

LAW OF THE REPUBLIC OF KAZAKHSTAN

As of July 9, 1998, No.272-I

ON NATURAL MONOPOLIES

(with changes and amendments as of July 5, 2006)

Throughout the whole text the words "by the central government body supervising and regulating the activity in natural monopolies", "of the central government body supervising and regulating the activity in natural monopolies", "central government body supervising and regulating the activity in natural monopolies" are replaced by the words "by the authorized body", "of the authorized body", "authorized body" correspondingly in compliance with the Law of RK as of July 5, 2006, No. 166-III (refer to the previous edition).

The Preface contains changes according to the Law of the Republic of Kazakhstan as of December 26, 2002, No. 364-II (refer to the previous edition), as of December 20, 2004 No. 13-III (put into force as of January 1, 2005) (refer to the previous edition).

This Law shall regulate the activities in the sphere of natural monopoly in the Republic of Kazakhstan and aimed at ensuring the protection of the interests of consumers and natural monopoly entities.

Article 1 is stated in the edition of the Law of RK as of December 26, 2002 No. 364-II (refer to the previous edition); changes are introduced in compliance with the Law of RK as of December 20, 2004 No. 13-III (put into force as of January 1, 2005) (refer to the previous edition).

Article 1. Purposes of the Law

The purposes of this Law shall be stated as follows:

- 1) determining legal foundations for government supervision and regulation of activity in the area of natural monopoly; and
- 2) achievement of the balance of interests of consumers and natural monopoly entities.

Article 2 is amended in compliance with the Law of RK as of December 26, 2002 No. 364-II (refer to the previous edition); as of December 9, 2004 No. 9-III (refer to the previous edition).

Article 2. Scope of Law Application

1. This Law shall govern the relations available on the service (goods, works) market related to the existence and operation of natural monopoly entities.
2. Provisions of this Law shall be applied to the actions (inaction) of a natural monopoly entity, their founders (participants) undertaken outside of the Republic

of Kazakhstan in the cases when such actions (inaction) contravene this Law and cause damage to consumers of natural monopoly services (goods, works).

3. This Law shall not be applied to the individual entrepreneurs and legal entities performing activities attributed to the sphere of natural monopolies, but related to constructing and operating of facilities intended mainly for their own needs.
- 3-1. For a market entity performing its activity referred to the sphere of natural monopoly by the present Law, government supervision and control shall be applied only with respect to such activity.
4. Legal relations not covered by this Law shall be regulated by the anti-monopoly and other legislation of the Republic of Kazakhstan.

Article 3 is amended in compliance with the Law of RK as of December 26, 2002 No. 364-II (refer to the previous edition); stated in the edition of the Law of RK as of December 9, 2004 No. 9-III (refer to the previous edition); amended in compliance with the Law of RK as of December 20, 2004 No. 13-III (pit into force as of January 1, 2005) (refer to the previous edition); Law of RK as of January 14, 2006 No. 120-III (refer to the previous edition); Law of RK as of July 5, 2006 No. 166-III (refer to the previous edition).

Article 3. Terms Used in the Law

The following terms shall be used in this Law:

- 1) **affiliated person of a natural monopoly entity** – an entity (except for government bodies implementing control of its activity within delegated authorities), which has a right directly and (or) indirectly to make decisions and (or) impact decisions made by a natural monopoly entity also by act of an agreement including a verbal agreement, or other transaction, and any person as well in respect of whom a natural monopoly entity has such a right;
- 2) **temporary compensating tariff** – tariff (price, fee rate) set by the authorized body to compensate losses caused to the consumers by natural monopoly entities;
- 3) **temporary decreasing coefficient** – a value set by the authorized body and applied to the tariff (price, fee rate) in order to protect consumers' and natural monopoly entities' interests;
- 4) **universal service** - providing of services (goods, works) by natural monopolies for all consumers within a particular region of the Republic of Kazakhstan where the natural monopoly entities operate and are capable of providing the services (goods, works);
- 5) **a group of entities** - a group of individuals and (or) legal entities who hold ten or more percents of voting stock (participatory shares) of a natural monopoly entity, and who jointly, based on an agreement, are eligible to directly or indirectly take decisions and (or) to influence the decisions taken by a natural monopoly entity;
- 6) **long-term period** – a time interval of more than five years;
- 7) **natural monopoly** — the state of a commodity (works and service) market, where the creation of competitive conditions for satisfying demand for a particular type of services (goods, works) is impossible or economically inexpedient due to the technical peculiarities of producing and providing of this type of services (goods, works);
- 8) **investment program** – a program for funds investment and return aimed at creation of new assets, expansion, recovery, renewal, maintenance of existing assets, reconstruction, technical re-equipment of fixed assets of a natural monopoly for a short-, medium- or

- long-term period for the purpose of getting the technical and economical results which includes one or several investment projects;
- 9) **investment project** – a set of activities providing for investments into establishment of new, expansion and renewal of operating productions;
 - 10) **investment tariff (price, fee rate)** – a tariff (price, fee rate) approved by the authorized body within one investment project or its limit level for regulated services (goods, works) of a natural monopoly entity provided at newly established facilities operating up to full recoument of investments;
 - 11) **short-term period** – a time interval up to one year inclusive;
 - 12) **no-purpose use of funds of amortized values** – transfer of funds considered within approved tariffs (prices, fee rates) and (or) tariff estimates due to amortized values for purposes not related with the capital investments into fixed assets used for provision of regulated services (goods, works), and return of the principal debt of obtained credit resources;
 - 13) **consumer** - an individual or a legal entity utilising regulated services (goods, works) of a natural monopoly entity;
 - 14) **limit level of a tariff (price, fee rate)** – maximum level of tariff (price, fee rate) for a regulated service (good, work) of a natural monopoly entity approved for a medium- or long-term period;
 - 14-1) **producers of strategic goods** – individuals and legal entities producing strategic goods or selling them directly on behalf of a foreign producer on the territory of the Republic of Kazakhstan;
 - 15) **public hearings** – procedure of discussing the draft tariff (price, fee rate) or its limit level for regulated services (goods, works) of a natural monopoly entity, by inviting deputies, government officials, consumers and their society unions, independent experts, mass media and natural monopoly entities;
 - 16) **regulated services (goods, works) of a natural monopoly entity** - services (goods, works) provided by a natural monopoly entity and subject to government regulation by the authorized body including the cases of provision of services (goods, works) in the form of a specific good delivery to a consumer;
 - 17) **medium-term period** – a time interval more than one year and up to five years inclusive;
 - 17-1) **strategic goods** — coal, gas, mazut, diesel oil used as a fuel for production of thermal energy by natural monopoly entities, energy — for natural monopoly entities in the area of delivery and dissemination of energy, water supply and sanitation systems;
 - 18) **natural monopoly entity** - an individual entrepreneur or legal entity producing goods and works and (or) providing services to consumers under natural monopoly environment;
 - 18-1) **natural monopoly entity of small capacity** — a natural monopoly entity providing services of:
production, delivery, dissemination and (or) supply of thermal energy from heating boiler-houses with a general established capacity of twenty Gcal/hour inclusive;
water supply and (or) sanitation systems to consumers with population of less than 1,500 persons;
 - 19) **natural monopoly sphere** – sphere of public relations emerging on the markets of services (goods and works) where an individual entrepreneur or legal entity could be recognized as a natural monopoly entity;
 - 20) **tariff (price, fee rate)** – money equivalent of a cost for regulated services (goods, works) of a natural monopoly entity approved by the authorized body;
 - 21) **tariff estimate** – indices of revenue and expenditure items, volumes of provided regulated services (good, works) and other economic indices of an activity of a natural

- monopoly entity approved by the authorized body by regulated services (goods, works) according to the form approved by the authorized body;
- 22) **technical expertise** – an analysis of the technical condition (technical characteristics) of involved assets and the need for implementation of works keeping assets operational, efficiency of the technological process including observance of the established norms of material, labour expenses, production technology, evaluation of need for an investment programs and (or) investment projects implementation, level of availability and correctness of fixed assets dissemination by types of provided regulated services (goods, works);
 - 23) **authorized body** - a government body which supervises and regulates the activities carried out by natural monopoly entities;
 - 24) **financial expertise** – an analysis of the financial and economic activity of a natural monopoly entity for the purpose of assessment of its fulfillment of the legislation of the Republic of Kazakhstan on natural monopolies and resolutions of the authorized bodies, distribution of revenue, expenses and involved assets by each type of regulated services (goods, works) and on the whole, of other activity in compliance with the procedure established by the authorized body as well as analysis of the impact of applied tariffs (prices, fee rates) on the financial indices of the activity of a natural monopoly entity, checking (evaluation) of the tariff estimate fulfilment and observance of the accounting policy, implementation of investment programs and (or) investment projects;
 - 25) **emergency regulatory measures** - measures taken by the authorized body for the purpose of protecting health and lives of the citizens as well as the property of individuals and legal entities and environmental protection.

