

- Translation -

Energy Agency  
of the Republic of Serbia  
No: 311.01-2/2016-C-I  
Date: July 15, 2019  
Belgrade, 5/V Terazije  
A.B.

Acting upon the application of the Limited Liability Company „Yugorosgaz-transport“, Niš with headquarters in Niš, 6 Zetska Street, Company Registration Number: 20884665, Tax Identification Number: 10785961, of August 12, 2016 for certification of natural gas transmission system operator as an independent system operator, in line with Article 39, paragraph 1 and Article 49, paragraph 3 in connection with Article 240 of the Energy Law (“Official Gazette of RS”, No. 145/14 and 95/18-another law-Law on Public Goods Fee), Article 24 of the Rulebook on Energy Licence and Certification (“Official Gazette of RS”, No. 87/15) and Article 12 of the Statute of the Energy Agency of the Republic of Serbia (“Official Gazette of RS”, No 52/05), on the 8<sup>th</sup> extraordinary session held on July 15, 2019, the Council of the Energy Agency of the Republic of Serbia adopted

## DECISION

The certificate issued by the Decision of the Energy Agency of the Republic of Serbia No: 311.01-2/2016-C-I of June 20, 2017 to the Limited Liability Company „Yugorosgaz-transport“, Niš with headquarters in Niš, 6 Zetska Street, Company Registration Number: 20884665, Tax Identification Number: 10785961 (hereafter: „Yugorosgaz-transport“, d.o.o. Niš) is revoked.

## Background

Article 240 of the Energy Law (“Official Gazette of RS”, No. 145/14 and 95/18-another law-Law on Public Goods Fee) prescribes that the Agency conducts the certification procedure and adopts a decision on certification of the transmission system operator in line with the law and regulations adopted in line with the Law.

By the Decision of the Energy Agency of the Republic of Serbia No: 311.01-2/2016-C-I of June 20, 2017 (“Official Gazette of RS”, No. 62/17) (hereafter: Decision), a certificate is issued to „Yugorosgaz-transport“ d.o.o. Niš as to an independent transmission system operator under conditions defined by the Decision. Namely, in line with the given Decision, „Yugorosgaz-transport“ d.o.o. Niš was obliged to perform the following in twelve months upon the adoption of the Decision:

- take all necessary actions so as to harmonise its organisation and operations in a manner providing compliance with conditions concerning the independence of the system operator in line with the model of independent system operator and, if necessary, to take actions with authorised bodies of the Republic of Serbia in order to harmonise the ruling regulations;
- submit a Programme for Non-Discriminatory Behaviour adopted in line with the Energy Law;

- submit a legal document signed together with the transmission system owner providing guarantees for the financing of transmission system development and
- submit evidence on procurement of natural gas for loss recovery in the transmission system in line with the Law.

In case of failure to comply with the Decision, a new certification procedure will be initiated in order to reassess the conditions for certification and to adopt a decision on certificate revocation.

In line with Article 241 of the Energy Law, prior to the adoption of the Decision, a Preliminary Decision on Certification of „Yugorosgaz-transport“ d.o.o. Niš, No: 311.01-2/2016-C-I of December 12, 2016 which was submitted to the competent body by the legal act of the Agency No:311.01-2/2016-C-I of December 20, 2016 in line with the obligations arising from ratified international treaties (to the Energy Community Secretariat) for the purpose of opinion issuance. The Secretariat submitted the Opinion No. 2/17 of April 22, 2017 where they expressed their disagreement with the adopted Decision. Due to the disagreement with the adopted Decision and with the certification of the Limited Liability Company „Yugorosgaz-transport“ d.o.o. Niš, the Secretariat initiated a procedure against the Republic of Serbia in Case ECS-10/17 due to incompliance with Art. 10, 14(2)(a), 14(2)(b), 14(2)(e), 15 and 11 of the Directive 2009/73/EC on common rules for internal natural gas market as well as with Article 24 Regulation 715/2009 on conditions for access to natural gas transmission networks.

Prior to the termination of the deadline set by the Decision in order to comply with certification conditions, on June 15, 2018, „Yugorosgaz-transport“ d.o.o. Niš submitted a request No. I-42 for the extension of the deadline for the compliance with the certification conditions for at least one year in order to organise additional consultations with shareholders, consultants, state bodies of the Russian Federation and of the Republic of Serbia so as to find solutions within the certification process in line with the laws of the Republic of Serbia, interstate treaties while bearing in mind reliable and independent operation of „Yugorosgaz-transport“ d.o.o. Niš in the market of the Republic of Serbia. With reference to this, „Yugorosgaz-transport“ d.o.o. Niš asked for additional time in order to secure the independence of the operator and harmonise general legal acts with the ruling laws of the Republic of Serbia.

