

No.85137/08.11.2021

Submitted for analysis and approval in the EGMS meeting of 14/15 December 2021

## REPORT

**regarding the conclusion of the Association Agreement between SNTGN TRANSGAZ SA, as the user, and the company DELGAZ GRID SA, as operator, for the execution of the works for the extension of the power distribution network of public interest to connect the GHERĂIEȘTI Technological Node - BACĂU Regional Operating Centre to it, as well as the co-financing of the connection works**

### SUMMARY

As a result of the GHERĂIEȘTI Technological Node modernization works, the zonal Distribution Operator, DELGAZ GRID SA, was requested a new solution for the connection to the power network, in this respect Solution Study no. 8/2021 being prepared.

Based on this study, a technical approval for connection was issued, and by Notification no. 51111 / 25.08.2021, Delgaz Grid SA communicated that it is necessary the participation of SNTGN TRANSGAZ SA in the financing of the works with a co-financing share of 66,114.65 lei VAT excluded, representing 50% of the total value of the works, according to Art. 11 of ANRE Order no. 36/2019 on the approval of the Methodology for the assessment of the conditions of investment financing for the electrification of localities or for the extension of power distribution networks.

In order to carry out the connection works, it is necessary to sign two contracts, an Association Agreement and a Co-financing Agreement, concluded between DELGAZ GRID SA and SNTGN TRANSGAZ SA.

### PROPOSAL

According to Art. 15 (4) (i) corroborated with Art. 31 of the updated Articles of Association of Transgaz SA, we submit for your analysis and approval the Association Agreement and the Co-financing Agreement to be concluded with Delgaz Grid SA for the execution of the works for the extension of the power distribution network of public interest to connect the GHERĂIEȘTI Technological Node - BACĂU Regional Office to it, as well as the empowerment of the Director - General of SNTGN Transgaz SA to sign these agreements.

As a result of the modernization works of the GHERĂIEȘTI Technological Node, it was necessary to request a new connection solution from the zonal Distribution Operator, for

which, based on Contract no. 1003467410/01.02.2021, Solution Study no. 8/2021 was prepared by DELGAZ GRID SA.

Following this solution study, Technical Connection Approval no. 1003517387/21.04.2021 was issued and it was found that, for the power supply of this objective, it is necessary to extend the existing distribution network.

Thus, by Letter no. 36930/06.05.2021, DELGAZ GRID SA informed that the connection procedure would be carried out in accordance with the provisions of ANRE Order no. 36/2019, subsequently amended by ANRE Order no. 159/02.09.2020 - the Methodology for the assessment of the conditions of investment financing for the electrification of localities or for the extension of power distribution networks.

By Letter no. 49727/01.07.2021, SNTGN TRANSGAZ SA submitted the agreement in principle for the participation in the co-financing of the works, in accordance with ANRE Order no. 36/2019.

The company Delgaz Grid SA sent Notification no. 51111/25.08.2021, by which it communicated that, following the feasibility study prepared by DELGAZ GRID SA in accordance with ANRE Order no. 36/2019, it resulted that, for the performance of the connection works, SNTGN TRANSGAZ SA is required to participate with a co-financing share of 66,114.65 lei VAT excluded, representing 50% of the total value of the works.

To complete the stages above, it is mandatory that DELGAZ GRID SA and SNTGN TRANSGAZ SA sign two contracts, an Association Agreement and a Co-financing Agreement.

Considering the above, based on the applicable laws, ANRE Order no. 36/2019, Law no. 99/2016 on sectoral procurements as amended, the updated Articles of Association of SNTG.N. TRANSGAZ SA, the Civil Code, we propose the approval of the Association Agreement and of the Co-financing Agreement between SNTG.N. TRANSGAZ SA, as user, and the Company DELGAZ GRID SA, as operator, for the execution of the works for the extension of the power distribution network of public interest to connect the GHERĂIEȘTI Technological Node - BACĂU Regional Office to it, as well as the co-financing of the connection works, as well as the empowerment of the Director - General of SNTGN Transgaz SA to sign these agreements.

