

Act XLII of 2003

on natural gas supply

In order to ensure a secure, good-quality natural gas supply for the customers, to have transparent, non-discriminatory regulations, to achieve a competitive market in natural gas, in the interest of approximating laws to the legislation of the European Union, ensure harmonisation between the natural gas needs and the natural gas sources that may be taken into account, taking into consideration the requirements of energy efficiency, consumer protection and environmental protection, the Parliament creates the following act:

Chapter I

INTRODUCTORY PROVISIONS

Scope of the Act

§ 1 The provisions of the Act apply to:

- a) those having an operation licence specified in Section (1) of § 9 of this Act (hereinafter: Licensee), respectively those pursuing an activity specified in § 7 of this Act, the natural gas customer, the legal relationship of the licensees with the other licensees and with the customers,
- b) transmission through pipelines, distribution, storage, trade, public utility wholesale, public utility supply, system operation and utilisation of the natural gas,
- c) access to the transmission and distribution pipelines, natural gas storage facilities,
- d) design, building, operation and dismantling of the connection pipeline, the customer's equipment,
- e) owners of the transmission and distribution pipelines and storage facilities,
- f) supply of liquefied propane-, butane gases and their mixtures through pipeline, their distribution in tanks or containers and their official supervision ,
- g) producer of natural gas relevant to the provisions of Point 245 of § 3, and § 32-33, 36-38 and 50,
- h) determining the fee for natural gas transmission – except for transit – and distribution and for storage for public utility purposes, the conditions for trade between public utility wholesalers and public utility suppliers, as well as the pricing regulation and price application conditions for the statutory price of natural gas sold to captive customers.

General requirements

§ 2

The activity subject to this act, the supply of the customers with natural gas should be done on an appropriate level, according to the requirements of protecting life and health, with due regard to the nature and the environment, to the protection of the interests of the customers, asserting the interests of property protection, operational safety and energy efficiency, as well

as in compliance with the requirements of the technical safety and the quality insurance regulations.

Definitions

§ 3 For the purpose of this Act:

1. **Direct pipeline:** is the gas pipeline connecting to the natural gas producer, to the underground gas storage facility or to the transmission/distribution pipeline, in order to supply the consumption site of an eligible customer.
2. **Connection pipeline:** is the pipeline running from the border of the ground-plot of the consumption site to the main gas cock of the gas meter, or – in the absence of a gas meter – to the main gas cock of the customer.
3. **Integrated natural gas system:** is the connected transmission and distribution pipeline, as well as the natural gas storage facility.
4. **Distribution:** is the transport of natural gas through a distribution pipeline to the customer.
5. **Distribution pipeline:** is the pipeline, together with the associated pressure regulation equipment, through which natural gas, propane-, butane gases and their mixtures are provided to the customers. Its starting point is the outlet of the gas delivery station or the propane-, butane storage plant, while its end point is the border of the ground-plot of the consumption site, including the section of the pipeline within the territory of the Republic of Hungary in the case of a consumption site outside of Hungary's borders. Facilities and equipment that serve the purpose of operating, controlling and checking the distribution pipeline (remote monitoring, communication and corrosion protection) are deemed to be components of the distribution pipeline up to the access point for the service ensuring remote data transmission. Remote data transmission equipment owned by the licensee is deemed to be the components of the distribution pipeline.
6. **Settlement metering:** is a system created according to the Operational and Commercial Code, serving for certified measuring of the natural gas trade, operating under the supervision of the transmission-, storage- and distribution licensee.
7. **Eligible customer:** is the customer, which satisfies its natural gas demand according to its own choice, within the framework of public utility services, or, by terminating the public utility supply contract, freely, within the framework of a commercial contract.

8. **Consumption site:** is a property owned or used by the gas customer, where the customer's equipment, as well as the pressure regulator serving for gas consumption and the metering place or the customer's main cock is located.
9. **Customer:** it purchases natural gas or propane and butane and their mixture for its own consumption.
10. **Customer's equipment:** consists of the customer's pipeline and the gas consumption appliance, and/or the gas utilisation technologies, as well as all accessories necessary for their safe use according to purpose.
11. **Customer's master gas cock:** is the gas cock mounted at the gas meter or, in the absence of a gas meter, a cock mounted between the connection pipeline and the customer's pipeline.
12. **Customer's main gas cock:** is a closing appliance mounted at the border of the ground-plot or close to it, which is the accessory of the distribution pipeline.

13. **Customer's pressure regulator:** is an appliance which reduces the pressure of the gas arriving through the distribution pipeline to a value specified in the contract concluded with the customer or in the relevant standard specifications, and keeps it at a nearly constant value.
14. **Customer's pipeline:** is the section of the pipeline, together with its accessories, owned by the customer, which runs from the gas meter – in the absence of a meter from the customer's master cock – up to the gas consumption appliance.
15. **Underground gas storage facility:** is a natural geological structure provided with an injection and withdrawal technological equipment, suitable for natural gas storage (hereinafter: gas storage facility).
16. **Natural gas:** is natural combustible gas generating in the earth crust, brought to the surface by mining activity, which can securely be utilised in any equipment applied according to the present Act relevant to this type of gas.
17. **Storage of gas against payment:** is storage for providing a foreign customer with gas.
18. **Cross-border transmission of natural gas:** means import or export of natural gas through a pipeline crossing the border of Hungary.
19. **Settling of natural gas quantities:** means the documentation of the fulfilment of trading contracts, of the actual turnover of natural gas supply, as well as of the utilisation of the transmission and distribution pipelines and the underground storage facilities according to the provisions of the Operational and Commercial Code .
20. **Activity of natural gas sector:** covers the transmission through pipelines, distribution, storage, trade, public utility wholesale, public utility supply and system operation of natural gas.

21. **Natural gas undertaking:** means an economic organisation (Section c) of § 685 of the Code Civil) which pursues an activity according to the present Act under a licence. The propane-, butane gas supplier supplying gas through a pipeline is qualified an undertaking of natural gas sector with regard to the regulations relevant to licensing and pursuing this activity, to the building and implementation of the gas distribution pipeline and its accessories, to the use of a foreign property and to the technical and safety supervision.
22. **Natural gas trade:** means the regular purchase and sale of natural gas against payment, not for own use, except for natural gas purchases and sales at purchase price by the system operator licensee in order to maintain the balance of the system, and the sale of natural gas purchased by the customer to within the boundary of the consumption site with the public utility supplier's consent.
23. **Transmission of natural gas:** means the transportation of natural gas through pipeline.
24. **Storage of natural gas:** means the storage of natural gas in natural gas storage facility.
25. **Natural gas producer:** is a legal entity, which pursues natural gas mining activity in the territory of the Republic of Hungary.
26. **Gas delivery station:** is the facility, which delivers natural gas from the transmission pipeline, meters the transmitted volume and carries out the pressure reduction necessary for distribution. The gas delivery station is a part of the transmission pipeline.
27. **Gas consumption appliance:** is an appliance operated by natural gas, propane or butane gas, or their mixtures.

28. **Household customer:** means the user of a dwelling house including one or more consumption sites, the user of an apartment or a holiday home.
29. **Cross-border natural gas transmission pipeline:** is a natural gas transmission pipeline, the starting point of which is outside the border of the Republic of Hungary, while the end point is within the border, or the starting point is within, while the end point is out of the Republic of Hungary.
30. **Integrated natural gas undertaking:** is an undertaking, which possesses a licence for at least two various activities from among the activities subject to licence according to the present Act (vertically integrated undertaking), or which possesses a licence for at least one activity of natural gas sector and pursues also another activity not belonging to the natural gas sector (horizontally integrated undertaking).
31. **Communal consumption:** is the natural gas consumption of public institutions (education, public health, public services, administration, municipalities, etc.).
32. **Captive customer:** is the customer receiving natural gas from a public utility supply company, on the basis of a public utility supply contract.
33. **Public utility wholesale:** is a type of trade, when a public utility wholesaler is obliged to supply natural gas according to a public utility supply contract.
34. **Public utility supply:** means natural gas supply to the captive customer based on a public utility supply contract, according to the requirement of the customer specified in the contract.
35. **Least cost:** means the incurring reasonable costs necessary for pursuing the licensed activity.
36. **System supervision:** is the non-competitive, continuous and transparent co-ordination of the long-term planning of the capacity and development of the integrated natural gas system and the activity ensuring reliable supply security.
37. **System user:** is the user receiving natural gas for feeding it into the transmission or distribution system, or gas storage, as well as receiving natural gas from there for consumption.
38. **System operation:** means the ensuring of a non-competitive, continuous and transparent operation and balance of the integrated natural gas system, and the co-ordination of the maintenance.
39. **Transmission pipeline:** is the pipeline, together with its accessories and fittings, through which natural gas is transmitted, the starting point of which is the border of the country, the feed points of the production, the feed and discharge points of the gas storage facility, the end point is the border of the country, the outlet points of the gas delivery stations, and the feed and discharge points of the gas storage facility.
40. **Organised natural gas market:** is a type of trade concentrating the demand and the supply of natural gas in a preliminarily specified and public way, place and time.
41. **Transit:** means the transmission of natural gas through a system of pipelines, which crosses the border of at least one member state of the European Union, and the starting or end point of which is out of the border of the European Union.
42. **Operational and Commercial Code:** is the regulation that licensees must prepare, which regulates the relationship between the licensees that operate the integrated natural gas system and the system users.
43. **Business conduct rules:** is the regulation to be prepared by licensees, which settles the legal relationship between licensees and their customers.

Chapter II.

The Hungarian Energy Office

§ 4

- (1) The official tasks of the Hungarian Energy Office (hereinafter: Office) are the following:
- a) issues, modifies – in cases specified by law – or withdraws the licences required for pursuing activities subject to licence,
 - b) approves the Operational and Commercial Code worked out by the obligee of the activities subject to licence (hereinafter: licensee), the business conduct rules and their modifications, as well as supervises compliance with the provisions of these regulations, and may impose a fine specified in separate regulations in case of the breach of the regulations,
 - c) performs data collection and data supply tasks specified in separate regulations,
 - d) determines the order and the rate of the restriction of gas utilisation of the individual customers,
 - e) prepares the rules for fixing the administrative prices and fees applied in the natural gas supply, the administrative prices and fees, as well as the application conditions of the prices and fees, and the rules of calculation of the connection fees to be fixed on the basis of § 25, as well as supervises compliance with the prescriptions relevant to the administrative prices and fees,
 - f) examines and controls the financial and economical conditions of establishing a natural gas system involving the issue of a licence and the modification of the licence,
 - g) approves the transformation of the licensee, as well as the acquiring of influence in the licensees, respectively the modification in the value of the subscribed capital,
 - h) controls compliance with the prescriptions included in the regulations and in the licence referred to its competence, and imposes a fine in case of their breach,
 - i) has the right to inspect the documents associated with the activities subject to licence, even if they include business secrets,
 - j) determines the scope of the data of management which have to be made public by the licensee,
 - k) has the right to make copies of, or to make excerpts from the documents relevant to the activities specified in the licence, to ask occasional and regular information from the licensee – in a way specified by the Office – for performing its tasks. It is obliged to handle the obtained information confidentially, except if disclosure of the information and the data is required by law,
 - l) may suspend for three days the conclusion of contracts on the organised market of natural gas in the case safe and transparent trade cannot be ensured due to an unfavourable course of market conditions,
 - m) asserts the principle of least cost in relation with the products and services of administrative price and charge under the effect of the present Act, as well as in relation with the approval of the building of a direct pipeline,
 - n) takes measures to publish licences and the decisions of public interest,
 - o) may order an immediate implementation of its decision in cases and with conditions specified in the relevant regulations,

- p) controls the utilisation of the connection charge paid by the customer for connecting to transmission and distribution systems,
 - q) performs the tasks associated with system supervision, specified in Section (1) of § 17,
 - r) supervises the access to transmission and distribution pipelines and natural gas storage facilities – specified in separate regulations,
 - s) determines in a decision, for each and every licensee, the minimum quality requirements and the expected level of the activity of the licensee,
 - t) controls the fulfilment of the unbundling of the activities according to the prescription of the relevant regulation,
 - u) makes a decision in disputes arising between the licensees, referred to its competence,
 - v) investigates the reasonable cost of the production of natural gas fields put into operation before 1 January, 1998.
- (2) The legal status of the Office is governed by the provisions of a separate law (§ 6-9 of Act CX/2001 on electricity).
- (3) The Office covers its operation costs from its own incomes. The licensees have to pay a supervision fee to the Office for its supervising activity, the rate of this fee is 0.05% of the net income of the previous business year of the licensee. For the procedure of the Office an administration-service fee is to be paid. The scope of the fees, the rate of the administration-service fee and the other rules relevant to the payment of the fees mentioned in the present section are specified in a decree issued by the Minister of economy and transport (hereinafter: Minister) in agreement with the Minister of finance.
- (4) For the procedure of the Office the provisions of Act IV/1957 on the general rules of procedure of the administration (hereinafter: Áe.) together with the departures included in the present act shall be governing. The duration of the procedure is 90 days. The decision of the Office can be appealed exclusively in the form of a legal remedy by Court. The Court has the right to change the decision of the Office.

Consumer protection

§ 5

To protect the interests of the customers – taking into consideration the provisions of the act on customer protection – the Office, in co-operation with the General Inspectorate for Consumer Protection and the county inspectorates (hereinafter together: inspectorates for consumer protection), performs the following consumer protection tasks in the area of natural gas supply:

- a) investigates the claims of the customers connected to the settlement of quantity, billing, payment of the fee, metering and quality,
- b) co-operates with the social organisations of customers, representing their interests,
- c) organises and operates the reconciliation of interests between the social organisations of customers representing their interests and the licensees, decides in the disputes still remaining after the reconciliation of interests,

- d) ensures the public data and information for the social organisations of customers representing their interests and for the inspectorates for consumer protection of consumer protection, which are connected with both the activity of the licensee subject to a licence and the assertion of the interest of the customer,
- e) in the interest of the secure supply of the customers, the Office controls the level of the service and the satisfaction of the demand of captive customers
- f) decides on disputes related to complaints from customers in the field of consumer protection,
- g) ensures controls of gas quality in the interests and in order to inform customers, the procedures applicable to which must be set out in the business regulations of the licensees.

