

Report to the European Commission according Directives 2003/54/EC and 2003/55/EC

Summary

The competences of the Regulatory Office for Network Industries in the field of regulation of network industries

The Regulatory Office for Network Industries (hereinafter only "the Office") is a state administrative authority established by the Act No. 276/2001 on Regulation of Network Industries and on amendment and supplement of certain acts in the wording of latter provisions related to regulation of network industries (hereinafter only "the Act on Regulation"). The Office is a state budgetary organisation based in the town of Bratislava. Under the Act on Regulation the chairman and the vice-chairman act as statutory bodies of the Office.

Chairman of the Office is the chairman of the Regulatory Council, having the following responsibilities:

- Managing the Office and bearing responsibility for performance of its activities,
- Acting as a statutory body on behalf of the Office in all the matters, however, being bound by decisions made by the Regulatory Council,
- Signing generally binding provisions issued by the Office,
- Approving the organisational order of the Office as soon as it has been negotiated by the Regulatory Council,

If absent, the chairman of the Office is represented by the vice-chairman. The vice-chairman of the Office is the vice-chairman of the Regulatory Council.

The Regulatory Council outlines the regulatory policy and respective implementation tools. Its responsibilities include:

- Approving a budget proposal for the Office,
- Electing and withdrawal of the chairman of the Regulatory Council and the vice-chairman of the Regulatory Council into and from the Regulatory Council,
- Making decisions on the exemption of a regulated activity from regulation provided that the grounds for regulation ceased to exist, especially if market forces act sufficiently to maintain the purpose that gave reason for regulation.,
- Approving the meeting agenda for the Regulatory Council,
- Approving the Annual Report of the Office,
- Making decisions on appeals against decision issued by the Office in the first instance proceedings,
- Fulfilling other tasks arising out of the regulatory activities of the Office.

The Regulatory Council has six members and has a quorum, if at least four of its members are present, however, the chairman or the vice-chairman of the Regulatory Council must always be present. The Regulatory Council takes decisions with the

majority of votes of all of its members. The chairman of the Regulatory Council is responsible for managing and calling the sessions of the Regulatory Council. Along with the vice-chairman or another member of the Regulatory Council he also signs rulings and decisions issued by the Regulatory Council.

Members of the Regulatory Council are appointed and withdrawn by President of the Slovak Republic. The membership in the Regulatory Council is a publicly available position, which means that a member of the Regulatory Council must be a citizen of the Slovak Republic, who complies with professional and moral criteria. President of the Slovak Republic appoints three members of the Regulatory Council based on the proposal submitted by the National Parliament of the Slovak Republic and three members of the Regulatory Council based on the government of the Slovak Republic (hereinafter only "the Government"). There are at least two candidates for each position of a member of the Regulatory Council.

The service term of members of the Regulatory Council lasts six years. Every two years the Regulatory Council replaces one third of its members. The membership in the Regulatory Council is not compatible with holding the position of a member in the National Parliament of the Slovak Republic or the Government, or with any work position or the membership in central or local state administration authorities and territory-confined municipal authorities. In addition, the membership in the Regulatory Council is not compatible with any business activities or with the membership in management, supervisory and controlling bodies of private enterprises.

A member of the Regulatory Council is not allowed to become an employee of regulated companies, a member of management, supervisory and controlling bodies of regulated companies, he or she is not allowed to have any equity participation in business activities of regulated companies acting on his or her behalf or by means of an association of individuals; such constraints will continue to exist one year following the termination of the membership in the Regulatory Council.

The organisation structure of the Office is as follows:

- Heat Supply Regulation Division
- Gas Regulation Division
- Water Supply Regulation Division
- Electricity Regulation Division
- Legislative Division
- Surveillance and Inspection Division
- Economic and Administrative Division
- Chairman`s Department
- Personal Department

The objectives of the regulatory policy are as follows :

- to ensure non-discriminating and transparent performance of the activities in network industries,

- to reduce any risks associated with the violation of rules of an economic competition by abusing the dominant position in the market with goods and services in order to protect the rights of eligible consumers and households,
- to ensure reliable, economical and high-quality delivery of goods and services
- to ensure effective development, safe and reliable operation of energy, water supply and sewage systems,
- to ensure non-discriminatory and fair conditions for all entities in the electricity and gas market,
- to create conditions aimed at increasing a competitive environment in electricity and gas markets by improving efficiency of the market functioning and their integration with the EU markets,
- to protect energy and water consumers by enforcing such price regulation methods that will provide incentives for regulated companies to diminish their costs and improve their economic effectiveness in regulated business activities,
- to protect justified interests of license and certificate holders allowing them to carry out business activities in network industries, as well as any measures aimed at achieving an adequate return on investments,
- to reduce the costs for regulated activities by maintaining the quality of supply by means of an up-to-date regulatory method,
- to bring incentives for private businesses to make investments into advanced technologies, development of which is part of the national energy policy, by using appropriate regulatory methods
- to ensure the compliance with the goals of the energy policy of the Slovak Republic.

