



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

Energy Regulatory Office

**Rule on Regulated Generator Pricing
(Generation Pricing Rule)**

2011



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Pursuant to the authority given under Article 8 paragraph 1, subparagraph 1.6, Article 14, paragraph 2, subparagraph 2.16, Article 25 and Article 42, paragraph 1 of the Law No.03/L-185 on Energy Regulator, the Board of the Energy Regulatory Office on a session held on 30.09.2011 has adopted the:

Rule on Regulated Generator Pricing (Generation Pricing Rule)

CHAPTER I GENERAL PROVISIONS

Article 1

Scope and Purpose

- 1 This Rule sets:
 - 1.1 The basis for the determination of Maximum Allowed Revenues that may be earned by Regulated Generators in any Relevant Year in order to allow them to recover the reasonable costs of operating, maintaining and investing in their generating and associated facilities for the purposes of supply to the Public Electricity Supplier (“PES”) in accordance with the Law on the Energy Regulator;
 - 1.2 The process by which such Maximum Allowed Revenues shall be reviewed and periodically re-determined; and
 - 1.3 The process by which Energy Charges and Capacity Charges used to recover the Maximum Allowed Revenues shall be determined.
- 2 The determination of Maximum Allowed Revenues, Energy Charges and Capacity Charges as described in the main body of this Rule apply where the price for supply by a Regulated Generator to the PES has not been established through a competitive tendering process. Where such a competitive tendering process has been applied, the price for supply is established in accordance with Schedule 9.
- 3 Where a multi-year price for supply by a Regulated Generator to the PES or a formula for the calculation of such a price has been approved by the Regulator prior to the date of effectiveness of this Rule, that price or formula as approved shall remain in effect for the term as originally approved. Where a proposal is made to amend the approved price or formula, then the provisions of this Rule shall be applied in determining the amended price or formula.



Article 2

Definitions and Interpretations

- 1 The following terms are used in this Rule and have the following meanings:
 - 1.1 “Actual Regulated Revenues” means the revenue recovered by a Regulated Generator through charges for the provision of energy and capacity to the PES and any other revenue items stipulated by the Regulator , measured on an accruals basis;
 - 1.2 “Allowed Investment Plan” means the programme of capital projects for the Regulatory Period as approved by ERO as part of a Periodic Review;
 - 1.3 “Assumed Lignite Supply Costs” means the allowed lignite supply costs as calculated in accordance with **Error! Reference source not found.** where no Lignite Supply Agreement is in place;
 - 1.4 “Availability Target” means the target level of Availability Capacity for the year, adjusted for expected maintenance, forced outages and other causes of unavailability;
 - 1.5 “Available Capacity” means the capacity of the Regulated Generator that is available for supply;
 - 1.6 “Business Days” means all working days of the week as defined in Kosovo law;
 - 1.7 “Capacity Charge” means the charge per unit of available capacity determined in accordance with Chapter IV;
 - 1.8 “Economic Asset Lives” means the asset lives used to calculate allowed depreciation on the Regulatory Asset Base;
 - 1.9 “Efficiency Factor” means the efficiency factor defined at Periodic Reviews and applied at Regular Adjustments to determine allowed operating and maintenance costs of the Regulated Generator;
 - 1.10 “Energy Charge” means the charge per unit supplied determined in accordance with Chapter VV;
 - 1.11 “EURIBOR” means the European Banking Federation Interbank Offer Rate for Euro deposits for a period equal to 3 months which appears on the appropriate page of the Reuters service at or about 11:00 a.m. Central European Time, or in the event that the Reuter’s service, or any successor thereto, no longer provides such information, such other service as agreed by the Regulated Generator and the Regulator. For the avoidance of doubt it shall be an annual rate;
 - 1.12 “Extraordinary Adjustment” has the meaning given to it in Schedule 6;



- 1.13 “Extraordinary Event” has the meaning given to it in Schedule 7;
- 1.14 “Extraordinary Review” has the meaning given to it in Article 6;
- 1.15 “Fixed Costs” has the meaning given to it in **Error! Reference source not found.**4;
- 1.16 “Force Majeure Event” has the meaning given to it in Schedule 8;
- 1.17 “Generator” means the generating facilities listed in an individual generator’s licence;
- 1.18 “Lignite Supply Agreement” means a contract for the supply of lignite signed between the legal owner of the Regulated Generator and a separate legal entity which is responsible for the supply of lignite to the Regulated Generator;
- 1.19 “Licence Fee” means the amount payable under the terms of Article 7 of the Schedule of Fees issued by the Regulator and amended;
- 1.20 “Market Operator” or “MO” means the holder of the Market Operator Licence;
- 1.21 “Market Operator Charges” or “MO Charges” means the regulated set of charges applied by the MO for the provision of market operator services;
- 1.22 “Materiality Threshold” has the meaning given to it in Schedule 6;
- 1.23 “Maximum Allowed Revenues” or “MAR” means the maximum amount that can be recovered in a Relevant Year by a Regulated Generator through its Energy Charge and its Capacity Charge, the revenues from which are regulated under the formulae in Schedule 1 of this Rule;
- 1.24 “Metered” means in relation to any electricity metered quantity, including active energy, reactive energy and demand, as measured by a meter installed for such a purpose under the Metering Code;
- 1.25 “Net Present Value” means the method of discounting future cash flows;
- 1.26 “Pass-Through Costs” means the costs established in accordance with Article 13;
- 1.27 “Profiling Factor” means the factor defined at Periodic Reviews and applied at Regular Adjustments to allowed operating and maintenance costs, depreciation, and return on capital;
- 1.28 “Proposal” has the meaning given to it in Schedule 4 paragraph 5;
- 1.29 “Provisional Evaluation” has the meaning given to it in Schedule 4 paragraph 7;
- 1.30 “Public Electricity Supplier” or “PES” means the holder of the Public Supply Licence;



