

Act no. 449 of 31 May 2000

The Natural Gas Supply Act¹

Part 1

Introductory provisions

1. The objective of the Act is to ensure that the natural gas supply of the country is organised and implemented in accordance with consideration for security of supply, the national economy, the environment and consumer protection. Within the terms of this objective, the Act is to ensure consumers access to inexpensive natural gas.

(2). In accordance with the purposes mentioned in (1), the Act is to promote, in particular sustainable energy application, including by energy savings, while also ensuring efficient use of financial resources and creating competition on markets for trade in natural gas.

2. The Act shall apply to the transmission, distribution, supply and storage of natural gas.

(2). The Act shall apply on land and in territorial waters, within the exclusive economic zone and in the Danish continental shelf area.

(3). The Minister for Environment and Energy may decide that small installations and small-scale activities that are covered by the Act shall partially or wholly be exempted from the provisions of the Act.

¹ The Act contains provisions that implement Directive 98/30/EC of the European Parliament and of the Council of 22 June 1998 concerning common rules for the internal market in natural gas (Official Journal of the European Communities 1998, no. L 204/1), Council Directive 91/296/EEC of 31 May 1991 on the transit of natural gas through grids (Official Journal of the European Communities 1991, no. L 147/37) as last amended by Directive 95/49/EC (Official Journal of the European Communities 1995, no. L 233/86) and Council Directive 90/377/EEC of 29 June 1990 concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users (Official Journal of the European Communities 1990, no L 185/16) as amended by Directive 93/87/EEC (Official Journal of the European Communities 1993, no. L 277/32).

3. Within the sphere of the Act, the Minister for Environment and Energy may lay down rules with a view to fulfilling Denmark's commitments in relation to EU law.

4. The Minister for Environment and Energy is to keep a committee appointed by the Folketing (Danish Parliament) informed about all matters of importance to Denmark's natural gas supply.

5. Municipalities may participate directly or indirectly in one or more local authority associations, cf. section 60 of the Act on Municipal Government, which solely conduct distribution or supply activity pursuant to section 25 (1) no. 1, and (2).

(2). The Minister for Environment and Energy can, however, grant permission for one or more municipalities to themselves conduct the activity mentioned in (1), or for one or more municipalities to participate directly or indirectly in conducting the activity mentioned in (1) in a form of organisation different from that of a local authority association. The Minister can, in addition, grant permission for the associations mentioned in (1), directly or indirectly to conduct activities other than distribution and supply activity pursuant to section 25 (1), no. 1, and (2).

(3). The Minister for Environment and Energy can approve cooperation between two or more local authority associations that conduct natural gas supply activity pursuant to (1) concerning joint and simultaneous repayment of the debt falling to the local authority associations at the entry into force of the Act, including that the local authority associations are to contribute to each others' debt repayment.

6. For the purposes of this Act:

Direct line means a natural gas pipeline complementary to the interconnected system.

Distribution means the transport of natural gas through local or regional pipeline networks with a view to its delivery to customers.

Distribution network means local or regional natural gas pipeline networks.

Distribution undertaking means any natural or legal person who carries out the function of distribution.

Consumer means a customer purchasing natural gas for his own use.

Supply means the delivery or sale of natural gas, including liquefied natural gas (LNG), to customers.

Supply-committed undertaking means a supply undertaking with the obligation to supply consumers and potential consumers in areas which, pursuant to the Heat Supply Act, are designated for natural gas supply, and others who are or will be connected to the natural gas supply network

Supply undertaking means an undertaking with a licence pursuant to section 25 which supplies customers with natural gas.

Customer means any natural or legal person who purchases natural gas with a view to resale or own consumption.

Storage facility means a facility used for the stocking of natural gas and owned and/or operated by a natural gas undertaking, excluding the portion used for production operations.

Storage undertaking means any natural or legal person who carries out the function of storage.

Supplier means any natural or legal person who carries out the function of supply.

LNG facility means a terminal which is used for the liquefaction of natural gas or the offloading, storage and re-gasification of LNG (liquefied natural gas).

Natural gas supply network is a joint term for transmission and distribution networks.

Natural gas undertaking means any natural or legal person carrying out at least one of the following functions: production, transmission, distribution, supply, purchase or storage of natural gas, including LNG, which is responsible for the commercial, technical or maintenance tasks related to those functions, but shall not include consumers.

Upstream pipeline network means any pipeline or network of pipelines operated or constructed as part of an oil or gas production project, or used to convey natural gas from one or more such projects to a processing plant or terminal or final coastal landing terminal.

Interconnected system means a number of systems which are linked to each other.

Ancillary services means all services necessary for the operation of transmission or distribution networks or LNG facilities, including storage, load balancing and blending.

System means any transmission networks or distribution networks or LNG facilities owned or operated by a natural gas undertaking, including its facilities supplying ancillary services and those of related undertakings necessary for providing access to transmission or distribution.

System user means any natural or legal person supplying to, or being supplied by, the system.

Transmission means the transport of natural gas through a high pressure pipeline network other than an upstream pipeline network with a view to its delivery to customers.

Transmission network means forms of natural gas high pressure pipeline networks other than upstream pipeline networks.

