

ELECTRICITY PUBLIC SUPPLY LICENSE (WITH CONDITIONS)

GRANTED TO:

KOSOVO ENERGY CORPORATION J.S.C

The Supply Division ("KEK")

Registration Number: ERO_Li_07/06

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Annex 1- Data on the owned material resources

PART I TERMS OF THE LICENSE

1. **The Energy Regulatory Office** (hereinafter referred to as "**ERO**"), in exercise of the powers granted by Articles 15.2(a), 28.2 (e) and 37 of the Law on the Energy Regulator (Law 2004/9), Article 16.2 of the Law on Energy (Law 2004/8), and Articles 21, 36 and 37 of the Law on Electricity (Law 2004/10) hereby issues, to **Kosovo Energy Corporation (KEK) J.S.C-, The Supply Division** (hereinafter referred to as the "Licensee") a license **for public supply of electricity** to customers, subject to the Articles and conditions set out in Part II.
2. The territory covered by this license is, according to the Article 21.1 of the Law on Electricity the whole territory of Kosovo.
3. This Licenses is issued for selling capacity and electricity exceeding 400 MW.
4. The Licensee shall be permitted to:
 - a) sell, on an exclusive basis, electricity to non-eligible customers at regulated prices and tariffs, in accordance with this license;
 - b) purchase capacity and electricity from generators with an installed capacity above 5MW which existed on the date of the promulgation of the Law on Electricity at a regulated price;
 - c) purchase capacity and electricity from other generators, subject to the procedure set forth in Part II, Article 6, paragraph 4;
 - d) import and export capacity and electricity;
 - e) bill and collect payment from its customers;
 - f) handle the complaints of its customers;
 - g) sell electricity to eligible customers in accordance to the procedures referred to in Article 22.4 of the Law on Electricity.
5. The Articles and conditions of this license are subject to modification or termination or withdrawal in accordance with their terms and with Articles 35, 36, 37 and 39 of the Rule on Licensing of Energy Activities in Kosovo.
6. This license shall come into force on 04 October 2006 and, unless withdrawn, shall continue in full force for a ten (10) years until 04 October 2016, with possibility of extension based on the Rule on Licensing of Energy Activities in Kosovo.

Stamped with the common stamp of the Energy Regulatory Office on _____

Signature (on behalf of the Board of ERO) _____

PART II THE CONDITIONS

Article 1: Definitions and Interpretation

1. For the purpose of this license, the terms and expressions listed below shall have the following meaning:

"Affiliate" means, in relation directly or indirectly to the Licensee any Holding Company or Subsidiary of the Licensee, or any Subsidiary of a Holding Company of the Licensee, in each case within the meaning of the legislation applicable in Kosovo.

"Certificate of Origin" means a document issued by ERO evidencing the usage of renewable energy resources or waste for the generation of electricity or the co-generation of heat and electricity.

"Distribution Code" means the set of technical rules issued by Transmission System Operator and approved by ERO, pursuant to Article 15.2 (i) of the Law on Energy Regulator.

"Distribution System" has a meaning as provided by Article 3 of the Law on Electricity.

"Distribution System Operator" has a meaning as provided by Article 3 of the Law on Electricity.

"Electricity enterprise" has a meaning as provided in Article 3 of the Law on Electricity.

"Eligible customer" has a meaning as provided by Article 3 of the Law on Electricity.

"Financial year" is the period from 1 January up to 31 December of the same calendar year.

"Grid Code" is the set of technical rules issued by the Transmission System Operator pursuant to Law on Electricity and approved by ERO pursuant to Article 15.2 (i) of the Law on the Energy Regulator.

"Holding company" means any company defined as such in accordance to the legislation applicable in Kosovo.

"Legislation" means Law on Energy (2004/8), Law on Energy Regulator (2004/9), Law on Electricity (2004/10) and any other primary legislation, or secondary legislation to be issued in execution of primary legislation regulating energy sector.

"Market Operator" means a legal person responsible for the organization and administration of trade in electricity and payment settlements among generators, suppliers, and customers.

"Market Rules" mean the rules approved by ERO governing transactions in electrical energy between the Market Operator and other electricity enterprises, including where appropriate the interaction between these parties and the Transmission System Operator for the purposes of maintaining the physical balance of the market This includes any transitional transaction arrangements that may be approved by ERO.

