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Republika Kosova - Republic of Kosovo

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



ERO/Rule No.04/2017

RULE ON RESOLUTION OF COMPLAINTS AND DISPUTES IN ENERGY SECTOR

Pristina, 16 March 2017



The Board of Energy Regulatory Office, pursuant to the authority given under Article 15, paragraph 1, subparagraph 1.8, Article 17 and Article 26 of the Law on Energy Regulator No. 05/L-084, in a session held on 16.03.2016 adopted the:

RULE ON RESOLUTION OF COMPLAINTS AND DISPUTES IN ENERGY SECTOR

CHAPTER I GENERAL PROVISIONS

Article 1

Purpose

This Rule stipulates the conditions and procedures for submission, review and resolution of customer complaints against licensees in the energy sector, resolution of complaints between energy licensees, and in relation to connection of third parties to the transmission system or distribution of electricity, thermal energy and natural gas as well as transmission, electricity and natural gas cross-border flows.

Article 2

Scope

1. Energy activities which are subject to the review, in accordance with this Rule, include electricity, thermal energy and natural gas.
2. This Rule establishes the terms, conditions and procedures related to complaints and dispute resolution in order to:
 - 2.1. ensure the transparent and non-discriminatory performance of energy activities in the energy sector in Kosovo and required service quality;
 - 2.2. protect customers through promoting transparent and open access to information regarding resolution of customer complaints and disputes;
 - 2.3. resolve disputes between customers and suppliers and between energy licensees;
 - 2.4. ensure the equal treatment of all customers in Kosovo with respect to their rights and obligations regarding energy services;
 - 2.5. ensure applicable procedure for customer complaints and obligations of suppliers for handling customer complaints;
 - 2.6. provide alternative dispute resolution in the energy sector;
 - 2.7. monitor disputes settlement procedures.

Article 3

Definitions



1. The terms used in this Rule have the following meaning:
 - 1.1. **Household Customer** – a customer purchasing energy for its own consumption for its household economy, excluding commercial or professional activities. Household customers' tariffs are also applied for religious facilities;
 - 1.2. **Non-household Customer**- any natural or legal person purchasing energy which is not for their own household use, including producers and wholesale purchasers;
 - 1.3. **Energy Regulatory Office (hereinafter the Regulator)** - an independent agency in the energy sector, established by Law on Energy Regulator.
 - 1.4. **Arbitration Agreement** - an agreement reached between two or more people, that some or all legal disputes which have arisen or which may arise between them shall be subject to arbitration.
 - 1.5. **Complaint** - any expression of dissatisfaction, submitted by customers/applicants to the supplier, system operator or Regulator.
 - 1.6. **Applicant**- any legal or natural person applying for connection to the system operator;
 - 1.7. **Dispute**- any disagreement initiated by a licensee against other licensees.
 - 1.8. **CPD**- Customers Protection Department at ERO, which is responsible for reviewing complaints and resolving disputes, as foreseen in this Rule;
 - 1.9. **Supplier** - any energy enterprise licensed to carry out supply activities;
 - 1.10. **Alternative Dispute Resolution (ADR)** - is an informal, voluntary procedure which can be used in different manners such as: negotiations, mediation or other alternative resolutions;
2. 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, Law on Natural Gas and other applicable legislation in Kosovo.

CHAPTER II COMPLAINTS AND DISPUTES

Article 4

Categories of Complaints and Disputes

1. The Regulator, in accordance with article 17 of the Law on Energy Regulator reviews and resolves disputes in energy sector, including complaints:
 - 1.1. by customers against licensees concerning the service provided;
 - 1.2. by licensees against other licensees related to the performance of licensed activities; and



- 1.3. regarding third party access to electricity transmission or distribution system, thermal energy or natural gas, as well as transmission, cross-border flows of electricity and natural gas.
2. Any complaint or dispute related to allegations of criminal offences, electricity theft, stipulated In Article 61 of Law on Electricity, as well as by legal provisions as determined in Chapter XXVI of Criminal Code of Republic of Kosovo, Utilities Offences, where theft of thermal energy (district heating) is also included, shall fall under the jurisdiction of the competent court. Such complaints or disputes are therefore not covered by this Rule.
3. In order to establish a simple and effective framework, this Rule determines procedures for review of complaints and disputes, and their resolution for different customer categories and energy licensees.

