

Pursuant to the authority given under Article 9 of the Law on Energy Regulator, the Board of the Energy Regulatory Office on a public session held on 15.12.2005 adopted the

STATUTE OF THE ENERGY REGULATORY OFFICE

I. General Provisions

Article 1

The Statute of the Energy Regulatory Office (the “Statute”) determines the internal structure, organization, representation, authority, decision-making process, order of activity, the procedure for employing staff, as well as the responsibilities of staff, for the Energy Regulatory Office (“ERO”).

Article 2

- 2.1 ERO is an independent authority carrying out regulation in the energy sector (Electricity, District Heating, Natural Gas) and is established pursuant to the Law on Energy Regulator.
- 2.2. ERO performs activities stipulated in the Law on the Energy Regulator, Law on Energy, Law on Electricity and other laws or regulations, in a transparent and non-discriminatory way.
- 2.3. In performing its regulatory functions, ERO shall be guided by the principles underlying the Law on the Energy Regulator, the Electricity Law, and the Energy Law.

II. Name, Registered Office and Stamp

Article 3

- 3.1. The name of the Energy Regulatory Office in Albanian is: Zyra e Rregullatorit të Energjisë (“ZRRE”), in Serbian: Regulatorni Ured za Energiju (“RUE”). The English translation of the name shall be: Energy Regulatory Office or ERO.
- 3.2. ERO is a legal entity with its registered office in Pristina.

Article 4

- 4.1. While performing its activities ERO shall use its official stamp with the Energy Regulatory Office's name. The stamp may also include the symbol or logotype of the ERO.
- 4.2. The stamp will be kept by the Chairman of the Board of ERO (the "Chairman") or another staff member of ERO authorized by the Chairman.
- 4.3. In reference to the Article 4.2, usage and different kind of stamps will be determinate by separate Decision issued by ERO.

III. Organizational Structure of the ERO

Article 5

- 5.1. ERO shall have the organizational structure set forth in Attachment 1 to this Statute
- 5.2. The Board of ERO (the "Board") shall consist of five members - Regulators. The number of staff members in the future shall be determined based on the workload of ERO, pursuant to decision of the Board.

Article 6

- 6.1. Each Department shall have a Head of Department that shall organize, control, plan, coordinate, report, appraise his/her staff and bear responsibility for the activities and fulfillment of the tasks assigned to the staff of the respective Department.
- 6.2. Departments and other units within ERO may be established or closed, or the responsibilities changed, only pursuant to decision of the Board.
- 6.3. In defining the rights and responsibilities of the staff members, internal decisions and decrees related, but not limited, to the financial or administrative activities, may be issued by the Board.
- 6.4. The Board may hire qualified consultants or advisors to assist ERO in the exercise of its powers, functions and duties.

IV. Board of ERO

Article 7

- 7.1. ERO shall be directed by the Board appointed in accordance to the Article 5 of the Law on the Energy Regulator.

- 7.2. Upon approval of the Board, the Chairman of the Board may assign additional duties, the authority of deputizing in his place and the responsibility of overseeing specific departments and/or units of ERO as may be required to other Board members.
- 7.3. No members of the Board shall have the status of a civil servant. During the initial mandate all members of the Board shall sign the employment contract with ERO as professional staff in the area of their previous experience.
- 7.4. After the initial mandate, all members of the Board shall sign the employment contract as full members of the Board and the contract shall extend to the end of their appointment term.

Article 8

- 8.1. The term of the members of the Board starts from the day of their appointment as stipulated in the Article 5.2 and 5.3 of the Law on the Energy Regulator.
- 8.2. Each member of the Board, including the initial members, may be reappointed for one additional five-year term.
- 8.3. The conditions for appointment of the Board are stipulated in Article 6 of the Law on the Energy Regulator.