Chapter III

LICENSING

General rules of licensing

§ 6

- (1) The activity subject to license according to the present Act can only be pursued in possession of an operation licence issued by the Office. The operation licence is valid for an indefinite period of time with the exception set out in Section (3) of §9.
- (2) The Office shall be obliged to issue the licence if the applicant meets all requirements specified in the relevant regulations.
- (3) The Office may refuse the issue of the licence
 - a) in the absence of any condition prescribed by the regulation,
 - b) if, for the continuous, long-term performance of the activity specified in the application, the applicant does not have the financial, economical, technical, environmental, information technology and telecommunication conditions and tools specified in the relevant regulation, does not have the technical staff and the conditions required for pursuing a natural gas sector activity in an appropriate way, or does not meet the requirements of energy efficiency,
 - c) if the applicant is under bankruptcy or liquidation procedure,
 - d) if the operation licence of the applicant has been withdrawn by the Office within ten years for causes attributable to the applicant.
- (4) During the modification and the withdrawal of the licence the rules of licensing shall be applied appropriately.
- (5) The licence regulated by the present law may not substitute other licences and licensing procedures prescribed by other regulations.
- (6) The Office will notify the European Commission about the reasons for refusing the application for a licence for information purposes.

§ 7

The activities subject to licence are the following:

- a) natural gas transmission
- b) natural gas storage
- c) natural gas distribution

- d) natural gas trading
- e) public utility wholesale
- f) public utility supply
- g) establishment and operation of an organised natural gas market
- h) system operation
- i) access to the cross-border natural gas transmission pipeline
- j) distribution and supply of propane-, butane gases and their mixtures through pipeline.

§ 8

- (1) The undertaking of natural gas sector may have no operation licence – other than that specified in this act..
- (2) Up to a rate of the natural gas import necessary to ensure the maintenance of the system balance, the system operator may have a licence for the access to the cross-border natural gas transmission pipeline.
- (3). The distributor licensee may not have any other operation licence regulated in this act after 1 July, 2007.
- (4) The licensee who performs the establishment and operation of the organised natural gas market may have no other operation licence.

Specific operation licences

§ 9

- (1) Types of the operation licences:
 - a) operation licence for natural gas transmission
 - b) operation licence for natural gas storage
 - c) operation licence for natural gas distribution
 - d) operation licence for system operation
 - e) operation licence for natural gas trading
 - f) operation licence for public utility wholesale of natural gas
 - g) operation licence for public utility supply of natural gas
 - h) operation licence for the operation of organised natural gas market
 - i) operation licence for the access to the cross-border natural gas transmission pipeline, and
 - j) operation licence for the distribution and supply of propane-, butane gases and their mixtures through pipeline.
- (2) The operation licence for transmission, storage, distribution of natural gas and system operation includes the description of the system – including the transmission and distribution pipelines, gas storage facilities, as well as the associated equipment, and/or the tools necessary for the system operation - to be operated on the basis of the licence.
- (3) It is also a condition of granting the licence, that the undertaking of natural gas sector has the majority ownership of the tools (transmission and distribution pipelines, and/or the storage facilities) and their equipment necessary for pursuing the activity, and the approvals of the regulatory agencies relevant to their operation. If the natural gas undertaking does not have majority ownership of the assets required for pursuing the activity and their equipment, the licence may be issued only for a definite period ending no later than 31 December, 2008.

- (4) The applicant of the licence shall have the financial and economic conditions specified in separate regulations.
- (5) Based on the operation licence issued for the storage of natural gas the licensee shall be obliged and entitled to operate the storage facilities and their equipment under the licence.
- (6) Based on the operation licence issued for the transmission of natural gas the licensee shall be obliged and entitled to operate the transmission pipelines and their equipment under the licence.
- (7) Based on the operation licence issued for the distribution of natural gas, the licensee shall be obliged and entitled to operate the distribution pipelines and their equipment under the licence.
- (8) The operation licence for system operation can exclusively be granted to one single transmission licensee.
- (9) Based on the operation licence issued for the access to the cross-border transmission of natural gas – following a preliminary report to the Office - the licensee shall be entitled to use the spare capacity of the pipeline.

§ 10

The operation licence for natural gas trading, public utility wholesale, as well as for public utility supply can be granted, if the applicant holds a financial security specified in separate regulations.

§ 11

- (1) During the licensing and supervision procedure of the operation of the organised natural gas market, the Office shall be obliged to apply for the official approval of the Hungarian Financial Supervisory Authority.
- (2) It is a condition of granting the operation licence for the operation of the organised natural gas market, that the licensee has the financial securities and the necessary tools specified in separate regulations.
- (3) Within the framework of the organised natural gas market the natural gas trader may pursue its activity according to the exchange rules, using standard contracts.

Modification of licence

§ 12

- (1) At the request of the licensee the contents of the licence – in a justified case – may be modified.
- (2) In cases specified in the relevant regulations the Office modifies the licence ex officio.
- (3) Should the licensee renounce its exclusive right, partly or fully, after the preliminary approval of the Office, the concerned parties shall be obliged to apply in common for the modification of the existing licence or for a new licence.
- (4) The modification of the licence may not influence negatively the security and the quality of the natural gas supply of the customer.

Imposition of fine and other measures

§ 13

- (1) Should the licensee pursue its activity of natural gas sector in a way differing from the provisions of the relevant regulations, licence, decision of the Office, or from the Operational and Commercial Code or from the business conduct rules, the Office shall take the necessary measures, in particular:
 - a) calls the attention of the licensee to the fulfilment of its obligations prescribed in the licence, in the relevant regulations and laws, and by indicating a deadline it obliges the licensee to stop infringing the law,
 - b) if there is no positive change until the indicated deadline, the Office may suspend the activity of the licensee,
 - c) prohibits the continuation of activities if the activities are pursued without a licence,
 - d) the Office may impose a fine.

- (2) Should the owner of the natural gas transmission and distribution pipeline or the natural gas storage facility not meet its obligations according to the regulations, the Office shall take the necessary measures, in particular
 - a) calls the attention of the owner to the fulfilment of its obligations according to the regulations, and by indicating a deadline it obliges the owner to stop infringing the law,
 - b) if there is no positive change until the indicated deadline, the Office may invite a licensee who is willing to perform the tasks prescribed in the regulations, and/or to continue the activity of natural gas transmission and distribution,
 - c) the Office may impose a fine.

- (3) The Office may apply the measures listed in Sections (1)-(2) simultaneously. The fine may be imposed repeatedly.

- (4) The Office may modify or withdraw the licence if the licensee operates the natural gas system in a way endangering secure supply, respectively the safety of life, health, operation and property the environment, and it is not able to meet its obligations prescribed in the relevant regulations, and/or the provisions of the licence.
- (5) In the interest of the continuous and secure natural gas supply, during the procedure initiated due to the infringement of law according to Sections (1)-(2), as well as until the termination of the liquidation or winding-up procedures, and/or in case of the cessation of the administration rights of the gas system, the operation of the natural gas system and the activities specified in the relevant licence should continuously be maintained.
- (6) Until the termination of the procedures included in Section (5), the Office may also designate another licensee for ensuring the continuity of the activities of natural gas sector, if it is required by the continuous and secure operation of the integrated natural gas system or by the supply of the customers.
- (7) In case of designating another licensee, the Office may oblige the licensee – or the owner of the natural gas system, if the licensee is not the owner – to transmit its assets to the designated licensee which are necessary for ensuring continuous and secure natural gas transmission, storage, distribution, system operation, public utility supply, trading, public utility wholesale, and to make available the records and the data necessary for carrying out the

activity. In its decision the Office determines the price of using the assets, and the order of using the files and the data.

(8) The Office may declare the decisions made on the basis of the provisions under Sections (1)-(6) to be immediately executed in case of endangering of the continuous and secure natural gas supply, and/or in case of unfounded refusal of the access to the system.

Chapter IV

NATURAL GAS SUPPLY

General rules

§ 14

(1) Natural gas can be supplied

- a) on the basis of a contract concluded with the eligible customer, and
- b) based on public utility supply contract.

(2) The system operator, together with the licensees – except the suppliers and distributors supplying propane-, butane gases and their mixtures through pipeline – shall be obliged to work out the rules, procedures and methods relevant to the operation of the integrated natural gas system, as well as the minimum content elements of the trading, settlement-metering and data communication agreements, and the Operational and Commercial Code including the detailed rules of system operation. The chapters of the Operational and Commercial Code relevant to the storage, transmission and distribution of the natural gas, as well as those relevant to the organised natural gas market must be prepared by the licensees.

(3) The Government specifies in a decree the procedure for and the content elements of the elaboration of the Operational and Commercial Code, as well as the circle of licensees responsible for the elaboration of the regulations. Until the Operational and Commercial Code to be prepared by the licensees come into effect, the provisional regulations issued by the Office should be applied.

(4) The Operational and Commercial Code should be elaborated taking into consideration the principles of secure supply, quality requirements, non-competition, free access to the system, priority of the supply of the households and the communal customers, least cost and profitability necessary for durable operation.

(5) The Operational and Commercial Code and their modification shall be approved by the Office. The licensees and the system users shall be obliged to meet provisions of the approved Operational and Commercial Code. The licensees shall be obliged to make accessible the Operational and Commercial Code for those concerned.

(6) The licensees shall be obliged to prepare Business Conduct Rules.

(7) The Business Conduct Rules include the general safety-, quality-, technical-, commercial-, quantity settlement- and payment-related prescriptions of the services rendered by the licensee, the conditions of the contract, the rules relevant to the breach of the contract and the reception of natural gas without contract, and the detailed rules relevant to the level of the supply and to the satisfaction of the customer's demand.

- (8) The Business Conduct Rules and their amendments shall be approved by the Office. The approved Business Conduct Rules should be made accessible by the licensee for those concerned.

System operation, system supervision

§ 15

- (1) The operation of the transmission pipelines shall be directed by the transmission licensee, the operation of the storage facilities shall be directed by the storage licensee, while the operation of the distribution pipelines shall be directed by the distribution licensee.
- (2) In the interest of ensuring the balance of the integrated natural gas system, the licensees under Section (1) and the system users shall be obliged to co-operate on a continuous basis.

§ 16

- (1) From among the licensees performing operational tasks one single transmission licensee designated by the Office shall perform the duties of system operation, this licensee shall have a system operation licence. For performing the duties of system operation licensee the licensees shall be obliged to continuously supply data of operative character necessary for maintaining the balance of the system. The obligation of data supply is included in the Operational and Commercial Code.
- (2) The tasks of the system operation licensee are the following:
- a) direction and co-ordination of the international operation relations,
 - b) ensuring transparent and non-discriminatory access to the transmission pipeline,
 - c) planning and ensuring system-level services, regulation of their use and their quantity and financial settlement with special regard to the means of ensuring the balance of the system (inter alia the co-ordination of the trade within 24 hours, capacities which can be interrupted, management of the storage capacities according to the provisions of the Operational and Commercial Code and the contracts),
 - d) in the interest of the secure and efficient operation of the integrated natural gas system, planning of the supply schedule of customers receiving natural gas on a periodical and compensation basis, ordering to take the necessary measures for limiting the consumption according to the principles specified in the Operational and Commercial Code
 - e) in order to perform the tasks defined in this act, a technological telecommunication and communications system must be used, which ensures the safe operation of the integrated system.
- (3) The system operation licensee shall be obliged to ensure confidentiality in relation with the information qualified business secret.

§ 17

- (1) In the interest of the fulfilment of the energy policy directives, of the co-ordination of the long-term development tasks of the integrated natural gas system, and of the secure and efficient operation of the integrated natural gas system, the Office performs system supervisory tasks. On the basis of this it performs especially the following tasks:
- a) collects the necessary information, the forecasts concerning consumption and supply, prepares the medium-term system level balance of demand and supply for the minister according to need, but at least bi-annually;

- b) in the interest of the continuous, secure and satisfactory operation of the integrated natural gas system it prepares the development directives of the transmission and distribution pipeline and the underground gas storage facility, specified in the Operational and Commercial Code, in harmony with the principle of least cost, taking into consideration the development proposals prepared by the natural gas transmission-, storage- and distribution licensees;
 - c) during the preparation of the long-term development directive the Office is obliged to ask for the opinion of the licensees and the social organisations representing the interests of the customers;
 - d) the Office may invite bids for the establishment of the transmission pipeline and the gas storage facility, and it may evaluate the bids, if the conditions of the development directive are not fulfilled by the licensees.
- (2) The licensee shall be obliged to report to the Office the building of the transmission pipeline and the gas storage facility.

Establishment and operation of natural gas system

§ 18

- (1) In case of a new settlement, part of settlement or area the Office shall examine, according to the provisions of a separate regulations, – taking into account the opinion of the concerned regulatory authorities – the financial-economic conditions of establishment of a natural gas system.
- (2) A transmission pipeline may be operated by a transmission licensee, a distribution pipeline may be operated by a distribution licensee, a natural gas storage facility may be operated by a storage licensee.
- (3) The technical operation right of the direct pipeline shall be decided upon by the mining supervisory authority (Mining Office) during the licensing procedure.

§ 19

- (1) The owner of the transmission and the distribution pipeline and the natural gas storage facility is obliged to ensure the operation, upkeep and maintenance of these facilities.
- (2) In the interest of ensuring the integration of the natural gas system and the access to the system, the transmission-, the storage- and the distribution licensee shall be obliged to operate the system under its licence securely and efficiently, with due regard to the environmental requirements, and to ensure the carrying out of measurements relevant to the specification of the quality of the natural gas.
- (3) The licensees indicated in Section (2) shall be obliged to ensure the technical conditions necessary for the operation of the system, to supply the necessary data for the other transmission-, storage- and distribution licensees and for the Office in the interest of the secure and efficient operation of the integrated natural gas system.
- (4) In the case of the transmission licensee, and/or of the direct pipeline, the odorising of the natural gas is the obligation of the operator.

