

Pursuant to Article 290, paragraph 1 of the Energy Law (“Official Gazette of RS”, No. 145/14),
Minister of Mining and Energy adopts

RULEBOOK

on Conditions for Exemption, Content of Exemption Application and Content of Exemption Act

(Rulebook is published in the “Official Gazette of RS” No. 11/2018 of February 9, 2018.)

Article 1

This Rulebook prescribes conditions referred to in Article 288 of the Energy Law (hereafter: Law), the content of exemption application and content of exemption act in more detail.

Article 2

New gas system infrastructure facilities, i.e. interconnectors or natural gas storages, i.e. existing infrastructure facilities with capacity which is being increased considerably or modified in a manner enabling the development of new natural gas supply sources (hereafter: infrastructure) may be exempted from the application of the Article 224 of the Law as well as from the access referred to in Article 283, paragraph 1 of the Law.

The exemption referred to in paragraph 1 hereof may include the entire capacity of new infrastructure or a segment of it, i.e. the entire increased capacity of existing infrastructure or modified infrastructure or a segment of it if the following conditions are met:

- 1) investment in a new infrastructural facility increases competitiveness in the market and security of supply;
- 2) the risk of investments in new infrastructural facilities is such that the investment will not be made unless the exemption is approved;
- 3) new infrastructural facilities are owned by a natural or legal person that performs business operations within another legal person separated from the system operator within which the new infrastructural facilities will be constructed;
- 4) users of the new infrastructural facility bear the expenses of the facility use;
- 5) the exemption does not prevent competition, efficient functioning of the internal natural gas market and efficient operation of the regulated system to which the new infrastructural facilities are connected.

The act on exemption referred to in paragraph 1 hereof shall be adopted by the Energy Agency of the Republic of Serbia (hereafter: Agency), in line with the Law.

Article 3

The exemption application includes:

- 1) short description of the project, i.e. of characteristics of the infrastructure for which the exemption from Article 224 of the Law and/or Article 283, paragraph 1 of the Law is requested;
- 2) list of provisions of the Law from which exemption is requested (exemption from the obligation related to the organisation of the transmission system operator in line with Article 224 of the Law and/or exemption from the provision of non-discriminatory access to the system and/or application of regulated prices of access in line with Article 283, paragraph 1 of the Law);
- 3) scope of exemption which is set either as the entire new infrastructure or a part of it, i.e. either as entire increased capacity of existing or modified infrastructure or a part of it if the application refers to the exemption from the application of Article 283, paragraph 1 of the Law;
- 4) duration of requested exemption for each of provisions from which exemption is requested referred to in item 2 hereof;
- 5) technical-economic documentation:
 1. cost-effectiveness analyses or studies on the construction of infrastructure;
 2. results of market test on the interest in the use of infrastructure with evidence on the scale of expressed interest which is gathered in line with the best regulatory practice in market testing;
 3. analysis of compliance with conditions prescribed in Article 288 of the Law and Article 2 hereof based on the data on the infrastructure project and results of market test on the interest in the use of the infrastructure;
- 6) proposal on the method of setting prices of access to the system and the method of their adjustment during the period for which exemption is requested if the application refers to the exemption from the obligation to apply regulated prices of access referred to in Article 283, paragraph 1 of the Law;
- 7) data on the exemption applicant (hereafter: applicant) referred to in Article 4 hereof.

Article 4

Data on the applicant include:

- 1) business name, seat, company number, tax identification number, core activity of the applicant, data on the members of management bodies, legal representative and other persons authorised to represent and the data on the duration of the applicant if it was established for a definite period of time (hereafter: business data);
- 2) business data on the members of the applicant and their share in the registered capital of the applicant as well as business data on entities with management rights or other rights within the applicant;
- 3) data indicating whether the applicant performs energy activities and/or natural gas production.

An applicant that requires exemption from the implementation of Article 224 of the Law indicates the data on persons who are members of management bodies within legal persons referred to in paragraph 1 item 2) hereof as well as business data on entities associated with the applicant and which perform energy activities and/or natural gas production in the application.