Transmission undertaking means any natural or legal person who carries out the function of transmission.

Part 2

The position of natural gas consumers

7. Everyone in areas designated for natural gas supply pursuant to the Heat Supply Act, and others who are or will be connected to the natural gas supply network has the right to be supplied with natural gas upon payment. This right means the right to delivery of natural gas by means of a supply offer from a supply-committed undertaking, cf. section 26, and the right to choose a supplier to the extent that this follows from the rules laid down pursuant to section 8.

(2). The right to delivery of natural gas by means of a supply offer from a supply-committed undertaking, cf. (1), does not include consumers who have the right to choose a supplier and who exercise this right.

(3). Consumers who have the right to choose a supplier and who exercise this right may resume deliveries from the supply-committed undertaking within reasonable deadlines and on reasonable conditions.

(4). Licence-committed undertakings, cf. parts 3 and 4, must place their services at the disposal of the consumers on objective, transparent and non-discriminatory terms.

8. After submission to a committee appointed by the Folketing (Danish Parliament), the Minister for Environment and Energy is to lay down rules concerning the natural gas consumers who have the right to choose a supplier. The rules are to lead to market opening of

- 1) 30 per cent of the total annual gas consumption in Denmark from the entry into force of the Act,
 - 2) 38 per cent of the total annual gas consumption in Denmark from 1 August 2003,
 - 3) 43 per cent of the total annual gas consumption in Denmark from 1 August 2008.
- (2). Undertakings with a licence to supply on fixed terms, cf. section 25 (1) no. 1, and (2), do not have the right to choose a supplier, cf., however, (3).
- (3). Undertakings with a licence to supply on fixed terms, cf. section 25 (1) no. 1, and (2), have the right to choose a supplier in connection with the purchase of natural gas which is resold to natural gas consumers in their licence area who have the right to choose a supplier, cf. rules laid down pursuant to (1).

9. The following costs of public service obligations are to be met by all consumers within the interconnected system:

- 1) The necessary costs incurred by the transmission undertakings to cover the tasks they are ordered to carry out under the provisions in section 11 (3), and section 12 (1), nos. 2, 3 and 6, and tasks they are ordered to carry out concerning natural gas security.
 - 2) The necessary costs incurred by the distribution undertakings to cover the tasks they are ordered to carry out under the provisions in sections 11 (3), and section 14 (1), nos. 2 and 3, and tasks they are ordered to carry out concerning natural gas security.
 - 3) The necessary costs incurred by the supply undertakings to cover the tasks they are ordered to carry out under the provisions in section 26 (2) no. 2, and section 27 (1).
- (2). The other costs of the transmission, distribution, storage and supply undertakings are the responsibility of the system users who receive the services of the undertaking and are to be charged through the tariffs of the individual undertaking.
- (3). Where technically feasible, payment for natural gas must be made for consumption measured in a direct customer relationship between consumer and supply undertaking, irrespective of whether the consumer is a tenant, a member of a cooperative society or an owner.

Part 3

The natural gas supply network and storage facility

Transmission, distribution and storage facility licences

10. Transmission, distribution and storage activity may only be carried out under licence that can be granted to undertakings that fulfil the requirements in section 28.

(2). The licence is granted by the Minister for Environment and Energy for a specifically delimited area. License is granted for a minimum of twenty years.

(3). The Minister for Environment and Energy can lay down rules concerning payment to cover the costs involved in processing applications for licence.

11. Transmission and distribution undertakings are to ensure adequate and efficient transportation of natural gas with accompanying services in their own networks, among these

- 1) maintain, convert and develop the natural gas supply network in the supply area to the degree necessary,
- 2) maintain the physical balance in the network,
- 3) place the necessary transportation capacity at disposal,
- 4) ensure the measurement and purchase of natural gas in the network, and
- 5) supply users of the network with the necessary information about measurement of the natural gas that is transported through the network.

(2). The Minister for Environment and Energy can lay down rules concerning the implementation of the provisions in (1), including rules concerning the delimitation of the tasks.

(3). The Minister for Environment and Energy can decide that transmission and distribution undertakings in cooperation shall initiate research and development with a view to efficient energy application, environmental improvement and security in the utilisation of natural gas. The Minister for Environment and Energy can lay down rules or make decisions concerning drawing up plans for the activities and for approving these.

(4). The Minister for Environment and Energy can decide that tasks that are the obligation of the licensee pursuant to (1) no. 2, shall be transferred to a system operator at a minimum of one year's notice.

12. A transmission undertaking shall

- 1) connect the distribution network and consumers to the degree necessary,
- 2) ensure the quality of the natural gas supplied from the transmission network,

- 3) conduct security of supply,
 - 4) cooperate with other transmission undertakings in Denmark and in other countries with a view to the efficient exchange of natural gas,
 - 5) draw up plans for the future demand for transmission capacity,
 - 6) ensure that there are sufficient amounts of natural gas in the overall natural gas supply system to maintain the physical balance in the network, cf. section 11 (1) no. 2, and
 - 7) observe the provisions in the Council Directive on the transit of natural gas through grids.
- (2). The Minister for Environment and Energy can lay down rules concerning the implementation of the provisions in (1), including rules about the delimitation of the tasks. The Minister for Environment and Energy can, furthermore, issue orders concerning changes in security of supply.
- (3). The Minister for Environment and Energy can decide that tasks that are the obligation of the licensee pursuant to (1) nos. 2, 3, 4, 5 and 6, shall be transferred to a system operator at a minimum of one year's notice.