"Metering Code" means the set of technical rules issued by Transmission System Operator

pursuant to Law on Electricity approved by ERO, pursuant to Article 15.2 (i) of the Law on Energy Regulator.

"Non-eligible customer" means a customer who is obliged to purchase electrical energy from the Public Supplier.

"Power Purchase Agreement" means any agreement referred to in Article 21.3 of the Law on Electricity.

"Public Supplier" means a legal person licensed to conduct the business of public supply of electricity in Kosovo, in accordance with Article 21 of the Law on Electricity.

"Subsidiary" means any company owned or controlled by another company, defined in accordance to the legislation applicable in Kosovo.

"Supplier" means a legal person licensed to sell electricity to consumers in Kosovo, as described in Article 20 of the Law on Electricity.

"Supply" has a meaning as provided by Article 3 of the Law on Electricity.

"Supply business" means the business of the Licensee and any Affiliate or related enterprise of the Licensee acting as a Supplier.

"Transmission System" has a meaning as provided by Article 3 of the Law on Electricity.

"Transmission System Operator" has a meaning as provided by Article 3 of the Law on Electricity.

2. Terms used in this license shall have the same meanings as the terms used in the Legislation.
3. In reference to paragraph 2 any modification or re-enactment of legislation after the date when this license comes into force, shall apply.
4. Unless otherwise specified:
 - a) any reference to a numbered Article or to a numbered Annex is respectively a reference to the Article or the Annex bearing that number in this license;
 - b) any reference to a numbered paragraph is a reference to the paragraph bearing that number in the Article or Annex in which the reference occurs.
5. The heading or title of any Part, Article, Annex or paragraph shall not affect the construction thereof.
6. Where an obligation is imposed to the Licensee with a specific deadline for performance that obligation shall continue to be binding and enforceable after that time limit without prejudice to all rights and remedies that may be imposed against the Licensee if such Licensee fails to perform within the time limit.
7. The provisions of paragraph 6 shall apply in any case of document, direction or notice to be submitted or service to be performed pursuant to this license and directions issued by ERO.

Article 2: Separate Accounts for the Public Supply Business

Condition 1

In accordance with Article 49.2 of the Rule on Licensing of Energy Activities in Kosovo the Licensee shall fully comply with requirement of this Article within twelve (12) months from the date when this license is issued.

1. The Licensee shall prepare annual regulatory accounts in accordance with the Regulatory Accounting Guidelines issued by ERO and shall deliver to ERO a copy of the annual audited accounts so prepared as soon as reasonably practicable, and in any event no later than three (3) months after the end of the financial year to which the accounts relate.
2. The Licensee shall, in its internal accounting, keep a separate account for the Public Supply business as a whole, as well as separate accounts for Supply to eligible and Supply to non-eligible customers, in accordance with Article 49.5 of the Law on Energy Regulator. When requested from time to time by ERO, the Licensee must deliver all such accounts in the form and at the times specified by ERO. The accounts shall be in accordance with such Regulatory Accounting Guidelines as may be issued by ERO from time to time.
3. The Regulatory Accounting Guidelines or directions notified by ERO to the Licensee under paragraph 2 may, inter alia:
 - a) specify the form of the regulatory accounting statements/records, including but not limited to, profit and loss accounts, balance sheets, recognized gains and losses statements, cash flow statements and statements of the amounts of any revenues, costs, assets, liabilities, reserves or provisions which have been either charged from or to any other business or determined by allocation or apportionment between the consolidated Public Supply business and any other business;
 - b) specify the nature and content of the regulatory accounting statements/records, including information on specified types of revenue, cost, asset or liability and information on the revenues, costs, assets and liabilities attributable to specified activities;
 - c) specify the regulatory accounting principles (including the basis for the allocation of costs).
4. The Licensee shall not, in relation to the regulatory accounting statements in respect of a financial year, change the bases of charge, apportionment or allocation from those applied in respect of the previous financial year, unless ERO has previously issued directions for the purposes of this Article or ERO gives its prior written approval to the change in such bases.
5. The Licensee shall comply with any directions issued by ERO for the purposes of this Article.