Article 5

Access to Information

1. During the review of the complaint or dispute, the Regulator has the right to require from the parties necessary documents and information to resolve the complaint or dispute.
2. When a complaint or dispute resolution process is pending, the Regulator or a party with a legal interest in the case may:
 - 2.1. request from parties to submit additional documents;
 - 2.2. request from parties to provide additional explanations regarding the circumstances of the complaint or dispute;
 - 2.3. request from other public authorities to provide relevant information, documents or an opinion with respect to the case in question;
 - 2.4. visit the site or premises;
 - 2.5. perform other related activities in order to obtain relevant information on the dispute.
3. All parties to the dispute shall be treated equally and have a fair opportunity to present their case.
4. All resolutions of complaints/disputes shall be treated in an expeditious manner, in accordance with terms set forth in this Rule.

CHAPTER III CUSTOMER COMPLAINTS

Article 6



Customer Protection

1. Each supplier and system operator is responsible for protection of its customers by addressing complaints alleging any act, omission or violation by such supplier or system operator, and making reasonable efforts to resolve such complaints.
2. All customers that have complaints in relation to the services provided by the supplier or system operator shall first submit their complaints to the supplier, prior to requiring a review from the Regulator.
3. All applicants that want to complain in relation to connection to the network and use of the network, who do not have the status of the customer yet, shall initially submit a complaint to the system operator, prior to requiring a review from the Regulator.
4. Each supplier and system operator is required to develop procedures that meet the provisions of this Rule, as well as provide information for addressing customer complaints, in accordance with Article 6, paragraph 1 of this Rule. This procedure developed by the Supplier and system operators shall:
 - 4.1. ensure prompt and fair resolution of disputes and shall be transparent and non-discriminatory;
 - 4.2. be in accordance with ERO Rules, operational requirements and grid codes approved by the Regulator. Such procedure shall include the method of complaint receipt, criteria for authorizing and assigning employees to this task, and applicable training programs;
 - 4.3. be submitted to the Regulator for review and approval.
4. Each supplier and system operator is responsible for making its complaint procedures public by publishing them on its electronic website, in accordance with paragraph 3 of this article.

Article 7

Methods of Customer Complaints

1. A complainant may notify the supplier by telephone or other means of communication, without submission of a complaint form, only in the following instances:
 - 1.1. complaints seeking clarification or additional information, but not requesting further action by the supplier.
2. In the events as in paragraph 1 of this article, if the supplier or system operator deems that a complaint form is necessary, then it shall fill out the form for the customer based on information provided, and deliver such form to the customer for approval.
3. The suppliers shall submit their standard Complaints Forms to the Regulator for approval.
4. The suppliers shall make Complaint Forms available to the public and shall provide such forms to customers upon request.
5. The suppliers shall provide support and instructions to customers regarding their rights and the



process related to submission of complaints.

Article 8

Content of Customer Complaint

1. All complaints shall contain general information regarding the customer, justification for complaint submission, the act in question, alleged omission or violation made by the supplier or system operator providing services to such customer.
2. A complaint may concern any service compliant with the Rule on General Conditions of Energy Supply and other relevant codes, Rules, regulations or contractual agreements.
3. A complaint may cover one or more acts, neglect or alleged violations. If the complaint covers more than one act, neglect or alleged violation, each violation shall be addressed.

Article 9

Complaint Review Process

1. The supplier or system operator shall fairly and timely review, investigate and respond to each customer complaint or applicant.
2. When there is cause to believe that the dispute may be resolved in an informal manner and by mutual agreement, the complainant, the supplier or the system operator in question may invite the other party to negotiate, in accordance with Chapter V of this Rule.
3. The deadline for review of the complaint by the supplier shall be no longer than thirty (30) calendar days, however in more complicated cases it shall not exceed the final deadline of three (3) months from the day of receipt and registration of the complaint for more complicated cases.

