

Environmental Action Programme Support
Contract DHR-C-00-95-00034-00
United States Agency for International Development

NATURAL GAS DISTRIBUTION IN STARA ZAGORA
DEVELOPMENT OF A MUNICIPAL UTILITY REGULATION ROLE
STARA ZAGORA, BULGARIA

Submitted to:
USAID/ENI/EEUD/ENR
and
OAR/Bulgaria

Prepared for:
OAR/Bulgaria
and
The Municipality of Stara Zagora, Bulgaria

August 1997

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Prepared by:
Raymond Allen, Chemonics International Inc.

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TABLE OF CONTENTS

	<u>Page</u>
ABSTRACT OF REPORT	i
EXECUTIVE SUMMARY	iii
SECTION I INTRODUCTION AND BACKGROUND	I-1
A. Introduction	I-1
B. Defining the Project Scope of Work	I-2
C. Background	I-3
SECTION II PROPOSED RULES AND REGULATIONS FOR OPERATION OF THE COMMISSION ON CONCESSION ACTIVITIES	II-1
SECTION III SUGGESTED OPERATIONAL RULES FOR THE PERMANENT COMMISSION ON CONCESSION ACTIVITIES	III-1
SECTION IV SUGGESTED OUTLINE OF TRAINING FOR THE COMMISSION ON CONCESSIONS	IV-1
A. Introduction	IV-1
B. Objectives	IV-1
ANNEX A KEY DATES	A-1

ABSTRACT OF REPORT

The primary focus of this assignment was to assist the Municipality of Stara Zagora in

developing a regulatory commission whose purpose would be to regulate utility operations within the municipality.

The major findings are as follows:

- The mayor has proposed a commission, which was approved by the Municipal Council.
- Seven commissioners, including a chairman, have been appointed by the mayor and confirmed by the Municipal Council.
- The Municipal Council has assigned the commission specific responsibilities.
- The commission has met and has taken action on coordinating municipal gasification project activities.
- Other Bulgarian municipal officials have shown considerable interest in the actions taken by Stara Zagora.
- The municipality needs additional assistance to prepare for its role as regulator.
- The municipality must consider the issue of compensation for the commission.
- The Municipal Council has approved legislation that will result in Stara Zagora's divesting itself from the joint venture agreement with Overgas, Ltd.
- The municipality's primary interest is the conversion of municipal properties. The city can save substantial funds on energy costs.
- There is no link between the municipal development of a commission on concessions, the city's divestiture, and the conversion of municipal properties. If the municipality had elected not to withdraw from the joint venture, there would have been no impact on USAID funding for conversions.

This report includes information on municipal property conversion, the formation of a regulatory commission, the role of public awareness, decisions on the concession agreement, determining the value of municipal rights of way, and how Stara Zagora's experience can be replicated in other municipalities in Bulgaria.

EXECUTIVE SUMMARY

This report is based on observations, meetings with municipal officials and other consultants,

previous work, and personal experience. The gasification project in Stara Zagora has been active since September 1995, when the Municipality of Stara Zagora and USAID signed a Memorandum of Understanding. The project's initial intent was to provide technical and financial assistance to the municipality to convert a number of municipal buildings to natural gas. In June 1996, the Bulgarian national government passed the Municipal Properties Act, which allowed municipalities to authorize concession agreements with private enterprises to install utility distribution systems in municipal properties. In December 1996, the Municipality of Stara Zagora withdrew from a joint venture to install a natural gas system within the city. It was determined that citizens' interest and safety could best be protected by forming a Utilities Commission to monitor the installation of the gas distribution system. While USAID provided utility regulation expertise to the city, there was no link between the conversion program, the city's withdrawal from the joint venture, and the commission's formation. There would have been no direct impact on the conversion program if the municipality had decided to continue with the joint venture or had elected not to form a regulatory commission.

Since the municipality's decision in December 1996, it has moved quickly to establish the commission, appoint its members, determine its responsibilities, and exercise its influence. The municipality has also passed legislation to relinquish its role in the joint venture. The commission's formation and the decision to relinquish a municipal role in the joint venture are unique to Stara Zagora and represent a major advance in Bulgarian municipal government. No other Bulgarian municipality has thus far elected to take such actions, particularly in regard to joint venture agreements, which continue to be signed between municipalities and the largest distributor of natural gas.

