

LAW No.03/L –185

ON THE ENERGY REGULATOR

The Assembly of the Republic of Kosovo,

Based on Article 65(1) of the Constitution of the Republic of Kosovo;

Adopts:

LAW ON THE ENERGY REGULATOR

**CHAPTER I
GENERAL PROVISIONS**

**Article 1
Purpose and Scope of Application**

1. The law regulates the functioning of the Energy Regulatory Office as an independent agency of the Republic of Kosovo, established by the Assembly of the Republic of Kosovo in accordance with Articles 119.5 and 142 of the Constitution of the Republic of Kosovo. The law defines the powers, duties and functions of the Energy Regulatory Office, including the conditions for issuing licences to carry out energy activities, procedures for granting authorisations for the construction of new generating capacity, the creation and efficient functioning of competitive energy markets, and the criteria for regulating tariffs and the conditions of energy supply.

2. The Energy Regulatory Office shall exercise the powers of an independent agency within the institutions of Republic of Kosovo, subject to all laws and regulations of Kosovo, except as specifically provided to the contrary.

3. The Energy Regulatory Office shall have the following responsibilities:

3.1. fostering the transparent and non discriminatory functioning of energy markets based on free market principles for competitive activities, and the regulation of monopoly activities;

3.2. monitoring and enhancing security of supply of electricity, heat, and natural gas, including through ensuring the maintenance and construction of necessary generation, transmission, distribution, storage capacity, and interconnector capacity.

3.3. securing the transparent and non-discriminatory performance of energy activities which are subject to public service obligations, including ensuring non-discriminatory access to transmission and distribution systems and interconnectors;

3.4. ensuring that tariffs for energy activities which are regulated are reasonable and fixed on the basis of a sound tariff methodology, including ensuring that tariffs in respect of transmission and distribution systems are adequate to permit the necessary investments in the systems to be carried out in a manner allowing these investments to ensure the viability of the systems;

3.5. monitoring and preventing any abuses of dominant positions and anti-competitive practices by energy enterprises and take appropriate measures in accordance with the law;

3.6. ensuring that, customers have the right to connect their facilities to the energy systems, and to receive a supply of energy;

- 3.7. ensuring that customers and licensees are protected with adequate dispute settlement rules;
 - 3.8. ensuring that the interests of customers and energy enterprises are adequately balanced, and that vulnerable customers are protected; and
 - 3.9. complying with any relevant legally binding decisions of institutions established in the Energy Community, where such institutions are mandated with the task of taking such legally binding decisions.
4. In discharging the responsibilities specified in paragraph 3 of this Article, the Energy Regulatory Office shall also take account of the need to bring about:
- 4.1. the implementation of appropriate measures to strengthen social and economic cohesion throughout Kosovo;
 - 4.2. gradual improvement in the standards of environmental protection in Kosovo; and
 - 4.3. the safeguarding of confidential information, as determined in this law and the Law on Access to Official Documents.

Article 2 **Definitions**

1. The terms used in this law shall have the following meanings:
 - 1.1. **Energy Regulatory Office** - the independent regulator of energy activities specified in Chapter II of this law;
 - 1.2. **Board** - the board of the Energy Regulatory Office, as provided in detail under Chapter II of this law, and includes the Chairperson of the Board;
 - 1.3. **Control** - rights, contracts or any other means which, either separately or in combination and having regard to the considerations of fact or law involved, confer the possibility of exercising decisive influence on an enterprise, in particular by:
 - 1.3.1. ownership or the right to use all or part of the assets of an enterprise;
 - 1.3.2. rights or contracts which confer decisive influence on the composition, voting or decisions of the bodies of an enterprise;
 - 1.4. **Confidential information** - the data, documents or other information, whether commercial or technical, relating to the design, rehabilitation, insurance, operation, maintenance, and financing of energy related operations or activities which is not already in the public domain and may endanger the commercial interest of applicants and licensees if disclosed;
 - 1.5. **Dispute settlement rules** - the rules established by the Energy Regulatory Office pursuant to this Law that shall provide the basis for the resolution of disputes in the energy sector;
 - 1.6. **Distributed generation** - generation plants connected to the distribution system;
 - 1.7. **Rules** - acts drafted and issued by the Energy Regulatory Office
 - 1.8. **Security** - both technical safety and security of energy supply;
 - 1.9. **Tendering procedure** - the published procedure for conducting a competitive bidding process, including specification of the timetable, required forms, instructions, documentation, and assessment criteria, with the aim of procuring new generation capacities, new systems for the transmission and distribution of electricity, gas and heat, and direct electricity lines and direct pipelines for the transmission of natural gas; and

1.10. **Vulnerable costumer** - a household costumer whose low level of income, ill-health or disability qualifies him or her for protection or assistance according to rules set by the Energy Regulatory Office on the basis of qualifying rules established by the Ministry of Labour and Social Welfare.

