

Law N° 02- 01 of 22 Dhu El Kaada 1422 corresponding to February 5, 2002

relative to

Electricity and Gas distribution by pipes.

The President of the Republic:

In view of the Constitution, particularly its articles 12, 17,119,122 and 126;

In view of order NR 66-155 dated 8 June 1966,as amended and completed relative to the Law on penal procedure,

In view of order NR 66-156 dated 8 June 1966,as amended and completed relative to penal Law,

In view order NR 75-35 dated 29 April 1975,relative to the National Chart of Accounts,

In view of order NR 75-59 dated 26 December 1975,as amended and completed, relative to Civil Law;

In view of order NR 75-59 dated 26 December 1975,as amended and completed, relative to the Trade Law;

In view of the Law NR 83-03 dated 5 February 1983 relative to the protection of the Environment;

In view of the Law NR 83-17 dated 16 July 1983,as amended and completed, relative to the water Law;

In view of the Law NR 85-07 dated 6 August 1985,as amended and completed, relative to the production, the transmission and the distribution of electric energy and gas public distribution;

In view of Law NR 90-08 dated 7 April 1990 relative to municipalities;

In view of Law NR 90-09 dated 7 April 1990 relative to Counties;

In view of Law NR 90-10 dated 14 April 1990,as amended and completed, relative to money and credit;

In view of Law NR 90-11 dated 21 April 1990,as amended and completed, relative to labour relations;

In view of Law NR 90-22 dated 18 August 1990,as amended and completed relative to the business registry;

In view of Law NR 90-25 dated 18 November 1990,as amended and completed, relative to the Law on land orientation;

In view of Law NR 90-29 dated 1 December 1990,as amended and completed, relative to land development and town planning;

In view of Law NR 90-30 dated 1 December 1990,as amended and completed, relative to land ownership;

In view of Law NR 91-11 dated 27 April 1991 which sets out the rules relative to expropriation for the purpose of public interest;

In view of order NR 95-06 dated 23 Chaabane 1415 corresponding to 25 January 1995 relative to competition;

In view of order NR 95-20 dated 19 Safar 1416 corresponding to 17 July 1995 relative to the Government Audit Council;

In view of order NR 96-22 dated 23 Safar 1417 corresponding to 9 July 1996 relative to law enforcement against the violation of legislation and regulation on change and capital movements from and to overseas;

In view of Law NR 98-04 dated 20 Safar 1419 corresponding to 15 June 1998 relative to the protection of the cultural heritage;

In view of Law NR 99-09 dated 15 Rabie Ethani 1420 corresponding to 28 July 1999 relative to the control of energy;

In view of order NR 01-03 dated Aouel Jumada Ethania 1422 corresponding to 20 August 2001 relative to the development of investments;

In view of order NR 01-04 dated Aouel Jumada Ethania 1422 corresponding to 20 August 2001 relative to the organisation, the management and the privatisation of economic public enterprises.

In view of Law NR 01-20 dated 27 Ramadhan 1422 corresponding to 12 December 2001 relative to land development and sustainable development;

Following adoption by the Parliament;

Enacts the following law whose content is as follows:

TITLE I

AREA OF IMPLEMENTATION

Article 1. — The object of the present law is to set out rules applicable to activities related to the production, the transmission, the distribution and the marketing of electricity and the transport, the distribution and the marketing of gas by pipes.

These activities are carried out in accordance with commercial rules by physical or juridical persons of private or public law as part of the public service,

Art. 2 . — According to the present law, it is meant by:

- Commercial Agent: Any physical or juridical person other than the producer or the distributor who purchases electricity or gas for the purpose of sale.
- Self-producer: Any physical or juridical person who produces electricity mainly for the purpose of his/her own use.
- Direct gas pipe: The gas transport or distribution pipe which links a gas supplier facility to a gas energy consumer as a supplement to the gas transport or distribution network.
- Commission: Electricity and gas regulation commission. A body in charge of ensuring the respect of technical, economic and environmental regulations, the protection of consumers, the transparency of transactions and non discrimination among operators.
- Client: final client, distributor or commercial agent.
- Eligible client: A client who has the right to conclude electricity or gas supply contracts with a producer, a distributor or a commercial agent of his /her own choice and to this end he/she has the right of access to the transmission and/or distribution network.
- Final client: Any physical or juridical person who purchases electricity and/or natural gas for the purpose of his/her own use.
- Cogeneration: The combined production of electricity and heat.
- Concession: The right granted by the Government to an operator to operate and develop a network of a limited territory and for a limited period of time with a view to selling the electricity or gas distributed by pipes.
- Distributor: Any physical or juridical person who ensures the distribution of electricity or gas by pipes with the possibility of sale.
- Energy: Electricity and gas distributed by pipes.
- Gas: Gas distributed by pipes in the form of natural gas and liquefied petroleum gas.
- Transport network manager: A juridical person in charge of operation, maintenance and development of the transport network.
- Direct electricity line: an electricity transmission or distribution line which links an electric power generation facility to an electric power consumer as a supplement to the electric power transmission and distribution network.

- National gas market: made up of gas suppliers and national clients. These clients consume gas on the national territory.
- Operator: Any physical or juridical person involved in the activities referred to in article 1 of the present law.
- Market operator: A juridical person in charge of the economic management of the electricity sales offer and purchasing system.
- System operator: A juridical person in charge of the co-ordination of the production and the transmission of electricity(dispatching)
- Producer: Any physical or juridical person who produces electricity.
- Power at ISO conditions: Power delivered by means of electricity generation at an ambient temperature of 15 C and an air temperature of 101 325 Pa.
- Electricity distribution network: A series of works made up of overhead lines, underground wires, transformers, substations and auxiliaries and annexes designed for the distribution of electricity.
- Gas distribution network: A series of works made up of pipes, substations and auxiliaries and annexes designed for the distribution of gas.
- Electricity transmission network: A series of works made up of overhead lines, underground wires, international interconnection connections, transformation substations and their related equipment such as telecontrol, telecommunication, protection, control, operation and measurement equipment designed for the transmission of electricity to clients, producers and distributors as well as interconnection between electric power stations and electric networks.
- Gas transport network: A series of works made up of overhead and underground pipes, switch and release substations and related equipment such as telecontrol, telecommunication, protection, control, operation and measurement equipment used for the transport of gas to clients, electricity producers and distributors as well as interconnection between gas networks.
- JSC: Joint Stock Company.
- Network user: Any physical or juridical person who supplies a transport or distribution network or supplied by one of those networks.

TITLE II

THE PUBLIC SERVICE

Art. 3. — the distribution of electricity and gas is a public interest activity.

The public service is aimed at ensuring the supply of electric power and gas all over the national territory in the best conditions of safety, quality, pricing and respect of technical and environment rules.

The public service mission is aimed at:

- Supplying energy to non eligible clients in the best conditions of equity, continuity and equalization of sales prices;
- Insuring as part of equal treatment connection and access of electric power distributors, eligible clients and producers to electricity transmission networks.
- Meeting energy needs of needy categories of citizens and poor areas in order to insure a better social cohesion and to contribute to a greater solidarity;
- Providing at request whenever possible energy assistance to producers or eligible clients connected to networks.
- Insuring energy supply to any eligible client if this latter fails to find a supplier in acceptable technical and economic conditions.