Article 10

Response to Customer Complaint

1. Each supplier or system operator is obliged to respond as soon as possible to all customer complaints and applicants in an efficient and fair manner.
2. In cases of complaints seeking only clarification or additional information, but not requesting further action by the supplier or system operator according to Article 7 paragraph 1 of this Rule, the supplier may respond verbally without issuing a written decision. In such cases, the supplier is required to document the exchange of correspondence with the customer within its registers, to demonstrate that action was taken. Such documentation shall be made available upon request of the customer or the Regulator.
3. In all cases not covered by Article 10, paragraph 2 of this Rule, the supplier shall issue a written decision regarding the customer complaint, which shall contain:
 - 3.1. name of the licensee issuing the decision, reference number, date of decision issuance;
 - 3.2. customer's name, code and address;



- 3.3. legal base and provisions;
 - 3.4. justification which shall contain a summary of all evidence submitted during review process;
 - 3.5. possible alternative processes for complaint resolution, if considered suitable for the complainant's situation;
 - 3.6. legal advice to the customer on its right to submit a complaint to the Regulator, against the decision issued by the supplier;
 - 3.7. name and signature of the official issuing the decision.
4. In cases presented in paragraph 3 of this Article, the supplier shall notify the customer for the decision taken. Such notice shall be given through telephone call, personal delivery, post delivery or e-mail.

Article 11

Assistance to the Customer

1. The supplier shall establish a service for providing support to customers, with dedicated communication access (telephone and internet, with a sufficient communication capacity) and must appoint at least one official/employee for personal contact (office) to respond to questions, complaints and requests from customers during business hours.
2. Officials of each supplier who are responsible for receiving telephone calls and office visits from customers shall be properly qualified and instructed on handling complaint issues and requests for service or instructing customers to competent official.
3. Supplier shall provide a service of twenty four (24) hours a day, seven (7) days a week, to answer customers' telephone calls.

Article 12

Record-keeping

1. Upon submission of the complaint by a customer, the supplier shall record such complaint in its registers. The register of complaints shall document the type of complaints, date of submission and any actions taken with respect to the complaint.
2. Upon issuance of decision, the supplier shall provide to the customer a copy of all documents, processes, bills, energy flow and other notes on which the supplier's decision was based.

CHAPTER IV COMPLAINTS REVIEW AND DISPUTE SETTLEMENT PROCEDURE AT ERO

Article 13



Appeal to the Regulator

1. The customer or applicant may appeal to the Regulator the decisions made by the supplier or system operator as specified in this Rule. Customers can submit complaints to Customer Protection Department of the Regulator within fifteen (15) calendar days from the date of receipt of decision, or upon expiration of complaint review term of the supplier, as stipulated in article 9, paragraph 3 of this Rule.
2. Any licensee may initiate any dispute resolution against another licensee with respect to the performance of licensed activity, or any request regarding third party access to electricity transmission and distribution system, thermal energy and cross-border electricity flows.
3. Following the receipt of a dispute or complaint, CPD shall register this dispute or complaint within three(3) calendar days as stipulated in paragraphs 1 and 2 of this Article.

Article 14

Complaints Review by the Regulator

1. Upon receipt and registration of the complaint or dispute initiation, the Regulator shall review the complaint or dispute and shall issue a decision or a recommendation, within sixty (60) calendar days.
2. The term set forth in paragraph 1 of this article, may be extended only for the following reasons:
 - 2.1. Cases of complexity or where additional information is required. In such cases, CPD shall immediately notify all parties and provide an explanation for the extension. Such term extension shall be made in accordance with the complainant, for an additional time limit of thirty (30) calendar days;
 - 2.2. In cases where parties have agreed to pursue ADR, in accordance with Chapter V of this Rule, the parties shall agree that the ADR process stops the running of the clock for the schedule period. In the event that ADR is unsuccessful and the matter is returned to CPD for a review, the clock resumes running in accordance with the term set forth in paragraph 1 of this Article.
3. CPD may refer any customer's case/complaint back for redress to the energy enterprise when CPD deems that the licensee did not comply with applicable laws, rules and procedures.
4. The Head of CPD shall make a decision for complaints submitted by household customers and non-household customers of tariff group 4 (0.4 kV Category II), as well as tariff group 8 (public lighting).
5. Customers or licensees may appeal CPD Decision to ERO Board, within fifteen (15) calendar days from the date of receipt of decision by the customer.
6. For all complaints and disputes under article 4, paragraph 1, subparagraph 1.1 of this Rule,



including customers of tariff groups 0, 1, 2 and 3, paragraph 1, subparagraph 1.2 and 1.3 of this article, CPD shall submit a recommendation to ERO Board for its decision.