13. The establishment of new transmission networks and important changes in existing networks may only be carried out following prior permission from the Minister for Environment and Energy. Permission can only be granted if the applicant is in a position to document that there is sufficient need for the development. The permission may be made conditional on compliance with terms concerning the more specific establishment and operation of the network, including safety provisions for demolishing and removing installations.

(2). The Minister for Environment and Energy can lay down rules concerning payment to cover the costs involved in processing applications for permission.

14. A distribution undertaking shall

- 1) connect consumers to the distribution network to the degree necessary,
- 2) market natural gas in areas designated for natural gas supply pursuant to the Heat Supply Act with a view to reducing the environmental impact of the consumers' energy consumption, and
- 3) offer consultancy on energy savings to consumers who do not have the right to choose a supplier, cf. Part 2.

(2). The Minister for Environment and Energy lays down rules concerning the content of the distribution undertakings' commitments, cf. (1) nos. 2 and 3.

(3). The Minister for Environment and Energy can lay down rules concerning the content of the distribution undertakings' commitments pursuant to (1), no. 1, to the effect that the distribution undertaking must map natural gas consumption and plan and ensure the implementation of energy savings in the supply area, and on

cooperation between several distribution undertakings and supply undertakings on carrying out the commitments concerning marketing, cf. (1) no. 2, and section 26 (2) no. 2, and on consultancy on energy savings, cf. (1) no. 3 and section 27 (1).

15. A storage undertaking shall

- 1) measure deliveries of natural gas to and from the storage facility,
- 2) supply users of the storage facility with the necessary information about the measurement of natural gas that is conveyed to and drawn from the storage facility, and
- 3) place the necessary storage capacity at disposal for the transmission undertakings to carry out security of supply, cf. section 12 (1) no. 3.

(2). The Minister for Environment and Energy can lay down rules concerning the implementation of the provisions in (1), including rules concerning the delimitation of the tasks and the necessary storage capacity that must be placed at disposal for purposes of emergency supply.

LNG facilities

16. The establishment of LNG facilities may only be carried out following prior permission from the Minister for Environment and Energy. Permission can only be granted if the applicant is in a position to document that there is sufficient need for the LNG facility. The permission may be made conditional on compliance with terms concerning the more specific establishment and operation of the LNG facility, including safety provisions for removal.

(2). The Minister for Environment and Energy can lay down rules concerning payment to cover the costs involved in processing applications for permission.

Direct pipelines

17. It is only possible to construct direct pipelines upon permission from the Minister for Environment and Energy.

(2). The permission may only be granted if the applicant has previously had a request for access to the system rejected, cf. section 18, and it has not been possible to find a solution to the problem by submitting it to the Energy Regulatory Authority.

(3). The permission may be subject to conditions as mentioned in section 13 (1), last point.

(4). The Minister for Environment and Energy can lay down rules concerning payment to cover the costs involved in processing applications for permission.

Access to the system

18. Natural gas undertakings and customers with the right to choose a supplier have the right, upon payment, to utilise transmission and distribution networks for the transport of natural gas, and to use storage facilities when this is technically necessary to provide efficient access to transmission and distribution networks, and to utilise LNG facilities (the system), cf., however, (2), (3) and (6), section 19 and section 20.

(2). The right to utilise the system, cf. (1), is conditional on compliance with the rules for gas transport laid down pursuant to section 23 (1) on utilisation of the system.

(3). Transmission, distribution, storage and LNG undertakings may refuse access to the system pursuant to (1),

1) on the basis of lack of the necessary capacity,

2) where access to the system would prevent them from carrying out the public-service obligations which are assigned to them in section 12 (1) nos. 2, 3 and 6, or

3) on the basis of serious economic and financial difficulties with contracts that contain a minimum purchase obligation (take-or-pay terms), cf. section 22.

(4). Refusal of a request for access to the system, cf. (3), must be substantiated.

(5). The Energy Regulatory Authority is to process complaints concerning refusal of applications for access to the system, cf. (3). The Energy Regulatory Authority shall present its conclusions without delay or if possible within 12 weeks of the introduction of the complaint.

(6). The Minister for Environment and Energy can lay down rules to the effect that access to the system with a view to delivery to a customer in Denmark with a right to choose a supplier can be rejected if a corresponding customer in the home country of the supplier does not have the right to choose a supplier.

19. Natural gas undertakings and customers with the right to choose a supplier may utilise the transmission network, storage facilities and LNG facilities, cf. section 18(1), with a view to concluding supply agreements with each other.

(2). Application to utilise transmission networks, storage facilities and LNG facilities pursuant to section 18, shall be addressed to the transmission, storage or LNG undertaking whose network, storage or LNG facility is to be utilised.

