This is an unofficial translation of Legal Act on the methodology for determining the regulatory framework of the natural gas system operator and represents merely an informative tool, regarding which the Energy Agency is not liable for damages or otherwise. For all purposes of interpreting and applying law to any legal issue or dispute, users should consult the original Slovene texts published In in the Official Gazette. Before using the translation, verify the existence of subsequent amendments of the act.

Pursuant to the second paragraph of Article 25o of the Energy Act (Official Gazette of the Republic of Slovenia, No. 17/14 and 81/15), the Energy Agency issues

**Legal Act**

**on the methodology for determining the regulatory framework of the natural gas system operator**

**Article 1**

(Subject)

(1) This Act shall set out the methodology for determining the regulatory framework, in which the natural gas system operator (hereinafter: system operator), subject to prior agreement of the Energy Agency (hereinafter: agency), shall determine the eligible costs and the resources to cover the eligible costs.

(2) With this Act are determined:

- the duration of each regulatory period;

- the types and criteria for determining and manner of calculation the elements of the regulatory framework;

- the types of eligible costs, including the regulated return, the criteria for determining the eligible costs and the method for determining them;

- the way of including incentives for obtaining European funds;

- the content of the system operator’s request for issuance an approval to the regulatory framework, network tariffs and tariff for other services (hereinafter: request for issuance the agency’s approval);

- the type, format and manner of transmission of data necessary to establish the regulatory framework;

- detailed rules and the way to identify deviations from the regulatory framework;

- the parameters of the individual quality dimensions, their reference values and the methods and standards for their calculation;

- minimum quality standards for different services of the system operator;

- the level, methods and deadlines for the payment of compensation for breaches of minimum quality standards.

(3) The aim of this Act is to ensure:

- the efficiency of the system operator with a view to ensuring an effective level of operation, investments and use of the natural gas system (hereinafter: system);

- the reliable, secure and efficient operation of the transmission or distribution of natural gas and other tasks of the gas system operator in accordance with the Energy Act (Official Gazette of the Republic of Slovenia, Nos 17/14 and 81/15);

- the sustainable economic performance of a gas system operator;

- a stable and predictable operating conditions for the system operator and a stable environment for investors or owners;

- economic regulation of the network charges in such a way as to promote the cost efficiency of a gas system operator;

- improving or maintaining the quality of natural gas services.

Article 2

**(Definitions)**

The terms used in this Act shall have the same meaning as the terms defined in Articles 4 and 159 of the Energy Act (Official Gazette of the Republic of Slovenia, No. 17/14, hereinafter: EA-1) and in addition, individual terms have the following meaning:

- imbalance settlement: means the settlement of revenues and costs or expenses of the gas TSO related to the balancing of the transmission system to ensure fulfilment of the principle of neutrality;

- operational balancing account: means an account between adjacent ‘TSOs’ used to eliminate the differences in flow orientation at the interconnection point to facilitate gas billing for network users connected to the relevant interconnection point (hereinafter: OBA);

- delivery point: means the location on the system where the gas is taken over or delivered, or the point where the measurements are carried out or in any other way the actual quantities of the off-take or delivery of the natural gas to or out of the system;

- assets: means intangible assets in use, which do not include goodwill, and tangible assets in use, which are a direct condition for the performance of the activities of a gas system operator;

- natural gas for balancing: means the amount of natural gas of the TSO, expressed in kWh, intended to balance daily imbalances between the take-off and delivered quantities of natural gas and to balance the transmission system and which do not include the natural gas for own use, basic filling, and gas-system imbalances;

- natural gas for own use: means the amount of natural gas, expressed in kWh, registered at metering points of the system or the operation of compressors and technological heating. The amount of natural gas for own use also includes registered quantities of blown-out natural gas;

- natural gas for the purpose of settlement according to OBA: means the amount of natural gas, expressed in kWh, allocated to the operational balancing account;

- natural gas for basic filling: means the amount of natural gas, expressed in kWh, for the basic filling of the system to put the system or part of the system into service for carrying out, the transmission or distribution of natural gas through the system;

- natural gas for gas-system imbalances: means the amount of natural gas, expressed in kWh, representing a surplus or deficit of energy and is the result of measurement uncertainty and losses, which are not registered by measuring devices.

**II REGULATORY PERIOD**

Article 3

**(Regulatory period)**

(1) The regulatory period shall be a period of three consecutive calendar years. The regulatory periods shall be sequenced and continuous.

(2) In the event of the start or cessation of operations of the system operator during the regulatory period, the actual duration of the regulatory period for the system operator shall start or end within the regulatory period.

**III METHOD OF REGULATION**

Article 4

(**Regulation methodology**)

(1) Regulation methodology is based on the system of regulated annual revenue and the system operator’s network charges, which determines cause and effect relationship of eligible cost and regulated annual revenues of the system operator and, on this basis, the obligation of the system operator to transfer the surpluses of network charges and to use them to cover eligible costs in the next regulatory period or the right of the system operator to take into account the deficit of network charges when determining the regulatory framework in subsequent years.

(2) The system operator’s regulated annual revenue shall be the revenue of each year of the regulatory period from the charged network charges for the use of the system and other revenues and is intended to cover the system operator’s eligible costs.

(3) The network charge is the sum that has to be paid by a network user for the use of the system and is calculated on the basis of the network charge items and the extent of the use of that system in accordance with the Act governing the methodology for calculating network charge for the system (hereinafter: methodology for calculating the network charge).

(4) Network charges are the sum of network charges for individual years of the regulatory period.

(5) The methodology of regulated annual revenue and network charges of the system operator is based on incentives dependent on the achievement of lower actual costs from recognised eligible costs *(PUS t)*, from the achievement of incentives for acquired European funds granted free of charge, and from the achievement of a 25 % difference between revenues and costs and the expenditure incurred by the TSO on the purchase of additional capacity under the oversubscription and buy-back scheme in accordance with Article 52 of this Act.

Article 5

(**Planned network charges**)

The system operator shall determine in the regulatory period the planned network charges for each year of the regulatory period (*OMR t*) as follows:

  [EUR],

where the codes mean:

*OMRt*  planned network charges for each year of the regulatory period, in EUR;

*USt* planned eligible costs for each year of the regulatory period, determined in accordance with the provisions of Articles from 9 to 33 of this Act, in EUR;

*DPt* planned other revenues for each year of the regulatory period, determined in accordance with the provisions of Articles from 36 to 39 of this Act, which have been previously reduced by excluded revenues from Article 37 of this Act, in EUR;

*ΔROT-1* the part of the deviations from the regulatory framework for the previous years *(ΔRO)* that has not yet been taken into account by the system operator when setting the regulatory framework for the previous years, which is reflected in the surplus or deficit from network charges and is taken into account in the setting of the regulatory framework for the regulatory period in the amount determined in accordance with Article 58 of this Act, in EUR;

*tROT* duration of the regulatory period, which is determined in accordance with Article 3 of this Act, expressed with number of calendar years;

 planned deficit of network charges for each year of the regulatory period, which, for all the years of the regulatory period, shall not exceed, in total, the amount of the planned depreciation cost of the regulatory framework for this regulatory period and determined in accordance with Article 58 of this Act, in EUR;

*t* year of the regulatory period*.*

IV ELEMENTS OF REGULATORY FRAMEWORK

Article 6

(**Regulatory framework**)

(1) A regulatory framework is a value definition of planned eligible costs of the system operator and planned resources to cover the planned eligible costs of the system operator by individual years of the regulatory period.

(2) On the basis of the methodology of regulated annual revenue and network charges the system operator shall determine the regulatory framework in a way that with the planned regulated annual income for the regulatory period, surplus of the network charges from previous years and the planned deficit of network charges up to a maximum amount of the planned depreciation costs, provides covering up to the amount of planned eligible costs for the regulatory period and the corresponding deficit of network charges from previous years.

Article 7

(**Elements of the regulatory framework**)

(1) Elements of the regulatory framework are:

- eligible costs;

- network charges;

- other revenues from the performance of the activities of the system operator;

- the surplus or deficits of the network charges from previous years;

- balancing.