Under the Act on Regulation *the subject of regulation* is to determine or approve a method, procedure and conditions for the following:

- a connection and access to the transmission system, the distribution system and the transportation system,
- electricity transmission in a specified service area,
- gas transportation and distribution in a specified service area,
- provision of ancillary services in the electricity and gas sectors,
- provision of services of the transmission system operator and the distribution system operator,
- access and a connection of new electricity and gas producers to the system,
- heat production and distribution

In addition, *the subject of regulation* is regulation of prices for goods and services provided in network industries and determination of the conditions for their implementation (hereinafter only "price regulation"). The following areas are subject to price regulation:

- Production of electricity from renewable energy sources, combined heat and power production or local coal,
- A connection into the grid, in case of storage tanks it is in the extent specified by the rules for the gas market,

- A connection of new producers of electricity or gas into the grid, in case of storage tanks it is in the extent defined by the rules for the gas market,
- Access to the grid, in case of storage tanks in the extent defined by the rules for the gas market,
- Electricity transmission and distribution,
- Electricity supply to households,
- Provision of balancing services in the electricity sector,
- Provision of ancillary services in the electricity and gas sectors, in case of storage tanks it is in the extent defined by the rules for the gas market,
- Gas transport and distribution,
- Gas supply to households,
- Heat production, distribution and supply,
- Potable water production, distribution and supply through the public water supply system,
- Discharge and treatment of waste water through the public sewage system,
- Provision of water supply services associated with utilisation of hydro potential of river flows and treatment, supply and extraction of surface water and extraction of water from river flows for energy purposes.

The price regulation method applied on goods or services, delivery or provision of which is subject to regulation, may be determined as

- Direct determination of the maximum or fixed price, or a comparable price, or
- Determination of the calculation method for setting the maximum or fixed price, or a comparable price, whereas the calculation method has to take into account justified costs and an adequate profit, including the scope of investment, which may be included into the price; the scope of justified costs has to take into account the scope of investments required to provide long-term operability of the system, including the proportional part of mandatory levies for liquidation of nuclear installations and disposal of burnup fuel and radioactive waste, as set out by a special provision, or
- Determination of the scope of justified costs that may be included into the price; the scope of justified costs has to take into account the scope of investments required for provision of long-term operability of the system, including a proportional part of mandatory levies for liquidation of nuclear installations and disposal of burnup nuclear fuel and radioactive waste, as set out by a special provision, or
- Determination of the amount of an adequate profit, including the scope of investments that may be included, whereas the amount of an adequate profit has to take into account the scope of investments required for provision of long-term operability of the system. The amount of an adequate profit will also take into account a proportional part of mandatory levies for liquidation of nuclear installations and disposal of burnup nuclear fuel and radioactive waste, as set out by a special provision.

Individual price regulation methods can be put together or combined.

The subject of regulation also includes a method, procedure and conditions of :

- Operation of the system,
- Electricity and gas supply to households,
- Production, transmission and distribution of electricity based on renewable energy sources, combined heat and power production and domestic coal.

In addition, the Office shall

- Publish its valid decisions in the Office Internal Journal and on the web page,
- Publish the report on compliance with the rules for the functioning of electricity and gas markets,
- Publish the annual report of the Office in the Office Internal Journal and on its web page,
- Provide the Ministry of Economy with information on any allocated capacities of tie-ins for the purpose of cross-border electricity exchange, on their allocation and the amount of payments for such cross-border electricity exchange under the EC Regulation No. 1228/2003,
- Provide, upon request of the EU authorities, data on regulated activities,
- Keep and publish records including the lists of license holders with permit to carry out regulated activities,
- Inform the European Commission on the following issues :
 - any reasons for rejection of an application for granting a license for performance of business activities in the energy sector,
 - measures aimed at providing access to gas production systems,
 - any decisions made with regard to granting exception from the obligation to provide access to the gas transportation system, the gas distribution system or gas storage tanks,
 - a share of individual participants in the electricity market and on the compliance with the rules for an economic competition applied in network industries as determined by the Act in question and on any measures adopted to ensure the competition in the market; this report is submitted on a yearly basis not later than until 31 July 2010 and every other year following the year 2011,
 - electricity import to third countries; such information is quarterly reported to the European Commission on a regular basis,
- Submit the European Commission the applications on :
 - granting any exceptions from the obligation to provide access into the system for new or existing tie-ins,
 - granting exceptions from the obligation to provide access of third parties to the system or storage tanks,
- Request the publication of any details concerning tendering procedures in the Official Journal of the European Union in the periods determined by the Office for official publications of European Communities.

With a view of complying with the provisions of the Act on Regulation the Office shall:

- Perform surveillance over the compliance with the Act on Regulation, special acts and generally binding provisions issued for the purpose of their execution,
- Enforce measures to eliminate and remedy any deficiencies identified during the inspection,
- Impose penalties for violation of obligations arising out of the act in question.

In addition, the Office shall carry out other duties related to regulation of access to the transmission system for the purpose of cross-border electricity exchange and settlement of any disputes with regard to access to the transmission system for the purpose of electricity exchange under the EC Regulation No. 1228/2003.