Art. 4. — Any public service activity entails payment by the Government following the notification of the regulation commission, particularly in the following cases:

- Over costs due to energy supply and purchasing contracts imposed by the Government;
- Participation in favor of a specific client.
- Over costs resulting from production and distribution activities in particular areas.
- Constraints identified as such by the regulation commission.

Art. 5. — An electricity and gas fund in charge of the equalization of prices and costs related to the period of transition to a competitive system shall be set up under the authority of the Commission.

The commission may delegate the management herein. The functioning and the funding of this fund shall be set out by legal ways.

TITLE III

ELECTRICITY PRODUCTION

Art. 6. — Electricity production activities are open to competition in conformity with the legislation in force and the provisions of the present law.

Art. 7. — New electricity production plants shall be realized and operated by any physical or juridical person of private or public law holding an operation permit.

Art. 8. — The regulation commission sets up periodically a program of electricity production after consultation with the system operator , the market operator and distributors. This evaluation is made on the basis of tools and a methodology fixed legally. The program is approved by the Minister in charge of energy.

This program is drawn up for a period of ten (10) years and is updated every two years for the next ten years. It is drawn up for the first time within the twelve months following the setting up of the regulation commission. It will take into account the growth of consumption per geographical region, electricity transmission and distribution capacities as well as electric power exchange with foreign networks.

Art. 9. — this program must include:

- An estimate of the growth of the demand for electricity in the medium and the long terms and an identification of the needs in terms of production means which would result.
- Orientations in terms of choice of primary energy sources while favoring national fuels available, a promotion of the use of renewable energies and the integration of environmental constraints set out by the legislation.
- Indications on the nature of electric power production techniques to be favored while promoting production technologies with a low emission of greenhouse gas effect.
- The assessment of the needs of public service obligations for electricity production and the efficiency and the cost of these obligations.

Art. 10. — the operation permit is delivered by name by the regulation commission to a single holder. It is not transferable.

Changes or extensions of the production capacities of existing facilities are subject to an operation permit when the additional heat value exceeds ten per cent (10%).

Art. 11. — Plants designed for self consumption, of a total installed capacity of less than twenty five (25) MW at ISO conditions and changes or extensions of the capacity of existing production plants when the additional heat value increases by less than ten per cent (10%) are exonerated from operation permits. They shall be subject to a declaration to be submitted to the regulation commission which would check its conformity with the present law.

Art. 12. — Production facilities with a capacity of less than fifteen (15) MW at ISO conditions as well as isolated distribution networks which they serve are assimilated to public distribution and shall be the object of one concession as set out in the article 73 of the present law.

Art.13. — Criteria for delivering operation permits include:

- The safety and the security of electric power networks, facilities and related equipment;
- Energy efficiency ;
- The nature of primary energy sources;

- The choice of sites, the occupation of soils and the use of public property;
- The respect of environment protection rules;
- The technical, economic and financial capacities as well as the professional experience of the applicant and the quality of his/her organization;
- Public service obligations in terms of regularity and quality of electricity supply and in terms of supply of clients who do not have the status of eligible clients ;

Art. 14. — the regulation commission discloses all the main characteristics in terms of capacity, primary energy, production technique and identification of any application for an operation permit of a new production plant.

Art. 15. — the granting of a permit as part the present law does not exempt the beneficiary from meeting other provisions required by the legislation in force.

Art. 16. — The procedure for delivering operation permits, particularly the form of the application, the study of the dossier by the regulation commission, the destination of the energy produced, the deadline of notification of the applicant about the decision of the regulation commission and fees to be paid to the commission for the analysis of the dossier shall be set by way of regulation.

Art. 17. — The regulation commission proceeds to a motivated and public rejection of the permit if the applicant does not meet the criteria required for delivering the said permit.

Art. 18. — the regulation commission rules on the appropriate answer to be given to the permit applicant in case of a transfer of the plant or in case of control change, merger or splitting of the permit holder. It sets out if necessary the necessary conditions to meet and the procedures to follow for the maintenance or the delivery of a new operation permit.

Art. 19. — Operation permits of existing facilities, regularly set up at the date of publication of the present law are considered as being acquired. Plants involved must be declared by their owners at the regulation commission.

Art. 20. — In case of serious crisis in the energy market, threat for security or safety of electric power grids or plants, safeguard temporary measures may be undertaken by the Minister of Energy, after notification of the regulation commission, particularly in terms of granting or suspension of operation permits. Such measures shall not be the object of any compensation.

Implementation measures of the present article are set out by legal ways.

Art. 21. — Subject to legal and regulatory provisions in terms of environment, any physical or juridical person and particularly territorial governments may operate any new plant aimed energy upgrading of household or related wastes or any other new energy cogeneration or recycling plant originating from plants designed to supply a heat network when such plants are aimed at energy saving and reducing air pollution.

However they are subject to an operation permit which will be delivered by the regulation commission.

Art. 22. — if the regulation commission notes an insufficient number of applications for permits to realize it may resort to the tender procedure for the construction of new electric power production plants after notification of the system operator, the market operator and the distributors involved. In any case the regulation commission shall take the necessary provisions to meet the needs of the national market.

Art. 23. — the launched tender may be the object of a motivated cancellation by the regulation commission.

Art. 24. — Producers as well as any physical or juridical person of private or public law expressing the desire to build or operate an electric power production plant may bid for such tenders.

Art. 25. — the selected producer following the verification of the provisions of article 13 above at the end of the tender procedure shall be granted an operation permit and shall freely conclude sales contracts with distributors and eligible clients.

Art. 26. — in pursuance of the energy policy, the regulation commission may undertake measures aimed at organizing the market with a view to insuring a normal sale in the market, a minimum price of a minimum volume of electricity produced from renewable energy sources or cogeneration systems.

Over costs resulting from such measures may be the object of funding by the Government or borne by an electricity and gas fund and included in the prices. Energy quantities which will be sold on the market and aimed at encouraging renewable energies or cogeneration must be the object of a tender set out by legal ways.

Art. 27. — the rights and obligations of the electricity producer are set out in a specifications document set up by legal ways.

Art. 28. — Technical rules for electricity generation are set out by legal ways.

TITLE IV

ON ELECTRICITY TRANSMISSION PIPES

ON THE ELECTRIC POWER GENERATION- TRANSMISSION SYSTEM

AND THE ORGANISATION OF THE ELECTRICITY MARKET

Art. 29. — the electric power transmission network is a natural monopoly. Its management shall be insured by a single manager.

The electric power transmission manager shall be granted an operation permit delivered by the Minister of energy after notification of the commission. This permit shall not be transferable.

Art. 30. — the electric power transmission manager shall be the owner of the electric power transmission network. It shall be responsible for the operation, the maintenance and the development of the electric power transmission network so as to insure an adequate capacity in relation to transit and reserve needs.

Art. 31. — the electric power transmission manager is a commercial enterprise established in conformity with the provisions of article 169 of the present law.

Art. 32. — the technical rules for the design, the conception, the operation and the maintenance of the electric power transmission network are set out by legal ways.