Article 9

- 9.1. The Special Representative of Secretary General (the “SRSG”) during the initial mandate, and the Assembly after the initial mandate, can dismiss a member of the Board before the expiration of his or her term of office, only in the cases stipulated in Article 7 and 58.10 of the Law on the Energy Regulator.
- 9.2. During the initial mandate, decrease of initial mandate or dismissal of the member of the Board due to any of the reasons stipulated in the Articles 58.8 and 58.9 of the Law on the Energy Regulator, shall not mean automatic dismissal from ERO but only dismissal as member of the Board.
- 9.3. In reference to the Article 9.2, the Board may decide to:
 - a) Terminate the employment contract of any member of the Board; or
 - b) Offer him or her another position in ERO.

The decision shall be based on evaluation of the performance of the member of the Board and shall be duly justified.

- 9.4. During the initial mandate, dismissal from the Board of ERO for any reason mentioned under Article 7 (a) and (g) of the Law on Energy Regulator and 9.2 above, does not mean automatic termination of the member’s employment contract in ERO. The Board of ERO will evaluate reasons for dismissal and may offer to member to continue his employment contract with ERO or may terminate the employment contract.

Article 10

In performing its activities the Board shall:

- a) issue and adopt the Statute, Code of Ethics and Conduct, Rules on Confidentiality of Information, Rule on Licensing, Rule on Pricing, Rule on Dispute Settlement Procedures, Rule on Disconnection, Schedule of Fees and General Conditions for Supply of Energy, other rules, orders, acts and decisions connected to the responsibilities of ERO;
- b) actively participate in meetings regarding the regulatory issues in energy in countries of EU and regionally, and in regional market development committees to promote the interests of Kosovo;
- c) make decisions to grant, modify, suspend, transfer, terminate or withdraw licenses to registered enterprises wishing to perform any kind of energy activities in Kosovo, and to impose fines and penalties according to the Article 57 of the Law on Energy Regulator;
- d) make decisions regarding approval of tariffs and power purchase agreements for regulated energy activities;
- e) make decisions regarding permits for construction of new energy facilities in accordance to the Article 38.1 of the Law on Energy Regulator and other permits or consent and technical and operational codes stipulated in the Law on the Energy Regulator; and
- f) make any other decision within its competencies as stipulated in the Law on Energy Regulator.

Article 11

The Board shall organize and supervise the activities of ERO including:

- a) appointment of the managers and staff of ERO;
- b) approval of the terms and conditions of employment for the staff members of the ERO; likewise pursuant to decision of the Board, tasks and “ad hoc” projects may be assigned to any member of staff even if strictly speaking this falls outside the narrow scope of his position’s responsibilities, if the workload of ERO demands it and if the Board deems that the respective member of the staff has the qualities and capabilities to deal with the task assigned.
- c) preparation of the budget and financial management of ERO;
- d) formulate, adopt and implement all items of Secondary Legislation in the form of Codes, Rules, Decrees, Ordinances or orders as stipulated by the Law on Energy

Regulator or as may the need be with reference to its mandate of regulating the energy sector;

- e) run the authorization and/or the tender procedures for construction of new energy facilities;
- f) other activities related to the performance of its responsibilities under the Law on Energy Regulator.

Article 12

The Chairman shall be responsible for the implementation of the decisions of the Board and shall:

- a) call, define the agenda and preside over the sessions of the Board;
- b) represent ERO before third parties;
- c) co-operate with International Institutions, Donors and Regulatory Associations in the energy sector;
- d) take all legal actions on behalf of ERO and represent ERO in all proceedings before Assembly, courts, administrative and other bodies, and legal entities with public authority;
- e) conclude contracts, and approve procurement on behalf of ERO;
- f) report once a year to the SRSG and Assembly during the initial mandate and to the Assembly only during the subsequent mandate on the work of the ERO in accordance to the Article 10 of the Law on the Energy Regulator;
- g) perform the duty of editor-in-chief of the ERO's bulletin; and
- h) perform other duties in accordance to the Law on the Energy Regulator, this Statute and decisions of the Board.

Article 13

In connection with Article 12, Chairman shall propose to the Board:

- a) measures of investments, maintenance and procurement, required for the operation of ERO in order to properly fulfill its duties;
- b) measures for improving the work and efficiency of ERO;
- c) measures and methods of training and development of the staff members;

- d) the development and adoption of secondary legislation and other acts within its competence;
- e) the delegation of certain tasks to senior members of ERO; and
- f) delegation of certain professional work to external advisors, consultants, institutions or third parties where necessary and appropriate.

