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ZYRA E RREGULATORIT PËR ENERGJI
REGULATORNI URED ZA ENERGIJU
ENERGY REGULATORY OFFICE



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RULE ON SUPPLIER OF LAST RESORT

Pristina, 13 April 2017



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The Board of the Energy Regulatory Office, pursuant to the authority given by Article 9, paragraph 1, subparagraph 1.7, Article 26 of the Law on Energy Regulator No. 05/L-084, Article 40 of Law on Electricity No. 05/L-085, in the session held on 13 April 2017 , adopted the following:

RULE ON SUPPLIER OF LAST RESORT

CHAPTER I GENERAL PROVISIONS

Article 1 Purpose and scope

- 1 This Rule sets out the process of appointment of the Supplier of Last Resort required to perform the service of Guaranteed Supply in accordance with Article 39 and Article 40 of Law on Electricity.
- 2 This Rule sets:
 - 2.1 The process for selection of the Supplier of Last Resort;
 - 2.2 The obligations regarding eligibility of licensees to be appointed the Supplier of Last Resort;
 - 2.3 The criteria to be used for appointment of the Supplier of Last Resort following a competition process;
 - 2.4 The rights, duties and responsibilities of the Supplier of Last Resort; and
 - 2.5 The methodology for Determination of Prices at which Supplier of Last Resort supplies customers with electricity.

Article 2 Definitions and Interpretations

- 1 The following terms are used in this Rule and have the following meanings:
 - 1.1 **Energy Regulatory Office (hereinafter: the Regulator)**– is an independent agency in energy sector, established by Law on Energy Regulator;



- 1.2 **Guaranteed Supply** – temporary supply of final customers, in the events stipulated in this law, who are provided temporary supply within the limits defined by this Law;
 - 1.3 **Supplier of Last Resort** - a supplier defined in accordance with the provisions of this law, which provides for a limited period of time supply service under regulated conditions towards customers, who were not able themselves to contract a supplier or have lost their supplier;
 - 1.4 **Universal Supply Service** – the right of household customers and economic enterprises that employ no more than fifty (50) employees and have an annual turnover of not more than ten (10) million euro to be supplied with electricity of a specified quality at reasonable, clearly comparable, transparent and non-discriminatory prices;
 - 1.5 **Universal Supply Service Obligation** – means the obligations of Universal Service imposed on a licensee.
 - 1.6 **Supplier of Last Resort Fee** - means a fee offered by the supplier to cover its reasonable costs for providing electricity supply for the period of being appointed as a Supplier of last Resort
 - 1.7 **Supplier of Last Resort Service** – means the services of Guaranteed Supply provided by the Supplier of Last Resort.
 - 1.8 **Direct Retail Supply Costs** – means the administrative (non-energy related) costs associated with assuming the role of Supplier of Last Resort.
- 2 The other terms used in this Rule shall have the same meaning as the terms used in Law on Energy Regulator, Law on Energy, Law on Electricity, Law on Thermal Energy and Law on Natural Gas.



CHAPTER II PROCESS FOR SELECTION OF THE SUPPLIER OF LAST RESORT

Article 3 Selection through competition

- 1 The Regulator shall issue a formal decision on opening the bidding procedure which shall contain the criteria for selection of Supplier of Last Resort, criteria and terms for the Guaranteed Supplier, information on setting the price and its changes, terms and conditions of the agreement as well as the duration of the period at which the Supplier of Last Resort is appointed.
- 2 Based on an open bidding procedure, the Regulator appoints the Supplier of Last Resort.
- 3 The Supplier of Last Resort is appointed to act as such supplier for a period of three (3) years, in line with Article 40 of Law on Electricity.
- 4 In the event that the Supplier of Last Resort is not selected for the period set forth in paragraph 2 of this Article, the Regulator shall appoint a supplier to temporarily exercise the function of the Supplier of last Resort, for a period no longer than six (6) months, within which a new tender shall be developed. In case the second tender also fails, the Regulator appoints the Supplier of last Resort with a special act, by setting forth all terms and conditions for establishment of Public Service Obligation, in accordance with Article 5 of this Law.
- 5 The decision referred in paragraph 1 of this Article, shall define:
 - 5.1 the criteria for appointing the Supplier of Last Resort, whereas these criteria shall not discriminate between operators holding a supply license by the Regulator;
 - 5.2 the terms of Guaranteed Supply, as defined in Articles 10, 11 and 12 of this Rule;
 - 5.3 the term to act as Supplier of Last Resort for a period of 3 years;
 - 5.4 the notice to submit an application shall not be less than thirty (30) days.
- 6 Before the expiry of the term of the entity appointed as Supplier of Last Resort, the Regulator will institute a new bidding procedure between the eligible entities (for the avoidance of doubt, not excluding the licensee performing the service at the time of the new competition) for selection of a licensee to provide the services of Supplier of Last Resort for the next term.