Article 15

Procedure for Review of Complaints/Disputes at Customer Protection Department

1. Upon review of complaint/dispute and issuance of decision, depending on the circumstances, in accordance with this Rule, CPD may:
 - 1.1. invite the parties and/or witnesses for a hearing;
 - 1.2. request from the parties the submission of additional documents or any other evidence deemed important;
 - 1.3. ask other public authorities for information, documents or opinions with respect to the specific case;
 - 1.4. visit the premises for inspection;
 - 1.5. perform other similar activities, to obtain important information relevant to the dispute.

Article 16

Interim Measures

1. Under specific circumstances and only as necessary to prevent any non retrievable harm or damage to the interests of the parties, upon request of the parties, ERO Board may grant interim measures. The interim measure is a transitional decision which aims to protect the parties in dispute.
2. Prior to giving a recommendation to the Board of the Regulator on interim measures, CPD may request the parties in dispute to provide additional information, if deemed necessary.
3. Decisions on interim measures shall enter into force on the date of approval by the Board.
4. The Board of the Regulator shall repeal the interim measure at the time when the reasons that justify this measure are no longer valid. Otherwise, the interim measure shall remain in force until the parties are withdrawn from the complaint, the complaint is resolved, the parties agreed to resolve the complaint through ADR or the competent court issued a decision on the complaint.

Article 17

Review of Complaints and Disputes by ERO Board

1. ERO Board is responsible to decide on complaints and disputes, in accordance with Article 14, paragraph 5 and 6 of this Rule and administrative procedures stipulated by the Law on Energy Regulator.

Article 18

Decision of ERO Board



1. The Board of ERO shall issue a decision on any complaint or dispute within sixty (60) calendar days from the date of submission of complaint or dispute, in accordance with Article 14, paragraphs 5 or 6 of this Rule.
2. In cases where ERO Board requires additional information, the term for making a decision may be extended. The term extension shall be made in accordance with the complainant, for an additional time-limit of thirty (30) calendar days.
3. Decisions issued by ERO Board shall contain:
 - 3.1. name and address of the issuing authority, reference number and date of decision issuance;
 - 3.2. name, code and address of complainant and the opposing party;
 - 3.3. legal base and provisions;
 - 3.4. justification which shall contain a summary of evidence presented during review process;
 - 3.5. legal advice on the complainant's right to challenge the decision of the Regulator at the competent court.
4. Decisions of ERO Board shall enter into force on the date of their issuance.
5. Customers or licensees may initiate an administrative dispute at the competent court within thirty (30) calendar days from the date of issuance of decision or the date of its publication on the Regulator's website, whichever occurs last.
6. If, within the time period specified in paragraphs 1 or 2 of this article, the Regulator does not issue a decision, it shall provide a written explanation to parties, regarding the reasons for the delay and a planned date for issuance of decision.
7. During the review of complaint/dispute, ERO Board may apply provisions of articles 15 and 16 of this Rule.

Article 19

Responsibilities of Parties while a Complaint or Dispute is under Review

1. While any complaint or dispute is still under review procedure, both parties have responsibilities deriving from their commercial relationship and energy supply contract.
2. The customer has the responsibility to pay their undisputed invoices in a timely manner in accordance with Rule on Disconnection and Reconnection of Customers in Energy Sector.
3. For cases presented in paragraph 2 of this article, the Supplier is obliged to continue to supply customers with energy.

