

# Report

of the Management Board of EVN AG

with its registered office in Maria Enzersdorf (FN 72000h)

on the intended disposal of own shares

dated 17/5/2021

The Management Board of EVN AG ("**Company**" or "**EVN**") with its registered office in Maria Enzersdorf submits the following report to the Company's shareholders on the intended transfer of own shares of the Company to employees of the Company and of affiliated companies of the Company.

## 1. The Share Offering

The Company as the universal legal successor of NIOGAS Niederösterreichische Gaswirtschafts-Aktiengesellschaft and of Niederösterreichische Elektrizitätswirtschafts-Aktiengesellschaft NEWAG as well as Netz Niederösterreich GmbH and EVN Wasser GmbH as affiliated companies of the Company are obligated parties under the Shop Agreement No. 3/1973 ("**Shop Agreement**") entered into on 30/05/1973 and terminated on 31/03/1996. On basis of the Shop Agreement, a total of 722 employees of EVN, Netz Niederösterreich GmbH and EVN Wasser GmbH ("**Beneficiaries**") are currently entitled to an annual special payment amounting to one gross monthly basic salary ("**Special Payment IX**"). The Beneficiaries are those employees who joined the Company (or its legal predecessor) prior to the termination of the Shop Agreement. The Special Payment IX and the associated opportunity to participate in the Share Offering described below are not subject to any further requirements and in particular are not dependent on any personal investment by the Beneficiaries.

The Special Payment IX applies for a period from 01/09 of one year to 31/08 of the following year. For each Beneficiary the Special Payment IX is calculated on the basis of his gross monthly salary in August of the period for which the Special Payment IX is due. The payment is made retrospectively. If a Beneficiary leaves during the year he is entitled to a pro rata claim of Special Payment IX provided that he does not leave by dismissal or voluntarily without good cause.

The Company offers Beneficiaries to receive a part of the Special Payment IX in EVN shares ("**Share Offering**"). Specifically, the Company offers the Beneficiaries to receive EVN shares for an amount of just under EUR 3,000, whereby 90% of the value of the shares received will be deducted from the Special Payment IX (if a Beneficiary received shares with a value of exactly EUR 3,000, the gross amount of the cash components of Special Payment IX will thus be reduced by

EUR 2,700). The difference of 10% essentially corresponds to the tax savings of the Company due to the possibility of tax and social security privileged allocation of shares as described in detail below.

The concrete number of offer shares is calculated on basis of the average of the daily closing prices of EVN shares on the stock exchange on trading days in the calendar weeks 27 to 30 (being the period from 5/7/2021 to 1/8/2021). The Share Offering can only be accepted by the Beneficiaries to the maximum extent possible meaning with regard to the largest possible number of EVN shares with which, based on the price calculated as described above, the EUR 3,000 limit will not yet exceed. Beneficiaries whose gross Special Payment IX in one year is less than EUR 2,700 can participate in the Share Offering with such a reduced amount corresponding to the total amount of their Special Payment IX (as described in the preceding paragraph).

The offer is made by taking advantage of the statutory exemption of share grants of up to EUR 3,000 per year to employees from wage tax, social security contributions and other non-wage labour costs (employer contribution and its surcharge and municipal tax). In order to take advantage of the above benefits, EVN shares acquired in the Share Offering are subject to a retention period until the end of the fifth calendar year following the transfer of the shares. An early disposal is possible. If such early disposal does not take place on occasion of the termination of the employment relationship, the Beneficiaries will have to pay back wage tax and employee social security contributions. The employer's contributions incurred in this regard are borne by the Company (or the affiliated company where the Beneficiary is employed).

The acceptance of the Share Offering by the Beneficiaries can take place from 15/6/2021 to 23/7/2021. The transfer of the offer shares to the securities accounts of the Beneficiaries will take place on 6/8/2021.

## **2. Number of offer shares**

Based on the number of Beneficiaries and the limitation of the Share Offering, the closing price of EVN shares on the Vienna Stock Exchange on 14/5/2021 of EUR 20.050 would result in a maximum number of 107,578 offer shares. This corresponds to approximately 0.06% of the total shares of the Company.