(2) The elements of the regulatory framework are designed and recognised on the basis of the criteria for determining the specific elements of the regulatory framework established by this Act. The planned elements per individual year of the regulatory period shall be determined by the system operator in accordance with this Act and the approval of the agency prior to the start of the regulatory period for the entire regulatory period. The approved elements of the regulatory framework for each year of the regulatory period shall be determined by the system operator after the end of each year of the regulatory period and shall be approved by the agency in accordance with the sixth paragraph of Article 255(6) of the EA-1.

(3) Eligible costs under this Act shall consist of operating and maintenance costs, depreciation costs and regulated return on assets.

(4) The resources to cover the planned eligible costs under this Act are network charges, other revenues from the implementation of the activities of the system operator, the surplus or deficit of network charges from previous years, and the planned deficit of network charges at the maximum of the planned depreciation costs, in accordance with Article 58 of this Act.

(5) To prevent rapid change in network charge tariffs between individual years of the regulatory period the regulatory framework also determines the settlement of network charge tariffs by individual years of the regulatory period. The settlement of network charge tariffs between individual years of the regulatory period shall be performed in a way that:

- the amount of network charges by considering the planned use of the system and the planned network charge tariffs, determined in accordance with the methodology for calculating the network charge, and

- the amount of the part of eligible costs that are covered by the network charges

shall be for the regulatory period before and after the settlement the same.

Article 8

(**Geographical area**)

(1) The system operator must establish the regulatory framework for the regulatory period for the geographical area in the manner set out in this Act.

(2) The geographical area for the TSO shall be the entire territory of the Republic of Slovenia.

(3) The geographical area for a DSO is the area of all local communities for which it has acquired the right to carry out an optional local service of general economic interest.

(4) Notwithstanding the preceding paragraph, the territory of a local community whose distribution system or part thereof is not connected to a transmission system or a distribution system in the territory of the Republic of Slovenia shall be regarded as a separate geographical area.

**V TYPES AND CRITERIA FOR DETERMINATION AND METHOD FOR THE CALCULATION OF ELEMENTS OF THE REGULATORY FRAMEWORK**

**1 Eligible costs**

Article 9

**(Eligible costs)**

(1) The eligible costs of the regulatory period *(US RO)* are determined as the sum of the eligible costs for each year of the regulatory period *(US t)*.

(2) The eligible costs for each year of the regulatory period and for the entire regulatory period shall be determined by the system operator in the regulatory framework, which is submitted to the agency for an approval in accordance with this Act.

Article 10

(**Determination of eligible costs**)

(1) The system operator of shall determine the eligible costs for each year of the regulatory period *(US t)* as follows:

**  [EUR],

where the codes mean:

*USt* eligible costs for each year of the regulatory period, v EUR;

*SDVt* annual operating and maintenance costs, in EUR;

*AMt* annual depreciation costs, v EUR;

*RDSt* annual regulated return on assets, in EUR;

*t* year of the regulatory period.

(2) When establishing the eligible costs, the system operator must in its request for granting agency’ approval take into account:

- only those rates that are a direct condition for the performance of the activities of the system operator, a result of activities of the system operator, do not have a private character and comply with usual commercial practice, technical standards, and requirements under Acts governing the system operating instructions;

- dedicated use of rates;

- economical and efficient use of rates.

Article 11

**(Leased assets)**

(1) If the gas system operator is not the owner of the system or part of it and uses it to perform the activities of the system operator, must with the system owner conclude a contract to regulate all issues relating to the application of the system, including the determination of the costs of using the system, which shall represent the rental cost and other costs of using the system for the purposes of this Act.

(2) Under this Act, when determining the eligible costs in the part relating to the determination of the operating and maintenance costs *(SDVt)*, the operator of the system shall not take into account the rental costs. When determining the eligible costs under this Act, the system operator for the leased assets shall determine the depreciation costs for the leased assets and the regulated return on the leased assets.

**1.1 Operating and maintenance costs**

Article 12

(**Operating and maintenance costs**)

(1) Operating and maintenance costs *(SDV)* are costs and expenses incurred in connection with the operating and maintenance of the system in accordance with the regulations, technical standards and requirements of the Acts governing system operating instructions.

(2) Operating and maintenance costs shall not be the costs which are connected:

- with costs of natural gas for own use, natural gas for gas-system imbalances, and natural gas for the purpose of settlement according to OBA to the extent that it exceeds two percent of transferred gas through the transmission system or quantities of natural gas delivered to the distribution system;

- with the use of the transmission system related to the entry points of transmission system in the Republic of Slovenia and exit points from the transmission system from the Republic of Slovenia;

- rental costs for the system, if the system operator is not the owner of the system or part of it;

- to wages and other types of remuneration for workers and to members of management and supervisory bodies on the basis of performance of the business (e.g. the thirteenth salary, business performance-related pay, Christmas bonus, a reward for business performance and similar), together with adjacent duties;

- supplementary pension insurance with adjacent duties;

- bonuses and other similar employment payments, including duties as defined under tax law;

- with grants;

- 50% of the costs incurred by the system operator in connection with the acquisition of new customers and for the promotion of reliability and security of natural gas supply. If the actual amount of the cost of advertising exceeds 0,3 per cent of the operator’s net revenue from the sale, this overspending for advertising shall also not be recognised as operating and maintenance costs;

- sponsorships;

- capitalized own products and services to the extent of disclosed revenues for these purposes;

- financial expenses for revaluation, except for financial expenses as referred to in Article 13 of this Act;

- repayment of unduly acquired European funds granted free of charge;

- costs arising from one-off events;

- payment of compensation referred to in Article 260 of the EA-1;

- which are not recognised in accordance with the tax legislation.

(3) Costs and expenditure not deductible under tax legislation shall be assessed in accordance with the regulation governing taxes and, for the purposes of this Act, items relating to:

- private life;

- costs of forced collection of taxes and other duties;

- penalties imposed by the competent authority;

- entertainment costs up to 50%; and

- salaries, other payments related to employment and salary compensations for period of absence from work due to annual leave and other absences from work of managers, procurators, and workers with special authorizations and responsibilities, that exceed the amount charged in accordance with the law or contract.

(4) Within the operating and maintenance costs *(SDV)* are separately considered the controlled operating and maintenance costs *(NSDV)* and uncontrolled operating and maintenance costs.

Article 13

**(Uncontrolled operating and maintenance costs)**

(1) Uncontrolled operating and maintenance costs *(NNSDV)* of the system operator are costs related to:

- consumed natural gas for own use, for system imbalances and for balancing settlement according to operational balancing account up to 2 per cent of transferred gas through the transmission system or delivered quantities to the distribution system;

- fee for the use of construction land or the levy to replace this fee;

- membership fees, where membership is laid down by law or EU regulations;

- financial expenses for revaluation related with claims on system users’ receivables from network charges;

- financial expenses for revaluation incurred by assets in the event that assets are related with energy infrastructure and that such expenses are attributable to bankruptcy, liquidations, enforcement proceedings or the relocation of existing energy infrastructure for justified reasons.

(2) The uncontrolled operating and maintenance costs *(NNSDV)* of the TSO shall, in accordance with this Act, also be considered as costs or expenditures relating to:

- purchase or sale of natural gas for balancing and

- compensation of the TSO for carrying out the regulatory tasks of the agency.

(3) As uncontrolled operating and maintenance costs *(NNSDV)* of a DSO are in accordance with this Act also considered costs or expenditures for the use of the transmission system relating to the exit points from the transmission system in the Republic of Slovenia.

Article 14

(**Controlled operating and maintenance costs**)

Unless otherwise provided in this Act, the controlled operating and maintenance costs *(NSDV)* shall consist of:

- costs of material;

- costs of service;

- labour costs;

- other operating expenses; and

- other operating expenses.

Article 15

(**Determination of operating and maintenance costs**)

(1) The system operator shall set the operating and maintenance costs for each year of the regulatory period *(SDVt)* as follows:

 ** [EUR],

where the codes mean:

*SDVt* annual operating and maintenance costs, in EUR;

*NSDVt-1* controlled operating and maintenance costs of the preceding year, in EUR;

*Ut* performance factor for each year of the regulatory period determined in accordance with Article 20 of this Act;

*NNSDVt-1* uncontrolled operating and maintenance cost of the preceding year, v EUR;

*NIt* factor of planned annual inflation rate determined in accordance with Article 19 of this Act;

*t* year of the regulatory period.

