

N a t u r a l G a s M a r k e t A c t

508/2000

Passed in Helsinki on 31 May 2000

The following is laid down according to the decision of the Finnish Parliament:

Section 3

Chapter 1

General provisions

Section 1

The purpose of this Act is to ensure the preconditions necessary for an efficiently functioning natural gas market so as to secure the supply of natural gas of a sufficiently high standard at reasonable prices. The priorities of a well-functioning natural gas market are to ensure sound and well-functioning economic competition in the sale and storage of natural gas and to maintain reasonable and equal service principles in the operation of natural gas networks.

Undertakings operating in the natural gas market are responsible, for example, for providing their customers with services related to the supply of natural gas and for promoting natural gas efficiency and conservation in their own business operations and in those of their customers.

Section 2

This Act shall be applied to the natural gas market, by which is meant the imports, exports, transmission, distribution, sale and storage of natural gas, including liquefied natural gas. This Act is not applicable to the internal distribution of natural gas of a real estate or a corresponding group of real estates.

The provisions of Chapters 2, 5 and 6 of this Act shall not be applied to the natural gas networks of the defence administration.

For the purposes of this Act:

- (1) *natural gas network* means an entity of interconnected natural gas pipes and pipelines and other appropriate tanks, equipment and facilities containing natural gas, intended for the transmission or distribution of natural gas;
- (2) *transmission network* means a natural gas pipeline used for the transport of natural gas with high unreduced pressure;
- (3) *distribution network* means a local or regional natural gas pipeline used for the transport of natural gas with reduced pressure;
- (4) *transmission of natural gas* means the transport of natural gas through a transmission or distribution network between the parties to the natural gas trade;
- (5) *storage of natural gas* means the storage of natural gas elsewhere than in a natural gas pipeline;
- (6) *natural gas network operation* means business activity in which the operator (network operator) performs natural gas transmission activities in the transmission or distribution networks against payment and produces and provides other services provided for in this Act or in Statutes issued by virtue of it as being on the network operator's responsibility and based on the natural gas transmission or distribution networks to those in need of these services;
- (7) *natural gas market authority* means the Energy Market Authority; and
- (8) *consumer* means a consumer referred to in Section 4 of Chapter 1 of the Consumer Protection Act (38/1978).

Chapter 2

General obligations and pricing principles of network operation

Section 1

The network operator and the operator of storage or treatment facilities of natural gas shall maintain, operate and develop his natural gas network and facilities within the area of his natural gas network and the connections to other networks in accordance with his customers, reasonable needs, and to secure, for his part, the natural gas supply to his customers (obligation to develop the network and equipment).

The network operator or the constructor of a storage or treatment facility of natural gas shall see to it that municipalities are provided with information on the construction design of a natural gas pipe and a storage or treatment facility of natural gas. The operator shall, in cooperation with the municipalities, otherwise be liable to organise sufficient collaboration so as to ensure considerations related to the land use of the municipalities in locating the pipes and equipment.

Section 2

Upon request and against reasonable compensation, the network operator shall connect to his network the natural gas consumption and storage sites as well as LNG facilities meeting the required technical specifications (obligation to connect).

Section 3

The network operator shall sell transmission services against reasonable compensation within the limits of his network transmission capacity to customers that are end-users or retailers of natural gas and who want to purchase or sell natural gas originally procured by the network operator from a wholesaler for his own use or for resale through his distribution network (obligation to transmit). The preconditions for the obligation to transmit shall be that the customers consume at their own consumption sites or procure for resale a minimum of five million cubic metres of natural gas per year, and that the metering of natural gas be encompassed by the system of remote gas meter reading.

Eligibility for a transmission service shall be applicable to any consumption site within the scope of a procurement contract/procurement contracts fulfilling the minimum procurement limit of five million cubic metres.

Section 4

On a case-by-case basis, the Natural Gas Market Authority may grant the network operator a temporary authorisation to refuse the provision of a transmission service (exemption), if the network operator considers to be liable to experience serious economic or financial difficulties because of a take-or-pay commitment related to a long-term gas purchase contract. An exemption must be applied for before refusing from providing a transmission service. Further provisions on the procedure of applying for an exemption (exemption procedure) and on the related time limits shall be issued by Government Decree.