- 7 The bidding procedure referred to in paragraphs 1 and 2 will be in the form of a written invitation to tender submitted to eligible licensees and available from the Regulator on application.
- 8 The Regulator, at its sole discretion, will determine the degree of and methods of publicity to be applied to make the bidding procedure known to eligible licensees.
- 9 The tender dossier shall be prepared by the ERO will contain the following information:
 - 9.1 The dates and times when the bidding procedure will take place and the process for submission of applications as well as other times and dates relevant to the competition process;
 - 9.2 The services required from a Supplier of Last Resort including the start of the service and its term;
 - 9.3 The pricing methodology that should be applied by the applicant in its tender submission;
 - 9.4 The characteristics of the entities eligible to be Supplier of Last Resort; and
 - 9.5 The rules that the Regulator will apply in evaluating tender submissions.
- 10 The Regulator shall inform applicants on its decision on the failure to appoint the Supplier of Last Resort according to the open bidding procedure, within thirty (30) days from the submission deadline of applications.
- 11 The applicant not satisfied with the decision of the Regulator, on the failure to appoint the Supplier of Last Resort, shall have the right of dispute within thirty (30) days at the competent court, pursuant to applicable law.



CHAPTER III
ELIGIBILITY OF LICENSEES TO BE SUPPLIER OF LAST RESORT

Article 4
Criteria for Selection of Supplier of Last Resort

- 1 The competition for appointment of Supplier of last Resort will be considered effective if no less than two (2) bidders have fulfilled the respective eligibility criteria.
- 2 A licensee eligible to be a Supplier of Last Resort must be able to provide evidence of the following:
 - 2.1 Administrative processes, information technology, billing systems and staffing resources with the capacity to transfer large numbers of customer accounts into its responsibility accurately and in a timely manner;
 - 2.2 Operational and financial audit processes able to identify which customers are served under the terms of the Supplier of Last Resort and not the customers contracted in any other way; and
 - 2.3 Financial capacity to procure sufficient additional electricity to meet the requirements of customers to be served under the Supplier of Last Resort without prejudicing its ability to serve other customers to whom it is contracted.
- 3 A licensee wishing to be a Supplier of Last Resort must warrant that:
 - 3.1 It is licensed to supply all customers in the Republic of Kosovo and that it supplies customers supplied in Kosovo or in the electricity market of any country of the European Union or in the territory of a Contracting Party to the Energy Community and that its share of any market it serves represents at least five (5) per cent of electricity consumed in that market;
 - 3.2 It will serve customers under the Supplier of Last Resort Service continuously for a period of sixty (60) days and will take no measures to terminate the supply to any customer under the said service before expiry of that period; and
 - 3.3 It will facilitate all customers in their search for an alternative supplier during the sixty (60) days of the Supplier of Last Resort service.



Article 5

Pricing methodology applied by the Supplier of Last Resort

- 1 The price for different classes of customers may only vary to the extent that the profile of demand of classes of customer varies.
- 2 For a transitional period, Retail Direct Costs shall be recovered through a charge which shall be applied at transmission level. Direct Cost or charge adjustments will be made in Ex-post principle.
- 3 The tariff charged by the Supplier of Last Resort will include wholesale energy purchase costs towards which a retail margin is applied, as set by the Regulator.
- 4 The imbalance costs shall be allowed to be covered in the energy purchase costs. These costs shall be divided between the customers and the supplier, based on the Sharing Factor, set by the Regulator.
- 5 The Retail Margin shall be a fixed percentage that is applied to the cost of purchased electricity to provide Supplier of Last Resort Service. It shall be set at such a level such that it:
 - 5.1 Provides the Supplier of Last Resort with a reasonable return that compensates it for the risks it assumes in providing the Supplier of Last Resort service. This shall be calculated with reference to the margins earned by similar utilities in countries elsewhere in Europe, taking account of the similarities between the electricity industry in those countries and that of Kosovo; and,
 - 5.2 Provides the Supplier of Last Resort with a reasonable return on its net fixed assets used in providing the Supplier of Last Resort service. This shall be calculated with reference to the cost of capital of other licensees in Kosovo.
- 6 The Retail Margin shall not exceed the value of 3%.
- 7 Customers of the Supplier of Last Resort will pay the relevant tariffs of the Supplier of Last Resort as well as all applicable transmission and distribution network tariffs.
- 8 Costs which depend on the volume of electricity supplied shall be determined in a transparent and non-discriminatory manner and shall reflect the real cost of supply which shall be monitored by the Regulator on a regular basis.
- 9 The Supplier of Last Resort can oblige its customers to post a bank guarantee equivalent to the average annual value of two (2) bills from the previous year.



