

# Recent developments in natural gas sector

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## Introduction

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## Introduction

Unlike in most other EU countries, natural gas became part of the Greek market only recently following the launch of organised commercial import of natural gas at the end of 1996. Until then, gas was mainly used for electricity generation. Although the Greek supply and transmission of natural gas has not yet reached maturity, there have been significant attempts to liberalise the market in the past decade, particularly in the past couple of years.

Greece's natural gas market is now regulated by Law 4001/2011,<sup>(1)</sup> which was introduced in order to incorporate the EU Gas Directive (2009/73/EC).

The Greek natural gas market is dominated by:

- the public natural gas company DEPA;
- DEPA's 100% subsidiary National Natural Gas System Operator SA (DESFA) (unbundled from DEPA in 2007, in compliance with Law 3428/2005 and Presidential Decrees 33/2007 and 34/2007);<sup>(2)</sup>
- two gas supply companies in which DEPA has a 51% share; and
- three distribution companies (two of which DEPA has a 51% share, while the third is DEPA's 100% subsidiary).

DEPA was established in 1988 with the aim of developing infrastructure for the transmission and distribution of natural gas in Greece. The government holds a 65% share in DEPA, while the rest is held by Hellenic Petroleum AE. Today, DEPA:

- imports natural gas;
- supplies gas to customers;
- sells gas to suppliers;
- distributes gas to areas not covered by the grid; and
- sells gas for motor vehicles.

The main competencies of DESFA include:

- providing access to the grid for all users on a transparent and non-discriminatory basis and in a safe, adequate, reliable and economically efficient way;
- receiving natural gas from the national grid's entry points, transporting it through the national grid and delivering it to the network's exit points, allocating the load among the users and undertaking to ensure the quality of natural gas; and
- balancing and calculating the imbalance between deliveries and offtakes.

## Privatisation of DESFA and DEPA

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Since the first memorandum of understanding concluded with international lenders in May 2010,(3) the government sought to privatise its remaining shares in the state-owned enterprises to the extent needed in order to collect the €50 billion in the medium term necessary to repay its international debts.

In 2013 the privatisation of DESFA was initiated through the sale of 66% of DEPA's shares to a strategic investor by way of a public tender. The share purchase agreement was concluded with the State Oil Company of the Republic of Azerbaijan (SOCAR). However, after the extended procedure of acquiring of the respective merger control and other necessary approvals, the agreement was not completed.

Concluded in 2015,(4) the third memorandum of understanding, among other things, provides for the reform of network undertakings and the privatisation and reform of the energy market – especially the natural gas market – which should lead to its full liberalisation by 2018. In June 2016 Greece signed the supplementing memorandum of understanding, according to which the government has agreed to proceed with an ambitious privatisation programme and explore all possibilities to reduce the financial envelope through an alternative fiscal path or higher privatisation proceeds. The Updated Asset Development Plan of April 26 2016(5) provides for the privatisation of DESFA.

The Ministry of Environment and Energy recently announced its intention to launch a new international tender for the sale of shares in DESFA. However, it is still unclear whether a majority or minority package will be offered for sale. According to recent announcements, two options are being discussed:

- the privatisation of 49% of shares in DESFA; or
- the privatisation of 66% of shares in DESFA.

Since 66% of shares in DESFA were already transferred to Hellenic Republic Asset Development Fund SA as part of the previous privatisation, they are under the control of the Greek state. If only 49% of the shares are put up for sale, the Greek state might not gather sufficient funds to fulfil its obligations. On the other hand, if 66% of the shares are offered for sale, there may be obstacles in obtaining the necessary approvals should the purchaser be from a non-EU country, as was the case in the previous privatisation. The minister of environment and energy has indicated that a sale of 66% of shares in DESFA is more likely, while other recent announcements even refer to the benefits of renewing the share purchase agreement with SOCAR.

The 2013 unsuccessful privatisation of 65% of the government's stake in DEPA may be on the table once again after the privatisation of DESFA.

### **Unbundling of natural gas distribution and supply**

Until now, three gas distribution companies – EPA Attica SA, EPA Thessaloniki SA and EPA Thessaly SA – have also provided supply services to end consumers. These companies were established between 2000 and 2001 under Law 2364/1995 (codified version) and operated under a concession agreement (as DEPA owned the distribution grid). They also monopolised the distribution and supply of gas to non-eligible consumers in their respective administrative boundaries, in accordance to the derogation granted to Greece under Article 49.8 of the Gas Directive 2009/73/EC. DEPA held the majority share (51%) in the three companies, while Attica Gas BV (100% subsidiary of Shell Gas BV) had a 49% in EPA Attica and ENI SA had a 49% share in EPA Thessaloniki and EPA Thessaly SA.

