decision imposes on the "GASTRANS" LLC Novi Sad to comply with certain conditions prescribed by the Preliminary Decision within 6 months since the beginning of the operational work, i.e. to submit certificate of occupancy or to register ownership rights over natural gas transmission system facilities and evidence confirming that the company operates and manages the constructed transmission system independently in line with item 4, paragraph 1-3 of the Decision of the Energy Agency of the Republic of Serbia on Exemption of New Natural Gas Interconnector („Official Gazette of RS“, No. 15/19).

Upon the adoption of the Preliminary Decision, acting in line with the request of the Agency, "GASTRANS" LLC Novi Sad:

1) submitted on September 16, 2019:

1. Decision on construction permit of the Municipality of Kovin – Department for Urban Planning and Housing and Public Utility Issues No. ROP-KOV-4170-CPI-2/2019 of September 6, 2019;
2. Decision on construction permit of the Town of Zaječar – Department for Urban Planning and Housing and Public Utility Issues No. ROP-ZAJ-6491-CPI-2/2019 of August 7, 2019;
3. Decision on construction permit of the Municipality of Opovo – Department for Property, Legal, Housing and Public Utility Issues, Urban Planning, Construction and Environment Protection No. ROP-OPO-ROP-38316 CPI-2/2019 of August 16, 2019;
4. Decision on construction permit of the Municipality of Titel – Department for Town Planning, Urban Planning, Construction and Environment Protection No. ROP-TIT-38324-CPI-2/2019 of August 15, 2019;
5. Decision on construction permit of the Town of Smederevo – Department for Urban-Public Utility and Property-Legal Issues No. ROP-SMD-204-CPI-3/2019 of July 31, 2019;
6. Decision on construction permit of the Town of Pančevo – Secretariat for Urban Planning, Construction, Housing-Public Utility Issues and Transport No. ROP-PAN-5283-CPI-2/2019 of September 10, 2019;

7. Decision on construction permit of the Municipality of Žabari – Department for Economy, Urban Planning and Social Affairs, Group for Bundled Procedure, No. ROP-ZAB-5716-CPI-2/2019 of July 29, 2019;
- 2) submitted on October 15, 2019:
 1. Decision on construction permit of the Municipality of Boljevac – Department for Urban Planning, Bundled Procedure and Implementation, Property-Legal Issues and Public Procurement, Section for Implementation of Bundled Procedure, No. ROP-BOL-5979-CPI-2/2019 of September 17, 2019;
 2. Decision on construction permit of the Ministry of Construction, Transport and Infrastructure, No. ROP-MSGI-14839-CPI-6/2019 of October 2, 2019;
 3. Decision on construction permit of the Municipality of Žabalj – Department for Urban Planning, Construction, Legalisation and Transport, No. ROP-ZAL-38337-CPI-3/2019 of September 19, 2019;
 4. Decision on construction permit of the Municipality of Boljevac - Department for Urban Planning, Bundled Procedure and Implementation, Property-Legal Affairs and Public Procurement, Section for Implementation of Bundled Procedure, No. ROP-BOL-5987-CPI-2/2019 of September 13, 2019;
- 3) Submitted on November 15, 2019:
 1. Decision on construction permit of the Ministry of Construction, Transport and Infrastructure, No. ROP-MSGI-23046-CPI-4/2019 of October 24, 2019;
 2. Decision on construction permit of the Town of Zrenjanin, Department for Urban Planning, Section for Implementation of Bundled Procedure, No. ROP-ZRE-38321-CPIH-3/2019 of October 22, 2019;
- 4) Submitted on December 16, 2019:
 1. Decision on construction permit of the Ministry of Construction, Transport and Infrastructure, No. ROP-MSGI-14840-CPI-2/2019 of November 22, 2019;
 2. Decision on construction permit of the Town of Pančevo – Secretariat for Urban Planning, Construction, Housing-Public Utility Issues and Transport No. ROP-PAN-24466-CPI-2/2019 of December 5, 2019;
- 5) Submitted on January 15, 2020:
 1. Decision on construction permit of the Municipality of Kanjiža – Department for Construction and Inspection Affairs CIS, No. ROP-KAN-26566-CPIH-3/2019 of December 26, 2019;
 2. Decision on construction permit of the Municipality of Ada – Department for Public Utility Affairs, Urban Planning, Construction and Environment Protection, Section for Public Utility, Urban Planning and Construction, No. ROP-ADA-26691-CPI-2/2019 of December 12, 2019;

6) Submitted on February 18, 2020:

1. Decision on construction permit of the Municipality of Paraćin – Administration for Urban Planning, Financing, Assembly and General Affairs, Department for Urban Planning and Property-Legal Affairs, No. ROP-PAR-22365-CPI-3/2020 of January 30, 2020;
2. Decision on construction permit of the Municipality of Despotovac, Municipality Administration, Department for Property-Legal Affairs, Housing-Public Utility Affairs, Urban Planning, Construction and Environment Protection, No. ROP-DES-17835-CPI-3/2019 of December 23, 2019;
3. Decision on construction permit of the Municipality of Kanjiža, Municipality Administration, Department for Construction and Inspection Affairs CIS, No. ROP-KAN-28278-CPI-2/2020 of February 6, 2020;
4. Decision of the City of Zrenjanin, City Administration, Urban Planning Department, Section for Implementation of Bundled Procedure, No. ROP-ZRE-37344-ISAW-1/2019 of December 9, 2019.

