



Number: 01-334-24/19/R-160-291

Date: 18 November 2020

Pursuant to the provision of Article 21 paragraph 1 point 2 and Article 44, paragraph 8 of the Gas Law (Official Gazette of the Republic of Srpska, number 22/18), Article 17, paragraph 6 of the Rule book on certification of the natural gas transport system operator (Official Gazette of the Republic of Srpska, number 31/19) and Article 33 paragraph 1, point g of the Procedural Rules of the Regulatory Commission for Energy of the Republic of Srpska (Official Gazette of the Republic of Srpska, number 59/10), in the procedure per the application of the Joint-stock company for transport and natural gas transport system control "GAS PROMET" Pale for the certification of the natural gas transport system operator, along with the initial Opinion of the Energy Community Secretariat obtained earlier, Regulatory Commission for Energy of the Republic of Srpska, in its 160th regular session, held on 18th November 2020, made

DECISION

On certification of the natural gas transport system operator

1. The natural gas transport system operator, joint-stock company for the natural gas transport and transport system control "GAS PROMET" Pale, IS BEING CERTIFIED, following the ownership-unbundling model for the sections of the gas pipeline system Sepak-Karakaj and Karakaj-Zvornik with the accompanying structures, facilities and equipment.
2. Joint-stock company for natural system transport and transport system control "GAS PROMET" Pale is ordered to, while making decisions related to the natural gas transport and transport system control towards related persons or in a case of personal interest, make such decisions with majority of votes of the members of the Board of Directors that do not have the interest in that matter and who are not representatives of the related person, and in a case that there is no such majority, with majority of votes of shareholders that do not have the personal interest and that are not representatives of the related person.
3. It is determined that Mr. Milan Djukic is not authorized to use the voting right in the Board of Directors of the Joint-stock company for natural system transport and transport system control "GAS PROMET" Pale.
4. Joint-stock company for natural gas transport and transport system control "GAS PROMET" Pale is ordered to continuously ensure the conditions of independence of the transport system operator and to inform without delay the Regulatory Commission for Energy of the Republic of Srpska about all changes in the capital structure, changes in the controlling bodies or legal representation and decisions and ways of voting of the Shareholder Assembly representatives.

5. Decision becomes effective on the day it is made and will be published, along with the Opinion of the Energy Community Secretariat in the Official Gazette of the Republic of Srpska and website of the Regulatory Commission for Energy of the Republic of Srpska.

RATIONALE

Joint-stock company for natural gas transport and transport system control "GAS PROMET" Pale (hereinafter: the Applicant) submitted to the Regulatory Commission for Energy of the Republic of Srpska (hereinafter: Regulatory Commission), in the prescribed Form OB.C.04.01, with the accompanying documents, the Application for certification of the natural gas transport system operator – ownership unbundling number 01-688/19 dated 12th September 2019 (hereinafter: Application) for the sections of the transport system Sepak-Karakaj, in the length of 19,7 km and Karakaj-Zvornik, in the length of 4,5 km with the accompanying facilities and equipment. The Application was received in the Regulatory Commission on 16th September 2019, under the number 01-334-1/19.

While submitting Application, the Applicant was the licensee for natural gas transport system control and licensee for natural gas transport, issued by Decisions number 01-238-11/14/R-88-222 and 01-239-5/14/R-88-223 dated 30th July 2014 for the validity period of five years. By the Decision of the Regulatory Commission number 01-488-7/18/R-102-13 dated 7th December 2019, the validity period of the licenses, pursuant to the provisions of the Gas Law, was extended until 23rd March 2020. However, the Applicant was carrying out the activity of natural gas transport and natural gas transport system control from 30th July 2009 pursuant to the licenses issued by the Regulatory Commission. In the past, Regulatory Commission was monitoring the operation of the Applicant, whereby the control of the license requirements' compliance was monitored.

Having processed the submitted Application, it was determined that the Application was not proper namely that it contained certain failures which prevent further acting per it and the Applicant was requested to remove the failures determined, defining the documents which should be submitted.

Since the Applicant submitted additional documentation of the Application with the requested documents and removed the failures found, Regulatory Commission, pursuant to the provision of Article 14 of the Rule book on certification of the natural gas transport system operator (hereinafter: the Rule book), on 27th January 2020, informed the Applicant about the properly submitted Application for certification and published the public notice on its website, notice board and in daily newspapers "GLAS SRPSKE". In the public notice, there was basic information about the Application, the ways in which the interested persons may get additional information and gain an insight in to the Application, ways and term for submission of comments of the interested persons and information related to the possibility of participation of the interested persons in the proceedings if they have a special right or legal interest to participate in the proceedings. During the proceedings, there have been neither comments received nor requests submitted from the interested persons for participation in the proceedings.