Article 3. Prohibition of Subsidies and Cross-subsidies

1. The Licensee shall ensure that the public supply business does not give any subsidy or cross-subsidy (direct or indirect) to, nor receive any subsidy or cross-subsidy (direct or indirect) from, any other business of the Licensee and/or any Affiliate or related enterprise of the Licensee and/or any other person.
2. The Licensee shall also ensure that it does not allow any cross-subsidy (direct or indirect) between its eligible customers and non-eligible customers, nor between any other of its customers or classes of customers.

Article 4. Prohibition of Discrimination

The Licensee shall disclose to ERO at any time the circumstances of the sale/purchase to purchasers including (without limitation) volumes, load factors, conditions of interruptability, and the dates and durations of the relevant agreements.

Article 5. Compliance with the Distribution Code, the Grid Code, Metering Code and the Rule on General Conditions of Energy Supply

Condition 2:

In accordance with Article 49.2 of the Rule on Licensing of Energy Activities in Kosovo, following consultation with the Licensee, Generators, and the Distribution System Operator and Transmission System Operator, ERO may provide the Licensee with a specific time schedule of implementation of this Article. Such time schedule may apply to such parts in the Codes and to such extent, as specified in such schedule.

1. The Licensee shall comply with the provisions of the Distribution Code, the Grid Code and the Metering Code insofar as applicable to it.
2. The Licensee shall comply with the Rule on General Conditions of Energy Supply issued by ERO.

Article 6: Governance of Licensee's Obligations

1. The Licensee shall perform the efficient, economic and coordinated operation of its businesses.
2. The Licensee shall take all reasonable steps in order to secure and implement all obligations arising out or in connection with the applicable legislation, the present license and the agreements where it is a party.
3. The Licensee shall comply with any directions or determinations made by ERO pursuant to the Legislation.
4. The Licensee shall conclude Power Purchase Agreements with generators of electricity, subject to the approval and monitoring of ERO in accordance with Article 21.3 of the Law on

Electricity. Prior to the signing of any Power Purchase Agreement the Licensee shall submit it to ERO for approval.

5. The Licensee shall give purchasing priority to electricity for which a Certificate of Origin has been issued in accordance with Articles 10.3 and 10.4 of the Law on Electricity.
6. The Licensee shall prepare and propose to every customer a contract for the supply of electricity in accordance to Rule on General Condition for Energy Supply.

Article 7: Security and Safety

1. The Licensee shall keep each of its customers informed of the postal address, telephone number, facsimile number and electronic mail address of an enquiry service established and operated for the purposes of receiving reports from any person about any matter or incident that:
 - a) causes danger or requires urgent attention, or is likely to cause danger or require urgent attention, in relation to the supply or distribution of electricity; or
 - b) affects or is likely to affect the security, availability or quality of service of the distribution system through which the relevant final customer is supplied with electricity;
 - c) is related to any other complaint made by the customer or any information requested by the customer.
2. The enquiry service referred to at paragraph 1 must be:
 - a) provided without charge to the customer;
 - b) available to receive and process telephone reports and enquiries at all times on every day of each year; and
 - c) operational no later than such date as ERO shall specify.
3. The Licensee may discharge the duty imposed by paragraph 1 by providing the requisite information to each of its customers:
 - a) on the occasion of the final customer first commencing to take a supply from the Licensee; and thereafter either:
 - (i) where bills or statements in respect of charges for the supply of electricity are rendered to the customer, on a quarterly or more frequent basis (it being sufficient that the information is included on or with any bill or statement); or
 - (ii) in any other case, on an annual basis;
 - b) and by publishing such information in such manner as will secure adequate publicity for it.
4. The Licensee shall, in so far as is practicable, take steps to inform each of its customers of any change to the address, telephone number, facsimile number or electronic mail address of the service referred to at paragraph 1 prior to such change becoming effective.