(2) The system operator must in the regulatory framework separately disclosed the controlled operating and maintenance costs *(NSDV)* and uncontrolled operating and maintenance costs.

Article 16

(**Basis for determination of controlled operating and maintenance costs**)

(1) In determining the controlled operating and maintenance costs *(NSDV)* for the first year of the regulatory period *(yeart),* the system operator as the controlled operating and maintenance costs shall take into account their values from the regulatory framework for the last year of the preceding regulatory period (ROT-1), to which agency gave its approval, increased by planned uncontrolled operating and maintenance costs related to the new tasks of the system operator under the law or other regulations, which for this regulatory period *(ROT)* in accordance with Article 13 and of Article 50(2) of this Act no longer meet the criteria for the recognition to be uncontrolled operating and maintenance costs *(NNSDV)*. The amount of the increase shall be determined as the average value, calculated in accordance with Article 17(1) of this Act.

(2) In the subsequent years of the regulatory period, the controlled operating and maintenance costs *(NSDV)* shall be determined in accordance with Article 15 of this Act.

Article 17

(**Basis for determination of uncontrolled operating and maintenance costs**)

(1) In determining the uncontrolled operating and maintenance costs *(NNSDV)* for the first year of the regulatory *(yeart),* the system operator as the uncontrolled operating and maintenance costs *(NNSDVt-1)* shall take into account their values from years *t-5*, *t-4* in *t-3* before the beginning of the regulatory framework established under the provisions of this Act.

(2) Notwithstanding the preceding paragraph, when calculating the average value of these realised costs of years t-5, t-4 and t-3 before the start of the regulatory period established pursuant to the provisions of this Act, the system operator shall not take into account items that are included in the calculation of controlled operating and maintenance costs *(NSDV)* in accordance with Article 16(1) of this Act.

(3) Notwithstanding the first and second paragraph, in determination of the part of uncontrolled operating and maintenance costs of the preceding year *(NNSDVt-1*), referred to in the second indent of paragraph 2 of Article 13 of this Act, the system operator shall take into account the value from the adopted financial plan of the agency in accordance with Article 401 of the EA-1.

(4) In the subsequent years of the regulatory period, the uncontrolled operating and maintenance costs *(NNSDV)* shall be determined in accordance with Article 15 of this Act.

Article 18

**(Adjustment factor)**

(1) In determining the part of the operating and maintenance costs of each year of the regulatory period relating to the controlled operating and maintenance costs associated with:

- system maintenance costs,

- material for system maintenance and

- the work up to 50 per cent,

the system operator must adjust the amount of these costs by taking into account the adjustment factor.

(2) The adjustment factor to be taken into account by the system operator when adjusting the costs referred to in the preceding paragraph shall be calculated by taking into account the determined factor of the change in length of transmission or distribution network length (hereinafter: network) in use. For the purpose of establishing eligible costs under this Act, the adjustment factor may not be higher than 1.0300 and set at four decimal places.

(3) The system operator shall determine factor of the change in the network in use on the basis of planned qualified investments in accordance with Article 32 or Article 33 of this Act and reflects the change in planned length of the network on 31 December of each year of the regulatory period in relation to the planned network length for the preceding year. For the first year of the regulatory period, data on the planned length of the network for the preceding *(year t-1)* shall be calculated as the network length on 31 December of year *t-2*, increasedby planned length of operational investments in year *t-1*.

Article 19

**(Planned annual inflation factor)**

(1) In determining the operating and maintenance costs for each year of the regulatory period the system operator shall take into account the factor of planned annual inflation *(NIt)*, which is determined by taking into account the data on the planned inflation rate from Spring forecast of economic trends, published by the Institute of Macroeconomic Analysis and Development of the Republic of Slovenia (hereinafter: IMAD) in the year before the beginning of the regulatory period *(year t-1).*

(2) If IMAD in spring forecast referred to in the preceding paragraph does not publish the planned inflation rate for all years of the regulatory period, in the calculation of the factor of planned annual inflation for the missing year is taken into account the published data on planned inflation rate year for the last year from the forecast from the preceding paragraph.

(3) If IMAD in the year before the beginning of the regulatory period *(year t-1)* by the deadline for submitting the request for issuing the agency’s approval under Article 41 of this Act does not publish the Spring forecast, the calculation of the planned annual inflation factor for each year of the regulatory period shall be taken into account public information on the planned inflation rate for an average year in accordance with the latest published Autumn forecast of economic trends.

Article 20

(**Performance factor**)

(1) In determining the controlled operating and maintenance costs for each year of the regulatory period, the system operator shall take into account the increase in performance factor, which is reflected in the performance factor for each year of the regulatory period *(Ut).* The performance factor reflects the requirement to reduce eligible costs of the system operator.

(2) Performance factor for each year of the regulatory period *(Ut)* for the system operator is determined by the agency’s decision no later than three months before the annual capacity auctions, which are specified in the auction calendar pursuant to Article 11 of Commission Regulation (EU) 2017/459 of 16 March 2017 establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation (EU) No 984/2013 (OJ L 72, 17.32017, p. 1; hereinafter Regulation (EU) 2017/459), in the year before the beginning of the regulatory period.

(3) The performance factor for each year of the regulatory period *(Ut)* for the DSO shall be established by decision of the agency no later than by 30 April of the year preceding the start of the regulatory period.

(4) The agency shall determine the performance factor for each year of the regulatory period *(Ut)* as follows:

 **

having regard to:

- planned overall productivity of the economy *(USplt)*, defined as labour productivity growth rate (GDP per employee) from Spring forecast of economic trends published by IMAD in the year preceding the start of the regulatory period (year t-1); and

- the individual performance of the system operator *(UIndt)* on the basis of the results of the analysis of the effectiveness according to the technical methods (hereinafter: benchmarking).

(5) If IMAD, in the Spring forecast does not publish the planned overall productivity of the economy for all years of the regulatory period, the agency in determining the performance factor for each year of the regulatory period *(Ut),* relating to the overall productivity of the economy *(USplt)*, for the missing year shall take into account the published data on planned overall productivity of the economy for the latest published year from the forecast referred to in the preceding paragraph.

(6) For the system operator, the agency shall take into account the individual performance factor of the system operator *(UIndt)* on the basisof the benchmarking results and by reference to the criteria listed in Annex 1 of this Act, which is an integral part of this Act.

**1.2 Depreciation costs**

Article 21

(**Determination of the depreciation costs**)

(1) The system operator shall determine the depreciation costs for each year of the regulatory period

*(AMt)* only for the assets that are a direct condition for the performance of the activities of the system operator as follows:

 ** [EUR],

where the codes mean:

*AMt* annual amount of depreciation costs, in EUR;

*NVt* purchase value of individual assets, determined in accordance with Article 23 of this Act, in EUR;

*ast* depreciation rate for individual assets, determined in accordance with Article 22 and 24 of this Act;

*t* year of the regulatory period.

(2) The system operator must in the regulatory framework separately disclose depreciation costs for assets owned *(AMtL)* and for leased assets *(AMtN)*.

Article 22

(**Depreciation costs**)

(1) The system operator shall determine the depreciation costs by taking into account the cost of assets determined in accordance with Article 23 of this Act, the depreciation rate determined with due consideration given to useful life of an individual assets, and the straight-line method of amortization.

(2) In determining the depreciation costs, the system operator shall, in accordance with this Act, take into account depreciation rates that reflect the useful life of each asset and are not higher than the tax recognised.

(3) If the system operator for commercial needs calculates the depreciation costs at depreciation rates that are lower than the tax-deductible depreciation rates, must in determining of the depreciation costs in accordance with this Act take into account the lower depreciation rates.

(4) If the system operator at assets within the useful life span establishes an uneven use of assets, the method of produced units according to the expected pattern of economic benefits from assets shall be used.

Article 23

(**Purchase value of assets**)

(1) In determining the depreciation costs, the system operator must take into account the purchase value of the assets. The purchase value of the assets pursuant to this Act represent the purchase value of these assets at the system operator or an owner of the system at the time of acquisition, reduced by any impairment of those assets as determined by the accounting standards.

(2) However, the value of the assets determined in accordance with the preceding paragraph may not, for the purposes of this Act, be higher than value of those assets at the time of their initial qualification for use by the first operator of the system or the first owner of the system.