Article 4 is amended in compliance with the Laws of RK as of December 6, 2001 [No. 260-II \(refer to the previous edition\)](#); as of December 26, 2002 [No. 364-II \(refer to the previous edition\)](#); as of July 5, 2004 [No. 568-II \(refer to the previous edition\)](#); stated in the edition of the Law of RK as of December 9, 2004 [No. 9-III \(refer to the previous edition\)](#); amended in compliance with the Law of RK as of December 20, 2004 [No. 13-III \(put into force as of January 1, 2005\) \(refer to the previous edition\)](#); [Law of RK as of January 14, 2006 No. 120-III \(refer to the previous edition\)](#).

Article 4. Sphere of Activities of Natural Monopoly Entities

1. The following services (goods, works) shall be ascribed to the sphere of natural monopolies:
 - 1) [transportation of oil and \(or\) oil products](#) through trunk pipelines;
 - 2) storage, transportation of gas or gas condensate through arterial and (or) distribution pipelines, exploitation of gas distribution plants and related gas distribution pipelines;
 - 3) transmission and (or) distribution of electric power;
 - 4) production, delivery, distribution and (or) supply of thermal energy;
 - 5) technical dispatching of the release in the network and consuming of electric power;
 - 6) [arterial rail networks and local railways](#);
 - 7) access ways;

- 8) air-navigation;
 - 9) ports and airports;
 - 10) telecommunication if there is no competitive communication operator because of the technological impossibility or economic inexpediency of provision of such types of services except for **universal services of telecommunication**;
 - 11) provision for property renting or use of **cable-conduit system** and other fixed assets technologically related with connection of telecommunication nets to a general telecommunication network;
 - 12) water supply and (or) sanitation systems;
 - 13) **commonly accessible postal services**.
2. The authorized body shall implement the **analysis of spheres of activity of natural monopoly entities** mentioned in **item 1** of this article for the purpose of classification of natural monopoly entities' services (goods, works) as regulated within these spheres of activity.
The list of regulated services (goods, works) is subject to approval by the Government of the Republic of Kazakhstan based on the resolution of the authorized body.
3. Natural monopoly entities shall be subject to inclusion into the **State Register** of Natural Monopoly Entities comprising republican and local sections with specification of concrete types of provided regulated services (goods, works).
The **procedure** for admission of a legal entity to the State Register of Natural Monopoly Entities or exclusion therefrom shall be determined by the authorized body.

*Article 5 is amended in compliance with the Law of RK as of July 13, 1999 **No. 413-I**; stated in the edition of the Law of RK as of December 26, 2002 **No. 364-II** (refer to the previous edition.); amended in compliance with the Laws of RK as of December 9, 2004 **No. 9-III** (refer to the previous edition); as of February 20, 2006 **No. 127-III** (put into force as of July 1, 2006) (refer to the previous edition); as of July 5, 2006 **No. 166-III** (refer to the previous edition).*

Article 5. Limitations on Activities of Natural Monopoly Entities

1. A natural monopoly entity shall be prohibited from:
 - 1) rendering services and performing other activities outside the sphere of natural monopolies, except for the activity:
technically associated with regulated services (goods, works);
established by the **legislation** of the Republic of Kazakhstan on the post;
in case when the revenue from provision of the regulated services (goods, works) referred to the area of natural monopoly does not exceed one percent of revenue of the overall activity of a market's entity for one calendar year;
in case when the revenue from other activity does not exceed five percent of the overall activity of a natural monopoly entity or one calendar year;
in case of an **impossibility of the organized and territorial isolation of a structural branch** providing services (goods, works) in the sphere of natural monopolies;
 - 2) possessing property based on the right of ownership and (or) economic administration other than those required to produce and provide services (goods, works) of a natural

- monopoly entity, as well as for activities permitted for a natural monopoly entity in compliance with this Law;
- 3) owning stock (shares), or otherwise participating in activities of other commercial entities, excluding nongovernmental funded pension funds, special financial organizations and other organizations performing the activity allowed for a natural monopoly entity under the present Law;
 - 4) charging prices for services (goods, works) exceeding the amount established by the authorized body;
 - 5) imposing conditions for access to services (goods, works) of natural monopoly entities, or otherwise performing any acts that result in discrimination against consumers;
 - 5-1) to pass the property belonging on the right of ownership or other legal basis, which is used in the technological cycle during the production and (or) provision of the regulated services (goods, works), for a confidence management, property renting including leasing;
 - 6) to reassign the right of a claim, related to the provision of services (goods, works), except for the cession of the right of a claim to a special financial organization regarding the transactions on securitization provided that it does not result in the increase of tariffs (prices, fee rates) of services (goods, works) of a natural monopoly entity;
 - 7) refuse to provide the regulated services (works, goods) to the good faith consumers due to non-payment by bad faith consumers for the regulated services (goods, works) used;
 - 8) include in tariffs (prices, fee rates) or their limit levels for the regulated services (goods, works) costs unrelated to their provision;
 - 9) demand payment of the provided regulated services (goods, works) not meeting the requirements on quality of the regulated services (goods, works) by the authorized government body within its competence;
 - 10) acknowledge as a commercial secret the information:
 - contained in a tariff estimate;
 - on expenditures for procurement and installation of metering devices of the public utilities' services and mechanism of charges collection, procurement and installation of metering devices of the public utilities' services;
 - on provided regulated public utilities' services (goods, works).
- 1-1. Limitations stipulated by sub-items 1), 2) and 3) **of item 1** of this Article shall not be applied to natural monopoly entities of small capacity.
2. Limitations stipulated by **sub-item 5-1)** of this Article shall not be applied to the natural monopoly entities providing the regulated services (goods, works) in compliance with sub-item 11) of item 1 of **Article 4** of this Law.

*Article 6 is amended in compliance with the Laws of RK as of December 26, 2002 **No. 364-II (refer to the previous edition)**; as of December 9, 2004 **No. 9-III (refer to the previous edition)**; as of July 5, 2006 **No. 166-III (refer to the previous edition)**.*

Article 6. Rights of Natural Monopoly Entity

A natural monopoly entity shall have the right:

- 1) to establish, in accordance with the legislation, technical requirements binding for natural monopoly consumers;
- 1-1) to decrease tariffs (prices, fee rates) for the regulated services (goods, works) provided for all the consumers during the validity period of tariffs (prices, fee rates) **upon the procedure set by the authorized body.**

- 1-2) to perform technical maintenance and check metering devices upon the procedure set by the legislation of the Republic of Kazakhstan;
- 1-3) to submit to the authorized body an application for approval of tariffs (prices, fee rates) or its limit level for the regulated services (goods, works);
- 1-4) to charge consumers the fee for procurement and installation of metering devices of the regulated public utilities' services approved by the authorized body;
- 2) to submit proposals with regard to the draft decisions of the authorized body that affect its activities and legal status;
- 3) to appeal to the court actions (inaction) of the authorized body, contradicting to the legislation of the Republic of Kazakhstan;
- 4) to appeal to the authorized body or to the court actions (inaction) of other entities that affect its activities, revenue, ownership or legal status;
- 5) to apply, in accordance with the procedure established by legislation, to the authorized body for its removal from the Register of Natural Monopoly Entities;
- 5-1) to increase according to the procedure established by the authorized body the tariffs (prices, fee rates) or its limit levels for provided regulated services (goods, works) for all consumers in case of the respective change of the tax legislation of the Republic of Kazakhstan that results in increase of the expenses of a natural monopoly entity;
- 6) to enjoy other rights provided for by legal enactments of the Republic of Kazakhstan.

