

Pursuant to the authority given under Article 28 and 58.5 of the Law on Energy Regulator the Board of the Energy Regulatory Office on a public session held on 24.02.2006 adopted the:

## **RULE ON LICENSING OF ENERGY ACTIVITIES IN KOSOVO**

### **CHAPTER 1 General Provisions**

#### **Article 1 Purpose and Scope**

- 1.1. The general aim of this Rule is to create a public, transparent and non-discriminatory licensing procedure that promotes the establishment of a competitive energy market operation stimulates investment while ensuring security and stability of the energy sector in Kosovo.
- 1.2. Purpose of this Rule is to promote development in the energy sector through:
  - a) transparent, open and non-discriminatory performance of energy activities;
  - b) regulation of the energy market in such a manner as to ensure transparent and fair relations between all participants;
  - c) determination and provision of the prompt, efficient and economical proceeding on all issues related to license issuance;
  - d) the creation and maintenance of competitive markets and the prevention and punishment of any predatory or anti-competitive conduct;
  - e) creation conditions for efficient, cost-effective and safe use of electricity and heat;
  - f) adequately balancing interests between customers and energy enterprises;
  - g) protection of human health, safety and the environment.
- 1.3. Energy Regulatory Office (ERO) by developing the rights, obligations and conditions of the License obliges and incentives the energy enterprises to operate in the manner to achieve all objectives as prescribed in Licence.
- 1.4. To meet its obligations as set forth in the Article 1.2, ERO has powers to:
  - a) grant, modify, suspend, transfer, and withdraw licenses;
  - b) supervise and control compliance with licenses;

- c) grant permits for the construction and operation of new generation capacities as set forth in Chapter 8 of the Law on Energy Regulator;
- d) monitor the unbundling of the legal form, organizational, decision making, and account unbundling of energy enterprises;
- e) revise, approve, and control compliance with all codes including the grid code, the distribution code, the consumer protection code, the electrical equipment code, electricity standards code and the metering code and other technical and commercial codes;
- f) grant its consent for the separation, merger, or reduction in initial capital of energy enterprises that hold licenses.

- 1.5. The Rule also sets forth the general criteria related to the issuance of permits for the construction of new energy facilities in accordance to the Article 38.1 of the Law on Energy Regulator. The separate Rule on Authorization and legislation applicable for tendering procedure shall set forth the detailed criteria by which the Energy Regulatory Office (“ERO”) grants construction permits.

## **Article 2 Definitions**

- 2.1. Terms used in this Rule shall have the following meaning:
- a) **“Authorization Procedure”** - means the procedure set forth in accordance to Chapter 8 of the Law on Energy Regulator and Rule on Authorization under which ERO grant permits for construction of new generation capacities.
  - b) **“Construction Permit “** - means an authorization granted by ERO that allows the holder to construct new energy facilities as set forth in Chapter 8 of the Law on Energy Regulator and in Rule on Authorization and legislation applicable for tenders.
  - c) **“Energy”**- means any form of produced or obtained energy (electricity, heat) intended for supply or sale;
  - d) **“Energy Facility”**– means ensemble of buildings, installations and equipment set forth in order to generate electricity or heat or a combination of heat and electricity such as cogeneration.
  - e) **“License”**- means an authorization issued by ERO that allows the holder to perform an activity in the energy sector.

- 2.2. Terms used in this Rule shall have the same meanings as the terms used in the Law on Energy, Law on Electricity, Law on Energy Regulator, Law on District Heating and other applicable laws and regulations in Kosovo.

### **Article 3** **Obligations of License and Permit Holders**

- 3.1. No legal or natural person may perform the energy activities which require a license, in reference to the Article 3.2, unless ERO has issued a license to authorize such activity.
- 3.2. Licenses are required in order to perform the following energy activities:
- a). the generation of electricity or the co-generation of electricity and heat;
  - b) the generation of heat;
  - c). the transmission system operation of electricity;
  - d) market operation;
  - e). the distribution system operation of electricity or heat;
  - f). the public supply of electricity and heat;
  - g). the supply / trade of electricity and heat;
  - h).the cross-border transmission (import, export, transit) of electricity;
- 3.3. No license is required for the energy activities as set forth in Article 43 of this Rule.
- 3.4. Natural gas and all issues related to the construction of gas pipelines and storage are not covered by this Rule.
- 3.5. The license for energy activities carried out by energy enterprises or construction permits granted by ERO shall be based on criteria that are non-discriminatory, public and transparent.

## **CHAPTER 2** **Procedural Rules Relating to** **License and Construction Permit Application and Review by ERO**

### **Article 4** **Authority of ERO**

- 4.1. ERO has authority to grant or refuse an application for a license or construction permit, and to modify, terminate or issue sanctions on existing licensees and construction permit holders, pursuant to provisions set forth in this Rule, Law on Electricity and Law on Energy Regulator, other rules issued by ERO and legislation applicable in Kosovo.
- 4.2. The licenses and construction permits shall set forth the authority of ERO to monitor, and to require reporting by licensee or construction permit holders concerning their activities.
- 4.3. Provision of any false or misleading information shall be grounds for rejection of the application, or, if discovered after the issuance of a construction permit or license, shall

be grounds for withdrawal of a license, or the imposition of other sanctions available to ERO.