**CHAPTER IV
CALCULATION PRINCIPLE OF SUPPLY COST**

Article 6

Cost Calculation of Supplier of Last Resort

- 1 These principles define the manner of calculation of allowed costs to supply electricity to eligible customers for guaranteed supply in Kosovo.
- 2 Supplier of Last Resort costs will be calculated according to the following formula:

$$SC_t = (RETR_t + WHPC_t + NTC_t)$$

Where:

SC_t *Supply Costs in Relevant Year t*

$RETR_t$ *Retail costs in Relevant Year t*

$WHPC_t$ *Wholesale power costs in Relevant Year t*

NTC_t *Cost of Use of Transmission and Distribution Network in Relevant Year t*

Whereas, $WHPC_t$ is calculated according to the following formula:

$$WHPC_t = PPC_t + IMBC_t * IMBF_t$$

PPC_t *Electricity cost for provision of Supplier of Last Resort, procured in the market based on the principles of this Rule*

$IMBC_t$ *Net imbalance cost in Relevant Year t*

$IMBF_t$ *Imbalance Sharing Factor in relevant year t*



CHAPTER V
SELECTION CRITERIA FOLLOWING A COMPETITION

Article 7
Eligibility threshold

- 1 All suppliers that submit tenders received on or before the deadline in the invitation to tender that demonstrate adherence to the requirements specified in Article 4 of this Rule and Direct Retail Costs compliant with the specification set out in Article 5 of this Rule will be deemed compliant with the terms of the tender and will be eligible to offer the service of Supplier of Last Resort if appointed.
- 2 Any tender submitted that is not deemed compliant pursuant to paragraph 1 or is received late by ERO will be rejected and the tenderer will be ineligible to be Supplier of Last Resort and will be informed of this by the Regulator giving its reasons for rejection of the tender.

Article 8
Lowest price selection

- 1 The Regulator will select from amongst suppliers deemed eligible, the supplier who provides the lowest direct costs in comparison with other bidders.
- 2 When the Supplier of Last Resort Fee of one supplier is less than half (0.5) percent above the Supplier of Last Resort Fee offered by the another supplier, then the Regulator may, but is not obliged to, select the supplier offering the higher Supplier of Last Resort Fee if the Regulator believes that the quality of the service may be better including with regard to potentially offering Prices to affected customers in accordance with Article 12 of this Rule.



CHAPTER VI
RIGHTS AND OBLIGATIONS OF THE SUPPLIER OF LAST RESORT

Article 9

Customers that are eligible to be supplied by the Supplier of Last Resort

- 1 The selected Supplier of Last Resort must supply customers who remain without a supplier in the following circumstances:
 - 1.1 Their supplier has gone bankrupt or is under liquidation;
 - 1.2 The license of the previous supplier has been permanently or provisionally revoked, or has ceased to be valid (expired);
 - 1.3 The customer has failed in selecting a new supplier upon termination of the contract with the previous one.
- 2 The customers referred to in paragraph 1 are entitled to be served by the Supplier of Last Resort for a period not exceeding sixty (60) days.
- 3 The supplier who is no longer able to supply electricity to final customers, in the cases set forth in paragraph 1, subparagraph 1.1 of this Article, is obliged to inform the Supplier of Last Resort, the final customer, the Regulator as well as transmission and distribution system operators for the date of supply suspension at an appropriate time. In such cases, the customer is supplied by Supplier of Last Resort.
- 4 The Regulator shall inform the Supplier of Last Resort, final customers and transmission and distribution system operators for the supplier, in accordance with paragraph 1, sub-paragraph 1.2 of this Article, no later than fifteen (15) days from the day when the license in question ceased to be valid or from the entry into force of the Regulator's Decision on temporary or permanent withdrawal of the license.
- 5 In case the final customer, as in paragraph 1, sub-paragraph 1.3 of this Article, who is supplied by the Supplier of Last Resort, fails to enter into an agreement with the new supplier, within the period set forth in paragraph 2 of this Article, the system operator shall terminate the electricity supply.
- 6 The guaranteed supply, in cases set forth in paragraph 1, sub-paragraph 1.3 of this Article, shall start upon the termination of the contract with the previous supplier or upon the commencement of supply to the new customer, but no supply contract is signed with another supplier.



