



# THE GREEK GAS MARKET UNDER THE THIRD MoU

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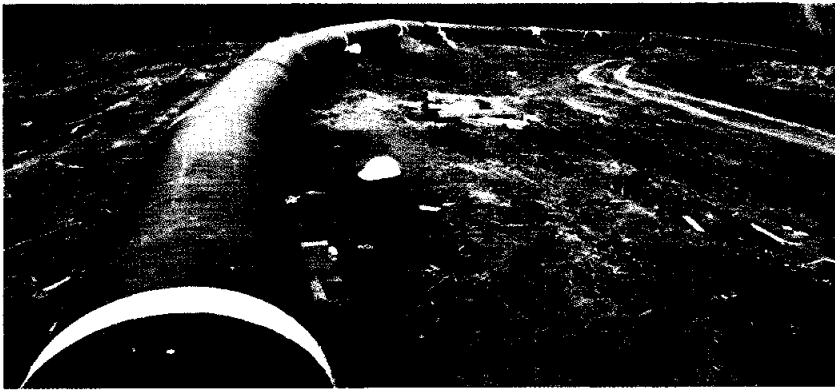
**The Greek natural gas retail market remains monopolistic for the majority of customers. The reform of the situation and the opening of the market have been attempted with the recently introduced statute 4336/2015 for the ratification of the draft contract for the provision of financial aid to Greece from the European Stability Mechanism, known as the Third Memorandum of Understanding and voted by the Greek Parliament on 14 August 2015.**

Under the requirements of EU legislation, large consumption non-household customers should be able to choose their suppliers and enter into contracts even with several suppliers in order to cover their needs in natural gas. Furthermore, according to the EU Third Energy Package, non-discriminatory third party access to the distribution networks must be ensured. This means that the distribution system operators should not be able to exploit their vertical integration towards market users. To this end, network operators must be separated from activities of production and supply (i.e. they must be unbundled legal entities, whereas their organisation and decision making must be independent from enterprises undertaking such activities).

To date the Greek natural gas retail market has been monopolistic for the majority of consumers. Given that it can be considered an “emerging market” even today, the European Commission has granted derogations from the relevant provisions of the First, the Second and the Third Energy Packages. Within this framework, the Greek

Regulatory Authority of Energy (RAE) has granted distribution licenses only to the Public Gas Corporation (DEPA) and the Gas Supply Companies (EPAs) of Attica, of Thessaly and of Thessaloniki. In this respect, the above companies currently undertake the activities of both the distribution networks operation and the natural gas supply. Moreover, their licenses include exclusivity clauses regarding the natural gas supply of non-eligible customers and the development of the network within the geographical areas defined in them. This situation does not protect third parties willing to have access to the distribution systems and to supply eligible customers from potential discriminatory treatment against them.

The reform of the above market situation and the opening of the Greek gas retail market have been attempted with the recently introduced statute 4336/2015 for the ratification of the draft contract for the provision of financial aid to Greece from the European Stability Mechanism, known as the Third Memorandum of Understanding and voted by the Greek Parliament on 14 August 2015.



## The distribution

Statute 4336/2015 introduces crucial changes to the natural gas distribution sector. Particularly, article 80 of statute 4001/2011 has revised, according to which the wide-ranging duties of the distribution licensees have been restrained to the construction and development of the natural gas distribution networks. At the same time, the holders of a distribution license shall be the owners of the networks. Furthermore, a second type of license is introduced, which is called "license for the operation of the distribution networks". The holders of such licenses are entitled to manage and exploit the networks. Within this framework, the revised article 80 of statute 4001/2011 specifies the relationship between the operators of the distribution networks and the network owners. Network tariffs are intended to include special charges, which the network owners shall pay to the network operators for the management of the system. In line with the provisions of Directive 2009/73/EC, both licensees must be functionally and legally unbundled from the vertically integrated undertaking of natural gas in which they may participate.

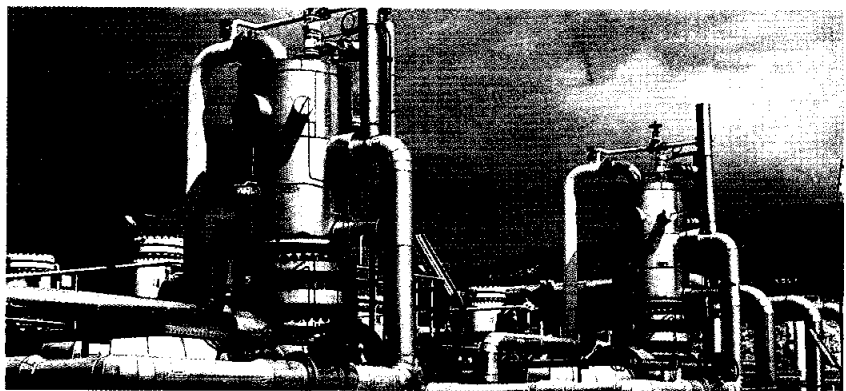
Furthermore, article 80A of statute 4336/2015 provides for the establishment of the new Gas Distribution Companies (EDAs), pursuant to the provisions of articles 24, 26 and 31 of Directive 2009/73/EC, which require the financial, functional and legal unbundling of legal persons undertaking the activities of distribution and operation