Article 8: Overall and Minimum Standards of Performance

1. The Licensee shall conduct the licensed activity in the manner that is appropriate to achieve the overall and minimum standards of performance proposed by it and approved by ERO from time to time.
2. Within six (6) months after this license is issued, the Licensee shall prepare and submit to ERO for its approval a proposal for standards of performance which shall:
 - a) identify the standards of overall performance to which it shall be obliged to adhere;
 - b) state the minimum standards of performance and service quality in relation to specific matters to which it shall be obliged to adhere from time to time; and
 - c) specify the financial compensation that will be payable to customers in the event that the minimum standards of performance referred to in sub-paragraph b) are not complied with.
3. ERO may approve an extension to the deadline set forth in paragraph 2 in response to a justified request by the Licensee.
4. The Licensee shall implement the approved standards and shall propose to ERO for its approval, procedures for monitoring compliance with the same. The Licensee shall comply with the approved procedures.
5. The Licensee shall review and, if appropriate, propose to ERO amendments to the approved standards and/or procedures developed in accordance with this Article as directed by ERO.
6. The Licensee shall provide to ERO not later than 31 March each year a report on the performance of the business against the performance standards. The report will include such information and analysis as ERO may require from time to time for the purposes of establishing whether or not the Licensee's overall performance meets, the performance standards established pursuant to this Article.
7. The Licensee shall by 31 March each year publish in such a manner as ERO may direct statistics identifying the extent to which its performance meets, or fails to meet, the performance standards established pursuant to this Article.

Article 9: Procedures for the Detection and Prevention of Theft, Damage and Meter Interference

1. The Licensee shall take all reasonable steps to detect and prevent:
 - a) the theft of electricity at premises which are supplied by it;
 - b) damage to or fault in any electric plant, electric line or electricity meter through which such premises are supplied;
 - c) interference with any electricity meter through which such premises are supplied; and
 - d) any unrecorded consumption of electricity at premises which are supplied by it.
2. The Licensee shall, as soon as is reasonably practicable, inform the owner of the relevant

electric plant, electric lines or meter of any incident where it has reason to believe:

- a) there has been damage to or a fault in any electric plant, electric line or meter; or
 - b) there has been interference with any meter to alter its register or prevent it from duly registering the quantity of electricity supplied; or
 - c) the consumption of electricity at premises which are supplied by it has not been recorded.
3. Where the Licensee has reason to believe that any incident reported to the owner in accordance with paragraph 2 has been caused by the act of any person it shall, on complying with the requirement of that paragraph, provide the owner with such information as is reasonably required for the purposes of investigating the incident and resolving any safety concerns arising out of it.
4. In this Article:

"Theft of electricity" means the dishonest use, waste or diversion of electricity.

Article 10: Market Rules

1. The Licensee shall be a party to, and shall comply with, the Market Rules insofar as applicable to it.
2. ERO may issue directions relieving the Licensee of its obligation under paragraph 1 above in respect of such parts of the Market and to such extent as may be specified in those directions.

Article 11: Health and Safety

1. The Licensee shall take all reasonable steps to protect persons and property from injury and damage that may be caused by the Licensee when carrying out its Public Supply business.
2. The Licensee shall ensure that an independent expert whose appointment is approved by ERO undertakes a technical and safety audit of the supply system on an annual basis.
3. The Licensee shall provide the results of such audits carried out in a timely manner to ERO.

Article 12: Labour

The Licensee shall comply with all legislation applicable to labour relations and work safety whether in force at the date hereof or in the future.

Article 13: Change in Control of the Licensee

The Licensee shall notify ERO of any intended change in control of the Licensee at least sixty (60) days in advance of such a change. Change in control may not take place unless ERO has approved it.