In its deliberation on granting an exemption, the Natural Gas Market Authority shall pay special attention to the following viewpoints and criteria:

- (1) the general aim to establish a competitive natural gas market, the effects of granting an exemption on the appropriate application of the Natural Gas Market Directive (98/30/EC) in view of good functioning of the natural gas market, and the competitive market situation;
- (2) the gravity of the economic and financial difficulties of customers of natural gas undertakings and of those defined in Section 3 of Chapter 2 of the Natural Gas Market Act;
- (3) the dates of signature and conditions of take-or-pay contracts, including the extent to which they take account of market changes and an undertaking that has accepted a take-or-pay contract can be reasonably considered to have been capable of assessing that serious difficulties might ensue;
- (4) measures taken to redress the problem; and
- (5) the degree of interconnection of the network with other networks and the interoperability of these networks, as well as the need to ensure security of natural gas supply and to meet the obligations of a public service. However, it is considered that the network operator does not have serious difficulties when the sale of natural gas does not fall under the minimum amount of use subject to a take-or-pay contract or when the take-or-pay contract concerned can be modified or when

the network operator can find alternative sales channels.

Section 5

The Ministry of Trade and Industry may stipulate that the Natural Gas Market Authority and the international organisations concerned be notified of any requests concerning a natural gas transmission service and commencement of negotiations and their results, if Finland's international contractual obligations so require.

Section 6

The network operator shall publicise the general terms of sale and prices of his network services as well as the pricing criteria.

Section 7

The network operator shall notify the Natural Gas Market Authority of the terms of sale and selling prices of his network services and the criteria for their determination as laid down by a decision of the Natural Gas Market Authority.

The network operator shall publicise indicators of the price level of his network services and the efficiency, quality and profitability of the network operation as laid down by a decision of the Natural Gas Market Authority.

Section 8

The selling prices and terms of network services and the criteria for their determination shall be equal and non-discriminatory for all network users, unless otherwise provided for special reasons.

The pricing of network services shall be reasonable.

The pricing and terms of sale conditions of network services shall not contain any unjust terms or restrictions, or terms or restrictions liable to restrict competition within the natural gas trade. However, the pricing and terms of sale shall take account of the requirements related to the reliable operation and efficiency of the natural gas system.

Section 9

The network operator shall provide the preconditions permitting the customer to agree on all network services with the network operator to whose network he is connected.

The network operator shall provide the preconditions for enabling the customer to be granted the right, in return for the appropriate payments, to use from his connection point the national natural gas network, excluding foreign connections (postage stamp pricing).

In the distribution network, the price of transmission services must not depend on where within the network operator's operating area the customer is located geographically.

Further provisions on the application of the postage stamp pricing principles may be issued, if necessary, by a Decree of the Ministry of Trade and Industry.

Chapter 3

Systems obligations and reporting on natural gas transactions

Section 1

In the natural gas network licence, the Natural Gas Market Authority orders one transmission network operator to take the responsibility for the technical operability and reliable operation of the natural gas transmission system and to tend to the duties related to the balance responsibility of the transmission system in an appropriate manner and in a way that is objective and non-discriminatory in respect of the parties to the natural gas market (systems responsibility).

A transmission network operator who has systems responsibility may impose the conditions necessary for the use of the natural gas transmission system in order to meet his systems responsibility. These conditions can be applied after the Natural Gas Market Authority has approved and confirmed by its decision the conditions. The confirmed conditions can be applied notwithstanding an appeal, save as otherwise provided by the court of appeal.

A transmission network operator who has been ordered to assume the systems responsibility shall

publicise and notify the Natural Gas Market Authority of the valid selling terms and prices of his services related to the systems responsibility as well as the underlying pricing criteria.

Further provisions on the implementation method and contents of the systems responsibility may be issued by a Decree of the Ministry of Trade and Industry.

Section 2

The network operator shall be liable for the metering of natural gas and the reporting of natural gas transactions.

The reporting of natural gas transactions shall be based on natural gas metering by a system of remote gas meter reading and on delivery notifications. The metering and reporting of natural gas transactions and delivery notifications shall be provided for by Government Decree.

The parties to the natural gas market shall be liable to notify metering information on natural gas consumption and deliveries required by the meeting of the balance responsibility and the reporting of natural gas transactions, as well as other corresponding information. Further provisions on the information to be given and on the procedure to be followed in the exchange of information may be issued by a Decree of the Ministry of Trade and Industry.

Section 3

The parties to the natural gas market shall be liable for ensuring that their procurement contracts concerning natural gas cover all their natural gas consumption and deliveries during each of the balance period (balance responsibility).

Further provisions on the contents of the balance responsibility may be issued, if necessary, by a Decree of the Ministry of Trade and Industry.