2. Other terms used in this law but not defined in this law shall have the meanings stipulated in the Law on Energy, the Law on Electricity, Law on Natural Gas, and Law District Heating.

CHAPTER II ORGANIZATION OF THE ENERGY REGULATORY OFFICE

Article 3 Headquarters and legal basis

1. The headquarters of the Energy Regulatory Office shall be in Pristina.
2. The Energy Regulatory Office shall carry out its functions and duties as stipulated under the present law, Law on Energy, Law on Electricity, Law on District Heating and the Law on Natural Gas.

Article 4 Board

1. The Energy Regulatory Office shall be directed by a Board of five members, including a Chairperson. Board members shall be nominated by the Government and appointed by the Assembly of the Republic of Kosovo.
2. Each time the position of a member of the Board becomes vacant, a new member shall be nominated by the Government within three months, and appointed by the Assembly of the Republic of Kosovo.
3. In any case where the appointment of a proposed nominee has not been confirmed by the Assembly of Kosovo within three months of the proposal by the Government, the Government shall, within a further period of three months, identify an alternative candidate and propose him/her to the Assembly.
4. The term of each member of the Board shall commence from the date when such member was appointed or, if applicable, the date of commencement of that person's additional five (5) year term under the Law on the Energy Regulator (Law No. 2004/9).
5. When the position of a member of the Board becomes vacant, a new member of the Board shall be appointed for a term of five (5) years unless the vacancy is due to death, resignation or dismissal of a member prior to the end of his or her term, in which case the new member shall serve out the remaining term of the former member. The new member may be reappointed for one additional five (5) year term after serving out the term of the former member.
6. Members of the Energy Regulatory Office who were reappointed to their position under the Law on the Energy Regulator (Law No.2004/9) shall serve out their current term but may not be reappointed again under this law. Members who were appointed under the Law on the Energy Regulator (Law No.2004/9) and who, as of the effective date of this law, are serving their first term, shall serve out that term and may be reappointed once under this law.
7. Upon the coming into effect of the present law, the members of the Board, including the Chairperson, shall continue to exercise their functions until the expiration of their regular terms as envisaged in their appointment period.

Article 5 Members of the Board

1. All members of the Board shall be citizens of Republic of Kosovo with permanent residence in Kosovo. All members of the Board shall be regularly employed with The Energy Regulatory Office on full-time basis.

2. Each member of the Board shall:
 - 2.1. hold a degree from an accredited university;
 - 2.2. have at least five (5) years of work experience in engineering, economics, accountancy, or law; and
 - 2.3. have no past record of criminal conviction or of activities which might call into question their honesty, integrity or competence.
3. A member of the Board shall not during their term of office be:
 - 3.1. a government official;
 - 3.2. an active member in any political party;
 - 3.3. be, or have a spouse or direct relative who is, a shareholder, partner, owner or manager of an energy enterprise subject to this law, or any subsidiary or affiliate of such energy enterprise;
 - 3.4. perform work for an energy enterprise subject to this law, or for any subsidiary or affiliate of such energy enterprise;
 - 3.5. hold any other position within the Energy Regulatory Office.
 - 3.6. perform any other activity that may give rise to a conflict of interest described in the Code of Professional Conduct, provided in Article 10 of this law.

Article 6 Dismissal of Board Members

1. The Assembly of the Republic of Kosovo may dismiss a member of the Board before the expiration of their term only if the member:
 - 1.1. offers his or her resignation and that resignation is acknowledged and accepted;
 - 1.2. is convicted of a criminal offence;
 - 1.3. is incapable of performing his or her duties for a period of more than three (3) consecutive months by reason of physical or mental illness, and is unable to provide medical evidence to indicate that they will be able to resume their duties within a further period of three (3) months;
 - 1.4. breaches the Code of Professional Conduct established pursuant to this Law;
 - 1.5. violates the conditions prescribed in Article 5 of this law;
 - 1.6. has failed to attend more than five (5) consecutive meetings, for any reasons.
2. In case a member of the Board is dismissed in line with paragraph 1 of this Article, a new member shall be appointed according to Articles 4 and 5 of this law.
3. Any person who ascertains that a member of the Board has committed a violation under the relevant parts of paragraph 1 of this Article, and should therefore be dismissed, shall bring the case to the competent court to settle the issue. If the competent court determines that there is substantial evidence supporting the allegation, it shall propose to the Assembly that the member of the Board be dismissed.
4. Where a member of the Board has been dismissed on the grounds of having committed a breach, offence or violation under the relevant parts of paragraph 1 of this Article, that member may appeal against such dismissal before the competent court. If the competent court determines that there is no substantial evidence to support the dismissal, it shall propose to the Assembly that the member of the Board be reinstated.