- 1.31 “Periodic Review” means the review by the Regulator to determine Maximum Allowed Revenues of a Regulated Generator for the forthcoming Regulatory Period;
- 1.32 “Regular Adjustment” means the mechanical adjustment to Maximum Allowed Revenues undertaken towards the end of each Relevant Year;
- 1.33 “Regulated Generator” means a Generator which is obligated under the Law on Electricity to supply the PES at a regulated price where insufficient wholesale competition exists and the PES requires the supply to meet its obligations;
- 1.34 “Regulator” means the Energy Regulatory Office;
- 1.35 “Regulatory Asset Base” has the meaning given to it in Schedule 2;
- 1.36 “Regulatory Period” has the meaning given to it in Article 4 paragraph 3;
- 1.37 “Relevant Year” means the period of 12 successive calendar months between Regular Adjustments;
- 1.38 “Generation Charging Principles” means a statement issued by the Regulator that the Regulated Generator’s Capacity Charges and Energy Charges must be in accordance with;
- 1.39 “Statement of Financial Impact” has the meaning given to it in Schedule 6;
- 1.40 “System Operator Charges” or “SO Charges” means the regulated set of charges applied by the TSO for the provision of system operator services;
- 1.41 “Transmission Network Use of System charge” or “TNUOS charge” means the regulated charge by the TSO for the conveyance of electrical energy across its system;
- 1.42 “Transmission System Operator” or “TSO” means the holder of the Transmission System Operator Licence;
- 1.43 “Transitional Period” has the meaning given to it in Schedule 9;
- 1.44 “Unit supplied” means a MWh;
- 1.45 “Units supplied” means the aggregate quantity of electricity units supplied to the PES from a Regulated Generator as metered at the high voltage side of the step-up transformer of the Generator;
- 1.46 “Variable Costs” has the meaning given to it in **Error! Reference source not found.**4; and
- 1.47 “Weighted Average Cost of Capital” has the meaning given to it in Schedule 3.



- 2 The other terms in this rule shall have the meanings specified in the Law on the Energy Regulator, in the Law on Electricity, or in the Law on Energy.

CHAPTER II REGULATION OF REGULATED GENERATOR REVENUES

Article 3

General Principles

- 1 The Regulated Generator shall set Annual Generator Charges such that:
 - 1.1 Within each Relevant Year the revenues that the Regulated Generator expects to earn from Capacity Charges are equal to the capacity component of Maximum Allowed Revenues approved by the Regulator;
 - 1.2 Within each Relevant Year the revenues that the Regulated Generator expects to earn from Energy Charges are equal to the energy component of Maximum Allowed Revenues approved by the Regulator.
- 2 Maximum Allowed Revenues shall be determined as follows:
 - 2.1 Maximum Allowed Revenues shall be set at Periodic Reviews (Article 4):
 - 2.2 Before the end of each Relevant Year, a Regular Adjustment (Article 5) shall be applied which involves mechanical adjustments to Maximum Allowed Revenues for changes in costs that are considered to be outside of the Regulated Generator's control; and
 - 2.3 Extraordinary Reviews (Article 6), which involve an adjustment to Maximum Allowed Revenues for material changes in costs and/or revenues caused by an Extraordinary Event, shall be made as necessary.
- 3 Transitional provisions given in Schedule 910 shall apply until 31 March 2016.

Article 4

Periodic Reviews and Regulatory Periods

- 1 At Periodic Reviews Maximum Allowed Revenues of the Regulated Generator for the following Regulatory Period shall be set.
- 2 A Periodic Review shall be held prior to each Regulatory Period.
- 3 Each Regulatory Period shall equal 5 years, except:



- 3.1 During the Transitional Period as given in Schedule 910; and
 - 3.2 On the mutual agreement of the Regulated Generator and the Regulator, a Regulatory Period may be shortened or extended.
- 4 The formulae for calculating Maximum Allowed Revenues at Periodic Reviews are given in Schedule 1.
 - 5 The process for undertaking Periodic Reviews is given in Schedule 4.

Article 5

Regular Adjustments

- 1 At Regular Adjustments the permitted change in Maximum Allowed Revenues shall be calculated.
- 2 A Regular Adjustment shall be held prior to each forthcoming Relevant Year.
- 3 The change in Maximum Allowed Revenues at each Regular Adjustment shall be calculated based on the following:
 - 3.1 Indexation of allowed operating and maintenance costs to expected efficiency improvements through an Efficiency Factor;
 - 3.2 Indexation of allowed operating and maintenance costs (after application of the Efficiency Factor), allowed depreciation, and allowed return on capital to inflation;
 - 3.3 Updated forecasts of allowed lignite supply costs, allowed other fuel supply costs, and Pass-Through Costs; and
 - 3.4 Under or over-recovery of allowed lignite supply costs, allowed other fuel supply costs, and Pass-Through Costs in the current (recently completed) Relevant Year, due to differences between forecast and actual volumes of electricity generated and fuel prices.
- 4 The formulae for calculating Maximum Allowed Revenues at Regular Adjustments are given in Schedule 1.
- 5 The process for making Regular Adjustments is given in Schedule 5.



Article 6

Extraordinary Reviews

- 1 Extraordinary Reviews shall be triggered by Extraordinary Events, as defined in Schedule 7.
- 2 At Extraordinary Reviews the impact of the Extraordinary Event on Maximum Allowed Revenues for the remainder of the current Regulatory Period shall be calculated. If the impact is greater than the Materiality Threshold, then an Extraordinary Adjustment to Maximum Allowed Revenues shall be made. The Material Threshold shall be 5% of revenues, unless determined otherwise at Periodic Reviews on the mutual agreement of the Regulated Generator and the Regulator.
- 3 The calculation of the impact on Maximum Allowed Revenues and the associated Extraordinary Adjustment shall not account for any factors that are not directly affected by the Extraordinary Event.
- 4 The Regulator shall also take account of the on-going impacts of Extraordinary Events (that pass the Materiality Threshold) at future Periodic Reviews.
- 5 The process for undertaking Extraordinary Reviews is given in Schedule 6.



CHAPTER III MAXIMUM ALLOWED REVENUES

Article 7

General Principles

- 1 Maximum Allowed Revenues shall be set at such a level that enables the Regulated Generator to recover the reasonable costs of supply, to the extent that those costs are justified and prudently asserted.
- 2 The reasonable costs of the Regulated Generator shall comprise:
 - 2.1 Allowed operating and maintenance costs (Article 88), which shall be adjusted for inflation and the Efficiency Factor at Regular Adjustments;
 - 2.2 Allowed depreciation (Article 9), which shall be adjusted for inflation at Regular Adjustments;
 - 2.3 Allowed return on capital (Article 10), which shall be adjusted for inflation at Regular Adjustments;
 - 2.4 Allowed lignite supply costs (Article 11), for those generators using lignite as a fuel source, which shall be fully passed-through at Regular Adjustments;
 - 2.5 Allowed other fuel supply costs (Article 12), for those generators requiring the use of fuels other than lignite for start-up purposes, which shall be fully passed-through at Regular Adjustments; and
 - 2.6 Pass-Through Costs (Article 13), including the MO charge, SO charge, and
 - 2.7 Licence Fee, which shall be fully passed-through at Regular Adjustments.
- 3 In determining reasonable costs, the Regulator shall refer to, but is not bound by or limited to:
 - 3.1 Past volume, cost and service quality information relating to the Regulated Generator;
 - 3.2 Projected volumes, costs and service quality relating to the Regulated Generator;
 - 3.3 Comparisons with similar utilities in Kosovo and countries elsewhere in Europe, taking account of the similarities between the electricity industry in those countries and that of Kosovo; and
 - 3.4 Comparisons with the costs of similar activities in Kosovo and countries elsewhere in Europe, taking account of the similarities between the electricity industry in those countries and that of Kosovo.