Art. 33. —the development plan of the electric power transmission network is drawn up by the system operator in collaboration with the electric power transmission network manager, the market operator, the distributors and the marketing agents. This plan shall be approved by the regulation commission; it shall cover a period of ten (10 years and shall be updated every two years.

The plan shall include:

— A detailed estimate of needs in terms of electric power transmission capacity.

— The program which the electric power transmission manager undertakes to execute.

Art. 34. — The regulation commission examines applications of realization and controls the execution of planned works; it can order the electric power transmission network manager to update the development plan.

Art. 35. — the management of the electric power generation-transmission system is insured by a single manager called the system operator. This latter

insures the co-ordination of the electric generation-production system. He guarantees in particular a permanent balance between consumption and generation, the security, the reliability and the efficiency of electric supply.

Art. 36. — the system operator's functions are:

- To forecast and meet the demand for electricity in the short and medium term.
- To forecast and plan the use of the electric power production potential in the short and medium term.
- To run the electric power reserve potential.
- To manage the international electric power exchanges.
- To run the electric power generation-transmission system.
- To co-ordinate the plans of maintenance of electric power generation-transmission works.
- To set up and control the reliability parameters of the generation-transmission system.
- To draw up and implement plans for the protection and the preservation of the electric power transmission network in collaboration with the electric power network manager, electric power producers, distributors and eligible clients.
- To elaborate the development plan of the electric power transmission network in conformity with article 33 above.
- To execute public authorities' decisions relative to guaranteeing electric supply.

These functions are carried out in co-ordination with the market operator.

Art. 37. — the system management of the electric power transmission is compatible with that of the electric power network. In the case where one operator is entrusted with two functions, provisions of article 38 beneath shall be implemented:

Art. 38. — the system operator is a commercial enterprise established in accordance with the provisions of articles 172 and 173 of the present law. It carries out its activities in co-ordination with the market operator in accordance with the principles of transparency, objectivity and independence.

No shareholder shall own a share exceeding ten per cent (10%) in the capital of the system operator's enterprise.

The system operator shall not carry out purchase or sales activities of electric power energy.

Art. 39. — the system operator's agents shall comply with an obligation of strict confidentiality on all the information they can have access to as part of their work.

The non respect of this obligation shall lead to disciplinary sanctions in conformity with the rules of procedure of the system operator.

Art. 40. — the technical rules of connection to the electric power network and management rules are set out by legal ways in conformity with the specifications document which subordinates the operator to safety standards.

Art. 41. — the management of the electric power market is insured by a single operator called market operator through a commercial enterprise whose function is the management of the electric power sales and purchasing offer system.

The market operator is created in accordance with the provisions of articles 172 and 173 of the present law.

No shareholder may own a direct or an indirect share exceeding ten per cent (10%) of the capital of the market operator's enterprise.

Art. 42. — the market operator's functions are:

- The reception of electric power sales offers from production plants.
- The reception and acceptance of electric power purchasing offers.
- The adequacy between electric power supply and demand starting from the cheapest sales offer to the total satisfaction of the demand for each planning period.
- The provision of operators (electricity producers, eligible clients, electricity distributors, commercial agents, system operators) with the results of this adequacy and particularly planned electric power plants and marginal prices.
- Liquidation operations: proceeds and payments according to the effective functioning on each planning period.
- The management of the electricity and gas fund if entrusted by the regulation commission to carry out this mission.

Art. 43. — the market operator's agents shall comply with an obligation of strict confidentiality on all the information to which they had access as part of their work.

The non respect of this obligation shall lead to disciplinary sanctions in accordance with the rules of procedure of the market operator.

Art. 44. — the rights and obligations of the market operator are set out in the specifications document set up by legal ways.

TITLE V

ON GAS TRANSPORT FOR THE NATIONAL MARKET

AND THE ORGANISATION OF THE NATIONAL GAS MARKET

Art. 45. — The gas transport network for the national market is a natural monopoly. Its management is insured by one single manager.

The gas transport network manager shall benefit from an operation permit delivered by the minister in charge of energy. This permit is non transferable.

Art. 46. — The commission draws up an indicative supply program of the national gas market in collaboration with the institutions concerned and after consultation with operators. This program is elaborated on the basis of tools and a methodology set out by legal ways.

The indicative program shall be submitted to the Minister of energy for approval. The indicative program is a decennial program, it is updated every year for the next ten years and whenever unexpected events of the market require that. It is set up the first time within twelve months after the setting up of the regulation commission. It shall take into account the growth of consumption per geographical area, gas transport and distribution capacities.

This program shall be set up on the basis of mechanisms and a methodology set out by legal ways.

The regulation commission together with other regulation institutions takes part in the elaboration of gas supply forecasts.

Art. 47. — a decree of the Minister of energy shall determine the plants which will be classified as part of the gas transport network designed to supply the national market.

Art. 48. — the gas transport network manager shall be the owner of the gas transport network. It shall discharge the functions of operation, maintenance and development of the gas transport network with a view to insuring the adequate capacity in relation to the transit and reserve needs.

Art. 49. — the gas transport network manager is a commercial enterprise established in accordance with the provisions of article 170 of the present law

Art. 50. — the gas transport network design, operation and maintenance technical rules are set out by legal ways.

Art. 51. — the gas transport network development plan shall be drawn up by the gas transport network manager in collaboration with operators. This plan shall be approved by the regulation commission; it shall cover a period of ten years and shall be updated each year.

The plan shall include:

- A detailed estimate of needs in terms of gas transport capacities,
- The program which the gas transport network manager undertakes to execute.

Art. 52. —the regulation commission shall examine realization applications and shall control the execution of planned works; it can order the gas transport network manager to update the development plan.

Art. 53. — the gas system management shall be insured by the gas transport network manager. It shall insure the co-ordination of gas flows and shall guarantee in particular a permanent balance between consumption and supply, safety, reliability and efficiency of gas supply.

It shall also provide the operators with the necessary information to the operation of the gas transport networks according to rules set out by legal ways.

Art. 54. —the functions of the gas transport network manager are:

- To forecast and satisfy the demand in the short and medium terms.
- To forecast the short and medium term use of the gas transport network capacities.
- To manage regional gas exchanges.
- To carry out gas energy movements.
- To co-ordinate the gas transport works maintenance plan.
- To set up and control the gas transport system reliability parameters.
- To define and implement plans for the defense and the safeguard of the gas transport network in collaboration with electric power producers, gas distributors and eligible clients.
- To elaborate a gas transport network development plan in accordance with article 51 above;
- To carry out public authorities' decisions relative to guaranteeing gas supply;

Art. 55. — the gas transport network manager shall not carry out any gas purchasing or sales activities;

Art. 56. — Agents of the gas transport network manager shall comply with an obligation of strict confidentiality on all information to which they had access as part of their work.

The non respect of this obligation shall lead to disciplinary sanctions in accordance with the rules of procedure of the gas transport network manager.

Art. 57. —Technical connection rules to the gas transport network and management rules of the gas transport network shall be set out by legal ways.