**Article 5**  
**Form of License and Construction Permit Application**

All applications for licenses and permits for the construction of new energy facilities must be:

- a) submitted in the form set forth by ERO;
- b) presented to ERO in hard copy and electronic form as required by ERO;
- c) in one of the official languages of Kosovo.

**Article 6**  
**Review of Applications**

- 6.1. ERO shall review the application for the license and construction permit with all attached documents and promptly notify the applicant of its decision, within a reasonable period of time
- 6.2. If the application provided to ERO is incomplete, ERO may require that the applicant provide the necessary additional information within a specified period.
- 6.3. In the event that the application and attached documents are not in compliance with the requirements set forth in this Rule and the applicable laws, ERO shall request the applicant, in writing, to rectify or complete his application within a time period specified by ERO. The period of review of the application will start from the date of the rectified or completed application.
- 6.4. If the applicant fails to rectify his application, or fails to submit the missing documents or information within the stipulated period, ERO shall decide on the application, based on the existing documents and information provided, and the applicant shall be informed of ERO's decision in writing. ERO may deny a construction permit or a license for failure to provide mandatory information.
- 6.5. In evaluation of application for the construction permit and license application, ERO, after consultation with the applicant, may commission an independent study of any aspect of the application. The applicant shall bear necessary, just and reasonable expenses of such independent study. Upon request ERO shall provide a detailed justification for all charges to the applicant. If a dispute arises regarding the necessity or the reasonableness of any of the charges, the applicant may seek judicial review.

**Article 7**  
**Procedural Rules**

- 7.1 Upon ERO determination that the application for a license is complete, ERO shall instruct applicant for a license to publish in two (2) daily newspapers of wide circulation in Kosovo:
- a) a brief summary of the license application;
  - b) an announcement that ERO is initiating a review of the application and that interested parties within two (2) weeks from the date of publication of summary of application may submit their intent to participate to ERO.
- 7.2. ERO shall post on its website the content of publication as set forth in Article 7.1.
- 7.3. Parties requesting participation in the review shall submit to ERO a summary of the nature of their interest, any objection to the license or a list of issues of concern. This summary shall be posted on ERO web site.
- 7.4. Within two (2) weeks after the deadline established pursuant to paragraphs 7.1.b, and after consultation with the applicant for the license and the participating parties, ERO may establish an initial plan for consideration and review of the application. The plan may include:
- a) a reasonable period for parties to request additional information from the applicant and /or ERO;
  - b) a reasonable period for submittal of written comments;
  - c) public hearings as required under paragraph 7.5.
- 7.5. Public participation for license and construction permit applications may also include:
- a) any public hearings as shall be determined by ERO;
  - b) consultative meetings between representatives of ERO and the energy enterprise, customers or other interested parties; and
  - c) such other forms of participation as ERO considers appropriate.
- 7.6. Requests for information under Article 7.4 (a) that are reasonable, do not impose an unburden on ERO or applicant and do not require the release of confidential information, shall be taken into consideration and information provided.
- 7.7. ERO shall endeavor to facilitate access to any non-confidential information from the applicant in a timely manner. If a party believes a request is unreasonable or if any party believes the request is not being met in a reasonable and timely manner, they may file a petition for resolution with ERO stating the relief requested.
- 7.8. The review of all applications for licenses and construction permits, except those for supply/trader licenses, shall include at least one public hearing on the application.

### CHAPTER 3

## **Permits for the Construction of New Energy Facilities and Direct lines**

### **Article 8**

#### **Criteria for Issuance of Construction Permit**

- 8.1. A construction permit is required for the construction of the new energy facilities and direct lines, pursuant to Chapter 8 of the Law on Energy Regulator and relevant provisions of the Law on District Heating.
- 8.2. This Rule provides the general framework for application to ERO for construction permits. As set forth in Chapter 1, Article 1.4, a separate document, the Rule on Authorization, and legislation applicable for tendering procedure, shall set forth the detailed criteria by which ERO grants construction permits.

### **Article 9**

#### **Completion of Construction**

- 9.1 Upon completion of construction of the energy facility pursuant to the construction permit, the construction permit holder shall submit to ERO all documents required for a license as set forth in Chapters 4-6 of this Rule that were not previously submitted to ERO as part of the permitting process.
- 9.2 If ERO determines that the conditions of the construction permit have been met and all the required documents have been provided, ERO shall make all efforts to grant a license in prompt and timely manner.

### **Article 10**

#### **Failure to Meet Conditions**

- 10.1 If ERO determines that the conditions of the construction permit have not been met, it shall notify the applicant of which conditions it has failed to meet and any measure the applicant should take to comply with the conditions.
- 10.2 The applicant may contest ERO determination that it has not met required conditions by providing a justification for why it believes it has met the conditions within fourteen (14) days from the date of acceptance of notification.
- 10.3 No license shall be granted until ERO determines that the conditions of the construction permit have been met and all the required documents have been provided.

