

January 2021

## NATURAL GAS TRADING IN BULGARIA – THE NEW LICENSING REGIME

A new requirement for traders of natural gas to obtain a license for natural gas trading activity in Bulgaria has been adopted via decision of the Energy and Water Regulatory Commission ("**EWRC**"), amending and supplementing Ordinance No. 3 of 21.03.2013 on the licensing of the activities in the energy sector ("**Licensing Ordinance**").<sup>1</sup> The changes are adopted further to changes introduced via the Bill for supplementation of the Energy act as of June 2020.<sup>2</sup> Prior to these newly introduced requirements, the natural gas trade in Bulgaria was not subject to licensing.

The most important details about the new requirements are found below.

Companies registered in EU Member States can obtain a natural gas trading license without the need to establish a local Bulgarian entity

The energy wholesale trading passport is not recognised by Bulgarian law, and a holder of a license issued for natural gas trade by a Member State regulatory authority other than EWRC may not use it for natural gas trade in Bulgaria.

An entity incorporated in any EU Member State may apply to EWRC for and hold a natural gas trading licence. The applicant should meet the mandatory requirements for the performance of natural gas trade as provided under the Licensing Ordinance.

Foreign entities established in third countries, however, cannot directly obtain a natural gas trading licence in Bulgaria, and they must establish a local or EU based legal entity for this purpose.

Applicants need to demonstrate certain financial, technical and personnel capabilities for natural gas trading

The applicants for a natural gas trading license should prove to EWRC the availability of financial, technical and personnel capabilities to meet the requirements of the Licensing Ordinance.

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<sup>1</sup> Published in State Gazette No. 111 as of 31.12.2020.

<sup>2</sup> Published in State Gazette No. 57 as of 26.06.2020.

1. **Corporate** – the applicant should provide an up-to-date extract from the relevant commercial and tax registries evidencing its actual legal status. Additional information on the corporate structure of the entity, e.g. the list of shareholders, should also be submitted to EWRC;
2. **Financial** – the applicant should prove it has sufficient financial resources to perform the licensing activity, e.g. *inter alia* excerpt from the bank account of the servicing bank evidencing the sources of financing of the natural gas trade and proving availability of such funds;
3. **Technical** – the applicant should prove *inter alia* that it has assets, office premises and office equipment, an IT-network, hardware and software and other communication systems, necessary for the performance of natural gas trade. A confirmation by the respective Bulgarian TSO that those IT and communication systems are compatible with the TSO's trading systems may also be required;
4. **Personnel qualifications** – applicants should prove its personnel are technically qualified to perform natural gas trading. EWRC would consider someone as technically qualified if he/she has adequate theoretical knowledge and practical experience with natural gas trading and or managing natural gas business. To this end, the relevant CVs and diplomas may need to be submitted with the application package.
5. **Business plan** – a plan outlining the business operations of the applicant in Bulgaria in the next five years as part of the general business strategy locally should be submitted as well.

## Deadlines

Applicants for the acquisition of a natural gas trading license can apply to EWRC starting from 01 January 2021.

The deadline for acquisition of a natural gas trading license for natural gas traders already operating on the market or new entrants is **01 October 2021**.

## Procedure and Term of the License

The licensing procedure may be initiated with submission of a template application to EWRC. EWRC would examine whether the application set is complete and inform the applicant if further information is required within seven (7) days following submission. Should the application set be found complete, EWRC would initiate the review procedure which would be completed with the issuance of a report verifying compliance with the requirements of the Energy Act and Licensing Ordinance and either the issuance or refusal of a license. The review procedure would be completed within three (3) months as of submission of the application.

The EWRC's findings would be reported to all EWRC's commissioners in an open session, for which the applicant would be notified and may attend and provide its opinion on the report content and findings thereof. A closed session follows the open one – so that EWRC can issue its reasoned decision on granting or refusing the licence for natural gas trading of the respective applicant.

The EWRC decision refusing to grant a license may be challenged within 14 (fourteen) days upon serving the applicant. The license for natural gas trading activities is usually issued after the expiration of the appealing period. The license and its appendices thereof consist of the licence holder obligations for the performance of the licensed activity.

In practical terms, the average time for issuance of a licence takes approximately four to five (4-5) months.

A natural gas trading licence is limited in time – it may be valid for up to thirty-five (35) years. The term of validity of a respective license is determined by EWRC on a case-by-case however, and it is based on the proposal made by the applicant and the EWRC assessment of the applicant's financial, technical and corporate status. In practice, licenses for trading activities are granted for not more than ten (10) years. Extension is possible, should it be requested at least one (1) year prior to the expiry of the existing licence.

EWRC may withdraw a licence granted to a natural gas trader, as an ultimate measure if the licence holder fails to comply with its licensing obligations. The natural gas trading licence may also be withdrawn upon the licence holder's request before its expiry.

## Fees

A fee for reviewing the application for a natural gas licence is due in the amount of BGN 1,000 (approximately EUR 510). Following the EWRC decision for granting a natural gas trading license, additional fees are also applicable:

- Initial fee for issuance of the licence - BGN 15,000 (approximately EUR 7,670); and
- Annual fee – BGN 2,000 (approximately EUR 1,020) plus 0.055% from the annual revenues of the company from the licensed activities according to the last annual financial statement.

## Further considerations

To conduct natural gas trading activities in Bulgaria, traders should also be granted access to the natural gas transmission network and to conclude, among others, a (i) contract for access and transport of natural gas, (ii) natural gas balancing agreement, and (iii) a VTP use contract with the respective TSO. To store natural gas in the territory of Bulgaria (e.g. to manage seasonal peaks), gas traders would need to enter into: (i) a contract for transport and storage; and (ii) an agreement on the transfer of natural gas storage capacity with the gas storage operator of the single gas storage facility in Bulgaria - UGS "Chiren", Bulgartransgaz EAD.

Local transactions with short-term gas products and products with a term of duration of less than or equal to one (1) year, need to be registered in the electronic trading platform, currently operated by the company Balkan Gas Hub EAD. To enter such a transaction, natural gas traders would need also to become a member of the trading platform, by way of conclusion of a membership agreement with Balkan Gas Hub EAD.

Please do not hesitate to contact us, should you need any further information or assistance related to natural gas licensing and natural gas trading in Bulgaria.

## About WOLF THEISS

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