Art. 58. — the management of the national gas market is insured by the gas transport network manager. It shall discharge the following functions:

- The reception of sales quotes from gas suppliers;
- The reception and the acceptance of gas purchasing quotes.
- The adequacy between gas demand and supply starting with the cheapest gas sales quote up to the total satisfaction of the demand for every planning period.
- Provision of operators with (electric power producers, eligible clients, gas distributors, marketing agents) the results of this adequacy;
- Liquidation operations: proceeds and payments according to effective operation on each planning period.

Art. 59. — the functions referred to in articles 48, 54 and 58 above shall be discharged by the gas transport network manager through distinct structures endowed with different accountancies.

Art. 60. — the rights and obligations of the gas transport network manager shall be set out in a specifications document which will be drawn up by legal ways.

TITLE VI

ON ACCESS TO ELECTRIC POWER

AND GAS TRANSPORT AND DISTRIBUTION NETWORKS

Art. 61. — the organization of the sector is based on the principle of access of third parties to electric power and gas transport and distribution networks in order to allow the direct supply of eligible clients from gas suppliers and electric power energy producers.

The gas and electric power markets shall be open at the latest three (3) years after the promulgation of the present law up to thirty per cent (30%) for each.

Art. 62. — The quality of eligible client depends only on the level of annual consumption.

The level of consumption shall be set by legal ways, it shall be revised downward gradually.

Art. 63. — Eligible clients may freely negotiate prices and quantities with producers, distributors and marketing agents.

The regulation commission shall publish the contract type models.

Art. 64. — The term of the contract through which gas or electricity will be supplied to clients shall not be less than three (03) years.

Art. 65. — Eligible clients, distributors and marketing agents have a right of access to transport and/or distribution networks or to the two networks through payment to the transport and distribution manager in accordance with article 68 hereunder.

Article 66. — The terms under which an eligible client who has withdrawn from a pricing system can join it again are set out by legal ways.

For electricity, supply applications shall be submitted to the market operator; as soon as the application is accepted and checked by the system operator, this latter shall become a firm supply commitment.

For gas, supply applications shall be submitted to the gas transport network manager, as soon as the application is accepted it becomes a firm supply commitment. Modalities of supply and access to networks shall be set out by legal ways.

Article 67. — Access of third parties to electric power and gas networks or to the two shall be refused only in case of a proven lack of capacity. In case of refusal, an appeal may be introduced by the operator involved to the regulation commission.

Modalities of exercising the right of appeal are set out by legal ways.

Article 68. — Prices for the use of electricity and gas networks shall be set by the regulation commission on the basis of a methodology and parameters set out by legal ways. These prices shall be transparent and non discriminatory. They will be set up and published in accordance with the provisions of the present law.

Article 69. — Prices shall be set on the basis of the different modalities of use of the network, over costs due to the public interest, indirect services and transition contributions.

Article 70. — Pricing structures for the use of networks shall be uniform all over the national territory.

Article 71. — For export and international transits, commercial conditions shall be negotiated between the transport network manager and the parties concerned.

TITLE 7 ON ELECTRICITY AND GAS DISTRIBUTION

Article 72. — The State as the Guarantor of the gas and electricity public service shall grant concessions. These concessions shall be granted through an executive decree on proposal by the Minister of energy, after notification of the regulation commission.

Article 73. — The granting of distribution concessions shall be made through tendering by the regulation commission. The concession is non transferable.

Modalities for granting concessions are set out by legal ways.

Article 74. — Owners of existing distribution networks at the date of promulgation of the present law are the holders of the operation concessions of these networks. They shall proceed to their declaration at the regulation commission.

Article 75. — The document of specifications referred to in article 77 hereunder sets out in case of change of agent the payment of investments made by the previous agent.

The procedure of settlement of possible disputes between the parties concerning the payment of investments shall be set out by legal ways.

Article 76. — The regulation commission sets out if need be the criteria of assessment which will allow the determination of the annual value of the rent to be paid to non agent owners of distribution networks.

Article 77. — A document of specifications set by legal ways shall set out the rights and obligations of the agent.

The document of specifications shall be set up by legal ways.

Article 78. — The document of specifications provides particularly for the following obligations of the distribution network dealer:

- Operation and maintenance of the network in its distribution area.
- A permanent development of the network in order to allow the connection of clients or producers who wish so.
- Efficiency and security of the network.
- Balance between supply and demand.
- The quality of the service.

- The respect of hygiene, security and environment technical regulations.

The modalities of withdrawal of the concession are set out by legal ways.

Article 79. — Distribution network agents shall supply non eligible clients according to prices set out in articles 97 and 99 hereunder.

Article 80. — Prices of use of distribution networks shall be set by the regulation commission on the basis of a methodology and parameters set out by legal ways. They shall be set up in conformity with the provisions of the present law.

Implementation modalities of the present article shall be set out by legal ways.

Article 81. — Design, operation and maintenance technical regulations of distribution networks shall be set out by legal ways.

TITLE 8 JOINT PROVISIONS FOR ELECTRICITY AND GAS MARKETS

Article 82. — The marketing agents' activity both for gas and electricity shall be subject to a work permit delivered by the regulation commission.

The criteria for delivering this permit include:

- The reputation, the qualification and the professional experience of the applicant.
- The technical and financial capacities and the quality of the organization.
- The public service obligations in terms of regularity and quality of electric power and gas supply.

The marketing agents' capacity and modalities for exercising the activity shall be set out by legal ways.

Article 83. — The regulation commission shall set up a marketing agents' committee of the electric power and gas national market entrusted with the supervision of the functioning of the electricity market operator and the gas transport network manager as well as the preparation of measures for improving the functioning of these markets.

All operators who have access to the electricity and the national gas market shall be members of this committee;

Article 84. — The membership and the functioning of the marketing agents' committee of the electricity and national gas market shall be set out by legal ways.

TITLE 9 ON ELECTRICITY EXPORT AND IMPORT

Article 85. — Electricity export and import operations can be carried out by any physical or juridical person according to a procedure set out by legal ways which will insure transparency and equality of treatment. This procedure will take into account referral to the regulation commission prior to the export operation. The regulation commission may give an unfavorable opinion if the national demand is not satisfied; the operator being consulted before.

Prices and contracts shall be freely negotiated between operators concerned.

Article 86. — Plants of which all the energy produced or part of it is exclusively devoted to export are exonerated from the notification of the regulation commission referred to in article 85 above.

Article 87. — International exchanges between interconnected border networks in the framework of network functioning regulations or mutual assistance are exonerated from the notification referred to in article 85 above.

TITLE 10 ON ECONOMIC REGULATIONS AND PRICING

Article 88. — Activities contributing to electricity and gas supply shall be paid on the basis of legal provisions based on objective, transparent and non discriminatory criteria. These criteria shall favor the improvement of management efficiency, technical and economic profitability of activities as well as the improvement of the quality of the supply.

Article 89. — The payment of electricity production is based on the following elements:

- The price of electric energy resulting from the supply-demand balance and from the processing made by the market operator.
- The cost of the guaranty of the value supplied by the system.
- The cost of the necessary auxiliary services to insure the quality of the supply.

Implementation modalities of the present article are clearly set out by legal ways.