**CHAPTER 4**  
**License Application: General Requirements**

**Article 11**  
**Information and Documents Required by All License Applicants**

- 11.1. Licenses shall be required for energy activities as set forth in Article 28.2 of the Law on Energy Regulator and Article 27 of the Law on Electricity and in accordance to the Law on District Heating.
- 11.2. An application for a license shall contain all applicable information requested in this Rule and in Attachment 1 of this Rule.
- 11.3. When applying for the license each applicant shall submit to ERO the following documents:
  - a) certificate of the applicant's registration as a Business Organization issued by the agency authorized to register business organizations;
  - b) applicant's business plan that covers at least three (3) years;
  - c) applicant's annual financial statements for the last three years. Where the annual financial statement of the applicant is subject to independent financial auditing, the applicant shall submit the auditor's report separated from financial statement;
  - d) certificate from a financial institution or institutions confirming the availability of funds for the energy activity, bank guarantee of applicant or a parent company in a case of subsidy, or similar evidence of the availability of funds sufficient to finance the activity for which a license is being requested;
  - e) copy of the registration of the share or equity participation of any shareholders or partners of the applicant and copies of all relevant documents (articles of association, decision of the court or copy of the book of shareholders, etc.) evidencing such particulars;
  - f) certificate that the applicant is regular in payment of the taxes;
  - g) certificate issued by the competent court certifying that the applicant is not subject to a procedure for insolvency or liquidation;
  - h) details of the applicant's experience in performing such energy activities in the form of Curriculum Vitae ("CV");
  - i) information regarding the management and the organizational structure of the applicant;
  - j) CVs of the applicant's management staff and a list of the other senior staff and their qualifications;
  - k) receipt of the relevant application fees.
- 11.4. The applicant shall submit a signed statement certifying that it complies with legal requirements set forth in laws or regulations in Kosovo and any record of prior violations in Kosovo or elsewhere regarding:

- a) safe and secure working conditions;
- b) technical requirements concerning the operation of electricity/heat power plants and systems;
- c) environmental protection.

**Article 12  
Statement**

In addition to the documents listed in the Article 11, the applicant shall submit to ERO a statement that:

- a) managers of the applicant have not been convicted of corruption or fraud regardless the term of imprisonment;
- b) applicant's license for the same activity has not been withdrawn within five (5) years of the date that the application is submitted;
- c) applicant has not reapplied for the license earlier than (ninety) 90 days after the date of the decision of refusal;
- d) all required approvals for construction and environmental protection or other approval specified in different laws are available;
- e) applicant understand and is aware of his obligations to comply with all applicable energy legislation including the laws, rules issued by ERO, technical and commercial codes and other applicable legislation;

**Article 13  
Application by a Newly Established Enterprise**

- 13.1. Where the applicant is a newly established enterprise, it shall present all document listed in Articles 11 and 12, with the exceptions of document listed in Article 11.3 c) and h).
- 13.2. Such applicant shall submit financial statement and information regarding the experience of its partners or shareholders, if any, in performing similar energy activities.

**Article 14  
Deadline for Decision on Application for a License**

ERO shall make all efforts to grant license in a prompt manner. Such period shall not exceed three (3) months from the date of submission by an applicant with all required documents.

**CHAPTER 5  
License Applications: Requirements Specific to each  
Category of License Applicants**

**Article 15  
Application for Generation Licenses**



An applicant for a license for the generation of electricity and heat shall submit to ERO the application and following material:

- a) data on the type and technical specifications of energy facility and site including a list of the main and auxiliary facilities of the energy site;
- b) evidence on availability of fuel and/ or preliminary or final contract for fuel supply;
- c) business plan consistent with obligations to carry out activities under its license
- d) any existing Connection Agreement;
- e) an environmental protection permit in accordance to the Law No. 2002/8 on Environmental Protection;
- f) plan for decommissioning and rehabilitation
- g) evidence of the property rights over or a legal right to use the facilities proposed for performing the licensed activity, accompanied by sketches and maps of the relevant property and facility;
- h) any public supply contract in final where available, or in draft form with explanation as to status of negotiations;
- i) thermal efficiency declaration;
- j) in the case of a license for electricity generation by a hydro power plant, a permit for the supply of water;
- k) estimated cost of energy generated over the lifetime of a new generation facility or residual life of a rehabilitated plant

#### **Article 16**

##### **Application for Transmission System Operation License**

An applicant for a license for the transmission system operation of electricity shall submit the following material:

- a) description of all relevant transmission system characteristics for transmission of electricity and information on legal right to use or ownership information of system elements;
- b) business plan that contain information about the demand forecast and system development plan as set forth in Article 13.1 of the Law on Electricity; including but not limited to the influence of system development to the tariffs approved by ERO in accordance to the Tariffs Methodology;
- c) information about the cross border capacities;
- d) demonstration of capability and availability of necessary hardware and software systems for electrical power system load flow calculation, for managing power plant dispatch, ancillary services, short circuits and dynamic stability balancing market and for congestion management, where applicable and statement of procurement or provision of above tools and statement of procurement or provision of above systems;
- e) specification and technical characteristics of metering devices at electricity receipt points;
- f) statement that applicant is aware of its obligation to develop and implement all technical codes as set forth in Article 38.7 of the Law on Electricity;

- g) statement that all commercial codes including the Market Rules will be implemented.