CHAPTER V ALTERNATIVE DISPUTE RESOLUTION



Article 20

Purpose of ADR Procedure

1. ADR is an informal procedure which is voluntary and may be used in different forms, such as: negotiation, mediation or other alternative resolutions.
2. All forms of ADR are available for disputes that fall under article 4, paragraph 1, subparagraph 1.2 and 1.3 of this Rule. In all cases that fall under article 4, paragraph 1, subparagraph 1.1 of this Rule, in order to ensure the protection of household customers, the only available form of ADR is negotiation.
3. The purpose of ADR is to avoid the formal complaint procedure and decrease the number of complaints that require formal decisions such as decisions of the Regulator or relevant court.
4. ADR may be used at any time following the submission of the complaint or also during the entire appeal procedure.

Article 21

Procedures Applicable Pursuant to ADR

1. ADR may be suggested by any party, CPD or ERO Board.
2. Suppliers must inform all complainants on their right to use ADR procedure.
3. Once the complaint or dispute is submitted to CPD, or ERO Board, the complainants or parties shall be informed on their rights to use ADR.
4. Participation in ADR is entirely voluntary. All parties to the dispute must agree to participate in ADR. If all parties do not agree to ADR, the matter shall not proceed with ADR.
5. In cases of agreement to participate in ADR by a customer at the stage of review of the complaint by the supplier, the customer shall notify the supplier in writing for such acceptance. The supplier shall promptly notify the Regulator of such acceptance from the customer side and simultaneously notify the customer. Such notification shall include the date when negotiations shall commence and other important documents. The supplier is responsible to notify the Regulator promptly, as to any agreement reached, or failure to reach an agreement.
6. In the case of disputes that fall under article 4, paragraph 1, subparagraph 1.2 and 1.3, if the parties, at any stage of review of dispute, agree to participate in ADR, they are required to submit a joint written document to the Regulator, notifying the Regulator of their intent to pursue ADR. The complainant is responsible to notify the Regulator immediately upon failure to reach an agreement pursuant to ADR.
7. Any agreement reached by the parties as a result of ADR must be submitted to the Regulator in writing for approval. The Regulator shall approve or reject the agreement within thirty (30) days from the date of submission of such an agreement. The approval shall be granted as long as the agreement is in conformity with applicable law and does not violate the rights of either party or non-parties affected by the agreement.
8. Any party that has agreed to ADR pursuant to paragraph 4 of this article may also terminate ADR at



any time. Such termination shall be by written notice to the other party and by written notice to the Regulator .

Article 22 **Negotiation**

1. Negotiation may be used if there is a possibility to negotiate complaint elements in prompt and effective manner.
2. The Regulator's involvement in negotiation is limited to assisting parties to reach an agreement by ensuring procedural transparency and the exchange of information, without intervening or expressing any opinion in relation to the dispute.
3. Parties that have agreed to pursue negotiations may request each other to provide additional documentation. In instances where CPD or ERO Board suggests negotiation and the parties agree to pursue negotiation, CPD or ERO Board may assist by requesting additional documentation.
4. When the parties have agreed to pursue negotiations, the parties shall provide the Regulator promptly with all documents relevant to negotiations and shall give the Regulator an opportunity to attend all negotiation sessions.
5. The parties are required to inform the Regulator as soon as possible of any agreement or failure to reach an agreement pursuant to negotiations.
6. In the event that agreement is reached through negotiations, such agreement is submitted to the Regulator for approval pursuant to paragraph 7 of this article.
7. ERO Board approves or rejects the agreement, following the review and recommendation from CPD.
8. In the event that no agreement is reached in negotiations, CPD may issue a recommendation to:
 - 8.1. the parties to use mediation;
 - 8.2. the parties to use arbitration;
 - 8.3. ERO Board to issue a decision.

Article 23 **Mediation**

1. Mediation is a form of ADR that is used when an opinion of a third party mediator may influence and assist in solving disputes between the parties. It is an available option to parties in disputes that fall under Article 4, paragraph 1, subparagraph 1.2 and 1.3 of this Rule.
2. A mediator is an independent, impartial adviser intended to assist the parties in settling their disputes through mutual agreement. A mediator may prove useful in assisting the parties to better understand each other's position in the dispute.
3. The parties may select their own mediator.