Article 90. — The payment of the transport activity both for electricity and gas is set out by the regulation commission on the basis of a methodology

and parameters set out by legal ways. It shall include investment, operation and maintenance costs of plants, other necessary costs for carrying out the activity and equitable payment of invested capital as applied in similar activities and taking into account the development costs.

The rewarding procedure shall include incentives for the reduction of costs and the improvement of the quality of the supply.

Article 91. — The remuneration of the distribution activity both for electricity and gas is set out by the regulation commission on the basis of a methodology and parameters set out by legal ways. It shall take into account investment, operation, and maintenance costs of plants, the characteristics of supplied areas, other necessary costs for carrying out the activity and an equitable payment of the invested capital as applied in similar activities and taking into account development costs.

The remuneration procedure shall include incentives for the reduction of costs and the improvement of the quality of the supply.

Article 92. — The remuneration of the marketing activity both for electricity and gas included in the prices shall be set up by the regulation commission on the basis of a methodology and parameters set out by legal ways. This remuneration shall take into account costs resulting from activities necessary for the supply of energy to consumers.

Article 93. — The conclusion of the contract shall be done freely between marketing agents and eligible clients.

Article 94. — For electricity the following parameters shall be considered as permanent costs of the electric system.

- Over costs relative to the supply of electricity in remote distribution networks in the South.
- Costs of the system operator and the market operator recognized by the regulation commission.
- Costs associated to inciting program for demand control.
- Operation costs of the regulation commission.

For gas, the following parameters shall be considered as permanent costs of the gas system:

- Over costs relative to gas supply in remote distribution networks.
- Part of the costs of the gas transport operation system.
- Costs associated to inciting program for the control of the demand.
- The regulation commission operation costs.

Article 95. — Producers using renewable energies and/ or cogeneration can benefit from premiums. These premiums shall be considered as diversification costs in conformity with article 98 hereunder.

Article 96. — Economic regulations for the rights of connection to networks and other necessary actions to meet clients' supply applications shall be set up by legal ways.

Article 97. — Tax free prices of electricity to be applied to non eligible clients shall be set by the regulation commission on the basis of a methodology and parameters set out by legal ways and are the same all over the national territory.

Article 98. — Prices referred to in article 97 above include the following parameters:

- The production cost of electricity set according to the kilowatt/ hour average price on the electricity market during a reference period set by legal ways;
- Costs relative to electricity distribution and transmission;
- Marketing costs;
- The electric system marketing costs;
- Diversification costs;

Prices may take into account incentives aimed at energy saving.

Article 99. — Gas tax free prices to be applied to non eligible clients shall be set by the regulation commission on the basis of a methodology and parameters set out by legal ways and shall be uniform all over the national territory.

Article 100. — Prices referred to in article 99 above shall include the following parameters:

- The gas supply cost set by the regulation commission according to the average gas supply price delivered to the transport network during a reference period set out by legal ways.
- Costs relative to gas distribution and transport.
- Marketing costs.
- The gas system permanent costs.

Prices may take into account incentives aimed at energy saving.

Article 101. — Price revision modalities referred to in articles 97 and 99 shall be set out by legal ways.

Article 102. — The payment procedure for electric power and gas purchase by eligible clients shall be set out by legal ways.

Article 103. — For electricity and gas, eligible clients shall pay the costs of necessary activities for energy supply and participate in the coverage of the permanent costs of the systems and diversification costs.

Implementation modalities of the present article shall be set out by legal ways.

Article 104. — The sum of electricity and gas sales bills shall represent the share of funds collected by operators involved in distribution and marketing activities. The sum of these amounts shall be split in conformity with the present law.

Implementation modalities of the present article shall be set out by legal ways.

Article 105. — The procedure of allocation of funds collected by distributors and marketing agents according to their rewarding share shall be set out in accordance with the provisions of the present law. The modalities of implementation of the present article shall be set out by legal ways.

Article 106. — Electricity producers, transmission network managers , distributors, marketing agents and eligible clients shall comply with the terms set out by the market operator and the system operator for the liquidation and the payment of electric energy duties.

Gas suppliers, distributors, marketing agents and eligible clients shall comply with the terms, established by the gas transport manager for the liquidation and the payment of gas energy duties. Liquidation and payment terms shall be public , transparent and objective.

TITRE XI On Accountancy and separation of Accounts

Article 107. — Operators keep accounts for each production station and for each distribution concession. In this respect, they keep in their internal accountancy separate accounts for production, transport, distribution activities and in case of need, for all activities outside electricity and gas, in the same way as if these activities were performed by legally separate enterprises.

Article 108. — Operators' annual accounts shall include in their annexes a balance sheet and a profit and loss account for each category of activities - as well as allocation rules of assets and liabilities item. Separate accounts and proceeds and costs applied to set up these allocation rules can be

modified only exceptionally and modifications must be shown and duly justified on the annual accounts annex.

Article 109. — The commission may ask operators to submit periodically data information concerning their financial or commercial relations with related or associate enterprises.

Article 110. — The commission guarantees the confidentiality of the cost accounting data which were submitted.

TITLE XII On regulation

Article 111. — A regulation commission on electricity and gas shall be set up (CREG) under the denomination of "the commission"

Article 112. — The regulation commission shall be an independent body with a legal status and a financial autonomy. Its headquarters shall be in Algiers.

Article 113. — The regulation commission is vested with the mission of insuring a competitive and transparent functioning of the electricity market and the national gas market, in the interest of consumers and operators.

Article 114. — The commission is vested with the:

- Mission of realization and control of the public service of electricity and distribution of gas by pipe.
- A mission of advising public authorities on matters relative to the electricity market organization and the functioning of the electricity market and the national gas market.
- A general mission of supervision and control over related laws and regulations.

Article 115. — As part of the missions referred to in Article 114 above, the committee:

1. Contributes to the elaboration of implementation regulations provided by the present law and related implementation texts.
2. Expresses motivated opinions and submit proposals within the framework of the laws in force.
3. Co-operates with the institutions involved for the respect of competition in the frame-work of laws and regulations in force.
4. Studies applications and propose to the Minister in charge of energy the decision of granting the concession.
5. Proposes general and specific standards as to the quality of the supply and the customer's service as well as the control measures.

6. Approves before hand the functioning rules and procedures of the system operator the market operator and the gas transport network manager.
7. Insures conditions of neutrality of the gas transport network manager the system operator and the market operator in relation with other actors.
8. Insures the absence of dominant positions of other actors through pressure on the management of the system operator and on the market operator.
9. Controls and assesses the public service obligations.
10. Controls the implementation of technical regulations, hygiene, security and environment protection conditions.
11. Controls enterprises' accounting.
12. Takes any initiative as part of the mission devolved upon it by the present law or regulations in matters of supervision and organization of the electricity market and the national gas market.
13. Rules before hand on operations of concentration of enterprises or of take over of one or several electric power enterprises by an other one involved in activities referred to in article 1 above and as part of the legislation in force.
14. Establishes and updates the needs in terms of electricity production means and the indicative program of gas supply of the national market.
15. Approves electricity and gas transport development plans submitted by these network managers and controls their implementation.
16. Studies applications and delivers permits for the realization and operation of new production plants and transport facilities including electricity direct lines and direct gas pipes. It controls the compliance with permits.
17. It organizes conciliation and arbitration services.
18. Insures the secretariat of the arbitration Chamber.
19. Examines the complaints and appeals of operators, network users and clients.
20. May organize preliminary consultations relative to its decision-making.
21. Determines administrative sanctions against the non-respect of rules and standards as well as the indemnities to be paid to consumers.
22. Determines the implementation of regulations, the remuneration of the operators of the sector.
23. Determines the implementation of regulations, prices to be applied to the customers under the pricing system.
24. Proposes, after consultations with operators, to the relevant institution, annually or when need arises, the maintaining or the modification of the price level.
25. The calculation of costs and losses relating to subordination to the public services and transition costs.
26. Insures the management of the electricity and gas fund for the equalization of prices and costs relative to the transition period to a competitive system.