Chapter 4

Sale of natural gas and the position of the natural gas consumer

Section 1

A natural gas retailer in a dominant market position in a natural gas network shall supply natural gas at a reasonable price upon the request of a customer connected to the network, if the customer has no other economically competitive options to purchase natural gas through a natural gas network (obligation to supply).

The Natural Gas Authority may order the natural gas retailer to supply natural gas to the natural gas consumer, if the latter has no other possibility to obtain natural gas.

Section 2

The retailer shall keep his terms of sale, prices and pricing principles publicly available to the consumers and customers within his obligation to supply. They shall not include any unreasonable terms or restrictions, or terms or restrictions liable to restrict competition within the natural gas trade.

The retailers shall notify the Natural Gas Market Authority of their terms of sales, prices and pricing criteria as laid down by a decision by the Natural Gas Market Authority.

Section 3

In invoicing, the natural gas retailer shall give his customers an itemised account of what the price of natural gas consists of, as laid down by a decision by the Natural Gas Market Authority.

The retailers shall publicise data on the average price level of natural gas in the manner laid down by the Natural Gas Market Authority.

Section 4

Within each obligation to supply, the customer shall have a possibility to conclude with his retailer a contract covering, besides the natural gas sales, any network services required to be provided when transmitting natural gas. In such a case, the retailer shall be responsible for the provision of the network services to the customer.

Section 5

The supply of natural gas may be interrupted if the consumer fails, despite a reminder, to pay the natural gas retailer or distribution network operator the fees due for them, or otherwise

essentially infringes the terms of the contract on natural gas sales or network services.

However, supplying natural gas to a property used as a permanent residence, or to any part thereof, shall not be interrupted, on account of failure to pay, between the beginning of October and the end of April, if the heating of the property is dependent on the delivery of natural gas, unless four months have elapsed from the due date of payment.

Section 6

The provisions of Section 27(a-f) of the Electricity Market Act (386/1995) concerning standard compensation, compensation for delay, fault, price reduction, compensation because of a fault and responsible bodies shall apply to consumer protection in the marketing of natural gas.

Chapter 5

Unbundling of operations

Section 1

A natural gas undertaking shall separate the natural gas network operation, the sale and storage from each other and from any other business operations not belonging to the natural gas sector.

If the non-gas business operations are of minor significance, such sales operations of goods of services of minor significance need not be separated from natural gas sales. An operation is to be considered to be of minor significance if its turnover is no more than 10% of the turnover of the natural gas sales.

Section 2

For the purposes of this Act, '*unbundling*' means that for any natural gas business operations to be separated shall be made a profit and loss account and a balance sheet for each financial period. The profit and loss account and the balance sheet, which shall be derivable from the undertaking's accounts, shall be drawn up, *mutatis mutandis*, in compliance with the Accounting Act (1336/1997).

Section 3

A municipal corporation or a municipal federation carrying out natural gas business operations shall be separated for accounting purposes from the municipality, and a profit and loss account and a balance sheet for each financial period shall be made for it, which shall be comparable with financial statements drawn up for limited companies.

Section 4

The auditors of the undertaking or municipal corporation carrying out natural gas operations shall audit the profit and loss accounts, balance sheets and the supplementary information regarding each separated operation. They shall give their opinion in the auditors' report on whether the profit and loss accounts, balance sheets and the supplementary information comply with this Act and the rules and regulations issued thereunder.

Section 5

The profit and loss account and the balance sheet with the supplementary information regarding separated business operations shall be public and they shall be presented as information annexed to the financial statements of the undertaking. The financial accounts of a municipal corporation carrying out natural gas business operations as well as the profit loss accounts and balance sheets with supplementary information regarding separated operations shall be presented in the financial statements of the municipality.

Section 6

It may be laid down by a Decree of the Ministry of Trade and Industry how the separation of operations shall be implemented, how the profit and loss accounts and balance sheets regarding separated operations shall be drawn up, and what the supplementary information shall include and how such information shall be publicised.

The Natural Gas Authority may issue provisions on how the profit and loss statements and the balance sheets with supplementary information concerning separated operations as well as the financial statements of natural gas undertakings shall be submitted to it.

The Natural Gas Authority may, for valid reasons and in individual cases, grant derogations from the procedure to be applied under this Act to unbundling of operations if its application subject to the requirements of this Act would be unreasonable.

Chapter 6

Licences and notifications

Section 1

Natural gas operation may be carried out only subject to a licence granted by the Natural Gas Authority (natural gas network licence). The licence shall be granted until further notice or, for a special reason, for a specified period of time. The licence can be granted to a corporation or a plant.