Article 7 is amended in compliance with the Laws of RK as of December 26, 2002 [No. 364-II \(refer to the previous edition\)](#); as of December 9, 2004 [No. 9-III \(refer to the previous edition\)](#); as of December 20, 2004 [No. 13-III \(put into force as of January 1, 2005\)](#) ([refer to the previous edition](#)); as of January 14, 2006 [No. 120-III \(refer to the previous edition\)](#); as of May 5, 2006 [No. 139-III \(refer to the previous edition\)](#); as of July 5, 2006 [No.166-III \(refer to the previous edition\)](#).

Article 7. Obligations of Natural Monopoly Entities

A natural monopoly entity shall be under the obligation:

- 1) to implement the decisions taken by the authorized body that do not contradict the legislation of the Republic of Kazakhstan;
- 2) to provide general servicing of consumers of the regulated services (goods, work) in compliance with the requirements on the quality of provided regulated services (goods, works) established by the authorized government bodies within their competence at tariffs (prices, fee rates) or their limit levels approved by the authorized body for provided regulated services (goods, works);
- 2-1) to provide receiving of payments fro consumers for provided regulated public utilities' services (goods, works) through own pay desk as well as banks and organizations implementing separate types of bank operations. This requirement shall not cover natural monopoly entities specified in item 3 [of Article 15](#) of this Law;
- 3) to provide equal opportunities for consumers of the regulated services (goods, works) excluding the cases when providing the regulated services (goods, works) on incentive and benefits basis set by the legislation of the Republic of Kazakhstan;
- 3-1) in case of approval of the limit level of a tariff (price, fee rate) to provide for all consumers the regulated services (goods, works) at united levels of tariffs (prices, fee rates) not exceeding the limit level of a tariff (price, fee rate);
- 4) to implement procurement of services (goods, works) the costs of which are considered when determining the tariff (price, fee rate) and its limit level and tariff estimates for the regulated services (goods, works) of a natural monopoly entity upon the procedure set by the present Law and [other legal enactments](#) of the Republic of Kazakhstan;

- 5) upon request of the authorized body, to present financial statements and other required information as a hard copy and (or) its electronic version in terms set the authorized body but not less than five working days;
- 6) to choose most effective methods and technologies for producing and providing natural monopoly services consistent with public, ecological safety and public health safety principles considered;
- 7) to conduct **obligatory annual audits** by auditing firms except for natural monopoly entities specified in item 3 of **Article 15** of this Law which implements the obligatory annual audits once three years. The audit report and annual financial statement shall be published in the **periodicals** distributed across the relative territory of an administrative-territorial unit, where the natural monopoly entity is performing its activity, no later than thirty days after the audit results are approved upon the procedure set by the **legislation** of the Republic of Kazakhstan;
 - 7-1) to have a separate accounting of the revenue, expenses and involved assets by each type of the regulated services (goods, works) and on the whole for other activity under the procedure determined by the authorized body;
 - 7-2) to implement tariff estimate;
 - 7-3) to report annually on the activity on provision of the regulated services (goods, works) to consumers and other concerned persons under the **procedure** established by the authorized body;
- 8) to conclude individual **contracts** with consumers for each type of provided regulated services (goods, works) as well s for each type and (or) a set of other provided regulated services (goods, works) based on **standard contracts** approved by the Government of the Republic of Kazakhstan ;
- 9) **to purchase and install for consumers metering devices** of the regulated public utilities' services (goods, works) in compliance with the contracts signed with consumers;
 - 9-1) in case of malfunction of a metering device to charge payment for provided regulated services (goods, works) based on a monthly average reading of metering devices under the **procedure** established by the authorized body;
- 10) to reconcile with the authorized body investment programs and (or) investment projects considered when approving tariffs (prices, fee rates) or their limit levels, tariff estimates and conducting revaluation of fixed assets upon the **procedure** set by he legislation of the Republic of Kazakhstan;
- 11) to submit upon request of the authorized body the report on implementation of the tariff estimate based on the quarter results;
- 12) not allow violation of consumer rights when concluding contracts for provision of the regulated services (goods, works);
- 13) notify the authorized body and consumers on reduction of tariffs (prices, fee rates) 10 days prior to their effectiveness;
- 14) is deleted in compliance with the **Law** of RK as of January 14, 2006 No. 120-III (**refer to the previous edition**)
- 15) to decrease under the procedure established by the authorized body the tariffs (prices, fee rates) and their limit levels for the provided regulated services (goods, works) for all consumers in case of the respective change of the tax legislation of the Republic of Kazakhstan that results in decrease of expenses of a natural monopoly entity since the day when these changes are effective;
- 16) to alienate the property intended for production and provision of the regulated services (goods, works) at biddings in the form of a tender except for cases of the property transfer to the government ownership;

17) to develop and get approval for methods of separate accounting of the revenue, expenses and involved assets by types of the regulated services of a natural monopoly entity under the procedure established by the authorized body.

Obligation provided for by sub-items [4](#), [7-1](#), [10](#) and [17](#) of the first part of this Article shall not cover the natural monopoly entities of small capacity.

Article 8. is deleted in compliance with the Law of RK as of December 26, 2002 [No. 364-II \(refer to the previous edition\)](#)

Article 9. is deleted in compliance with the Law of RK as of December 26, 2002 [No. 364-II \(refer to the previous edition\)](#)

Article 10 is amended in compliance with the Laws of RK as of December 26, 2002 [No. 364-II \(refer to the previous edition\)](#); as of December 9, 2004 [No. 9-III \(refer to the previous edition\)](#); as of January 14, 2006 [No. 120-III \(refer to the previous edition\)](#)

Article 10. Rights of Consumer of Services (Goods, Works) of Natural Monopoly Entity

A consumer of the services (goods, works) of a natural monopoly entity shall have the right:

- 1) to purchase the regulated services (goods, works) of a natural monopoly entity according to the procedure and at tariffs (prices, fee rates) established by the authorized body and demand installation of metering devices or independently purchase and install them;
- 2) to file a petition to the authorized body to amend, make new decisions or cancel the existing ones;
- 3) to appeal judicially actions (inaction) and decisions taken by the authorized body;
- 4) to file protests to the authorized body and (or) to a court with regard to acts of a natural monopoly entity taken in violation of the legislation of the Republic of Kazakhstan;
4-1) to participate in public hearings; and
4-2) to participate in tenders for procurement of services (goods, works) of natural monopoly entities;
- 5) to enjoy other rights stipulated by [legislation](#) of the Republic of Kazakhstan.

Article 11 is amended in compliance with the Laws of RK as of December 26, 2002 [No. 364-II \(refer to the previous edition\)](#); as of December 9, 2004 [No. 9-III \(refer to the previous edition\)](#); stated in the edition of the Law of RK as of July 5, 2006 [No. 166-III \(refer to the previous edition\)](#)

Article 11. Obligations of Consumer of Natural Monopoly Services

A consumer of natural monopoly services (goods, works) shall be obligated to:

- 1) pay in full and on time for services (goods or works) provided by natural monopoly entities, purchase and installation of metering devices of the regulated public utilities' services (goods, works) in accordance with relevant contracts;
- 2) adhere to any technical requirements established by natural monopoly entities in conformity to the legislation of the Republic of Kazakhstan.