Having in mind that there have been, during the proceedings, neither received comments nor submitted requests of the interested person, for participation, nor the disputable questions regarding certification of the transport system operator and that, during the proceedings, there have been the evidences submitted, based on which the assessment

of the criteria fulfilment for certification may be analyzed, in a sense of Article 16 of the Rule book, the public hearing was not held.

The Regulatory Commission, in its 142nd regular session, held on 28th April 2020, determined the Draft Decision on certification of the natural gas transport system operator, number 01-334-6/19/R-142-91.

Pursuant to the provision of Article 44, paragraph 5 of the Gas Law, the mentioned Draft Decision was, on 28th April 2020 forwarded to the Energy Community Secretariat for the initial opinion. As requested by the Energy Community Secretariat, the Regulatory Commission, twice, on 2nd June 2020 and 14th August 2020, submitted the additional documents and explanations related to the submitted Application for certification of the natural gas transport system operator. On 9th September 2020, through the video link, there was a consultative meeting of the representatives of the Regulatory Commission, representatives of the Energy Community Secretariat and representatives of the Applicant, during which the disputable issues regarding the ownership over the transport system, readiness for operation of the transport system operator, conditions of independence and unbundling of activities and ownership structure of the capital were considered.

On 18th September 2020 Energy Community Secretariat submitted by email the Opinion 2/20 on the Draft Decision, 01-334-6/19/R-142/91 dated 28th April 2020 to the Regulatory Commission.

In the submitted Opinion, it is emphasized that the Secretariat supports the certification of the Applicant, stating the recommendations and conditions which should be additionally analyzed and explained and contained in the final Decision of the Regulatory Commission as follows:

- explicitly specify that the certification of Gas Promet does only comprise transmission system operation of the pipeline sections Sepak-Karakaj and Karakaj-Zvornik;
- assess the capability of Gas Promet to carry out the tasks of the TSO as described in Article 13 of the Gas Directive and verification whether Gas Promet disposes of the human, technical and financial resources necessary to perform such tasks, and in particular whether and how the staff covers the tasks referred to in Article 13 of the Gas Directive, whether and to which provider any services are being outsourced to service providers, whether in case of outsourcing Gas Promet effectively oversees, controls and provides instructions to the service provider and whether any service provider meets the unbundling requirements;
- request that outsourcing gas pressure control to another TSO seeking certification/or certified as ownership unbundled is based on a commercial (service) contract against appropriate remuneration and vesting Gas Promet with appropriate control, decision-making and compensation rights, and establish that Gas Promet has sufficient resources to oversee, control and provide instructions to the operator of the compressor station;
- assess whether Republic of Srpska and/or Srbijagas exercise control over Gas Promet in line with the criteria set out by the Secretariat;
- assess whether and which safeguards are in place to ensure structural separation within the Government, and to avoid that an alignment of positions between the three Funds owned by Republic of Srpska as well as with the management of GAS-RES takes place and, in the absence of sufficient safeguards, request appropriate measures;

- require that Srbijagas limit its shareholding rights in Gas Promet to passive financial rights (i.e. the right to receive only the dividends resulting from those shares without exercising any voting right at the Shareholder Assembly, and without the right to appoint, nominate or propose any member of the Board of Directors);
- require the replacement of Mr. Djukic on the Board of Directors of Gas Promet;

Provision of Article 37, paragraph 1 of the Gas Law prescribes that the energy undertaking, possessing the system for natural gas transport in the Republic, or any of its special section, may carry out the activity of transport and transport system control and be the transport system operator, if:

- it carries out the activity of the natural gas transport through the gas pipeline under pressure ($p \geq 16$ bar) which do not include the gas pipelines from the generation fields and gas pipelines which are primarily used for the natural gas distribution, with the aim of its delivery to end users, excluding the supplying;
- while carrying out its legally based obligations and duties, it is independent from all other activities related to the natural gas, such as: production, distribution, storage, natural gas supplying, and from the related commercial interests, except in specific cases, whereby the independence is also provided by unbundling of the transport system operator pursuant to the law and
- that the license for the activities of transport and transport system control is issued to the certified transport system operator.

Provision of Article 37, paragraph 2 of the Gas law prescribes that the independence of the transport system operator is provided in a way that the same energy undertaking or other legal person, namely entrepreneur cannot concurrently:

- directly or indirectly control or have other rights over the transport system operator or transmission system of electricity, or over the transport system or transmission system for electricity,
- directly or indirectly control or have other rights over the energy undertaking carrying out some of the activities of production or supply with natural gas or electricity and
- appoint members of the energy undertaking body or be the member of the energy undertaking body which control or legally represent the transport system operator or transmission system of electricity, as well as the owner of the transport system or transmission system of electricity and directly or indirectly control or have some other rights over the energy undertaking carrying out some of the activities of production or supply with natural gas or electricity;

The rights over the transport system operator referred to in Article 37, paragraph 2 of the Gas Law include the competence to use the voting right, competences to appoint the members of the energy undertaking body which it controls or legally represents the energy undertaking or has the majority share.

