

# MINISTRY OF ECONOMY

1729

Pursuant to Article 10, Paragraph 2 of the Law on Gas Market (Official Journal *Narodne Novine* No. 68/2001), the Minister of Economy, with the consent by the Minister of Public Works, Construction, and Reconstruction passed the following

## REGULATION

### ON GAS DISTRIBUTION

#### I. GENERAL PROVISIONS

##### Article 1

This Regulation shall govern the conditions of technical, professional and financial qualifications to be fulfilled by a legal or natural person in order to obtain the license for gas distribution; gas distribution activities; rights and liabilities of the distribution undertaking; rights and liabilities of gas distribution users; and manner of providing funds for the construction of gas distribution network.

##### Article 2

Expressions used in this Regulation shall have meanings as defined in the Law on Energy (*Narodne Novine* No. 68/2001) and Law on Gas Market (*Narodne Novine* No. 68/2001).

##### Article 3

(1) Gas distribution activities are carried out by a distribution undertaking upon obtaining approval from the Energy Regulatory Council (hereinafter: Regulatory Council) for such activities and based on a concession.

(2) The Regulatory Council may issue a gas distribution license to a distribution undertaking registered for such activities, provided it holds technical, professional, and financial qualifications as stipulated by this Regulation, unless there are impediments stipulated by Article 17, Paragraph 1, Items 5 and 6 of the Law on Energy.

##### Article 4

(1) Gas distribution activities are carried out by a distribution undertaking by use of the distribution pipeline system:

a. from measurement reduction stations where it accepts gas from the transporter to the point of delivery to final customers in case of distribution of natural gas

b. from raw materials intake point for production of LPG/air mix, evaporated LPG or town gas to the point of delivery to final customers in case of distribution of LPG/air mix, evaporated LPG or town gas.

(2) Distribution pipeline system in terms of this Regulation consists of: distribution gas network, plants and facilities for production of LPG-mix, evaporated LPG or town gas in case of distribution of LPG-mix, evaporated LPG or town gas, HP (high-pressure) distribution pipelines, MP (medium pressure) and LP (low pressure) distribution pipelines with measurement, regulation, and safety equipment, odorising station, home and industrial connections, as well as facilities and equipment installed on distribution system ending with gas meter.

(3) Distribution pipeline system and the appertaining plants and facilities are designed,

built and maintained by the distribution undertaking. Works on design, construction, and maintenance of the distribution pipeline system may be entrusted by distribution undertaking to other legal or natural persons registered and authorised for such activities.

(4) The point of delivery to final customer, i.e. end point of distribution pipeline system is the place on exit from the gas meter or on exit from another pressure regulator level if the gas meter is not installed.

#### Article 5

A distribution undertaking shall carry out gas distribution activities by providing distribution system services through use of its own distribution pipeline system or through use of a third party's distribution pipeline system.

#### Article 6

(1) A concession for gas distribution activities is granted by a regional self-government unit upon a public bidding.

(2) Two or more regional self-government units may announce joint bidding and grant the concession for gas distribution activities at their own areas or parts thereof.

(3) A regional self-government unit may authorise another regional self-government unit to announce public bidding and grant concession for gas distribution activities on part of its area when justified by geographic, economic, technical, or other reasons.

#### Article 7

(1) The concession for gas distribution activities shall determine the distribution undertaking to carry out the activities based on the concession, capacity of the activities, scope of activities, concession term, and other issues stipulated by this Regulation.

(2) Concession may be granted for construction of distribution pipeline system including distribution system services or for provision of distribution system services on the existing distribution system.

(3) Concession may be granted to a person after obtaining approval from the Regulatory Council for gas distribution activities. The concession encompassing construction of distribution pipeline system may be granted to a person providing required evidence in the concession bidding that it has available or that it can provide funds required for the construction of distribution pipeline system.

## II. CONDITIONS AND METHOD OF PERFORMANCE

### *Technical qualifications*

#### Article 8

(1) A technically qualified distribution undertaking is the one with the required capacity of premises, plants, and facilities, namely:

– business premises (massive building) for management and supervision of distribution system and implementation of technical and safety regulations, in accordance with the technical, sanitary, health, and other minimum stipulated requirements, at least 10 m<sup>2</sup> and 2 m<sup>2</sup> free floor surface area per employee, and fulfilment of other requirements under Regulation on Safety at Work for Working and Auxiliary Premise – *Narodne Novine* No. 6/84 (hereinafter: the Regulation),

– workshop premises for maintenance and repair of the pipeline, facilities and plants, in accordance with technical, sanitary, medical, and other requirements, at least 10 m<sup>2</sup> air space and 2 m<sup>2</sup> free floor surface area per employee and fulfilment of other requirements in accordance with the Regulation,