In an individual case, the Natural Gas Authority may exempt the network operator from the licence requirement for a specified period or until further notice, if the network operator's natural gas network is of minor significance in terms of natural gas transmission.

Section 2

The licence shall be granted, if the applicant for a licence has the technical, economic and organisational prerequisites to operate a natural gas network in the manner provided by the legislation on the natural gas market. The applicant for a licence shall meet the following prerequisites:

- (1) the applicant's organisation shall be in proportion to the scope and nature of its network operation;
- (2) the applicant shall employ a sufficient number of personnel;
- (3) the applicant shall have the economic prerequisites for a profitable natural gas network operation;
- (4) the applicant shall employ a person who has been appointed as the supervisor of operations and who has the qualifications laid down by the Natural Gas Decree 1058/1993) and the possibility to supervise the use of the pipe.

Conditions to be considered necessary for the operation can be included in the licence.

The licence cannot be assigned to another corporation or plant.

Section 3

The Natural Gas Market Authority may revoke the natural gas network licence, if

- (1) the licensee terminates his natural gas network operation;
- (2) the licensee no more meets the prerequisites for granting the licence; or
- (3) the licensee infringes repeatedly and essentially the obligations laid down in Sections 1 – 3 of Chapter 2 or in Sections 3 or 5.

Section 4

If the natural gas network licence is revoked, the Natural Gas Market Authority shall decide, if necessary, on the measures to take in order to maintain the network operation concerned.

If it is not agreed to assign the network to another network operator, the Natural Gas Authority may decide on the assignment of the licence and on the redemption of the natural gas network against compensation. The provisions on the redemption procedure and compensation of the Act on the Redemption of Immovable Property and Special Rights (603/1977) shall be followed as for the criteria and determination of the compensation.

Section 5

A project licence shall be applied for in writing from the Ministry of Trade and Industry for the construction of a transmission pipeline crossing the national border.

The precondition for the granting of the licence shall be that the construction of a transmission pipeline crossing the national border is appropriate in terms of the development of the natural gas market.

The licence shall not specify the route for the transmission pipeline.

Section 6

The information and studies laid down by Government Decree shall be presented in the

application for a project licence regarding a transmission pipeline crossing the national border.

If the application concerns a project referred to in the Act on the Assessment Procedure of Environmental Impacts (468/1994), an assessment study subject to this Act shall be included in the application before the decision-making.

The licence decision shall indicate how the assessment subject to the Act on the Assessment Procedure of Environmental Impacts has been taken into account.

Section 7

In an individual case, the Ministry of Trade and Industry may stipulate that the Ministry shall be notified of the contracts on the imports and exports of natural gas. The notification shall contain the information required by the Ministry.

Chapter 7

Guidance and supervision

Section 1

The Ministry of Trade and Industry is responsible for the general guidance and supervision of the implementation of this Act.

The Natural Gas Authority shall be liable for supervision of compliance with the rules and regulations of this Act or issued under it. However, the construction of transmission pipelines crossing the national border and the imports and exports of natural gas shall be supervised by the Ministry of Trade and Industry.

Section 2

If anyone neglects his obligation based on this Act or on the rules or regulations issued under it, the Ministry of Trade and Industry acting as a supervisory authority or the Natural Gas Market Authority may obligate him by Decision to correct his omission. A conditional fine may be imposed to make this Decision effective.

The provisions of the Act on the Conditional Imposition of a Fine (1113/1990) shall be applied to this statutory case concerning a conditional fine.

Section 3

The Ministry of Trade and Industry shall have the right to order the construction of a transmission pipeline crossing the national border to be suspended or to ban its use, if the construction work has already commenced without a project licence subject to this Act.

Section 4

If a case to be handled by the Natural Gas Market Authority pertains to a procedure that may constitute an infringement of the provisions on restrictions on competition of the Act on Restrictions of Competition (480/1992), the Natural Gas Market Authority may refer the case to be handled, in so far as restrictions on competition are concerned, in compliance with the Act on Restrictions of Competition.

When assessing restrictions on competition and their adverse effects in the natural gas market, the provisions of and any rules and regulations issued under this Act shall be taken into consideration.

No appeal of the decision to refer the case to be handled in compliance with the Act on Restrictions on Competition shall be allowed.

Section 5

A person, corporation or plant engaged in natural gas network operations or selling, storing, importing or exporting natural gas shall provide the Ministry of Trade and Industry and the Natural Gas Market Authority with any information necessary for carrying out the supervisory duties referred to in this Act. In addition, statistical data and other necessary information shall be submitted to the Ministry or the Natural Gas Market Authority to meet the other duties and international contractual obligations referred to in this Act.