The national government and other municipalities have shown tremendous interest in the actions taken by Stara Zagora. In meetings, national officials have indicated that they are watching developments in Stara Zagora to see if the process can be replicated in other municipalities. Officials are also eager to learn if the model can be used for utility regulation at the national level.

With the project at a critical stage, the municipality must make important decisions in the near future. The city must decide the shape of the future concession agreement and negotiate with its joint venture partner on the city's divestiture. In addition, the commission must submit operational rules to the Municipal Council for approval and schedule a number of municipal properties for conversion. The municipality has become conscious of its responsibility to keep citizens aware of events taking place and deserves support for its work in democratizing municipal processes.

There remains, unfortunately, some confusion among the consultants, the municipality, and USAID. Previous reports have recommended that the roles of the Local Government Initiative (LGI) and the Environmental Action Program Support (EAPS) be better defined. A great deal of effort has gone into that area, with the result that responsibilities are becoming more clearly defined. EAPS will concentrate on municipal property conversion and provide technical and engineering skills as needed. LGI will focus on areas related to ongoing municipal government operations, including providing assistance with the commission's continuing development, the concession agreement, public awareness

programs, and the effective replication of the city's efforts on the municipal and possibly national level in Bulgaria.

Both LGI and EAPS should continue to assist the municipality in locating other municipalities in Europe and the United States that have developed municipal regulatory commissions similar to that of Stara Zagora. Learning from other cities that have gone through this process will help ensure the continued improvement of services for Stara Zagora's citizens.

A paper is needed to summarize the various issues that the municipality has addressed in the past year. These issues include the municipality's approach in reviewing the concession agreement, methods for determining and recovering the value of rights of way, the commission's future development, and the project's benefits for the municipality and the citizens of Stara Zagora.

SECTION I INTRODUCTION AND BACKGROUND

Introduction

A.

Helping the Municipality of Stara Zagora establish a utility regulatory commission is part of USAID's assistance through the Environmental Action Programme Support (EAPS) project and the Local Government Initiative (LGI) program.

The primary purpose of this assignment was to assist the municipality in developing a set of operational rules for the newly established commission. There are a number of commissions and committees already established in Bulgaria. The country is familiar with national-level public regulation of the various utilities within Bulgaria's boundaries.

The Municipality of Stara Zagora has elected to take the bold step of establishing utility regulation at the municipal level. The city was provided this authority by the national Municipal Properties Act, recently enacted by the national government, which gives municipalities the authority to grant to qualified organizations the right to distribute commodities within the municipality using municipal properties. This exclusive distribution right is referred to as a concession.

To monitor the performance of these operations, the Municipality of Stara Zagora established a Utilities Commission. One of the commission's first major responsibilities is to present to the Municipal Council a set of proposed operational rules by which the commission will operate.

The objectives of the USAID effort, as defined in the request for service, are to:

- Confirm the appointments to the Utilities Commission agreed to by the mayor in the assignment's first phase.
- Confirm Municipal Council support for the establishment of the Utilities Commission as proposed.
- Assist the Municipality of Stara Zagora in interpreting and implementing the Municipal Property Act, particularly Chapter Eight, the Granting of Concession.
- Advise the municipality on the advantage of making funds available through the gas conversion program to support technical assistance activities.
- Advise the municipality, through LGI and OAR/Sofia, on the advantages of public awareness to keep the citizens informed on Utilities Commission activities and benefits.
- Advise the Utilities Commission on its role as issuer of building and operating permits within the municipality. The commission's role will be limited to issues related to public utilities.

- Advise the municipality on appropriate engineering standards for carrying out its regulatory role. The municipality may require additional standards based on local conditions and considerations that are not currently part of national standards.

The project team in Bulgaria was composed of Maureen McNamara, Michael Cooney, Henry Koner, and Raymond Allen. Ms. McNamara was primarily responsible for public awareness, while Mr. Cooney worked with the municipality in reviewing its interpretation of the concession portions of the Municipal Property Act on the appropriate use of funds for conversion. He also advised the commission on financial requirements, particularly in the pending concession agreement. Mr. Koner provided expertise to the municipality in concession agreements and the appropriate use of funds for conversion of municipal properties. Mr. Allen advised on operations of municipal utility commissions and gas utilities and also reviewed the pending concession agreement. All the team's objectives were accomplished.