– storage area for storage of equipment and facilities,

- open or roofed over area for storage of gas pipes of all types,
  - suitable premises for gas storage, used in distribution of natural gas,
  - suitable enclosed protected area for placement of odorising agents unless odorising is resolved otherwise by agreement with an authorised organisation,
    - means of transport: terrain vehicles and special vehicles for transport of hazardous materials, at least one vehicle per distribution area, and one suitable passenger car per 70,000 meters of pipeline,
    - facilities and equipment for control of air-tightness and good working order of pipeline, gas installations, appliances and facilities on pipelines and installations, unless resolved by agreement with another contractor,
    - odorising control equipment with equipment for decanting and neutralisation, unless resolved by agreement with another contractor,
    - mobile phones, radio devices (UHF)
    - tools required for maintenance and repair of pipelines and installations.
- (2) A distribution undertaking may own the premises and tools under Paragraph (1) of this Article or use them pursuant to a lease contract with a third party.

#### *Professional qualifications*

##### Article 9

A professionally qualified distribution undertaking is the one with at least one employee on indefinite term basis in each of the following:

- mechanical field, university degree and minimum 3 years of experience,
- construction field, university or associate degree and minimum 3 years of experience,
- electrical engineering, university or associate degree and minimum 3 years of experience,
- geodesic field, university degree and minimum 3 years of experience,
- chemical field, university degree and minimum 1 year of experience,
- secondary school, gas installer, minimum 1 year of experience in the field.

##### Article 10

A professionally qualified distribution undertaking is the one having:

- an organised stand-by team trained for intervention in case of malfunction on distribution pipeline system or in case of other emergency interventions or having a contract with another authorised legal person on performance of such works upon order by the distribution undertaking;
- an organised team of workers trained for start of operation of a distribution pipeline system, work supervision, closing down the entire or some parts of the system, connection or disconnection of customers, installation and uninstalling of gas meters;
- organised gas odorising activities (storage and transport, and personnel authorised to work with toxins, and required safety means) or contract with another authorised legal entity on performance of such works upon order by the distribution undertaking.

#### *Financial qualifications*

##### Article 11

(1) A distribution undertaking must have available funds required for the performance of activities (construction, development, maintenance, management, and supervision of the distribution system and implementation of technical and safety regulations) or must prove it can obtain such funds.

(2) Amount of own funds of distribution undertaking and reality of obtaining credit or other funds is confirmed by the distribution undertaking's commercial bank or another bank.

### *Concession*

#### Article 12

(1) Concession for the construction of distribution pipeline system and distribution system services is granted on term up to 30 years, and concession for distribution system services on the existing distribution system is granted on term up to 15 years. If the concession for distribution system services on the existing distribution system is granted with the right to develop the distribution pipeline system, it may be granted on term up to 30 years. Concession term shall start as of the concession agreement date.

(2) When concession is granted for services on the existing distribution pipeline system, the concessionaire must own or have available for use a distribution system.

(3) Concession is granted upon public bidding containing the following:

1. concession purpose (closer definition of activity to be performed based on the concession),

2. area of the activities (distribution area),

3. concession term. If the concession is granted for construction of a distribution pipeline system or its use, the term for construction of the system is specially marked until the issue of the license for use, and particularly the term for gas supply to customers,

4. term by which the distribution undertaking must be connected to the gas distribution system and start supplying gas to customers, when technical and concession terms are fulfilled,

5. amount and manner of payment of the concession fee,

6. manner of determination of price and manner of collection of payments for supplied gas by the concessionaire,

7. mark of guarantee for ensuring funds for the activity, in particular for construction of the distribution system if the construction is subject to concession,

8. application for license for gas distribution or application for evidencing the ability to fulfil the technical and financial as well as professional qualifications,

9. application for evidence determining the business reputation of the bidder,

10. other liabilities of the concessionary, particularly the need to preserve environment,

11. conditions for termination of the concession agreement,

12. bidding duration,

13. data on place, time, and manner of taking over or examining the bidding documents, submitting bids, and public opening of bids.

#### Article 13

(1) Authorities of the regional self-government unit shall stipulate and implement the bidding for the concession and make decision on the concession.

(2) The concession bidding shall be announced in *Narodne Novine*, official journal of the Republic of Croatia and a daily newspaper usually in circulation on the distribution area subject to the concession, provided that the bidding terms are accounted according to the terms announced in *Narodne Novine*.

#### Article 14.

(1) Decision on concession shall stipulate the concessionary whose bid, based on its reputation and qualifications evaluated for concession, is evaluated as the best.

(2) Pursuant to the decision under Paragraph (1) of this Article, the concession granting

authority – regional self-government unit and distribution undertaking shall make a concession agreement containing all the element under 12(3) above.

#### Article 15

Concession shall cease to apply:

1. by expiry of the term for which the concession was granted
2. by dissolution of the distribution undertaking
3. in cases under Article 18, Paragraph 2 of the Law on Energy
4. by termination of the concession agreement
5. by mutual agreement of the parties.