We enclose in copy:

- The proposed draft Association Agreement;
- The draft Co-financing Agreement.

**Chairman of the Board of Administration,  
Petru Ion Văduva**

**ASSOCIATION AGREEMENT**

**for the Gheraesti Technological Node, Neamt County**

This Agreement is concluded today

DEGR - ..... .. - / ..... .. -

SNTGN TRANSGAZ SA- ..... - / ..... -

**BETWEEN:**

**SC DELGAZ GRID SA**, headquartered in Targu Mures, 42 Pandurilor Blvd., Mures County, registered with the Trade Register Office under number J26/326/2000, tax no. RO 10976687, account no. RO87BRDE040SV49926750400 opened with BRD, represented by **Mr Dragos Barbulescu**, as **General Manager**, as a concessionaire distribution operator, hereinafter referred to as 'operator',

**SNTGN TRANSGAZ SA**, headquartered in Medias, 1 Constantin I. Motas Square, Sibiu County, email: cabinet@transgaz.ro, tel / fax: 0234-516090, registered at the Trade Register Office under no. J32/301/2000 , tax no. RO13068733 IBAN bank account: ..... opened with ....., represented by Mr **Ion STERIAN** as the **DIRECTOR - GENERAL**, hereinafter referred to as 'the user'.

Hereinafter referred to individually as 'the Party' or collectively as the 'Parties',

Whereas:

- Each of the Parties is a 'contracting authority' according to Art. 4 of Law no. 99/2016 on the awarding of sectoral procurement contracts;
- The Parties intend to set up a 'Contracting Association' for the purpose of collectively organizing public procurement procedures for the execution of the network extension works in the event of the co-financing, depending on the needs (the Operation).

The Parties agreed as follows:

**Article 1: Scope – Shares (Association)**

- 1.1. The Parties agreed to associate and participate in this Association ('Association Agreement') for the sole purpose of collectively organizing the sectoral procurement procedures for the execution of the network extension works in the event of the co-financing and for fulfilling the Operation under the conditions stipulated in the current agreement.
- 1.2. The parties agreed that the Association has no legal personality.  
The liquidation of the association will not produce patrimonial effects on the Parties, other than those that could result from the application of Art. 2.2.
- 1.3. To fulfil the purpose of the Operation the Parties agreed that each of them shall make available to the Association all the necessary resources and qualifications required by the management of the Association.
- 1.4. The shares of the parties in the Association are as follows:
  - **DEGR** **50% (fifty)**
  - **SNTGN TRANSGAZ SA** **50% (fifty)**
- 1.5. Unless otherwise agreed by the Parties, in the case of certain sectoral procurement procedures, all rights, interests, and obligations arising out of the Operation and/or the Association shall be shared and borne equally by the 2 (two) Parties, in accordance with their share in the Association, as mentioned above.

**Article 2: Obligations of the Parties**

- 2.1. The Parties shall jointly and separately execute all the operations, acts and deeds necessary for the collective organization of the procedures for the public procurement of goods, services, assets and/or works; following which, each of the public procurement contracts shall be concluded by the relevant interested Party, according to its needs regarding each public procurement procedure, in order to fulfil the Operation.
- 2.2. Without prejudice to the rights and obligations of either Party under this Agreement, in the event of a Party's failure to meet its obligations, the defaulting Party shall be

liable to indemnify the other Party for any damages, loss, costs or expenses incurred and resulting therefrom.

2.3. Each Party shall bear the expenses related to the publication of participation notices, the preparation of documentation for participation in procurement procedures and the costs of evaluations of tender commissions, proportionally to the quantities or volumes of such procurement of services, goods or works, depending on the needs of each Party.

2.4. In order to fulfil these obligations under this Agreement, each of the Parties undertakes to act in good faith in order to protect the interests of the Association. Each Party undertakes not to act on its own account or with third parties in such a way as to prejudice the interests of the Association or the proper performance of this Agreement.

