

**MEMORANDUM OF COOPERATION**

**IN THE FIELD OF PROTECTION OF COMPETITION ON THE  
ENERGY MARKET**

**Skopje, January 2007**

**The Commission for Protection of Competition (Dame Gruev 1, 1000 Skopje, represented by Cedomir Kraljevski, President)**

**and**

**the Energy Regulatory Commission (Dimitrie Cupovski 2, 4<sup>th</sup> floor, 1000 Skopje, represented by Slave Ivanovski, President)**

having in regard

that close cooperation between the Commission for Protection of Competition (hereinafter: CPC) and the Energy Regulatory Commission (hereinafter: ERC) will increase the efficiency of the fulfilment of the tasks assigned to both authorities and thereby contribute to the promotion of competition in the energy sector in the Republic of Macedonia

that Article 26, paragraph (7) of the Law on Protection of Competition<sup>1</sup>, as well as Article 2, Article 19, items 9) and 10) and Article 24 of the Law on Energy<sup>2</sup> set the general legislative framework for cooperation in which both, the CPC and the ERC, will mutually help one another to ensure efficient fulfilment of their tasks in the promotion of competition and

have signed the following

**MEMORANDUM OF COOPERATION  
IN THE FIELD OF PROTECTION OF COMPETITION ON THE ENERGY  
MARKET**

Article 1  
**Introductory provisions**

1. This Memorandum attains close cooperation between CPC and ERC (hereinafter: parties of the Memorandum) in the protection of competition on the energy market in the Republic of Macedonia, with the purpose of more efficient fulfilment of the competition rules.
2. With the signing of this Memorandum, the parties of the Memorandum express their readiness for cooperation in the field of protection of competition, by virtue of mutual trust and understanding, and have agreed to base their cooperation on the principles and procedures provided for in this Memorandum.

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<sup>1</sup> Official Gazette of the Republic of Macedonia No. 04/05 and 70/06

<sup>2</sup> Official Gazette of the Republic of Macedonia No. 63/06

Article 2  
**Field of cooperation**

1. The parties of the Memorandum have agreed to cooperate in the field of protection of competition, with the purpose of promoting and helping the development of the competition on the energy market in the Republic of Macedonia, starting from the significance of this market for the economy in the country, especially from the benefits that result from the competition for the end users.
2. The parties of the Memorandum have also agreed to cooperate in other fields, which are directly or indirectly related to the protection of competition, especially in those fields where there is obligation for provision of public service.

Article 3  
**Forms of cooperation**

1. The cooperation of the parties of the Memorandum shall be realized especially through:
  - 1.1. constant exchange of data and information
  - 1.2. mutual informing of initiating procedures
  - 1.3. preparation of expert opinion upon request and for the needs of the other party of the Memorandum
  - 1.4. constant direct contacts between the parties of the Memorandum
  - 1.5. constant expert training of the parties of the Memorandum in the field of protection of competition and related fields through exchange of notifications for seminars, conferences etc., by mutual invitation to seminars and other forms of educational programs organized by one of the parties of the Memorandum, as well as participating in educational programs that are organized by a third party or organization (EU, OECD) for the benefit of one of the parties.
  - 1.6. coordination of activities related to the amendments of the existing legal provisions of mutual interest.

Article 4  
**Board of cooperation**

1. For the realization of this Memorandum the parties shall form mutual board of cooperation.
2. The task of the board of cooperation shall be coordination of all forms of cooperation between the parties of the Memorandum, as set out in Article 3 of this Memorandum, especially realizing and maintaining direct contacts between the parties of the Memorandum, with the purpose of promoting competition and assistance in decision making in certain cases within the competence of the CPC and ERC respectively.
3. The board of cooperation shall consist of four members and two co-chairmen, whereas each of the parties of the Memorandum shall appoint two members and one co-chairman.

4. The co-chairmen shall be in charge of contacting the parties of the Memorandum, i.e. for assembling and organizing sessions for the board of cooperation.
5. The board of cooperation shall meet when necessary but at least every six months. One regular meeting a year shall be also held.
6. The meetings from item 5) of this Article shall take place alternatively at the premises of the CPC and ERC respectively.
7. The meetings of the board of cooperation that shall be held on initiative of one of the parties of the Memorandum shall take place at the premises of that party of the Memorandum, unless the co-chairmen in the concrete case do not agree differently.
8. The co-chairman from item 3) of this Article, who is appointed by the party of the Memorandum in whose premises the meeting shall be taking place, shall preside over the meetings of the board of cooperation from items 5) and 7) of this Article.
9. At the meetings of the board of cooperation from items 5) and 7) of this Article, besides the co-chairmen and the members of the Board, other experts from the CPC and ERC respectively can participate, if the parties of the Memorandum consider their presence in the concrete case necessary and useful.
10. The invitation for the meetings from item 5) of this Article i.e. the initiative for holding a meeting from item 7) of this Article must contain draft agenda of the meeting.
11. The party of the Memorandum in whose premises the meeting shall be taking place is obliged to make short minutes for the course of the meeting and its conclusions and to provide a copy of those minutes to the other party of the Memorandum within 15 days from the day of the meeting. The other party of the Memorandum should provide the remarks about the minutes, within eight days from receiving the copy of the minutes and those remarks shall be part of the minutes.
12. The parties of the Memorandum are obliged to appoint the members of the Board of cooperation at least fifteen days from the day of signing this Memorandum.