Article 7
Status and Salaries of Members of the Board and Staff

1. No member of the Board or staff of the Energy Regulatory Office shall have the status of a civil servant.
2. Member of the Board shall be paid salaries and allowances in accordance with the applicable law governing the salaries of senior public officials.
3. For a period of one year after ceasing to be a member of the Board, such person shall be prohibited from representing in front of the board on behalf of an energy enterprise licensed under this law, or an entity directly or indirectly controlled by such licensee.
4. No person, while a serving member of the Board of the Energy Regulatory Office, shall have the right to initiate negotiations, or become involved in negotiations, concerning his employment or consulting work, with any energy enterprise licensed under this law or an entity directly or indirectly controlled by such licensee.
5. No energy enterprise licensed under this law, or an entity directly or indirectly owning or controlled by such licensee, shall have the right to initiate negotiations or become involved in negotiations concerning employment of or the use of the consulting services of a member of the Board. Any licensed energy enterprise engaging in negotiations in breach of this paragraph shall be considered in breach of its licence, and dealt with accordingly by the Energy Regulatory Office.

Article 8
Main Duties of the Energy Regulatory Office Board

1. In addition to the other responsibilities set out in this law, the Board of the Energy Regulatory Office shall:
 - 1.1. approve regulatory and operational policies of Energy Regulatory Office;
 - 1.2. organize and supervise the work of the Energy Regulatory Office;
 - 1.3. supervise the implementation of the budget and the financial management of the Energy Regulatory Office and approve its financial reports and statements;
 - 1.4. organize the recruitment of, appoint, and supervise the work of personnel's staff employed by the Energy Regulatory Office;
 - 1.5. approve the remuneration and other terms and conditions of employment for the staff of the Energy Regulatory Office;
 - 1.6. take decisions and issue any rules and other sub-legal acts prepared by the Energy Regulatory Office pursuant to this Law or other legislation.
2. The Chairperson of the Board shall represent the Energy Regulatory Office before third parties.
3. The Board shall prepare and adopt rules that govern the operation of the Energy Regulatory Office, including the structure of the office, the procedures for employing staff and issues related to the organization of the work.
4. The rules may also prescribe procedures for employing staff on the basis of a contract for a specified period of time.
5. The rules shall also set out the requirements and procedures for an external public audit of its functions and activities and of its annual financial report, in conformity with paragraph 2 of Article 20 of this Law.

Article 9
Annual Report

1. The Chairperson of the Energy Regulatory Office shall submit to the Assembly of the Republic of Kosovo an annual report no later than three (3) months after the end of each calendar year. The report shall be made public and shall include:

1.1. a survey of the developments within the scope of the Energy Regulatory Office's functions, duties, and powers, including, in particular the results of its monitoring of the development of competition and transparency in the energy markets in Kosovo;

1.2. a summary of all individual acts and dispute decisions and any enforcement proceedings taken by the Energy Regulatory Office during the previous year;

1.3. data on its licensing and other regulatory activities during the previous year;

1.4. an audited annual financial report of the Energy Regulatory Office for the preceding year, including an accounting of revenues collected by the Energy Regulatory Office and expenses incurred, in conformity with Articles 18 and 21 of this Law, and

1.5. any other information that the Assembly of the Republic of Kosovo may require.

2. The Assembly of Kosovo, through the respective functional committee, may require from the Chairperson of the Board to report to the Assembly, if it so finds reasonable,

Article 10 Code of Professional Conduct

1. The Board of the Energy Regulatory Office shall draft and publish a Code of Professional Conduct applicable for the Board members and staff to ensure that they perform their duties honestly and capably, avoiding conflicts of interest, and ensure continued compliance with the requirements specified in paragraph 4 of Article 7 of this law.

2. The Code of Professional Conduct shall prohibit members of the Board and other staff of the Energy Regulatory Office from:

2.1. accepting any beneficial financial gain, directly or indirectly, from any energy enterprise, or any subsidiary or affiliate of an energy enterprise, including, but not limited to cash, stocks, real estate, significant gifts, travel, or personal services, as specified in detail in the applicable laws;

2.2 owning an interest in, or being a director, officer, employee of, or exercising management control over the operations of, any energy enterprise, its successor, or any entity directly or indirectly controlled by such enterprise.