- 4 The resulting reasonable costs shall be allocated between Fixed Costs and Variable Costs, with the former being recovered from Capacity Charges and the latter from Energy Charges, as described in **Error! Reference source not found.4.**

Article 8

Allowed Operating and Maintenance Costs

- 1 In submitting its estimates of operating and maintenance costs required to be recovered through Maximum Allowed Revenues for any forthcoming Regulatory Period, the Regulated Generator shall only seek to recover any portion or element of such costs that can be reasonably attributed to the Regulated Generator licensees.
- 2 Allowed operating and maintenance costs shall only include any proportion or element of corporate costs (of any parent entity or any affiliated entity) that can reasonably be attributed to the Regulated Generator using normal and customary accounting practices.
- 3 At each Regular Adjustments the Efficiency Factor shall be applied to allowed operating and maintenance costs, as per the formulae given in V.
- 4 The Regulator shall set the Efficiency Factor at Periodic Reviews based on the annual efficiency improvement in the operating and maintenance costs of the Regulated Generator that can be reasonably expected. For the avoidance of doubt, all expected efficiency gains will be captured in the Efficiency Factor and not double-counted in forecasts of operating and maintenance costs.
- 5 In setting the Efficiency Factor the Regulator shall refer to, but is not bound by or limited to, the factors specified in paragraph 3 of Article 78.

Article 9

Allowed Depreciation

- 1 Allowed depreciation costs shall be calculated on a straight-line basis as a function of Economic Asset Lives and the Regulatory Asset Base for different classes of assets, as described in Schedule 2.

Article 10

Allowed Return on Capital

- 1 The allowed return on capital shall be calculated as a function of the Regulatory Asset Base and the Weighted Average Cost of Capital, described in Schedule 2 and Schedule 3 respectively.



- 2 Allowed return on capital shall be calculated based on the value of the Regulatory Asset Base at the middle of each Relevant Year (as an average of the opening and closing values of the Regulatory Asset Base).
- 3 The Regulated Generator shall not earn a return on assets financed using capital grants.

Article 11

Allowed Lignite Supply Costs

- 1 Allowed lignite supply costs recover the costs of lignite supply to the Regulated Generator. For the avoidance of doubt allowed lignite supply costs shall include any royalty fees on lignite imposed by the Government of Kosovo.
- 2 Allowed lignite supply costs shall:
 - 2.1 Where a Lignite Supply Agreement is in place, be determined in accordance with the applicable agreement; and
 - 2.2 Where no Lignite Supply Agreement is in place, be calculated based on Assumed Lignite Supply Costs.
- 3 For the avoidance of doubt, the calculation of Assumed Lignite Supply Costs is undertaken solely to determine allowed lignite supply costs for the purpose of determining Maximum Allowed Revenues for the Regulated Generator. The calculation does not represent the regulation of lignite supply by the Regulator.
- 4 Assumed Lignite Supply Costs are calculated assuming that the ownership and operation of the lignite mine concerned is an independent business, separate from the Regulated Generator concerned and from other activities of the owner of the Regulated Generator concerned.
- 5 Assumed Lignite Supply Costs shall be calculated in the same way as the other reasonable costs of the Regulated Generator, comprising assumed depreciation, assumed return on capital, and assumed reasonable operating and maintenance costs, which shall all be adjusted for inflation at Regular Adjustments.
- 6 For the purposes of calculating assumed depreciation and a return on capital to be included in Assumed Lignite Supply Costs, an asset base will be calculated following the same principles as applied in calculating the Regulatory Asset Base of the Regulated Generator. The return on capital will be calculated using a Weighted Average Cost of Capital calculated following the principles as applied in calculating the Weighted Average Cost of Capital of the Regulated Generator.
- 7 The Regulated Generator and the Regulator will consult with the owner and operator of the lignite mine concerned in calculating the Assumed Lignite Supply Costs.



Article 12

Allowed Other Fuel Supply Costs

- 1 Allowed costs for fuel supply other than lignite shall be calculated as the product of a specific fuel price and expected consumption.
- 2 The specific fuel price shall be determined with reference to:
 - 2.1 The actual costs of fuel supplies; and
 - 2.2 Current and projected national, regional and international fuel prices.
- 3 The expected consumption shall be determined with reference to:
 - 3.1 The specific consumption of fuels other than lignite, with reference to the number of start-ups or the volume of energy generated; and
 - 3.2 The number of start-ups or volume of energy generated as applicable.

Article 13

Pass-Through Costs

- 1 The Regulator Generator shall fully pass-through all Pass-Through Costs at Regular Adjustments, which comprise the following:
 - 1.1 MO charges that are invoiced by the MO;
 - 1.2 SO charges that are invoiced by the TSO; and
 - 1.3 The Licence Fee.

Article 14

Allocation of Costs into Fixed and Variable Components

- 1 The Maximum Allowed Revenues shall be allocated into Fixed Costs and Variable Costs.
- 2 Variable Costs are those costs that vary with the units supplied and shall comprise:
 - 2.1 The variable component of allowed operating and maintenance costs; and
 - 2.2 The variable component of allowed lignite supply costs.
- 3 Fixed Costs shall be calculated as Maximum Allowed Revenues less Variable Costs.



- 4 The variable component of allowed operating and maintenance Costs shall be estimated with reference to those costs that would not be incurred if the units supplied in any Relevant Year were to be zero.
- 5 The variable component of allowed lignite supply costs shall:
 - 5.1 Where a Lignite Supply Agreement is in place, be equal to the variable charge in that agreement.
 - 5.2 Where no Lignite Supply Agreement is in place, be estimated with reference to those costs of the operator of the lignite mine that would be incurred if the volume of lignite supplied in any Relevant Year was to be zero.
- 6 These allocation principles are prepared in accordance with the policy of the Government of Kosovo for the design for the electricity market. Should amendments subsequently be made to this design then these principles for the allocation of costs will be reviewed accordingly.