#### Article 16

A concession granting authority may terminate a concession agreement if the distribution undertaking:

1. fails to start the works on construction of distribution pipeline system or to perform works according to the anticipated dynamics, except in case of force majeure (war, flood, earthquake, etc.). Lack of funds is not considered a justified reason for failure to start works or for their non-performance according to the anticipated dynamics;
2. fails to pay the concession fee in the term under concession agreement;
3. in case under Article 18 of the Law on Energy.

#### Article 17

When the concession term has expired, the existing distribution undertaking has priority for concession under equal conditions in accordance with the concession bidding terms.

### III. RIGHTS AND LIABILITIES OF DISTRIBUTION UNDERTAKING

#### Article 18

(1) If a concession agreement stipulated that a distribution undertaking shall construct a distribution pipeline system, the distribution undertaking shall construct such system in accordance with site and construction permits and concession agreement.

(2) The distribution undertaking shall design and construct the distribution pipeline system based on the applicable technical standards and rules and in accordance with physical plans applicable on distribution area, complying with environmental safety laws.

#### Article 19

(1) In construction, maintenance, and use of distribution pipeline system, and in performance of connections, a distribution undertaking shall use construction and technical solutions in compliance with the concession bidding documents, providing distribution pipeline system safety and ensuring the required environment protection.

(2) After the construction, reconstruction or repairs on pipeline, the distribution undertaking shall restore the land on which the works were performed to its original condition.

#### Article 20

(1) A distribution undertaking shall supply gas to customers on permanent, continuous and undisturbed basis (as supplied by gas supplier) and by connection of new customers to the distribution pipeline system, the quality of the existing customers supply shall not be reduced.

(2) A distribution undertaking may assume construction and maintenance of the internal installations for customers' needs and must have professionally trained staff for such purpose.

#### Article 21

(1) A distribution undertaking shall be responsible for maintenance of distribution system

and shall perform works of maintenance, repair and reconstruction of gas distribution system in such a way as to minimize the time of reduction or stoppage in gas distribution.

(2) A distribution undertaking is entitled to stop gas distribution and charge all costs of gas meter removal and new connection from the customer in the following cases:

1. when the internal installations or energy-using devices are connected to gas distribution system contrary to laws and technical standards;
2. for malfunction on the internal gas installations, when repair is impossible;
3. when customer fails to perform reconstruction or replacement of internal installations or energy-using devices, despite warning by the distribution undertaking of such necessity, and there is a hazard for safety of people and property;
4. if the installed rating of an energy-using device exceeds the permitted rating of the connection approved by the distribution undertaking;
5. if a customer fails to pay two monthly liabilities, or due liability according to the final calculation of expended gas;
6. when a customer fails to fulfil liabilities according to the contract on connection costs and the contract on construction of distribution pipeline system;
7. when deficiency or damage of a seal or gas meter is established or damage of other internal installations and gas channels;
8. when a customer makes impossible the access by authorised distribution undertaking staff to the home connection and internal installations for inspection and testing of air-tightness and working order;
9. when a user performs works or builds a building on home connection or in unauthorised vicinity (safety distance) or if the user plants high trees directly by the home connection.

(3) A distribution undertaking shall replace gas meter for periodic inspection and regular controls pursuant to metrology regulations. If the customer makes impossible to remove the gas meter, the distribution undertaking is entitled to separate the home connection from gas distribution system.

#### Article 22

A distribution undertaking shall:

1. ensure fire and explosion safety on the distribution pipeline system;
2. ensure permanent stand-by staff with required qualifications to prevent uncontrolled discharge of gas and to eliminate direct hazard;
3. at replacement of gas meters, inspect the working order and air-tightness of the internal installations of the customer;
4. read the gas meter, invoice gas deliveries, and collect payments.

#### Article 23

(1) A distribution undertaking shall not be liable in case of impossible gas delivery or reduced gas quantities delivered for force majeure or if there is interruption in gas delivery by gas transporter or for ban of gas imports or economic measures stipulated by laws or executive order by the Croatian Government.

(2) A distribution undertaking shall not be exempt from liability for impossible or reduced gas delivery if the gas transporter stopped the gas delivery or reduced the gas quantity delivered for non-payment of gas. In this case, there is no liability of the distribution undertaking towards customers not fulfilling liabilities of payment of already supplied gas.

#### Article 24

(1) A distribution undertaking may pass its bylaw in accordance with this Regulation and

concession agreement to closely govern the issues of its rights and liabilities or customers' rights and liabilities.

(2) The bylaw under paragraph (1) of this Article shall be announced by the distribution undertaking in the official journal of the regional and local self-government units on the area of which it performs gas distribution. Start of the bylaw application shall be calculated based on the date of announcement in the official journal of regional self-government unit.