Provision of Article 37, paragraph 4 of the Gas Law prescribes that it is not allowed to the transport system operator or its employees to give confidential information it possesses about the energy undertakings which are the third party.

Having analyzed the Application and enclosed documents, and particularly having had an insight into the documents:

- Decision of the Republic of Srpska Government about foundation of the Applicant, number 02/1-020-1505/98 dated 29th July 1998;
- Registry of the fixed assets dated 30th June 2019;
- List of structures, facilities, equipment and devices of transport system with technical parameters dated 27th August 2019;
- List of all transport systems or their parts owned by the Applicant in the Republic of Srpska as well as of the interconnector dated 27th August 2019;
- Contract on arrangement of the property-legal relations, status-legal issues and investment of the capital in AD "Gas promet" Pale concluded between JP "Srbija gas" Novi Sad, AD "Gas promet" Pale and Investment-Development Bank of the Republic of Srpska dated 11th March 2019 and
- List of immovable property, number 1823/2 number 21.21/952.1-2-214/2019 dated 30th August 2019 for the gas station and Decision number 21.21/951-124-2406/2017 dated 16th November 2018 on determination of the content of the immovable property on the land and structures for the gas station and gas pipeline Zvornik of the Republic Administration for geodetic and property-legal issues, Banja Luka, Cadastral municipality Zvornik;

It was determined that the Applicant is the owner, namely that it possesses the natural gas transport system under sections Sepak-Karakaj, length of 19,7 km and Karakaj-Zvornik, length of 4,5 km with the accompanying structures, facilities and equipment and, the certification referred to in this Decision is related to these sections of the transmission system.

The Applicant was established by the Republic of Srpska Government decision on foundation number 02/1-020-1505/98 dated 29th July 1998. Decision of the Republic of Srpska Government number 04/1-012-2053/07 dated 6th December 2007 authorizes the Applicant to carry out the activity of the transport system operator in the natural gas sector. In 2008, the Gas Law was made which established the legislative and regulatory framework for the natural gas sector. Based on this law, the Applicant was carrying out activity of the natural gas transport system control and activity of natural gas transport from 30th July 2009 pursuant to the licenses issued by the Regulatory Commission. These licenses were harmonized with the amendments to the Gas Law in 2012 and their validity was extended pursuant to the valid Gas Law. In the moment of the Application submission, the Applicant was carrying out the activity of the natural gas transport system control on the territory of the Republic of Srpska for the transport system, length of 64,2 km and was carrying out the activity of the natural gas transport at the sections of the transport system Sepak-Karakaj, length of 19,7 km and Karakaj-Zvornik, length of 4,5 km.

Since 2009, Regulatory Commission has been monitoring the operation of the Applicant as the natural gas transport system operator in the Republic of Srpska, carrying out the monitoring and reporting activities and has been conducting procedures of issuing licenses for the energy activities. According to the available data, it was determined that the transport system of the Applicant had the capacity of about 710 mcm/y, out of which some 250 mcm/y was used based on the annual capacity contracts. It was also determined that the Applicant ensured safe and reliable operation of the transport system pursuant to the laws and regulations of the Republic of Srpska, had the procedures established for the regular and extraordinary maintenance of the transport system, the third party access services, nominations, allocation of capacity, conditions for connecting, requirements for the metering devices, ancillary services, interconnection, conditions for supply interruptions, ways of the data exchange, etc, pursuant to the Rule book on the transport system operation, as a piece of the secondary legislation which, pursuant to the Gas Law, the Regulatory Commission gave its consent on. The Applicant realizes its

regular revenue based on the tariffs approved by the Regulatory Commission pursuant to the tariff methodology for the natural gas transport. The tariffs were determined for all entry-exit points of the transport system. At all entry-exit points of the transport system, there are verified metering devices installed and the system of recording of the amounts and exchange of data with all system users was established. In the past period, the Applicant had up to three users of the transport system. The Applicant has 13 employees, and has sufficient financial resources for the transport system control under sections of the transport system Sepak-Karakaj, length of 19,7 km and Karakaj-Zvornik, length of 4,5 km, in the total length of 24,2 km. The transport system of the Applicant includes the pipelines, natural gas transceiver station Karakaj, main measuring-regulation natural gas station Karakaj, within which there is a regulating station Birac and measuring-regulating station KPG, measuring-regulating station Zvornik and other equipment.