(3). Prices and terms for utilising the transmission network, storage facilities and LNG facilities pursuant to section 18, shall be laid down in negotiations between the transmission, storage or LNG undertaking and the applicant on use of the transmission network, storage facilities or LNG facilities. Transmission, storage and LNG undertakings shall publish the main commercial terms for the utilisation of the

transmission network, storage facilities and LNG facilities pursuant to section 18, within one month after the entry into force of the Act and thereafter once a year.

(4). Transmission, storage and LNG undertakings shall commence negotiations with applicants concerning the utilisation of the transmission network, storage facilities or LNG facilities pursuant to section 18, as quickly as possible.

(5). The Minister for Environment and Energy is to lay down rules concerning settlement of disputes in connection with negotiations on access to the transmission network, storage facilities and LNG facilities pursuant to section 18.

20. Application for transport in the distribution network pursuant to section 18 shall be addressed to the distribution undertaking through whose network the natural gas is to be transported.

(2). Prices and terms for transportation in the distribution network pursuant to section 18 shall be laid down by the distribution undertaking, cf. Part 7. The distribution undertaking shall publish tariffs and terms for the utilisation of the distribution network for transport pursuant to section 18.

(3). The distribution undertaking shall give applicants for transportation in the distribution network pursuant to section 18 access to transportation as quickly as possible.

(4). The distribution undertaking shall, as quickly as possible, commence negotiations with other distribution undertakings on prices and terms for transport of natural gas through the undertaking's network to other distribution networks.

21. After submission to a committee appointed by the Folketing (Danish Parliament), the Minister for Environment and Energy is to lay down rules for access to upstream pipeline networks, including facilities supplying technical services incidental to such access, except for the parts of such networks and facilities which are used for local production operations at the site of a field where the gas is produced.

(2). The Minister for Environment and Energy is to lay down rules for settling disputes concerning access to upstream pipeline networks.

22. If a natural gas undertaking encounters, or considers it would encounter, serious economic and financial difficulties because of its minimum purchase obligations (take-or-pay commitments) pursuant to one or more natural gas purchase contracts, it may make an application for a temporary derogation from the rules in section 18 concerning access the system. The Minister for Environment and Energy is to lay down specific rules concerning this.

Rules for gas transport

23. Transmission undertakings are to lay down rules for utilisation of the system (rules for gas transport) in cooperation with distribution, storage and LNG undertakings.

(2). The rules laid down pursuant to (1) shall be objective and non-discriminatory and accessible to users and potential users of the system.

(3). The rules shall be notified to the Minister for Environment and Energy.

(4). The Minister for Environment and Energy can issue specific guidelines for drawing up the rules and the content of the rules, and issue orders concerning their amendment.

(5). Complaints about the rules laid down pursuant to (1) can be made to the Minister for Environment and Energy.

Part 4

Supply activity

24. A licence is required to supply customers who do not have the right to choose a supplier, cf. Part 2. A licence can be granted to undertakings that fulfil the requirements in section 28.

(2). The licence is granted by the Minister for Environment and Energy for a specifically delimited area. The licence is granted for a minimum of five years.

(3). The Minister for Environment and Energy can lay down rules concerning payment to cover the costs involved in processing applications for licence.

25. The following can be granted:

1) a licence for supply on fixed terms, and

2) a licence for supply on individual terms.

(2). An undertaking which at the entry into force of the Act legally carried out supply activity can obtain a licence to supply on fixed terms pursuant to (1) no. 1, which also covers supply of consumers who purchase more than 300,000 m³ annually, in accordance with uniform, national guidelines, cf. (4).

(3). Contracts concerning sale of natural gas between undertakings holding a licence pursuant to (1) no. 2 and undertakings holding a licence pursuant to (1) no. 1 or (2) shall contain binding resale prices and consumer prices and other conditions. Where agreement cannot be reached, the Minister for Environment and Energy is to make a decision.

(4). The uniform national guidelines for sale of natural gas to consumers who purchase more than 300,000 m³ annually are to be agreed between undertakings holding a licence pursuant to (2) and undertakings holding a licence pursuant to (1)

no. 2. The guidelines are to be approved by the Minister for Environment and Energy. Where agreement cannot be reached, the Minister for Environment and Energy is to issue the guidelines. Where there is disagreement between the undertakings concerning sale, within the framework of these guidelines, the Energy Regulatory Authority can make a decision.

26. Undertakings holding a licence to supply on fixed terms, cf. section 25 (1) no. 1, and (2), have a commitment to supply consumers in areas designated for natural gas supply pursuant to the Heat Supply Act, and others who are or will be connected to the natural gas supply network (supply-committed undertakings).

(2). A supply-committed undertaking shall

1) offer adequate deliveries of natural gas as mentioned in section 7, and
2) market natural gas in areas designated for natural gas supply pursuant to the Heat Supply Act with a view to reducing the environmental impact of the consumers' energy consumption.

(3). The Minister for Environment and Energy is to lay down rules concerning the content of the licensee's commitments, cf. (2) no. 2.

(4). The Minister for Environment and Energy can lay down rules concerning the content of the licensee's commitments pursuant to (1) and concerning cooperation between several licensees on carrying out the commitments concerning marketing, cf. also section 14 (3).