Article 12 is stated in the edition of the Laws of RK as of December 26, 2006 [No. 364-II \(refer to the previous edition\)](#); as of December 20, 2004 [No. 13-III \(refer to the previous edition\)](#)

Article 12. Authorized Body

[Status](#), structure and general staff number of the authorized body shall be approved by the Government of the RK;

Article 13 is amended in compliance with the Laws of RK as of December 26, 2002 [No. 364-II \(refer to the previous edition\)](#); as of December 9, 2004 [No. 9-III \(refer to the previous edition\)](#); stated in the edition of the Law of RK as of December 20, 2004 [No. 13-III \(put into force as of January 1, 2005\) \(refer to the previous edition\)](#); amended in compliance with the Laws of RK as of January 14, 2006 [No. 120-III \(refer to the previous edition\)](#); as of July 5, 2006 [No. 166-III \(refer to the previous edition\)](#)

Article 13. Functions of the Authorized Body

1. The authorized body shall fulfil the following functions:

- 1) to implement control and regulate the activity of the natural monopoly entities;
- 2) to form and maintain the [State Register of Natural Monopoly Entities](#);
- 3) to develop and approve the legal acts compulsory for implementation by the government bodies and natural monopoly entities;
- 4) to develop, approve and introduce non-discriminatory [methods](#) for establishing tariffs (prices, fee rates) or their limit levels for the regulated services (goods, works) of natural monopoly entities;
- 5) to generalize the practice of enforcement of the legislation of the Republic of Kazakhstan about natural monopolies, on this basis to work out practical recommendations.

5-1) to approve under its established procedure:

normative technical losses of natural monopoly entities;

[technical and technological norms for consumption of raw, materials, fuel, energy of natural monopoly entities](#) upon approval of the government body governing the respective branch (sphere) of public administration;

[norms on staff number of a natural monopoly entity](#) upon approval of the labour authorized body;

6) is deleted in compliance with the [Law](#) of RK as of July 5, 2006 No.166-III ([refer to the previous edition](#))

2. is deleted in compliance with the [Law](#) of RK as of July 5, 2006 No. 166-III ([refer to the previous edition](#))

Refer to: [Resolution](#) of the Government of RK as of November 12, 1999 No. 1691 “On Interdepartmental Tariff Policy Commission”.

Article 14 is amended in compliance with the Laws of RK as of March 29, 2000 [No. 42-II](#); as of December 26, 2002 [No. 364-II \(refer to the previous edition\)](#); as of December 9, 2004 [No. 9-III \(refer to the previous edition\)](#); stated in the edition of the Law of RK as of December 20, 2004 [No. 13-III \(put into force as of January 1, 2005\) \(refer to the previous edition\)](#); amended in compliance with the Laws of RK as of January 14, 2006 [No. 120-III \(refer to the previous edition\)](#); as of July 5, 2006 [No. 166-III \(refer to the previous edition\)](#)

Article 14. Rights of the Authorized Body

1. The authorized body shall have the right:

- 1) to develop standard contracts to be signed between the natural monopoly entities and consumers of the regulated services (goods, works) and submit them for approval to the Government of the Republic of Kazakhstan;

- 2) to take decisions on inclusion of entities that conduct their activities in the natural monopoly area into the [State Register of Natural Monopoly Entities](#) or exclusion them therefrom;
- 3) to take decisions, binding for natural monopoly entities, on introduction, modification or termination of government regulation and control;
- 4) to take decisions regulating and controlling natural monopoly activities in conformity with this Law and other legislative acts of the Republic of Kazakhstan;
- 5) to take, within its terms of reference, decisions in response to the facts of violation of this Law for preventing the violations and redressing the consequences thereof in natural monopoly sectors;
- 6) to furnish natural monopoly entities, in the instances, established by the legal acts of the Republic of Kazakhstan, with the regulations and orders which shall have a binding effect on natural monopoly entities regarding the conclusion of contracts with consumers and introduction of amendments into the concluded contracts;
- 7) to furnish natural monopoly entities, government bodies in case of their violation of the legislation of the Republic of Kazakhstan on natural monopolies with compulsory instructions as well as instructions on reorganization of natural monopoly entities and (or) on alienation of property;
- 8) to file a petition to a court when this Law is violated;
- 9) to demand and obtain information required for executing the powers, from individuals and legal entities, including the government bodies, local self-governance bodies, as well as from their officials with observance of requirements of relevant legislative acts of the Republic of Kazakhstan on disclosure of commercial information or other law-protected secret information;
- 10) to examine administrative cases relating to the violations of the legislation of the Republic of Kazakhstan on natural monopolies on its own initiative, on the basis of the news reported by mass media or any other materials available, on the grounds of written statements and messages provided by government bodies, citizens, legal entities, parties concerned and applications of natural monopoly entities;
- 11) to initiate modification of tariffs (prices, fee rates) for the regulated services (goods, works) of natural monopoly entities or their limit levels and tariff estimates of natural monopoly entities under its established procedure;
- 12) to exercise control over procurement the expenses of which are considered during determination of tariffs (prices, fee rates) or their limit levels and tariff estimates for the regulated services (goods, works) of natural monopoly entities;
- 13) to exercise control over adherence to tariff estimates on the part of natural monopoly entities;
- 14) to establish the period of validity of tariffs (prices, fee rates) for the regulated services (goods, works) of a natural monopoly entity not less that for twenty months except for cases considered by [item 5 of Article 18](#) of this Law;

15) to approve **the procedure of separate accounting of revenue**, expenses and involved assets by each type of the regulated services (goods, works) and for the other activity on the whole;

16) to approve a candidate of the assigned rehabilitation manager and a plan of rehabilitation of a natural monopoly entity;

17) to approve tariffs (prices, fee rates) or their limit levels for the regulated services (goods, works) of a natural monopoly entity taking into account the requirements on quality established by the government bodies within their competence;

17-1) to approve an amount and mechanism of payment collection for procurement and installation of metering devices of the regulated public utilities' services (goods, works) in compliance with its established **procedure**;

18) to approve the methods of separate accounting of revenue, expenses and involved assets by the type of the regulated services (goods, works) of natural monopoly entities **in compliance with its established procedure**;

19) to approve upon agreement of the authorized body in the sphere of evaluation activity **the procedure** and conditions for revaluation of fixed assets of a natural monopoly entity;

20) to approve the investment programs and (or) investment projects considered during determination of tariffs (prices, fee rates) or their limit levels, tariff estimates as well as to approve the procedure for monitoring of efficiency of investment program and project implementation of natural monopoly entities;

20-1) is deleted in compliance with the **Law** of RK as of July 5, 2006 No.166-III (**refer to the previous edition**)

21) to provide explanations on the legislation of the Republic of Kazakhstan on natural monopolies.

2. is deleted in compliance with the **Law** of RK as of July 5, 2006 No.166-III (**refer to the previous edition**)

3. The authorized body bears responsibility for disclosure of information containing government, commercial and other law-protected secret in compliance with the law of the Republic of Kazakhstan.