27. Holds all purchase and sale contracts of electric energy and gas.
28. Conducts research and studies relative to electricity and gas markets.
29. Conducts analyses relative to contracts concluded in the sectors of electricity and gas for the national market, publishes summaries which include indications on average market quantities and prices while preserving the confidentiality of the data.
30. Organizes public audiences.
31. Develop sensitization actions and information in the direction of the parties concerned by its activities.
32. publishes useful information for the defense of consumer's interests.
33. Submits to the Minister in charge of energy an annual report on the execution of its missions and the market's evolution.
34. Submits when need arises tenders for the granting of concessions in conformity with Art.22 of this law.
35. Submits tenders for the granting of concessions for the distribution of electricity and /or gas in conformity with art 73 of the present law.

Article 116. — The commission shall be run by a steering committee.

To duly perform its mission the steering committee shall be assisted by specialized directorates.

Article 117. — The steering committee shall be constituted of a chairman and three (03) directors appointed by presidential decree on proposition of the Minister in charge of Energy.

The steering committee shall hold the largest powers to act on behalf of the regulation commission and authorize all actions and operations relating to its missions.

Article 118. — The deliberations of the steering committee are valid only when (03) three of its members including the chairman are present.

The deliberations are adopted on a simple majority of attending members. In case of equality of votes that of the chairman shall prevail.

Article 119. — The Chairman of the steering committee shall insure the functioning of the regulation commission and hold all necessary powers, particularly in matters of:

- Ordering payment
- Appointments and removals of all employees and agents.
- Personnel remuneration.
- Social welfare assets.
- Acquisition, exchange or transfer of estate properties or furniture.
- Representation of the committee in court.
- Acceptation of restoration of goods, oppositions or other rights before or after payments.

- Setting up of inventory accounts

The chairman may delegate under his own responsibility part of his powers.

Article 120. — The chairman's salary and salaries of members of the steering committee are fixed by statutory provisions.

Article 121. — The function of member of the steering committee is incompatible with all professional activities, all elective national mandate, all public employment or direct or indirect holding of interests in the energy sector such as an enterprise enjoying the status of eligible client.

Article 122. — Any member of the steering committee exercising one of the above activities referred to in Art.121 is dismissed de facto after consultation in the steering committee by presidential decree.

The President of the Republic provides for his replacement on proposition by the Minister in charge of energy.

Article 123. — Any member of the steering committee who has been the object of a legal condemnation involving the loss of civil rights is officially dismissed after consultation in the steering committee.

The President of the Republic provides for his replacement on proposal by the Minister in charge of energy.

Article 124. — At the end of their mission the members of the steering committee can not exercise a professional activity in regulated enterprises of electricity and of distribution of gas by pipes for a two (02) year period.

Article 125. — An advisory body called " Advisory Council " is instituted by the regulation commission. It is composed of two (02) representatives of the relevant ministerial departments and of all interested parties (operators, consumers, employees) each party delegates its representative(s).

The advisory council gives opinions on the activities of the steering committee and on the targets and strategies of the energy policy in the sectors of electricity and gas distribution.

The steering committee attends the proceedings of the advisory council.

The composition and financing of the advisory council are defined by legal ways.

Article 126. — The steering committee adopts its rules of procedure which determine its internal organization and its functioning mode.

Article 127. — Operation expenses of the regulation commission are included in the permanent costs of the system as defined in Art.94 of the present law and allocated in accordance with the provisions of art .105 of the present law. They may also benefit from State subsidies.

The regulation commission has the expenses incurred for the services provided refunded.

The treasury may accept to grant it recoverable down payments.

The annual budget elaborated by the regulation commission shall be the object of approval by the Minister in charge of energy.

Article 128. — Within the fulfillment of the missions assigned to it, the regulation commission may ask operators operating in the market to provide it with all necessary information. It may proceed to a control of their accounts on the spot. Operators must provide the regulation commission with a copy of the sales or purchase contracts of electric energy or gas both for the national market as well as for export or import of electricity.

The regulation commission ascertains the confidentiality of the sensitive commercial information in conformity with the provisions of articles 115-29 and 130 of the present law.

Article 129. — Members of the steering committee and agents of the regulation commission perform their functions in full transparency, impartiality and independence.

Article 130. — Members of the steering committee, the advisory council and the regulation commission are bound by the professional secrecy except when summoned to bear witness in court.

Article 131. — The non respect of the professional secrecy definitely established by a court's ruling incurs the automatic dismissal from the commission.

The replacement takes place in accordance with the provisions of the law herein.

Article 132. — The regulation commission sets up an internal conciliation for conflicts resulting from the implementation of the regulations particularly those relative to operators' access to networks, prices and remuneration.

The regulation committee draws up statutes for the functioning of this service.

Article 133. — A service called " the arbitration chamber" is instituted, on request from the parties, rules on conflicts which may arise among operators except for those related to contractual rights and obligations.

Article 134. — The arbitration chamber shall be made up of :

- Three (03) members including the chairman and three (03) deputies appointed by the Minister in charge of energy for a six (06) a year renewable term.
- Two (02) magistrates appointed by the Minister of Justice. The members and deputies are appointed on the basis of their qualification in terms of competition.

They can not be selected among the members of bodies or employees of the regulation commission.

Article 135. — The arbitration chamber rules through a motivated decision on matters submitted to it after hearing the parties to the conflict.

It may proceed or order any necessary investigation and may if need be appoint experts and hear witnesses.

It may order conservatory measures in case of emergency.

Article 136. — The rules of procedure applicable before an arbitration chamber shall be set out by legal ways.

Article 137. — The rulings of the arbitration chamber shall no be subject to appeal; as such they shall be executor.

Article 138. — Opinions and rulings of the regulation commission shall be published.

Article 139. — The decisions of the regulation commission shall be motivated. They may be subject to a jurisdictional appeal before the State Council.

Article 140. — The management of the regulation commission shall be subject to the state control.

TITLE 13 On Offences and Sanctions.

Article 141. — Is liable to a fine provided by article 149 here under any operator who does not comply with :

- Technical regulations of production, design and operation for connection and access to transport and distribution networks referred to respectively in articles 28, 32, 40, 50, 57 and 81 of the present law.
- technical regulations setting out technical and commercial modalities for the supply of clients contained in the specifications document of the concession referred to in article 77 of the present law and obligations provided by article 27 of the present law.
- Rules of hygiene, security and environment protection.
- regulations resulting from the implementation of public service obligations referred to in article 3 of the present law.