In the given request for the extension of the deadline, „Yugorosgaz-transport“ d.o.o. Niš pointed out that, acting in line with the Decision, they realised the following:

- adopted Ten-year Transmission System Development Plan and submitted it to the Agency for approval;
- submitted a statement of the transmission owner and a signed Agreement in line with the Energy Law where the parties agreed that the financial means for investment activities planning which are envisaged in the ten-year Transmission System Development Plan will be provided by the “Yugorosgaz” JSC, Belgrade, in line with Article 229 of the Energy Law;
- signed an annex to the Natural Gas Supply Contract with the Public Enterprise “Srbijagas” Novi Sad where the procurement of gas for the recovery of possible losses in the transmission system of „Yugorosgaz-transport“ d.o.o. Niš gas pipeline is elaborated and
- started harmonization of the Agreement on Working Regime on the Entry into Transmission System with PE “Srbijagas” Novi Sad.

Considering the submitted request for the extension of the deadline and available documents it was estimated that the request of „Yugorosgaz-transport“ d.o.o. Niš was justified and, therefore, the

Council of the Energy Agency of the Republic of Serbia adopted a decision No: 311.01-2/2016-C-I of July 13, 2018 (which was received by the applicant on July 24, 2018) which provides an additional period of 12 months for the „Yugorosgaz-transport“ d.o.o. Niš to comply with the certification conditions, i.e. for „Yugorosgaz-transport“ d.o.o.to:

- take all necessary actions so as to harmonise its organisation and operations in a manner providing compliance with conditions concerning the independence of the system operator in line with the model of independent system operator and, if necessary, to take actions with authorised bodies of the Republic of Serbia in order to harmonise the ruling regulations and
- submit a Programme for Non-Discriminatory Behaviour adopted in line with the Energy Law.

In case of failure to comply with the Decision, a new certification procedure would be initiated in order to reassess the certification conditions and adopt a decision on the revocation of the certificate.

Within the additional period, „Yugorosgaz-transport“ d.o.o. Niš reported to the Agency on the actions taken in order to comply with the given certification conditions (report No. I-78 of September 13, 2018, received on September 14, 2018, report No. U-92 of November 14, 2018, received on November 15, 2018, report No. 508 of December 28, 2018, received on December 28, 2018, report No. I-12 of February 28, 2019, received on February 28, 2019 and report No. I-40 of April 30, 2019, received on April 30, 2019).

„Yugorosgaz-transport“ d.o.o. Niš informed the Agency that on the session held on April 4, 2019, the shareholders of “Yugorosgaz” JSC, Belgrade harmonized their positions and adopted a Decision on the adoption of the action plan for Certification in line with the model “Independent Transmission Operator” – ITO model in line with the Energy Law (Article 232-238 of the Energy Law); that the activities defined in the action plan are realized in line with the prescribed tempo; that they are in the final phase of transferring the property of the main gas pipeline which will be transferred as the capital contribution of „Yugorosgaz-transport“ d.o.o. Niš; that the Ministry of Mining and Energy was asked to give opinion on the application of the Agreement between the Federal Government of the Federal Republic of Yugoslavia and the Government of the Russian Federation on Cooperation in Construction of Gas Pipeline on Territory of Federal Republic of Yugoslavia („Official Gazette of FRY-International Treaties“, No. 4/96) as well as that the Ministry of Mining and Energy provided an opinion No: 011-00-00026/2019-01 of March 12, 2019 related to the application of the Energy Law provisions connected to the obligation on the establishment of the Supervisory Board in „Yugorosgaz-transport“ d.o.o. Niš.

With reference to this, by the legal act of the Agency No. 311.01-2/2016-C-I of May 31, 2019, which was received by the „Yugorosgaz-transport“ d.o.o. Niš on June 3, 2019, „Yugorosgaz-transport“ d.o.o. Niš was informed that consideration of a switch to a new certification model is not a subject matter of this procedure and that the given entity has a certificate issued as to an independent system operator (ISO) under the conditions set in the Decision and that, therefore, the entity is obliged to comply with the Decision and comply with certification conditions in line with the submitted application for the certification in line with ISO model. Otherwise, the Energy Agency of the Republic of Serbia would initiate a new certification procedure in order to reassess the certification conditions and adopt a decision on the revocation of the certificate issued to the „Yugorosgaz-transport“ d.o.o. Niš.

However, even after the warning of the Agency, having insight into the file, it was established that even with the additional period of twelve months for the compliance with the certification conditions, i.e. until July 13, 2019, „Yugorosgaz-transport“ d.o.o. Niš neither submitted evidence on harmonisation of its

organisation and operations in a manner complying with the certification conditions meant for and Independent System Operator model nor did they submit the programme for non-discriminatory behaviour prescribed for this model in line with the Energy Law.

On the basis of the above given, while bearing in mind that „Yugorosgaz-transport“ d.o.o. Niš did not provide evidence on the compliance with the certification conditions for the Independent System Operator model defined by the Decision, on the 8<sup>th</sup> extraordinary session on July 15, 2019, in line with Article 39, paragraph 1 and 49 paragraph 3, connected to Article 240 of the Energy Law, Article 24 of the Rulebook on Energy Licence and Certification (“Official Gazette of RS”, No. 87/15) and Article 12 of the Statute of the Energy Agency of the Republic of Serbia (“Official Gazette of RS”, No 52/05), the Council of the Energy Agency of the Republic of Serbia adopted the decision given in the wording of the Decision.

COUNCIL PRESIDENT  
(signature)

Dejan Popović

Copy to:

- 1) Applicant;
- 2) Ministry of Mining and Energy and
- 3) Archive