



Republic of Serbia  
**COMMISSION FOR PROTECTION  
OF COMPETITION**

25/IV Savska St., Belgrade  
Number: 5/0-02-336/2018-30  
Date: June 18, 2018

Pursuant to Article 22(2), Article 57(1), and Article 68(1/1) of the Law on Protection of Competition (Official Gazette of the RS 51/09 and 95/13), Article 137 in conjunction with Article 213(2) of the Law on General Administrative Procedure (Official Gazette of the RS 18/2016) and Articles 3 and 4 of the Regulation on criteria for setting the amount payable on the basis of measures for protection of competition and sanctions for procedural breaches, manner and terms for payment thereof and conditions for determination of respective measures (Official Gazette of the RS 50/2010), deciding in the repeated *ex officio* proceedings against Distribution System Operator EPS Distribucija d.o.o. Beograd, with registered seat at the address 1-3 Masarikova St., Belgrade-Vračar, company number: 07005466, whose legal representative is Bojan Atlagić, acting CEO, and procuration holders are Bogdan Gecić and others, 2 Nikole Spasića St., Belgrade, for determining the act of abuse of dominance within the meaning of Article 16 of the Law on Protection of Competition, and deciding on the Request to terminate the proceedings, submitted by Distribution System Operator EPS Distribucija d.o.o. Beograd, Council of the Commission for Protection of Competition on the 157<sup>th</sup> session held on June 18, 2018, enacts the following

**DECISION**

- I IT IS ESTABLISHED** that undertaking, Distribution System Operator EPS Distribucija d.o.o. Beograd, with registered seat at the address 1-3 Masarikova St., Belgrade-Vračar, company number: 07005466, whose legal representative is Bojan Atlagić, acting CEO, holds a dominant position on the relevant market of electric power distribution on the territory of the Republic of Serbia, excluding the Autonomous Province of Kosovo and Metohija.
  
- II IT IS ESTABLISHED** that undertaking, Distribution System Operator EPS Distribucija d.o.o. Beograd, with registered seat at the address 1-3 Masarikova St., Belgrade-Vračar, company number: 07005466, **has abused dominance, in particular by:**

**1) applying dissimilar business conditions to equivalent transactions with respect to variety of undertakings, by which individual undertakings are placed in unfavorable position against competitors, by way of:**

- a. imposing a commitment to allocate funds as security instruments for the payment of system access service with regard to all users of the electric power distribution system, except Public enterprise Elektroprivreda Srbije Beograd;
- b. when signing the Contract on access to the electric power distribution system, individual system users were provided with an option to choose between two types of security instruments (bank guarantee and specific purpose – guarantee deposit), while other individual users were conditioned to accept only the specific purpose (guarantee) deposit;
- c. providing unequal treatment with regard to users of the electric power distribution system in terms of contracting and calculating the value of security instruments for the payment of invoices for the provision of system access service,

**2) imposing unfair business conditions, by way of imposing a commitment to place a specific purpose (guarantee) deposit with a single nominated commercial bank.**

**III MEASURE FOR PROTECTION OF COMPETITION IS IMPOSED** against the undertaking from Paragraph I of enacting terms herein in the form of payment commitment in the amount of 0.75% of the total annual revenue generated in 2015, which amounts to RSD 412,724,767.50 (in words: four hundred twelve million, seven hundred twenty-four thousand, seven hundred sixty-seven and 50/100 dinars).

**IV IT IS ORDERED** to the undertaking from Paragraph I of enacting terms herein to execute payment in respect of the measure for protection of competition from Paragraph III of enacting terms herein, to the Budget account of the Republic of Serbia, number 840 743224 843 94, model 97 - reference number: two-digit control number per model 97 – three-digit number of municipality, city or area – number of this decision.

**V DEADLINE IS SET** with regard to the undertaking from Paragraph I of enacting terms herein **to 6 (six) months** from the date of receipt of the decision, for the execution of order from Paragraph IV of enacting terms herein, under the threat of enforcement measure implemented on the part of tax administration in accordance with regulations governing tax collection.

**VI IT IS ORDERED** to the undertaking from Paragraph I of enacting terms herein that within 5 (five) days from the date of execution of order from Paragraph IV of enacting terms herein, to submit to the Commission for Protection of Competition a proof of executed payment.

**VII MEASURE FOR THE REMOVAL OF COMPETITION INFRINGEMENT IS DETERMINED AND IT IS ORDERED** to the undertaking from Paragraph I of enacting terms herein to enable all eligible distribution system users to conclude the

Contract on access to the electric power distribution system under equal conditions, whether or not they are users utilizing the electric power distribution system for further supply of end-users or for their own needs.

- VIII DEADLINE IS SET** with regard to the undertaking from Paragraph I of enacting terms herein that within 2 (two) year period from the date of receipt of this decision provides newly concluded, as well as annexes to the existing Contract on access as proof on the execution of orders from Paragraph VII of enacting terms herein.
- IX IT IS PROHIBITED** to the undertaking from Paragraph I of enacting terms herein to take any further action that could prevent, restrict or distort competition by abusing dominance in the manner described in Paragraph II of enacting terms herein.
- X REQUEST** to terminate the proceedings, submitted by the undertaking from Paragraph I of enacting terms herein **IS REJECTED**, instituted by way of a conclusion enacted by the President of the Commission for Protection of Competition no. 5/0-02-563/2016-01 of August 2, 2016.
- XI** This decision shall be published in the Official Gazette of the Republic Serbia and on the webpage of the Commission for Protection of Competition.