B. Defining the Project Scope of Work

The following tasks were identified as deliverable items in the scope of work.

- Prior to departure a plan will be prepared to identify actions to move Stara Zagora's Utilities Commission toward a regulatory model that can be replicated by other municipalities in Bulgaria.
- The consultant will prepare a brief written review of budgetary and programmatic issues related to the project. This review will be conducted with EAPS, USAID, and LGI personnel.
- The consultant will participate in briefings requested by USAID, LGI, EAPS, and municipal officials.
- The consultant will develop a scope of work, if needed, for a third phase of the gasification project.
- The consultant will hold at least two training or informational sessions with municipal officials.
- A report will be prepared that summarizes the progress made in the gasification project through field work identified in the scope of work.
- Weekly progress reports and a trip report will be delivered to the LGI coordinator and if possible reviewed by Antoaneta Arsova of OAR/Sofia prior to departure from Bulgaria.
- The consultant will provide an outline of the commission's training needs.
- The consultant will prepare a draft of suggested rules of operation for the Commission on Concessions.

To complete the assignment, it was necessary to hold a number of meetings with personnel from LGI, EAPS, USAID, and the municipality. A list of the most important meetings is attached to this report and contained in previously submitted weekly reports and trip report. In addition to these meetings, a number of informal informational sessions were held, primarily with municipal authorities including the newly elected commission, the mayor, and the deputy mayor.

The meetings provided the consultants with background for evaluating municipal needs. This evaluation revealed that the best approach would be to provide the commission with an outline of operational rules. The consultants met with commission members, presenting an outline of the points to be addressed in the rules. It was agreed that a draft of rules and regulations would be developed and presented to the commission for its review. The draft is included in this report.

The commission should review these suggestions, make modifications, and present the amended rules and regulations to the Municipal Council for approval. The commission should use this process as an opportunity to establish its membership, its powers and its reporting relationship within the municipality. Through its review of the concession agreement, the commission should also confirm its authority over the concessionaire.

C. Background

Throughout its history, Bulgaria has maintained a strong national government with limited powers delegated to local and municipal governments. In recent years, the national government has allowed municipalities to enter into regional development projects to encourage local economic development. The Municipality of Stara Zagora entered into such a development project as a partner in a joint venture with Overgas, Ltd. The municipality believed that a joint venture partnership would better enable the city to control distribution system development and permit Stara Zagora to realize a profit from its operation.

In June 1996, the Bulgarian Municipal Property Act (MPA) was passed. Chapter Eight of this act requires that municipalities enter into concession agreements that grant enterprises and other entities the right to use municipal property for economic purposes and carry out activities previously performed solely by municipalities. The passage of MPA gave municipalities the ability to control the issuing of concessions within their geographic regions.

As Bulgarian cities had no municipal experience in issuing concessions, municipalities such as Stara Zagora needed assistance. The EAPS/LGI effort provided this expertise in the gasification project. Prior to passage of MPA, USAID's efforts focused on converting existing facilities to natural gas. The responsibility for monitoring municipal property conversion remained EAPS' responsibility, with the LGI focusing on preparing the municipality for its role in granting concessions and utility regulation. To better understand municipal needs, LGI contracted with a senior utility consultant with an extensive background in natural gas distribution and utility regulations in the United States.

In September 1996, the senior utility consultant wrote a report for USAID on the Municipal Gasification project in Stara Zagora, Bulgaria. The report contained four elements:

- An outline of the procurement manual
- A review of municipal financial management practices
- A brief design of a citizens' education and involvement program
- A review of the municipality's participation in the project

Among the recommendations made was that the municipality review its role as a member of the joint venture. The report also recommended that the city task a municipal employee with overseeing day-to-day construction of the distribution system. It was also recommended that the municipality review its role in light of MPA's passage.

In October 1996, the municipality did in fact appointed Nedialko Angelov to the position of municipalities gas coordinator. Mr. Angelov was later appointed chairman of the Commission on Concessions.

USAID and its contractors, EAPS and the LGI, reviewed the municipality's alternatives regarding its future role and joint venture responsibilities. These alternatives were presented to the municipality in a November 1996 options paper.