Law 4336/2015, and subsequently Law 4414/2016 (passed in August 2016), provide for the unbundling of distribution from the supply of natural gas. With regard to the three established companies, these laws abolished the companies' monopolies over supply services. In particular, the companies were obliged to finish the legal and functional unbundling of their distribution function from the rest of their activities by January 1 2017. More precisely, they must regulate the spin-off of their distribution function to newly established natural gas distribution companies, which should acquire two licences – a distribution licence and a licence – to operate a distribution network. DEPA has the right to set up a new distribution company by way of a spin-off of its own natural gas distribution sector and may distribute energy to the parts of Greece not covered by the three

distribution companies. The established distribution companies Thessaloniki and Thessaly (which have the same shareholders' structure) can have one joint distribution and one joint supply company.

Subsequently, the following companies have been in operation since January 2017:

- two natural gas supply companies:
  - Attica Gas Supply (51% of which is owned by DEPA and indirectly by Shell Gas BV); and
  - Thessaloniki-Thessaly Gas Supply (51% of which is owned by DEPA and 46% of which is owned by ENI); and
- three distribution companies:
  - Attica Gas Distribution (which has the same shareholding structure as Attica Gas Supply);
  - Thessaloniki Thessaly (which has the same shareholding structure as Thessaloniki-Thessaly Gas Supply); and
  - the gas distribution company for the rest of Greece (owned 100% by DEPA).

According to the 2016 amendments, DEPA owns any distribution networks which were constructed by DEPA or the existing distribution companies under the previous legal framework. However, any future distribution networks or works aimed at extending an existing distribution network undertaken by the new distribution companies will be exclusively owned by them.

### **Monopoly in supply sector**

After the adoption of Decision 551/VII/2012, the Competition Commission started to monitor and continuously reform the conditions and procedures of DEPA's electronic auctions, which have been conducted since December 2012. By way of the above decision, the commission accepted the commitments proposed by DEPA in order to provide increased liquidity and competition on the market. In particular, DEPA undertook to sell specific quantities of natural gas (10% of the quantity which is supplied to consumers in the previous year) on an annual basis through electronic auctions. All licensed natural gas suppliers and energy intensive industries were permitted to participate in the auctions. Since January 2013 the annual auctions were replaced by quarterly auctions. Several more amendments followed (Commission Decisions 551/2012, 589/2014, 596/2014 and 618/2015).

In October 2016 the Competition Commission accepted DEPA's additional commitments to increase the gas quantities and introduce some additional amendments – in particular:

- to further increase the quantities of natural gas available through electronic auction; and
- to modify the conditions set out for DEPA regarding the reserved capacity at the entry points of the national natural gas transmission system, particularly with regard to the new regulatory framework for capacity allocation interconnection and contractual congestion management points (based on EU Regulations 984/2013 and 715/2009, respectively).

### ***Increase of natural gas quantities through electronic auctions***

The quantities of natural gas to be sold through electronic auctions should be increased incrementally to the following percentages:

- 16% in 2017;
- 17% in 2018;
- 18% in 2019; and
- 20% in 2020.

All auctioned quantities of gas above the 10% already being offered will be offered only to licensed gas supply companies, not energy-intensive consumers. In other words, 6% of the total 16% which will be disposed of by DEPA in 2017 will be exclusively distributed to licensed gas supply companies. The same applies for 7% in 2018, 8% in 2019 and 10% in 2020. Notably, some energy-intensive consumers have already applied to acquire gas supply licences, which would give them the right to participate in the additional quantities.

The quantitative limit per potential buyer has been increased from 15% to 20% for the quantities up

to 10%, while there will be no limit to participation per purchaser for the additional auctioned quantities.

Further, after the single market for gas (EAFA) is established, DEPA has committed to continuing to offer for sale the same quantities of natural gas through EAFA.

### ***Access to interconnection points – capacity commitment***

Decision 551/VII/2012 also regulates DEPA's commitment to give priority to third parties, actual or potential competitors or customers regarding any future additional capacity in ESFA entry points. In this regard, DEPA has also committed not to participate in new capacity allocations arising from any upgrade of capacities at these entry points and to assign conditional captive capacity free of charge to its customers.

In addition, from June 30 2017 DEPA has agreed not to surpass specific quantitative limits regarding the total capacity that it commits in ESFA entry points, as in Agia Triada (LNG-Revithoussa).

In the revised commitments, the quantitative maximum limit for the Sidirokastro entry point was adjusted to 67% of the existing total capacity (121.608 megawatts per hour), while the quantitative maximum limits for the Kipoi and Agia Triada (LNG-Revithoussa) entry points remain unchanged (ie, 55% and 40% of their existing total capacity, respectively). In addition, the commitments provide for the right to reserve unused capacity for up to 10 days in the case of extraordinary (unexpected) need.

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### **Endnotes**

(1) For the operation of the energy markets of Electricity and Natural Gas, for research, production and transmission networks of hydrocarbons and other arrangements (*Official Gazette A'176*, August 22 2011).

(2) *Official Gazette A' 31*, February 20 2007.

(3) Memorandum of understanding concluded between Greece and the European Commission of May 3 2010.

(4) Memorandum of understanding between the European Commission acting on behalf of the European Stability Mechanism and the Hellenic Republic and the Bank of Greece of August 19 2015.

(5) Updated Asset Development Plan, revision of April 26 2016.

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