#### Article 5

#### **Exchange of data and information**

1. The parties of the Memorandum, in line with their legal obligations, shall exchange data and information necessary in exercising their competences.
2. The scope of exchange of data and information shall be limited to data and information that is relevant and proportionate to the purpose for which they are exchanged.

## Article 6

### **CPC's proceeding in the field of the energy sector**

1. Regarding the issues related to competition in the field of the energy sector, the CPC proceeds according to the Law on Protection of Competition and according to Article 81, Article 82 and Article 87 of the Treaty on European Union (in line with Article 18 of the Treaty establishing the Energy Community<sup>3</sup>).
2. If the CPC initiates proceedings in the field of the energy sector, the ERC shall be informed in written and shall have the opportunity to state its views.
3. If the CPC, in the course of the proceedings from item 2), requests clarification on certain points, the ERC shall provide a written opinion within the day limit suggested by the CPC.
4. The CPC shall submit its final draft decision to the ERC. The ERC can comment on the draft decision within the time limit suggested by the CPC.
5. The CPC shall be obliged to take into consideration the ERC's opinion from item 3).
6. The ERC's opinion shall be attached to the files.

## Article 7

### **Issues before the ERC related to competition**

1. The ERC shall cooperate with the CPC on all issues related to competition in the field of the energy sector, especially in relation to:
  - 1) the prior ERC's approval of transmission network rules, adopted by the electricity system operator regarding the terms and conditions for third party access to the transmission system, in the sense of Article 72, item 5);
  - 2) the prior ERC's approval of market code, adopted by the electricity market operator regarding the surveillance of market conditions and appearances with the purpose of restricting non-competitive behaviour, in the sense of Article 75, item 5);
  - 3) the prior ERC's approval of electricity distribution network rules adopted by the operator of the distribution system regarding the terms and conditions for third party access to the distribution system, in the sense of Article 80, item 6);
  - 4) the prior ERC's approval of natural gas transmission network rules adopted by the operator of the natural gas transmission system regarding the terms and conditions for third party access to the natural gas transmission system, in the sense of Article 86, paragraph (5), item 5);
  - 5) the prior ERC's approval of natural gas distribution network rules adopted by the operator of the natural gas distribution system regarding the terms and conditions of third party access to the natural gas distribution system, in the sense of Article 88, paragraph (3), item 4);
  - 6) the prior ERC's approval of thermal or geothermal energy distribution network rules adopted by the operator of the thermal or geothermal energy distribution system regarding the requirements and modalities for third parties access to the thermal or

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<sup>3</sup> Treaty Establishing the Energy Community, 19 May 2005.

geothermal energy distribution system, in the sense of Article 111, paragraph (1), item 4);

7) when the ERC decides upon an appeal in case the electricity system operator has not given its consent for connection to the grid upon a request from a supplier of certain type of electricity or an eligible customer, in the sense of Article 116, paragraph (2).

2. When proceeding in the cases stipulated in paragraph (1) of this Article, and before adopting the prior approval from items 1), 2), 3), 4) and 5), as well as before deciding upon the appeal from item 6), the ERC shall request the CPC's opinion.

3. The CPC can give its opinion within the time limit suggested by the ERC.

4. The ERC is obliged to take into consideration the CPC's opinion from item 3).

5. CPC's opinion shall be attached to the file.

#### Article 8

#### **Confidentiality of data and information**

1. The party of the Memorandum receiving confidential data and information from the other party of the Memorandum shall provide the same level of confidentiality of the disclosed data and information as the originating party of the Memorandum.

2. The party of the Memorandum, when disclosing confidential data and information to the other party of the Memorandum, at the same time shall inform the data and information supplier/suppliers on the transfer.

#### Article 9

#### **Final provisions**

1. The Memorandum of cooperation shall be in force for a period of 5 years. Its validity shall be automatically renewed for another 5 years if none of the parties to the Memorandum informs the other party of its termination, one month before the period of 5 years expires.

2. The Memorandum of cooperation shall enter into force on the day of its signing.

3. The Memorandum has four identical copies, two for the each party of the Memorandum.

Skopje, 26 January 2007

Commission for Protection  
of Competition  
Cedomir Kraljeviski, President

Energy Regulatory  
Commission  
Slave Ivanovski, President