**Article 17**  
**Application for Market Operator License**

An applicant for a license as Market Operator shall submit the following material:

- a) business plan that contain information about the prospects of developing the market;
- b) demonstration of capability and availability of necessary hardware and software systems for communication with all metering points, with all market participants including TSO, systems for settlement and systems for operating balancing market;
- c) statement of awareness of obligation to develop Market Rules.

**Article 18**  
**Application for Distribution Licenses**

An applicant for a license for the distribution of electricity and heat shall submit the following:

- a) description of relevant distribution system characteristics and territory for distribution of electricity and heat;
- b) information on ownership or legal right to use the elements of the system;
- c) business plan that includes information about the demand forecast and system development plan as set forth in Article 18.1 of the Law on Electricity and in relevant provisions of Law on District heating;
- d) information on the numbers and structure of connected customers and / or the numbers and structure of potential customers;
- e) demonstration of capability and availability of necessary hardware and software systems for electricity system load flow calculation, short circuits and statement of procurement or provision of above systems;
- f) indicators measuring the continuity of supply (duration, frequency, number of interruptions, minutes lost per customer) and system services (connection times, restoration of system, failure, meter reading agreements and general information);
- g) specification and technical characteristics of metering devices of distribution system

**Article 19**  
**Application for Public Supply License**

When applying for a license for public supply for the electricity and heat, the applicant shall submit the following material:

- a) business plan that includes performance standards for supplying customers, including supply related elements, such as: response time for customer letters,

- applicable customer complaints, billing frequency, call centre respond minutes, average waiting time in customer information centres.
- b) data on the material resources owned by the applicant, including data on the information systems and the available software for performing the activity.

**Article 20**  
**Application for Supply / Trade Licenses**

When applying for a license for supply/ trade the applicant shall submit the following material:

- a) data on the material resources owned by the applicant, including data on the information systems and the available software for performing the activity;
- b) any existing Connection Agreement;
- c) evidence of the availability of staff and of their qualifications and experience for performing the energy activity, along with the applicant organization's structure;
- d) statement that upon award of license, the licensee shall provide the financial guarantee as transaction security for any exiting transaction that would be implemented once the license is awarded.

**CHAPTER 6**  
**Criteria for Granting License**

**Article 21**  
**General Criteria for Granting Licenses**

A license shall be issued to an Applicant provided that he demonstrates:

- a) Possesses the technical and financial capability , material and human resources, and organizational structure for meeting the regulatory requirements under the license;
- b) Holds property rights over or a legal right to use the energy facilities to be used to perform the activity;
- c) Provides evidence that the energy facilities to be used to perform the activity meets safety and environmental protection requirements;
- d) Will not degrade the reliability of the electricity and heat system;
- e) Will operate consistent with the energy strategy as adopted by the Government of Kosovo;
- f) Will not endanger or impair development of competition in an open market;

- g) Meets all relevant Kosovo and EU Directive environmental requirements and guidelines and has adequate on-going environmental quality assurance and monitoring programs.

**Article 22**  
**Specific Criteria for Granting Licenses**

- 22.1. Except the general criteria set forth in Article 21, applicant for a Generation License shall demonstrate that:
  - a) it has financial and technical capacity to dispose of all generation-related wastes and to decommission and/or remove all generation facilities in compliance with technical and environmental requirements.
  - b) it is capable of providing the ancillary services;
  - c) utilizes modern technology appropriate for the particular site and with efficient use of the primary fuel supply, for which there is no other alternative with a substantially cost-effective energy savings compared to the proposed project:
  - d) ensures adequacy of supply of fuel;
- 22.2. Except the general criteria set forth in Article 21, the applicant for a Transmission Operation License shall demonstrate that
  - a) it has metering devices on electricity delivery point
  - b) it has established an efficient system of meter readings for the purpose of electricity billing;
  - c) it provides third party access to transmission electricity system.
- 22.3. Except the general criteria set forth in Article 21, the applicant for a Distribution System Operation License shall demonstrate that:
  - a) it has metering devices on electricity / heat delivery point
  - b) it has established an efficient system of meter readings for the purpose of electricity/ heat billing;
  - c) it provides third party access to the electricity/ heat distribution system.
- 22.4. Except the general criteria set forth in Article 21, applicant for a Public Supply shall demonstrate that:
  - a) all meter and invoicing requirements of consumption of electricity and heat for the regulated customers are satisfied in a safe and economical manner;
  - b) complies with imposing a Public Service Obligation, if applicable;
- 22.5. Except the general criteria set forth in Article 21, applicant for a Supply / Trade License shall demonstrate that:

- a) all meter and invoicing requirements of consumption of electricity and heat are satisfied in a safe and economical manner;
- b) trader /supplier is of a sound reputation.