The transport system controlled by the Applicant was a part of the transport unity of the pre-war gas pipeline of ex-Yugoslavia and does not have the compression station of its own. The compression station, which is located in Batajnica, in the Republic of Serbia, serves for the purposes of the downstream-gas transport systems in the Republic of Serbia and for the purposes of the transport systems in BiH. The costs are transferred to the system users in BiH, through the exit tariff at the border with BiH. The Applicant and JP "Serbia gas" Novi Sad, as neighboring transport system operators, arranged their operating regimes which enabled safe and reliable operation of the systems with the Agreement on the operating regimes dated 28th November 2017. The Applicant made with the "Transport gas Srbija" doo Novi Sad, as the upstream transport system operator on 16th September 2020, a new Agreement on the operating regime. The Agreement on the operating regime is a harmonized set of rules and procedures for control of all operations occurring in the interconnection point, for the purposes of more efficient operation, calculation and control in neighboring transport systems.

While carrying out the mentioned energy activities, in the past, in the natural gas sector, there have not been the disputes initiated before the Regulatory Commission against the Applicant by the system users.

According to the available facts of the Regulatory Commission, and pursuant to the enclosed documents, it has been determined that the Applicant conducts the key functions of the transport system operator, and has human, technical, organizational and financial resources necessary for carrying out those tasks and that it has met the requirements referred to in provisions of Article 37 paragraph 1 of the Gas Law for the issuance of the certificate.

According to the statements of the authorized persons and available evidences, it was determined that the Applicant, while carrying out its obligations and duties, is independent from all other activities related to natural gas, thus meeting the requirement referred to in Article 37 paragraph 1, namely Article 36 paragraph 3 of the Gas Law.

Regarding the independence in relation to production of natural gas, it is not disputable, because there is no production of natural gas in the Republic of Srpska. According to the Decision on registration, the Applicant was neither registered for doing this activity, nor for the activity of trade and supply with natural gas.

Regulatory Commission issued six licenses for trade and supply with natural gas which are currently valid. Some shareholders of the Applicant has minority ownership shares in the energy undertakings which carry activities and which have the licenses for trade and

supply with natural gas. JP "Srbija gas" a.d. Novi Sad is the majority owner, with the share of 80% of the energy undertaking "Bijeljina gas" d.o.o. Bijeljina.

The energy undertaking "Bijeljina gas" d.o.o. Bijeljina, from the moment of obtaining the license for natural gas trade and supply, namely since 26th January 2012 has not carried this activity at all. The activities of this energy undertaking were directed to the construction of the natural gas distribution system in the city of Bijeljina, based on the obtained concession and appropriate licenses. The license for trade and supply with natural gas determined the obligations regarding the unbundling of this energy undertaking. JP "Srbija gas" a.d. Novi Sad, as the subject licensed in the Republic of Serbia for the natural gas trading, has no possibility to independently carry out any activity on the territory of the Republic of Srpska without obtaining the appropriate license issued by the Regulatory Commission. Regulatory Commission carries out its regular monitoring activities of the operation of the energy undertaking "Bijeljina gas" d.o.o. Bijeljina, as the licensee for trade and supply with natural gas and in that way, the fulfillment of this license requirements are followed in continuity.

"GAS-RES" d.o.o. Banja Luka is the importer and major natural gas supplier in the Republic of Srpska. The founder and owner of this energy undertaking is the Republic of Srpska, in the percentage of 100%.

The energy undertaking "Sarajevo gas" a.d. Istocno Sarajevo and "Zvornik stan" a.d. Zvornik are the licensees for trade and supply with natural gas. The mentioned energy undertakings carry out the activity of the natural gas supply on their distribution systems. Share Fund of the Republic of Srpska has the ownership share in the energy undertaking "Sarajevo gas" a.d. Istocno Sarajevo in the amount of 29.999998%. "PREF" a.d. Banjaluka¹ has the ownership shares in "Sarajevo gas" a.d. Istocno Sarajevo in the amount of 10.000018% and in "Zvornik-stan" a.d. Zvornik in the amount of 10.000013%. Fund for Restitution of the Republic of Srpska AD Banjaluka² has the ownership share in the energy undertaking "Sarajevo gas" a.d. Istocno Sarajevo in the amount of 5.000012%.

Regulatory Commission will take care of the fulfillment of the prescribed obligations regarding independence of the natural gas transport system operator, as well as the unbundling of the activities in the natural gas sector, while issuing new licenses for carrying out activities in the Republic of Srpska and within its regular activities of monitoring of the existing licensees.

Having had an insight in the Contract on organization of "Gas promet" AD Pale (clean text), number UO/60-30-363/19 dated 22nd May 2019 and Statute of "Gas promet" AD Pale (clean text), number UO/60-30-354/19 dated 15th May 2019, it was determined that these documents prescribed the competences, ways of representation, ways of using voting rights, ways of appointment of the controlling body, namely the Shareholders Assembly, Board of Directors and managers of the energy undertaking.