The next step was a workshop held in Stara Zagora on December 7, 1996, to review the municipality's participation in the project and potential roles for the municipality. The workshop also provided a public forum for municipal leaders to react to different options and respond to EAPS, LGI, and USAID ideas and opinions. Four options were outlined for the municipality:

- Maintain joint venture partnership—in other words, keep the status quo
- Expand its management role in the joint venture
- Assume an exclusive regulatory role
- Own and manage the utility

As a result of the workshop, municipal officials gained a better understanding of issues and concerns surrounding the gasification program and the municipality's role in the joint venture. In particular, workshop discussions identified key elements needed for successful gas pipeline system expansion. The workshop helped participants better understand MPA's provisions and effects, helping them comprehend how the act will affect the municipality's joint venture role and responsibilities. The workshop also underscored the need to keep the public and municipal officials informed of developments related to MPA.

The municipality took a strong position on options presented at the workshop. As the mayor's highest priority is public interest and safety, the municipality decided that a utility regulator role was appropriate for the municipality. It was also decided that the city should seriously consider divesting from the joint venture. Choosing this option created additional responsibilities for the municipality and USAID. Possible forms of USAID assistance to Stara Zagora under this option included:

- Assist the municipality in developing its capacity to prepare and negotiate a concession agreement
- Assist the municipality in developing a structure for concession fees
- Assist in developing proposals for repayment of equity previously contributed to the joint venture or provide credit through reduced rates for natural gas
- Assist the municipality in carrying out its responsibilities as regulator

Municipal elections did not affect the city's conversion program, nor did USAID have an impact on the city's decision. The city made this choice because it believed that establishment of a Utilities Commission and divestiture from the joint venture would protect the interest and safety of its citizens. If the city had decided not to form the commission, or had elected to remain a joint venture partner, there would have been no risk to municipal property conversion.

The municipality immediately began to prepare for its role as regulator. In March 1997, a USAID consultant assisted the city in preparing appropriate legislation to submit to the Municipal Council for establishing a Utilities Commission. On June 5 and 6, 1997, the Municipal Council unanimously passed legislation creating the commission. The initial responsibilities of the commission were identified as:

- Provide assistance to the vice mayor and the gasification coordinator in advising the council on granting the concession, including negotiating the concession agreement
- Provide oversight and control in implementing the concession agreement
- Develop its own procedures and bylaws, subject to Municipal Council approval

To carry out these responsibilities, the council appointed the following seven members to the commission:

Nedyalko Angelov, chairman, Chief Expert Central Heating
Petar Stamov, member, Chief Expert Electric Supply
Krassimir Velez, member, Chief Expert Water and Sewerage
Katya Vancheva, member, Chief Expert Tenders and Bids
Rozalina Gradinarova, member, Legal Counsel
Petar Bogdanov, member, Municipal Council
Georgi Georgiev, member, Municipal Council

In June 1997, consultants employed by USAID returned to Stara Zagora to assist the municipality in forming the commission. Experts were made available in utility regulation, public awareness programs, and municipal finance. This report primarily addresses the operational rules requested by the Municipal Council.

In August 1977, the Municipal Council voted to approve the divestiture of the municipality from the joint venture.

SECTION II

PROPOSED RULES AND REGULATIONS FOR OPERATION OF THE COMMISSION ON CONCESSION ACTIVITIES

On June 6, 1997, the Stara Zagora Municipal Council approved the creation of the Commission on

Concession Activities. The commission's initial responsibilities were defined as follows:

- Provide advice to the Municipal Council on granting the natural gas distribution concession. The commission should also provide assistance in negotiating the concession agreement.
- Provide oversight and control in concession agreement implementation.
- Develop its own procedures and bylaws, subject to Municipal Council approval.

On June 25, the newly appointed commission met with LGI, EAPS, and USAID representatives to review the commission's status and seek assistance in preparing operational rules. While it was agreed that there are no commissions with similar municipal responsibilities in Bulgaria, the commission's rules of operations should follow operational rules currently used by other Bulgarian municipal commissions. The rules should be modified in accordance with operational rules in place in the United States and Western Europe. The Territorial and Urban Planning Commission chosen as a model has been established in various municipalities to place authority for urban planning, development, architecture, and public works in the hands of local officials.