With reference to this, while bearing in mind that as the investor of the future interconnector, "GASTRANS" LLC Novi Sad continued obtaining construction permits, which makes it certain that they will provide occupancy permits as well and register ownership rights into the relevant public registries, which does not depend exclusively on "GASTRANS" LLC Novi Sad, but on other competent bodies and institutions, and, since these activities take certain time, it was estimated that with an additional deadline, "GASTRANS" LLC Novi Sad will comply with the prescribed conditions related to the ownership over the transmission system and to the performance of transmission and transmission system operation. With reference to this, a deadline of six months since the beginning of operational work for the submission of evidence in terms of ownership rights over the network was given. The given deadline was set since, bearing in mind the timeframe for procedures with other competent bodies and institutions, the Agency assessed that the deadline of six months is realistic to obtain necessary occupancy permits or to register ownership rights on all facilities constituting the transmission system.

In addition, the given deadline was set also to submit evidence on the compliance with conditions related to independent operation and new interconnector operation and this deadline was assessed to be the shortest time necessary for "GASTRANS" LLC Novi Sad to become capable of fully independent and operational work separately from associated entities, in line with Item 4 of the Decision on Exemption. Namely, at this moment, "GASTRANS" LLC Novi Sad is not capable to meet all the set conditions, and, therefore, an obligation was imposed implying that, as soon as the transmission system is constructed and starts operational/commercial work, the procedure in line with Article 242 of the Energy Law should be repeated and within it, the compliance of the prescribed conditions will be required. The above mentioned is necessary since the transmission system is not constructed at the moment of certification and „GASTRANS“ LLC Novi Sad does not perform most of the tasks of the transmission system operator which is why one cannot fully assess the prescribed conditions for certification. The situation when certification of the transmission system operator is applied for at the moment when the transmission system is not yet constructed is specific. It is only possible to apply a specific regulatory framework for its work in terms of setting, tariffs, adoption of Network Codes, Compliance Programme, appointment of a compliance officer as well as guidelines for the implementation of new infrastructure usage market test.

With reference to this, the following is indicated:

- 1) On March 8, 2019, the Energy Agency of the Republic of Serbia approved all the documents defined in the Exemption Decision as a condition for the implementation of the binding phase, i.e.:
 - a) Natural Gas Transmission Contract Model;
 - b) Tariff Methodology for Setting Natural Gas Transmission Fee of „GASTRANS“ LLC Novi Sad ;
 - c) Non-Discrimination Behaviour Programme of „GASTRANS“ LLC Novi Sad;
 - d) Decision on Appointment, Provision of Independence and Dismissal of Compliance Officer for the Non-Discrimination Behaviour Programme;
 - e) Decision on Appointment of Compliance Officer for Non-Discrimination Behaviour Programme.
- 2) Before the implementation of the binding phase of long-term capacity allocation (to investors and third parties), GASTRANS LLC Novi Sad complied with set obligations, i.e.
 - a) Prior submission of the “Call for Binding Bids” to the Agency for approval and
 - b) Submission of the results of capacity allocation to entities they concluded long-term gas transmission contracts on April 01, 2019, too.

„GASTRANS“ LLC Novi Sad implemented the binding phase of long-term capacity allocation in line with the Exemption Act.

- 3) On September 10, 2019, for public hearing purposes, „GASTRANS“ LLC Novi Sad published the Natural Gas Transmission Network Code draft and the short-term gas transmission contract model. Following the completion of the public hearing, the Network Code draft will be submitted to the Agency for further assessment of its compliance with regulations and conditions set in the Exemption Decision and with Secretariat’s requirements.

In addition, regardless of the fact that „GASTRANS“ LLC Novi Sad is not the transmission system operator, in order to prevent the conflict of interest, Rules and Mechanisms for Capacity Management and Allocation Based on Non-Discrimination and Effective Competition Principles were adopted. The whole process of both binding and non-binding capacity allocation was observed by the regulator.

For all the above reasons, while providing a reasonable deadline for the removal of recognised deficiencies, i.e. for the compliance with prescribed conditions, the Energy Agency of the Republic of Serbia estimated that the adoption of the decision as given in the operative part of this Decision is the most appropriate solution.

Based on all the above given, on 85th regular session of February 21, 2020, in line with Article 39, paragraph 1 and 49, paragraph 3 and 232 of the Energy Law (“Official Gazette of RS”, No. 145/14 and 95/18 – other law), Articles 24 of the Rulebook on Energy License and Certification (“Official Gazette of RS”, No. 87/15), item 24, paragraph 1 of the Decision of the Energy Agency of the Republic of Serbia on Exemption of New Natural Gas Interconnector (“Official Gazette of RS”, No. 15/19) 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 given in the wording of the Decision.

COUNCIL PRESIDENT

Dejan Popović

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