*The Law is supplemented with Article 14-1 in compliance with the Law of RK as of December 26, 2002 **No. 364-II**; amended in compliance with the Law of RK as of December 9, 2004 **No. 9-III** (**refer to the previous edition**); stated in the edition of the Law of RK as of December 20, 2004 **No. 13-III** (put into force as of January 1, 2005) (**refer to the previous edition**); amended in compliance with the Laws of RK as of January 14, 2006 **No. 120-III** (**refer to the previous edition**); as of July 5, 2006 **No. 166-III** (**refer to the previous edition**)*

Article 14-1. Obligations of Authorized Body

The Authorized Body shall:

1) take decisions on approval of temporary compensatory tariffs to recover damages caused to consumers by natural monopoly entities through illegal increase of the tariff (price, fee rate) or its limit level and (or) inclusion of costs of actually non-executed works into the tariff (price, fee rate) or its limit level, no-purpose use of funds of amortized values considered by the tariff estimate, deviation of use of cost items of the tariff estimate by more than five percent from the approved amounts;

- 2) justify in a written form refusals to accept natural monopoly entity's application for approval or modification of tariffs (prices, fee rates) or their limit levels;
 - 3) familiarise consumers with decisions adopted with regard to regulation for activities of natural monopoly entities except for those that contain commercial or law-protected classified information;
 - 4) arrange public hearings with respect to applications filed by natural monopoly entities for approval of tariffs (prices, fee rates) or their limit levels;
 - 4-1) carry out financial and (or) technical expertise with involvement of independent experts, government bodies **according to its established procedure**;
 - 5) determine the procedure of:
 - determination of the tariff estimates, tariffs (prices, fee rates) or their limit levels**;
 - submission of the draft tariff estimates, tariffs (prices, fee rates) or their limit levels;
 - approval of the temporary decreasing coefficient;
 - 6) inform through the mass media about violations of this Law and bringing to account parties in fault.
2. is deleted in compliance with the **Law** of RK as of July, 2006 No.166-III (**refer to the previous edition**)

*Article 15 is stated in the edition of the Law of RK as of December 26, 2002 **No. 364-II** (**refer to the previous edition**); amended in compliance with the Laws of RK as of December 9, 2004 **No. 9-III** (**refer to the previous edition**); as of January 14, 2006 **No. 120-III** (**refer to the previous edition**); as of July 5, 2006 **No. 166-III** (**refer to the previous edition**)*

Article 15. State Regulation of Activities of Natural Monopoly Entities

1. The state regulation for activities of natural monopoly entities shall be exercised through:
 - 1) Tariff (price, fee rate) approval;
 - 1-1) tariff (price, fee rate) limit level approval;
 - 1-2) investment tariff (price, fee rate) approval;
 - 2) Tariff estimate approval;
 - 3) Temporary reducing coefficient approval;
 - 4) Special procedures for cost formation approval;
 - 5) Approval of the procedure for separate accounting of revenue, expenses and involved assets by each type of the regulated services (goods, works) and for the other activity on the whole;
 - 6) Approval of the accounting policy;
 - 7) Approval of the temporary compensatory tariff.
2. Activities of natural monopoly entities that produce heat energy at the power stations with combined power producing systems shall be regulated on the basis of a complex approach subject to special features of production modes for production of thermal and electric power and formation of prices for electric power on the competitive market.

3. **Simplified procedure of the government regulation** approved by the Government of the Republic of Kazakhstan is applied to the activity of the natural monopoly entities which revenue from provision of the regulated services (goods, works) does not exceed three hundred and fifty thousand **monthly calculated indices** per year or fifty thousand monthly calculated indices per year for each type of the regulated services (goods, works). The list of the specified natural monopoly entities are subject to approval by the authorized body.

*The Law is supplemented with Article 15-1 in compliance with the Law of RK as of December 26, 2002 **No. 364-II**; amended in compliance with the Laws of RK as of December 9, 2004 **No. 9-III** (refer to the previous edition); as of December 20, 2004 **No. 13-III** (put into force as of January 1, 2005.) (refer to the previous edition); as of January 14, 2006 **No. 120-III** (refer to the previous edition); as of July 5, 2006 **No. 166-III** (refer to the previous edition)*

Article 15-1 Procedures for Formation of Tariffs (Prices, Fee Rates) or Their Limit Levels for Regulated Services Provided by Natural Monopoly Entities

1. Tariffs (prices, fee rates) or their limit levels for regulated services (goods, works) provided by natural monopoly entities and approved by the authorized body shall not be below the total of costs incurred to provide services (goods and works). The tariffs shall take into account the profit opportunities that ensure efficient operation of natural monopoly entities.

2. In order to approve tariffs (prices, fee rates) or their limit levels the authorized body shall apply special procedures for the cost formation based on the following provisions:

- 1) **regulation of costs included in the tariff (price, fee rates)** or its limit level;
- 2) restriction of the number of cost items of natural monopoly entities to the technical and technological norms for consumption of raw, material, fuel, energy as well as for normative technical losses;
- 3) listing of expenses not considered during determination of the tariff (price, fee rate) or its limit level;
- 4) **limitation of profits included into the tariff (price, fee rate)** or its limit level;
- 5) approval of methods for calculation of depreciation of fixed assets;
- 6) approval of revaluation of fixed assets and purpose of use of amortized values included in tariff estimates of natural monopoly entities.

The **special procedures for the cost formation** shall be approved by the authorized body.

3. is deleted in compliance with the **Law** of RK as of July 5, 2006 No.166-III (**refer to the previous edition**)

4. is deleted in compliance with the **Law** of RK as of July 5, 2006 No.166-III (**refer to the previous edition**)

*Article 16 is amended in compliance with the Laws of RK as of December 26, 2002 **No. 364-II** (refer to the previous edition); as of December 9, 2004 **No. 9-III** (refer to the previous edition); as of January 14, 2006 **No. 120-III** (refer to the previous edition)*

Article 16. Procedures for Submission of Draft Tariffs (Prices, Fee Rates) or Their Limit Levels and Tariff Estimates

1. In the case of a necessity to approve tariffs (prices, fee rates) or their limit levels for regulated services (goods, works) provided by a natural monopoly entity, the latter shall submit an application to the authorized body for consideration of tariffs (prices, fee rates) .

2. A natural monopoly entity shall be obligated to attach a draft tariff estimate and a list of tariffs (prices, fee rates) for the regulated services to the application not later than ninety days prior to their validation thereof.

Should a limit level of the tariff (price, fee rate) be approved a natural monopoly entity shall be obligated to submit to the authorized body an application for consideration of the tariff (price, fee rate) eighty days prior its validation.

Should tariffs (prices, fee rates) or their limit levels and tariff estimates be reconsidered on the initiative of the authorized body a natural monopoly entity shall be obliged within a month period to submit economic calculations and other information in the same volume as when submitting an application for approval of a new tariff (price, fee rate).

3. is deleted in compliance with the [Law](#) of RK as of January 14, 2006 No.120-III ([refer to the previous edition.](#))

Article 17 is amended in compliance with the Laws of RK as of December 26, 2002 [No. 364-II](#) ([refer to the previous edition.](#)); as of December 9, 2004 [No. 9-III](#) ([refer to the previous edition.](#)); as of January 14, 2006 [No. 120-III](#) ([refer to the previous edition.](#)); stated in the edition of the [Law](#) of RK as of July 5, 2006 No. № 166-III ([refer to the previous edition.](#))

Article 17. Procedure of Draft Tariffs (Prices, Fee Rates) or Their Limit Levels and Tariff Estimates Consideration

1. In case of acceptance for consideration the applications for change of the existing tariffs (prices, fee rates) or their limit levels and tariff estimates for the regulated services (goods, works) of natural monopoly entities the authorized body shall carry out the expertise of the draft tariffs (prices, fee rates) or their limit levels and tariff estimates.

For expertise implementation independent experts, government bodies, [consumers and their public unions](#), natural monopoly subjects of submitted drafts shall be involved.

2. The authorized body shall be obliged to publish in periodicals the information on the date and place of public hearings:

1) under the general procedure at least prior fifteen days when determining the tariffs (prices, fee rates) or their limit levels for the regulated services (goods, works) of a natural monopoly entity;

2) in compliance with item 5 [of Article 18](#) of this Law at least prior seven days when determining the tariffs (prices, fee rates) for the regulated services (goods, works) of a natural monopoly entity;

Requirements of the first part of this item shall not cover natural monopoly entities of small capacity when determining tariffs (prices, fee rates) for the regulated services (goods, works).