Article 14

The Chairman, on behalf of the Board, shall:

- a) conclude, amend and terminate the employment contracts of the staff members upon the decision of the Board;
- b) approve the leave (annual, sickness or otherwise) of all staff members;
- c) approve the list of personnel and the occupational characteristics of the employees of the administration; and
- d) carry out other functions assigned to him by a Law on the Energy Regulator, this Statute and specific decisions of the Board.

Article 15

During his absence or where necessary in the fulfilment of his duties, the Chairman may authorize another member of the Board to represent him (deputize) and or perform specific duties.

V. Sessions of the Board

Article 16

- 16.1 The Board shall meet at least ten (10) times per year. Where necessary to achieve the objectives of ERO, the Chairman or any other member of the Board may propose that the Board holds additional sessions.
- 16.2 The Board may, in addition to its regular sessions, hold special sessions for emergency issues for which separate sessions are appropriate.
- 16.3 A session of the Board can be held if at least four members of the Board are present. The decisions of the Board shall be made by simple majority of the votes.
- 16.4. In reference to Article 25.2 of the Law on the Energy Regulator, the Chairman of the Board shall propose the agenda for Board sessions and submit such agenda to the members at least five (5) working days before each session.

- 16.5. The Chairman may make changes to the agenda after consultation with the Board if required by urgent or emergency circumstances, which cannot be addressed by the scheduling of an item for a subsequent Board meeting.
- 16.6. The Heads of Departments or any staff member may be invited to attend a session of the Board where such attendance would provide a better understanding or explanation of a file or circumstances in the case.
- 16.7. At its sessions, the Board shall discuss all received applications, requests, appeals and complaints within its competence, and shall discuss all issues related to the approval of tariffs, amendment or repeal of secondary legislation or acts within its competence.
- 16.8. The sessions of the Board are open to the public except under provision of Article 18.1 regarding the discussion of confidential information.
- 16.9. Before voting on any item on the agenda, the Board shall allow public comment on each item on the agenda as it is being considered. In addition, a period for an opportunity for general public comment shall be included in the agenda of all Board meetings, except in cases where a meeting is held for a limited purpose and comment outside this limited scope is specifically prohibited.
- 16.10. Meetings of the Board to discuss and determine administrative matters related to the organization and supervision of the ERO, are not subject to the requirements of Article 16 and 18.

Article 17

- 17.1. The Board shall establish and maintain a registry of parties requesting notification of Board meetings, tariff applications, Board initiation of a price review, and any other specific activities of the Board. Any person, organization or enterprise may request inclusion on the list. The Board shall provide requested notification to parties on the maintained registry list by e-mail, phone, mail or fax.
- 17.2. Notification of Board meetings is required at least (4) days before the meeting. Notification shall include the following means:
 - a) Post an announcement of the meeting on the ERO website
 - b) Provide to news editors of every newspaper, television and radio station in its jurisdiction a news release or public service announcement of the meeting date and agenda;
 - c) Notify the parties on the Board maintained registry by e-mail where possible

Notification may include paid advertisement in sufficiently readable print in major daily newspapers of general circulation serving Kosovo where ERO deems appropriate.

- 17.3. The Board shall make a reasonable effort to notify parties on the registry who have not provided an e-mail address for notification as soon as practically possible after the agenda has been set and no later than 24 hours before the meeting.
- 17.4. In the event of an agenda change after the initial notification under Article 17.2, the agenda change must be immediately noticed on the ERO web site and by e-mail to parties on the registry who have provided e-mail addresses. The Board shall make a reasonable effort to notify the media and other interested parties of the agenda change prior to the meeting.
- 17.5. Notification of Board meetings shall include the time and place of the meeting and a description or summary of the agenda. Where possible, the notification shall identify relevant documents maintained or received by the Board that are available for public review.