27. Undertakings holding a licence to supply pursuant to section 25 (1), nos. 1 and 2, and (2), shall offer consumers consultancy on energy savings.

(2). The Minister for Environment and Energy is to lay down rules concerning the content of the licensee's commitments, cf. (1).

(3). The Minister for Environment and Energy can lay down rules to the effect that the licensee shall plan and ensure the implementation of energy savings in the supply area and concerning cooperation between several licensees on carrying out the commitments concerning consultancy on energy savings, cf. also section 14 (3).

Part 5

General provisions concerning licences

28. Licences pursuant to the Act can only be granted to applicants who are considered to possess the necessary expertise and financial background.

(2). In addition to the terms mentioned in this Act, other objective and non-discriminatory terms can be laid down in the licences, including terms that are necessary with a view to compliance with EU law in the field.

29. The Minister for Environment and Energy can make it a condition that where a licence is revoked pursuant to section 33, the Minister can appoint natural gas undertakings to carry out the licence-committed activities until a new licence is granted.

(2). The Minister for Environment and Energy can make it a condition that should a licensee not wish to retain his licence but simultaneously wish to maintain his ownership of the installations, the Minister can appoint natural gas undertakings to carry out the licence-committed activities.

(3). Natural gas undertakings appointed pursuant to (1) and (2), may include in their prices any operational losses resulting from carrying out the licence-committed activities, cf. section 37 (1).

30. The Minister for Environment and Energy shall supervise compliance with the terms of the licences.

(2). The holders of licences shall pay the costs associated the supervision pursuant to rules laid down by the Minister for Environment and Energy.

(3). Pursuant to rules laid down by the Minister for Environment and Energy, the licensees shall meet the costs associated with the Minister's attendance to and assessment of the planning, research and development tasks of the licensee, including the activities specified in section 11 (3) and section 12 (1) no. 5.

(4). Holders of licences for distribution, transmission and storage activity shall own the installations that are utilised for the implementation of the licence-committed activities.

(5). In special cases, the Minister for Environment and Energy may grant an exemption from the provisions in (4).

31. After five years and upon advance notice of one year, new terms may be laid down in a licence.

32. Licences granted pursuant to this Act are exempt from legal proceedings and can neither directly nor indirectly be transferred to others unless the Minister for Environment and Energy permits the transfer and approves the terms for this.

33. A licence can be revoked if

1) provisions, terms or orders pursuant to this Act or rules issued pursuant to this Act are repeatedly breached,

- 2) in connection with an application for a licence or permission incorrect or misleading information is provided in the application, or
 - 3) the holder of the licence or permission applies to the Court for suspension of payments, applies to the Court for a liquidation order or is declared bankrupt.
- (2). If a violation as specified in (1) can be redressed, the Minister for Environment and Energy can inform the holder that within a fixed time-limit he shall comply with his commitments pursuant to the licence or permission.
- (3). The decision pursuant to (1) nos. 1 and 2 shall be taken by the Court, and pursuant to (1) no. 3 by the Minister for Environment and Energy.

Part 6

Transfer

34. Before a distribution network which is owned by a licensee, or owner shares in undertakings that own such networks, can be surrendered to others, an offer shall be made to the State to purchase the distribution network or owner shares. The pre-emptive right shall be exercised by the Minister for Environment and Energy on behalf of the State.

(2). The pre-emptive right shall lapse if the Minister, within three months from the date at which the offer is made, should not state that he will exercise it. The price shall be fixed on ordinary market terms. In case of disagreement, the price and the terms of payment shall be fixed by the Energy Regulatory Authority.

(3). An agreement which is entered into in contravention of (1) shall be void.

35. In connection with the sale of a natural gas undertaking, or parts or shares etc. in a natural gas undertaking, a municipality shall make up the amount of the municipality's investment capital in the natural gas undertaking and the net proceeds of the sale.

(2). Any type of whole or partial, direct or indirect transfer or the like of the following shall be equated with sale, cf. (1):

- 1) a natural gas undertaking,
- 2) direct or indirect availability or other right over a natural gas undertaking, or
- 3) capital shares owned directly or indirectly in the natural gas undertaking.

(3). The statement shall be submitted to the Energy Regulatory Authority in accordance with rules laid down by the Authority.

(4). The provisions of (1) – (3) shall also apply if the one who sells or transfers is an enterprise or an undertaking etc. in which the municipality directly or indirectly has a capital share, or if the municipality gains a profit by the sale or transfer etc. of an

enterprise or an undertaking that owns capital shares in a natural gas undertaking. The provisions of (1) – (3) shall, moreover, apply if the municipality should in any other way gain a profit by sale or transfer etc. as mentioned in point 1.

(5). The Energy Regulatory Authority shall decide whether or not the statement can be approved. Should the Energy Regulatory Authority not be able to approve it, the Authority shall fix the level of the municipality's direct or indirect share of the investment capital in the natural gas undertaking and the net proceeds of the sale, cf. (1), (2) and (4).

(6). By 1 June of each year at the latest, the Energy Regulatory Authority shall inform the Ministry of the Interior about the level of the amount a municipality has gained, directly or indirectly, in net proceeds from sale, cf. (5).