Article 14: Public Services Obligation

1. The licensee shall carry out any public service obligation which may be imposed by ERO pursuant to Article 51 of the Law on the Energy Regulator. Where public service obligations are imposed on the Licensee, it shall be permitted to recover any reasonable additional costs directly incurred, either:
 - a) in the way specified in this Article in respect of supplier of last resort costs; or
 - b) in such other way as may be directed by ERO.
2. ERO may, by notice, in writing direct the Licensee to supply electricity to any customer in accordance with this Article ("the last resort supply direction").
3. Paragraph 2 applies where it appears to ERO that:
 - a) circumstances have arisen which would entitle ERO to revoke the supply license of an electricity Supplier other than the Licensee ("the other Supplier"); and
 - b) the Licensee could comply with the last resort supply direction without significantly prejudicing its ability:
 - (i) to continue to supply all its customers; and
 - (ii) to fulfill its contractual obligations for the supply of electricity.
4. The last resort supply direction shall take effect from the date of revocation of the other Supplier's license and shall continue for such period being no longer than six (6) months specified in the direction.
5. The Licensee shall supply electricity to customers previously served by the other Supplier at such premises as are specified or described in the last resort supply direction.
6. As soon as reasonably practicable after ERO has approved and published the last resort direction, the licensee shall send a notice to each of the premises specified or described in the last resort supply direction. The notice to be sent to all premises specified or described in the last resort supply direction, shall:
 - a) inform the customer in question that the customer is no longer supplied by the other Supplier and has not been supplied by the other Supplier since the date on which the direction took effect;
 - b) inform the customer in question that, the Licensee became the Supplier of electricity to the customer from the date the direction took effect; and
 - c) set out the charges payable for the supply of electricity under the direction or an explanation of how the charges are to be determined.
7. The Licensee may charge for the supply of electricity to the premises specified or described in the last resort supply direction at a rate which is no greater than the Licensee's reasonable costs of supply (including such costs attributable to the purchase of electricity at short notice) together with a reasonable profit.

8. Where the Licensee enters into any new contract for the purchase of electricity in order to comply with its obligations under this Article, it shall use reasonable endeavors to make the purchase as economically as possible in all the circumstances.
9. Where the Licensee considers it necessary, on account of the higher costs of new contracts for the purchase of electricity to supply customers in pursuance of the last resort supply direction, to make charges that are higher than the charges made to its existing customer, the Licensee shall submit a request to ERO to approve such higher charges. Any such request shall be submitted to ERO within one (1) month of the date on which the direction took effect.
10. Where the Licensee cannot recover all the costs of meeting its last resort obligations by means of charges made to customers supplied in pursuance of the last resort supply direction, it may submit a notification to ERO, requesting approval to recover the additional costs from all its customers. The notification submitted to ERO must include a calculation of the relevant amount with supporting information and must be received by ERO within six (6) months of the last resort supply direction to which it relates ceasing to have effect.
11. The total sum of last resort additional supply payments claimed by the Licensee (“the relevant amount”) shall not exceed the amount by which the aggregate costs (including interest on working capital) reasonably incurred by the Licensee as a result of the last resort direction, together with a reasonable profit, are greater than the aggregate amounts recovered by the Licensee by way of charges for electricity supplied to customers in pursuance of the last resort supply direction or directions (after taking all reasonable steps to recover such charges).

Article 15: Provision of Information to ERO

1. The Licensee shall submit to ERO, in manner and at such times as ERO may require, such information as ERO may consider necessary in the light of any Article or condition of this license or for the purpose of performing the functions assigned or transferred to it under Article 29 of the Rule on Licensing of Energy Activities in Kosovo or other applicable legislation.
2. The information shall be prepared to a level of audit as may be required by ERO from time to time.
3. The power of ERO to require information under paragraph 1 is without prejudice to the power of ERO to require information that is considered confidential under or pursuant to any other Article or condition of this license or under or pursuant to the applicable Legislation.
4. If the Licensee requests that certain information shall be considered as confidential it is its obligation to mark such information as confidential and justify to ERO such request.
5. The Licensee shall establish the communication link with the Transmission System and Market Operator by assigning the person who will in its name communicate with Transmission System Operator and Market Operator. The address, telephone number, facsimile number or electronic mail address of such person shall be provided to the Transmission System and Market Operator.

6. The Licensee shall provide to ERO any signed contract for supply, supply, Power Purchase Agreements and any contract signed pursuant to the Power Purchase Agreement.
7. The Licensee shall deliver to ERO quarterly and annual reports about its public supply business and compliance with the license's Articles and conditions in accordance to the Reporting Manual issued by ERO.
8. The Licensee shall submit to ERO details of any change in information submitted with application for this license.
9. In this Article:

"Information" means material in any form and includes, without limitation, any books, documents, records, contracts, accounts (statutory or otherwise), estimates, returns or reports of any description and any explanations (oral or written) in relation to such information as may be requested by ERO.