4. Where parties use a mediator, ERO's involvement is limited to assisting the parties in dispute to reach an agreement by ensuring procedural transparency, the exchange of information, and providing a list of possible mediators where available, without intervening or expressing any opinion in relation to the dispute.
5. Parties that have agreed to pursue mediation may request the other party to provide additional documentation. In instances where CPD or ERO Board suggest mediation and the parties agree to pursue mediation, CPD or ERO Board may assist by requesting additional documentation.
6. Where the parties have agreed to pursue mediation, the parties shall provide the Regulator promptly with all documents relevant to mediation and shall give the Regulator an opportunity to attend all mediation sessions.
7. The parties are required to inform the Regulator immediately of any agreement or failure to reach an agreement pursuant to mediation.
8. In the event that agreement is reached through mediation, such agreement is submitted to the Regulator for approval. The approval shall be granted as long as the agreement is in conformity with applicable law and shall not violate the rights of either party or non-parties affected by the agreement.
9. Subject to Article 23, paragraph 8, following the review and recommendations by CPD, ERO Board approves or rejects the agreement.
10. In the event that no agreement is reached by use of mediation, CPD may issue a recommendation that:
 - 11.1 the parties seek other forms of Dispute Resolution;
 - 11.2 ERO Board issues a decision.

CHAPTER VI ARBITRATION

Article 24

Dispute Resolution by use of Arbitration

1. Where an agreement between two parties provides for the use of arbitration for the resolution of disputes, any dispute shall be resolved in accordance with that agreement and the Law on Arbitration, and the provisions of this Rule shall not apply to that dispute.
2. Pursuant to paragraph 1 of this article, the parties shall notify the Regulator in writing of the intention to use arbitration and shall attach to such notice a copy of the agreement providing for arbitration. The parties shall keep the Regulator informed of the status of arbitration and shall submit to the Regulator any decisions made in arbitration.



CHAPTER VII MONITORING

Article 25

Monitoring of Customer Complaints

1. Each year the supplier shall submit to the Regulator a report on the status of customer complaints for the previous year. This report shall include:
 - 1.1. the number of complaints submitted to the supplier by customers within the reporting period;
 - 1.2. the nature of complaints submitted to the supplier by customers;
 - 1.3. number and status of complaints resolved by the supplier;
 - 1.4. number of cases resolved through ADR;
 - 1.5. number of disputes in process;

CHAPTER VIII OTHER PROVISIONS

Article 26

Complaints Proceeding

1. No customer may initiate judicial proceedings while such customer has submitted a complaint to the licensee or the Regulator or if such a complaint is under review process at the Regulator.
2. The party which is under dispute review process at the Regulator shall not initiate judicial proceedings including the event when the parties have used ADR for dispute resolution, in accordance with article 21 of this Rule.
3. The party which does not agree with the decision of ERO Board, including interim measures, may appeal this Decision at the competent court, pursuant to Article 26, paragraph 3 of Law on Energy Regulator.

CHAPTER IX PENALTY PROVISIONS

Article 27

Administrative Measures and Fines

1. The Regulator may impose administrative sanctions for violation of provisions of this Rule in accordance with article 57 of the Law on Energy Regulator and Rule on Administrative Measures and Fines.
2. The amount of fines shall be calculated according to Rule on Administrative Measures and



Fines.

CHAPTER X TRANSITIONAL AND FINAL PROVISIONS

Article 28 **Interpretation**

If there is uncertainty about the provisions of this Rule, the Board shall issue explanatory information.

Article 29 **Amendment**

1. ERO retains the right to change or modify any provision of this Rule.
2. Procedures for amendment or modification of this Rule shall be the same as for its approval.

Article 30 **Repeal**

Upon entry into force, this Rule supersedes Rule on Resolution of Complaints and Disputes in the Energy Sector (August 2011) issued in accordance with Law on Energy Regulator No.03/L-185.

Article 31 **Entry into force**

This Rule enters into force on the date of approval by the Board of the Regulator and shall be published on Regulator's official website.

The Board of Energy Regulatory Office:

Krenar Bujupi, Acting-Chairman

Arsim Janova, Member

Besim Sejfijaj, Member