Article 15

Smoothing of Allowed Revenues

- 1 At Periodic Reviews, the Regulator shall smooth the recovery of allowed depreciation and allowed return on capital such that they are constant in each Relevant Year of the Regulatory Period. This smoothing shall be achieved by ensuring that the Net Present Values of smoothed and unsmoothed allowed depreciation and return on capital (during the Regulatory Period) are equal, using the Weighted Average Cost of Capital as the discount rate.
- 2 At Periodic Reviews the Regulator may also adjust the profile of Maximum Allowed Revenues during the Regulatory Period to minimise significant step changes between the last year of the current Regulatory Period and the first year of the forthcoming Regulatory Period. The Regulator shall give careful consideration to the impact that any profiling will have on the cash flows of the Regulated Generator and its ability to supply the PES.
- 3 This additional profiling shall be done by applying a Profiling Factor, which may vary for each Relevant Year of the Regulatory Period. In setting the Profiling Factor at Periodic Reviews, the Regulator shall ensure that the Net Present Value of forecast Maximum Allowed Revenues (during the Regulatory Period) is unchanged, using the Weighted Average Cost of Capital as the discount rate. The formulae for applying the Profiling Factor are provided in Schedule 1.



CHAPTER IV CAPACITY CHARGES

Article 16

General Principles

- 1 The Regulated Generator shall set Capacity Charges such that:
 - 1.1 The Capacity Charge recovers the Fixed Costs of the Regulated Generator, provided that available generating capacity meets the Availability Target established for the Regulated Generator; and
 - 1.2 Capacity Charges are in accordance with a methodology developed by the Regulated Generator and approved by the Regulator. The methodology shall be in accordance with the Generation Charging Principles issued by the Regulator.
- 2 Capacity Charges shall be expressed in Euros per unit of available capacity per hour. They will be paid monthly for each hour that the capacity was available in that month. No charge will be payable by the PES for hours where capacity is not available.
- 3 The Regulator shall define the Availability Target used to calculate Capacity Charges in each year with reference to:
 - 3.1 Past performance;
 - 3.2 Projected performance; and
 - 3.3 Comparisons with similar generators in Kosovo and elsewhere in Europe.
- 4 The Regulator shall define the procedures for testing of capacity availability as required.

Article 17

Capacity Charges Approval Process

- 1 The Regulated Generator shall submit to the Regulator its methodology for Capacity Charges and any subsequent amendments to this methodology at least 30 Business Days prior to its proposed date of effectiveness.
- 2 No methodology or amendments to a methodology shall be effective until approved by the Regulator.
- 3 The Regulated Generator shall have the right to determine the Capacity Charges subject to the requirements of Article 16 above and the approval of the Regulator.
- 4 Parties shall have the rights to refer any dispute over the Capacity Charges applicable to them to the Regulator, as provided for in relevant legislation.



CHAPTER V ENERGY CHARGES

Article 18

General Principles

- 1 The Regulated Generator shall set Energy Charges such that:
 - 1.1 The Energy Charge recovers the Variable Costs of the Regulated Generator given the expected units supplied by the Regulated Generator for the Relevant Year; and
 - 1.2 Energy Charges are in accordance with a methodology developed by the Regulated Generator and approved by the Regulator. The methodology shall be in accordance with the Generation Charging Principles issued by the Regulator.
- 2 Energy Charges shall be expressed in Euros per unit supplied.

Article 19

Energy Charges Approval Process

- 1 The Regulated Generator shall submit to the Regulator its methodology for Energy Charges and any subsequent amendments to this methodology at least 30 Business Days prior to its proposed date of effectiveness.
- 2 No methodology or amendments to a methodology shall be effective until approved by the Regulator.
- 3 The Regulated Generator shall have the right to determine the Energy Charges subject to the requirements of Article 18 above and the approval of the Regulator.
- 4 Parties shall have the rights to refer any dispute over the Energy Charges applicable to them to the Regulator, as provided for in relevant legislation.



CHAPTER VI TRANSITIONAL AND FINAL PROVISIONS

Article 20

Official Language

This rule is issued in Albanian language and shall be translated into Serbian and English language. In the event of discrepancies between versions, the Albanian version shall prevail.

Article 21

Changes

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

Article 22

Interpretation

If there is uncertainty about the provisions of this Rule, the Board will issue disclosure.

Article 23

Repeal

This Rule repeals the” Rule on Principles of Calculation of Tariffs in the Electricity Sector (Pricing Rule)” and “Tariff Methodology for the Electricity Sector ” approved by the Board of ERO on 15th December 2005, and amendments made on 29th November 2006 of Tariff Methodology, issued in accordance with Law No.2004/09 on Energy Regulator.

Article 24

Entry into force

This Rule comes into force upon its adoption by the ERO Board and will be published in the official website of the ERO.

Board of the Energy Regulatory Office:

Dr. Ali Hamiti, Chairman

Përparim Kabashi, Member

Blerim Koci, Member



SCHEDULE 1 MAXIMUM ALLOWED REVENUES CALCULATION

- 1 This schedule sets out the formulae for calculating Maximum Allowed Revenues of the Regulated Generator. This schedule is intended to complement the principles set out in the main body of the Rule.
- 2 Maximum Allowed Revenues (MAR_t) shall be calculated at Periodic Reviews and Regular Adjustments using the following formula:

$$MAR_t = OPMC_t + DEPC_t + RTNC_t + LGSC_t + OTFC_t + PSTC_t$$

Where

MAR_t is Maximum Allowed Revenues in Relevant Year t

$OPMC_t$ is allowed operating and maintenance costs in Relevant Year t

$DEPC_t$ is allowed depreciation in Relevant Year t

$RTNC_t$ is allowed return on capital in Relevant Year t

$LGSC_t$ is allowed lignite supply costs in Relevant Year t

$OTFC_t$ is allowed other fuel supply costs in Relevant Year t

$PSTC_t$ is Pass-Through Costs in Relevant Year t

- 2.1 Allowed operating and maintenance costs ($OPMC_t$) shall be calculated at Regular Adjustments using the following formula:

$$OPMC_t = OPMC_{t-1} * (1 + CPI_{t-1}) * (1 - E_t) * (1 - P_t)$$

Where

$OPMC_t$ is allowed operating and maintenance costs in Relevant Year t

$OPMC_{t-1}$ is allowed operating and maintenance costs in Relevant Year $t-1$, except for Relevant Year 1 when a value determined by the Regulator at the most recent Periodic Review shall be used