3. The Code of Professional Conduct shall also require from Board members:

3.1. to notify the Board in writing any management or director position held by such member in a private business organization and the duties associated with such position. Such member of the Board may only continue to serve in such position if a majority of all the other members affirmatively decide, in a meeting where the concerned member is not present, that such position does not involve any material conflict of interest with, and does not threaten to materially impair the full and faithful discharge of, any of the concerned member's duties; and

3.2. to immediately notify the Board in writing of any ownership interest held, directly or indirectly, by such member or any member of his family, in a private business organization if the Energy Regulatory Office has any current or prospective business dealings or contracts with such private business organization. A member of the Board may not attend, participate in, or attempt to influence, any meeting, discussions, negotiations, decisions or proposed decisions that relate in any way to the Energy Regulatory Office's current or prospective business dealings with a private business organization in which the member or a member of his family holds a direct or indirect ownership interest.

4. The Code of Professional Conduct shall include proposals for enforcement action in the event of breaches of the Code by staff.

Article 11 Consultancy

The Energy Regulatory Office may appoint such consultants as it deems necessary to assist it in the exercise of its powers, functions and duties. Where such consultants and advisors are to be paid from the Energy Regulatory Office's own budget, they shall be engaged in accordance with the Law on Public Procurement.

Article 12 Information Required by the Energy Regulatory Office

1. The Energy Regulatory Office shall have the right to require from any energy enterprise or public authority all information, data, and documents, including accounts and any financial and accounting information, including confidential information, that are necessary for the fulfillment of its functions and duties, in line with this law and other applicable laws.

2. The Energy Regulatory Office shall make the final determination as to whether specific material it receives constitutes confidential information in accordance with rules issued by this Office.

3. Information obtained that constitutes confidential information shall be treated in accordance with the Law on Access to Official Documents.

Article 13 Obligation to Cooperate

1. All public authorities and energy enterprises, shall be obliged cooperate with the Energy Regulatory Office in order to facilitate the performance of its functions, powers, and duties.

2. In exercising its functions and duties, the Energy Regulatory Office shall cooperate with persons or organizations that represent or protect the interests of consumers.

CHAPTER III DUTIES AND POWERS OF THE ENERGY REGULATORY OFFICE

Article 14 Duties and Powers of the Energy Regulatory Office

1. The Energy Regulatory Office shall have the duty to establish and enforce a regulatory framework for the energy sector in Kosovo, ensuring non-discrimination, effective competition, and the functioning of the energy market, consistent with its general responsibilities as specified in Article 1 of this law.

2. To meet its duties, the Energy Regulatory Office shall have the authority and responsibility to:

2.1. monitor the functioning of competition in the markets for energy in Kosovo, including access conditions for parties;

2.2. issue, amend, suspend, transfer, or terminate licences as specified in this law and other relevant legislation;

2.3 . supervise, monitor and ensure compliance with licences;

2.4. develop tariff methodologies for the supply of energy at regulated tariffs;

- 2.5. approve tariff methodologies developed by the Transmission System Operator, Market Operator and the Distribution System Operator for the charges levied in connection with their regulated energy services;
 - 2.6. approve and modify or resubmit for review the applications for tariffs for regulated energy services submitted by energy enterprises in accordance with the tariff methodologies developed or approved by the Energy Regulatory Office;
 - 2.7. issue authorizations for the construction of new energy generation capacities, new facilities for the transmission and distribution of gas, and direct electricity lines and direct pipelines for the transition of natural gas in accordance with Article 38 of this law;
 - 2.8. carry out the activities specified in Article 39 of this law with respect to initiation and conduct of a tendering procedure for the construction of new energy capacity.
 - 2.9. monitor the legal, organizational, decision making, and accounts unbundling of energy enterprises;
 - 2.10. issue a rule on general conditions of energy supply;
 - 2.11. review and approve proposals for customer protection measures and technical specifications for service submitted by the energy enterprises;
 - 2.12. establish the standards of service to be met by licensees in accordance with conditions in licences;
 - 2.13. issue a rule setting out the procedures to be undertaken in respect of the disconnection of customers, to safeguard the interests of customers;
 - 2.14. resolve disputes relating to matters which are the subject of a licence issued by the Energy Regulatory Office, among customers and energy enterprises, system operators and energy enterprises, and between two energy enterprises;
 - 2.15. issue certificates of origin in accordance with this law and the Law on Electricity;
 - 2.16. issue rules and individual decisions in accordance with this law and other applicable laws;
 - 2.17. revise, approve, and monitor compliance with all codes, including the Grid Code, the distribution code, and the market rules;
 - 2.18. enforce the provisions of this law and impose fines for violations, in conformity with the rules issued by the Energy Regulatory Office;
 - 2.19. perform other duties assigned to it under this and other laws.
3. Energy enterprises licensed by the Energy Regulatory Office must apply to the Kosovo Competition Commission, under the Law on competition, for decisions regarding the merger or any other change of control of the licensed enterprise, In such cases, the Kosovo Competition Commission shall take duly into account the opinion of the Energy Regulatory Office.
 4. Energy enterprises licensed by the Energy Regulatory Office must apply to the Office for:
 - 4.1. approval of any proposed disposal of capital equipment and rights to real property used for conducting licensed activities;
 - 4.2. for the issue of certificates of origin; and
 - 4.3. for any change in the principal business of the licensed enterprise.
 5. The Energy Regulatory Office shall also have the duty to ensure, in particular:

- 5.1. that the terms, conditions, and tariffs for connecting new producers of electricity or heat are objective, transparent, and non-discriminatory, cover all reasonable costs of the regulated enterprise, and take into account the costs and benefits of renewable energy resources, new technologies, distributed generation and the opportunities created by the combined generation of heat and power;
 - 5.2. that the transmission and distribution system operators fulfill their tasks;
 - 5.3. the creation and maintenance of competitive markets when practicable, and the prevention and punishment of any anti-competitive conduct, in cooperation with the Kosovo Competition Commission in accordance with Article 21 of the Energy Law;
 - 5.4. the establishment and implementation by relevant licensees of mechanisms to deal with congested capacity within the electricity and gas systems; and
 - 5.5. fair and non-discriminatory procedures for the management and allocation of interconnection capacity.
 - 5.6. that all actual or potential system users are consulted in an open and transparent manner on the ten (10) year system development plan submitted by the Transmission System Operator, providing that all persons or undertakings claiming to be potential system users may be required to substantiate such claims, and that the Energy Regulatory Office shall publish the results of the consultation process, in particular on the possible needs for investments.
6. The Energy Regulatory Office shall examine whether the ten (10) year system development plan submitted by the Transmission System Operator covers all investment needs identified during the consultation process, and may require the Transmission System Operator to amend its ten (10) year system development plan.
 7. The Energy Regulatory Office shall monitor and evaluate the implementation of the ten (10) year system development plan.
 8. In circumstances where the Transmission System Operator, other than for overriding reasons beyond its control, does not execute an investment, which, under the ten-year system development plan, was to be executed in the following three years, the Energy Regulatory Office shall take at least one of the following measures to ensure that the investment in question is made if such investment is still relevant on the basis of the most recent ten (10) year system development plan:
 - 8.1. require the Transmission System Operator to execute the investments in question;
 - 8.2. follow the procedure of Article 39 of this law; or
 - 8.3. oblige the Transmission System Operator to accept a capital increase to finance the necessary investments and allow independent investors to participate in the capital.
 9. Where the Energy Regulatory Office has made use of its powers under subparagraph 8.2 of paragraph 8 of this Article, it may oblige the Transmission System Operator to agree to one or more of the following:
 - 9.1. financing by any third party;
 - 9.2. construction by any third party;
 - 9.3. building the new assets concerned itself;
 - 9.4. operating the new asset concerned itself.
 10. The Transmission System Operator shall provide the investors in new transmission investments with all information needed to realise the investment, shall connect new assets to the transmission system and shall generally make its best efforts to facilitate the implementation of the investment project.

11. The relevant financial arrangements arising from actions taken in compliance with paragraphs 8, 9 and 10 of this Article shall be subject to approval by the Energy Regulatory Office.

12. Where the Energy Regulatory Office has made use of its powers under subparagraph 8.1 of paragraph 8 of this Article, the relevant tariff decisions shall cover the costs of the investments in question.