The Company intends to satisfy claims of Beneficiaries from the acceptance of the Share Offering by transferring own shares of the Company under exclusion of the repurchase right (subscription right) of the shareholders. The Management Board of the Company intends to adopt a resolution to this effect and to apply to the Supervisory Board with the appropriate decision-making authority for approval to transfer own shares to Beneficiaries under exclusion of the repurchase right of shareholders. Since the Beneficiaries are exclusively employees of the Company or of affiliated companies, the approval of the Annual General Meeting or an authorisation of the Management

Board for such a resale by the Annual General Meeting is not required due to section 65 para. 1b last sentence of the Austrian Stock Corporation Act.

### **3. Regarding the exclusion of shareholders' repurchase rights**

Employees are the most important capital of a company. Without their commitment economic success is not possible. The disposal of own shares under exclusion of the shareholders' repurchase right is in the interest of the Company, as it will bind the Beneficiary employees even more closely to the Company and the EVN Group. Owning shares in "his" company increases the motivation of an individual employee. Identification with the Company increases when employees are also shareholders. This also makes them more interested in the economic success of the Company.

Further interests of the Company exist beyond this due to the liquidity-protecting effect and the attractive tax incentive. The exemption from income-related taxes and social security contributions described above not only gives the Beneficiaries an advantage from their Special Payment IX but the Company also makes use of the incentive for employee participation provided for under tax law. The Share Offer is therefore tax attractive for the Company as well as for the Beneficiaries.

In accordance with the last sentence of section 65 para. 1b of the Austrian Stock Corporation Act (analogously) the disposal of own shares to employees, executives and/or members of the Management Board of the Company or of an affiliated company is objectively justified by law. In addition the exclusion of the repurchase right is objectively justified in the specific case because (i) the transfer of shares is in the interest of the Company for the reasons stated above, (ii) the exclusion is suitable to achieve the objective of servicing the Share Offering and there is no alternative by which the stated objective can be achieved in a comparably efficient manner even without excluding the repurchase right (or subscription right) of the shareholders and (iii) the exclusion of the repurchase right (*inter alia* for the reasons described below) is also proportionate.

The disposal of own shares while excluding the possibility for shareholders to acquire these shares does not lead to a "typical" dilution of shareholders. First of all, the proportion of existing shareholders or the voting power from the shares of existing shareholders "increased" only because the Company has repurchased own shares and the rights from these shares are therefore suspended as long as they are held by the Company as own shares. A reduction in the sphere of the individual existing shareholders only occurs when the Company resells the acquired own shares, excluding the possibility of the shareholders to buy back the shares. After the disposal, the shareholders have the same status again as they had before the Company acquired the relevant own shares. In this context it should also be noted that due to the relatively small volume of share transfers no controlling interest of shareholders in the Company can arise.

The shareholders will also not suffer any significant pecuniary disadvantage: As already mentioned, the object of the intended sale is likely to be only around 0.06% of the share capital and, as explained at the beginning of this section, the transfer of shares will be accompanied by a

corresponding reduction in expenses that would otherwise have to be paid in cash, in fact lower cash payments to Beneficiaries and savings in taxes and duties.

Overall, the exclusion of the right of repurchase is therefore objectively justified. The sale of own shares under exclusion of the shareholders' repurchase right for the purpose of transfer to employees is a customary and generally accepted procedure. In addition, the extensive publication obligations in connection with the sale of own shares laid down in section 65 of the Austrian Stock Corporation Act and the Publication Regulation 2018 (Federal Law Gazette II No. 13/2018) ensure comprehensive transparency in connection with the disposal of own shares. Furthermore, the exclusion of the right to repurchase shares requires the approval of the Supervisory Board. The Management Board of the Company cannot make decisions on its own. As a result the interests of the existing shareholders are not exposed to any particular danger.

The Management Board therefore concludes in summary that the proposed transfer of own shares to Beneficiaries, subject to a corresponding acceptance of the Share Offering, and excluding shareholders' repurchase rights complies with the statutory provisions.

#### **4. Next Steps**

After expiry of a period of at least 14 days after publication of this report and at the earliest three stock exchange trading days after publication of the intended disposal of own shares, own shares of the Company may be sold under the conditions described above subject to corresponding declarations of acceptance by the Beneficiaries.

Maria Enzersdorf, 17/5/2021

The Management Board of EVN AG

Stefan Szyszkowitz

Franz Mittermayer