CPI_{t-1} is the actual value of inflation in Relevant Year $t-1$, measured using the "Harmonised Indices of Consumer Prices (HICPs) – All Items, for the Eurozone" published by Eurostat, or any other measure of inflation that the Regulator determines is a better measure of the change in



operating and maintenance costs over time and is allowed at a Periodic Review

E_t *is the Efficiency Factor in Relevant Year t, which is set at Periodic Reviews*

P_t *is the Profiling Factor in Relevant Year t, which is set at Periodic Reviews*

2.2 Allowed depreciation ($DEPC_t$) shall be calculated at Regular Adjustments using the following formula:

$$DEPC_t = DEPC_{t-1} * (1 + CPI_{t-1}) * (1 - P_t)$$

Where

$DEPC_t$ *is other allowed depreciation in Relevant Year t, which is smoothed such that it is constant over the Regulatory Period*

$DEPC_{t-1}$ *is allowed depreciation in Relevant Year t-1, except for Relevant Year 1 when a value determined by the Regulator at the most recent Periodic Review shall be used, which is smoothed such that it is constant over the Regulatory Period*

CPI_{t-1} *is the actual value of inflation in Relevant Year t-1, measured using the "Harmonised Indices of Consumer Prices (HICPs) – All Items, for the Eurozone" published by Eurostat*

P_t *is the Profiling Factor in Relevant Year t, which is set at Periodic Reviews*

2.3 Allowed return on capital ($RTNC_t$) shall be calculated at Regular Adjustments using the following formula:

$$RTNC_t = RTNC_{t-1} * (1 + CPI_{t-1}) * (1 - P_t)$$

Where

$RTNC_t$ *is other allowed return on capital in Relevant Year t, which is smoothed such that it is constant over the Regulatory Period*

$RTNC_{t-1}$ *is allowed return on capital in Relevant Year t-1, except for Relevant Year 1 when a value determined by the Regulator at the most recent Periodic Review shall be used, which is smoothed such that it is constant over the Regulatory Period*



CPI_{t-1} is the actual value of inflation in Relevant Year t-1, measured using the “Harmonised Indices of Consumer Prices (HICPs) – All Items, for the Eurozone” published by Eurostat

P_t is the Profiling Factor in Relevant Year t, which is set at Periodic Reviews

- 2.4 Allowed lignite supply costs ($LGSC_t$) shall be calculated at Regular Adjustments using the following formula:

$$LGSC_t = LGSCf_t + (LGSCa_{t-1} - LGSCf_{t-1}) * (1 + I_t)$$

Where

$LGSC_t$ is allowed lignite supply costs in Relevant Year t

$LGSCa_{t-1}$ is the actual allowed lignite supply costs in Relevant Year t-1

$LGSCf_{t-1}$ is the forecast allowed lignite supply costs in Relevant Year t-1

I_t is the interest rate for the Relevant Year t calculated based on EURIBOR plus S%, where S is a value to be determined by the Regulator at Periodic Reviews and which reflects the premium payable by the licensee for short-term loans above the EURIBOR rate

- 2.5 Allowed other fuel supply costs ($OTFC_t$) shall be calculated at Regular Adjustments using the following formula:

$$OTFC_t = OTFCf_t + (OTFCa_{t-1} - OTFCf_{t-1}) * (1 + I_t)$$

Where

$OTFC_t$ is allowed other fuel supply costs in Relevant Year t

$OTFCa_{t-1}$ is the actual allowed other fuel supply costs in Relevant Year t-1

$OTFCf_{t-1}$ is the forecast allowed other fuel supply costs in Relevant Year t-1

I_t is the interest rate for the Relevant Year t calculated based on EURIBOR plus S%, where S is a value to be determined by the Regulator at Periodic Reviews and which reflects the premium payable by the licensee for short-term loans above the EURIBOR rate

- 2.6 Pass-Through Costs ($PSTC_t$) shall be calculated at Regular Adjustments using the following formula:

$$PSTC_t = PSTCf_t + (PSTCa_{t-1} - PSTCf_{t-1}) * (1 + I_t)$$



Where

$PSTC_t$ is *Pass-Through Costs in Relevant Year t*

$PSTCa_{t-1}$ is *the actual Pass-Through Costs in Relevant Year t-1*

$PSTCf_{t-1}$ is *the forecast Pass-Through Costs in Relevant Year t-1*

I_t is *the interest rate for the Relevant Year t calculated based on EURIBOR plus S%, where S is a value to be determined by the Regulator at Periodic Reviews and which reflects the premium payable by the licensee for short-term loans above the EURIBOR rate*



SCHEDULE 2 REGULATORY ASSET BASE

- 1 This schedule describes the determination of the Regulatory Asset Base for the purpose of calculating allowed depreciation (Article 9) and allowed return on capital (Article 10).
- 2 The Regulatory Asset Base shall be a regulatory value of the Regulated Generator's used and useful fixed assets. It shall distinguish between different classes of assets.
- 3 The Regulator shall define the opening Regulatory Asset Base (as at 1 April 2012) prior to the start of the first Regulatory Period.
- 4 The Regulatory Asset Base shall be updated at each Periodic Review as follows:
 - 4.1 Allowed depreciation costs during the current Regulatory Period shall be subtracted from the Regulatory Asset Base, calculated on a straight-line basis using Economic Asset Lives;
 - 4.2 Asset disposal during the current Regulatory Period shall be subtracted from the Regulatory Asset Base at their disposal value;
 - 4.3 Allowed capital expenditure during the current Regulatory Period shall be added to the Regulatory Asset Base as from the date when the asset is brought into service and at the cost allowed in the Approved Investment Plan. Interest during construction shall be capitalised. At Periodic Reviews the licensee may request that the actual rather than allowed cost of an investment be added to the Regulatory Asset Base. The Regulator shall accept the request if the licensee can clearly demonstrate that the difference between allowed and actual costs is due to factors outside of the licensee's control and that its best efforts were made to minimise cost increases. The Regulator shall not make any retroactive reduction in revenues earned during the current (recently completed) Regulatory Period to account for differences between the allowed and actual costs. The Regulator shall consider actual costs at future Periodic Reviews as a means of forecasting the cost of future investments;
 - 4.4 If a capital project in the Approved Investment Plan is not brought into service in the current Regulatory Period, its allowed cost shall not be added to the Regulatory Asset Base at the next Periodic Review and any revenues earned from the project in the current Regulatory Period shall be deducted from revenues in the following Regulatory Period;
 - 4.5 Where any maintenance cost is or has previously been included in allowed operating costs it shall not be capitalised, nor shall it be included in the Regulatory Asset Base; and