Article 142. — As part of technical control security monitoring and the administrative police in charge of energy any misconduct listed in article 141 above shall be established by duly sworn agents duly mandated by the Minister in charge of energy or the Chairman of the regulation commission each according to his own prerogatives.

Article 143. — Sworn agents shall carry a document which will confer on them this capacity delivered by a mandated authority which they will produce at every control or intervention.

Article 144. — Sworn agents, mandated to establish offences, shall benefit from the prerogative of verification of electric and gas works and facilities.

Article 145. — Sworn agents referred to in article 142 above shall take the following oath before the president of the territorially competent tribunal.

" أقسم بالله العلي العظيم أن أؤدي عملي بكل أمانة وإخلاص، وأن أراعي في كل الأحوال، الواجبات التي يفرضها علي القانون وأحافظ على أسرار مهنتي "

Sworn agents and their superior authority shall receive copies of minutes of the taking of the oath.

Article 146. — The non respect of rules provided by article 142 above shall be the object of minutes which shall set the maximum amount of the fine incurred and shall be notified to the person concerned and to the regulation commission.

Minutes establishing these offences shall be valid until the contrary is proved ; they shall be sent to:

- The territorially competent attorney general.
- The Minister in charge of energy.
- The regulation commission following the stamp of the territorially competent legal police officer.

The person involved shall make his /her observations within a period of fifteen (15) days as of the date of notification.

The minutes drawn up by sworn agents according to a model standardized by the regulation commission shall indicate without any strikes, overloads or foot notes:

- The date and the place of establishment
- The identity of the controller agent and that of the offender.
- The nature of the offence.
- Conservatory measures taken against the person if necessary.

These minutes are written forthwith and signed by the contravener; copy is given to him against acknowledgement of delivery.

When the official report was written in the absence of the contravener or that, present it refuses to sign it, mention is made on the minutes and a copy is transmitted to him with acknowledgement of delivery.

The official reports obey, as for their conclusive force, with provisions of the code of penal procedure.

Article 147. — In the course of their duty, the sworn agents can request the assistance of public force.

Article 148. — The amount of the fine envisaged in article 141 above is fixed within the limit of three percent (3%) of the sales turnover of the last exercise of the operator in fault, without being able to exceed five million dinars (5.000.000 DA), carried at five percent (5%) in the event of repetition without being able to exceed ten million dinars (10.000.000 DA).

Article 149. — Following a blatant misconduct, and as per article 141 above, the commission shall be entitled to withdraw temporarily the license to operate a facility for up to over (1) year, or withdraw it permanently.

The transgression observed must be explicitly mentioned on the decision of withdrawal.

Article 150. — The sanctions should be duly justified. A legal appeal can be made against them.

Article 151. — Any person responsible for the construction or operation of a power plant, of a direct electricity line, or a direct gas pipe without permission is liable to a penalty of three (3) months, imprisonment, with a maximum of one (1) year imprisonment, and of a fine of five million dinars (5.000.000 AD) with a maximum of 10 million dinars (10.000.000 AD), or to either one of these sanctions.

Article 152. — The opposition in any way to the agents in charge of control or the refusal to communicate to them the elements claimed within the framework of a regular control is punished by three (3) months imprisonment to six (6) months and of a fine of fifty thousand dinars (50.000 DA) to a hundred and thousand dinars (100.000 DA) or to either one of these sanctions

If offences are repeated the penalties shall be twice as much.

Article 153. — The persons found guilty as provided by articles 141, 151 and 152 above, are also liable to the following sanction:

- Temporary or permanent closure of one, or several, or all establishments owned by the condemned persons,
- Prohibition from exercising any professional or social activity in relation to which the offence has been committed,
- Posting and publication of the decision of sanction.

TITLE XIV EASEMENTS AND CONNECTED RIGHTS

Article 154. — In compliance with the rules and regulations in force and under the provisions of the law herein operators concerned with the activities mentioned in article 1 of this law shall benefit from the following entitlements :

- Access to refuse collection facilities,
- Temporary occupation of pieces of lands,
- Easements for the sake of public welfare,
- Availability and allocation of pieces of land by ways of sale concession or expropriation for public interest

Article 155. — The privilege of temporary occupation of land shall be granted by order of the wali after a public inquiry has been conducted by which time the owners, beneficiaries of bona fide rights, allotment holders and other entitled persons, or concerned services, will have been notified of such temporary occupation. The latter mentioned shall have the right to put forward their observation, or make an appeal to the relevant administrative tribunal within two (2) months from the date of notification of the order.

The above-mentioned order sets a financial indemnity, which must be deposited by the operator prior to occupation of land this privilege granted to the operator entails for him a liability to pay an indemnity to make up for all inconveniences caused.

Article 156. — In the event of an amicable agreement between owners, beneficiaries of bona-fide rights, allotment holders and other entitled persons, or concerned services on one hand and the operator on the other hand, the privilege of occupation shall be made official by signed agreement.

Article 157. — The occupation of parcels of territorial community land and of state owned land, with no prior third -party occupation, shall be subject to the payment of an annual indemnity in compliance with the law.

The occupation of grounds belonging to private people opens right, for those or their having right, with an annual allowance in accordance with the regulation in force.

Article 158. — When the occupation of the land keeps the beneficiaries of bona rights the allotment holders and other entitled persons from enjoying their land for a period of over two (2) years, or if after works are carried out, the parcels of occupied land can no longer be used as previously, the concerned persons can apply for :

- Either an additional indemnity
- Or the right to sell the land to the concerned operator.

In such a case the land to be obtained shall be estimated at the amount of money corresponding to its value prior to its occupation, during the acquisition or transfer of the right of use.

Article 159. — The operator dealing in electricity and gas can, in accordance with the laws in force and under the conditions set by the law herein, benefit from easements to use public installations for support and anchorage, to fit overhanging cables to make implantation, to carry out tree cutting or branch cutting and submersion, to use aqueducts and to have rights of way and access.

The extent of such easements is limited to the following rights and privileges :

- For support and anchorage : to mount in situ the support and anchorage for overhead conductors or pipes either outside the walls or fronting bordering public ways or on roofs and terraces of buildings, providing access can be gained from outside;
- For overhanging installations: to make electricity cables pass over properties whether or not they are closed,
- For implantation to fit in situ underground pipes or supports for overhead conductors in or on pieces of land carrying no constructions, and not enclosed by walls or other kinds of fences.
- For tree and branch cutting : to cut down the trees and tree - branches which because they are near conductors might move or fall in such a way that they could either hinder the installation of such conductors or provoke short circuits or damages to the works , or other troubles in their utilization. This right can be exercised as required for the operation of underground gas pipes

- For submersion : to submerge banks and raise water surfaces , the following shall be exempted: houses, yard, gardens or enclosures adjacent to houses.
- For aqueducts : to fly over intermediate neighboring bottoms along a line that would be most rational and non offensive to the environment for the passage of electricity conductors or gas pipes, by means of medium-size supporting rigs. Bridges, viaducts or other similar constructions can also be used to support or anchor cables and pipes flying over, or topping thoroughfares, water streams and other obstacles.
- For rights of way and access ; to enter properties for designing and outlining and to access freely enclosed works, constructions and installations in order to carry out works and ensure the surveillance, maintenance or repairs of built structures.