§ 20

- (1) The transmission-, distribution- and storage licensee shall be obliged to carry out the measuring specified in the law and in the Operational and Commercial Code, and to summarise the measuring data in a way specified in the Operational and Commercial

Code in the interest of supporting the appropriate fulfilment of the contracts concluded between the licensees and the eligible customers.

- (2) In the interest of ensuring the security of the supply, the licensee indicated in Section (1) shall be obliged to supply data and information specified in the Operational and Commercial Code for the other licensees, the system operation licensee and the Office. The licensee and the Office shall be obliged to handle confidentially the acquired information which have been qualified business secret.

Establishment and operation of the connection pipeline and the customer's equipment

§ 21

The establishment and the dismantling – with the relevant safety conditions – of the connection pipeline and the customer equipment should be performed by a registered gas fitter specified in separate regulations. The licence to perform this type of work should be certified with the distribution licensee before starting the work.

§ 22

- (1) The establishment of the connection pipeline and the customer's equipment is the obligation of the owner of the property. The prepared connection pipeline and the customer's equipment shall be the possession of the owner.
- (2) The work plan of the connection pipeline and the customer's equipment – before starting the work – should be submitted to the distribution licensee for review from technical-safety point of view. The distribution licensee shall be obliged to perform the review within 15 work days in case of the availability of all licenses required for the review. In the absence of declaration of the distribution licensee, that the work plan is applicable for implementation, the facility cannot be implemented. In the case of customers demanding an output lower than 50 cu.m/h the review is free of charge.
- (3) Should the distribution licensee in its declaration qualify the work plan unfit for implementation, the owner of the property may apply with the technical safety supervisory authority of the area for the issuing of a declaration of applicability. For the procedure to determine the applicability of the work plan for implementation the provisions of Áe. should be applied.
- (4) Before commissioning the distribution licensee or those commissioned by the distribution licensee to do it shall be obliged to check the completed fitting work from the aspect of technical safety. In the case of customers demanding an output lower than 50 cu.m/h the check-up is free of charge.
- (5) The commissioning of the connection pipeline and the customer's pipeline shall be the responsibility of the distribution licensee after payment of the connection fee. The fee of commissioning is included in separate regulations as specified in § 25. The commissioning of the gas fitting and the gas consuming technology can also be performed by the manufacturer of the appliance or those authorised by the manufacturer to do it. The distribution licensee shall be obliged to perform the commissioning of the customer's pipeline also without the commissioning of the gas fitting, if the appliance meets the technical safety prescriptions.
- (6) During commissioning those performing the commissioning shall be obliged to make the customer acquainted with the proper use of the connection pipeline and the customer's appliance, with the obligation of preservation and protection of the gas meter, as well as with the other obligations of the customer.
- (7) It is the responsibility of the owner or the user of the property to keep the connection pipeline and the customer's equipment fit for use and in safe condition; accordingly, it

should ensure their regular maintenance, repair and replacement as necessary, and their supervision from the aspect of technical safety at least in every five years..

- (8) The maintenance and the repair of the customer's main gas cock shall be the responsibility of the distributor, at its own cost.
- (9) The eligible customer shall agree on the supply and on the metering of its consumption with the licensee from the network of which it receives natural gas.

§ 23

- (1) For placing gas consumption appliances on the market, the provisions of a separate law are governing.
- (2) The procedures for certification of suitability of gas consumption appliances are specified by a separate law.
- (3) Gas consumption appliance provided with a certificate of suitability or relevant approval can exclusively be installed.
- (4) Gas consumption appliance can exclusively be connected to a combustion product exhaust system meeting the relevant technical prescriptions.

Restriction of the ownership and utilisation right of foreign properties

§ 24

For the restriction of the ownership and utilisation right of foreign properties and for the indemnification due for such restriction, as well as for the safety zone of transmission-, distribution- and direct pipelines and storage facilities the provisions of Mining Act XLVIII/1993 (hereinafter: Bt) shall accordingly be applied.

Development of natural gas system

§ 25

- (1) For the extension and the development of the natural gas transmission and distribution in case of their connection to the natural gas supply or in case of an increase of their natural gas demand the customers shall pay a connection charge to the owner of the transmission pipeline, and/or to the owner of the distribution pipeline. The rate of the connection charge is determined by the minister in a decree. The distribution licensee, and/or the owner of the distribution pipeline in case of connecting a new customer may assert the right until December 31, 2010 to the customer's contribution approved by the Office, for the systems built with network developing contribution before the law has become effective, and/or necessary for the financing of the systems already under construction in 2003. For the obligation to pay VAT for the network developing contribution the provisions of a separate law are governing.
- (2) The distributor licensee must send back the cost accounting for the distribution pipeline built using the network development contribution, the amount of contribution to be repaid to customers who were connected and the manner of repaying such contribution to the Office for approval within 90 days after the period defined in Section (1) elapses.
- (3) After the Office's approval, the distributor licensee must repay to the connected customers the network development contribution collected from customers in excess of the amount required for a return on the investment, in the manner defined in the customer contract.
- (4) The connection fee must be defined in a way so that it provides cover for reasonable costs incurred by the owner of the distribution pipeline – which operates efficiently – due to connecting the customer.

§ 26

- (1) The owner of the transmission pipeline, and/or that of the distribution pipeline shall be obliged to fulfil the request for connecting to the natural gas supply, except the case when
 - a) the applicant does not undertake to pay the connection charge determined according to Section (1) or the connection fee defined in Section (4) of § 25,
 - b) the law addresses in another way, or
 - c) the fulfilment of the demand is hindered by the absence of an official licence or the approval of a regulatory authority. The applicant should be informed about this fact in writing, within 30 days, with the simultaneous information about the reasons.
- (2) Should the owner of the transmission pipeline and/or the owner of the distribution pipeline refuse the request for connection to the system for another reason, the applicant may turn to the Office in connection with the obligation for connection to the system. The Office may oblige the owner of the transmission pipeline and/or the owner of the distribution pipeline to connect the customer to the network.

Direct pipeline

§ 27

- (1) In the interest of satisfying the demand of the eligible customer for natural gas supply a direct pipeline can be built with the preliminary approval of the Office. The Office may give its preliminary approval for the establishment of the direct pipeline if the satisfaction of the demand of the eligible customer has been refused by the transmission licensee, and/or the distribution licensee, and the building of the direct pipeline does not contravene the principle of least cost evaluated on system level of national gas supply.
- (2) The eligible customer shall be obliged to report the building of the direct pipeline to the system operation licensee, the supplier, the storage operator and the concerned distributors according to the provisions of the Operational and Commercial Code.
- (3) The direct pipeline is not part of the integrated natural gas system, but in case of an breakdown or a emergency the operator of the direct pipeline shall also be obliged to proceed according to the provisions of § 28-29.

Breakdown, emergency, restriction, suspension of the transmission, distribution and storage of natural gas

§ 28

- (1) In case of a breakdown of the integrated natural gas system the licensee shall be obliged to take immediate action for trouble shooting, for this aim it shall have the right to take the necessary actions and to eliminate the breakdown without any special permission.

- (2) The customers, as well as the licensees participating in the supply of the customer should be informed – in the usual way – about the breakdown without delay.
- (3) Should the distribution licensee observe a dangerous situation on the connection pipeline and the customer's equipment, or such a situation becomes known to it in any other way, it shall be obliged to take actions for the immediate elimination. Within the framework of this action, it may suspend the natural gas supply until the danger prevails. The works of making the system gas-free and the restart of the gas supply can only be carried out by the distribution licensee or those commissioned by the licensee to do it.
- (4) Following the elimination of the trouble the licensee shall be obliged to restore the transmission, the storage, respectively the distribution within the shortest possible time.
- (5) The transmission-, distribution- and storage licensee shall be obliged to establish a service group on duty capable of the immediate elimination of the breakdowns.
- (6) The transmission-, storage- and distribution licensee may restrict the transmission, the storage and the distribution within the smallest necessary circle of customers and in the shortest possible time, furthermore, in the absence of another reasonable technical solution it may suspend them in the case of the maintenance, transformation, renewal, development, replacement of the system and in case of the connection of a new customer.
- (7) The starting date and the foreseeable duration of the suspension, as well as the required safety measures should be communicated to the customers, and/or to the concerned licensees in a way specified in the Business Conduct Rules, but at least 15 days earlier – in case of a scheduled preventive maintenance at least three months earlier. The Business Conduct Rules may prescribe an obligation of preliminary reconciliation in a specific circle of customers.
- (8) In case of scheduled preventive maintenance the neglect or the delay of the preliminary report, and/or an unjustified and significant protraction of the reported suspension shall involve the payment of penalty and damages of a measure specified in the public utility supply contract.
- (9) The system operator, the transmission-, distribution- and storage licensee shall be obliged to organise the restriction of the supply which has become necessary due to breakdown or lack of resources in the order and measure of restriction specified by the Office.
- (10) Those who order the restriction shall be obliged to immediately inform the Office in writing about all restrictions, and within 8 days about the reasons, at the latest. In the case of all ordered restrictions the Office shall examine, whether the restriction has become necessary for a reason attributable to the licensee. If the Office has stated such a reason, it may impose a fine. If the restriction has become necessary for a reason attributable to those ordering the restriction, they shall be obliged to compensate the damage of the customers arising from the restriction.
- (11) In case of the household- and communal customers, who receive natural gas on the basis of public utility supply contract, the restriction of the supply which has become necessary due to the lack of physical resources can only be applied in a final case and when it is still necessary after ordering the restriction with the eligible customers and the other customers receiving natural gas on the basis of public utility supply contract.

- (12) Following the restriction of the breakdown, or after the cessation of the lack of resources the licensee shall be obliged to immediately restore the transmission, the distribution, respectively the storage.

§ 29

- (1) Trouble in the natural gas supply when persons, their chattels, the nature, the environment, respectively the supply of a significant part of the customers are directly endangered is qualified an emergency.
- (2) In case of an emergency licensees should act according to the provisions of separate regulations.
- (3) Licensees may not be obliged to compensate the damages originating from these actions – in case of showing a conduct that can be expected.

Access to integrated natural gas system

§ 30

- (1) In the interest of maintaining the balance of the system, up to the required measure, the public utility wholesaler, the traders, the eligible customers – up to the measure of their own consumption -, the transmission- and storage licensee shall be obliged to make available for the system operator the spare capacity of the system under its operation, against a fee.
- (2) In the interest of maintaining the balance of the system, up to the required measure, the public utility suppliers, the traders, the eligible customers – up to the measure of their own consumption -, the transmission- and storage licensee shall be obliged to make available for the system operator the spare capacity of the system under their operation, against a fee.
- (3) The storage licensee must make available the capacities of the system operated by it that remain free after the performance of its obligations set out in Section (2) to traders and – to the extent of their own use – to eligible customers with public, transparent and non-discriminatory commercial terms and conditions.
- (4) The distributor licensee must make available the capacities of the system operated by it that remain free to public utility suppliers, traders, to eligible customers – up to the extent of their own use – to the natural gas producer up to the quantity of the natural gas produced by it, and to the system operator to the extent required for maintaining the balance of the system, against a charge.
- (5) The conditions of the access to the network may not include any unjustified discrimination, may not give ground for any abuse, may not include any unjustified restriction, as well as they may not endanger the security and the quality of the supply.
- (6) Spare capacity can only be committed on the basis of a certified customer's request.
- (7) The transmission-, storage- and distribution licensee shall be obliged to supply data to the system operation licensee and to the Office about the spare capacity of the system under its operation.
- (8) The transmission-, storage- and distribution licensee shall decide upon the access to the system under its operation and upon the transmission, storage and distribution of the natural gas volume specified in the contracts.
- (9) The transmission-, storage- and distribution licensee shall be obliged to inform the trader, the public utility wholesaler, the public utility supplier and the eligible customer about its decision in a way and until the time specified in the Operational and Commercial Code. The trader, the public utility wholesaler and the public utility

supplier shall be obliged to inform the customer in a way and until the time specified in the Operational and Commercial Code whether the contract is executable.

- (10) The general rules of the access, the order of publishing the available spare capacity, as well as the order of satisfying the request in case of the lack of capacity are specified in separate regulations.

Refusal of access to natural gas system

§ 31

- (1) The storage, the transmission and the distribution of natural gas serving for the supply of household customers and the communal customers specified in separate regulations have a priority.
- (2) After the customers defined in Section (1), the storage, transmission and distribution of natural gas serving for the supply of non-eligible captive customers have priority.
- (3) The transmission-, distribution- and storage licensee may refuse the access to the system operated by them if
 - a) there is no spare capacity for the satisfaction of the requested gas demand,
 - b) the access hinders the gas supply of customers specified in Section (1) or (2),
 - c) a serious breakdown or emergency of the integrated natural gas system occurs,
 - d) the quality of the natural gas to be fed into the system does not correspond to the requirements of the Operational and Commercial Code.
- (3) The storage licensee, and the transmission licensee shall be obliged to offer the capacity of the operated system primarily for the public utility wholesaler, and/or the distribution licensee shall be obliged to offer the capacity primarily for the public utility supplier in order to supply the customers specified in Section (1), and to conclude the relevant supply contract. Having been satisfied the storage, transmission and distribution requests of the customers specified in Section (1), the storage-, transmission- and distribution licensee shall be obliged to make accessible the available spare capacity for the public utility wholesaler, and/or for the public service supplier, the traders and the eligible customers in order to ensure the supply of the other captive customers, and any remaining spare capacity to eligible customers.
- (4) The natural gas transmission-, distribution- and storage licensee shall be obliged to refuse the access to the system if the Office prohibited the access to the cross-border transmission pipeline on the basis of the provisions of Section (4) of § 38.
- (5) The refusal of the access should be supported by reasons.
- (6) At the request of the system user the Office shall examine and evaluate within 8 days whether the conditions of the refusal prevail.
- (7) Should the conditions of the refusal be missing, the Office may impose a fine in its decision and shall oblige the licensee to ensure the access. The Office may declare the decision promptly executable.