Article 15

Market Monitoring and Measures to Further Competition

1. The Energy Regulatory Office shall be responsible for monitoring of the operation of the markets for electricity, district heating and natural gas, to ensure efficient functioning of those markets, and to identify any remedial action that is required. Such monitoring shall include monitoring of:

1.1. the level of transparency, including of wholesale prices, and of the operation of Transmission System Operators, including with respect to the access terms they offer and the calculation of available capacity;

1.2. the rules on management and allocation of interconnector capacity, in conjunction with the regulatory authorities of those other countries which have interconnections to Kosovo;

1.3. any mechanisms to deal with congested capacity within the energy systems in Kosovo;

1.4. the time taken by transmission and distribution operators to make connections and repairs;

1.5. the timely publication of appropriate information by transmission and distribution system operators concerning interconnectors, system usage and capacity allocation to interested parties, taking into account the need to treat non-aggregated information as commercially confidential;

1.6. the effective unbundling of accounts, as referred to in Article 49 of this law, to ensure that there are no cross subsidies between generation, transmission, distribution, and supply activities;

1.7. the terms, conditions and tariffs for connecting new producers of electricity and district heating to guarantee that these are objective, transparent and non-discriminatory, in particular taking full account of the costs and benefits of the various renewable energy sources technologies, distributed generation and combined heat and power;

1.8. the extent to which transmission and distribution system operators fulfill their responsibilities under this law, their licences, and other applicable laws, rules, and codes not to discriminate between system users in respect of rights or obligations for system access;

1.9. the level and effectiveness of market opening and competition at wholesale and retail levels, including on electricity exchanges, prices for household customers including prepayment systems, supplier switching rates, disconnection rates, charges for the execution of maintenance services, and complaints by household customers, as well as any distortion or restriction of competition, including providing any relevant information, and bringing any relevant cases to the Kosovo Competition Commission;

1.10. compliance with and reviewing the past performance of system security and reliability rules and setting or approving standards and requirements for quality of service and supply or contributing thereto together with other competent authorities; and

1.11. the occurrence of restrictive contractual practices, including exclusivity clauses which may prevent non-household customers from contracting simultaneously with more than one supplier or restrict such possibility, and informing the Kosovo Competition Commission of such practices, whenever possible.

2. The Energy Regulatory Office shall publish an annual report, separately or as part of another report, detailing the outcome of the monitoring specified in paragraph 1 of this Article. The level and

effectiveness of market opening and competition at wholesale and retail levels (subparagraph 1.9) shall be subject to a separate annual report.

3. The Energy Regulatory Office shall take such measures that it considers are necessary to:

3.1. require the Transmission System Operator or the Distribution System Operator to modify the terms and conditions they apply to system users, including tariffs and methodologies, so as to ensure that they are proportionate and applied in a non-discriminatory manner;

3.2. prevent the abuse of a dominant position or the conclusion, or the attempt to conclude, an agreement by any licensee which has the object or effect of restricting or distorting competition; the objective of securing energy supply shall be taken appropriately into account in the assessment under Articles 101(3) and 102 of the Treaty on the Functioning of the European Union;

3.3. prevent or remedy circumstances that threaten the ability of any licensee to fulfil its public service obligations; and

3.4. prevent or remedy cross-subsidy between licensed activities.

4. Any action taken by the Energy Regulatory Office pursuant to paragraph 3 of this Article shall be in compliance with the provisions of the Law on Energy and the Law on Competition.

Article 16 Settlement of Disputes

1. The Energy Regulatory Office shall establish procedures for resolving disputes in the energy sector, including complaints:

1.1. by customers against licensees concerning the services provided;

1.2. by licensees against other licensees related to the performance of the licensed activity; and

1.3. regarding third party access to the electricity transmission or distribution systems, concentrated heating or natural gas systems and transmission, and cross border flows of electricity or natural gas.

2. The dispute settlement procedures relating to final customers should provide transparent procedures for reviewing complaints. Such customer complaint procedures shall enable disputes to be settled fairly and promptly, with appropriate provision for reimbursement and compensation. The use of the dispute settlement rules shall operate without prejudice to the rights of the parties to exercise any rights of appeal that are available to them under the laws applicable of Kosovo

3. The procedures for the settlement of disputes shall be issued and published by the Energy Regulatory Office in the form of rules.

Article 17 Public Registers

1. The Energy Regulatory Office shall maintain a public register of:

1.1. all licences issued, together with the details of such licences; and

1.2. all certificates of origin issued, together with details about the holder, the qualified producer, the quantities of electricity to enter the network, and the period and location of generation.

2. The procedures for maintaining the public register and the details to be recorded in the public register shall be established by rules issued by the Energy Regulatory Office.