(7). The Ministry of the Interior shall accordingly reduce the state subsidy to the municipality pursuant to the provision in section 10 of the Act on Municipal Equalisation and General Subsidies to Municipalities and Counties by the sum mentioned in (6), inclusive of interest payments as mentioned in (8).

(8). The Ministry of the Interior shall calculate an interest payment which is calculated from the time at which the municipality has the proceeds of the sale or transfer at its disposal and up the year in which the reduction of state subsidy to the municipality takes place. The interest of the net proceeds is calculated, cf. (6), minus the annual reduction in state subsidy, as mentioned in (7). The interest is fixed at the official discount rate of the National Bank of Denmark on 1 January for the year or years for which interest payments are to be calculated.

(9). By natural gas undertaking in this provision is meant every type of undertaking carrying out activities covered by section 2.

Part 7

Prices and terms for natural gas

The prices and terms of the natural gas undertakings

36. For consumers without access to choice of supplier, cf. Part 2, the price of natural gas made up according to calorific power may not exceed the consumer price inclusive of state taxes of a corresponding amount of domestic fuel oil. After submission to a committee appointed by the Folketing (Danish Parliament), the Minister for Environment and Energy is to lay down the specific method for calculating this.

(2). The price of natural gas for consumers without access to choice of supplier, cf. Part 2, who have no genuine fuel alternative shall be in reasonable correspondence

with the price of natural gas for corresponding consumers who have a genuine fuel alternative.

37. The prices of services from distribution undertakings and supply-committed undertakings shall be fixed with consideration for the costs to the undertakings of purchase of energy, wages, services, administration, maintenance, other operational expenses and depreciation and return on capital.

(2.) The prices shall be fixed in accordance with the revenue framework specified in (3). The framework is to be established with a view to covering the costs specified in (1) when the undertaking is efficiently operated.

(3.) The Minister for Environment and Energy can lay down a general revenue framework for the undertakings mentioned in (1) for a specified number of years, and rules concerning this. Within the mentioned framework, the Energy Regulatory Authority lays down an annual revenue framework for the undertakings.

(4.) The Energy Regulatory Authority may grant dispensations from the framework laid down by the Authority should this prove necessary for the undertaking to fulfil the commitments laid down in the licence, the Act, or provisions laid down pursuant to the Act.

(5.) Any type of revenue accruing to the company shall be spent on covering the costs involved in licence-committed activities. This does not, however, apply to profits in the form of extraordinary efficiency gains in relation to the revenue frameworks. Such profits may be used for reserves for future investments, reduction of prices or extraordinary interest payment on the investment capital.

(6.) Pricing of their services by the distribution undertakings and the supply-committed undertakings shall take place on reasonable, objective and non-discriminatory criteria in relation to the costs concerning the individual users of the network and consumers.

(7.) The Minister for Environment and Energy can lay down rules for

- 1) calculation of operational depreciations,
- 2) the statement of an undertaking's capital, including any investment capital,
- 3) the rates that can be applied when allowing for interest payment pursuant to (1), and
- 4) the utilisation of profits pursuant to (5).

(8.) Municipalities may not grant subsidies to municipal distribution activity or supply activity pursuant to section 25 (1) no. 1, and (2), cf. section 5.

38. Prices and terms for services from transmission, storage and LNG undertakings shall be so fixed as not to discriminate between the system users.

(2.) The Energy Regulatory Authority is to supervise the fairness of the prices and terms, cf. (1).

39. Prices and terms for services from undertakings holding a licence to supply on individual terms, cf. section 25 (1) no. 2, and undertakings that supply customers who have the right to choose a supplier are to be laid down by negotiations between the undertaking in question and the purchaser of the service.

(2). The Energy Regulatory Authority is to supervise the fairness of the prices and terms, cf. (1).

Supervision of prices, establishment of rules

40. Transmission, distribution, storage, LNG and supply-committed undertakings, cf. sections 10 and 26, shall notify the Energy Regulatory Authority with respect to the following:

- 1) Prices, tariffs and terms for services covered by the licences and for services from LNG undertakings and the basis for the establishment of these, including delivery agreements as stipulated by the Energy Regulatory Authority.
- 2) Requests and agreements concerning transit, including negotiated prices and terms.
- 3) Documentation for the unbundling of accounts of commercial activities.
- 4) Statements of investment capital.
- 5) Accounts, budgets and other information upon the stipulation of the Authority to be used in the establishment and supervision of the revenue frameworks mentioned in section 37.

(2). The Energy Regulatory Authority can lay down rules for notifications pursuant to (1).

41. If the Energy Regulatory Authority should find that the prices and delivery terms must be regarded as being in contravention of the provisions of this Act, the Authority can order that the prices and conditions are to be amended.

(2). If the Energy Regulatory Authority should find that prices, terms or agreements may be deemed to result in an environmentally or economically inappropriate utilisation of energy, the Authority can order them to be amended following negotiations with the parties involved.

Part 8

The Energy Regulatory Authority

42. The Energy Regulatory Authority can at any time, without a Court order and upon appropriate proof of identity, for supervisory purposes pursuant to the Act, gain access to the premises of an undertaking and *in situ* familiarise itself with and take copies of any type of information including accounts, accounting materials, books, other business papers and electronically stored data.