(3) Under this Act, the value of the assets does not include an increase in the value of the assets as a result of revaluation due to revaluation of assets.

(4) If the value of the assets is reduced over the useful life of the assets, the system operator shall take into account the purchase value of the assets.

(5) The value of the assets to be qualified by individual years of the regulatory period shall be determined in accordance with the plan of qualification of the assets from the investment plan of the system operator referred to in Article 32 or Article 33 of this Act and taking into account the criteria laid down in this Act.

Article 24

(**Depreciation rates**)

Notwithstanding the recording of those parts of the system which relate to construction works in the accounting books of the system operator or the owner of the system, for the purpose of determining the depreciation costs under this Act, they shall be treated as construction work or parts of construction works and take into account the tax recognised depreciation rates for construction works or parts of construction works and for which the highest depreciation rates are tax deductible depreciation rates for construction works or for parts of construction works.

**1.3 Regulated return on assets**

Article 25

(**Regulated return on assets**)

(1) In determining the regulated return on assets, the system operator shall take into account only the assets which are a direct condition for the performance of the activities of the gas system operator. According to this Act, assets which are not a direct condition for the performance of the activities of the system operator shall be residential, holiday and museum facilities, including equipment and land, works of art, compressed natural gas refuelling points and similar assets.

(2) The regulated return on assets is also not recognised for the assets or parts of assets:

- in construction and production;

- in an amount of funds free of charge acquired by individuals and legal persons governed by private law;

- financed by European funds, other grants from the State, local authorities and legal persons governed by public law; and

- acquired by paying disproportionate costs for connection to the system.

(3) The regulated return on assets shall not also be recognised for the parts of assets that relate to the accounting value of the part of the assets in relation to the unrecognised cost of purchase value referred to in Article 23(1)(3) of this Act.

Article 23

(**Determination of regulated return on assets**)

(1) The system operator shall determine the regulated return on assets for each year of the regulatory *period (RDSt)* as follows:

  [EUR],

where the codes mean:

*RDSt* annual regulated return on assets, in EUR;

*PVSt* average regulatory value of assets, v EUR;

*TPSK* weighted average cost of capital before tax before tax *(WACC – Weighted Average Cost of Capital)*, in percentage;

*t* year of the regulatory period.

(2) The system operator must in the regulatory framework separately disclose the regulated return on assets owned *(RDStL)* and leased assets *(RDStN*).

Article 27

**(Determination of** **the average regulatory value of assets)**

For the calculation of the regulated return on assets, the system operator shall take as a basis the average regulatory value of assets (*PVSt*) for each year of the regulatory period, which is calculated as follows:

 [EUR],

where the codes mean:

*PVSt* average regulatory value of assets, in EUR;

*OVSt* opening value of the regulatory base of assets, in EUR;

*ZVSt* closing value of the regulatory asset base, in EUR;

*t* year of the regulatory period.

Article 28

**(Opening value of the regulatory asset base)**

(1) In determining the opening value of a regulatory asset base *(OVSt)* for the first year of the regulatory period, the system operator shall take into account the actual accounting values of assets from the balance sheet on 31 December of the year before last before the beginning of the regulatory period *(year t-2)*, reduced by accounting values of those assets to which un accordance with Article 25 of this Act the regulated return on assets is not recognised, and amended for the year before the start of the regulatory period *(year t-1)* in the manner set out in Article 29 of this Act.

(2) In calculating the opening value of the regulatory asset base for the second and third year of the regulatory period *(OVS t)*, in accordance with this Act the calculated closing value of assets *(ZVSt)* from the preceding year of the regulatory period shall be taken into account.

Article 29

**(Closing value of the regulatory asset base)**

The closing value of the regulatory asset base for (*ZVSt*) each year of the regulatory period shall be calculated by the system operator as follows:

  [EUR],

where the codes mean:

*ZVSt* closing value of a regulatory asset base, in EUR;

*OVSt* opening value of the regulatory base of assets, determined in accordance with Article 28 of this Act, in EUR;

*NNt* value of qualified assets in a year of the regulatory period, determined in accordance with Article 32 or 33 of this Act, in EUR;

*AMt* annual amount of depreciation costs, calculated in accordance with the provisions of Articles from 21 to 24, in EUR;

*ISt* value of excluded assets from the accounting books for this year of the regulatory period, in EUR;

*SbRDSt* accounting value of assets or part of assets qualified for use in this year of the regulatory period *(NNt)* and to which no regulated return on assets is recognised in accordance with Article 25 of this Act, in EUR;

*t* year of the regulatory period.

Article 30

**(Weighted average cost of capital)**

The weighted average pre-tax cost *(TPSK)* shall be determined by the agency as follows:

 [%],

where the codes mean:

*TPSK* weighted average pre-tax costof capital (WACC), in per cent;

*DLK* capital share, which is equal to the ratio of: (capital value)/(capital value + capital debt), in per cent;

*SLK* cost of equity, in per cent;

*EDS* effective tax rate resulting from the entity’s economically viable or tax optimal business, in share;

*DDK* share of capital debt, which is equal to the ratio: (capital value)/(capital value + capital debt) in per cent;

*SDK* cost of debt, in per cent.

Article 31

**(Determination of** **weighted average cost of capital)**

The system operator in its application for the agency’s consent shall take into account weighted average pre-tax cost of capital *(TPSK)* in the maximum amount as set in Annex 2, which is an integral part of this Act.

**1.4 Impact of the investment plan on the regulatory framework**

Article 32

**(Investment plan of the TSO)**

(1) In the procedure for approving the TSO’s network development plan, of which the three-year TSO’s investment plan is an integral part, the agency in the year of granting approval on the basis of this Act shall examine and assess the investment plan also in connection with the procedure of determining the regulatory framework of the system operator.

(2) If all TSO’s investments taken into account would have an excessive impact on network charges, the agency during examination and evaluation of the investment plan shall impose on the TSO that when determining the planned eligible costs, which are related to the planned depreciation costs and planned regulated return on assets, for the regulatory period takes into account only certain investments in the priority order from the TSO’s investment plan, which are going to be qualified in each year of the regulatory period.

Article 33

**(Investment plan of a DSO)**

(1) In the procedure for approving the DSO’s investment development plan, the agency shall examine and assess the investment plan of a DSO.

(2) If all the DSO’s investments taken into account would have an excessive impact on network charges, the agency during examination and evaluation of the investment plan shall impose on the DSO that when determining the planned eligible costs, which are related to the planned depreciation costs and planned regulated return on assets, for the regulatory period takes into account only certain investments in the priority order from the DSO’s investment plan, which are going to be qualified in each year of the regulatory period.

**2 Resources to cover eligible costs**

Article 34

**(Resources to cover eligible costs)**

(1) Resources to cover eligible costs of the regulatory period *(VRO)* are determined as the sum of covering eligible costs for each year of the regulatory period *(Vt)*.

(2) Resources to cover eligible costs for each year of the regulatory period in the regulatory period as a whole are determined by the system operator in the regulatory framework and submitted to the agency in accordance with this Act.

Article 35

**(Resources to cover eligible costs)**

When setting the regulatory framework for each year of the regulatory period, the system operator shall take into account the resources to cover the eligible costs of that year *(Vt)*, determined as follows:

 [EUR],

where the codes mean:

*Vt* resources to cover eligible costs for each year of the regulatory period, in EUR;

*RPt* regulated annual income of the system operator from carrying out activities of the system operator for each year of the regulatory period determined in accordance with Article 36 of this Act, in EUR;

*ΔROT-1* the part of the deviations from the regulatory framework for previous years *(ΔRO)* that has not been taken into account by the system operator when setting the regulatory framework for previous years and which is reflected in the surplus or deficit of the network charges and is taken into account in determining the regulatory framework for the regulatory period in accordance with Article 58 of this Act, in EUR;

*tROT* duration of the regulatory period determined in accordance with Article 3 of this Act, expressed with the number of years;



 planned deficit of the network charges for each year of the regulatory period, which for all years of the regulatory period in total shall not exceed the planned amount of depreciation from the regulatory framework for that regulatory period and it is determined in accordance with Articles 40 and 58 of this Act, in EUR;

*t* year of the regulatory period.