- 4.6 The Regulatory Asset Base shall be adjusted to take into account inflation over the previous Regulatory Period, using the Harmonised Indices of Consumer Prices - All Items for the Eurozone area as published by Eurostat as the relevant measure.
- 5 Economic Asset Lives for different asset classes shall be used to calculate depreciation on the Regulatory Asset Base. Economic Asset Lives shall be determined at Periodic Reviews such that they reflect the technical lives of assets, except where there is demonstrable reason why the technical life of an asset shall vary from the useful economic life of an asset.
- 6 Approved capital expenditure shall be determined at Periodic Reviews based on the Approved Investment Plan for the forthcoming Regulatory Period. The Approved Investment Plan shall:
 - 6.1 Comprise the capital projects reasonably required to provide supplies;
 - 6.2 Identify each capital project ranked in priority order;
 - 6.3 Show the benefit to Regulated Customers that each capital project is reasonably expected to deliver;
 - 6.4 Have regard to any other relevant investment or development plans for the Regulated Generator that have been approved by the Regulator (and any differences between these plans shall be identified by the Regulated Generator and explained); and
 - 6.5 Be developed using an analysis of the discounted costs and benefits of the capital project.
- 7 The Approved Investment Plan shall be implemented as follows:
 - 7.1 The Regulated Generator shall use all reasonable endeavours to ensure the implementation of the Approved Investment Plan in line with its allowed timetable;
 - 7.2 If the Regulated Generator shall be or is unable to, for reasons beyond its control, undertake a capital project in accordance with the timetable given in the Approved Investment Plan, it shall notify the Regulator. The Regulated Generator shall also detail the reasons for the delay and the revised timetable;
 - 7.3 The Regulated Generator may at any time apply to the Regulator to substitute an alternative capital project for a capital project in its Approved Investment Plan; so long the alternative project can be shown to be expected to result in the same or greater net benefits to customers (taking account of the expected outcomes and lifetime costs). If the Regulator approves the substitution, the alternative project shall be added to the Regulatory Asset Base at the next Periodic Review. For the avoidance of doubt, Maximum Allowed Revenues in the current Regulatory Period shall not be adjusted; and
 - 7.4 If the Regulated Generator substitutes an alternative capital project for a capital project in its Approved Investment Plan without the prior approval of the Regulator,



the Regulator shall consider whether to approve the substitution at the next Periodic Review but is not bound to do so.

- 8 For the purposes of determining the allowed Lignite Supply Costs, the Regulator shall, where no lignite supply agreement exists, determine a Regulatory Asset Base for the lignite mining business in the same way as described above, with the following exceptions:
 - 8.1 The Regulator shall consult with the licensed operator of the lignite mining business on their proposed investment plan, but shall not have powers to require the submission of any such plan or to approve it;
 - 8.2 Based on these consultations, the Regulator shall prepare their own estimates of projected investment requirements of the lignite mining business for the purpose of determining lignite supply costs; and
 - 8.3 The Regulator shall use such information on additions and disposals as is available to it, from the published financial accounts of the licensed operator of the lignite mining business and from consultation with the licensed operator in determining what additions and disposals have been made for the purposes of updating the Regulatory Asset Base at each Periodic Review.



SCHEDULE 3 WEIGHTED AVERAGE COST OF CAPITAL

- 1 The Weighted Average Cost of Capital shall be calculated on a pre-tax basis according to the following formulae:

$$WACC = (1 - g) * (rE) / (1 - t) + g * (rD)$$

Where

WACC is the Weighted Average Cost of Capital

g gearing (debt:debt+equity ratio)

rE real cost of equity (expressed as a %)

rD real cost debt (expressed as a %)

t Kosovo corporate income tax rate

- 2 The gearing (*g*) shall be a value proposed by the Regulated Generator and determined by the Regulator between 0 and 1, and shall represent the share of debt in total financing. The value shall be determined based on a balanced consideration of the current financing mix of the Regulated Generator and the financing mix that might be expected to be achievable now and in future taking account of the financing mix of similar utilities internationally.

- 3 The cost of equity (*rE*) shall be a value proposed by the Regulated Generator and determined by the Regulator and calculated using the Capital Asset Pricing Model (CAPM) with the following general formula:

$$rEi = rf + \beta i * ERPm$$

rf risk-free rate

ERPm equity risk premium applicable to the market as a whole

βi covariance between the returns on the individual equity asset and those of the market as a whole (the equity beta)

- 3.1 The risk-free rate (*rf*) shall represent the cost of non-concessionary sovereign debt in Kosovo, in real terms, and shall be proposed by the Regulated Generator and determined by the Regulator using evidence on the cost of non-concessionary sovereign debt for Kosovo and/or, where this is unavailable or insufficient, the cost of non-concessionary sovereign debt for countries considered to have a similar credit status to Kosovo.



- 3.2 The equity risk premium (ERPm) shall be proposed by the Regulated Generator and determined by the Regulator using evidence on the equity risk premium internationally.
 - 3.3 The beta (β i) shall be proposed by the Regulated Generator and determined by the Regulator using evidence on the beta applicable to similar utilities internationally.
 - 4 The cost of debt (rD) shall be the average interest rate of existing long-term loans (exceeding one year) to the Regulated Generator, expressed in real terms and weighted according to the value in Euros of each loan.
 - 4.1 The Regulated Generator shall be required to procure commercial (non-concessionary) loans through a competitive process, or to demonstrate to the satisfaction of the Regulator that the interest rate of those loans not procured through a competitive process is equal to or less than the prevailing market interest rate at the time the loan agreement was signed.
 - 4.2 Where the Regulator considers that the interest rate of a loan not procured competitively exceeds the prevailing market interest rate, that loan shall be excluded from the calculation of the cost of debt.
 - 4.3 Where the Regulator considers there are insufficient existing loans to provide a reasonable estimate of the actual cost of future debt financing to the Regulated Generator, the Regulator may make an adjustment to the actual cost of debt calculated as above. This adjustment shall be made based on:
 - (i) An assessment of the prevailing market interest rate for loans to businesses of similar size, risk and credit status as the Regulated Generator.
 - (ii) An assessment of the expected interest rate applied to any future concessional loans to the Regulated Generator.
 - (iii) An assessment of the expected mix of commercial (non-concessional) and concessional loans in the debt of the Regulated Generator over the coming Regulatory Period.
- 5 For the purposes of determining the Assumed Lignite Supply Costs where no Lignite Supply Agreement exists, the Regulated Generator shall propose and the Regulator shall determine a Weighted Average Cost of Capital for the lignite mining business in the same way as described above, with the following exceptions:
 - 5.1 The Regulated Generator and the Regulator shall consult with the licensed operator of the lignite mining business on their costs of financing;
 - 5.2 As the Regulator has no powers to require the licensed operator to procure loans through a competitive process, the Regulated Generator shall propose and the



Regulator shall determine an estimated cost of debt for the licensed operator using the same principles as described in 4.3 of this schedule; and

- 5.3 In doing so, the Regulated Generator and the Regulator shall take due account of any evidence on actual financing costs presented to them by the licensed operator.