Natural gas trader

§ 32

- (1) Based on its licence the natural gas trader is entitled to purchase natural gas from another natural gas trader and/or natural gas producer via cross-border transmission in possession

- of a relevant licence, and/or to sell natural gas for an eligible customer, public utility wholesaler or another natural gas trader.
- (2) In case of being a member of the organised natural gas market, the trader shall be entitled to purchase and sell natural gas on the organised natural gas market.
 - (3) The natural gas trader shall be obliged to supply data on a continuous basis for the system operator licensee necessary for ensuring the balance of the integrated natural gas system.

Public utility wholesaler

§ 33

- (1) The public utility wholesaler has an exclusive right and has a supply obligation towards the public service supplier up to the extent of the gas volume and output capacity necessary for supplying the captive customers, for which the parties are obliged to conclude a contract.
- (2) For the fulfilment of its supply obligation, the public utility wholesaler may purchase natural gas
 - a) from a natural gas producer,
 - b) from a trader,
 - c) from the organised natural gas market,
 - d) via cross-border transmission, in possession of the relevant licence .
- (3) The natural gas producer is free to sell the produced gas.
- (4) The contract between the public utility wholesaler and the public utility supplier should be re-negotiated if in the settlements specified in the licence of the public utility supplier an eligible customer withdraws from the public utility supply. If the re-negotiation of the contract has not been successfully completed within 90 days, then
 - a) the contracted volume of the natural gas must be reduced by the volume contracted by the customer who withdrew from the supply, if the customer is supplied by an undertaking directed by the owners' group having organisational relations with the public utility wholesaler, or they constitute a common group and act in a co-ordinated way,
 - b) the contract must be fulfilled by the parties, if the customer is supplied by an undertaking directed by the owners' group having organisational relations with the public utility supplier, or they constitute a common group and act in a co-ordinated way,
 - c) the contracted quantity must be reduced by half of the natural gas quantity contracted earlier for the customer who withdrew from supply if the eligible customer is supplied by a trader who is completely independent from both the public utility wholesaler and the public utility supplier.
- (5) The public utility wholesaler may sell the natural gas volume specified in sub-sections a) and c) of Section (4), and the public utility supplier may sell the natural gas volume specified in sub-section b) and c) to a trader in a public and transparent way on the organised natural gas market, or may sell it via cross-border transmission in possession of the relevant licence.
- (6) If in addition to the fulfilment of the requirements specified in Sections (1)-(2) and (4)-(5) the long-term contracts still cause insurmountable financial and economic difficulties to the public utility wholesaler or to the public utility supplier, then the obligee of the fulfilment of

the contract shall be obliged to offer for auction the natural gas volume which cannot be sold in another rational way.

(7) If, following the procedures required in Sections (1)-(6), the public utility wholesaler or the public utility supplier proves that the entry of the eligible customer into the free market causes unavoidable losses for it, it will be entitled to indemnification for the economic and financial loss it incurs out of the fund created on the basis of this §.

(8) The principles of operation of the fund and the procedure for payments shall be defined in a way so that the obligation to make payments into the fund is distributed between natural gas traders, the public utility wholesaler and public utility suppliers in proportion to their respective annual sales revenue out of their activities in the natural gas sector. Payments to and out of the fund will be ordered by the minister, based on a proposal from the Office. The detailed rules for creating and using the fund will be determined by the Government in a decree.

(9) For the purposes of price regulation, payments made to the fund specified in this § may not be taken into account as a reasonable cost.

(10) The provisions set out in Sections (7)-(9) may be applied until 31 December, 2008.

(11) If during the procedure prescribed in Sections (1)-(2) and (4)-(6) the public utility wholesaler, and/or the public utility supplier proves – in a way prescribed in separate regulations – that the decision of the eligible customer to purchase natural gas on the free market causes unavoidable economic and financial difficulties, it may initiate, that, on an occasional basis, the Office prohibit the eligible customer to access to the natural gas system for a definite period of time. However, the public utility wholesaler or the public utility supplier may not make use of this possibility if it has already sold the natural gas quantity described in Section (6) in an auction.

(12) If the Office prohibited the access to the natural gas system on the basis of the provisions of Section (7), it shall be obliged to notify the European Committee of this measure without delay by sending to it the documents of the case.

(13) The public utility wholesaler may sell natural gas directly to the captive customers specified in its licence. With respect to these customers the public utility wholesaler should act according to the rules referring to the public utility suppliers.

(14) The public utility wholesaler may sell natural gas solely to the eligible customers specified in its licence, according to Section (1) paragraph f) of § 9 within the framework of a public utility supply contract.

(15) When performing its supply obligation, the public utility wholesaler shall be obliged to take into consideration the principle of least cost, and it may not apply any negative discrimination.

(16) The captive customer shall be obliged to supply data for the system operation licensee on a continuous basis, which are necessary for ensuring the balance of the integrated natural gas system.

The distributor and the public utility supplier

§ 34

(1) The public utility supply licence, respectively the distribution licence means an obligation and ensures an exclusive right for the public utility natural gas supply and/or distribution in the settlement, part of settlement or territory, as well as for the captive customers specified in the licence.

(2) The public utility supplier shall be obliged to purchase from the public utility wholesaler the natural gas necessary for supplying the captive customers receiving natural gas in the settlements, parts of settlements or territories specified in its licence, for which the parties are obliged to conclude a contract.

- (3) The public utility supplier must operate a customer service to administer reports from customers, investigating and remedying complaints, and informing customers; the customer service shall be accessible by telephone and Internet and in premises open to customers.
- (4) The public utility supplier may waive its exclusive right –with the preliminary approval of the Office – partly or fully, to the benefit of another public utility supplier.
- (5) The public utility supplier may deliver natural gas to the eligible customer only in the framework of a public utility contract, based on its licence in accordance with Section (1) paragraph g) of § 9.

Piped propane-, butane gas distributor and supplier

§ 35

- (1) The piped propane-, butane gas distributor and supplier shall be obliged to ensure piped supply of propane-, butane gas and its mixtures in the settlements, parts of settlements and territories specified in its licence.
- (2) The piped propane, butane gas distributor and supplier has a supply obligation towards the gas customers in the settlements, parts of settlements and territories specified in its licence.

Eligible customers

§ 36

- (1) Following the entering into effect of the present act all natural gas-fired electricity producers and the customers having a contract for at least 500 cu.m/h gas capacity in an adjacent plant are qualified eligible customers. From this point on, the Government shall specify in a decree the circle of eligible customers, the conditions and the time of becoming an eligible customer.
- (2) The eligible customer may decide the way of satisfying its natural gas requirement: within the framework of the public utility supply, or by terminating the public utility supply contract and purchasing from a trader or from the natural gas producer, or through natural gas import.
- (3) The customer specified in Section (1) may terminate its public utility supply contract until October 31, 2003 with an effect of the date of the entering into effect of the act. In case of not exercising this right, it may terminate the public utility supply contract until March 31, with an effect of October 1 of the year following the termination.
- (4) Should the eligible customer not terminate the public utility supply contract, it may continue to receive natural gas within the framework of the public utility supply.
- (5) The eligible customer may initiate with its former public utility supplier to return to the circle of captive customers and to conclude a public utility supply contract until June 30 of the then current year. The concerned public utility supplier shall be obliged to conclude the contract on the 1st of July of the year following the notification.
- (6) The eligible customer may purchase natural gas on the basis of a natural gas purchase contract.

Natural gas purchase contract concluded between the eligible customer and the trader

§ 37 Based on the natural gas purchase contract the natural gas trader shall be obliged to transmit natural gas to the eligible customer according to the technical characteristics and the quality specified in the contract, in the contracted time or period, according to the conditions

of the contract, while the eligible customer shall be obliged to receive the transmitted natural gas and to pay the price.

Cross-border transmission of natural gas

§ 38

- (1) The cross-border transmission of natural gas can be carried out, on the basis of the licence issued for the access to the cross-border transmission pipeline, by
 - a) the natural gas trader,
 - b) the public utility wholesaler,
 - c) the eligible customer up to the extent of its own consumption,
 - d) the natural gas producer, in order to export natural gas produced in Hungary, up to the extent of the Hungarian production,
 - e) the system operator, up to the extent of the imported natural gas necessary for ensuring the balance of the system.
- (2) The licence for the access to the cross-border pipeline is granted by the Office.
- (3) The licensee shall be obliged to report to the Office and to the system operator licensee on the cross-border transmission of natural gas in a way and time specified in the Operational and Commercial Code.
- (4) The Office may prohibit the access to the cross-border transmission pipeline if
 - a) it endangers the operation of the integrated natural gas system,
 - b) the natural gas to be imported does not meet the quality requirements specified in the Operational and Commercial Code,
 - c) the spare capacity necessary for the transmission of the imported natural gas is missing,
 - d) the current licensee or obligee of the long-term natural gas purchase contract, concluded on an occasional basis for a definite period of time or modified before the issue of the present Act proves in a way specified in separate regulations, that the natural gas import would cause for them insurmountable economic and financial difficulties,
 - e) the natural gas would be imported from a country, where the customer, qualified eligible according to the Hungarian regulations, would not be qualified eligible customer. The European Commission may order delivery of supply if requested by the Member state that supplies the natural gas.
- (5) For the data supply necessary for the prohibition in cases under Section (4) the provisions of separate regulations are governing.
- (6) In case of prohibiting the access to the natural gas system on the basis of the reasons listed in Section (4), the Office shall be obliged to notify the European Committee of these measures by sending them the documents of the case.

Chapter V

LEGAL RELATIONSHIP BETWEEN THE PUBLIC UTILITY SUPPLIER AND THE CAPTIVE CUSTOMER

Public utility supply contract

§ 39

- (1) In order to ensure continuous and secure supply of natural gas for the captive customer, the public utility supplier shall be obliged to conclude a public utility supply contract.

- (2) Based on the public utility supply contract, the public utility supplier shall be obliged to supply natural gas for the customer from a specific time, on a continuous basis, and the captive customer shall be obliged to pay regularly the price of the supplied gas.
- (3) In case of special customer's requirements or special supply conditions the parties may conclude a special public utility supply contract with a content deviating from the provisions of the general contract. In case of concluding a special contract, the public utility supplier shall be obliged to inform the captive customer about the general conditions specified in the Business Conduct Rules.
- (4) If the parties cannot agree on the content of the contract, the general conditions specified in the Business Conduct Rules shall be applied in the public utility contract to be concluded.

Refusal of the public utility supply

§ 40

- (1) The public utility supplier may refuse the starting of the public utility natural gas supply or the continuation of the already started gas supply if
 - a) the connection pipeline or the customer's equipment endangers human life, corporal integrity or health, or the security of property,
 - b) the customer has not met its obligation specified in the public utility supply contract in spite of the notice of the supplier or the distributor licensee, particularly if the customer influences the operation of the pressure regulator, and the gas meter, and it makes not possible the reading of the gas meter for the gas supplier or for the person commissioned by the supplier, or when the customer does not operate the customer's equipment according to purpose, or it operates in a way endangering human life, corporate integrity, health and security of property.
- (2) The supply can only be refused until the circumstances serving as a basis of the refusal prevail.

Metering, settlement, payment of the fee

§ 41

- (1) The metering of the quantity and the output capacity of natural gas supplied to the captive customer - except customers paying flat rate – is the responsibility of the transmission- or distribution licensee using a certified gas meter or a metering system – in case of household customers at the cost of the licensee, in case of other customers according to an agreement. The consumption charge shall be determined and settled according to the provisions of a separate law.
- (2) The order of billing and the settlement periods shall be agreed upon by the public utility supplier and the customer, taking into consideration the provisions of the relevant separate regulations. If they cannot agree on the order of billing and the settlement periods, the relevant provisions of the Business Conduct Rules shall be governing.
- (3) The captive customer shall have a payment obligation according to the public utility supply agreement.
- (4) The public utility supplier must reconcile with the customer before sending the invoice to the customer if the value of the invoice exceeds double of the highest invoice amount invoiced to the customer over the previous two years.
- (5) If the customer has not met its current payment obligations, the public utility supplier may initiate to install and apply a device connecting to the gas meter, which requires a preliminary payment for ensuring further gas supply. Such a device should also be

installed at the request of the customer, if the customer undertakes the payment of the cost of the device and its installation.

- (6) The gas meter – unless otherwise agreed – shall be owned by the distribution licensee.
- (7) The installation, operation, maintenance and periodical calibration of the gas meter – in the absence of an agreement described under Section (1) – shall be the responsibility of the distribution licensee.

§ 42

- (1) The captive customer may ask from the public utility supplier the supervision of the metering device and the associated equipment from the aspect of metering.
- (2) For the time of the supervision – in the absence of another agreement – the owner of the gas meter shall be obliged to ensure the metering of the gas consumption according to the regulations.
- (3) If the supervision of the metering device proved to be unjustified, the associated reasonable costs should be borne by the customer.
- (4) In case of a justified claim the public utility supplier shall be obliged to correct the bill issued for the customer with retroactive effect.
- (5) The captive customer shall be obliged to make possible the reading and the supervision of the gas meter for the distribution- or the transmission licensee.
- (6) The preservation and the protection of the gas meter is the responsibility of the customer.