## **CHAPTER 7**

### **Terms and Conditions of the Licenses**

#### **Article 23**

#### **General Terms and Conditions**

- 23.1. Each license shall include the terms and conditions for performing the licensed activity, setting forth the rights and obligations imposed on all or most licensees notwithstanding the type of energy activity.
- 23.2. Each license shall contain the following general provisions:
  - a) the type of energy activity that is licensed;
  - b) definitions and provisions on interpretation;
  - c) the legal grounds for issuing the license;
  - d) conduct of licensed activities;
  - e) the territories covered by the license, where applicable;
  - f) ownership or legal right to use territory, facility and developments of system;
  - g) the main facilities used to perform the licensed activity, if applicable;
  - h) the terms, conditions, rights and obligations of the licensee;
  - i) requirement to comply with all relevant technical and commercial codes including the Market Rule, as applicable;
  - j) requirement to comply with conditions set forth in the licenses, laws and regulations applicable in Kosovo and rules issued by ERO;
  - k) accounting standards provisions;
  - l) prohibition of cross-subsidies if applicable;
  - m) public service obligation and supplier of last resort provision, if applicable
  - n) provisions in relation to the financial assurance of the licensee;
  - nj) requirement to comply to the safety, security and environmental standards as set forth in different legislation;
  - o) conditions regarding the modification, withdrawal, termination, transfer and abandonment of a license;
  - p) obligation to maintain data in relation to the licensed activity as required by ERO;
  - r) provision of information to ERO, reporting and monitoring provisions;
  - s) on payment of fees;
  - t) on dispute resolution and appeal procedure;
  - u) legal consequences of violation of license requirements;

- 23.3. In addition to the provisions set forth in Article 23.2, ERO may include other conditions in order to assure compliance with the objectives or requirements of the applicable legislation, this Rule and other rules issued by ERO.

## **Article 24**

### **Specific Terms and Conditions in Different Kind of Licenses**

- 24.1. ERO may include in Generation license the terms and conditions concerning:

- a) provision of ancillary services by licensee in accordance with available technical possibilities and technical and commercial regulations of the energy market;
- b) provision of dispatching in accordance to the Market Rules and Grid Code;
- c) requirement to establish relations with other electricity/heat market players in accordance with Market Rules, regulations and laws and rules applicable in Kosovo;
- d) requirement to provide necessary measurements of impact on environment in accordance with environmental laws;
- e) establishment of a compliance program, which sets out measures taken to ensure non-discriminatory conduct in relation to the dispositions set forth in Market Rules and adequate monitoring of such conduct;
- f) security arrangements regarding the fuel stocks (for public generators);
- g) regulated access to land and / or premises;
- h) disposal and outsourcing of assets of the Licensee;
- i) decommission and/or removal of all facilities and structures, and to return the land to its original condition, if applicable;

- 24.2. ERO may include in Transmission license the terms and conditions concerning :

- a) requirement to provide connection to the transmission system and third party access in an objective and nondiscriminatory manner, with appropriate provisions governing the submission of requests for access, the procedure for denial of access, and appeal procedures by parties to whom the access has been denied;
- b) dispatch of energy generated from renewable energy sources as set forth in Article 11 of the Law on Energy and other applicable rules and regulations;
- c) obligation to make publicly available information about interconnection capacities looking one year ahead, transmission system maintenance plan and possible congestions;
- d) the development plan of transmission system in accordance with Article 13.1 (k) of the Law on Electricity and applicable standards;
- e) obligation to maintain database and update, that the information received by users of the transmission system is open to the public, but preserving the confidentiality of information;
- f) provision of the market and technical system information to other market participants;
- g) establishment of a compliance program, which sets out measures taken to ensure that discriminatory conduct of the market players is excluded, and ensure that observance of it is adequately monitored;
- h) obligation to develop technical codes as set forth in Law on Electricity.

i) other responsibilities of transmission system operator as prescribed in Article 13.1. of the Law on Electricity;

24.3. In Distribution License ERO may include the terms and conditions concerning:

- a) requirement to provide connection and use to the distribution system and third party access in an objective and nondiscriminatory manner, with appropriate provisions governing the submission of requests for access, the procedure for denial of access, and appeal procedure;
- b) the system characteristics and interconnections;
- c) the development of distribution system in accordance to the Article 18.1 (d) and (e) of the Law on Electricity and relevant dispositions of the Law on District Heating;
- d) provision of the information to other system users;
- e) establishment of a compliance program as set forth in Article 17.3 (d) of the Law on Electricity;
- f) provision ensuring non-discriminatory access to the information but preserving the confidentiality of information;
- g) the customers are informed in a clear and transparent way about the connection conditions for the connection on the distribution system;
- h) designed to assure that all meter and invoicing requirements for the non-eligible customers are satisfied in a safe and economical manner;

24.4. In Public Supply license ERO may include the terms and conditions concerning:

- a) requirements set forth in Article 21 Law on Electricity pertaining to the public supply of electricity to the customers and dispositions related to the public supply of heat in accordance to the Law on District Heating,
- b) a Supplier of Last Resort provision in order to ensure the continuity of electricity supply to customers, where applicable;
- c) requirement to assure that the license holder informs all customers of the procedures for making a claim for damages and establishes adequate appeal procedures to address such claims;
- d) the prevention of discrimination in provision of the services to the customers.