Pursuant to the Decision on registration of the District Commercial court in Istocno Sarajevo, number 061-0-Reg-19-000 465 dated 22nd May 2019 and Excerpt of the Central registry of Securities AD Banja Luka number 01-11042/19, file 06-39/05 dated 23rd July 2019 from the Book of shareholders of the Applicant on 22nd July 2019, it was determined that the Applicant was established as the joint-stock company with the following ownership shares:

¹ <https://www.blberza.com/pages/SecurityList.aspx?sh=PREF+AD+BANJA+LUKA>

² <http://www.blberza.com/pages/SecurityList.aspx?sh=FOND+ZA+RESTITUCIJU+RS+AD+BANJA+LUKA>

- JP "Srbija gas" Novi Sad with 39,14% of shares,
- Share Fund of the Republic of Srpska Banja Luka with 26,09% of shares,
- The DUIF Management Solutions – OIAF Aktiva Invest Fond with 16,52% of shares,
- PREF AD Banja Luka with 10% of shares,
- Fund for restitution of RS AD Banja Luka with 5% of shares,
- DUIF Management Solutions – OIAF Bors Invest Fond with 1,47% of shares and
- Small shareholders with 1,78% of shares in total;

Having had an insight the statements of the authorized person of the Applicant, list of members of the controlling bodies, lists of employees and shareholders members of controlling bodies of the Applicant, decisions of the Shareholders Assembly on appointment of the Board of Directors and decision of the Board of Directors on appointment of the managers in the energy undertaking, lists of shareholders of the Central Registry of Securities, excerpts of the Central registry of securities, it was determined that no shareholder of the Applicant had majority share in the capital.

The authorized representative of the Applicant, in his statements, confirmed that no representatives of the public authorities, which in the ownership structures has minority shares, has direct or indirect control or majority share of the Applicant and that the same representatives of the public authorities have no concurrent direct or indirect control over the Applicant and energy undertakings carrying out activities of production or supply with electricity or natural gas, nor over the transport system operator or transmission system operator of electricity nor over the transport system for natural gas or transmission system for electricity.

According to the list of shareholders, it was determined that on 22nd July 2019, the Applicant had 44 shareholders.

According to the enclosed evidences, it was estimated that no shareholder of the Applicant has the majority package of shares, namely has no majority share and accordingly has no possibility to directly or indirectly control concurrently the Applicant and other subjects carrying out the activities of production or supply with natural gas or electricity.

Taking into account the ownership share of the Applicant, it can be concluded that no shareholder conducts, separately, the direct control regarding making decisions in the Shareholders Assembly such as the selection of Board of Directors and similar, where the simple majority is requested. Additionally, it is necessary to emphasize that for some decisions, such as amendments to the foundation document and Statute, increase and decrease of the basic capital, status changes, decisions on getting and possessing the property of big value and change of form and cessation of the energy undertaking, it is necessary to have the qualified majority, namely positive voting of at least 2/3 votes of shareholders.

Statute of the Applicant prescribes that no shareholder is assigned some specific rights based on which they may realize the deciding impact on the composition and decision making in the controlling bodies, nor is anticipated the possibility of veto on the strategic decisions for which 2/3 majority of votes is needed in the Shareholders Assembly.

Pursuant to the Law on undertakings of the Republic of Srpska (Official Gazette of the Republic of Srpska, number 127/08, 58/09, 100/11, 67/13, 100/17 and 82/19) the Applicant has been organized as the open undertaking. The founders of the Company are

the shareholders from the list of shareholders of the Central registry of Securities a.d. Banja Luka which keeps the records on owners in the Book of shareholders. The Shareholders Assembly is comprised of the shareholders from the list of shareholders from the Central registry. Each share gives the right to one vote in the Shareholders Assembly, proportionally to the number of shares in ownership. Each shareholder, personally or through the authorized person, is entitled to participate and decide in the work of the Shareholders Assembly. The Power of Attorney is, as a rule, given for one or more sessions of the Shareholders Assembly, for a specific period or until revocation, and there is no specific decision on appointment of members of the Shareholders Assembly.

Each share is ordinary and their nominal value is 1 nominal BAM and each share is 1 vote. Provision of Article 24 of the Statute of the Applicant prescribes that each share of the undertaking gives the shareholder the same right pursuant to the law and Statute, which, inter alia, includes the voting right in the Shareholders Assembly of the undertaking so that one share gives the right to one vote and in that sense no exceptions have been prescribed.

There are no circumstances indicating that the minor shareholders affect or block making the strategic decisions. JP "Srbija gas" Novi Sad, Share Fund of the Republic of Srpska, DUIF Management Solutions – OIAF Aktiva Invest Fond, PREF AD Banja Luka, Fund for Restitution RS AD Banja Luka, DUIF Management Solutions – OIAF Bors Invest Fond, have no majority share in the capital, nor have the mutual agreements based on which the making strategic decisions of the Applicant might be affected or blocked.