Breach of the public utility supply contract, reception of natural gas without contract

§ 43

- (1) It is qualified the breach of the public utility supply contract by the public utility supplier, especially if
 - a) it does not start the gas supply in the time specified in the contract,
 - b) the technical characteristics of the supplied gas do not meet those specified in the contract, in the technical specifications or in the standard specifications,
 - c) it does not notify the captive customer in a way and time specified in the Business Conduct Rules or in the contract about the time and the expected duration of the suspension of the supply due to maintenance and/or renewing works performed by the transmission licensee, which can be scheduled,
 - d) the gas supply interrupts due to its illegal action, or it is suspended or restricted for reasons not specified in the relevant regulations,
 - e) the gas supply for the customer excluded from the gas supply is not re-started within two work days after the cessation of the irregularity or breach of contract giving reason for exclusion, and after the reception of the relevant notice by the customer,
 - f) it does not supply the natural gas in a way specified in the public utility contract,
 - g) the level of the quality and the supply of natural gas do not meet the provisions of the licence or the Business Conduct Rules.
 - h) it supplies through and invoices based on a consumption metering device that does not have valid calibration.
- (2) It is qualified the breach of the public utility supply contract by the captive customer if
 - a) it exceeds the contracted capacity,
 - b) it uses a connection pipeline or customer's equipment not meeting the technical-safety requirements,
 - c) it receives natural gas by manipulating the operation of the gas meter in any way, or in any other irregular way,

- d) it does not make possible – in the agreed time, or in the time indicated in the notification – the reading of the gas meter, and/or the replacement of the defected gas meter,
 - e) it pays the gas supply charge with a delay, or not in the time specified in the contract,
 - f) it does not pay the gas supply fee,
 - g) it conducts the received gas to an area out of the contracted consumption site,
 - h) it transfers the received gas to a third party without the approval of the public utility supplier,
 - i) it breaches the conditions of the consumption without gas meter,
 - j) it does not meet the regulations of the supply restriction – or the regulations of suspension if the supply of the customer may be suspended,
 - k) it breaks the gas supply system under pressure,
 - l) it damages the gas meter, intentionally or from neglect, removes the lead seal from the inlet or the outlet of the gas meter, or from the stop-cock of the by-pass pipeline, and/or does not report to the gas supplier the damage or the lack of these lead seals.
- (3) The reception without contract is also qualified irregular reception.

Consequences of the breach of the public utility contract and the reception of natural gas without supply contract

§ 44

- (1) Consequences of the breach of the public utility contract and the reception of natural gas without supply contract are the following:
- a) reimbursement of fee, and/or payment of surcharge,
 - b) penalty,
 - c) compensation,
 - d) late interest,
 - e) installation of a device regulating consumption,
 - f) suspension of gas supply,
 - g) disconnection from gas supply.
- (2) The consequences listed under Section (1) can be applied in common in cases under § 45-46.
- (3) The rate of the surcharge and the basis of the calculation are specified in a separate law.
- (4) Penalty is calculated on the basis of the charge of the supply concerned by the breach of the contract. The rate of the penalty shall be specified in the supply contract.
- (5) The reimbursement of charge and the payment of the surcharge and the penalty do not exempt from the compensation of the caused damage.
- (6) Following the termination of the breach of the contract the supply gas should be restarted within two work days.
- (7) Those who receive natural gas in an irregular way shall pay a surcharge specified in a separate law.
- (8) Based on a reconciliation with the public utility supplier, the distribution- or transmission licensee may exclude from the gas supply those who receive natural gas in an irregular way.

§ 45

- (1) The public utility supplier shall be obliged
- a) to pay a penalty to the captive customer in the cases described under subsections a)-e) and g) of § 43 (1),

- b) to repay to the captive customer the proportionate part of the charge and to pay a late interest in case of breach of the contract described under sub-section f) and h) of Section (1) of § 43.
- (2) The captive customer shall be obliged to pay for the public utility supplier
- a) surcharge in case of the breach of contract described under sub-section a) of Section (2) of § 43, respectively on the basis of Section (3) of § 43 and Section (7) of § 44,
 - b) penalty in case of the breach of contract described under sub-sections b)-f) and i)-k) of Section (2) of § 43,
 - c) compensation in case of the breach of contract described in sub-sections c), g), h) and l) of Section (2) of § 43.

§ 46

- (1) The public utility supplier may suspend the gas supply in case of the breach of contract described in sub-sections b), c), g)-l) of Section (2) of § 43.
- (2) The captive customer shall be obliged to notify the public utility supplier in writing on the cessation of the causes of suspension.
- (3) The public utility supplier shall be obliged to restart the gas supply within two work days following the reception of the notice.

§ 47

- (1) In cases described in sub-section f) of Section (2) of § 43, and in Section (2) of § 45 – if the customer did not pay, in spite of the written notice, the charge of supply, or the surcharge, the penalty or the compensation of the damage within 60 days of the due date – the public utility supplier may disconnect the customer from the natural gas supply, and may terminate the supply contract, or may bind the further gas supply to the installation of a meter functioning with pre-paid consumption card.
- (2) The public utility supplier and the captive customer shall be obliged to pay compensation for the damage caused to the other party by the breach of the contract unless the damage has been covered by a penalty and has been certified.
- (3) In order to have an access to the consumption site, the public utility supplier may turn to the competent notary if the customer refuses
 - a) the reading and the supervision of the metering device,
 - b) the disconnection from the gas supply in case of a breach of contract or irregular reception,
 - c) the supervision of the customer's equipment.
- (4) The notary may declare its decision executable without delay on the basis of the provisions of Section (2) of § 63 of Áe.

Chapter VI

PRICE SETTING

§ 48

- (1) The scope of administrative price regulation specified in Act LXXXVII/1990 on price setting includes the setting of highest administrative prices, and/or the tariffs and the conditions of applying the tariffs of
 - a) transmission, distribution and storage of natural gas – except transit and the storage of natural gas against payment,

- b) natural gas trade between the public utility wholesaler and the public utility supplier, as well as
 - c) natural gas sold to the captive customers.
- (2) The administrative price and tariff shall include the return of the justified investments, the costs of the efficiently working licensees, as well as the profit necessary for long-term operation.
- (3) When determining prices, the requirements and factors of economic policy, energy policy, safety of supply, environmental protection and of the global economy must be taken into account.
- (4) The price regulation should promote safe gas supply at the least cost, and the efficient utilisation of production, storage, transmission and distribution capacities as well as sources of purchase, taking into account the particular features of the integrated natural gas system.
- (5) In the event that the transmission or distribution licensee gives a discount to any customer from the highest statutory price, it shall publish this discount and must give the same discount to all its customers.

§ 49

- (1) Prices, tariffs and conditions of their application are set in a ministerial decree on the basis of the recommendations of the Office. Prices and tariffs shall be published at least 8 days prior to becoming effective – in case of a natural gas supply to the public utilities they shall be published at least 30 days prior to becoming effective.
- (2) The detailed rules of setting and applying the prices shall be prepared by the Office. During this activity the Office shall be obliged to ask for the opinion of the customer protection organisations, the organisations representing the interests of customers and licensees.
- (3) The Office shall be obliged to review the prices at the initiation of any interested parties, and to publish the results of the supervisory procedure.
- (4) Those who pursue an activity belonging to the scope of administrative price setting shall be obliged to provide the Office – in a way specified by separate law – with all information necessary for the activities of price supervision and price preparation, as well as to ensure the transparency of the costs and the income structure in their recording and accounting systems.

§ 50

- (1) In case of a natural person (customer), in order to ensure the use according to purpose of its tenement and up to such an extent, and in order to satisfy its direct or indirect natural gas requirement the customer may be provided with natural gas with preferential conditions. The form of the preferential natural gas supply may not be an allowance in cash directly paid to the customer.
- (2) The financial resource of the allowance specified in Section (1) shall be ensured by the sum allocated for allowances in the Ministry of Economy and Transport chapter of the Budget, the Target Allocation for Energy Management (hereinafter: target allocation). The detailed rules of handling and the utilization of the target allocation shall be specified by the Government in a decree.
- (3) The portion of the mining annuity defined in Section (3) sub-section ba) of § 20 of act XLVIII/1993 on mining (hereinafter: Bt.) exceeding 12% constitutes income for the target allocation.
- (4) The excess of the centralised income of target allocation with respect to the allocated sum, and the reduction due to loss of income shall imply the increase or the reduction with the same sum of the estimated expenditures and allowances. The amendment of

the estimated expenditures of the allocation shall be carried out in consensus with the minister of finance.

- (5) The sum of the allowance paid from the target allocation may not exceed the sum of the contribution specified in Section (3).

Chapter VII

UNBUNDLING OF ACTIVITIES

§ 51

- (1) The integrated natural gas undertakings shall, in their internal accounting, be obliged to unbundle the assets and resources, the incomes and expenses of their natural gas transmission, distribution and storage activities, and to separate them from non-gas activities, and to present them in the Supplement of the balance sheet and in the income statement prepared for the various activities in a way, as if each activity would be carried out by individual companies.
- (2) The rules of the reporting and book-keeping obligations, preparation of the annual financial report, keeping of the books, as well as those of their disclosure and publication are specified in the Act on Accounting.
- (3) Licensees shall publish and disclose annual reports, which shall comply with the mandatory contents required for regular information by Act CXX/2001 on the capital market.
- (4) The natural gas transmission-, distribution- and storage licensee may not abuse the commercially sensitive information obtained from the system users in the course of having an access to the system or during the relevant negotiations.
- (5) The owner of the licence allowing the access to the cross-border natural gas transmission pipeline shall not be obliged to unbundle its expenses incurring during this activity according to Section (1) from other natural gas-related activities.

Chapter VIII

RESTRICTION OF ACQUIRING PARTICIPATION IN LICENSED NATURAL GAS UNDERTAKINGS

§ 52

- (1) The de-merger of licensed undertakings, the transformation into another form of association, the merger with another company, or the reduction of the share capital or of the nominal capital by at least one quarter requires the approving decision of the Office; the application for registering the company should be submitted to the Court of Registration together with the decision of the Office. The Office may not refuse the approval of the reduction of the share capital or the nominal capital if a separate law makes it obligatory for the licensee.
- (2) A decision of approval is required from the Office for disposing – in accordance with a separate law – over the assets required for pursuing activities subject to licensing.
- (3) The acquiring of an influence ensuring significant majority- or direct control in any licensed undertaking and the exercising of the associated rights requires the approving decision of the Office.

- (4) The provisions of Section (3) also stand for acquiring influence among the licensees belonging to the scope of Act CX/2001 on the natural gas undertakings and electricity.
- (5) The Office may refuse the approval, respectively may lay down conditions if the actions described under Sections (1)-(3) would endanger the security of the natural gas supply, the performing of activities subject to licensing, as well as the regulations applicable to the prices and quality of service in transmission, storage, distribution, system operation or public utility supply activities.
- (6) The Office may refuse to approve the transactions described in Sections (1)-(3) if, as a result of the transaction, the licensee is not able to satisfy the requirements set out in Section (3)-(4) of § 9 of this act.
- (7) In the absence of the approving decision prescribed in Sections (1)-(3) the shareholder respectively the member may not be registered in the share register, may not be included in the list of members, and may not exercise rights towards the association.

§ 53

- (1) It is prohibited to acquire influence ensuring majority- and direct control in undertakings having a licence for direct natural gas supply of customers, the total annual natural gas sales to end users of which – in the year preceding the submission of the application – exceed 30% of the natural gas sold to domestic end users.
- (2) It is prohibited to acquire influence, if in the transmission-, storage – or public utility wholesale licensees the 30% of the votes would be acquired by a shareholder which already has an influence in distribution- or public utility supplier licensee ensuring majority- or direct control, and the total annual natural gas sales to end users of the licensee – in the year preceding the submission of the application – exceed 49% of the natural gas sold to domestic end users.
- (3) In case of a breach of the restrictions specified in Sections (1)-(2) the shareholder or the member of the association may not be registered in the share register over the extent exceeding the restriction, and/or may not be included into the list of members, and may not exercise rights towards the association.
- (4) Acquisition of indirect influence shall be the acquisition of influence realised through another person or organisation. The direct or indirect participation or voting rights of close relatives – as defined in § 685 sub-section b) of the Civil Code shall be counted together. If the voting rights or participation in the ownership of the intermediate association exceeds 50%, it shall be taken into account as the whole.
- (5) For the purposes of § 52 and § 53, acquisition of influence shall be an agreement between the party with influence and the party that has a share of ownership or exercises voting rights in the licensee undertaking based on which
 - a. the party with influence is entitled to elect leading officials or the majority of the members of the supervisory board, and/or
 - b. management of the licensee undertaking is realised based on uniform criteria, or the parties act jointly in order to achieve such management.
- (6) In order to control the rate of acquiring influence, the Office shall be entitled to ask for data relating to the ownership structure behind the licensee.
- (7) For the purposes of § 52 and § 53, both direct and indirect influence shall be taken into account.
- (8) The provisions set out in § 52 and § 53 do not affect the validity of influence acquired prior to the coming into effect of this act.

Chapter IX

CLOSING PROVISIONS

Miscellaneous provisions

§ 54

- (1) This Act – except provisions of Sections (2)-(6) – will enter into force on January 1, 2004, and the following provisions will simultaneously be repealed
 - a) the provisions of Section (4) of § 9 and § 17 and Section (4) of § 23 of Act XLVIII/1993 on mining,
 - b) the provisions of Act XLI/1994 on gas supply, as well as the provisions of Act XX/1997 on the amendment of the above act,
 - c) sub-section a) of Section (1) of § 54 of Act CLV/1997 on consumer protection,
 - d) sub-section a) of Section (2) of § 53 of Act XVIII/1998 on district heat supply,
 - e) § 23 of Act LXXXIII/2000 on the amendments of the act associated with the transmission of the tasks of chambers of economy, and
 - f) Section (1) of § 12 of Act CVII/1997 on the amendment of Act LXXIV/1992 on value-added tax.
- (2) The Sections (3) and (4) of § 4, and Section (1) of § 67 of this Act will enter into force on the first day of the month following the promulgation.
- (3) Sections (2) and (4) of § 50, sub-sections a), c), i), j), m) and o) of § 55, subsections b) and d) of Section (1) of § 56, § 57, §§ 81, 83 and Section (1) of § 84 and Sections (1)-(4) and (6)-(10) of § 85 of this act, and Section (1) of § 14 of Act XLVIII/1993 on mining – established by § 64 of this act – will enter into force on August 1, 2003.
- (4) Section (3) of § 50 of this act and § 20 of the Bt. – established by § 66 of this act – will enter into force on the 45th day after the promulgation of this act.
- (5) Sections (1) and (5) of § 50 and sub-sections l) and m) of Section (2) of § 56 of this act will enter into force on 1 October, 2003.
- (6) Section (6) of § 6, Section (12) of § 33, Section (6) of § 38, Section (2) of § 62, § 63, Section (4) of § 75, as well as Section (14) of § 50 of Act XLVIII/1993 on mining specified by § 77 of the present Act will enter into force on the day when the act promulgating the international contract on the accession of the Republic of Hungary to the European Union will take effect, and § 53 of this act will simultaneously be repealed.