### **Article 3. Leadership of the Association**

3.1. The Parties agreed that the Association shall be led by `DEGR` for the duration of the Association Agreement.

### **Article 4: Conduct of the `Operation`**

4.1. The Procurement Department of DEGR - which deals with the application and development of procurement procedures, shall apply and carry out the procurement procedures for the Association.

4.2. Each Party, as a member of the Association, undertakes to provide DEGR Procurement Departments with the necessary information, documentation and proxies, as required by the applicable sectoral procurement laws, to enable them to fulfil their obligations as set out above in Article 4.1.

### **Article 5: Materials and personnel**

All materials, equipment and personnel necessary for the proper performance of the works related to the Operation shall be provided to the Association by the Parties.

### **Article 6: Representative**

6.1. Unless otherwise agreed by the Parties, in the case of sectoral procurement procedures, all rights, interests, and obligations arising out of the Operation and/or

the Association shall be shared and borne equally by the two (2) Parties in accordance with their share in the Association as referred to in Articles 1.4 and 1.5.

- 6.2. Each Party shall be responsible for the following, on behalf of and for the Association:
- The fulfilment of obligations under this Agreement and/or obligations imposed by
  - The execution and implementation of public procurement contracts;
  - Each of the Parties shall assist the Project Manager, as necessary, in the control and administration of the works.

This Agreement shall enter into force on the date of its signature by the two (2) Parties and shall be valid until the completion of the procurement procedures and the signature of the works contracts with the successful tenderer.

#### **Article 7: Applicable law - Dispute resolution**

- 7.1. This Agreement shall be governed by the Romanian law and in particular by Article 4 of Law 99/2016.
- 7.2. In the event of any dispute arising out of or in connection with the conclusion, performance or termination of this Agreement, such dispute shall be submitted for resolution to the competent court of law.

Without the written consent of the other party a contracting Party shall not:

- a) disclose the agreement concluded between the two parties or any provision thereof to any third party, other than those persons involved in the performance of the agreement;
- b) use information and documents obtained or to which it has access during the period of performance of the contract for any purpose other than that of fulfilling its contractual obligations.

Disclosure of any information to persons involved in the performance of the agreement shall be confidential and shall extend only to such information as is necessary for the performance of the agreement.

A contracting Party shall be exempted from liability for the disclosure of information relating to the contract if:

*Translation from Romanian*

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- a) the information was known to the contracting Party before it was received from the other contracting Party; or
- b) the information has been disclosed after obtaining the other contracting Party's written consent to such disclosure; or
- c) the contracting Party was legally obliged to disclose the information.

Each Party to this Agreement shall immediately notify the other Party of the discovery of any unauthorized disclosure of confidential information.

This Agreement is signed in two (2) counterparts, one for each Party.

Each Party shall receive one counterpart. The language of the agreement is Romanian and it shall be used in all proceedings before all authorities in Romania.

Drafted in Iasi

Date -

Signatures:

**Delgaz Grid S.A.,**

**USER,  
SNTGN TRANSGAZ S.A**

**Director of Electricity Network  
Operation and Maintenance Division**

**DIRECTOR GENERAL**

**Petrica Lucaci** .....

**ION STERIAN**  
.....

Legal Department Director  
**Cecilia Babii** .....

Head of Electricity Network Access Unit  
**Patricia Constantin** .....

