



REPUBLIKA E SHQIPËRIË

ENERGY REGULATORY AUTHORITY

BOARD

DECISION

No. 171, dated 16.08.2021

ON

APPROVING THE COMPLIANCE PROGRAM OF THE TRANSMISSION SYSTEM OPERATOR FOR NATURAL GAS, "ALBGAZ" COMPANY

Based on article 16, of law no. 43/2015 "On Power Sector", as amended; article 47, point 1, of law no. 102/2015 "On Natural Gas Sector", as amended; point 76, of the Compliance Program, approved with ERE Board Decision no. 77, dated 26.05.2017; article 15 of the "Rules on ERE Organization, Operation and Procedures" approved with ERE Board Decision no. 96, dated 17.06.2016, the Energy Regulatory Authority (ERE) Board on their 16.08.2021 meeting, after reviewing the report protocol no. 112/3 dated 12.08.2021, prepared by License, Authorisation and Supervision Directory, as well as Natural Gas Directory, "On approving the compliance program of the transmission system operator for natural gas, ALBGAZ company",

Observed that:

- ERE Board with decision no. 263, dated 28.12.2020 decided:

- 1. To open the procedure to approve the Compliance Program of the transmission system operator for natural gas, "ALBGAZ" company.*

- Following, with decision no. 63, dated 01.03.2021, the board decided:

- 1. To extend the term of ERE board decision on approving the Compliance Program of the transmission system operator for natural gas, "ALBGAZ" company, by 30 days.*

- Based on the request of "ALBGAZ" company to extend the term of the decision, ERE board with decision no. 85, dated 30.03.2021, approved:

- 1. To extend the term for the submission of the Compliance Program of the Transmission System Operator for Natural Gas, ALBGAZ company, until 30.06.2021.*

- With official letter protocolled at ERE with Protocol no. 53/6 dated 11.06.2021, the company submitted at ERE the Compliance Program in English language and it also presented several

arguments regarding the findings of ERE board decision no. 263, dated 28.12.2020, which opened the procedure for the approval of this program.

- Regarding the ascertainment that everywhere in the text the acronym TSO shall be replaced with "ALBGAZ" company, the company states that in the title it is specified "ALBGAZ" company and also the explanation is provided within the text that here and below shall be TSO. As reasoned by the company it is evaluated to be taken into account.

- Regarding the findings referred to points 5 and 6 in Chapter II, of the Compliance Program (legal status and TSO organisational chart) and point 15 in Chapter III, which includes ownership unbundling and independence of TSO, the company informed that "ALBGAZ" company is established based on Council of Ministers Decision no. 848, dated 07.12.2016, as amended and the only shareholder is the state, where the public authority with 100% (one hundred percent) of the company's shares is MIE. Regarding the above mentioned, the company specifies that these are handled during the certification process of ALBGAZ company and there was also a thoroughgoing correspondence between ERE, MIE and ALBGAZ company.

- As stated above by the company, it is evaluated to highlight that in the decision for the opening of the procedure, these findings are issued with reference to the specifications of the standard program, approved with ERE Board Decision no. 77/2017, as follows:

- In point 5 of the Compliance Program approved with ERE board decision no. 77/2017, it is defined that the ownership structure of TSO company shall be explained, including the relationship of the shareholders with companies engaged in the production and / or supply of natural gas and electricity, or those that have any commercial interest. As observed in the Compliance program submitted by "ALBGAZ" company, it is determined that the only shareholder is MIE, but the relationship of this shareholder as specified above is not included in this program.
- In point 6 of the Compliance Program approved with ERE board decision no. 77/2017, it is defined that the unbundling and independence of public bodies which are authorized to represent the rights of State shares on the one hand and companies engaged in production and supply on the other must be explained. As mentioned above it is evaluated that it shall be provided in the Compliance Program of "ALBGAZ" company.
- In point 15, of the Compliance Program approved with ERE Board decision no. 77/2017, it is provided that TSO managers must be clearly defined, according to the functions they hold in the bodies or structure of "ALBGAZ" company, for which it is obliged to follow the criteria set out in points 15.1-15.6.

- Regarding the above and despite the statement of "ALBGAZ" company that these definitions were addressed during the certification procedure, it is evaluated that these definitions shall be included in the Compliance Program of "ALBGAZ" company because the certification itself requires the development of a compliance program and these are requirements of the standard program approved by ERE that shall be reflected in the TSO program. The above is considered to be a condition for the company in order to update its Compliance Program, with the definitions according to point 5, point 6 and point 15, of the standard program approved with

ERE board decision no. 77/2017 and submit this updated version of the Program at ERE within 3 months.

- Regarding the inclusion of the General Assembly of "ALBGAZ" company as the governing body of the company that approves the Compliance Program, after the approval by the Supervisory Council, the company informed that the approval of the Program by the General Assembly is not explicitly required, neither by the statute of "ALBGAZ" company, nor by the provisions of law no. 102/2015, "On natural gas sector", as amended, nor from the standard program approved by ERE. Given the fact that the laws and bylaws do not specifically define the governing bodies that must approve the Compliance Program, as it depends on the organization of the company, it is considered to accept the company's argument. The governing body of the company that approves the Compliance Program, or its possible subsequent amendments, shall be the Supervisory Board of the company.

- At the conclusion of the term that was appointed, it resulted that the interested parties who received the program (MIE, Competition Authority (CA) and the Energy Community Secretariat), did not submit any further comments.

For all of the above mentioned, ERE Board

Decided:

1. To approve the Compliance Program of the Transmission System Operator for Natural Gas, "ALBGAZ" company provided that the company within 3 months shall submit at ERE the updated version of the program with the specifications according to the requirements of point 5, point 6 and point 15, of the Transmission System Operator Compliance Program for Natural Gas, approved with ERE board decision no. 77, dated 26.05.2017.
2. The non-conformity of the condition according to the definitions of point 1, constitutes a reason for the review of this decision.
3. License, Authorisation and Supervision Directory, as well as Natural Gas Directory shall inform the interested parties about ERE Board Decision.

This decision enters immediately into force.

About this decision may be required its review within 7 calendar days and may be complained on Tirana Administrative Court within 45 calendar days from the day of its publication on the Official Gazette.

This decision shall be published on the Official Gazette.

ERE CHAIRMAN

Petrit AHMETI