of the distribution networks. Within this framework the existing bundled EPAs of Attica, Thessaly and Thessaloniki (established by statute 2364/1995) shall keep separate accounts regarding the distribution activity, whereas the functional and legal unbundling of the distribution activity and of the operation of the networks must be completed by 1.1.2017 through the transfer of the distribution sector of each EPA to its subsidiary, i.e. to the EDAs of Attica, Thessaly and Thessaloniki. Alternatively, EPA of Thessaly and EPA of Thessaloniki are entitled to transfer their distribution sectors to a "joint EDA" of Thessaly and Thessaloniki. DEPA is also obligated to conclude the financial, functional and legal unbundling of its distribution sector and transfer it to a new EDA, which shall undertake the relevant activities in the rest of Greece until 1.1.2017 (EDA of the rest of Greece). Given that, except for Attica, Thessaly and Thessaloniki, the development of distribution networks in the rest of Greece is currently very limited, the new legal framework provides for the possibility that only two Gas Distribution Companies, one for the North and one for the South of Greece, are established or just a single EDA for the rest of Greece emerges as a subsidiary of DEPA.

EDAs to be established are obliged to file a petition to the RAE for being granted licenses for the distribution and for the operation of distribution networks within three months from their incorporation. According to these licenses, EDAs will be able to manage the distribution network

within the geographical areas defined in their license, irrespective of whether the distribution network belongs to DEPA or to EDA. It is worth mentioning that the new framework regulates the ownership status both of the already constructed networks and those to be constructed. More specifically, DEPA remains the owner of the already constructed distribution networks all over Greece, while the EDAs will be the owners of the networks that will be constructed by them. The fact that the maintenance, restoration and replacement works for the networks owned by DEPA take place in areas within the geographical areas of the EDAs does not affect the ownership status of the networks. However, the cost of such development and maintenance works conducted by the EDAs shall be deducted from their taxable income and be deemed taxable income of DEPA.

Lastly, article 80C of statute 4001/2011, as introduced by statute 4336/2015, provides that RAE is entitled to grant distribution licenses to third parties for a specific area within the geographical areas defined in the licenses of the EDAs, under the condition that (a) such specific area is not included in EDA's network development plan or (b) the construction works are not concluded 18 months after the expiration of the relative deadlines set out in the network development plans. Making use of this provision, third parties will be able to develop autonomous micro-grids supplied by CNG vehicles, with the purpose that off-grid communities of household and non-household customers as well as



industrial parks have access to networks and natural gas supply.

## The new legal framework provides for the possibility that only two Gas Distribution Companies, one for the North and one for the South of Greece, are established

### Eligible customers

The eligibility of natural gas customers has been expanded by the new law. According to a strict timetable, all natural gas customers, both household and non-household, will have become eligible by 1.1.2018. Article 82 of statute 4001/2011, as amended by statute 4336/2015, provides that EPAs shall be eligible customers for the natural gas quantities servicing eligible customers or exceeding the contractual quantities specified in their supply contracts with DEPA as of 14.8.2015 (namely from the date of the entering into force of statute 4336/2015). From this date electricity generators, consumers of natural gas as fuel for maritime and land transport, and industrial customers who

have consumed more than 2.2 GWh over the last 12 months, are deemed eligible customers. Additionally, all non-household customers having consumed more than 2.2 GWh over the last 12 months shall be eligible customers as of 1.1.2017, whereas, as set out above, all natural gas customers shall be eligible as of 1.1.2018 irrespectively of their consumption volume.

In parallel to the above, the non-eligible customers will be able to become eligible under the condition that the distribution network will not be expanded to their locations within four months from the date they have submitted such a petition in writing to the existing bundled EPA or to the future EDA. In this way, they will be able to be supplied with natural gas even with alternative ways, such as by CNG vehicles. This possibility of off-grid customers to be supplied with natural gas is estimated to promote both the expansion of gas consumption and the future expansion of the networks.

### Tariffs and transitional law

Article 87 of statute 4001/2011, as amended by statute 4336/2015, regulates the tariff rules both of eligible and non-eligible customers. Particularly, RAE is responsible for the issue of regulated tariffs for the non-eligible customers following such a proposal of EPAs and DEPA. In issuing these regulated tariffs RAE is obliged to observe specific rules, i.e. the principle of non-discrimination among categories of non-eligible customers and the prohibition of cross-subsidies.

Furthermore, the tariffs should ensure the recovery of the actual supply cost plus a reasonable profit for EPAs. In exceptional circumstances, and only for a limited period, RAE is entitled to set a maximum profit margin to suppliers.

The new legal framework also includes transitional law for the implementation of the opening of the retail gas market. Specifically, RAE shall undertake the issuing of the tariff regulation and the distribution network operation code following DEPA's and the existing bundled EPAs' proposals, in their capacity as current network operators. Following this, RAE shall issue the network tariffs upon DEPA's and the existing bundled EPAs' proposal. Until the issue of such regulations, statute 4336/2015 provides that the network users will pay to the network operator (i.e. the bundled EPAs and DEPA) €4/MWh for access to the grid.

Finally, following the functional and the legal unbundling of EPAs and DEPA, the current distribution licenses granted to them shall be replaced by new distribution and operation of distribution network licenses granted to the EDAs. In parallel to this, gas supply licenses shall be granted to EPAs. Until the issuance of the new supply licenses, statute 4336/2015 stipulates that the bundled EPAs are entitled to supply eligible customers as well as customers residing outside the geographical areas defined in their current licenses.