



Republic of Serbia
**COMMISSION FOR PROTECTION
OF COMPETITION**

25 Savska St., 4th Floor, Belgrade

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ENERGY AGENCY OF THE REPUBLIC OF SERBIA

Belgrade
5 Terazije Sq., 5th Floor

On March 14, 2019, the Energy Agency of the Republic of Serbia forwarded to the Commission for Protection of Competition, a request for its opinion on individual solutions contained in the new Transmission Network Code, to be adopted by the Transmission System Operator, i.e., Joint stock company “Elektromreža Srbije” Beograd, with the agreement of the Energy Agency.

Pursuant to Article 22 of the Law on Protection of Competition (Official Gazette of the RS 51/09 and 95/13), at the 195th session held on March 29, 2019, the Council of the Commission for Protection of Competition issues the following

OPINION

The Council of the Commission for Protection of Competition examined the matters listed in the request for its opinion:

- 1) whether the provision of ceilings for the security of payment means (in the amount of 120 million dinars) would classify as a discrimination of transmission system users, and
- 2) whether the discrimination of suppliers would be introduced (who are the transmission system users and the electricity market participants), if the amount for the security of payment means would be set at zero dinars for the distribution system operator and the closed distribution system operator (who are the transmission system users and the regulated energy entities), which would basically mean that they are exempt from the obligation to provide the security of payment means to the transmission system operator for reasons of not affecting the competition between suppliers.

Not calling into question the reasoning and justification of these proposals, the Commission for Protection of Competition hereby underlines that it had no other sources of information other than those provided in the request for its opinion and publicly available information.

However, in order to perform a competition impact assessment, from a perspective of competence of the Commission for Protection of Competition, towards providing an opinion on the matters addressed, it is necessary to examine the effects of proposed solutions on the transmission and distribution system users.

Therefore, it is necessary to establish a comprehensive list of transmission and distribution system users, the types of electricity markets in which they operate, whether any of them is in a mutual competitive relationship in some of the electricity markets, and in particular, to find out to which of them the ceilings for the security of payment means might pertain. The actual consequences of proposed solutions are contingent upon their being reflected in all aspects of the aforesaid.

We hereby underline that the Council of the Commission for Protection of Competition also considered the provisions of the Articles 48, 57 and 64 of the Energy Law. Pursuant to Article 48 of the Energy Law, in performing regulatory operations stipulated by this Law, the Energy Agency takes measures to achieve or contribute to the achievement of stable, transparent and non-discriminatory regulatory framework for energy customers, system users and investors. Article 57 stipulates that the Energy Agency ensures non-discriminatory system access, as well as effective competition and efficient functioning of the electricity and natural gas market, inter alia, through the supervision of existence of cross-subsidies among energy entities dealing with different energy-related activities, as well as among different energy-related activities within the same energy entity. Also, pursuant to Article 64 of the Law, cooperation between the Energy Agency and the organization in charge of competition implies a continuous exchange of information and data for the purpose of improving and directing the electricity and natural gas market development according to the principles of non-discrimination and efficient competition.

In line with the above, the Commission for Protection of Competition takes the view that based on the information provided, there is a prospect that provided solutions affect the conditions of competition, and therefore is unable to provide a more precise reply without conducting a competition impact assessment of the proposed solutions.