

The existing liabilities cannot serve as an obstacle for choosing another natural gas supplier

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News

Since opening of the natural gas market in Latvia and, respectively, opportunities for entrepreneurs to choose a natural gas supplier with the most suitable offer, the Competition Council of Latvia (the CC) actively follows, so that rules of fair competition would be observed while the market situation is changing.

In each market liberalization situation, the incumbent participants keep advantages (recognizability among consumers, market information, customer base etc.) and power at least in the initial stage of market opening. Therefore, it is important to mitigate risks of AS "Latvijas Gāze" as the incumbent supplier of natural gas to use groundless advantages, taking into consideration its dominant position.

While assessing the obtained data about natural gas supply agreements concluded by AS "Latvijas Gāze" (except with households), the new drafts of supply agreements and their conditions, the CC has concluded, that the condition "take-or-pay" is widely used in these agreements. This causes concerns on the effect of blocking market access, thereby hindering development of competition in the conditions of open market of natural gas. A company having a dominant position is not allowed to enforce, directly or indirectly, objectively groundless agreement conditions by using its power, and to restrict the choice of users to move to another supplier.

The agreement condition "take-or-pay" determines an obligation of the user to purchase a specific minimum amount of natural gas from the total annual amount of ordered natural gas, otherwise the user has to cover the difference between the minimum amount and actually purchased amount. Inclusion of such a condition in agreements is not forbidden, because it allows a supplier to plan natural gas amounts to be purchased for the entire year. Thereby, for the user it is substantiated to agree anew with the supplier on the mandatory minimum and also total amounts to be purchased each year. Long-term liabilities for the user to purchase specific amount from a dominant supplier may restrict its rights to choose a supplier freely, and burden entering the market by new suppliers and their operation.

Also, taking into consideration conditions of agreements, AS "Latvijas Gāze" has no objective basis to enforce the user to pay for unfulfilled "take-or-pay" liabilities for a period earlier than the previous year or force the user to perform liabilities unfulfilled in the previous year in an inconvenient and excessively long term for the user. The user has the right to agree with AS "Latvijas Gāze" on the procedures and term for fulfilment of outstanding "take-or-pay" liabilities of the previous year.

When the user agrees with AS "Latvijas Gāze" on fulfilment of outstanding liabilities of the previous year, the rest of the gas amount may be purchased from other suppliers without any limitations, after opening of the natural gas market. AS "Latvijas Gāze" is not entitled to enforce or bind the user with an obligation to purchase the rest of the required gas amount exactly from this supplier.

An open natural gas market will surely create preconditions for competition among suppliers, ensuring better quality of service and wider choice for all users of natural gas. However, opening of a successful natural gas market depends not only on activities of AS "Latvijas Gāze" as the former monopolist, but also on the activity of new suppliers and users of natural gas.

Therefore, the CC calls entrepreneurs to follow processes on the market and choose their supplier with the most beneficial offer until 15 June of this year. The list of merchants, which will be allowed to launch supply of natural gas starting from 3 April 2017, is available in the register of suppliers published on the homepage of the Public Utilities Commission:

<https://www.sprk.gov.lv/aktuali/dabasgazes-tirgotajiem>.

The CC will continue following the market opening process, also conformity of conduct of AS "Latvijas Gāze" as the market participant having a dominant position, and its influence on fair competition on the market. The CC also calls entrepreneurs and other legal persons to address the CC in the case of enforcing groundless conditions or restriction of rights of other potential

users.

<https://www.kp.gov.lv/en/article/existing-liabilities-cannot-serve-obstacle-choosing-another-natural-gas-supplier>