## CO-FINANCING CONTRACT

**For the extension of the power distribution network to supply power to the facility TECHNOLOGICAL NODE, GHERĂESTI, NEAMT County**

Concluded under no.....on ..... **by DELGAZ GRID S.A.**

Concluded under no. ....on ..... **by SNTGN TRANSGAZ S.A.**

Pursuant to Article 13 of the Methodology for assessing the conditions to finance investments for the electrification of localities or to extend the power distribution networks, approved by Order of the President of the National Energy Regulatory Authority No 36/2019, as amended by **Order of the President of ANRE No 159/02.09.2020** published in the Official Gazette of Romania No 829/09.09.2020, this contract is concluded:

### ART.1 Parties

**SNTGN TRANSGAZ S.A.** headquartered in MEDIAS, No.1, P-TA CONSTANTIN I. MOTAS, SIBIU county, email: cabinet@transgaz.ro, phone/fax: 0234-516090, registered with the Trade Register under no. J32/301/2000, Tax Identification Code RO13068733, bank account IBAN: .....opened with the Bank....., represented by **Ion STERIAN** as **DIRECTOR GENERAL**, hereinafter referred to as **user**.

and

**S.C. DELGAZ GRID S.A.** headquartered in Târgu Mureş, no. 42, Pandurilor Blvd., PC 540554, registered with the Trade Register Office of the Mureş Court under no. J26/326/2000, Tax Identification No: RO 10976687, account no. RO25TREZ4765069XXX003127, represented by Mr. Dragos Barbulescu as Director General and by Mrs. Mihaela Loredana Cazacu - Deputy Director General, referred to as the **concessionaire distribution operator**.

### ART. 2 Contract Scope

**2.1** The scope of this contract is the establishment of the conditions to finance the investments for the extension of the power distribution network in order to supply power to the facility **TEHNOLOGICAL NODE, GHERAESTI, NEAMT County**, i.e. to establish the amounts and the schedule for the payment of each party's co-financing contributions, to establish the works implementation schedule and the composition of the joint committee (Annex 1) for the establishment of the co-financing



contributions in relation to the total value of the works resulting from the acceptance report upon the completion of the works.

**2.2** In order to achieve the investment referred to in Art. 2.1, the signatory parties to this contract agree to contribute to the co-financing of works to extend the power distribution network for the construction of the following power distribution capacities:

***Works for the extension of the power network:***

LEA 20KV OL-AL 3X50/8 MMP - 0.070 KM

STALP SC 15014 - 2 pieces.

STALP SE8 - 1 piece.

PTA 20/0,4 KV\_50 KVA - 1 piece.

**ART. 3 Contract value:**

**3.1** The estimated value of the works for the network extension under the contract is **lei 132229.30, VAT excluded.**

**ART. 4 Rights and obligations of the parties:**

**4.1** The concessionaire distribution operator shall contribute to this investment the amount of **lei 66114.65, VAT excluded**, representing **50.00%** of the estimated value of the works (**lei 132229.30, VAT excluded**).

**4.2** The concessionaire distribution operator is entitled to:

- a) use the network created by operation of law;
- b) develop the distribution network;
- c) use the full capacity of the network;
- d) to ensure the connection of new applicants to the network, in compliance with the legal provisions;
- e) if the works financing is ensured by the user, to request technical-economic documents proving the quality of the materials and works carried out, as well as the value of the investment - not applicable;
- f) replace network elements, based on needs arising for the purpose of upgrading, increasing the capacity of the network or as a result of increased wear and tear or deterioration of the network.

**4.3** The concessionaire distribution operator has the following obligations:

- a) to finance, at the end of their useful life or under the circumstances provided for in the applicable regulations, the investments necessary to replace network elements in order to ensure the continuity and quality of the distribution service;

- b) to operate and maintain the network to ensure its secure operation in accordance with the applicable rules.
- c) 90 days before the expiry of the 5-year period following the commissioning of the network, the operator shall recalculate the investment efficiency share resulting from the subsequent connection of other users and shall return to the co-financing partners the difference between the co-financing share which was initially allocated to them and the co-financing share resulting from the recalculation of efficiency, determined in accordance with the provisions of Article 4.6;
- d) where, following the recalculation provided for in Article 4.3. (c), the efficient value of the work is at least 80% of the total value of the investment as stated in the acceptance report upon the completion of the works, the concessionaire distribution operator shall be obliged to return to the participants in the co-financing their contribution;
- e) the deadline for payment of the settlement amounts referred to in Article 4.3, paragraph (c) or (d), may not exceed the date 5 years after the commissioning of the network, and the failure to comply with this deadline shall result in the operator being obliged to pay an additional amount for each day of delay, which may not exceed the level of the interest due for the late payment of obligations.