SCHEDULE 4 PERIODIC REVIEW PROCESS

- 1 The Regulator shall, in order to promote transparency, publish all submissions, comments, and other documentation received from the Regulated Generator or other interested parties in relation to the Periodic Review on its official website within a reasonable time of its receipt and the Regulator shall disclose all material information submitted to it by the Regulated Generator, excluding any information that the Regulator acknowledges as being commercially confidential.
- 2 The Regulator shall initiate the Periodic Review no later than 120 Business Days prior to start of the forthcoming Regulatory Period.
- 3 The timetable for the overall review process shall be submitted to ERO during the initiation of the review process.
- 4 The Regulator shall initiate the Periodic Review by notification to the Regulated Generator of:
 - 4.1 The years for which actual, estimated forecast data is required;
 - 4.2 The format in which the data is required to be submitted;
 - 4.3 The timetable for submission of the Regulated Generator's Proposal for its Maximum Allowed Revenue for the forthcoming Regulatory Period; and
- 5 The Regulated Generator's Proposal shall contain the following information and address the following matters (without limitation):
 - 5.1 Actual Regulated Revenues earned during the current Regulatory Period (using a reasonable estimate for the remaining months where necessary);
 - 5.2 Actual costs of providing supply during the current Regulatory Period, in line with the definition of costs that was used for calculating Maximum Allowed Revenues and Energy Costs;
 - 5.3 Actual Lignite Supply Costs during the current Regulatory Period;
 - 5.4 The annual report and audited financial statements for each financial year that ended in the current Regulatory Period, when these are available as required by the reporting requirements contained in the Regulated Generator's licence;
 - 5.5 Actual available capacity and units supplied during the current Regulatory Period;
 - 5.6 Forecast available capacity and units supplied for the forthcoming Regulatory Period;



- 5.7 Forecast Maximum Allowed Revenues and Energy Costs, reporting each of the allowed cost components separately, for the forthcoming Regulatory Period;
 - 5.8 Forecast Lignite Supply Costs for the forthcoming Regulatory Period;
 - 5.9 Any studies commissioned by the Regulated Generator relating to any of the matters to be contained in the Regulated Generator's proposal; and
 - 5.10 Any other additional material that the Regulator reasonably considers should be included in the Regulated Generator's proposal, so long as the Regulator has notified the Regulated Generator a reasonable time prior to the deadline for the Regulated Generator's proposal.
- 6 The Regulated Generator shall, to the fullest extent possible, apply the principles and formulae set out in this Rule in preparing its Proposal. It shall disclose any areas where it has not applied these, the reason for not applying them, the reasons supporting the alternative approach, and provide an estimate of the impact of using the alternative approach.
 - 7 Upon receiving the Regulated Generator's Proposal, the Regulator shall determine its accuracy, relevance and reasonableness by applying the methodology set out in this Rule, including determining whether the proposed Maximum Allowed Revenues and Energy Costs reflect the reasonable costs of supply.
 - 8 The Regulator shall prepare a Provisional Evaluation on the Regulated Generator's Proposal within a reasonable time (set forth in the paragraph 3 of this Schedule) before the start of the forthcoming Regulatory Period, after reviewing the submission of the Regulated Generator and then consulting with the Regulated Generator. The Provisional Evaluation shall set out the Regulator's proposals on the Maximum Allowed Revenues and Energy Costs to be recovered by the Regulated Generator during the Regulatory Period and the justification for these. The Regulator, in preparing its Provisional Evaluation, may amend, remove or replace any part of the Regulated Generator's Proposal as it considers appropriate provided that it shall identify such amendments, removals or replacements and provide justification for these.
 - 9 At the same time as it notifies the Regulated Generator of its Provisional Evaluation, the Regulator shall launch a public consultation on its Provisional Evaluation, in accordance with the Law on the Energy Regulator.
 - 10 Following completion of the public consultation within a reasonable time (set forth in the paragraph 3 of this Schedule) before the start of the forthcoming Regulatory Period, the Regulator shall make its Final Decision on Maximum Allowed Revenues and Energy Costs for the forthcoming Regulatory Period. Its decision shall be consistent with this Rule.
 - 11 Maximum Allowed Revenues and Energy Costs as provided in the Regulator's Final Decision shall apply from the start date of the forthcoming Regulatory Period.
 - 12 The Regulated Generator may dispute or appeal any decision by the Regulator in accordance with applicable legislation.



SCHEDULE 5 REGULAR ADJUSTMENT PROCESS

- 1 The Regulated Generator shall submit the proposed new Maximum Allowed Revenues, Capacity Charges and Energy Charges for the forthcoming Relevant Year to the Regulator at least 80 Business Days before the start of the forthcoming Relevant Year. The Regulated Generator shall also include in its submission all relevant documents and evidence including the values relating to all the components of the Regular Adjustment formulae given in Chapter V and any other items notified by the Regulator.
- 2 The Regulator may reasonably require the Regulated Generator to further explain its method of calculating the proposed Maximum Allowed Revenues, Capacity Charges and Energy Charges, and if so required, the Regulated Generator shall promptly provide to the Regulator any further information or explanations sought.
- 3 The Regulator shall advise the Regulated Generator at least 60 Business Days before the start of the forthcoming Relevant Year whether or not it approves the Regulated Generator's calculation of the proposed Maximum Allowed Revenues, Capacity Charges and Energy Charges.
- 4 If the Regulator approves the proposed Maximum Allowed Revenues, Capacity Charges and Energy Charges, they shall become the Maximum Allowed Revenues, Capacity Charges and Energy Charges for the forthcoming Relevant Year.
- 5 If the Regulator does not approve the proposed Maximum Allowed Revenues, Capacity Charges and Energy Charges, it shall provide reasons and evidence why, in accordance with this Rule. The Maximum Allowed Revenues, Capacity Charges and Energy Charges shall not be adjusted until the Regulator approves a proposal or provides its own calculation of Maximum Allowed Revenues.
- 6 Any difference in revenues that arises from incorrect calculations, misreporting of Actual Regulated Revenue, or disputes relating to Regular Adjustment shall be recovered in subsequent Relevant Years.
- 7 The Regulated Generator may dispute or appeal any decision by the Regulator in accordance with applicable legislation