After much discussion, it was agreed that the best way for the commission to proceed was to review operational rules common in the United States. The next step was to determine which of these rules would be effective in Stara Zagora and then submit a draft report with revised rules to the commission by means of the LGI office. The draft rules contained in the report has since been submitted to the LGI office in Sofia for review prior to presentation to the commission. The commission will then submit the report to the Municipal Council for approval of the operational rules.

In approving the operational rules, the commission must consider the potential for future modifications or additions to established rules. Stara Zagora is embarking on a new venture for Bulgaria: local regulation of concessions and concessionaires. Such regulation has previously been reserved for the national government. The commission's responsibilities will grow as acceptance of local government authority increases in the country. The commission should not be restricted by rules that have become obsolete. Operational rules must allow the commission to modify the parameters under which it operates in a fairly simple manner. One possible method of accomplishing this aim is outlined in Paragraph 5.6 of the draft rules contained in this report.

An issue discussed extensively at the commission meeting was the way in which commissioners in similar positions in the United States are compensated. In the case of Stara Zagora, all individuals appointed to the commission are either full-time Municipal Council members or serve part-time with the municipality and receive a retainer.

Commissioners on similar boards in the United States are compensated in a wide variety of ways. Some commissions are composed of citizen volunteers who received no compensation, while others are

paid directly by municipal, county, or state governments. At times, commission salaries and expenses are paid by placing a fee on regulated utilities. Compensation issues, which are usually not addressed in operational rules, are not in this report. The commission's responsibilities will no doubt grow along with its work load. The municipality should be aware of this and understand that commissions require individuals with unique skills. Unless commission members are compensated fairly, it may be difficult for the municipality to attract qualified individuals to fill these positions.

The following legislation was submitted to the Stara Zagora Municipal Council by Tsanko Yablanski, mayor of Stara Zagora.

The regulation was approved and recorded in Minutes 23 by the Municipal Council in sessions on June 5 and 6, 1997. The Municipal Council approved the creation of a permanent commission by a vote of 33 to 0.

Regulation No. 200

200.1. To Article 10 the following paragraphs are added:

Paragraph 4 The Municipal Council elects a Commission of Concession Activity as an auxiliary body to the Municipal Council to realize activities under Article 70, item 1 and 2 of the Municipal Property Act.

Paragraph 5 The Concession Activity Commission supports the organization and execution of the competition or tender for granting a concession and provides supervision in the Concession Agreement.

200.2. To the transitional and closing provision, a new paragraph is added.

3. The Concession Activity Commission under Article 10, Paragraph 4, prepares rules of operation for its activity, subject to approval by the Municipal Council.

200.3. Article 70, Item 1 and Item 2 of the Municipal Property Act, and the ordinance on the terms and procedures for granting municipal concessions confirm the members of the commission, appointed by Order No. 623/02.05.1997.

200.4. Until the next regular session, the commission shall prepare rules of operation for its activities and present them to the Municipal Council for approval.

SECTION III
SUGGESTED OPERATIONAL RULES FOR THE PERMANENT
COMMISSION ON CONCESSION ACTIVITIES

The Municipal Council of Stara Zagora created an auxiliary body to realize activities under Article

70, Items 1 and 2 of the Municipal Property Act. The auxiliary body, referred to as the commission, proposes that it operate under the following rules.