Public hearings shall be carried out when determining:

1) limit levels of tariffs (prices, fee rates) for the regulated services (goods, works) of a natural monopoly entity at least prior thirty days before decision making on their approval;

2) tariffs (prices, fee rates) for the regulated services (goods, works) of a natural monopoly entity at least prior fifteen days before decision making on their approval;

3) tariffs (prices, fee rates) for the regulated services (goods, works) of a natural monopoly entity in compliance with item 5 of the Article 18 of this Law at least prior seven days before decision making on their approval;

4) tariffs (prices, fee rates) for the regulated services (goods, works) of a natural monopoly entity of small capacity at least prior one day before decision making on their approval.

Upon publication of information on the date of public hearings a natural monopoly entity shall be obliged to submit by the request of participants of public hearings:

draft tariff estimates (prices, fee rates) for the regulated services (goods, works) or their limit levels;

information on reasons of increase of tariffs (prices, fee rates) for the regulated services (goods, works) or their limit levels with economic calculations.

The procedure of public hearing carrying-out shall be determined by the Government of the Republic of Kazakhstan.

3. Draft tariffs (prices, fee rates) for the regulated services (goods, works) of natural monopoly entities shall be considered by the authorized body during fifty five days, in case of approval of a limit level of the tariff (price, fee rate) — during one hundred and sixty five days provided that economic calculations are submitted in compliance with the requirements of the authorized body. A period for consideration of draft tariffs (prices, fee rates) or their limit levels is calculated from the moment of an application submission.

4. Draft tariffs (prices, fee rates) for the regulated services (goods, works) of a natural monopoly entity of small capacity shall be considered by the authorized body during ten days.

5. Requirements of item 1 of this Article shall not cover the decisions taken by the authorized body in the form of the emergency regulating measures.

6. Requirements of the second part of item 1 of this Article shall not cover the decisions on approval of tariffs (prices, fee rates) and tariff estimates for the regulated services (goods, works) of a natural monopoly entity of small capacity.

Article 18 is amended in compliance with the Laws of RK as of December 26, 2002 [No. 364-II \(refer to the previous edition\)](#); as of December 9, 2004 [No. 9-III \(refer to the previous edition\)](#); as of January 14, 2006 [No. 120-III \(refer to the previous edition\)](#); as of July 5, 2006 [No. 166-III \(refer to the previous edition\)](#)

Article 18. Procedures for Approving Tariffs (Prices, Fee Rates) or Their Limit Levels and Tariff Estimates

1. is deleted in compliance with the Law of RK as of December 26, 2002 [No. 364-II](#)

2. The final decision on approval of tariffs (prices, fee rates) or their limit levels and tariff estimates for the regulated services (goods, works) of a natural monopoly entity must be sent to this entity no later than thirty five days prior to the moment of validation thereof, and to a natural monopoly entity of small capacity – not later than ten days prior to the moment of validation thereof.

3. Approval of tariffs (prices, fee rates) or their limit levels and tariff estimates for the regulated services (goods, works) of a natural monopoly entity shall be made not more than once twelve months except for cases considered in item 5 of this Article. New tariffs (prices, fee rates) and tariff estimates shall be validated on the first day of the second month following the month of the tariff (price, fee rate) approval.

Validation of tariffs (prices, fee rates) for the regulated services (goods, works) of a natural monopoly entity of small capacity shall be on the first date of the month following the month of the tariff (price, fee rate) approval.

4. A natural monopoly entity shall be obliged to inform consumers on change of tariffs (prices, fee rates) or their limit level not later than prior thirty days to their validation thereof, and a natural monopoly entity of small capacity — not later than prior three days to their validation thereof.

5. Approval of tariffs (prices, fee rates) and tariff estimates for the regulated services (goods, works) under a simplified procedure shall be made for:

1) regulated services (goods, works) of newly established natural monopoly entities;

2) new types of regulated services (goods, works) included in compliance with item 2 of [Article 4](#) of this Law;

3) new types of regulated services (goods, works) provided by a natural monopoly entity already included into the State Register of natural monopoly entities for other types of regulated services (goods, works);

4) new facilities and (or) areas if the existing tariffs for the regulated services (goods, works) of a natural monopoly entity have been approved separately by facilities and (or) areas.

Natural monopoly entities specified in the first part of this item shall be obliged not later than six months to submit an application for reconsideration of the tariffs (prices, fee rates) and tariff estimates under the general procedure.

[The procedure of approval of tariffs \(prices, fee rates\) and tariff estimates under the simplified procedure](#) is determined by the authorized body except for the cases considered in item 3 of [Article 15](#) of this Law.

In case of overestimation of tariffs (prices, fee rates) approved under the simplified procedure the authorized body shall be obliged simultaneously with introduction of new tariffs (prices, fee rates) to make a decision on compensation of damages caused to consumers.

5-1. A natural monopoly entity which became an owner of assets as a result of a contract conclusion or sale of a debtor's bankruptcy assets, i.e. a natural monopoly entity declared bankrupt, shall provide to consumers the regulated services (goods, works) at the tariffs (prices, works) or their limit levels and tariff estimates earlier approved by the authorized body for owners of these assets or property which were imposed on a penalty in the course of the bankruptcy proceedings before submission of an application for approval of the tariffs (prices, fee rates) and tariff estimates for the regulated services (goods, works) but not more than for six-month period.

6. Approval of tariffs (prices, fee rates) and tariff estimates on an initiative of the authorized body shall be made under the procedure established by this Law.

7. When approving a limit level of the tariff (price, fee rate) by the authorized body a period of validity for a specific amount of the tariff (price, fee rate) shall be determined.

Refer to the [Rules](#) for approval of a limit level of tariffs (prices, fee rates) and tariff estimates for the regulated services (goods, works) of natural monopoly entities, [Rules](#) for approval of tariffs (prices, fee rates) and tariff estimates for the regulated services (goods, works) of natural monopoly entities.

The Law is supplemented with Article 18-1 in compliance with the Law of RK as of December 26, 2002 [No. 364-II](#); amended in compliance with the Laws of RK as of December 9, 2004 [No. 9-III](#) ([refer to the previous edition](#)); as of December 20, 2004 [No. 13-III](#) ([put into force as of January 1, 2005](#)) ([refer to the previous edition](#)); as of July 5, 2006. [No. 166-III](#) ([refer to the previous edition](#))

Article 18-1. Government Control in the Sector of Natural Monopolies

1. In order to prevent violation of rights and legitimate interests of consumers of the regulated services (goods, works) provided by natural monopoly entities or containment of economically justified transition of relevant markets from the condition of natural monopoly to the condition of competitive market, the authorised body shall exercise control over:

1) alienation and (or) other transactions with the property of a natural monopoly entity if a book cost of the alienated property or property of a natural monopoly entity, in respect of which other transactions are made, recorded in a balance sheet at the beginning of the current year exceeds 0.05 percent of the book cost of its assets in compliance with the balance sheet at the beginning of the current year provided that they will not result in

increase of the tariffs (prices, fee rates) or their limit levels for the regulated services (goods, works) of a natural monopoly entity, violation of a contract with consumers, violation of the continuous technological system, interruption or significant decrease of the volume of the provided regulated services (produced goods, works);

2) procurement of goods (works, services) to be transported or assigned to third parties by natural monopoly entities;

2-1) renting of property by a natural monopoly entity used for provision of the regulated services (goods, works) a book cost of which recorded in the balance sheet at the beginning of the current year exceeds 0.05 percent of the book cost of its assets in compliance with the balance sheet at the beginning of the current year provided that conclusion of a property renting contract will not result the increase of the tariffs (prices, fee rates) or their limit levels for the regulated services (goods, works) of a natural monopoly entity, violation of a contract with consumers, violation of the continuous technological system, interruption or significant decrease of the volume of the provided regulated services (produced goods, works);

3) **implementation of other activity by a natural monopoly entity**, allowed by this Law;

4) purchase of shares by natural monopoly entities and other forms of participation in commercial entities that exercise activities that are allowed to natural monopoly entities by this Law;

4-1) purchase of more than ten percent of voting shares in a authorized capital of a natural monopoly entity by individuals and legal entities;

5) **reorganization and liquidation of natural monopoly entities**.