(2). If necessary the police shall provide assistance in the exercise of powers pursuant to (1).

43. The Energy Regulatory Authority shall draw the attention of the Minister for Environment and Energy to matters which, in the opinion of the Authority, may be of importance for performing tasks concerning, inter alia, issuing, amending and overseeing licences.

44. The costs of operating the tasks of the Energy Regulatory Authority pursuant to this Act or rules issued pursuant to the Act shall be met by the undertakings supervised by the Energy Regulatory Authority. The Minister for Environment and Energy can lay down specific rules for this.

(2). The Minister for Environment and Energy can lay down rules to the effect that a charge shall be payable for submission of a complaint to the Energy Regulatory Authority.

Part 9

Duty of disclosure, confidentiality, accounting

45. The Minister for Environment and Energy, the Energy Regulatory Authority and the Energy Complaints Board can, in connection with attending to a complaint or in connection with supervision, obtain information necessary for the performance of their duties from licence-committed undertakings, natural gas suppliers that are not licence-committed, LNG undertakings and users of the system that are affected, including consumers.

(2). To ensure price transparency and security of supply, for the purpose of laying down rules concerning market access, cf. section 8, and to follow up objectives of energy and environmental policy, including preparing the necessary data basis in connection with this, the Minister for Environment and Energy can order licence-committed undertakings, natural gas suppliers that are not licence-committed and LNG undertakings to prepare and surrender specific information concerning the

operational affairs of the undertakings and the services purchased and sold by the undertakings.

(3). Licence-committed undertakings, natural gas suppliers that are not licence-committed and LNG undertakings shall, upon request, provide transmission, distribution and storage undertakings with sufficient information to ensure that the transport and storage of natural gas can take place in a manner compatible with a secure and efficient operation of the interconnected system.

46. Licence-committed undertakings and LNG undertakings shall preserve the confidentiality of commercially sensitive information obtained in the course of carrying out their business. However, the information shall be notified or reported to the Minister for Environment and Energy, the Energy Regulatory Authority and the Energy Complaints Board to the extent that follows from sections 40 and 45.

(2). Transmission, distribution, storage and LNG undertakings shall not, in the context of purchases or sales of natural gas by the undertaking in question or related undertakings, abuse commercially sensitive information which they have obtained from third parties in the context of providing or negotiating access to the system.

(3). Transmission, distribution, storage and LNG undertakings shall document to the Energy Regulatory Authority that administrative procedures have been prepared in the undertakings with a view to preventing abuse as mentioned in (2).

47. Natural gas undertakings shall draw up and submit to audit annual accounts pursuant to the Danish Company Accounts Act. The annual accounts shall be publicly accessible.

(2). In their internal accounting, natural gas undertakings shall keep separate accounts for their transmission, distribution and storage activities and, where appropriate, separate consolidated accounts for their non-gas activities. The undertakings shall keep internal separate accounts for supply on fixed terms, cf. section 25 (1) no. 1, and (2).

(3). Natural gas undertakings shall keep and audit accounts for activities mentioned in (2) as they would do if the activities in question were carried out by separate undertakings.

(4). The Minister for Environment and Energy can lay down specific rules for accounting by the undertakings pursuant to (2) and (3).

Part 10

Sanctions

48. Should any party neglect to observe in time an order given by the Energy Regulatory Authority pursuant to section 41, as a statutory measure the Energy Regulatory Authority can impose daily or weekly fines on the party in question.
(2). There is a right of distraint for the fines mentioned in (1).

49. Unless a higher penalty is laid down in other legislation, the penalty of a fine shall be imposed on whosoever

- 1) carries out distribution, transmission, storage and supply activity pursuant to sections 10 and 24 without a licence,
- 2) establishes transmission networks, LNG facilities or direct pipelines pursuant to sections 13, 16 and 17 without a permission,
- 3) disregards the terms for a licence or permission pursuant to the provisions mentioned in nos. 1 and 2,
- 4) neglects to comply with orders or prohibitions pursuant to the Act, including orders concerning correcting an illegal matter,
- 5) infringes section 46 (1) or (2), or
- 6) provides the Minister for Environment and Energy, the Energy Regulatory Authority or the Energy Complaints Board with incorrect or misleading information, or neglects to provide information upon request.

50. In rules issued pursuant to the Act, the penalty of a fine can be imposed for contravention of the rules, terms or orders issued in pursuance of the rules.

(2). Undertakings etc. (legal persons) can be held criminally liable pursuant to the rules in Part 5 of the Criminal Code.

Part 11

Complaints, the Energy Complaints Board, etc.

51. The Energy Complaints Board shall attend to complaints concerning decisions made by the Minister for Environment and Energy or the Energy Regulatory Authority pursuant to this Act or rules issued pursuant to the Act.

(2). The decisions made by the Minister for Environment and Energy and the Energy Regulatory Authority can not be submitted to an administrative authority other than the Energy Complaints Board mentioned in (1). The decisions may not be brought before the Courts before the final administrative decision has been made.