Authorising provisions

§ 55 The Government shall specify the following in a decree:

- a) detailed rules of the licensing procedure and the amendment and withdrawal of the licence, the conditions of pursuing activities falling under licence, the detailed rules of the procedure to be followed in case of unlawful conduct of the owners of the pipeline,
- b) detailed rules of cross-border transmission of natural gas,
- c) group of eligible customers, the conditions and the time of becoming eligible customer,
- d) rules of access to natural gas transmission-, distribution- pipelines and gas storage facilities, the minimum content elements of the contract concluded for

using the pipeline and the storage facility, as well as the order of satisfaction of requirements in case of a lack of capacity,

- e) the contractual conditions of the natural gas systems operated on the basis of operation contract,
- f) tasks of the system operator and the general rules of the co-operation with the licensees,
- g) the obligatory content elements of the public utility contract to be concluded between the captive customers and the public utility supplier,
- h) detailed rules of imposing a fine and the rate of the fine,
- i) order of elaboration and reconciliation of the Operational and Commercial Code, its content elements and the round of licensees responsible for the elaboration of the code,
- j) detailed rules of ensuring the financial security necessary for performing the tasks falling under licence, as well as the viewpoints of determining the countervalue regulated in Section (7) of § 13 of this act,
- k) the obligatory content elements of the unbundling method applied by the natural gas undertakings pursuing activities unbundled from the aspect of accounting,
- l) in case of an emergency in the natural gas supply the suspension of the satisfaction of the contracts concluded for the supply of the eligible customers, the restriction of the natural gas supply of the customers, the obligations and the rights of the licensees, in harmony with the provisions of the separate act the highest price of all products and services associated with the natural gas supply, belonging to the scope of the official and non-administrative prices, the rules and principles to be applied for restricting the supply of the customers, as well as the rights and obligations of the system users, and
- m) detailed rules of administering and using the target allocation described in Section (5) of § 50.
- n) the detailed rules for managing and utilising the fund defined in § 33,
- o) the specific value of solid mineral raw materials and geothermal energy and the rules applicable to calculating values.

§ 56 (1) The minister shall specify the following in a decree in agreement with the minister for finance:

- a) administrative prices and tariffs, as well as the conditions of applying the prices and the tariffs,
- b) the scope and rate of administration service charges to be paid for the procedures of the Office, as well as the regulations relevant to the payment of supervisory fees, as well as
- c) the rate of the surcharge and the order of its calculation,
- d) the rules of payment of acknowledged costs and payments in connection with the contributions paid to the target allocation, as well as the amendment of the estimated expenses,

(2) The minister shall specify the following in a decree:

- a) scope of data supplied obligatorily in the price supervision procedure,
- b) rate of the charge to be paid by the customers in connection with the development and the extension of the network and connecting the customer, and the rules of the procedure,

- c) order of the data supply to be performed by the natural gas undertakings, and the order of the data supply based on the undertaken international obligations of Hungary,
- d) conditions and the order of procedure of registering gas fitters and technicians repairing the gas consumption appliances,
- e) professional qualification and practice necessary for filling important jobs from the point of view of technical safety,
- f) order of certification and approval of the suitability of some specific gas consumption appliances, and the rules of putting them on the market,
- g) technical safety prescriptions relevant to the connection pipelines and customer's equipment,
- h) rules of reporting serious breakdowns occurring on the natural gas transmission- or distribution pipeline and direct pipeline, and the rules of their official inspection,
- i) rules of distribution of liquefied propane- and butane gases and their mixtures in tanks or containers and their official supervision,
- j) group of customers the supply of which has a priority in the access to the storage facilities, and the transmission- and distribution pipelines,
- k) the way of definition and certification of insurmountable economical and financial difficulties caused by the long-term natural gas purchase agreements, and the rules of distributing the burdens arising out of long-term contracts between players in the market of natural gas, which arise as a consequence of the entry into the market of eligible customers,
- l) detailed rules of preferential natural gas supply,
- m) the detailed rules of using preferential piped propane and butane gas supply, which results in an actual consumer price that exceeds the price of natural gas by no more than 20% below consumption that corresponds to the calorific value of natural gas per customer, involved in preferential natural gas supply.

Replacement of provisions

§ 57 § 8 of Act XVIII/1998 on district heat supply will be replaced by the following provision:

„§ 8 For the procedure of the licensing authority the provisions of Act IV/1957 on the general rules of the administrative procedures shall be governing with the difference, that the deadline of the clearance is 90 days. A legal remedy against the decision of first instance can only be served by the Court. The Court has the right to change the decision.”

§ 58 Sub-section f) of Section (1) of § 1 of Mining Act XLVIII/1993 (hereinafter: Bt.) will be replaced by the following provision:

(The following belong to the scope of this act:)

„f) the establishment, utilisation, technical operation and dismantling of the pipeline of technological project used in the hydrocarbon production, the preparation and the primary processing, as well as that of the hydrocarbon transmission, the natural gas distribution- and direct pipeline, as well as that of the pipelines of other gases and their products,”

§ 59 Section (2) of § 3 of Bt. will be replaced by the following provision:

„(2) The transmission through pipeline of mineral oil, mineral oil products and hydrocarbon gases – except natural gas – is exclusively a state activity.”

§ 60

(1) Section (1) of § 5 of Bt. will be replaced by the following provisions:

(Activities, which can be performed in possession of an official licence)

„§ 5

(1) Activities licensed by the mining supervisory authority:

- a) research of mineral raw materials in open areas,
- b) exploration and mining of mineral stocks following the determining of the space,
- c) utilization of the spoil bank,
- d) research of the geological structures capable of the storage of natural gas, their forming and utilization for storage, provided that this does not endanger the environment,
- e) establishment, utilization and dismantling of the facilities specified in subsection f) of Section (1) of § 1, and that of the underground gas storage facilities,
- f) establishment, utilisation and dismantling of the filling and storage facilities and distribution pipelines of liquefied propane- and butane gases and their mixtures,
- g) research, extraction and utilisation of geothermic energy, including the establishment and utilisation of underground and surface facilities necessary for these activities, if this does not disturb the bringing to surface of sub-surface waters.”

(2) Section (2) of §5 of Bt. will be replaced by the following provision:

„(2) The mining undertaking having a licence for crude oil and natural gas mining – with the preliminary approval of the Hungarian Energy Office - may initiate with the mining supervisory authority the licensing of the mining plant extension for underground storage of natural gas, if it does not pollute, endanger or damage the environment.”

(3) Section (3) of § 5 of Bt. will be replaced by the following provision and simultaneously a new Section (4) will be added to the paragraph:

„(3) The activities falling under licence according to the present act can be started on the basis of the licences issued by the mining supervisory authority, and can be exercised according to the provisions of the act.”

(4) The mining supervisory authority may not refuse the issue of the licence if the contents of the application meet the requirements specified in the regulations. The licensing procedure shall be pursued taking into consideration the prohibition of negative discrimination.”

§ 61 § 8 of Bt. will be replaced by the following provision:

„§ 8 Based on a concession contract concluded with domestic or foreign natural persons, as well as with their associations without legal person, the minister may assign to them the following activities for a definite period of time:

- a) research, exploration and extraction of mineral raw materials on a closed area,
- b) establishment and operation of crude oil-, crude oil product- and other hydrocarbon gas – except natural gas – transmission pipelines.

§ 62

- (1) Sub-sections b) and f) of Section (2) of § 10 of the Bt. will be replaced by the following provisions:

[(2) In addition to the requirements specified in Act XVI/1991 on concession, the invitation for bids should include:]

„b) definition of the activity falling under concession according to the present act,”

„f) the payment obligations to be fulfilled according to the present act in case of obtaining the concession: mining annuity, charges to be paid when pursuing other activities falling under concession.”

- (2) The following Section (3) will be added to § 10 of Bt.:

„(3) In addition to the requirements specified in Act XVI/1991 on concession, the invitation for open bids shall also be published in the Official Gazette of the European Union, at least 90 days prior to the expiry of the period open for the submission of the bids.”

§ 63 § 13 of Bt. will be replaced by the following provision:

„§ 13 The concession licensee may start the mining activity if within 90 days of signing of the contract it certifies, that

- a) it established a domestic company for the mining activity,
- b) the foreign undertaking specified in Act CXXXII/1997 on the branches and trade agencies in Hungary of foreign based undertakings established a branch in Hungary with its own participation, for pursuing mining activity.”

§ 64 § 14 Section (1) of the Bt. will be replaced by the following provision:

“(1) The planned research period may not be longer than 4 years within the duration of concession, and may be extended twice, by no more than half of the original research period.”

§ 65 § 16 of Bt. will be replaced by the following provision:

„§ 16

- (1) For the transmission of crude oil, crude oil products and hydrocarbon gases – except natural gas – based on concession contract, the provisions of § 10-13 shall be governing.
- (2) Based on the concession granted for the establishment and operation of crude oil-, crude oil products- and hydrocarbon gas transmission pipelines, the mining undertaking shall be entitled to submit an application to the mining supervisory authority for a licence for the establishment and operation of the pipeline, and the facilities necessary for keeping it in operation.
- (3) Concession for the establishment and operation of crude oil-, crude oil product- and hydrocarbon gas transmission pipeline can also be granted in common.”

§ 66 Section (3) of § 20 of Bt. will be replaced by the following provision:

„(3) The rate of the mining annuity – except those specified under Section (4) and (5) – is a value generating on the basis of the mineral raw material extracted under the official licence:

- a) 12% in case of exploiting crude oil and natural gas arising out of the involuntary replacement of cushion gas from underground storage for natural gas and carbon dioxide exploited from fields put into production after 1 January, 1998,

- b) in the case of natural gas exploited from fields put into production before 1 January 1998 (except for the exploitation arising out of the involuntary replacement of cushion gas from underground storage)

ba) J%, where

$$J = \frac{P - A x k}{P} \times 100$$

J: percentage rate of the mining annuity,

P: the average price of natural gas purchased by the public utility wholesaler under a long-term contract concluded in November 1996, and in 2003, the average resale price

A: recognised value of natural gas exploited in Hungary in 2003

k: a correction factor, the value of which is 1 in 2003 and increases by 0.24 in each of the subsequent years.

bb) 12%, if the rate of mining annuity calculated according to paragraph ba) does not reach 12%.

- c) 5% for non-metallic mineral raw materials produced by surface mining, except for energy sources,
d) 0% in the case of deep mining solid mineral energy sources,
e) 2% in case of the other solid mineral raw materials.

The minister – in consensus with the minister of finance – may reduce the rate of mining annuity from mineral stock management interests or another public interest.

(2) The following Sections (4)-(5) will be added to § 20 of the Bt., and the numbering of the original Sections (4)-(11) will change to (6)-(13):

"(4) The portion of mining annuity paid in accordance with Section (3) paragraph ba) in excess of 12% shall be transferred to the separate account of the Energy management target allocation.

(5) The rate of the mining annuity shall be 100% of the value generated on the quantity of mineral raw material exploited without authorisation."

(4) The existing Section (11) of § 20 of the Bt. shall be replaced by the following provision:

"(9) The amount of mining annuity expressed in money shall be a percentage of the value of the mineral raw material exploited defined in this act or the concession contract. The basis for calculating the mining annuity shall be the value of the quantity removed through the mine opening, measured at the wellhead or, in the absence of this, in a manner traced back to the wellhead. The specific value of mineral raw materials and geothermal energy and the rules applicable to calculating this value shall be determined by the Government."

(5) The existing Section (12) of § 20 of the Bt. shall be replaced by the following provision:

"(10) 10% of the mining annuity paid annually – except for the portion of the mining annuity in excess of 12%, collected on the basis of Section (3) sub-section b) – shall be used to finance landscaping tasks that cannot be reversed to the mining

entrepreneur (tasks that have been postponed). The use of this shall be allocated among the expenditure of target tasks for the environmental protection fund."

§ 67 (1) Section (1) of § 24 of Bt. will be replaced by the following provision:

(1) "Based on the concession or official licence granted for the establishment and operation of hydrocarbon transmission pipeline the licensee shall be entitled to construct and operate the transmission pipeline and the facilities necessary for operation, as well as to use the facilities specified in the contract. The hydrocarbon transmission pipeline may not be marketed on its own.

(2) Section (2) of § 24 of Bt. will be replaced by the following provision

(2) Natural gas transmission- and distribution pipeline and underground storage facility can be operated by a transmission-, distribution- and storage facility licensee having a licence on the basis of a separate law.

(3) The following Sections (3)-(5) shall be added to § 24 of Bt.:

(3) The licensee shall be obliged to elaborate a quality assurance system for the designing, establishment, renewal, operation and dismantling of the transmission-, distribution- and direct pipelines and the storage facilities. The quality insurance system will be approved and supervised by the mining supervisory authority.

(4) For the free access to the natural gas transmission and distribution pipeline and the underground storage facilities the provisions of a separate law are governing.