The easements listed above shall be granted only under conditions of safety and convenience for inhabitants and protection of the environment as defined by the laws and regulations in force.

Article 160. — The easements listed in article 159 above are granted by order of the wali territorially concerned following an inquiry in which the owners, beneficiaries of bona fide rights, allotment holders and other entitled persons or concerned services will have received due notification, and will be requested to submit their observations within two months.

The order mentioned in the above paragraph can be issued only after the wali has approved the detailed presentation of the outline describing the limits, rights and obligations ensuing therefore.

When access to easements can incur an indemnity under the conditions spelt out above, the wali shall determine an approximate financial indemnity which shall be deposited by the operator prior to his access to such easements. In any case, the owners, allotment holders and other entitled persons can make a legal appeal against the wali's decision, in compliance with the rules and regulations in force.

Article 161. — Access to the easements indicated in article 159 is granted free of charge by order of the wali, upon the operator's request.

However, when such easements as they encumber the estates of private persons or territorial communities, or state-owned land cause damages the wali's legal act provides for a compensation estimated on the basis of the damages determined or susceptible of being determined.

Article 162. — Access to the easements involves no dispossession.

The mounting of supports on walls and fronting, or on roofs, terraces of buildings cannot restrict the owners rights to demolish, repair or increase

heights of buildings Equally, the fitting of pipes, cables or supports in an open and non-built land shall not restrict the owner's rights to subsequently equip his land with enclosures or buildings.

In the event of these works affecting the operator's installations the owner shall have to notify the operator by registered letter, sent to his head office within a month of commencing work for the purpose of demolition, repair, increasing heights of structures fitting an enclosure or building new structures.

As regards the estates encumbered by such easements, the operator shall, at his own cost, and within the period set by the law, provide his installations with the required modifications as per paragraphs above.

In the event of the modifications incurring for the operator, costs which are in proportion by far higher than the damage caused to the owner, the operator can refuse to undertake such modifications. This refusal shall be notified to the owner and accompanied by all useful proposals for an amicable settlement.

If no agreement can be reached the dispute shall be brought by the operator or the owner to the arbitration chamber.

Article 163. — The wali's order enabling the use of easements shall be published by the office of land registration which controls the concerned encumbered estate.

Article 164. — By law, very high voltage cables cannot cross over buildings, schools, sports centers and dwelling places cultural places and graveyards shall not be crossed by under ground electricity cables or gas pipes.

TITLE XV SPECIFIC PROVISIONS

Article 165. — The public establishment in charge of industrial and commercial occupations SONELGAZ, having been turned into a holding of joint-stock company, conducts through its subsidiary companies activities for the production, transmission and supply of electricity and transportation and supply of gas in accordance with the conditions of the present law and all rules and regulations in force.

The state shall hold a majority of shares of SONELGAZ -SPA.

The property of the public establishment in charge of industrial and commercial occupations SONELGAZ shall become the sole property of SONELGAZ -SPA.

The latter is also the receiver of all rights and duties of EPIC SONELGAZ.

SONELGAZ SPA can, both in Algeria and abroad carry out activities which directly or indirectly relate to its objectives and that includes prospecting for, producing and supplying hydrocarbon products.

The Board of Directors, or the board of surveillance whichever is the case for SONELGAZ -SPA and its subsidiary companies, shall have two head offices to the benefit of salaried workers, in accordance with the provisions of the law dealing with labor conditions.

Article 166. — The subsidiary companies of SONELGAZ -SPA- have their own landed property with buildings and other assets which were transferred to then by SONELGAZ on the date of their creation.

Article 167 : SONELGAZ SPA's subsidiary companies in charge of supplying products have been granted networks which they are currently operating. They are presently making their statement of such ownership to the commission of regulation.

Article 168. — The capital of the subsidiary companies SONELGAZ SPA in charge of producing, transmission and supplying electricity and those in charge of gas transportation of and supply, is open to partnership, or to disseminated private shareholding, or both, or to workers.

However SONELGAZ SPA shall retain the majority of shares concerning those subsidiary companies.

The state shall establish the amount of the contribution of works and citizens to the capital.

Article 169. — The subsidiary company of SONELGAZ SPA, in charge of electricity transmission shall appoint a manager for the electricity - transmission network.

Article 170. — The subsidiary company of SONELGAZ SPA in charge of gas transport shall appoint a manager for the gas transport network.

Article 171. — The entitlements granted to workers currently or formerly employed by SONELGAZ through collective bargaining shall be preserved until the date when the present law will be issued.

Those entitlements can only be modified by collective bargaining .

TITLE XVI TRANSITIONAL PROVISIONS

Article 172. — Pending the appointment of the market operator and the system operator the duties thereof shall be carried out by SONELGAZ SPA,

the latter shall entrust such duties to the subsidiary company in charge of electricity transmission through separate structures.

These structures shall be composed of enterprises, the market operator and the system operator.

Article 173. — The system operator shall be appointed one (1) year after the present law is issued.

The market operator shall be appointed as soon as the commission of regulation assumes that the market conditions are met and at the latest five (5) years after the present law is issued. Concerning the system operator, the provisions of article 38 of the present law regarding contribution to the capital shall be gradually implemented over a period of less than five (5) years and under the supervision of the commission of regulation.

Article 174. — The customers shall have access to the networks in charge of transport and / or supplying products from the date when they become eligible for sub access.

They shall be entitled for a period of under one (1) year from that date, and providing they give three months' notice, stop all subscriptions with subsidiary companies of SONEGAS -SPA-.

Article 175. — During the period prior to the appointment of the market operator the electricity supply shall be paid for by means of a pricing system subject to approval by the commission of regulation, and taking in to account, within the framework of the sales contracts between the producers and the system operator, the rated power, the amount of energy produced and, as required back up services.

Article 176. — Regarding electricity for a period prior to the appointment of the market operator, the average price of the K/Watt/hour, as mentioned in article 98 of the present law, shall be determined on the basis of the electricity, sales contracts signed by the system operator.

Article 177. — As a transitional measure until the commission of regulation is set up, the issuing and processing of tenders for the building of power plants as well as the issuing of operation permits shall be ensured by the energy Minister.

TITLE XVII CONCLUDING PROVISIONS

Article 178. — The procedures for the enforcement of the provisions of the law herein shall be specified, as required through legal channels.

Article 179. — The provisions of ordinance no 69-59 of 28 July 1969 on the dissolution of electricity et gas d'Algérie, and the creation of Société Nationale de l'Electricité et du Gaz together with those of the law no 85-07 of 06 August 1985 on the production, transmission and supply of electric power and gas to the public are repealed.

Article 180. — The legal texts for the enforcement of law no 85-07 of 06 August 1985 shall remain valid until they are modified.

Article 181. — The present law shall be published in the Official Gazette of the People's Democratic Republic of Algeria.

Established in Algiers on 22 Dhou et Kaada 1422, corresponding to 05 February 2002.

Abdelaziz Bouteflika