Section 6

The supervisory and other measures under this Act performed by the Ministry of Trade and Industry and the Natural Gas Market Authority shall be subject to a charge. The provisions of the Act on the Charge Criteria of the State (150/1992) shall be applied in so far as charges are concerned.

Chapter 8

Compensation of damages and penalties

Section 1

Whoever causes damage to another party through a procedure not complying with Section 2 of Chapter 2 (obligation to connect), Section 3 of Chapter 2 (obligation to transmit), Sections 2 or 3 of Chapter 3 (systems responsibility), Section 1 of Chapter 4 (obligation to supply) or Section 5 of Chapter 4 (interruption of natural gas supply) shall compensate for the damage thus caused.

With respect to other aspects of a damage compensation, the provisions of the Damages Act (412/1974) shall apply.

Section 2

Anyone who carries on network operations either without a licence referred to in Section 1 of Chapter 6 or in violation of the terms fixed in the licence, or who constructs a transmission pipeline without the licence referred to in Section 5 of Chapter 6 or in violation of the terms in such a licence, shall be sentenced to fines for carrying on unlawful natural gas network operation or to prison for a maximum period of six months, unless a more severe penalty be applicable to that act under some other Acts.

Section 3

Whoever breaches the obligation of secrecy laid down in Section 2 of Chapter 9 shall be sentenced subject to Sections 1 or 2 of Chapter 38 of the Penal Code (39/1889), unless the act is punishable under Section 5 of Chapter 40 of the Penal Code, or subject to a more severe penalty under some other Acts.

Chapter 9

Miscellaneous provisions

Section 1

A municipality or municipally controlled corporation may engage in natural gas network operation and sale and storage of natural gas even outside the territory of the municipality.

Section 2

Whoever during the exercise of his duties provided under this Act or by any rule or regulation laid down by virtue of it has obtained information on a trade or business secret, shall not disclose it to a third party nor use it to his own benefit.

Section 3

The police shall, if needed, provide executive assistance in matters pertaining to the supervision of this Act and any rules or regulations issued under it. Police authorities shall also, if needed, provide assistance in the implementation of a provision or a ban referred to in Section 3 of Chapter 7.

Section 4

Decisions made under this Act by the Ministry of Trade and Industry and by the Natural Gas Market Authority may be appealed to the Supreme Administrative Court in the order laid down in the Administrative Judicial Procedure Act (586/1996).

Section 5

If the applicant is granted an exemption to refuse from providing a service concerning the transmission of natural gas, the Natural Gas Market Authority shall comply with the procedure referred to in Directive 98/30/EC of the European Parliament and of the Council concerning common rules for the internal market in natural gas.

Section 6

If the transmission of natural gas referred to in Council Directive on the transit of natural gas through grids cannot be agreed upon, the procedure mentioned in the Directive will be followed.

Section 7

Further provisions on the implementation of this Act will be issued by Government Decree.

Entry into force and transitional provisions

Section 1

Provisions on the date of entry into force of the obligation to transmit referred to in Section 3 of Chapter 2 above shall be fixed by Government Decree. The obligation to transmit shall be applied to delivery lots of natural gas based on a procurement contract made after the entry into force of this Act, together with the wholesaler of the customer referred to in Section 3 of Chapter 2. The obligation to transmit shall also be applicable to natural gas purchased under a procurement contract concluded prior to the entry into force of this Act, if the pricing of natural gas or adapting the procurement contract to comply with the provisions of this Act are agreed upon after the entry into force of this Act.

Provisions on the pricing principle (postage stamp pricing) referred to in Section 9 of Chapter 2 above and on the date of entry into force of the unbundling of operations referred to in Section 1 of Chapter 5 shall be laid down by Government Decree.

The Natural Gas Market Authority may, upon an application in an individual case, grant a maximum extension of one year for the unbundling of operations, if this is considered reasonable from the applicant's point of view.

Section 3

This Act enters into force on 1 August 2000. Anyone who is carrying out natural gas network operations upon the entry into force of this Act and who has submitted an application for a natural gas network licence within six months from the entry into force of this Act may continue his operations until a decision on the licence will have been made. Actions required by the implementation of this Act may be taken before the entry into force of this Act.

Done in Helsinki on 31 May 2000.

President of the Republic

TARJA HALONEN

Minister of Trade and Industry *Sinikka Mönkäre*