(5) Making available the spare capacity of technological pipelines, associated gas work and storage facilities and crude oil transmission pipelines and storage facilities among the fields involved in the crude oil- and natural gas production, preparation and processing for the purpose of transmission and storage of hydrocarbons extracted in Hungary can be prescribed in a separate law. The access can be granted if:

- a) the spare capacity is available for the fulfilment of the requirement, and
- b) the mineral raw material does not make trouble in the operation of the system to be used."

§ 68 § 21 of Bt. will be completed with the following Section (3):

„(3) For the extraction and use for energetic purposes of geothermic energy not requiring the extraction of subsurface water, as well as for the construction and the operation of the facilities necessary for these activities an application for building permit, respectively for a permit for utilisation should be submitted to the mining supervisory authority.”

§ 69 Section (1) of § 26 of Bt. will be replaced by the following provision:

„(1) The exploration and the extraction of mineral raw materials, as well as the use of a geological structure for underground storage of hydrocarbon is permitted in the part of the surface and the depth of the ground delineated for this purpose („mining plant”).”

§ 70 § 32 of Bt. will be replaced by the following provision:

„§ 32

(1) In the interest of the protection of the mining facility, the crude oil-, the crude oil product-, natural gas- other gas- and gas product transmission pipeline, as well as of natural gas- other gas- and gas product distribution pipeline and their environment a safety zone shall be marked out. The size of the safety zone and the prohibitions and

restrictions to be asserted in the safety zone shall be specified by law. In the property concerned by the safety zone the restriction and the prohibition specified in a law or a decision of the authority can be asserted by founding a right of easement, pipeline right or utilisation right.

- (2) Settlements, the other facilities over and under the surface, water resources, river-water or still water, historical properties, archaeological areas, areas of nature protection should be protected against the effects of the facility defined in Section (1) by marking out the area with barrier (chain pillar). During the activity the chain pillar may not be endangered. After hearing the arguments of the concerned people and in consensus with the competent authorities the mining supervisory authority may approve the destruction or the weakening of the chain pillar if its purpose has ceased, or if the safety and protection requirements can be met in another way.
- (3) Within the safety zone it is prohibited, respectively it is restricted to construct buildings or to establish facilities, to plant vegetation (trees), respectively to pursue activities which endanger the safety of the pipeline, the life, corporal integrity or the security of chattels. The detailed rules of the prohibitions and restrictions are specified in a separate law.
- (4) The track of the pipeline shall be designated and planned in a way, that it possibly runs through a public area and concerns at the least possible measure arable land or other not publicly owned properties. The pipeline should be designed and operated in a way, that its effects do not endanger the health of the concerned population, the natural environment and its landscape value, and in general, it changes the elements of the environment in the least possible measure.”

§ 71 Sections (1)-(3) of § 34 and the preceding title of Bt. will be replaced by the following provision:

„Security and works supervision of the mining and gas sector activity

§ 34

- (1) The mining activity and the gas sector activity specified in a separate law shall be performed according to the safety regulations.
- (2) Safety regulations are published in a separate law.
- (3) The mining– and the gas sector licensee shall be obliged to ensure, that the works regulations elaborated for the protection of the persons, the environment and the property be available for the employees, as well as to ensure the control of the respect of the safety regulations and the supervision of the activity. The works regulations relevant to the order of control and supervision shall be sent to the mining supervisory authority.”

§ 72 Section (3) of § 38 of Bt. will be replaced by the following provision:

„(3) For the mining facilities and transmission pipelines hindering the proper use of the property, and for locating the equipment necessary for the research work – in the absence of agreement – the mining undertaking may request the foundation of a right of easement for the use of the property, for carrying out building and research work, until the completion of these activities. The caused damage shall be compensated according to the regulations relevant to the mining damages. For the duration of the operation of the mining facilities and transmission pipelines hindering the proper use of the property – also including the work

aiming at ceasing the operation – the mining undertaking may request the foundation of a right of easement against indemnification.

Based on the right of easement the mining undertaking shall be entitled to use the property up to the extent necessary for pursuing the activity, especially for performing actions necessary for supervision, repair works, maintenance, ensuring and extending the capacity, ensuring the security of the operation, avoiding and eliminating breakdowns.

The damages occasionally caused during the use of the property shall be compensated according to the rules relevant to mining damages. The disadvantages occurred in the property shall be compensated in accordance with the restriction according to the right of easement. Regarding the founding of a right of easement, and the way and rate of indemnification the mining undertaking shall try to achieve an agreement with the owner (administrator or user) of the property by sending a proposal. In the absence of agreement the founding of a right of easement and the relevant compensation shall be determined by the head of the county or municipal administration office. No appeal may be made in an administrative way against the decision of the head of the county or municipal administration office. The party aggrieved by the compensation may apply at the Court for the amendment of the compensation within 30 days of the receipt of the decision determining the foundation, the legal basis and the rate of the right of easement. For the purposes of the provisions of § 108 and § 171 of the Civil Code, as well as those of sub-section f) of § 16 of Act CXLI/1997 on the property register, the right based on the agreement and the official decision shall be deemed to be equivalent.

§ 73 The following 38/A-F paragraphs will be added to the Mining Act:

„38/A

- (1) The distribution licensee defined in the special law on gas supply, and/or the owner of the distribution pipeline and the piped propane-, butane gas supplier (hereinafter in common: licensee) may request
 - right of advance workings,
 - right of pipeline,
 - right of use, respectively
 - expropriationfor the use of a foreign property.
- (2) The damages caused during the exercising of the rights specified in Section (1) by
 - the location of signs, measurements, tests,
 - location of facilities, respectively by approaching them, by performing work on them,
 - hindering (restricting) the use of the property, as well as by reducing its market value,should be compensated by the licensee to the owner or user (hereinafter collectively: owner) of the property.
- (3) In an area under nature protection the rights listed in Section (1) can be granted with the approval of the competent nature protection authority, and/or with the approval of regulatory authority of the directorate of the national park. In the area under local protection the approval of the competent local government shall be required, while in the protection area of water base the approval of the competent water authority shall be required. The rights listed in Section (1) in any other separate area can exclusively be exercised with the preliminary approval of the licensee of the separate area. Furthermore, an approval of the competent regulatory authority shall be required in the interest of the protection of the arable land specified in the relevant laws.

- (4) In case of the cessation of the rights specified in Section (1) the licensee, and/or the owner of the distribution pipeline shall be obliged to restore the original status of the property.
- (5) The right of advance workings, the right of pipeline and – in the absence of an agreement – the right of use will be granted by the mining supervisory authority, while the expropriation procedure will be pursued by an organisation specified in a separate law.
- (6) The rules connected with the content of rights relevant to the restriction of aboveground properties, their licensing and cessation, as well as those connected with the indemnification shall be specified by the Government in a decree.

Right of advance workings

§ 38/B

- (1) In connection with the establishment of the gas distribution pipeline (hereinafter: distribution pipeline) the licensee or the owner of the distribution pipeline may apply for a licence for the right of advance workings.
- (2) Based on the right of advance workings the owner of the property shall be obliged to tolerate, against indemnification, the location of the necessary signs on its property and the carrying out of measurements and soil test. The owner shall be notified before starting the works.

Right of pipeline

§ 38/C

- (1) For the installation and operation of the distribution pipeline on a foreign property, up to the extent of the safety zone, against compensation, a right of pipeline can be granted to the licensee respectively to the owner of the distribution pipeline, if it does not hinder significantly the use of the property. No right of pipeline should be issued for the distribution pipeline installed in public area and for its safety zone concerning a foreign property. In case of constructing a building in this zone, if it is justified by the type of use of the building, the building authority may oblige the distribution licensee to reduce the safety zone.
- (2) The distribution pipeline may also be installed and operated with the approval of the owner of the property. The approval of the owner generates the same rights and obligations as specified in this act for the right of pipeline. The approval of the owner may not be withdrawn.
- (3) Based on the right of pipeline, in the foreign property the licensee, and/or the owner of the distribution pipeline may
 - a) install and operate the distribution pipeline – together with the associated fittings,
 - b) may maintain, repair, transform and remove the installed facilities,
 - c) remove the trees and bushes, their branches or roots along the pipeline, which disturb the safety zone,
 - d) may approach or cross facilities having a track, river, water flow, lake, canal and building in a way specified in the decree issued by the minister, in common with the ministers of environmental protection, water management, information and telecommunication.

- (4) The licensee or the owner of the distribution pipeline shall be obliged to apply for the registration of the right of pipeline in the property register. The right of pipeline shall always belong to the current licensee of the gas distribution pipeline and shall be borne by the current owner of the property. The right of pipeline may be exercised before registration on the basis of the approval of the owner or before the administrative decision becomes effective.
- (5) The right of pipeline will cease if the licensee or the owner of the distribution pipeline does not establish the facilities specified in Section (3) within five years of the date of granting the licence, or removes them definitely.
- (6) In case of the cessation of the right of pipeline it is the responsibility of the licensee or the owner of the distribution pipeline to request the cancellation of the right from the property register, in case of neglecting this, the owner of the property will also be entitled to request the cancellation at the cost of the licensee or the owner of the distribution pipeline. The declaration necessary for the fulfilment of the request for cancellation of the owner of the property shall be issued by the former licensee of the right of pipeline.

Right of use

§ 38/D

- (1) In the foreign property the gas receiving station, measuring station, regional or individual pressure regulation station belonging to the distribution pipeline, in the case of piped propane-, butane gas supply the tank and the container serving for the storage of the propane-, butane gases and their mixtures shall be established, installed, operated, repaired and maintained on the basis of right of use.
- (2) The use of right generates on the basis of an agreement concluded with the owner of the property.
- (3) If in the absence of agreement the right of use cannot be established, the licensee or the owner of the distribution pipeline may apply for the determination of the right of use with the mining supervisory authority.
- (4) The licensee or the owner of the distribution pipeline shall be obliged to apply for the registration of the right of use in the property register. The right of use shall always belong to the current licensee of the gas distribution pipeline and shall be borne by the current owner of the property. The delay of the registration does not influence the exercising of the right.
- (5) The right of use will cease if the licensee or the owner of the distribution pipeline does not establish the equipment specified in Section (1) on the property charged by right of use within five years of the date of generation of the right of use, or if it removes it from the property definitively. The right of use can also be terminated by the agreement of the parties.
- (6) In case of the cessation of the right of use it is the responsibility of the licensee or the owner of the distribution pipeline to request the cancellation of the right from the property register, in case of neglecting this, the owner of the property will also be entitled to request the cancellation at the cost of the licensee or the owner of the distribution pipeline. The declaration necessary for the fulfilment of the request for cancellation of the owner of the property shall be issued by the former licensee of the right of use

Expropriation

§ 38/F

- (1) In order to establish a gas receiving station, measuring station and regional or individual gas pressure regulation station, and/or to install and operate propane-, butane gas tank or container the licensee or the owner of the distribution pipeline may initiate an expropriation procedure only in the case, if the parties cannot agree in relation with the use of right according to § 38/D, or if the right of use has not been approved by the mining supervisory authority due to the cessation of the proper use of the property or due to its hindering in a significant extent.
- (2) The property expropriated on the basis of the provisions of Section (1) shall be given into the proprietorship of the State or the local government and into the use of the licensee or the owner of the distribution pipeline free of charge.

Rights connected with the direct natural gas pipeline

§ 38/F For the founding, existing and cessation of the rights charging foreign properties connected with the establishment and operation of direct lines the provisions of the Code Civil shall be applied.

§ 74 § 41 of Bt. will be complemented with the following (5)-(7) sections, and simultaneously, the former (5)-(7) sections will change for sections (8)-(10):

„(5) The mining supervisory authority may impose a fine to the natural or legal person and their associations without legal entity, which pursue gas-related activity without official licence, falling under the effect of separate law, and the authority may forbid them to continue the activity.

(6) If the person entitled to pursue gas-related activity on the basis of the law exercises its activity in a way different from the technical safety prescriptions specified in the law or in the licence, and continues to do it against the law even after the time indicated in the call of attention, the mining supervisory authority may impose a fine to the licensee and may initiate the suspension of the activity with the Hungarian Energy Office. The fine may be imposed repeatedly.

(7) Should a direct and serious emergency occur due to the irregular exercising of the gas-related activity different from the licence, the mining supervisory authority may impose the responsible person or association without previous calling of attention, may immediately suspend its activity and inform the Hungarian Energy Office about it without delay.”

§ 75

- (1) Section (4) of § 43 of Bt. will be replaced by the following provision:

„(4) In the official affairs belonging to the competence of the mining supervisory authority – except cases specified in the law – the competent district inspectorate of mines will act in the procedures of first instance, and the Mining Bureau of Hungary will act in the procedures of second instance. In the procedures of first instance of the Mining Bureau of Hungary the president of the Office will act at second instance.”

- (2) Section (5) of § 43 of Bt. will be replaced by the following provision:

„(5) The Mining Bureau of Hungary is an administrative body of national competence, having individual tasks and authority, it is directed by the Government and it is supervised by the minister. The Mining Bureau of Hungary is a legal entity functioning as an organisation financed by state budget, having its own finances.

(3) Section (7) of § 43 of Bt. will be replaced by the following provision:

„(7) The Mining Bureau of Hungary does the preparatory work of the decisions of the minister in relation with the mineral stock management and the concession contracts, and of the mining- and gas-related safety regulations specified in Section (2) of § 34, and supervises their execution.”

(4) § 43 of Bt. will be complemented with the following Section (8):

„(8) The minister shall specify the order of preparation of a report on the research, exploration and extraction of the mineral raw materials prescribed in the directives of the European Union, its forwarding to the European Commission and its publication.”