(3). Complaints shall be submitted in writing within four weeks of the decision being notified.

52. The Minister for Environment and Energy can lay down rules concerning the following:

- 1) access to making a complaint about decisions which, pursuant to the Act or rules issued in pursuance of the Act, shall be taken by the Minister for Environment and Energy or by the Energy Regulatory Authority, including that it shall not be possible to submit certain decisions to the Energy Complaints Board,
- 2) that decisions made by an institution under the Ministry of Environment and Energy or by the Energy Regulatory Authority pursuant to an authorisation in accordance with section 54 can not be submitted to the Minister for Environment and Energy, and
- 3) payment of a charge when a complaint is submitted to the Energy Complaints Board.

53. The Minister for Environment and Energy can lay down specific rules regarding the composition of the Energy Complaints Board when the Board processes decisions made pursuant to this Act or rules issued pursuant to the Act.

(2). The Chairman of the Energy Complaints Board can, upon agreement with the Board, make decisions on behalf of the Board in cases processed pursuant to this Act or rules issued pursuant to the Act.

54. The Minister for Environment and Energy can authorise the Energy Regulatory Authority to exercise the powers held by the Minister under this Act.

Part 12

Expropriation, compensation

55. In order to establish the necessary natural gas transmission installations for the activities of transmission undertakings, when required by the common good, the Minister for Environment and Energy can give permission for expropriation of real property to take place.

(2). Expropriation pursuant to (1) shall take place in accordance with the provisions of the Act on Procedures for Expropriation of Real Property.

56. Licensees shall compensate damage that occurs in connection with the activity carried out under licence even if the damage is accidental.

(2). If the claimant has contributed to the damage intentionally or by gross negligence, compensation can be reduced or become void.

Part 13

Entry into force, revocation and interim provisions

57. The Act enters into force on 1 July 2000.

(2). Act no. 294 of 7 June 1972 on Natural Gas Supply shall simultaneously be revoked.

58. Executive Order no. 654 of 2 September 1998 on calculation of the maximum price of natural gas shall remain in force until it is revoked or replaced by rules issued in pursuance of section 36 (1).

59. An undertaking which, at the time the Act enters into force, legally performed activity and which is licence-committed pursuant to this Act, shall have the right to receive a licence for its activity when,

- 1) the undertaking declares its willingness to fulfil the obligations imposed upon it pursuant to the provisions of the Act and the licence, and
- 2) the undertaking fulfils the requirements of this Act for being granted a licence.

60. Approvals for the establishment of and alterations to transmission networks granted pursuant to the provisions of the hitherto valid Natural Gas Supply Act, shall be maintained in accordance with their contents and duration.

(2). A licence-committed undertaking can temporarily continue its activity without a licence if it submits the necessary application for a licence within a time-limit laid down by the Minister for Environment and Energy until the Minister has made a decision about the application, provided that the undertaking making the application complies with the provisions of the Act for the activity.

61. When the Act enters into force and upon the decision of the Energy Regulatory Authority, distribution undertakings and supply undertakings that carry out activities which will require a licence pursuant to section 25 (1) no. 1, and (2) when the Act has entered into force, shall draw up a statement of capital position before the entry into force of this Act. The undertakings shall subsequently draw up a preliminary statement of account prepared in accordance with guidelines laid down by the Energy Regulatory Authority and which can form the basis for future pricing pursuant to the provisions of this Act. The statement and preliminary statement of account shall be submitted to the Energy Regulatory Authority within a deadline laid down by the Authority.

(2). Before a deadline laid down by the Energy Regulatory Authority, the undertakings mentioned in (1) shall submit a report concerning the manner in which the size of assets and liabilities have been fixed.

(3). The Energy Regulatory Authority shall decide whether the statements and the preliminary statements of account submitted by the undertakings pursuant to (1) can be approved.

(4). Should an undertaking not have fulfilled its obligations pursuant to (1) and (2) within the time-limit specified by the Energy Regulatory Authority, the Authority shall determine the statement and the preliminary statement of accounts.

62. Contracts for supplying natural gas to customers entered before the entry into force of this Act can remain in force unchanged.

63. The following amendments shall be made in the Act on Municipal Equalisation and General Subsidies to Municipalities and Counties, cf. Consolidation Act no. 488 of 18 June 1999, as amended by Act no. 1099 of 29 December 1999:

1. Section 10 (6) shall be revoked and replaced by the following:

>(6). The subsidies for the individual municipality made up pursuant to (5) shall hereafter be reduced in accordance with the decision on net proceeds that the Energy Regulatory Authority has announced pursuant to the following provisions:

1) Section 37 (6), and addition of interest pursuant to section 37 (7) and (8) in the Electricity Supply Act.

2) Section 35 (6), and addition of interest pursuant to section 35 (7) and (8) in the Natural Gas Supply Act.

3) Section 23 e (6) and addition of interest pursuant to section 23 e (7) and (8) in the Heat Supply Act.

(7) If the sums mentioned in (6) should exceed the state subsidy in one year, the state subsidy shall be reduced in the following years. <

64. The Minister for Environment and Energy can lay down transition rules.

65. The Act shall not apply to the Faroe Islands and Greenland.