SCHEDULE 6 EXTRAORDINARY REVIEW PROCESS

- 1 If an Extraordinary Event has occurred, the Regulated Generator may request an Extraordinary Review.
- 2 An Extraordinary Review cannot be launched undertaken within six months of a Periodic Review or the completion of a previous Extraordinary Review.
- 3 An Extraordinary Review may relate to more than one Extraordinary Event, in which case this schedule addresses the cumulative financial effect of those events.
- 4 Within 20 Business Days of the Regulated Generator requesting an Extraordinary Review, it shall submit to the Regulator a Statement of Financial Impact that includes the following matters:
 - 4.1 A description of the Extraordinary Event that is the reason for requesting the Extraordinary Review;
 - 4.2 A summary of the impact of the Extraordinary Event on the Regulated Generator's business;
 - 4.3 An estimate of the change in the Regulated Generator's costs in each year from the date that the Extraordinary Event occurred (or began) to the end of the current Regulatory Period;
 - 4.4 An estimate of the change in forecast revenues resulting from the Extraordinary Event, in each year from the date that the Extraordinary Event occurred (or began) to the end of the current Regulatory Period;
 - 4.5 A calculation of the financial impact on the Regulated Generator of the Extraordinary Event in each year, calculated as the sum of the change in the Regulated Generator's costs and revenues above. Revenues shall be treated as positive numbers and costs treated as negative numbers; and
 - 4.6 A calculation of whether the financial impact is expected to be greater than the Materiality Threshold multiplied by the revenues received by the Regulated Generator (in the year before the Extraordinary Event) multiplied by the number of years between the date of the Extraordinary Event and the end of the Regulatory Period.
- 5 If the Regulated Generator determines that the financial impact is greater than the Materiality Threshold, it shall include in its Statement of Financial Impact a proposed Extraordinary Adjustment to Maximum Allowed Revenues. The proposed Extraordinary Adjustment shall meet the following conditions:



- 5.1 The Extraordinary Adjustment shall change Maximum Allowed Revenues in such a manner that the Net Present Value of the forecast change is equal to the Net Present Value of the financial impact of the Extraordinary Event, using the Weighted Average Cost of Capital as the discount rate;
 - 5.2 The timing and structure of the Extraordinary Adjustment shall, where possible, reduce the tariff shock to customers (for example by smoothing the effect of the Extraordinary Adjustment over a number of years).
- 6 The Regulator may also launch an Extraordinary Review without the request of the Regulated Generator. If so, the Regulator shall notify the Regulated Generator and include a description of the Extraordinary Event and a summary its expected impact. The Regulated Generator shall then prepare a Statement of Financial Impact as per the process described above.
- 7 The Regulator may reasonably require the Regulated Generator to further explain its method of calculating the Statement of Financial Impact and Extraordinary Adjustment, and if so required, the Regulated Generator shall promptly provide to the Regulator any further information or explanations sought.
- 8 The Regulator shall advise the Regulated Generator within 20 Business Days of receiving the Statement of Financial Impact whether or not it approves the Regulated Generator's proposed Extraordinary Adjustment. The Regulator shall approve the proposal if it:
 - 8.1 Meets the conditions provided above;
 - 8.2 Is calculated correctly; and
 - 8.3 Takes into account all material information reasonably available at the time.
- 9 If the Regulator approves the proposed Extraordinary Adjustment, the new Maximum Allowed Revenues shall become effective immediately.
- 10 If the Regulator does not approve the proposed Extraordinary Adjustment, it shall provide reasons and evidence why, in accordance with this Rule. Maximum Allowed Revenues shall not be adjusted until the Regulator approves a proposal.
- 11 The Regulated Generator may dispute or appeal any decision by the Regulator in accordance with applicable legislation.



SCHEDULE 7 EXTRAORDINARY EVENTS

- 1 An Extraordinary Event shall be the occurrence of any one of the following:
 - 1.1 Any change in the tax rate, including royalties, applicable to the Regulated Generator shall not be fully recovered through Regular Adjustments;
 - 1.2 Any force majeure events as defined in Schedule 8;
 - 1.3 Any other event, which meets all of the following conditions:
 - (i) Was not reasonably under the control of the Regulated Generator;
 - (ii) Shall not be fully recovered through Regular Adjustments; and
 - (iii) Shall significantly change the revenues and/or costs of the Regulated Generator over any 12 month period, such that it seems reasonable that the Materiality Threshold (described in Schedule 6) may be breached.

- 2 The occurrence of an Extraordinary Event is sufficient to trigger an Extraordinary Review, however as described in Schedule 6, the event must still breach the Materiality Threshold before Maximum Allowed Revenues shall be adjusted.



SCHEDULE 8 FORCE MAJEURE EVENTS

- 1 A force majeure event shall be an exceptional event or circumstance which is all of the following:
 - 1.1 Is beyond the Regulated Generator's control;
 - 1.2 The Regulated Generator could not reasonably have provided against;
 - 1.3 Having arisen the Regulated Generator could not reasonably have avoided or overcome; and
 - 1.4 Is not substantially attributable to the Regulated Generator.

- 2 A force majeure event may include, but is not limited to, exceptional events or circumstances of the kind listed below, so long as the conditions above are satisfied:
 - 2.1 War, hostilities (whether war be declared or not), invasion, act of foreign enemies;
 - 2.2 Rebellion, terrorism, sabotage by persons other than the Regulated Generator's employees, contractors or subcontractors, revolution, insurrection, military or usurped power, or civil war;
 - 2.3 Riot, commotion, disorder, strike or lockout by persons other than the party's employees, contractors or subcontractors;
 - 2.4 Munitions of war, explosive materials, ionising radiation or contamination by radio-activity, except as may be attributable to the party's use of such munitions, explosives, radiation or radio-activity; and
 - 2.5 Natural catastrophes such as earthquakes or flooding.



SCHEDULE 9 APPROVAL FOLLOWING COMPETITIVE TENDERS

- 1 Where prices for supply to the PES by the Regulated Generator have been established through a competitive tendering process, then the Regulator shall approve such prices without reference to the determination of Maximum Allowed Revenues under this Rule, provided that:
 - 1.1 The Regulator considers competition in the tendering process to have been effective.
 - 1.2 The Regulator has previously approved any price adjustment formulae contained in any contract for supply awarded through the competitive tendering process.



SCHEDULE 10 TRANSITIONAL PROVISIONS

- 1 The Transitional Period is from 1 April 2012 until 31 March 2016.
- 2 The first Regulatory Period shall be 4 years.