Article 36

**(Determination of regulated annual income)**

(1) Regulated annual income of the system operator for each year of the regulatory period *(RP t)* shall be determined in accordance with this Act as follows:

  [EUR],

where the codes mean:

RPt regulated annual income of the system operator for each year of the regulatory period, in EUR;

OMRt network charges for each year of the regulatory period, in EUR;

DPt other incomes previously reduced by excluded incomes from Article 37 of this Act, in EUR;

t a year of the regulatory period.

Article 37

**(Excluded incomes)**

 In accordance with this Act the following incomes shall be regarded as excluded incomes:

-financial incomes;

-incomes from capitalized own products and services, and

-incomes that result from the provisions of paragraphs 2 and 3 of Article 12 of this Act previously non-recognized operating and maintenance costs, but up to a maximum of these previously non-recognized costs.

Article 38

**(Determination of other incomes)**

In setting the regulatory framework, the system operator shall determine other incomes for each year of the regulatory period *(DPt)* as follows:

 **[EUR],

where the codes mean:

*DPt* other incomes for each year of the regulatory period, in EUR;

*DPt-1* other incomes of the preceding year determined in accordance with Article 39 of this Act, in EUR;

*NIt* factor of the planned annual inflation determined in accordance with Article 19 of this Act;

*t* a year of the regulatory period.

Article 39

**(The basis for the determination of other incomes)**

(1) As other incomes of the preceding year *(DPt-1)* for the first year of the regulatory period, the system operator shall take into account the average value of actual other incomes of years t-5, t-4 and t-3 before the beginning of the regulatory period, which are determined on the basis of this Act.

(2) In the following years of the regulatory period, other incomes *(DP)* are determined in accordance with Article 38 of this Act.

Article 40

**(Planned deficit of the network charges for the regulatory period)**

If the system operator is for the regulatory period unable to provide such modification of network charge tariffs that ensure the coverage of the total planned eligible depreciation cost, when determining the part of the regulatory framework, which relates to the determination of planned resources for covering eligible costs of the regulatory period, the system operator shall plan the deficit of the network charges for the regulatory period *(nΔROT)* up to the amount of planned depreciation cost for this regulatory period.

**VI REQUEST FOR THE AGENCY’S APPROVAL**

Article 41

**(Request** **for** **the agency’s approval)**

(1) The TSO shall submit the request for the agency’s approval no later than 75 days before the deadline for annual yearly capacity auctions, which are specified in the auction calendar under Article 11(4) of the Regulation No 2017/459 in the year before the beginning of the regulatory period *(year t-1)*.

(2) The DSO shall submit the request for the agency’s approval no later than 15 July of the year preceding the regulatory period *(year t-1)*.

(3) The system operator shall submit the request for the agency’s approval on electronic forms prepared by the agency at the latest two months before the expiry of the deadline from the preceding paragraphs and which are containing the following information and disclosures:

- an indication of the regulatory period for which the system operator has determined the regulatory framework and for which is submitting the request for the agency’s approval;

- an indication of the geographical area for which the system operator is determining the regulatory framework;

- information and disclosures necessary for the calculation of planned operating and maintenance costs, separately for the planned operating and maintenance costs and uncontrolled operating and maintenance costs, and the calculation of those items;

- information and disclosures necessary for the calculation and determination of the investments impact on the network charges from the system operator investment plan in order of priority;

- information and disclosures necessary for the calculation of the planned depreciation costs of the assets for the year of submission of the request for the agency’s approval and for individual years of the regulatory period and for the regulatory period, and for the calculation of these items;

- information and disclosures necessary for the calculation of planned average regulatory assets base for the year of submission of the request for the agency’s approval and individual years of the regulatory period, and for the calculation of planned regulated return on assets for individual years of the regulatory period and the regulatory period, and for the calculation of these items;

- information and disclosures necessary for the calculation of other incomes for individual years of the regulatory period and for the regulatory period, and for the calculation of these items;

- information and disclosures necessary for the calculation of the network charges for individual years of the regulatory period, network charge tariffs items for individual years of the regulatory period in accordance with the methodology for calculating of the network charges, and for the calculation of these items;

- information and disclosures about that part of deviation from the regulatory framework for the previous years that has not yet been taken into account by the system operator at setting the regulatory framework for the previous years and which is reflected in the surplus or deficit of the network charges and is taken into account in the setting of the regulatory framework for the next regulatory period *(ΔROT-1)*;

- information and disclosures about the planned deficit of the network charges for each year of the regulatory period *(**n∆ROTt)* and for the regulatory period*(n∆ROT);*

- information and disclosures about the planned booked capacity and the transferred quantities of the TSO by individual entry and exit points for the year of the submission of the request for the agency’s approval, and for individual years of the regulatory period or about the planned number of consumption points, booked capacity and distributed quantities by individual consumption groups as well as the planned number and type of metering devices as of 31 December for a DSO for the year of the submission of the request for the agency’s approval and for individual years of the regulatory period;

- information and disclosures about the financial impact of the network charges to the transmission system users, separately for entry and exit points, or the financial impact of the network charges to the transmission system users, separately for consumption groups;

- information and disclosures necessary for the calculation and determination of the network charge tariffs for individual other services, which are determined by the system operator in accordance with the methodology for calculating the network charge.

(4) The forms in electronic format referred to in the preceding paragraph include also the regulatory framework, network charge items and items for other services identified by the system operator in the request for the agency’s approval, as well as a statement on the correctness of the data transmitted and consistency of the process of establishing the regulatory framework, network charge tariffs and tariffs for other services with regulations governing the activity of the system operator as a service of general economic interest.

(5) The system operator shall accompany the request for the agency’s approval with the investment plan in an electronic form in accordance with Article 32 or Article 33 of this Act.

(6) The system operator shall submit to the agency a request for the agency’s approval by sending to the agency electronic forms to its email address and by means of regular mail documents signed by the eligible person of the system operator in accordance with fourth and fifth paragraph.

Article 42

**(Request in the case of the first implementation of activity)**

(1) If during the regulatory period the system operator engages in the activity of the system operator for the first time, it shall submit the request for the agency’s approval during the regulatory period and shall in the regulatory framework define the eligible costs and resources for covering eligible costs for the regulatory period on the basis of the planned items for each year of the regulatory period by taking into account the criteria from this Act only for the remaining period until the end of the continuous period under this Act.

(2) In the event of the first implementation of the activity of the system operator during the regulatory period, the system operator must submit the request for the agency’s approval at least five months before the planned implementation of the transmission or distribution of natural gas.

Article 43

**(Request in the case of delegation of the activity)**

(1) If during the regulatory period the implementation of the system operator’s activity is delegate from the existing to the new system operator, the new system operator in the regulatory framework shall determine eligible costs and resources for covering eligible costs for the regulatory period on the basis of data that were the basis for determination of the regulatory framework for this regulatory period of the existing system operator and to which the agency gave its approval, that is in proportionate values with respect to the period from the month of the scheduled start of implementation until the month of the end of that year of the regulatory period and for the remaining years of the regulatory period until the end of the regulatory period.

(2) The existing system operator shall be obliged to forward to the new system operator and the agency the calculation and determination of the eligible costs and resources for covering eligible costs from the regulatory framework to which the agency has given its approval and which is delegated to the new system operator.

(3) In case of delegating the activity of the system operator during the regulatory period, the new system operator must file a request for the agency’s approval at least two months before the expected beginning of the transmission or distribution of natural gas.

Article 44

**(Request in the case of the planned cessation of activity)**

(1) The system operator, which in accordance with this Act in the time of submitting the request for the agency’s approval already has information and supporting documents that it will cease the activities of the system operator during the regulatory period, in the regulatory framework shall determine the eligible costs and resources for covering eligible costs from the first year of the regulatory period up to and including the year of cessation of activity of the system operator. The system operator for the year of cessation of the activities of the system operator shall determine the values in the regulatory framework in proportionate values from the beginning of the year up to and including the month of the anticipated termination of the operation.

(2) If, at the time of the request for the agency’s approval, the system operator does not have the information and supporting documents that it will cease the activities of the system operator during the course of the regulatory period and ceases to operate as the system operator during the regulatory period, that fact shall be taken into account in establishing the deviations from the regulatory framework in accordance with the provisions of this Act.