Article 18

- 18.1. The sessions of the Board are open to the public, except for the portion of the meeting at which material deemed confidential by the Board in accordance with procedures adopted by the Board under Article 19 of the Law on Energy is discussed. In such cases only those persons who have been certified by the Board to have access to the confidential information under discussion may attend that part of the session in which confidential information is discussed.
- 18.2. ERO, in accordance with provisions in the Code of Conduct and Ethics, sets the criteria to determinate the confidentiality of information and the measures to protect confidentiality.
- 18.3. The Chairman and the members of the Board as well as the staff members who have access to confidential information are responsible for keeping the information confidential.

Article 19

- 19.1. The Chairman of the Board shall appoint a member of the staff as the Secretary to the Board to attend the sessions of the Board. The Secretary of the Board shall have no vote, and shall be responsible for:
 - a) keeping of records and/or audio or video recording;
 - b) preparing the minutes of the session and circulate them for signing;
 - c) inviting in writing the participants;
 - d) announcing the session in the daily newspapers and other media; and
 - e) announcing the session on the web site of ERO.

- 19.2. The sessions of the Board shall begin with a review of the minutes of the last session presented by the Chairman.
- 19.3. The Chairman shall provide a possibility to all interested parties to express their positions and to discuss matters of concern

Article 20

- 20.1. Members of the Board shall endeavor to be present at all sessions of the Board. A member of the Board may be absent from sessions only upon the following grounds:
 - a) official trip;
 - b) permitted leave or certified sickness; or
 - c) urgent official assignment.
- 20.2. The documents certifying the reason of the absence shall be attached to the records of the respective session.

Article 21

- 21.1. The Board shall take decisions by a simple majority of the votes. None of the present members of the Board may abstain from voting except under limited circumstances, including conflict of interest or the appearance of conflict of interest. Where such circumstances exist and abstention sought by a Board member, explanation on record of the reasons for the abstention is required.
- 21.2. The Chairman may ask for unanimous consent to pass any motion or to make a decision. If unanimous consent is not obtained, the Chairman will call a roll call vote of the members. The roll call will be recorded in the minutes and official record of the meeting.
- 21.3. Any member may offer a motion to amend or adopt a decision by the Board.
- 21.4. In the case of an equal number of the votes, the Chairman shall have a casting vote. If the Chairman has delegated another Board member to preside at the session as provided in Article 15, the presiding Board member shall have the same right as the Chairman to cast a deciding vote in the event of a tie vote.
- 21.5. Any member of the Board who does not agree with the decision may sign the record from the session with reserve with detailed explanation of the reasons for his dissenting position.

Article 22

- 22.1. At the completion of the session, the Chairman shall close down the meeting and additionally inform interested parties about the date and time of the next session.
- 22.2. The Chairman, members of the Board and Secretary of the Board shall sign the record of the session of the Board at latest seven (7) days upon the session.
- 22.3. The record (Minutes of the Meeting) shall include the discussed issues of the agenda, the names of the parties present at the session, the statements of the members of the Board and other parties, the presented documents and any conclusions or decisions taken.

Article 23

In case of formal complaint on the decision of the Board of ERO, such decision shall be prepared and submitted to the applicant or interested parties within seven (7) days of the date of signature of the record from the session per Article 22.2.

VI. Contracts of the Staff Members

Article 24

- 24.1. Initially all staff members of ERO shall have yearly employment contracts with ERO, which shall be renewed at the beginning of each calendar year depending on the annual performance appraisal and evaluation.
- 24.2. Upon its appointment, the Board may decide to increase the length of the employment contract of the staff members to two (2) or more years.
- 24.3. The members of the Board shall have employment contracts in accordance to their mandate stipulated in the Article 5.3 and 5.4 of the Law on the Energy Regulator and related Letter of Appointment signed by the authority who appoints them.
- 24.4. When ERO will start to generate income and has its own budget the terms and conditions of the employment contracts of the staff will be approved by the Board

VII. Salaries of the staff members

Article 25

- 25.1. Each member of the Board shall be paid a monthly salary and other allowances in an amount determined by the SRSG for the initial members and by the Assembly for subsequent members.