§ 76 Sub-section a) of Section (1) of § 44 of Bt. will change as follows:

[§ 44 (1) Mine supervision]

„a) The following belong to the competence of technical safety-, labour safety-, building- and building supervisory and market supervision authorities:

- mining of mineral raw materials,
- deep drilling aiming at mining and geological research purposes,
- upkeep and abandonment of the open territories of the former underground mines,
- research of geothermal energy, its extraction and utilisation for the purpose of energetics,
- establishment, use, technical operation and demolition and abandonment of the pipeline of technological facilities, hydrocarbon transmission pipeline, natural gas distribution- and direct pipeline used in the hydrocarbon production, preparation and in the primary processing of hydrocarbons, as well as those of the another gases and their products,
- research of geological structure applicable for the storage of hydrocarbons, their use and operation,
- establishment, use, operation and demolition of the filling and storage facilities of the liquefied propane- and butane gases and their mixtures, as well as those of their pressure testing and repair facilities, and distribution pipelines, and those of the facilities and equipment necessary for these activities, and
- establishment, use and operation of the stores of explosives used for industrial purposes.”

§ 77 § 50 of Bt. will be complemented with the following (13) and (14) sections:

„(13) The minister will make effective and public the safety regulations by issuing a decree.

(14) In connection with the mineral stock management the minister will specify the order of data supply for the European Union and the way of making the data public.”

§ 78 Bt. will be complemented with the following § 51:

„§ 51 The present act includes regulations which are compatible with the following laws and regulations of the European Union in harmony with the European Agreement on creating association between the Republic of Hungary and the European Union and its member states, signed in Brussels on December 16, 1991, and with § 3 of Act I/1994 promulgating the Agreement:

- a) Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorizations for the prospection, exploration and production of hydrocarbons,
- b) Directive 98/30/EC of the European Parliament and of the Council of 22 June 1998 concerning common rules for the internal market in natural gas.”

§ 79 Simultaneously with the entering into effect of this act, in the Annex to Act LXXXVII/1990 on price setting

- a) Table A) (*Products*) in Chapter I (*Highest price*) will be complemented with the following provisions:

„I. Highest price

A) Products

<i>Product (BTO)</i>	<i>No.</i>	<i>Denomination</i>	<i>The administrative price is set by</i>
1110200000		price of the natural gas sold within the framework of sales between the public utility wholesaler and the public utility supplier	the minister of economy and transport
1110200000		price of the natural gas sold to the captive customer	the minister of economy and transport”

- b) The list of those entitled to services of administrative price, respectively entitled to the setting of administrative price will be complemented with the following:

„B) Services

<i>Service (SZJ)</i>	<i>No.</i>	<i>Denomination</i>	<i>The administrative price is set by</i>
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60.30.12	charge for transmission of natural gas (except natural gas transit)	the minister of economy and transport
40.20.9	charge for distribution of natural gas	the minister of economy and transport
11.10.99	charge for storage of natural gas (except the storage of natural gas against payment)	the minister of economy and transport”

§ 80 Section (3) of § 2 of Act XLIX/1991 on the bankruptcy procedure, the liquidation procedure and the final settlement will be complemented with the following sub-section d):

[(3) The provisions of this act]

„d) applicable to the liquidation procedure and the procedure of final settlement shall be applied to the licensees of natural gas-related activities falling under licence with the differences specified in the act on the natural gas supply.”

§ 81

(1) Section (2) of § 6 of Act CXVI/1996 on nuclear energy (hereinafter: Atv.) shall be replaced by the following provision and the paragraph will be complemented with a new Section (3):

„(2) The execution of the governmental tasks included in this act will be ensured by the Government through the Hungarian Atomic Energy Authority (hereinafter: OAH) and the concerned ministries. Their work will be co-ordinated by the Co-ordination Council of Nuclear Energy established by the Government.

(3)The Co-ordination Council of Nuclear Energy will

- a) co-ordinate the activities connected with the security of the application of nuclear energy, nuclear security and radiation protection, which belong to the competence of the ministries specified in the law, the OAH and other central administration bodies,
- b) monitor the enforcement of laws connected with the application of nuclear energy and the exercising of the official competences,
- c) discuss the issues of national and international importance, connected with the official system serving the secure application of the nuclear energy, with the nuclear security and radiation protection..”

(2) § 8 of Atv. will be replaced by the following provision:

„§ 8

- (1) OAH is an organisation of the central administration, with national competence and official authority, having individual tasks, functioning under the direction of the Government in the field of the application of the nuclear energy for peaceful purposes. It is supervised by the minister assigned by the prime minister (hereinafter: assigned minister). In its scope of activity specified in the relevant laws OAH may not be instructed by orders, its decisions may not be changed or amended by supervisory power.
- (2) OAH is an organisation financed by state budget, the budget of which appears separately within the chapter of the ministry of the assigned minister. OAH uses its incomes - except those originating from the imposed fines – for covering its operational costs, they cannot be used for another purposes.

(3) The director-general and the deputy directors of OAH are appointed and released by the prime minister.

(4) OAH

a.) follows the general trends of the international development in the field of the application of nuclear energy, and on the basis of this elaborates recommendations for the necessary domestic actions,

b) monitors the enforcement of the laws belonging to its authority; based on its findings initiates measures, makes proposal for the amendment, or the creation of regulations, as needed.

(5) The assigned minister

a) issues the decrees associated with the activity of OAH for the implementation of the law,

b) manages the Central Nuclear Fund,

c) informs the director-general of OAH about the government decisions associated with his work

d) in consensus with the minister of finance determines the rate of the administration service fees to be paid to OAH,

(6) The director-general of OAH

a) directs the Office

b) determines the organisation and operation rules of the Office,

c) exercises the employer's rights over the civil servants of the Office,

d) is responsible for the financial management of the Office,

e) represents the Office,

f) performs all tasks referred to his competence by the law,

g) acts at second instance in all administration affairs belonging to the authority of OAH,

h) having consultation rights, he participates in the government meetings when they discuss the bills concerning the scope of the tasks of the Office,

i) reports to the Government and the Parliament on an annual basis on the security of the domestic application of nuclear energy – including the preparatory activity specified in Section (2) of § 7.

(7) In order to ensure the scientific basis of the measures of the government and the authorities associated with the secure application of nuclear energy, and that of the nuclear accident response, the work of OAH is supported by a Scientific Board.”

(3) Sub-section a) of § 67 of Atv. will be replaced by the following provision:

„a) the scope of the tasks and the authority of OAH, as well as the activity of the Co-ordination Council of Nuclear Energy co-ordinating the regulation of the application of nuclear energy.”

§ 82 Section (1) of § 4 of Law-Decree 24/1976 on expropriation will be complemented with the following sub-section t):

[§ 4 (1) Property can be expropriated for the following purposes:]

„t) establishment of the distribution pipelines of natural gas, as well as propane, butane gases and their mixtures, and their accessories, if the establishment cannot be ensured in another way.”

§ 83 (1) Sub-sections a)-b) of § 1 of Act LXII/2002 on the Budget of 2003 of the Republic of Hungary (hereinafter: Act on the Budget) will be replaced by the following provision:

/The Parliament decision on the Budget of 2003/

“a) the total sum of expenses shall be 5,316,575.4 M HUF (five million three hundred and sixteen thousand five hundred and seventy five 4/00,

b) the total sum of incomes shall be 4,474,603.7 M HUF (four million seven hundred and forty seven thousand six hundred and three 7/00),”

(2) *Annex No. 1* to the Act on the Budget, Chapter XV Ministry of Economy and Transport, title 25. Allocations handled by chapter shall be complemented with the following provisions:

“6. Sub-title: Target allocation of energy management, group of titles: 1. Energy management, 1. Group of allocation: Operational expenses,

5. Other allowances of operational purpose: Outstanding estimated expenses 6 000 MHUF,

6. Sub-title: Target allocation of energy management, title-group: 1. Energy management. Estimated allowance 6 000 MHUF.

The estimated expenses of title 1-25 changes for 329,234.1 MHUF, the estimated allowance changes for 242,057.2 MHUF.

Title: 28. Centralised incomes, sub-title: 3. Energy management target allocation, allocation of incomes 6 000 MHUF.

The total estimated expenses of Chapter XV changes for 331,682.5 MHUF, the estimated incomes change for 101,126.9 MHUF, while the estimated allowance changes for 242,057.2 MHUF.”

§ 84 § 7 of Act CX/2001 on electric energy (hereinafter: VET) will be replaced by the following provision:

“§ 7

(1) The president and the vice president of the Office – at the proposal of the minister – shall be appointed and dismissed by the prime minister. The term of the appointment shall be six years. When the appointment of the president and the vice president ceases to exist, the minister shall announce a public application for the vacancies. The minister shall evaluate the applications in professional terms within thirty days after the deadline open for submitting applications expires. The minister shall inform the prime minister about the results of the evaluation, the ranking of candidates and the reasons for his proposal in writing.

(2) The employer’s rights over the president and the vice president – except for appointment and dismissal – shall be exercised by the minister. The Director General shall be entitled to the remuneration and benefits identical to the monthly salary and benefits of an administrative State Secretary, the vice president shall be entitled to a salary and benefits equal to those of a Deputy State Secretary.

(3) The appointment of the president or the vice president of the Office will cease if

a) the term of the appointment expires,

b) he resigns from office,

- c) he is dismissed from his office,
- d) he dies,
- e) for other reasons specified by law.

(4) The appointment of the president or vice president of the Office will be terminated by dismissal if

- a) a final and effective court judgement finds that he has committed a crime, or he has otherwise become unworthy of the office,
- b) he has become permanently unfit for filling the position,
- c) he failed to terminate a conflict of interest with his office within three months,
- d) he jeopardises the Office's operation with his activity.

(5) The president of the Office:

- a) heads the Office,
- b) defines the rules of organisation and operation of the Office,
- c) exercises employer's rights in respect of the civil servants of the Office,
- d) directs the Office's management,
- e) represents the Office,
- f) performs all the tasks assigned to his competence by law or by the rules of organisation and operation of the Office,
- g) attends Government sessions with consultation rights during discussions of bills that concern the Office's tasks.

(2) § 96 of VET will be replaced by the following provision:

„§ 96 The detailed rules pertaining to pricing and the price regime shall be established by the Office based on the principle of least cost. The framework of price regulation and prices shall be specified in a ministerial decree and enacted by the Minister. The Office shall review the price level and the price at the initiation of any interested party and shall make public the results of such review.”

Transitional provisions

§ 85

- (1) Those who have a licence on the basis of the Act XLI/1994 on gas supply (hereinafter: Gszt.), respective their successors, or the associations established by them for natural gas transmission-, storage-, distribution and trading activity, shall be obliged to submit their applications for licence to the Office according to the provisions of this act, within 90 days of the date of the entering into force of this provision. This obligation extends to the activity subject to a licence, performed on a settlement, part of settlement or territory for customers specified in the gas trading and supply licences issued on the basis of Gszt. In case of an application meeting the requirements of the regulations the Office shall be obliged to make a decision in connection with the licence within 30 days, with a content corresponding to the application. Should the application meet the regulations and the existing effective operation

licence of the licensee – taking into consideration the transformations prescribed by the present act – the Office shall be obliged to grant the licence. On the basis of the licences issued according to the Gszt., the activity can be pursued until December 31, 2003.

- (2) In the interest of the implementation of this act, in connection with the property made available for the companies, their successors or the associations established by them for natural gas transmission-, storage- distribution and trading activity with a licence under the Gszt. until this act enters into effect, the obligation of duty payment does not prevail, except the duty to be paid to the Court of Registration. The provisions set out in the second and third sentence of Section (2) of § 208 of Act CXLIV/1997 on business associations need not be applied if the assets are not made available in cash.
- (3) In regard to the transfer of assets and the rights of property value ensured for the companies established according to Section (2), when reimbursing the value added tax the conditions specified under Sections (4) and (5) of § 48 of Act LXXIV/1992 on the value added tax shall be considered fulfilled.
- (4) In respect of the legal relationships concerning the activities in the natural gas sector pursued by the founders of companies established and/or appointed in accordance with Section (2), which have a licence issued on the basis of the Gszt. – on the condition of obtaining the licences required by this act – and/or such undertakings controlling the companies mentioned above, the companies established and/or appointed in accordance with Section (2) shall be deemed to be legal successors of the founders, which have a licence issued on the basis of the Gszt. and/or such undertakings controlling the companies mentioned above.
- (5) Until the day of entering into effect of the law promulgating the international contract on the accession of the Republic of Hungary to the European Union, all cross-border transmissions the starting and end point of which is out of the territory of Hungary will be qualified transit.
- (6) The entering into force of this act does not concern the rights of easement registered in the property register on the basis of Gszt., and the exercising of these rights.
- (7) For the safety zone of the gas distribution pipeline established before the entering into force of this act, concerning a foreign property not possessing the right of easement, the obligee shall be obliged to register the right of easement in the property register within three years of the date of the entering into force of this act. This does not refer to the safety zone of the distribution pipeline running on public area, concerning foreign property.
- (8) In case of the cessation of a natural gas transmission- and distribution pipeline, it is the responsibility of the obligee to apply for the cancellation of the right of easement from the property register, in case of neglecting this the owner of the property may also apply for the cancellation at the cost of the obligee. The declaration necessary for fulfilling the request for cancellation of the owner of the property should be issued by the obligee of the right of pipeline.
- (9) Section (4) of § 4 of this act shall be applied also to statutory proceedings that started prior to the date when this act becomes effective.
- (10) The minister will issue a public application procedure for the position of president and vice president of the Office within fifteen days of the date when this provision becomes effective. The appointment of the president and

vice president of the Office will cease to exist on the 90th day after the date when this provision becomes effective.

Approximation to the legislation of the European Union

§ 86 The present act includes regulations which are compatible with the following laws and regulations of the European Union in harmony with the Europe Agreement on association between the Republic of Hungary and the European Communities and their Member States, signed in Brussels on December 16, 1991, and with § 3 of Act I/1994 promulgating the Treaty:

- a) Directive 98/30/EC of the European Parliament and of the Council of 22 June 1998 concerning common rules for the internal market in natural gas;
- b) Council Directive 90/377/EEC of 29 June 1990 concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users;
- c) Council Directive No. 91/296/EEC on the transit of natural gas through grids.