Article 45

**(Request for issuing an approval due to changed circumstances)**

(1) If, during the regulatory period, the system operator identifies such a difference between the identified surplus or the deficit of network charges for each year of the regulatory period *(Δrot)* compared to the planned network charge for each year of the regulatory period () that, without a change in the regulatory framework for that regulatory period the difference cannot be compensated in the subsequent regulatory periods, it may submit a new request for the agency’s approval during that regulatory period, if the difference established is the result of an unexpected change in the scale of the system’s use or other unexpected circumstances that arose after the agency’s approval for that regulatory period was granted and events or circumstances which could not have been foreseen and could not have been avoided.

(2) The system operator shall also attach supporting documents of unexpected change in the extent of the use of the system, or other unexpected circumstances referred to in the preceding paragraph to the new request for the agency’s approval.

Article 46

**(Assessment of the request)**

In the procedure of issuing the approval, the agency shall assess the compliance in the regulatory framework determined eligible costs, the resources of eligible costs, the setting and the settlement of the network charge tariffs and determination of tariff for other services in accordance with this Act and the methodology for calculating network charges.

**VII RULES AND MANNERS TO IDENTIFY DEVIATIONS FROM THE REGULATORY FRAMEWORK**

**1 Calculation of deviations from the regulatory framework for each year of the regulatory period**

Article 47

**(Business monitoring and supervision)**

(1) On the basis of annual business data of the system operator, the agency shall monitor the business of the system operator and supervise the application of the provisions of this Act.

(2) The agency shall supervise the use of the regulated annual income method and the network charges in the decision-making process on the granting of the agency’s approval and in the procedure for establishing deviations, where in the event of a different deviation from the regulatory framework for each year of the regulatory period as established by the system operator, a specific decision is issued in the event of a different deviation from the regulatory framework.

Article 48

**(Establishing deviations for each year)**

The system operator on the basis of annual business data shall monitor the implementation of the regulatory framework and determine deviations from the regulatory framework for each year of the regulatory period *(Δro t)*, deviations from the regulatory period for the previous years *(ΔRO)* and thatpart of deviations from the regulatory framework of previous years that was not taken into account in determining the regulatory framework for previous years *(ΔRO T-1)* and it is going to take into account in determining the regulatory framework for the regulatory period.

Article 49

**(Determination of deviations for each year)**

(1) Deviations from the regulatory framework for each year of the regulatory period (Δro t) shall be determined by the system operator as follows:

 ** [EUR],

where the codes mean:

*Δrot* a deviation from the regulatory framework for each year of the regulatory period, where the negative value *Δrot* shall constitute an obligation of the system operator to dedicate the network charge surplus for covering the eligible costs of the following years, and the positive value *Δrot* shall represent the right of the system operator to take into account the network charge deficit when determining the regulatory framework in the following years, in EUR;

*PUSt* recognised eligible costs of the system operator for a given year of the regulatory period, determined in accordance with the provisions from Article 50 to 52 this Act, in EUR;

 *PRPt* recognised regulated annual income of the system operator from the activity of the system operator for each year of the regulatory period, determined in accordance with Article 53 of this Act, in EUR;

*ΔROT-1* the part of the deviations from the regulatory framework for previous years *(ΔRO)*, that has not been taken into account by the system operator when setting the regulatory framework for previous years, and which is reflected in the surplus or deficit of the network charges and is taken into account when setting the regulatory framework for the regulatory period pursuant to Article 58 of this Act, in EUR;

*tROT* duration of the regulatory period determined in accordance with Article 3 of this Act, expressed by the number of calendar years;

*t* year of the regulatory period.

(2) The recognised elements of the regulatory from the preceding paragraph shall be calculated in a way that the planned elements of the regulatory framework for each year of the regulatory framework, to which the agency gave its approval, are calculated in accordance with this Act.

**1.1. Recognised eligible costs**

Article 50

**(Recognised eligible costs)**

(1) The system operator shall at the end of each year of the regulatory period recalculate the planned eligible costs *(USt)* from the regulatory framework for that year and determine the recognised eligible costs *(PUSt)* by taking into account:

a) the planned controlled operating and maintenance costs, which have been taken into account in setting the regulatory framework for the year concerned, relating to the costs of services for the maintenance of the system, the costs of equipment to maintain the system and the labour costs of 50 per cent, recalculated by taking into account the actual adjustment factor for each year of the regulatory period, determined in accordance with Article 18 of this Act, as recognised;

b) residual values of the planned controlled operating and maintenance costs, which have been taken into account in setting the regulatory framework for the year concerned, as recognised;

c) the actual uncontrolled operating and maintenance costs relating to the cost of materials for natural gas for own use, natural gas for system imbalances, and for natural gas for the purpose of the clearance by OBA to an extent not exceeding 2 per cent by the transmission system transferred or in the distribution system delivered quantities accepted of natural gas, from the profit and loss statement of the system operator, as recognised;

d) residual actual uncontrolled operating costs and maintenance costs arising from the profit and loss statement of the system operator under the conditions laid down in this Act, as recognised;

e) actual depreciation cost from the profit and loss statement of the system operator under the conditions laid down in this Act, as recognised;

f) a regulated return on assets that is calculated under the terms of this Act as recognised. When calculating a recognised regulated return on assets, weighted average pre-tax cost of capital *(TPSKt)* shall be taken into account, which was considered for that year in determining the regulatory framework to which the agency gave its consent, and the recognised average regulatory asset value *(PVSt)*, calculated in accordance with Article 27 of this Act. In doing so, the system operator must at determination of the opening value of the regulatory asset base *(OVS t)* and the closing value of the regulatory asset base *(ZVSt)*:

- for the first year of the regulatory period *(year t)* as the opening value of a regulatory asset base *(OVSt)* take into account the actual value of the assets from the accounting books of the system operator on 31 December of the year preceding the start of the regulatory period *(year t-1)*, reduced by the value of the assets to which regulated return on assets it is not recognised under Article 25 of this Act;

- for all subsequent years of the regulatory period as the opening value of a regulatory asset base *(OVSt)* take into account the closing values of the regulatory asset base *(ZVSt)* for the preceding year of the regulatory period, calculated in accordance with the following indent;

- for each year of the regulatory period as the closing value of a regulatory asset base *(ZVSt)*, taken into account the actual value of assets from the accounting books of the system operator on 31 December of an individual year of the regulatory period, reduced by the value of the assets to which regulated return on assets it is not recognised under Article 25 of this Act;

g) one-time incentive for acquiring free European funds *(SEUt),* determined in accordance with Article 52 of this Act, as recognised;

h) an incentive to the TSO in the amount of the 25% difference between revenues and costs and expenses of the TSO from the purchase of additional capacity under the oversubscription and buy-back scheme, as recognised.

(2) Notwithstanding the provisions of Article 13 of this Act, actual costs and expenses related to the law or other regulations determined certain new tasks of the system operator that have to be implemented by the system operator within the regulatory period *(ROT)*, when establishing deviations for this regulatory period *(ROT)*, and for the regulatory period following this regulatory period *(ROT+1)*, are treated as recognised uncontrolled operating and maintenance costs *(PNNSDV).* For all subsequent regulatory periods following *ROT* in *ROT+1*, these costs and expenses are considered as controlled operating and maintenance costs *(NSDV)* unless they fulfil one of the criteria from Article 13 of this Act. The new tasks of the system operator do not include the upgrading or the modification of the performance of existing tasks under the applicable legislation.

Article 51

**(Recalculation of the planned controlled costs)**

(1) If the actual duration of the regulatory period differs from the planned in the drafting of the regulatory framework to which the agency has given its approval, the operator of the system shall, when establishing a deviation from the regulatory framework for each year of the regulatory period, first the planned controlled operating and maintenance costs *(NSDVt)* from the regulatory framework recalculate according to the actual month of commencement or termination of the activities of the system operator.

(2) Such recalculated operating and maintenance costs items *(NSDVt)* for each year of the regulatory period shall be in relation to Article 50 of this Act considered as planned from the regulatory framework.

(3) The recalculation of other items from the regulatory framework for each year of the regulatory period shall be done in accordance with Article 50 of this Act.

Article 52

**(Incentives)**

(1) If the system operator has incurred actually lower costs than recognised eligible costs, it shall retain the difference, or if it has incurred higher actual costs than are the recognised eligible costs, the difference shall be borne by the regulated return on assets.