Apart from the documents themselves enclosed by the Applicant to accompany the Application, Regulatory Commission was checking and had also an insight in other available documents of the energy undertakings in the Republic of Srpska, licensed for doing activities, and also had an insight in the public registries available at the Banjaluka Exchange and Central Registry of the Commission for Securities of the Republic of Srpska.

Having had an insight in the reports at the Banjaluka Exchange ([www.blberza](http://www.blberza.com)), as well as in the documents available at the Regulatory Commission, the following shares of shareholders of the Applicant in other energy undertakings, which carry out the activity of production or supply with natural gas or electricity in the Republic of Srpska were determined:

- JP "Srbija gas" a.d. Novi sad³ possesses 80% of the ownership shares in the energy undertaking "Bijeljina gas" d.o.o. Bijeljina (energy undertaking from the natural gas sector – natural gas supply),
- Share Fund of the Republic of Srpska⁴ has the ownership share in the energy undertakings as follows:
 - Sarajevo gas a.d. Istocno Sarajevo in the amount of 29.999998% (energy undertaking from the natural gas sector – natural gas supply),
- "DIUF Management Solutions – OAIF Aktiva Invest FOND⁵ has the ownership share as follows:

³ <https://www.blberza.com/pages/SecurityList.aspx?sh=JP+SRBIJAGAS+NOVI+SAD>

⁴ <https://www.blberza.com/pages/SecurityList.aspx?sh=AKCIJSKI+FOND+RS+AD+BANJA+LUKA>

⁵

<https://www.blberza.com/pages/SecurityList.aspx?sh=DUIF+MANAGEMENT+SOLUTIONS+OAI+AKTIVA+INVEST+FOND>

- Elektrokrajina a.d. Banja Luka – 1.130492% (distribution of electricity and public supply with electricity),
- Elektro Doboj a.d. Doboj – 1.005686% (distribution of electricity, public supply with electricity and generation of electricity) and
- Hydro power plants on the Drina river a.d. Visegrad – 0.840419% (generation of electricity).
- „PREF“ a.d. Banjaluka⁶ has the ownership shares as follows:
 - Elektrokrajina a.d. Banja Luka – 10.239107% (distribution of electricity and public supply with electricity),
 - Elektro Doboj a.d. Doboj – 10.133935% (distribution of electricity, public supply with electricity and generation of electricity),
 - Elektrodistribucija a.d. Pale – 10.203750% (distribution of electricity, public supply with electricity and generation of electricity),
 - Elektrohercegovina a.d. Trebinje – 10.200706% (distribution of electricity and public supply with electricity),
 - Elektro – Bijeljina a.d. Bijeljina – 10.275547% (distribution of electricity, public supply with electricity and generation of electricity),
 - Hydro power plant on the Drina river – 10.043168% (generation of electricity),
 - Hydro power plant on the Vrbas river a.d. Mrkonjic Grad – 10.045743% (generation of electricity),
 - Hydro power plant on the Trebisnjica river – 10.067443% (generation of electricity),
 - RiTE Ugljevik a.d. Ugljevik – 10.089352% (generation of electricity),
 - RiTE Gacko a.d. Gacko – 10.056762% (generation of electricity),
 - Zvornik – stan a.d. Zvornik – 10.000013% (energy undertaking from the natural gas sector – supply with natural gas),
 - Sarajevo gas a.d. Istocno Sarajevo – 10.000018% (energy undertaking from the natural gas sector – supply with natural gas).
- Fund for Restitution of the Republic of Srpska AD Banjaluka⁷ has the ownership shares in the energy undertakings as follows:
 - Elektrokrajina a.d. Banjaluka – 5.000000% (distribution of electricity and public supply with electricity),
 - Elektro Doboj a.d. Doboj – 5.000000% (distribution of electricity, public supply with electricity and generation of electricity),
 - Elektrodistribucija a.d. Pale – 5.000000% (distribution of electricity, public supply with electricity and generation of electricity),
 - Elektrohercegovina a.d. Trebinje – 4.999999% (distribution of electricity and public supply with electricity),
 - Elektro – Bijeljina a.d. Bijeljina – 5.000001% (distribution of electricity, public supply with electricity and generation of electricity),
 - Hydro power plants on the Drina river, a.d. Visegrad – 5.000000% (generation of electricity),
 - Hydro power plants on the Vrbas river a.d. Mrkonjic Grad – 5.000000% (generation of electricity),
 - Hydro power plants on the Trebisnjica river a.d. Trebinje – 5.000000% (generation of electricity),
 - RiTE Ugljevik a.d. Ugljevik – 5.000000% (generation of electricity),
 - RiTE Gacko a.d. Gacko – 5.000000% (generation of electricity),