- 25.2. The monthly salary for a member of the Board who is a habitual resident of Kosovo shall not be less than five (5) average monthly salaries of a public sector official at a comparable level.
- 25.3. The monthly salary for an international member of the Board shall be determined by the SRSG based on his or her experience, the responsibilities of the position, and funds available.
- 25.4. The monthly salaries of the other staff members in ERO paid by the Kosovo Consolidated Budget (“KCB”) shall be competitive with salaries for comparable positions in the regulated public utilities.
- 25.5. Advisors or consultants to ERO may be hired by donors or by ERO. Where hired by the donors, the salary is set and paid by the donor. Where hired by ERO, ERO shall pay the salary according to contract drawn up by the finance office of ERO.
- 25.6. When ERO will start to generate income and has its own budget the salaries of the staff members are subject of the salaries scheme approved by the Board

VIII. Financing of ERO

Article 26

- 26.1. The activities of ERO are financed in accordance to the Article 19 of the Law on Energy Regulator.
- 26.2. The funds of ERO shall be used pursuant to the Article 20 and 21 of the Law on Energy Regulator.

Article 27

- 27.1. The funds of ERO are kept in a separate bank account.
- 27.2. The Ministry of Finance and Economy shall appoint a qualified external auditor to audit the accounts and activities of ERO.
- 27.3. The Chairman has the signing and supervising authority over the use of funds together with authorized staff member(s) from the finance & procurement unit.
- 27.4. ERO keeps the business books in accordance with the laws and regulations, which set the accounting procedure in Kosovo.

Article 28

This Rule is issued in Albanian, Serbian and English language. In the case of any dispute, the English version shall prevail.

IX. Publication of ERO decisions and activities

Article 29

- 29.1. Every six (6) months, ERO publishes the Bulletin.
- 29.2. The Bulletin shall contain: the individual acts and other decisions related, but not limited, to licenses, permit and tariffs which shall be set out in summary form.
- 29.3. ERO shall publish its annual report in the Bulletin after its submission to the SRSG and Assembly of Kosovo.
- 29.4. The Bulletin shall be approved by the Board.
- 29.5. The Board shall prepare and publish a written record of its decisions in at least the following:
 - a) general acts which prescribe rules for regulating activities in the energy sector
 - b) individual acts, including decisions related to licenses and tariffs
 - c) decisions involving disputes under Article 17 of the Law on the Energy Regulator
- 29.6. All general or individual decisions of the Board of ERO shall include detailed descriptions of the reasons for such decisions.
- 29.7. In reference to the Article 29.3 and 29.5 publication shall also include the following:
 - a) Provision to news editors of every newspaper, television and radio station in its jurisdiction of a news release or public service announcement of the decisions in 29.5.a and 29.5.b.
 - b) Circulation of copies to all parties participating in any related consultative process
- 29.8. Copies of the above shall be kept at ERO offices and made available to the public for inspection or copying upon request. The Board of ERO may adopt a fee schedule for copying of documents of a specified size, provided the fees are not above the actual costs and do not constitute an undue barrier to public access to records.
- 29.9. The general acts of ERO shall be published in the Official Gazette and on ERO official web site.
- 29.10. If the Board has issued an individual decision, the interested parties (or their designated representatives) shall sign the acceptance of the decision.
- 29.11. The Board ensures the publication of work through open sessions of the Board, cooperation with public media, publishing the annual reports and organizing press conferences.

X. Amendment of the Statute

Article 30

- 30.1. The proposal for amendment to the Statute can be made by any member of the Board and shall be approved by the Board.
- 30.2. Procedure for approval of amendments to the Statute shall be the same procedure as for adoption of the Statute.

Article 31

In the event that there are unclear points and disagreements in the provisions of the Statute, the Board shall issue explanatory information.

XI. Transitional and Final Provisions

Article 32

This Statute comes into effect on the day of its adoption by the Board and publication on web site of ERO.

Chairman of the Board of ERO

Members of the Board:

Attachment No.1

Organizational Structure of ERO

ERO Staff Number
 Current: 24
 Planned this year: 26*