24.5. In Supply / Trade license ERO may include the terms and conditions concerning:

- a) requirements set forth in Article 22 and 23 of the Law on Electricity and in provisions of the Law on District Heating pertaining to the supply / trade of electricity/heat to eligible customers.
- b) requirement to purchase electricity and heat in the most economically efficient manner
- c) requirement to assure that the license holder informs all customers of the procedures for making a claim for damages and establishes adequate appeal procedures to address such claims;
- d) the prevention of discrimination in provision of the services to the customers.

24.6. In Market Operation License ERO may include the terms and conditions concerning:

- a) requirements set forth in Article 27.3 of the Law on Electricity;
- b) requirement to prepare the Market Rules as set forth in Article 27.5 of the Law on Electricity;
- c) provision of correct and reliable information regarding prices, number of market participants, percentage of market share, forecasted prices and statistics to the market participants;

## **Article 25**

### **Separate Activities**

Each activity shall be licensed separately. Where an applicant has applied for more than one license for performing different licensed activities, ERO shall issue separate licenses for each licensed activity.

## **Article 26**

### **Account and Management Separation Requirements**

- 26.1. The licensee is obliged to keep separate accounts for:
  - a) different energy activities, including generation, transmission, distribution, supply and trade of energy and transit of electricity;
  - b) activities that the licensee performs outside the scope of the license;
  - c) separate activities performed within the regulated and non-regulated markets for electricity and heat.
- 26.2. ERO will not activate the condition requiring separate accounting and management in cases of unregulated energy activities, where its absence does not threaten competition.
- 26.3. The licensee is required to exercise accounting, management and legal separation in accordance with requirements set forth in EU Directive 2003/54/EC.

## **Article 27**

### **Duration of the License**

- 27.1. Except as provided in Article 49.2 Transitional Provisions, the duration of the license shall be set in accordance with Article 31 of the Law on Energy Regulator, which defines the license period applicable to different types of energy activities.
- 27.2. Factors that ERO takes into consideration in determining the duration of a generation license for a newly constructed generation facility:
  - a) technical lifetime of the main parts of the existing power plants and heat plants, including ancillary equipment necessary for the operation, as confirmed by the technical safety authority;



- b) amortization (depreciation) policy of the generation entity provided with the license application;
  - c) request of the applicant.
- 27.3. Factors that ERO takes into consideration in determining the duration of a license for the co-generation of electricity and/or the generation of heat for existing facilities include:
- a) potential other heat sources serving the heat customers;
  - b) opinion of local authorities responsible for district heating, if any.

## **CHAPTER 8**

### **Data Access and Retention Requirements**

#### **Article 28**

#### **Annual Obligations of Licensees**

Pursuant to the terms and conditions set forth in its license, the licensee shall submit to ERO on an annual basis the following documents:

- a) financial and accounting information and such other accounting documents, including the certified annual balance sheets together with the statement of income and expenses, information on the assets and liabilities for branches and activities and information on the rules applied for effecting the said allocations;
- b) specified technical and economic information, including the annual report on maintaining the safety and security of the energy facility, on the implementation of the investment, production and maintenance programs;
- c) any signed contracts for cross border trade of electricity, supply contracts, power purchase agreements, and any contract signed pursuant to power purchase agreements;
- d) report on the status of main equipment and calculation of continuity of supply;
- e) any concluded insurance contracts within guidelines set out in the license.

#### **Article 29**

#### **Data Collection and Submission**

29.1. In requiring information, data or documents, ERO shall give written notice to the licensee, specifying the time by which the information, data or documents must be submitted to ERO.

29.2. At the request of ERO, the licensee shall submit the following:

- a) information on electricity and heat prices charged together with information on the income and expenses incurred in connection with the price setting;
- b) information on the installed and the available generation capacity proposed for purchasing or already purchased by the energy enterprise for a definitive period;

- c) data on the generated and/or the sold quantities of electricity and heat well as the amounts paid under the sales contracts;
- d) information on the work performed under the implementation of contracts for the sale of electricity and heat;
- e) information on standards of performance offered to the customers including the quality of services and security and reliability of supplies;
- f) indicators measuring the continuity of supply (duration, frequency, number of interruptions and minutes lost per customers) and the system services (connection of new consumers in time, restoration of system failures, keeping the timing of meter reading agreements, general metering information);
- g) copies of the insurance contracts; and
- h) other information that ERO may request in relation to the licensed activity.

### **Article 30**

#### **Confidential and Commercially Sensitive Information**

- 30.1. ERO is entitled to require information, data and documents pursuant to Article 29.2, irrespective of whether such information, data and documents contain confidential or commercially sensitive information.
- 30.2. When submitting the required data and documents, the licensee may identify certain information provided, or may mark certain documents submitted as confidential or commercially sensitive and request that ERO does not make such information publicly available.
- 30.3. ERO shall determine whether information shall be deemed confidential and not available to the public pursuant to the Section 8 of the UNMIK Regulation No. 2003/32 On the promulgation of a Law on Access to Official Documents, in reference to the Article 4 of the Code of Conduct and Ethics, Rule on Confidentiality of Information adopted by the Board of ERO and any applicable guidelines or regulations.