**CHAPTER IV
FINANCING OF THE ENERGY REGULATORY OFFICE**

**Article 18
Funding Sources**

The fees collected by the Energy Regulatory Office in respect of licensing and other activities, as specified in Article 22 of this law, shall be the dedicated revenue of the Energy Regulatory Office. In addition, the Energy Regulatory Office may use for the purpose of discharging its responsibilities under the law any appropriation granted to it under the terms of Article 21 of this law.

**Article 19
Financial Management Procedures**

The internal financial management of the Energy Regulatory Office shall be carried out in accordance with the Law on Public Financial Management and Accountability.

**Article 20
Use of Funds**

1. The Energy Regulatory Office shall use the funds available to it in accordance with Article 18 of this law in an efficient and reasonable manner, and only for the following purposes:

1.1. financing the activities of the Energy Regulatory Office and its administration, including operating costs, salaries, wages, and benefits of Board members and staff and related expenses, costs for studies, and analyses and expert appraisals and assessments related to the functions of the Energy Regulatory Office under this law;

1.2. capital expenditure for developing material assets; and

1.3. making payments that are legally owed as a result of the exercise of any function, power or duty of the Energy Regulatory Office pursuant to this law or a rule.

2. The Ministry of Finance and Economy may require auditing of the accounts and financial activities of the Energy Regulatory Office, in conformity with the applicable laws.

**Article 21
Annual Budget**

1. In preparing and submitting its annual budget, the Energy Regulatory Office shall comply with all the budget preparation and submission requirements determined in the Law on Public Financial Management and Accountability applicable to independent agencies.

2. The Energy Regulatory Office shall prepare its annual budget based on the relevant planning documents, and the annual budget shall include:

2.1. the expected costs of the work programme listed in the planning document;

2.2. a detailed estimate of the expenditures that the Energy Regulatory Office expects to incur during the year;

2.3. an estimate of the revenues which the Energy Regulatory Office expects to collect during the year; and

2.4. an estimate of the amount, if any, of funds required from the Budget of the Republic of Kosovo for that year.

3. In preparing its budget for the use of its dedicated revenue and any supplemental appropriations being requested, the Energy Regulatory Office shall exercise restraint and shall seek to minimize the total cost of its activities, consistent with the effective and efficient discharge of its responsibilities and duties under this law and other applicable laws.

4. Where, in the opinion of the Energy Regulatory Office, its dedicated revenue is insufficient to cover the total expenditure required for it reasonably to discharge its obligations, it may request a supplemental appropriation to cover the shortfall in accordance with the provisions of the Law on Public Financial Management and Accountability.

CHAPTER V FEES

Article 22 Types of Fees

1. The Energy Regulatory Office shall collect fees for:

1.1. modifying and amending licences and other licence applications;

1.2. initial and annual licensing fees;

1.3. issuing certificates of origin; and

1.4. resolution of administrative disputes; provided, however, that no such fees shall be charged with respect to dispute resolution processes involving household customers; and, provided further, that any fees charged to other parties shall not exceed the actual direct costs incurred by the Energy Regulatory Office in administering the dispute resolution process for such parties.

2. For the purposes of the Law on Managing Public Finances and Accountability, all the fees specified in paragraph 1 of this Article shall be the “dedicated revenue” of the Energy Regulatory Office.

3. The Energy Regulatory Office shall prepare and publish details of all fees that are currently applicable.

Article 23 Payment of Fees

1. Fees for reviewing applications shall be paid at the time the application is submitted.

2. Licence fees shall consist of:

2.1 .initial fees for the issuance or amendment of the licence, the expenses for the preparation of the licence, and for carrying out the regulation of the activity until the end of the current calendar year; and

2.2. annual fees for carrying out the licensed activity each subsequent year.

3. Annual fees shall be paid by the licensee at the beginning of each calendar year or through monthly installment payments agreed to by the Energy Regulatory Office.

4. Fees for the issuance of certificates of origin shall be paid for each certificate issued.

5. With the exception of annual fees, fees charged pursuant to this Article shall be calculated in accordance with the specific administrative expenses reasonably incurred in the processing of the acts to which such fees refer.

6. Annual fees shall be determined in a manner that allows the financial self-sustainability and effective and cost-efficient operation of the Energy Regulatory Office as per adequate benchmarks with regulatory

authorities operating under similar and comparable circumstances and may not exceed in any event an amount equivalent to 2 % (two per cent) of the gross turnover of energy enterprises required to pay such annual fees.

7. The procedures and deadlines for the payment of fees shall be determined in rules to be prepared and published by the Energy Regulatory Office. The Energy Regulatory Office shall ensure that all such fees received by the Energy Regulatory Office are deposited into the Energy Regulatory Office's dedicated revenue account established in accordance with the Financial Management and Control Rules and the Law on Public Financial Management and Accountability.