Article 16: Reasons for License termination, Withdrawal and Modification

1. ERO may terminate this license in accordance to Article 39 of the Rule on Licensing of Energy Activities in Kosova provided that the obligations of the Licensee shall be carried out by another Licensee or that customers are not at a disadvantage by such termination. Such termination may take place in case of:
 - a) expiration of the term of the Licence;
 - b) a request from the licensed energy enterprise in respect of its license;
 - c) dissolution of the legal person holding the license;
 - d) upon decision of a court declaring the insolvency of the licensee or court decision to terminate the energy activity due to the licensee's declaration of liquidation;
 - e) where the licensed energy activity has not been conducted for more than six (6) months, except where the suspension of activity is at the approval of the ERO;
 - f) where provisions of Article 44 of the Rule on Licensing of Energy Activities in Kosovo are met;
 - g) if any amount payable in respect of a fee for this license is unpaid thirty (30) days after it has become due and remains unpaid for a period of another thirty (30) days after ERO has given the Licensee notice in writing that the payment is overdue. Provided that no such notice shall be given earlier than the day after the day on which the amount payable became due.
2. ERO may withdraw this license in the following cases, stipulated in Article 44.5 of the Rule on Licensing of Energy Activities in Kosovo, provided that the obligations of the Licensee shall be carried out by another licensee or that customers are not disadvantage by such withdrawal:
 - a) the licensee defaults or violates material conditions or obligations in the license and such defaults and violations have not been remedied within the deadline given by ERO or seriously damage the quality, safety and reliability of the service that the licensee was obliged to provide;
 - b) license monitoring by ERO finds failure to fulfil administrative requirements and such failure has not been remedied within the deadline provided by ERO;

- c) the Licensee presented materially false information upon which the license grant was based.
3. In accordance with article 35 of the Rule on Licensing of Energy Activities in Kosovo, ERO may modify this license in the following cases:
- a) at the request of the Licensee;
 - b) where required to protect the energy system in Kosovo, in connection with security of supply, security of life and health of citizens or protection of environment;
 - c) in order to adhere to new requirements set forth in international agreements and national laws, regulations and other applicable legislation;
 - d) as a sanction for violation of license terms and conditions, pursuant to article 44 of the Rule on Licensing of Energy Activities in Kosovo.

Article 17: Administrative Fines and Measures

1. In case of violation of any provision of the Legislation, of any Article or condition of this License and of any ERO's instruction to the Licensee, ERO shall have the power, pursuant to Article 56.2 of the Law on Energy Regulator and Rule on Administrative Measures and Fines, either to prevent the Licensee from repeating the illegal action or, if the action has stopped, to issue a regulatory decision requiring that a particular action has to be taken or to impose an administrative fine to the Licensee and/or the members of its Board of Directors and/or its executives.
2. Prior to issuance of a fine, ERO shall issue a notice of license violation to the Licensee and shall provide the Licensee with an opportunity to respond to ERO, in writing, within fourteen (14) days of the notification, and to remedy the violation.
3. A fine shall be imposed on the Licensee, in accordance to Article 57 of the Law on Energy Regulator and Rule on Administrative Measures and Fines.
4. The amount of fine will be evaluated in accordance to the Rule on Administrative Measures and Fines. In any case, if the fine mentioned in paragraph 3 is imposed on the Licensee, it must not exceed 15% of the Licensee's gross revenues from the business conducted under this license in the previous financial year.
5. If the fine mentioned in paragraph 3 is imposed on a member of Board of Directors or an executive of the Licensee, it must not exceed 300% of the monthly remuneration received by that person from the Licensee.
6. In the case of repeat violations, the fine imposed may be three times greater than the amount authorized in paragraph 4 or 5.
7. When imposing a fine, in accordance to this Article, ERO shall take into account the degree of social harm of the action, the prior behavior of the Licensee or person concerned, and the financial standing of the Licensee or person.
8. If a fine imposed by ERO is not paid, ERO shall initiate court proceedings for the collection of the fine as a civil debt.

Article 18: Settlement of Disputes

1. Any dispute arising out or in connection with the licensed activity shall be settled in accordance with the Rule on Dispute Settlement Procedure in the Energy Sector issued by ERO.
2. Decisions of ERO regarding the modification, withdrawal or termination of the licence, as well as those regarding any fines resulting from breaches of the license or of the applicable legislation, may be appealed by the Licensee to the court of competent jurisdiction.