For entities referred to in paragraph 1 and 2 hereof which are foreign legal persons, along with the application, either in the form of original or certified copy, the applicant also submits evidence on the registration by the body competent for the registration of economic entities in the country where the entity is seated.

If the data referred to in paragraph 1 and 2 hereof are modified during the procedure, the applicant shall inform the Agency on that eight days upon the modification at the latest.

Article 5

The analysis referred to in Article 3 paragraph 1, item 5), subitem 3 hereof which confirms the compliance with the conditions referred to in Article 288 of the Law and Article 2 hereof includes:

- 1) analysis of impact of infrastructure to the increased competitiveness in the market which the applicant grounds on relevant data on the natural gas market and competition in the natural gas market in the Republic of Serbia, assessment of current and future share in the market which the applicant or entities which have direct or indirect control over the applicant hold or will hold, data on the availability of similar projects which are planned to be constructed, data on expected effect of the exemption of the infrastructure to the competition in the market in the Republic of Serbia and potentially in the neighbouring natural gas markets;
- 2) analysis of impact of the infrastructure to the security of supply which the applicant grounds on comparative analysis of technical parameters of the existing transmission system of the Republic of Serbia *ex ante* and *ex post* the construction of the infrastructure, data on routes and sources of supply, number of interconnections with the transmission systems of neighbouring countries, data on daily and annual needs in terms of natural gas transmission, i.e. storage and data on the need to provide bi-directional natural gas transmission;
- 3) analysis of risks of investment in the infrastructure that the applicant grounds on data on estimated duration of construction of new infrastructure, i.e. expansion or modification of existing infrastructure, assessment of the level of investments into infrastructure, probability of return of investment in case exemption is not rendered and in which case the risk of infrastructure being unused and the risk of change in the level of costs and revenues are particularly analysed; the risk of competition is also analysed if infrastructure of similar scale is planned to be constructed or already being constructed in which case the risk is assessed by benchmarking the risk of construction of neighbouring infrastructure which is comparable by its natural and scale with the infrastructure the application refers to as well as by results on the scope of market interest in the use of infrastructure which justify requested exemption;
- 4) data which were used for the creation of proposed modality of setting prices of access of infrastructure users referred to in Article 3, paragraph 1, item 6) hereof;

- 5) data confirming that the exemption does not prevent competition, efficient functioning of the internal natural gas market and efficient operations of the regulated system to which the infrastructure is planned to be connected, with the analysis of internal market functioning *ex ante* and *ex post* construction of the infrastructure, with and without exemption being rendered.

Article 6

The exemption act shall include all mandatory elements of the administrative act prescribed by the law which regulates administrative procedure and by this Rulebook, i.e. in particular, it:

- 1) defines the infrastructure for which exemption is rendered in more detail (description and characteristics of the infrastructure);
- 2) defines the provisions of the Law which shall not be applied for the infrastructure referred to in item 1) hereof in more detail;
- 3) duration of the exemption;
- 4) scope of exemption, i.e. either the entire infrastructure or a part of new, i.e. expanded or modified infrastructure, i.e. the scope of exemption from prescribed obligations related to the organisation of the transmission system operator;
- 5) conditions for the provision of non-discriminatory access to the system on a part of infrastructure if the right to exemption from the application of Article 283, paragraph 1 of the Law is not rendered for the entire infrastructure capacity, the scope of provision of non-discriminatory access to new or additional capacity which will be constructed on the infrastructure, set in line with national specifics in the concrete case in the planned period of infrastructure operability;
- 6) method and conditions for capacity allocation and use and mechanisms for capacity management, method of setting prices of access, modality and deadlines for their adjustment during the duration of the exemption and the method and deadlines for informing the Agency of collected revenues.

Article 7

This Rulebook shall enter into force on the date following the date of publication of it in the “Official Gazette of the Republic of Serbia”.

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In Belgrade, February 7, 2018

Minister

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