### **Article 31**

#### **Requirement for the Licensee to Keep and Collect the Information**

ERO may require the licensee to collect and to keep information, data and documents concerning the customers, metering devices, data regarding the supply quality measurement, and number of complaints, including:

- a) names and addresses of customers;
- b) location of the metering devices;
- c) distribution data regarding the evaluations performed by the licensee;
- d) amounts of compensation paid to customers in case of poor performance, if any;
- e) number of contracts signed by different categories of final customers;
- f) numbers and types of complaints registered as required by ERO;

- g) other additional information as ERO deems appropriate;

**Article 32**  
**Monitoring of Licensed Activities**

- 32.1. In reference to the requirement for reporting and provision of information as set forth in Chapter 8 of this Rule based on the data submitted by the licensee ERO monitors the performance of licensed activities.
- 32.2. Licensee shall cooperate with ERO in providing all data requested during the license validity period.
- 32.3. ERO may perform physical inspections of the facilities and license-related documents on the premises (periodically announced and unannounced visits) or request from Inspectorate of Ministry of Energy and Mining to perform such supervision due to the Article 32 of the Law on Energy and secondary legislation on Inspectorate issued by the Ministry of Energy and Mining.

**Article 33**  
**Standards of Performance of Activities**

- 33.1. The licensee shall perform the energy activity in conformity with the standards of performance in the energy sector as stipulated in the technical and commercial codes, Market Rules and other rules approved by ERO.
- 33.2. Contracts between the licensee and customers shall be made in conformity with the provisions of the Rule on General Conditions of Energy Supply adopted by ERO, and any quality of service or performance standards imposed by ERO.

**Article 34**  
**Insurance**

The terms and conditions of the licenses shall set forth the insurance obligations of each licensee.

**CHAPTER 9**  
**Modification and Termination of the License**

**Article 35**  
**Modification by ERO**

- 35.1. Licenses may be modified upon initiation of ERO only in the following circumstances:
- a) in order to adhere to new requirements set forth by international agreements and national laws, regulations and other applicable legislation;
  - b) as a sanction for violation of license terms and conditions, pursuant to Article 44;
  - c) where required to protect the energy system in Kosovo.

- 35.2. Where the modification is initiated by ERO, the licensee shall immediately be notified in writing. Such notice shall specify the grounds for the proposed modification and the effects to be expected from it.
- 35.3. Within two weeks from the date of accepting notice pursuant to Article 35.2 the licensee may submit a written statement setting forth its views regarding the grounds set forth by ERO for modification of the license and attach any supporting document.

**Article 36**  
**Application for Modification of License by the Licensee**

- 36.1. The licensee may request a modification of its license at any time. Form of application for modification of the License is issued and published by ERO.
- 36.2. The applicant shall submit all information and documents necessary to support the request for modification.
- 36.3. Modification of a license is subject to the discretion of ERO.

**Article 37**  
**Application for Extension of the License**

- 37.1. Application for extension of a license for the activities included in Article 28.2 of the Law on Energy Regulator shall be submitted at least one (1) year, but not more than eighteen (18) months before the expiration of the initial term, except for the trade of electricity and heat and cross-border transmission (import, export, transit) of electricity, in which case application shall be submitted at least six (6) months prior to the expiration of the initial term.
- 37.2. The duration of any license may be extended for a period that does not exceed the initial term, provided that the licensee meets all its obligations and requirements under the license and has submitted a written application for extension within the deadline set forth in Article 37.1.
- 37.3. The extension shall date from the date of expiration of the initial period of validity of the license.

**Article 38**  
**Retirement, Suspension or Discontinuation of a Licensed Generation Facility**

- 38.1. Prior to termination of the license pursuant to Article 39, ERO shall approve on its own initiative or upon request by the licensee, in conjunction with the Ministry of Environment and Spatial Planning and other relevant authorities, the:

- a) suspension of the generation of electricity and heat for a short period of time;
- b) discontinuation and decommissioning of power generation and close down the power plant;
- c) retirement of the energy facility, subject to requirements that a financial guarantee is deposited in the bank sufficient to cover expenses;
- d) if an existing facility has been operating below 60% of the approved capacity for a continuous period of five (5) years.

38.2. A license may be extended, pursuant to Article 37, where such extension is required to facilitate the retirement, suspension or discontinuation of a licensed activity.

### **Article 39 Termination of the License**

Any issued license may be terminated in the following cases:

- a) expiration of the period of validity;
- b) at the request of licensed energy enterprise;
- c) dissolution of the legal person holding the license;
- d) destruction of the energy facility;
- e) 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;
- f) where the licensed energy activity has not been conducted for more than six (6) months, except where the suspension of activity is approved by ERO;
- g) where provisions of Article 38 are met;
- h) as an ERO penalty under Article 44 of these Rules.

## **CHAPTER 10 Transfer of a License and Disposal of Licensee's Assets**

### **Article 40 Protection of the Energy System**

All decisions regarding the issuance, modification, withdrawal or termination of a license shall occur only where adequate protections for the energy system are available to support such decision.

### **Article 41 Transfer of the License**

41.1. If Licensee requests to transfer the license to another entity, it is obligated to obtain prior approval of ERO for that transfer. Until such approval is obtained, the current Licensee is obligated to continue to perform its duties under its license until the approval of transfer by ERO.