1. Commission Membership
 - 1.1 The number of commissioners will be set at seven, including the chairman. See section on commission chairman on this position.
 - 1.2 The commission will be appointed by the mayor of the municipality and confirmed by the Municipal Council.
 - 1.3 The commission will be made up of individuals with professional expertise in utility or municipal operations. Professional skills that should be represented on the commission are:
 - a. Engineers with experience in gas, electric, water, or wastewater operations.
 - b. Lawyers with expertise in municipal operations or experience in concessions and the Municipal Properties Act.
 - c. Two of the seven commission positions will be held by Municipal Council members.
 - 1.4 The commission chairman can invite external experts as advisors. Municipal staff that are experts in such fields as public awareness are examples of external experts.
2. Commission Chairman
 - 2.1 The commission chairman shall be appointed by the mayor and confirmed by the Municipal Council.
 - 2.2 The chairman should have experience in utility operations such as gas, water, wastewater, electricity, or telephone. He or she should be familiar with municipal operations. The chairman should understand national laws that affect utility operations.
 - 2.3 The chairman should have as a minimum a college degree.
 - 2.4 The chairman will be responsible for:
 - a. Maintaining order at all commission meetings.
 - b. Inviting external experts to participate in commission as advisors.
 - c. Maintaining minutes of meetings held.
 - d. Setting agenda for meetings.
 - e. Representing the commission to the mayor, the Municipal Council, and the public.
 - f. Ensuring that all issues recommended by the commission and approved by the mayor or council are executed as ordered.
 - 2.5 The chairman will appoint a commission secretary who will take meeting minutes and present minutes of previous meetings to the commission for approval. The secretary may be assigned other duties by the chairman and will hold a non-voting position on the commission.
 - 2.6 From the remaining six commissioners, the chairman will appoint a temporary chairman, with all powers and authority of the chairman, who will serve when the chairman is not available for meetings.

- 2.7 If a commissioner is unable to fulfill his or her responsibilities, the chairman may initiate the commissioner's replacement. The mayor and the council should be notified that a commissioner has failed to meet the position's responsibilities. The full commission must vote to replace the delinquent commissioner.

3. Tenure of Commissioners:

- 3.1 With the exception of the chairman, each commissioner will be appointed for a period of three years.
- 3.2 Commissioners' terms of service will be set on a staggered basis, with two commissioners' terms coming up for renewal each year. This can be accomplished with the current commission by appointing two commissioners for one-year terms, two commissioners for two-year terms, and the remaining two commissioners for three years each. As the commissioners are re-appointed or replaced, they will receive three-year terms. The commissioners will be appointed by the mayor and confirmed by the Municipal Council.
- 3.3 The chairman will be appointed to a six-year term by the mayor and confirmed by the Municipal Council.
- 3.4 In the case of three successive absences of a member or deputy, the commission chairman may request the mayor to appoint another representative. The chairman may also request the mayor to appoint a commissioner to fill out the remaining term of an individual who, because of illness, death, or resignation, is no longer able to fulfill the duties of a commissioner.
- 3.5 A commissioner appointed as outlined in Paragraph 3.4 will fill out the remaining portion of the term of a commissioner to be replaced.
- 3.6 To fill vacant positions, a commissioner will be appointed by the mayor and confirmed by the Municipal Council.

4. Commission Meetings

- 4.1 Commission meetings must always include all officials appointed as commissioners. Members of the commission can, for legitimate reasons, be replaced by official deputies. An order confirming this must be issued by their direct supervisor. The failure of remaining members to attend does not prevent commission operations. Individuals acting as replacements for appointed commissioners do not have the power to vote on issues before the commission.
- 4.2 The commission chairman can invite external experts as advisors. Municipal staff that are experts in such fields as public awareness are examples of external experts.
- 4.3 A minimum of four voting members of the commission must be present for voting on items before the commission.
- 4.4 The commission chairman or a designated replacement must be present before the meeting can be called to order.
- 4.5 The mayor and Municipal Commission have authority to order that the commission chairman call a meeting. If the chairman is not available, the mayor or the Municipal Council may order a commission meeting.
- 4.6 All commission meetings will be open to the public with the exception of meetings on personnel issues. Meetings may be televised or recorded by other electronic means with the approval of the chairman.

- 4.7 Public notice will be given for all meetings, with notices posted in a manner allowing citizens to attend and participate.
- 4.8 Meetings will allow comments from members of the public attending the meeting.
- 4.9 Minutes of all meetings will be posted in a public place or published in local newspapers.

5. Commission Responsibilities

- 5.1 The commission is responsible for assisting the municipality in evaluating concession agreements. At a minimum, concession agreements should include:
 - a. A detailed study of the economic impact of the concession
 - b. A detailed environmental impact study of concession implementation
 - c. A detailed social impact statement on the concession's impact on the community in such areas as employment and housing
 - d. A clearly defined role for the concessionaire in public awareness

Each concession agreement will include specific concessionaire reporting requirements. These requirements include:

Annual operations reports. Reports will include operational information needed by the commission to evaluate progress made by the concessionaire, including the number of units sold and customers, capital investment incurred, and units delivered by customer classification— residential, commercial, or industrial—and by month.