1-1. **List** of types of activities technologically connected with the regulated services (goods, works) shall be approved by the authorized body together with the relevant government body governing the respective branch (sphere) of the public administration.

2. In order to exercise activities that are set forth in sub-items 1), 4), 5) of **item 1** of this Article, the natural monopoly entity shall file a petition for consent to such activities and provide information required to make the decision to the authorized body.

The list of documents for a petition filing, **procedures of its filing and consideration** thereof shall be established by the authorized body.

A natural monopoly entity of small capacity for activity exercising specified in sub-items 2)-4), 5) of item 1 of this Article shall be obliged to submit preliminary information to the authorized body.

To exercise the acts specified in the sub-item 4-1) of the **item 1** of this Article an individual or legal entity shall be obliged to submit preliminary information to the authorized body.

3. In order to obtain consent to the activities set forth in sub-item 3) of item 1 of this Article, the natural monopoly entity shall be obligated to ensure adherence to the following conditions:

1) income of a natural monopoly entity from the activity should cover costs of its implementation;

2) the activity should not lead to restriction of competition on the relevant market of services (goods, works).

The natural monopoly entity shall be obliged to file quarterly reports on adherence to the conditions set forth in this item in the form established by the authorized body.

4. The authorized body shall have right to reject the petition providing that satisfaction thereof may lead to the consequences set forth in the first paragraph item 1 of this Article, the documents provided by the petitioner are not complete or the information contained in the documents is not reliable.

5. The authorized body shall consider the petition within thirty days from the date of submission and inform the petitioner of its decision in writing.

Should further information be needed to make the decision, the authorized body shall have right to demand it from the petitioner and prolong the period of consideration by thirty days providing that such an inquiry along with the note of prolongation shall be sent to the petitioner within fifteen days after receipt of the petition.

6. Rejection of the petition can be appealed in the court of law.

The Law is supplemented with Article 18-2 in compliance with the law of RK as of December 26, 2002 [No. 364-II](#)

Article 18-2 is deleted in compliance with the Law of RK as of December 9, 2004 [No. 9-III](#) ([refer to the previous edition](#))

The Law is supplemented with Article 18-3 in compliance with the Law of RK as of December 26, 2002 [No. 364-II](#); amended in compliance with the Law of RK as of December 9, 2004 [No. 9-III](#) ([refer to the previous edition](#))

Article 18-3. Re-organization and Liquidation of Natural Monopoly Entities

1. Procedures of reorganization and liquidation can be applied to natural monopoly entities as established by the [legislation](#) of the Republic of Kazakhstan.

2. Natural monopoly entities shall be registered, reregistered or liquidated by the relevant authority with a preliminary consent from the authorized body only.

3. [Rehabilitation procedures](#) can be applied to natural monopoly entities to prevent discontinuance or considerable reduction in the scope of provided regulated services (goods, works).

This Law is supplemented with Article 18-4 in compliance with the Law of RK as of December 26, 2002 [No. 364-II](#); amended in compliance with the Law of RK as of December 9, 2004 [No. 9-III](#) ([refer to the previous edition](#)); as of December 20, 2004 [No. 13-III](#) (put into force as of January 1, 2005) ([refer to the previous edition](#)); as of July 5, 2006. [No. 166-III](#) ([refer to the previous edition](#))

Article 18-4. Government Control over Procedures of Procurement on the Part of Natural Monopoly Entities

1. [Procurement of services \(goods, works\)](#), costs of which are included when determining the tariffs (prices, fee rates) or their limit levels and tariff estimates for the regulated services (goods, works) of a natural monopoly entity is implemented with tender procedures except for the cases set forth in [items 4 and 5](#) of this Article.

2. Tenders shall be conducted by natural monopoly entities with observance of the following principles:

1) Openness and publicity of tendering procedures;

2) Equal opportunities to all prospective suppliers participating in the tender;

3) Fair competition among prospective suppliers.

2-1. Procurement of strategic goods shall be made by a natural monopoly entity directly from producers of strategic goods except for cases of:

electric energy deficit at a certain commodity market with no access available to a centralized trade market of electric energy and capacity;

gas procurement from importing companies if there is a gas deficit.

3. [The procedure](#) of procurement shall be established by the authorized body.

This requirement shall not cover the cases of procurement in compliance with the [legislation](#) of the Republic of Kazakhstan on state procurement by government bodies, state institutions and state enterprises, legal companies with shares of fifty and more percent or control stock belonging to the Government, and legal entities affiliated with them.

3-1. A natural monopoly entity shall have a right to act as a single organizer of a contest for its affiliated persons.

4) In cases established by the [legislation](#) of the Republic of Kazakhstan the authorized body shall have a right to give consent to procurement with close tendering procedures, procurement from a single supplier by a natural monopoly entity.

5) Natural monopoly entities shall have right to procure goods (works, services) without tendering procedures providing that annual procurement volume does not exceed the amount established by the authorized body.

5-1. Two and more affiliated persons of a natural monopoly entity shall not have a right to participate in the tender (tender lot) carried out by the specified natural monopoly entity except for cases established by the Government of the Republic of Kazakhstan.

6) Complete information on tender results and reasons for selection of tender winners shall be provided on the request of tender participants.

7) The authorized body shall have right to repeal tender results prior to contracting the tender winner and obligate the natural monopoly entity to conduct another tender.

8) The authorized body shall have right to reject applications for tariff (price, fee rate) or its limit level) approval filed by natural monopoly entities in case of violation of requirements to tendering procedures as established by the legislation of the Republic of Kazakhstan.

The requirements set forth in this Article shall not apply to natural monopoly entities procuring balancing electric energy, electric energy through centralized tenders, stop-markets in compliance with the [legislation](#) of the Republic of Kazakhstan on power industry as well as to natural monopoly entities of small capacity.

The Law is supplemented with Article 18-5 in compliance with the [Law](#) of RK as of January 31, 2006 No.125-III

Article 18-5. Inspection of Natural Monopoly Entities

1. Inspections of natural monopoly entities by the authorized body can be planned and extraplanned.

2. Planned inspections of the financial and economic activity of natural monopoly entities shall be carried out by the authorized body not often than once a year. Planned inspections of the financial and economic activity of natural monopoly entities being small business entities shall be carried out by the authorized body not more often than once each three years.

3. The reason for a planned inspection is a work plan of the authorized body annually approved by the head of the authorized body. This plan shall include a list of natural monopoly entities to be inspected and the period of inspection implementation.

4. The reason of an extraplanned inspection of natural monopoly entities by the authorized body is:

- 1) confirmed facts stated in applications of individuals and (or) legal entities;
- 2) information of government bodies;
- 3) information of law-enforcement bodies;
- 4) joint inspections with other government bodies;
- 5) own initiative of the authorized body;
- 6) information of mass media.

5. Not later than ten calendar days since the day of the reason accrual considered in item 4 of this Article the authorized body shall:

- 1) take a decision on inspection of facts of violation of the legislation of the Republic of Kazakhstan on natural monopolies;
- 2) reject to undertake inspection of facts of violation of the legislation of the Republic of Kazakhstan on natural monopolies failing reasons.