#### IV. CUSTOMER'S RIGHTS AND LIABILITIES

##### Article 25

(1) Gas distribution customers (hereinafter: the customers) are natural persons (owners of housing and/or business facilities) and legal persons entering in a gas purchase contract with the distribution undertaking.

(2) Customers shall connect their housing and business facilities to gas pipelines in the manner and under conditions defined, in accordance with the local self-government unit decision, by the distribution undertaking and shall ensure to the distribution undertaking the right of way on the land and facilities for laying and maintenance of the connection.

##### Article 26

(1) A customer wishing to connect to the distribution pipeline system shall submit to the distribution undertaking the information on the purpose of the facilities, positional drawing of the building, purpose of gas use, and required gas quantities in order to determine the technical and engineering terms for the connection.

(2) A distribution undertaking shall submit the connection terms to the applicant at latest within 30 days as of the receipt of the application under Paragraph 1 of this Article.

##### Article 27

(1) A customer shall construct or place gas installations in accordance with the connection terms under Article 26 above.

(2) A customer must not damage the marks and seals of gas meters and gas meter connections placed by the distribution undertaking.

(3) A customer may entrust the construction and maintenance of gas installations to a legal or natural person registered and authorised for such works, or may entrust it to the distribution undertaking.

##### Article 28

(1) A customer shall pay the consumed gas to the distribution undertaking in time periods (fifteen-days, monthly, or quarterly) determined by the distribution undertaking. In case of delay with payment, the customer shall pay interest on arrears. Under conditions defined by this Regulation, the distribution undertaking may stop supplying gas to a non-paying customer.

(2) In case under Paragraph (1) of this Article, a customer whose gas supply is stopped, upon payment of outstanding debts and interests on arrears is entitled to demand from the distribution undertaking to restart the gas supply. The distribution undertaking is entitled to compensation of costs for restart of gas supply.

##### Article 29

A customer shall provide access to its land and facilities to the distribution undertaking staff when necessary to read gas consumption, test the connection, facilities or installations.

##### Article 30

A customer is entitled to ask for special control of gas meter working order, and the distribution undertaking must perform it in an authorised laboratory, where control costs are

borne by the customer if it is established that the gas meter is in order, and by the distribution undertaking if the gas meter is malfunctioning.

#### Article 31

A customer may cancel use of gas in writing. In that case, the distribution undertaking shall remove and store gas meter until its new installation, if any, and the customer shall pay costs of uninstalling, gas meter testing, and its re-installation.

### V. MANNER OF PROVIDING FUNDS FOR CONSTRUCTION OF DISTRIBUTION SYSTEM

#### Article 32

Funds for construction of a distribution pipeline system shall be provided by the distribution undertaking holding concession for construction of the system, and may be provided by local and regional self-government units out of their budgets.

#### Article 33

Its own investment funds spent by the distribution undertaking in construction of a pipeline system may be repaid to it in gas price, provided that this part of gas price and the term of its application are subject to consent by the Regulatory Council.

#### Article 34

(1) When local and regional self-government units co-finance the construction of a distribution pipeline system, the amount of funds and terms of their use and other issues of common interest shall be governed by a contract with the distribution undertaking which is investor or principal investor in distribution pipeline system construction.

(2) Terms of use of the funds under Paragraph (1) of this Article and other mutual rights and liabilities shall be governed by an agreement between the distribution undertaking and the local self-government unit.

### VI. TRANSITIONAL AND FINAL PROVISIONS

#### Article 35

Exceptionally from Article 3(1) above, distribution undertakings performing gas distribution on the date of taking effect hereof may continue to carry out gas distribution until expiry of the term for which they hold approval for gas supply, provided that within 6 months as of taking effect hereof they obtain approval from the Regulatory Council for performance of gas distribution.

#### Article 36

Gas distribution in terms of this Regulation means also provision of distribution system services by supply of gas through common gas boiler-rooms in housing buildings, when such supply is carried out by the existing distribution undertakings.

#### Article 37

A distribution undertaking shall pass the bylaw under 24 above within a year as of the coming into effect of this Regulation.

#### Article 38

Provisions of bylaws of local self-government units governing gas supply activities pursuant to the Law on Municipal Economy (*Narodne Novine* No. 36/95, 70/97, 128/99, 57/2000, 129/2000, and 59/2001) shall apply as provisions on gas distribution unless they are contrary to the Law on Energy and Law on Gas Market.

#### Article 39

This Regulation shall take effect on the eighth day after its publication in *Narodne Novine*.

Zagreb, 2 September 2002

Minister of Economy  
**dr. sc. Ljubo Jurčić**, signed

Minister of Public Works, Construction and Reconstruction, **Radimir Čačić** has provided his consent to this Regulation on 21 May 2002.