Annual financial reports. Reports will include financial information needed by the commission to ensure that the concessionaire is maintaining sound financial practices. The concessionaire will report financial information using accepted unified accounting standards for utilities in Bulgaria. These reports will include such information as revenues by customer classification, payment history by customer classification, cost of the system at the beginning of the year, additions during the year, and the system value at year's end. Reports will detail distribution and transmission costs.

Future plans. Each concessionaire must submit its construction plans for the coming year to the commission. Concessionaires should also submit an annual report to the commission with questions and comments received from customers and municipal residents. Concessionaires should develop solutions to customer problems and provide these to the commission.

Compensation system. Each concession should include methodology that identifies how the concessionaire will reimburse the municipality for the use of public property along with a timetable for compensation that the commission approves and monitors.

Penalty provisions. Each concession agreement should describe the penalties that will be incurred by the concessionaire should it fail to live up to the contractual obligations outlined in the concession agreement. Penalties should be clearly stated and tied to goals established by the municipality for the concessionaire.

- 5.2 Once a concession agreement is authorized, the commission is responsible for ensuring that the concessionaire follows all agreement requirements.
- 5.3 The commission is authorized to impose penalties spelled out in the concession agreement should the concessionaire fail to meet requirements. Before imposing penalties, the

commission should carefully review with the concessionaire the reasons why the requirements were not met. Concession agreements should be sufficiently flexible to allow all parties to adjust to changing conditions.

- 5.4 The commission is responsible for providing oversight of concession agreement implementation. The concessionaire is therefore required to submit to the commission all required documentation. The concessionaire is also required to submit to regulations passed by the commission and approved by the mayor and the Municipal Council.
- 5.5 The preparation of rules and regulation for commission activities will be an ongoing responsibility. As the commission is likely to add to its responsibilities, operational rules and regulations must be flexible to adapt to new responsibilities.

6. Voting

- 6.1 Each commission member who has been nominated by the mayor and confirmed by the Municipal Council shall have one vote in the commission.
- 6.2 The commission must vote to act on an issue before it. A simple majority of the commissioner present will carry the issue.
- 6.3 The commission chairman has the authority to withhold his or her vote, unless the vote is tied. At that time the chairman must vote to break the tie. If the majority of the commission has voted, and there is a clear decision made, the chairman has the discretion of not casting a vote.
- 6.4 In the case of a tie vote, an issue will be considered not approved.
- 6.5 The commission must prepare a written majority opinion of all actions recommended by the commission which will be submitted to the mayor or Municipal Council. Any individual or group of commissioners may elect to submit a minority opinion to the mayor, Municipal Council, or the public stating the commissioners' opinions on the subject at hand.
- 6.6 All commission votes will be recorded by the secretary and signed by the commission.

7. Commission Reporting Relationships

- 7.1 The commission will report to the mayor of the municipality.
- 7.2 The commission will submit all decisions to the mayor for approval, unless otherwise directed by the Municipal Council.
- 7.3 If the mayor rejects the commission's opinion, the issue will be sent back to the commission for action. If the commission votes to reaffirm its opinion, then the recommendations will be resubmitted to the mayor. If the mayor again rejects the commission's recommendation, the commission may, after a third confirmation vote, submit the recommendation to the Municipal Council for action. There is no appeal for action taken by the Municipal Council.
- 7.4 The Municipal Council may require that the commission act as a council advisor. In this case, the commission will report directly to the council.

8. The Appeal Process

- 8.1 Commission decisions can be appealed by any party that believes that the decision did not accurately reflect evidence presented to the commission.
- 8.2 Appeals will be made to the mayor.
- 8.3 Under commission rules, any commission decision must be publicly posted. The mayor has up to 30 days to approve or reject the commission's recommendations. During this

time individuals or organizations that object to the decision should submit to the mayor in writing their reasons for objection. If the mayor decides that the appeal has sufficient merit, he may ask for another meeting of the commission to review the grounds for appeal.