(2) In determining the recognised eligible costs for each year of the regulatory period, a of the system operator shall take into account a one-time incentive for acquired free European funds *(SEUt)*. The incentive shall be taken into account in the year of the regulatory period in which the assets built from these sources is put into service, amounting to 0.5 % of the European funds granted free of charge. If the system operator must return European funds granted free of charge, the incentive received shall reduce recognised eligible costs when establishing deviations from the regulatory framework for the regulatory period for the year of the regulatory period in which the fund was returned.

(3) In determining the recognised eligible costs for each year of the regulatory period, the TSO shall take into account the incentive for achieving a 25% difference between revenues and costs and expenses of the TSO on the purchase of additional capacity under the oversubscription and buy-back scheme in accordance with Article 50 of this Act. This incentive increases or decreases the recognised eligible costs of the TSO.

**1.2 Recognised resources to cover eligible costs**

Article 53

**(Recognised regulated annual income)**

(1) The recognised regulated annual income of the system operator for each year of the regulatory period *(PRPt)* under this Act shall constitute recognised network charges *(POMRt)* and recognised other revenues *(PDPt)*, which are previously reduced by the recognised excluded incomes, determined on the basis of actual data on system operator business performance.

(2) In accordance with this Act recognised other incomes *(PDPt)* of the TSO shall also include recognised incomes from the imbalance settlement.

Article 54

**(Recognised deviation)**

When determining the recognised resources to cover eligible costs recognised for each year of the regulatory period, the system operator shall take into account that part of the deviations from the regulatory framework for previous years that was taken into account by the system operator for the determining the regulatory framework for that year of the regulatory period in accordance with Article 58 of this Act *(ΔROT-1)*, as recognised.

**2** **Method of determining status of deviations from the regulatory framework**

Article 55

**(Determination of the status of deviations)**

The system operator shall determine a deviation from the regulatory framework for the previous years *(ΔRO)* as follows:

 [EUR],

where the codes mean:

*ΔRO* deviation from the regulatory framework for the previous years that has not yet been taken into account by the system operator when setting the regulatory framework and which is reflected in the surplus or deficit of network charges, where the negative value *ΔRO* shall constitute an obligation of the system operator to dedicate the network charge surplus for covering the eligible costs of the following years, and the positive value *ΔRO* shall represent the right of the system operator to take into account the network charge deficit when determining the regulatory framework in the following years, in EUR;

*Δrot* a deviation from the regulatory framework for each year, which is reflected in the surplus or deficit of network charges and it is determined in accordance with the provisions of Articles from 48 to 54 of this Act, in EUR;

*obrt* interest rates per an individual year of the regulatory period, which increase or decrease the determined deviation from the regulatory framework for the year concerned and are determined in accordance with Article 56 of this Act, in EUR;

*n* the period for which the system operator has not yet taken into account a deviation from the regulatory framework when setting the regulatory framework;

*t* year of the regulatory period.

Article 56

**(Remuneration of surpluses or deficits)**

(1) The deviation from the regulatory framework, which is reflected in the surplus or deficit of the network charges shall be remunerated annually by taking into account the average annual value of deviations from the regulatory framework and the recognised annual interest rate specified for each regulatory period in Annex 3, which is an integral part of this Act.

(2) The average annual value of deviations from the regulatory framework for each year of the regulatory period shall be determined as the average value of the imbalances at the beginning of each year, which shall include the interest balance for the previous years and the state of the imbalances at the end of each year of the regulatory period.

(3) According to this Act, the state of imbalances at the beginning of the year preceding the start of the regulatory period *(year t-1)* shall be treated as the value of the retained deviation from the regulatory framework for the previous years *(ΔzRO)* determined in accordance with Article 58 of this Act.

(4) The calculated interest rates for each year of the regulatory period *(obrt)* increase or decrease the established deviation from the regulatory period for the year of the regulatory period concerned *(Δrot)*.

Article 57

**(Electronic form)**

On an electronic form drawn up by the agency and provided to the system operator, the system operator shall, as part of its regular annual reporting, identify a deviation from the regulatory framework for each year of the regulatory period  *(Δro t)*, a deviation from the regulatory framework for the previous years  *(ΔRO)* and that part of the deviations from the regulatory framework for the previous years, which has not been taken into account by the system operator at establishing the regulatory framework for the previous years, and it shall be taken into account in the setting of the regulatory framework for the regulatory period  *(ΔRO T-1)*.

**3 Method of taking into account deviations when determining the regulatory framework**

Article 58

**(Taking into account deviations in determining the regulatory framework)**

(1) The system operator shall identify that part of the deviations from the regulatory framework for the previous years, which it has not yet taken into account at establishing the regulatory framework for the previous years *(ΔRO T-1)* and consider it when setting the regulatory framework for the regulatory period in a way that together with the impact of investments from the system operator’s investment plan on the basis of Articles 32 or 33 of this Act does not exceed the limit of the planned deficit of the network charges for the regulatory period *(nΔROT)*, which, pursuant to Article 40 of this Act, may not exceed the amount of the planned depreciation expense for the regulatory period.

(2) When establishing the regulatory framework under the previous paragraph, the system operator of shall take account that part of the deviations from the regulatory framework for the previous years, which it has not yet taken into account at establishing the regulatory framework for the previous years *(ΔROT-1)* and shall determine it as follows:

 ** [EUR],

where the codes mean:

*ΔROT-1* the part of the deviations from the regulatory framework for the previous years (ΔRO), that has not been taken into account by the system operator when setting the regulatory framework for the previous years, and which is reflected in the surplus or deficit of the network charges and is taken into account when setting the regulatory framework for the regulatory period, in the amount determined in accordance with the preceding paragraph, in EUR;

*ΔRO* deviation from the regulatory framework for the previous years, determined in accordance with provisions of Article 55 and 56, that has not yet been taken into account by the system operator when setting the regulatory framework for the previous years and which is reflected in the surplus or deficit of network charges, where the negative value ΔRO shall constitute an obligation of the system operator to dedicate the network charge surplus for covering the eligible costs of the following years, and the positive value ΔRO shall represent the right of the system operator to take into account the network charge deficit when determining the regulatory framework in the following years, in EUR;

*ΔzRO* retained deviation from the regulatory period for the previous years is the part of the previous years’ deviation from the regulatory framework, which has not yet been taken into account by the system operator when setting the regulatory framework for the previous years and has not been taken into account in accordance with the preceding paragraph or has not been taken into account in case of determining the regulatory framework on the basis of Article 254 the EA-1 for the regulatory period following year t-1, in EUR.

**VIII QUALITY OF SERVICES**

Article 59

**(Purpose and the manner of quality of service regulation)**

(1) The purpose of quality of service regulation by the system operator is to achieve such a level of service quality so that frequency of interruptions of supply will be minimised and as short as possible, or that the minimum quality of service standards is met.

(2) The means of the quality of service regulation used by the agency for each dimension of quality of service are:

- public disclosure of values of quality of service parameters and

- the setting of minimum quality service standards.

Article 60

**(Monitoring of service quality dimensions)**

To implement quality of service regulation, the agency shall monitor the following dimensions and their quality of service parameters of the system operator:

a) continuity of supply:

- the duration of system outages; and

- system interruption frequency;

b) commercial quality:

- average time required for repairing the system;

- average time for handling complaints;

- average response duration;

- average time required to connect to the system;

(c) the other dimensions of quality of service determined in the general Act referred to in Article 259(6) of the EA-1, which governs the rules for monitoring the quality of natural gas supply.

Article 61

**(Monitoring of quality of service)**

(1) The system operator must provide to the agency all data necessary for the implementation of the quality of service regulation.

(2) The data set, the procedure and the manner of monitoring the quality, the dynamics of reporting, the processing of data and the procedure and method for carrying out the assessment of data on quality of service shall be set out by the agency in the general Act referred to in Article 259(6) of the EA-1, which governs the rules for monitoring the quality of natural gas supply.

Article 62

**(Reference values)**

(1) For parameters of commercial quality referred to in point (b) of Article 60 of this Act, the agency shall establish the reference values, which represent the objective of ensuring adequate service quality.

(2) The system operator shall provide at least a level of service quality as defined by the reference values set out in Table 1 of Annex 4, which is an integral part of this Act.