The Law is supplemented with Article 18-6 in compliance with the [Law of RK](#) as of January 31, 2006 No. 125-III

Article 18-6. Inspection Procedure of Natural Monopoly Entities

1. Inspection of natural monopoly entities shall be made upon decision taken by the authorized body on the inspection implementation. Decision of the authorized body shall include:

- 1) name of the authorized body, surname and initials, position of an official with authority to make inspection and his/her signature;
- 2) date and registration number of the inspection act according to the register of the authorized body;
- 3) surname and initials of an official responsible for inspection implementation;
- 4) name, location and tax-payer registration number, i.e. a natural monopoly entity;
- 5) type of inspection;
- 6) essence of inspection;
- 7) period of inspection;
- 8) reason of inspection;
- 9) inspected period if it will be necessary to check documents of a natural monopoly entity for a certain period of time;
- 10) information on carried out inspections of the activity of natural monopoly entities during the past year (a past year means a calendar year at a moment of inspection implementation);
- 11) inspection program with specification of main reasons and goals of inspection of a natural monopoly entity, list of problems and obligations to be determined in the course of inspection of a natural monopoly entity.

2. A permit of the authorized body on inspection shall be signed by the head and stamped.

3. When inspecting a natural monopoly entity an official of the authorized body shall be obliged to show a permit of the authorized body on inspection and a service certificate to a head of a natural monopoly entity or a person replacing him/her.

4. Upon showing a permit on inspection and a service certificate natural monopoly entities shall be obliged to allow an official of the authorized body entering their territory or premises and make possible to request and obtain from officials, heads and other employees of inspected natural monopoly entities the information required for inspection, documents and explanations in oral and writing regarding questions raised in the course of inspection.

5. If an official of the authorized body responsible for inspection of natural monopoly entities is hindered to enter certain territory or premises and to get information, documents and explanations the administrative proceeding shall be brought under the procedure established by the [legislation](#) of the Republic of Kazakhstan on administrative violation.

6. An inspection period of a natural monopoly entity shall be fixed taking into account the scope of the expected work and set goals, however, it shall not exceed thirty calendar days.

If additional inspection of circumstances is required, this period can be extended by the authorized body by thirty calendar days.

An extension of the inspection period of a natural monopoly entity shall be made by the head of the authorized body responsible for inspection.

7. The inspection shall be finalized with development of a document on inspection results of a natural monopoly entity.

A document on inspection results shall be signed by the official responsible for inspection of a natural monopoly entity and the head of the inspected natural monopoly entity or a person replacing him/her.

8. The head of the inspected natural monopoly entity or a person replacing him/her shall have a right to state in writing an individual opinion to be attached to a document on inspection results.

9. If the head of the inspected natural monopoly entity or the person replacing him/her rejects to sign the document on inspection results carried out by the official responsible for inspection of the natural monopoly entity, a certain note shall be made in this document on inspection results.

10. Upon completion of inspection of the natural monopoly entity the second copy of the document on inspection results shall be given to the head of the natural monopoly entity or the person replacing him/her with obtaining of his/her signature as an evidence of this document receiving by him/her. In case of his/her absence, it shall be sent to the office of the inspected natural monopoly entity with obtaining of a signature of an employee of the natural monopoly entity who received this document with specification of his/her surname and position in it. If it is impossible to submit or send the document on inspection results to the office the document on inspection results shall be sent to the natural monopoly entity as a registered letter with the postal confirmation on its submission.

11. Inspection results of the natural monopoly entity can be appealed under the procedure established by the legislation of the Republic of Kazakhstan.

The Law is supplemented with Article 18-7 in compliance with the [Law](#) of RK as of January 31, 2006 No. 125-III

Article 18-7. Authorized Body's Decision On Inspection Results Of Natural Monopoly Entities

Upon result of study of the document on inspection results of a natural monopoly entity the authorized body shall:

- 1) develop a legal opinion on absence of reasons for institution of proceedings on administrative violation;
- 2) institute proceedings on the administrative violations;
- 3) make an instruction to a natural monopoly entity on elimination of discovered facts of violation of the legislation of the Republic of Kazakhstan on natural monopolies;
- 4) send documents to law-enforcement bodies for issue consideration on institution of criminal case;
- 5) send documents to other government bodies for consideration and undertaking of necessary measures.

Article 19 is amended in compliance with the Laws of RK as of December 26, 2002 [No. 364-II \(refer to the previous edition\)](#); as of December 9, 2004 [No. 9-III \(refer to the previous edition\)](#)

Article 19. Consequences of Violations of this Law

1. In the case of violation of this Law, natural monopoly entities, government bodies, their managers shall be obligated to:

- 1) cease the violations of this Law and redress the consequences thereof;
- 2) restore the original state of affairs or take other actions stipulated in the instructions;
- 3) take measures in order to indemnify the damage caused and (or) losses incurred either directly or by temporary reduction of tariffs (prices, fee rates);
- 4) cancel or change the act not in conformity with this Law.

2. The authorized body shall establish temporary compensatory tariff on the basis of the documents of inspections of natural monopoly entities as well as the results of the analysis of fulfilment of the tariff estimate by the natural monopoly entity taking into account the refinancing rates of the National Bank of the Republic of Kazakhstan on the day of the

decision-making. The temporary compensatory tariff shall be validated on the first day of the month following the month of inspection.

The Law is supplemented with Article 19-1 in compliance with the Law of RK as of December 9, 2004 [No. 9-III](#)

Article 19-1. Authorized Body's Instructions

1. Instructions of the authorized body shall be fulfilled by natural monopoly entities, government bodies, their managers within a period fixed by the decisions (instructions) but not later than thirty days since the day of their receiving.
2. In case of non-fulfillment of instructions on cancellation or change of acts passed with violation of this law or on recovery of the initial position by government bodies, the authorized body shall have a right to bring a suit to a court on recognition of these acts invalid (fully or partially) and (or) on compulsion for recovery of the initial position.
3. In case of non-fulfillment of the instruction by the natural monopoly entity the authorized body has a right to bring a suit to a court on compulsion of the natural monopoly entity to take measures specified in the instruction.

Article 20 is stated in the edition of the Law of RK as of December 26, 2002 [No. 364-II](#) ([refer to the previous edition](#))

Article 20. Liability for Violation of this Law

Persons who are responsible for violation of this Law shall be held liable in accordance with the [legislation](#) of the Republic of Kazakhstan.

Article 21 is stated in the edition of the Law of RK as of December 26, 2002 [No. 364-II](#) ([refer to the previous edition](#)); amended in compliance with the Law of RK as of December 9, 2004 [No. 9-III](#) ([refer to the previous edition](#))

Article 21. Restitution by Natural Monopoly Entity of Losses Suffered as Result of Violations of this Law

Should the commission (or omission) of an act by a natural monopoly entity in violation of this Law cause losses to another individual or legal entity, including the losses caused by charging tariffs (prices, fee rates) or their limit levels higher than those established, or by unjustified refusal to enter into or perform contracts for provision of regulated services (goods, works), such losses shall be subject to restitution by the natural monopoly entity in accordance with the civil [legislation](#) of the Republic of Kazakhstan..

The Law is supplemented with Article 22 in compliance with the Law of RK as of December 26, 2002 [No. 364-II](#)

Article 22. Restitution of Losses Suffered by Natural Monopoly Entities as Result of Illegitimate Decisions, Actions or Negligence on the Part of the Authorized Body and Its Officers

Should illegitimate decisions, commission (or omission) of an act by the authorized body and its officers cause losses to natural monopoly entities, the natural monopoly entities shall

have right to demand restitution of the losses in accordance with the civil legislation of the Republic of Kazakhstan.

The Law is supplemented with Article 23 in compliance with the Law of RK as of July 5, 2006 No. 166-III

Article 23. Transitional Provisions

Natural monopoly entities provided the regulated public utilities' services shall be obliged to provide consumers without metering devices in compliance with signed contracts with metering devices for recording the regulated public utilities' services (bulk thermal energy, water metering devices and individual water metering devices) up to January 1, 2009.

**N.Nazarbaev,
President of the Republic of Kazakhstan**