- 8.4 If the mayor agrees that the issue should be reviewed, he can reject the commission's recommendations or require the commission to review the case and reconsider its recommendation. If the mayor rejects the commission's recommendation, the commission may follow the procedures in Paragraph 7.4.
- 8.5 If the commission makes a recommendation directly to the Municipal Council, appeal must be made to the council.
- 8.6 The commission must post in public all recommendations. Any party may appeal the commission's recommendation. If the commission is acting on the council's request, the council may send the recommendation back to the council for reconsideration if the evidence is sufficient. If the commission reaffirms its position, the council's decision on the issue will be final.

SECTION IV OUTLINE OF SUGGESTED TRAINING FOR THE COMMISSION ON CONCESSIONS

Introduction

A.

During a recent visit to Bulgaria, John Tennant, USAID/Bulgaria Mission Director, requested recommendations on training for the new commissioners. This report's suggestions on training are based on the commission's apparent need for both individual and group training. Three commission members will need individual attention: the chairman, the lawyer, and the commission's financial and accounting specialist. Training will enable trainees to train others: As Stara Zagora's initiative has received attention throughout Bulgaria, other municipalities will look to these officials to train their personnel.

Barriers to effective training include language and location. A number of appropriate seminars and correspondence courses exist; however, such courses are generally given in the United States in English. Adapting these courses to the Bulgarian contract and language would be expensive and time consuming and sending individuals to the United States for specialized programs would be costly and inefficient. While similar training may exist in Europe, no programs have been identified to date that fit officials' needs. As LGI has successfully located training programs for municipal officials in the past, it is a logical choice for identifying training sources for the new commissioners.

B. Training Objectives

- Educate the commission on sound regulatory processes
- Prepare individuals for the positions they will hold on the commission
- Assist the commission in developing a decision-making process
- Educate the commission on public awareness responsibilities
- Provide commissioners with a basic understanding of the utility business, particularly in natural gas
- Provide information on utility financing
- Present information on interpreting statistical information on utilities
- Provide commissioners with information on utility rate design

Training Course Outline

I. Commission Training: Individual

- The chairman
- Conducting a public meeting
- Utility service coordination
- Customer relations
- Residential
- Commercial
- Industrial
- Effective organizational structure

Legal aspects of concessions and concession law:

- Legal requirements of concessionaire reporting to the commission and reporting requirements
- How the commission should vote
- Identifying appropriate penalties and penalty implementation
- Use of rights of way
- Legal relationships between the municipality and national government
- Other municipal and national legal issues

Accounting and financial:

- Uniform system of accounts
- Basic information on rates
- Annual report requirements of concessionaires
- Capital versus operating budget and operating expenditures
- Implementation of franchise fees

II. Commission Training: Group

- Introduction to basic utilities principles
- Understanding the role of utility operations
- Understanding the role of utility regulators
- History of utility regulations
- Public awareness training
- How to evaluate a concession application
- History of utility regulation in the United States and Europe
- Basic understanding of utility rate structures and how rates are determined
- Assessing rights of way values

Emergency procedures:

- Developing the municipality's role in emergency situations
- Developing guidelines for utilities to respond to emergency situations

ANNEX A KEY DATES

	Municipality enters into a joint venture agreement with Overgas, Ltd.
October 1993	
September 1995	Memorandum of Understanding between the Municipality of Stara Zagora and USAID on conversion of certain municipal properties to be coordinated by EAPS.
June 1996	Passage of the Municipal Properties Act.
September 1996	Report issued by senior utility manager containing recommendations including formation of a Utilities Commission and divestiture by the municipality from the joint venture.
October 1996	Municipality appoints full-time individual to the position of gas coordinator.
November 1996	The gas coordinator and the vice mayor attend a three-week training program in Oklahoma on utility operations and regulations.
November 1996	EAPS releases options paper
December 1996	EAPS organizes options meeting with municipal and LGI officials. The municipality elects to divest from the joint venture and form a Utilities Commission.
March 1997	Mayor submits a request for the formation of a Utilities Commission, which the Municipal Council approves. Seven members are appointed and initial responsibilities outlined.
March 1997	Major expansion of the gas distribution system begins.
August 1997	Mayor submits request for the municipality's divestiture from the joint venture, which Municipal Council approves.
Scheduled:	
August 1997	First conversions of municipal properties begin.
October 1997	First conversions of municipal properties completed.