Article 63

**(****Minimum quality of service standards)**

(1) The minimum quality of service standards shall be reflected by system standards or by guaranteed service quality standards.

(2) The minimum standards for commercial quality of services are set out in Table 1 and Table 2 of Annex 4.

(3) System standards specify the level of service quality that the system operator is obliged to provide in the maximum extent of the proportion of the requirements from all cases for all delivery points together.

(4) The guaranteed standards specify the level of service quality to be provided by the system operator for each delivery point separately.

Article 64

**(Amount and payment of compensation)**

(1) If the system operator breaches the minimum quality of service standard in the form of a guaranteed service quality standard as set out in Table 2 of Annex 4 and the violation occurred for reasons attributable to the system operator, the system operator shall be obliged to pay compensation to the system user upon his written request.

(2) The basic amount of compensation is EUR 20. The system operator shall be obliged to pay compensation to the system user within a month of receiving a written request from the system user.

(3) In the event of failure to comply with the deadline referred to in the preceding paragraph, the system user shall be entitled to receive compensation plus 100 per cent of the basic amount. Such an increased charge shall be paid by the system operator to the system user on its written request within eight days.

(4) If the system operator does not pay compensation to the system user within the time limit referred to in the preceding paragraph, the system user shall be entitled to a refund of up to three times the basic amount of the refund. In this case, the system operator shall pay the refund within three days of receiving the written request from the system user.

**IX CLOSED DISTRIBUTION SYSTEMS**

Article 65

**(Obligations of the closed distribution system operator)**

(1) The provisions of this Act shall also apply to the closed distribution system operator.

(2) If the closed distribution system operator has obtained an exemption pursuant to EZ-230 Article 1, it shall, in accordance with this Act, determine the regulatory framework and the deviation from the regulatory framework, but both without the agency’s approval.

(3) If the closed distribution system operator has not obtained an exemption under EZ-230 Article 1, it shall, in accordance with this Act, determine the regulatory framework and the deviation from the regulatory framework with the agency’s approval.

**X TRANSITIONAL AND FINAL PROVISIONS**

Article 66

**(Transitional provisions)**

(1) The first regulatory period in accordance with this Act for the gas DSO shall be from 1 January 2019 to 31 December 2021.

(2) Notwithstanding the provision of Article 3(1) of this Act, the first regulatory period for the TSO shall be from 1 January 2019 to 31 December 2019 and the second regulatory period under this Act shall run from 1 January 2020 to 31 December 2021.

(3) In determining the regulatory framework for the first regulatory period from 1 January 2019 to 31 December 2019, the TSO shall, in accordance with Article 5 in conjunction with Article 58 of this Act, take into account that part of the deviation from the regulatory framework for the previous years *(ΔRO),* which it has not yet been taken into account for the purpose of determining the regulatory framework *(ΔROT-1),* amounting to one third. The remaining two thirds the gas TSO shall take into account in determining the regulatory framework for the second regulatory period running from 1 January 2020 to 31 December 2021.

(4) Notwithstanding the provision of Article 13 of this Act, the TSO in determining the regulatory framework for the first and second regulatory period referred to in paragraph 2, shall take into account costs or expenses related to the use of the transmission capacity platform by auctioning as uncontrolled operating and maintenance costs *(NNSDV).*

(5) Notwithstanding the provision of Article 20(2) of this Act, for the regulatory period from 1 January 2019 to 31 December 2019, the agency shall, at the latest within 15 days of the entry into force of this Act, with the decision determine the performance factor for each year of the regulatory period *(Ut)* of the TSO.

(6) Notwithstanding the provision of Article 41(1) of this Act, for the regulatory period from 1 January 2019 to 31 December 2019, the TSO shall submit a request for the agency’s approval by 31 April 2018 at the latest.

(7) Notwithstanding the provision of Article 41(3) of this Act, the agency shall for the TSO prepare electronic forms for the first regulatory period from 1 January 2019 until 31 December 2019 at the latest within 15 days of the entry into force of this Act.

Article 67

**(Cessation of application)**

On the day this Act enters into force, the Legal Act on the methodology for determining the regulatory framework of the natural gas transmission system operator (Official Gazette of the Republic of Slovenia No 77/15) and Legal Act on the methodology for determining the regulatory framework of the gas distribution system operator (Official Gazette of the Republic of Slovenia, Nos 28/15 and 22/16) shall cease to apply, but shall apply for determining deviations from the regulatory framework for years 2017 and 2018.

Article 68

**(Entry into force)**

This Act shall enter into force on the day after its publication in the Official Gazette of the Republic of Slovenia.

No 211-2/2018/-15/428

Maribor, 20 March 2018

EVA 2018-2430-0012 Chairwoman of the Energy Agency Council

 Ivan Nedižavec Korada, m. p.

**ANNEX 1:** Criteria for taking into account of the results of the benchmarking for the regulatory period from 1 January 2019 to 31 December 2021 or for the regulatory periods from 1 January 2019 to 31 December 2019, and from 1 January 2020 to 31 December 2021

|  |  |
| --- | --- |
| *Achieved average efficiency level* | *Annual factor of required increased individual efficiency of the system operator (UInd t)* |
| From 0.98 to 1.00 including | 0.00 |
| From 0.95 to 0.97 including | 0.01 |
| From 0.81 to 0.94 including | 0.02 |
| from 0.00 to 0.80 including | 0.03 |

ANNEX 2: Weighted average pre-tax capital cost *(TPSK)* for the regulatory period from 1 January 2019 to 31 December 2021 or for regulatory periods from 1 January 2019 to 31 December 2019, and from 1 January 2020 to 31 December 2021

In the request for the agency’s approval, the system operator in the calculation of the regulated return on assets shall take into account the weighted average cost of capital at a maximum of 5.26 per cent. The calculation of that value takes into account the equity and debt capital ratio of 60% of the equity ratio *(DLK)* and the 40% share of debt capital *(DDI),* the effective tax rate *(EDS)* of 10%, the cost of equity *(SLK)* of 5.68 per cent and the cost of debt capital *(SDK)* of 3.68 per cent.

The weighted average pre-tax capital cost before tax is determined on the basis of the study ‘WACC calculations using the ‘risk premium model’ for the purpose of determining the regulated profitability of electricity and gas transmission and distribution system operators in the period 2019–2021’ carried out by the University of Primorska in January 2018.

**ANNEX 3:** Recognised annual interest rate for the regulatory period from 1 January 2019 to 31 December 2021 or for the regulatory periods from 1 January 2019 to 31 December 2019, and from 1 January 2020 to 31 December 2021

For the return on the surplus or deficit of the network charges for each year of the regulatory period, the annual interest rate of two percent shall be taken into account.

**ANNEX 4:** The minimum quality of service standards for regulatory period from

 1 January 2019 to 31 December 2021 or for the regulatory periods from 1 January 2019 to 31 December 2019, and from 1 January 2020 to 31 December 2021

*Table 1: System standards for commercial quality of services*

|  |  |  |
| --- | --- | --- |
| *Ord. no* | *Systems standards for commercial quality of services* | *Reference value* |
| *Value**[working days]* | *Share of requirements [%]* |
| 1 | Average time required for approval to connect to the distribution system | 20 | 95 |
| 2 | Average time required for issuing an approval on connection to the transmission system | 40 | 80 |
| 3 | Average time required for the preparation of the connection contract | 10 | 95 |
| 4 | Average time taken to execute the connection to the distribution system | 30 | 95 |

*Table 2: Guaranteed standards for commercial quality of services*

|  |  |  |
| --- | --- | --- |
| *Ord. no* | *Guaranteed standards for commercial quality for services* | *Value [working days]* |
| 1 | Time needed to issue the cost estimate for building a connector or implementing a connection | 10 |
| 2 | Time required for the first activation of a connection point as from the date on which the request and all documentation required to demonstrate the conformity of works, incorporated materials and appliances has been submitted to the system operator | 10 |
| 3 | Time needed for the reactivation of a connection point, which has been disconnected due to the default of the user, measured from the date of the abolition of the ground for disconnection by the user | 3 |
| 4 | Time taken to correct the failure of the measuring device | 8 |
| 5 | Time taken to process the complaint or to report and transmit the related information to the user | 8 |
| 6 | Time taken to transmit the information | 8 |