⁶ <https://www.blberza.com/pages/SecurityList.aspx?sh=PREF+AD+BANJA+LUKA>

⁷ <https://www.blberza.com/pages/SecurityList.aspx?sh=FOND+ZA+RESTITUCIJU+RS+AD+BANJA+LUKA>

- Sarajevo gas a.d. Istocno Sarajevo – 5.000012% (energy undertaking from the natural gas sector – supply with natural gas).
- „DIUF Management Solutions“ – OAIF BORS Invest FOND⁸ has the ownership shares in the energy undertakings as follows:
 - Elektrokrajina a.d. Banja luka – 0.512199% (distribution of electricity and public supply with electricity),
 - Elektrodistribucija a.d. Pale – 1.067575% (distribution of electricity, public supply with electricity and generation of electricity),
 - Elektrohercegovina a.d. Trebinje – 2.309139% (distribution of electricity and public supply with electricity),
 - Hydro power plants on the Vrbas river a.d. Mrkonjic Grad – 1.121273% (generation of electricity),
 - Hydro power plants on the Trebisnjica river a.d. Trebinje – 0.721140% (generation of electricity),
 - RiTE Ugljevik a.d. Ugljevik – 0.742644% (generation of electricity),
 - RiTE Gacko a.d. Gacko – 0.977525% (generation of electricity).
- „DIUF Management Solutions“ – OMIF VB FOND⁹ has the ownership shares in the energy undertakings as follows:
 - Elektrohercegovina a.d. Trebinje – 0.561449% (distribution of electricity and public supply with electricity) and
- Other shareholders – physical persons have no shares in other energy undertakings.

Apart from the mentioned data, the data on management of some shareholders are available at the website of the Commission for Securities of the Republic of Srpska, www.secrs.ba¹⁰¹¹¹²¹³¹⁴¹⁵.

Founder, namely the owner of the Mixed Holding of “Elektroprivreda Republike Srpske” MP a.d. Trebinje and “GAS-RES” d.o.o. Banjaluka is the Republic of Srpska in 100% percentage, so that is why these energy undertakings represent the public companies in a sense of provision of Article 2 of the Law on public companies (Official Gazette of the Republic of Srpska, number 75/04 and 78/11). Accordingly, in the mentioned energy undertakings, none of the mentioned shareholders of the Applicant is a shareholder or founder, although in the final some funds as well, with special controlling bodies are owned by the Republic of Srpska.

Also in the Republic of Srpska there are no energy undertakings from the electric energy sector controlling the plants which use natural gas as the energy item. The Mixed Holding

⁸ <https://www.blberza.com/pages/SecurityList.aspx?sh=DUIF+MANAGEMENT+SOLUTIONS+-+OAIF+AKTIVA+INVEST+FOND>

⁹ <https://www.blberza.com/pages/SecurityList.aspx?sh=DUIF+MANAGEMENT+SOLUTIONS+-+OMIF+VB+FOND>

¹⁰ <http://www.secrs.gov.ba/Ucesnici/EmitentiFull.aspx?id=2b5d44bf-490f-48d7-bbbf-9b8778fe66af>

¹¹ <http://www.secrs.gov.ba/Ucesnici/IFFull.aspx?id=0ca49668-b304-4829-aa07-8cae6324b2af&idDUIF=05dfcd52-4bee-477c-b031-2fcc556ac3be&idRE=00000000-0000-0000-0000-000000000000&idFondTip=c62e6a99-3912-4ee9-914e-d64b6d5c8f09>

¹² <http://www.secrs.gov.ba/Ucesnici/EmitentiFull.aspx?id=c27f0354-4120-41a7-a4de-5125a57f7e99>

¹³ <http://www.secrs.gov.ba/Ucesnici/IFFull.aspx?id=4a4a90b8-a552-49f5-9ba1-00e0e39d082f&idDUIF=05dfcd52-4bee-477c-b031-2fcc556ac3be&idRE=00000000-0000-0000-0000-000000000000&idFondTip=c62e6a99-3912-4ee9-914e-d64b6d5c8f09>

¹⁴ <http://www.secrs.gov.ba/Ucesnici/EmitentiFull.aspx?id=2d274aa4-4ac9-4149-8b37-d8315e8ad9cf>

¹⁵ <http://www.secrs.gov.ba/Ucesnici/IFFull.aspx?id=4dfdf7ae-5061-4dc8-ab6a-5cf20d47b8c8&idDUIF=05dfcd52-4bee-477c-b031-2fcc556ac3be&idRE=00000000-0000-0000-0000-000000000000&idFondTip=c62e6a99-3912-4ee9-914e-d64b6d5c8f09>

“Elektroprivreda Republike Srpske MP a.d. Trebinje, in no operational segment, uses natural gas nor has the license for any activity in the natural gas sector. Appointment of the management (director and managing directors) in these energy undertakings, as public companies, is within the scope of competence of the Supervisory Board of the energy undertaking, pursuant to the provisions of Article 7, point d of the Law on public companies.