Responsibilities of the Ministry of Economy with regard to the energy sector

Under the Act No. 656/2004 on the Energy Sector and on amendment of some acts (hereinafter only “ the Energy Act“) the Ministry of Economy shall be responsible for the following :

- Development of the energy policy for the period of at least 20 years, making the energy policy updates at least in a 5-year cycle with an intention of using indigenous natural resources and natural, technical and human potencial,
- Compliance with the commitments adopted in the energy sector, arising either out of agreements that are binding for the Slovak Republic or of the membership in international organisations,
- Monitoring of the security status with regard to electricity and gas supplies,
- Development of measures aimed at ensuring safety of electricity and gas supplies,
- Determination of the scope of criteria for technical security of the systems,
- Determination of the obligations in any emergency situations or with an intention to avoid any emergency situations and last, but not least, in general economic interest,
- Determination of responsibilities for any system deviations in a specific service area,
- Making decisions related to the application of obligations in general economic interest,
- Making decisions related to the implementation of measures in the following situations :
 1. prevention of any emergency situation or the emergency situation itself,
 2. any threat imposed on the integrity of the system,
 3. any threat imposed on safety and reliability of the system performance, or
 4. any threat imposed on life and health of human beings or property of natural and legal persons,
 5. any violaiton of regulations related to the environmental protection,
- Making decisions related to the issuance of license for the construction of an energy installation,
- Adoption of measures aimed at achieving the intentions related to promotion of electricity generation from renewable energy sources,

- Making analyses of how the measures aimed at providing electricity generation from renewable energy sources are being put into practice,
- Annual publication of the report, not later than until 31 July, on the results of the monitoring of safety in electricity and gas supplies and on all measures adopted and planned with a view of providing security of electricity and gas supplies; the report is published in the Official Journal and on the web page of the Ministry,
- Publication of the report, in five-year periods, on the plans in the field of electricity generation from renewable energy sources and on the measures adopted with a view of achieving such plans in electricity generation from renewable energy sources; the report is published in the Official Journal and on the web page of the Ministry,
- Publication of the report, every two years, on the situation with regard to the completion of plans in electricity generation from renewable energy sources and the measures adopted with a view of ensuring reliability of the guarantee on the origin of supply of electricity generated;
- Providing the European Commission (hereinafter only „the Commission“) with the application for granting exception from obligations, execution of which results from the common rules for the internal market with electricity and gas,
- Implementation of measures imposed by the Commission.

In addition, the Ministry shall report to the Commission on the following

- Measures aimed at the execution of an obligation to provide universal service,
- Measures aimed at the execution of obligations in general public interest; any changes in the adopted measures regularly, in a two year period,
- Reasons for rejection of request for the issuance of a license for the construction of an energy installation,
- Results of the monitoring of security of electricity and gas supplies and any measures adopted or planned with a view of resolving the issue of safe electricity and gas supplies,
- Technical rules that determine technical, structural and operational requirements related to a connection with a system.

Main developments in the gas and electricity markets

The adoption of new energy legislation, being fully harmonised with EU directives, has established favourable conditions for the development of the electricity market in Slovakia. The electricity market rules that came into force on 1 April 2005 and related legislative provisions issued by the Ministry of Economy and the Regulatory Office for Network Industries have established the assumptions for transparent and non-discriminating conditions for all participants of the electricity market and also valuable participation of the Slovak Republic in the international electricity market. A degree of the market opening will depend on how the competition will be evolving among domestic and foreign suppliers in the near future. It will be positively affected by prices of services associated with transmission and distribution and the maintenance of stability and reliability of the operation of the electricity system. One of the objectives of the regulatory policy enforced by the Regulatory Office for Network Industries is to use all available tools of regulation in order to reduce the costs incurred by such services and to

allow to include into price only economically justified costs. An important step for ensuring the higher amount of cross-border flows and the establishment of a regional electricity market will be a gradual removal of „bottlenecks“ in cross-border profiles. The investment activities of Slovenská elektrizačná prenosová sústava (the Slovak Electricity Transmission Company - SEPS, a.s.) are focused right on this objective.

Development of the electricity market will be substantially affected by the regulatory office, the role of which is to protect consumers and achieve maximum effectiveness of electricity production and supply, however, at the lowest possible price for the final consumer.

The objectives of the energy policy of the Slovak Republic cover the demand for international co-operation in the field of natural gas transportation, the extension of the co-operation with other interconnected systems, the establishment of long-term fair relationships on a non-discriminatory basis with all actual and potential users of the transportation system and the establishment of the functional liberalised gas market in conformity with national interests and the EU rules and recommendations.

The gas industry has a 150-year tradition in Slovakia. Its largest boom, however, happened as a result of the construction of the gas transit system in the year 1971. Together with gas storage tanks the gas transit system provides for self-sufficiency of the country, with gas transit having significant impact on effectiveness of the gas industry in the Slovak Republic. The country has almost 100% dependence on the import of Russian natural gas. Nevertheless, it is not assumed that gas flows will have solely a one-way direction. Liberalisation of the market indicates some possibilities of cross-border flows from other sources. It is important to take into account overall European trends and projects which, once they come into existence, will have a significant impact on the existing structure of the European market with natural gas.