**4.4** The user shall contribute to the co-financing of the works with the amount of **66114.65 lei, VAT excluded**, representing **50.00%** of the estimated value of the works (**132229.30 lei VAT excluded**).

**4.5** The payment schedule for co-financing contributions is as follows:

- a) The distribution operator concessionaire has included its part of the co-financing, amounting to **66114.65 lei VAT excluded (network extension)** in the investment plan and this will be completed in accordance with the execution contract resulting from the public procurement.
- b) The user agrees to its share of co-financing, amounting to **66114.65 lei VAT excluded** based on the letter..... /..... .
- c) the Parties undertake to pay for the works carried out, each on the basis of the corresponding statements of works accepted for payment by the representatives appointed by each Party.

**4.6** Upon completion of the works, the commission referred to in **Art. 5.6** shall determine the co-financing contributions in relation to the total value of the works resulting from the acceptance report upon the completion of the works, as well as the amounts for their settlement.

Depending on the contributions to financing in relation to the total value of the works resulting from the acceptance report upon the completion of the works, taking into account the evaluation of the investment works from the point of view of economic

efficiency, the works corresponding to the value  $I_{total}/2$  are financed by the user and the works corresponding to the value  $I_{total}/2$ , by the concessionaire distribution operator.

All statements of the works will be invoiced and settled **50.00%** by the user and **50.00%** by DEGR.

#### **ART. 5. Carrying out the works**

**5.1** The schedule according to which the works are to be carried out as agreed by the parties is in accordance with the execution contract concluded following the public procurement procedure.

**5.2** The procurement of the execution of the works will be carried out on the basis of a contract, concluded in compliance with the requirements of the legislation in force on public works procurement, on the basis of the Contract of Association with ANRE certified economic agents.

**5.3** The user, as co-owner, grants the distribution system operator the exclusive right of use of the electricity system from the moment of its commissioning - without any further patrimonial or non-patrimonial claims - and grants the right of use and easement and access to the operator free of charge for the entire duration of the existence and operation of the system. The handover of the electricity distribution network to the maintenance and operation of the concessionaire distribution operator will be carried out by means of a co-financing contract and acceptance report upon the completion of the works.

**5.4** In order to ensure continuity and security of supply of electricity to customers, where the public distribution service is provided through fixed assets owned by third parties, it shall be prohibited to change the purpose for which those fixed assets were built.

**5.5** Supervision of the execution of the works will be ensured by the specialised staff of the concessionaire distribution operator.

**5.6** With a view to determining the shares of ownership of the co-financed fixed assets, the signatory parties agree to set up a joint committee (Annex 1 - the members of the reception committee being the representatives of CORE-DEGR, the user) made up of members to be designated by decision of each party no later than 10 days after the signing of the execution contract. The committee will meet on the date of acceptance on the completion of the works and will sign an acceptance report. (the members of the acceptance commission being the representatives of CORE-DEGR, the user and the ISC).

The composition of the joint operator-user commission shall determine the co-financing contributions in relation to the total value of the works resulting from the acceptance report upon the completion of the works, as well as the amounts for their settlement, the method and the deadline for payment of the settlement amounts, which may not exceed 90 days after the commissioning of the network.

The obligations of the parties regarding the payment of late payment penalties for each day exceeding 90 days from the commissioning of the network, which may not exceed the level of late payment interest due for failure to pay budgetary obligations on time.

**5.9** The correspondence addresses declared by the Parties are:

For the **user**– MEDIAS, P-TA CONSTANTIN I. MOTAS, No.1, the county of SIBIU, phone/fax: 0790-880180, email: cristian.marmandiu@transgaz.ro,

For the **distribution operator**: Street Alba Iulia no.12

611152, Roman, tel/fax 0723-683124, email: valentin.plosnita@delgaz-grid.ro.