The Shareholders Assembly of the Applicant appoints the Board of Directors of the undertaking, while the director and managing directors are appointed by the Board of Directors of the undertaking, pursuant to Articles 281 and 304 of the Law on undertakings and Articles 49 and 52 of the Statute of the undertaking, so that the public institutions of the Republic of Srpska have no direct competence, nor can independently make decisions in that regard.

Having had an insight in the document entitled Rule book on confidential information number UO/59-29-350/19 dated 15th April 2019, it was determined that the Applicant has the document adopted, regulating the term and type of confidential information which it possesses as the transport system operator, ways to protect its confidentiality as well as the sanctions in case of violation of provisions on protection of confidentiality related to the shareholders, representatives and members of Board of Directors, thus the requirement referred to in Article 37 paragraph 4 of the Gas Law has been met.

Pursuant to the above stated evidences, it was determined that in the ownership structure of the Applicant there are two shareholders with a considerable share, namely the share which is in the range from 20 to 50%, and in order to provide fulfillment of requirements referred to in Article 37 paragraph 2 of the Gas Law, it was necessary to prescribe the ways of making decisions in case there is a personal interest or relations with the related persons, and in a sense of provisions of Articles 31-35 of the Law on undertakings, it was decided as stated in point 2 of Rationale of this Decision.

Pursuant to the available documents, it was determined that there are the same persons appointed by the shareholders of the Applicant in the controlling body of the Applicant, and that are at the same time members of the controlling body in other energy undertakings dealing with natural gas. It was also determined that Mr. Milan Djukic is a member of Board of Directors of the Applicant, as well as of the Board of Directors of the energy undertakings in the Republic of Serbia JP “Srbija gas” a.d. Novi Sad and DP “Novi Sad Gas” d.o.o Novi Sad, dealing with the trade and supply with natural gas and other activities in the natural gas sector. The mentioned is contrary to the provision of Article 37 paragraph 2 of the Gas Law as well as to the provisions of Article 45 paragraph 2 of the Law on undertakings. Taking into account this fact, Regulatory Commission, in its 157th regular session, held on 22nd October 2020 made the conclusion to ask the Applicant to remove these discrepancies, what was done by the Document 01-334-21/19 dated 22nd October 2020. The Applicant was given the deadline till 13th November 2020 to remove the discrepancies determined.

Within the given deadline, and also until the moment of making a decision on certification, the Applicant did not remove the discrepancies determined, so it was necessary, pursuant to the provisions of Article 37 paragraph 3, points 1 and 2 and regarding paragraph 2 of this Article of the Gas Law and Article 45 paragraph 2 of the Law on undertakings, point 3 of Rationale of this Decision, determine that Mr. Milan Djukic is not authorized to use the voting right in the Board of Directors of the Joint-stock company for transport and natural gas transport system control “GAS PROMET” Pale. Taking this into consideration, decisions and legal matters within the scope of competence of the Board of Directors of

the Applicant, in which making or deciding Mr. Milan Djukic would participate, would be void in a sense of provisions of the Law on undertakings.

Taking into account that in the moment of making this decision, the Applicant, along with the previously stated limits regarding the Board of Directors member and ways of making decisions in case there is some personal interest or relation with the related persons, meets the prescribed conditions for certification regarding independence, and that is necessary in continuity to ensure the independence conditions, the Applicant is ordered to, in continuity, ensure the independence conditions of the transport system operator and without delay inform Regulatory Commission about all changes in the controlling bodies or legal representation, changes in the structure of the capital and decisions and ways of voting of the Shareholders Assembly. Regarding realization of independence of the Applicant, as the transport system operator in the Republic of Srpska, in continuity, Regulatory Commission will, pursuant to provision of Article 45 of the Gas Law, monitor fulfillment of the prescribed conditions of independence and unbundling of activities and it is ordered as stated in point 4 of Rationale of this Decision.

Pursuant to provision of Article 44, paragraph 11 of the Gas Law, and complying with the principle of transparency, this Decision, along with the Opinion of the Energy Community Secretariat, is published in the Official Gazette of the Republic of Srpska, at the website of the Regulatory Commission, as determined by Point 5 of Rationale of this Decision.

Legal lesson:

This Decision is final. The administrative dispute may be initiated against this Decision filing a complaint to the District Court in Trebinje within 30 days from the day of receipt of this Decision.

President

Vladislav Vladicic