Article 10

Obligations of the Supplier of Last Resort

- 1 The Supplier of Last Resort will be obliged to provide all supplier services as set out in the Law on Electricity, the Rule on General Conditions of Energy Supply and in the respective license issued by the Regulator including (but not limited to):
 - 1.1 Procurement of wholesale electricity on behalf of customers supplied under the services of Guaranteed Supply and to be responsible for balancing their offtake with such wholesale supply;
 - 1.2 Supply and billing of customers for the determined period of supply, in accordance with legal provisions of this Rule;
 - 1.3 Informing customers with the terms of the service provided; and
 - 1.4 Submitting supply contracts to the customers who will be supplied by the Supplier of Last Resort.

- 2 The Supplier of Last Resort is entitled to request that the customers under the Supplier of Last Resort service provide securities for payment including prepayments provided such requirements are reasonable, but the Supplier of Last Resort is not entitled to terminate the service to said customers if no such security provisions are made by the customer during the period of Guaranteed Supply.

Article 11

Additional Obligations as a Supplier of Last Resort

- 1 The Supplier of Last Resort is obliged to:
 - 1.1 Inform the customer on the terms and criteria of supply and electricity prices;
 - 1.2 Inform the customer on his/her rights to change the supplier.
 - 1.3 Submit contracts to relevant customers within eight (8) days of commencement of supply and not necessarily submit such contracts prior to commencement;
 - 1.4 Inform eligible customers of Universal Service for the means of supply by the Suppliers with Universal Service Obligations (regardless of whether such supplier has that obligation through Public Service Obligation or otherwise) including if the Supplier of Last Resort also has an Obligation of Universal Service of Supply.



- 1.5 Maintain and publish a website with information for customers about the service of the Supplier of Last Resort including information about the number of customers supplied under the Supplier of Last Resort service separately for household and non-household customers, the average duration of such services including details separately for customers who are eligible for Universal Supply Service and those not eligible; and
 - 1.6 Publish on its website the supply tariffs for previous months for different customer categories and approximate evaluation for the supply tariffs of customer categories who may in the future (at least for a month) be supplied by the Supplier of Last Resort.
- 2 The Supplier of Last Resort must maintain separate accounts with respect to its relations with customers supplied under the Supplier of Last Resort Service and supply of customers entitled the Universal Service and commercial service. These data shall be available whenever required by ERO.
 - 3 The Supplier of Last Resort must facilitate customers to find an alternative supplier within 60 days but must institute proceedings to terminate supply to customers who do not contract with an alternate supplier.
 - 4 The Supplier of Last Resort must maintain credit coverage to ensure that it is in a position to provide the service when called on to do so.

Article 12

Preferred services from the Supplier of Last Resort

In the interests of an orderly electricity supply market, the party accepting a Supplier of Last Resort obligation should be in a position to offer a reasonable and competitive supply service for its customers for a maximum period of sixty (60) days of required supply under the period of the Guaranteed Supply.



**CHAPTER VII
FINAL PROVISIONS**

**Article 13
Amendment**

- 1 The Regulator is entitled to amend or modify any provisions of this Rule.
- 2 The procedures for amendment or modification of this Rule, shall be the same as for its approval.

Article 14

Interpretation

- 1 In case of any uncertainty regarding the provisions of this Rule, the Board shall issue explanatory information.

**Article 15
Entry into force**

This Rule enters into force upon its adoption by the the Board of the Regulator and will be published on the official website of the Regulator.

Board of the Regulator

Krenar Bujupi, Acting-Chairman

Arsim Janova, Member

Besim Sejfiqaj, Member