- 41.2. Transfer of the license may be approved by ERO only in the case when the reasons for such transfer are justified by applicant and:
- a) proposed transferee will accept and discharge all remaining obligations of the current Licensee, whether arising under the License, this Rule, or any other applicable legislation;
  - b) proposed transferee fulfils all conditions set forth in this Rule on License and other applicable legislation
- 41.3. New Licensee should obtain license or approval for transfer from ERO prior to commencing activities.
- 41.4. The transfer proceeding is performed in the same manner as that used in granting a license. ERO shall determine whether the transferee is capable of satisfying license conditions. The duration of license validity and conditions of license shall remain the same.
- 41.5. Form of application for modification of the License shall be issued and published by ERO.

**Article 42**  
**Disposal of Licensed Assets**

- 42.1. Disposal by the licensee of material property or assets used to perform the licensed activity shall be subject to the approval of ERO.
- 42.2. The terms and conditions of the licenses shall include provisions regarding the approvals required for disposal of such material property or assets.

**CHAPTER 11**  
**Exemption**

**Article 43**  
**Exemption**

- 43.1. No license shall be required for:
- a) generation of electricity by power plants with capacity not exceeding 5 MW;
  - b) heat generation by heating plants with capacity not exceeding 1 MW;
  - c) generation of electricity or heat for self-consumption.
- 43.2. The generation of electricity and heat for self-consumption means generation by an entity where the end-user is the same legal entity as the generator and the energy demand of the

end-user is at least 75% measured both as total energy consumed/produced during each calendar year from the date of commercial operation of the generating unit and power (peak demand/nominal capacity plant). At the end of each calendar year ERO will monitor generated/consumed energy/power and if the ratio is exceeded for whatever reason a generation license will have to applied for.

## **CHAPTER 12 Penalties and Appeals**

### **Article 44 Penalties Imposed by ERO**

- 44.1. Failure of any energy enterprise to comply with the requirements set forth in this Rule, shall constitute an offence and may be subject to fines levied by ERO on licensee in accordance to the Article 57 of the Law on Energy Regulator.
- 44.2. The amount of fine shall be calculated pursuant to the Article 57.2 of the Law on Energy Regulator, Rule on Administrative Measures and Fines and any other applicable rule issued by ERO.
- 44.3. Before imposing a fine, ERO shall notify the energy enterprise of the infringement and shall provide an opportunity to respond, in writing, within fourteen (14) days of the notification.
- 44.4. If a fine imposed by ERO is not paid promptly, or upon a schedule acceptable to ERO, ERO shall initiate court proceedings for the collection of the fine as a civil debt.
- 44.5. ERO may commence a procedure for the withdrawal of an issued license. Withdrawal of a license is a serious sanction and should be imposed only after the licensee has been given an opportunity to correct any violations and where fines have proved ineffective or are deemed insufficient. Subject to these limitations, withdrawal is permissible in the following instances:
  - 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 defaulting licensee was obliged to provide;
  - b) license monitoring by ERO or if by the Inspectorate within the Ministry of Energy and Mining 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.
- 44.6. Where the withdrawal of a license affects the safety and reliability of the energy supply, ERO shall appoint another licensee to protect the security of supply and operate the assets belonging to the license subject to withdrawal.

**Article 45**  
**Appeal of an ERO Decision**

- 45.1 Each decision of public interest issued by ERO shall be published in a prompt manner on ERO's website and in its bulletin.
- 45.2 The decisions of ERO, including refusals, may be subject to appeal to the court of a competent jurisdiction within fourteen (14) days from the date when the decision is adopted and published on ERO website.

**CHAPTER 13**  
**Final and Transitional Provisions**

**Article 46**  
**Modification of the Rule**

- 46.1 Any proposal for modification of this Rule shall be sent to ERO in writing or initiated by ERO itself.
- 46.2 The modification shall be made by the Board of ERO only if it is necessary to further the objectives of ERO and it is in general interest.
- 46.3 The decision shall be published on ERO's website and whenever possible in daily newspapers, television and radio, thirty (30) days prior to the entrance into the force.

**Article 47**  
**Official Language of the Rule**

This Rule is issued in albanian, serbian and english language. In the event of a dispute regarding the meaning of terms, and where such dispute results from the different translations of this Rule, the English version shall prevail.

**Article 48**  
**Entry into Force and Applicability**

- 48.1 This Rule shall enter into force thirty (30) days of its publication on ERO website.
- 48.2 The dispositions of this Rule shall apply to all energy enterprises in Kosovo.

**Article 49**  
**Transitional Provisions**

- 49.1 All energy enterprises in operation at the time of adoption of this Rule, shall apply for the license within ninety (90) days from the date set forth in Article 48.1 of this Rule.



- 49.2. In the case if energy enterprise do not fulfil certain criteria for obtaining license as set forth in this Rule, and there is reasonable expectation that within a certain period of time the applicant may fulfil such criteria, ERO may issue License with Conditions in accordance to Article 33 of the Law on Energy Regulator.
- 49.3. In License with condition issued pursuant to Article 49.2, ERO shall set forth a schedule by which the licensees shall produce to ERO all the relevant documents and implementation requirements set forth in this Rule.

Chairman of the Board of ERO

Members of the Board of ERO

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