#### **ART. 6 Contract documents**

The contract is based on the following documents:

- the user's request and related documentation;
- SS/ SF no. 8/2021 prepared by DELGAZ GRID S.A.;
- the reply to the user on the result of the SS/SF including the offer of co-financing;
- confirmation/acceptance letter for user co-financing no..... /.....

#### **ART. 7 Contract duration**

**7.1** This contract shall be concluded for the duration of all the operations necessary to achieve the objectives referred to in Article 2. This contract shall terminate with the commissioning of the network and the conclusion of the delivery and acceptance report.

**7.2** In the event of non-payment by the user of its part of the co-financing within the time-limit laid down in the execution contract, the schedule for completion of the works will be adjusted accordingly, the entire responsibility for which will lie with the user.

#### **ART. 8 Disputes**

**8.1** Disputes of any kind which may arise in the course of the contract shall be settled by the contracting parties amicably.

**8.2** If the differences between the parties cannot be settled amicably, any dispute arising out of or in connection with this contract, including those relating to its validity, interpretation, performance or termination, shall be settled by the competent courts of law.

## **ART. 9 Final provisions**

**9.1** The amendment/supplementation of the clauses of this contract shall be done with the agreement of both contracting parties, by means of addenda.

**9.2** The contracting parties are obliged to keep the terms of this contract confidential.

A contracting party shall not, without the written consent of the other party:

- a) disclose the contract concluded between the two parties or any provision thereof to any third party other than those persons involved in the performance of the contract;
- b) use information and documents obtained or to which it has access during the period of performance of the contract for any purpose other than that of fulfilling its contractual obligations.

Disclosure of any information to persons involved in the performance of the contract shall be confidential and shall extend only to such information as is necessary for the performance of the contract.

A contracting party shall be indemnified for the disclosure of information relating to the contract if:

- a) the information was known to the contracting party before it was received from the other contracting party; or
- b) the information has been disclosed after obtaining the other contracting party's written consent to such disclosure; or
- c) the contracting party was legally obliged to disclose the information.

Each party to this agreement shall immediately notify the other party of the discovery of any unauthorized disclosure of confidential information.

**9.3** This contract was concluded on , in two counterparts, one for each party.

**DELGAZ GRID S.A.,**

**SNTGN TRANSGAZ S.A.,**

**DIRECTOR OF EXPLOITATION AND  
ELECTRICITY NETWORK  
MAINTENANCE DIVISION  
PETRICA LUCACI**

**DIRECTOR GENERAL  
STERIAN ION**

**LEGAL DEPARTMENT DIRECTOR  
CECILIA BABII**

**HEAD OF ELECTRICITY NETWORK  
ACCESS UNIT  
PATRICIA CONSTANTIN**

The JOINT COMMITTEE between DEGR and the user on the share of ownership of fixed assets, has carried out its activity on ....., being composed of:

**DEGR and SNTGN TRANSGAZ S.A.**

CORE NEAMT.....

Electricity Project Manager DMI.....

PTh Designer .....

SNTGN TRANSGAZ S.A. representative .....

The Commission has established the following shares of ownership of Fixed Assets:

LEA 20KV OL-AL 3X50/8 MMP - 0.070 KM

STALP SC 15014 - 2 pieces.

STALP SE8 - 1 piece.

PTA 20/0,4 KV\_50 KVA - 1 piece.

The Commission has established the following shares of ownership of Fixed Assets

in percentages:

LEA 20KV OL-AL 3X50/8 MMP - 0.070 .....% by DEGR, .....% user

KM ..... % by DEGR, .....% user

STALP SC 15014 - 2 pieces.

STALP SE8 - 1 piece.

PTA 20/0,4 KV\_50 KVA - 1 piece.

All works will be invoiced and settled **50.00%** by the user and **50.00%** by DEGR.