CHAPTER VI ADMINISTRATIVE PROCEDURE

Article 24 Sessions of the Board

1. The sessions of the Board of the Energy Regulatory Office shall be convened by the Chairperson.
2. The quorum for sessions of the Board shall be three (3) members. Sessions may be held as long as a quorum is present, without regard as to whether there may be one or two vacant positions on the Board.
3. The Chairperson 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.
4. The sessions of the Board are normally open to the public. The Board may decide that a session or a debate on a particular item on the agenda will be closed. Such decision must be based on rules that define the circumstances under which a session may be closed.
5. Decisions of the Board shall be adopted by a majority of the members present at the session; provided, however, that no decision may be taken without the affirmative votes of at least three (3) members.
6. Each member of the Board shall have an equal right and obligation to participate fully in the sessions. This right shall include, but not be limited to, the right to initiate decisions, to vote on all proposed decisions, and to take part on an equal basis with other members in the discussions.
7. Decisions adopted by the Board shall be recorded in writing in its minutes and, except for any decision that is made in a closed session and is classified as confidential, shall be disclosed to the public.
8. The Board shall meet at least ten (10) times per year.

Article 25 Decisions and Other Acts

1. In exercising its powers, duties, and responsibilities, the Energy Regulatory Office may issue:
 - 1.1. rules for regulating its activities and activities of others in the energy sector, as prescribed in this law;
 - 1.2. individual acts, including decisions related to licences and tariffs and decisions resolving disputes referred to in Article 16 of this law.
2. The decisions and individual rules of the Energy Regulatory Office shall be made in an open manner, independent of outside political, industrial or other influence. Such rules, acts and decisions shall be in writing, shall contain an explanation of the basis or reasons for the rule, act or decision, shall be binding on the energy enterprises and/or consumers concerned and the findings shall be made public in accordance with paragraph 5 of this Article.

3. Any individual acts issued by the Energy Regulatory Office pursuant to paragraph 1 of this Article shall be subject to an administrative review procedure within the Energy Regulatory Office. After the completion of the administrative review procedure, a dissatisfied party may begin an administrative dispute at the competent court in Kosovo in accordance with Article 43 of this Law and the Law of Administrative Procedure.

4. The rules of the Energy Regulatory Office shall be published in the Official Gazette and on the Energy Regulatory Office official web-site within ten (10) working days of their adoption.

5. The findings made in individual acts and other decisions related to licences and tariffs shall be made public by being posted on the website of the Energy Regulatory Office within thirty (30) days of the relevant act or decision being made, and also being published in an Energy Regulatory Bulletin. The Bulletin shall be published at least once every six (6) months and posted on the Energy Regulatory Office's official web-site.

Article 26 Consultations

1. The Energy Regulatory Office must carry out consultations on issues that have a significant impact on the energy market, including all issues related to tariffs.

2. Any consultation carried out by the Energy Regulatory Office shall:

2.1. be announced in a daily newspaper with the largest circulation in Kosovo and published on the Energy Regulatory Office's official web-site;

2.2. identify the issues to which the consultation relates; and

2.3. allow all interested parties to respond in writing within at least fourteen (14) days of the publication.

3. The Energy Regulatory Office shall, as part of any consultation in relation to tariffs or tariff submissions made by energy enterprises, publish both its proposals and those of the concerned energy enterprises (excluding confidential information), and shall:

3.1. publish any other draft rule, draft individual act, or draft decision;

3.2. hold a a public consultation at which the concerned energy enterprise shall have the opportunity to review the basis for the Energy Regulatory Office's published tariff proposal, and any draft rule, draft individual act, or draft decision, as well as an opportunity to present evidence in support of its own tariff submission

3.3. meet on request with licensed energy enterprises to discuss submissions and responses;

3.4. issue its final decision as soon as reasonably practicable after the completion of the consultation process; and

3.5. publish all reasoning and working papers with the final tariff decision..

CHAPTER VII LICENCES

Article 27 Obligation to Obtain Licence

1. Energy activities shall, to the extent required in this law, be carried out by energy enterprises on the basis of licences granted by the Energy Regulatory Office.

2. Licences issued by the Energy Regulatory Office shall be required in order to perform the following energy activities within the territory of Kosovo, providing that a licence may be issued to cover more than one activity listed below, subject to the requirements of the Law on Electricity, the Law on Natural Gas, and the Law on District Heating:

- 2.1. the generation of electricity;
- 2.2. the generation of heat;
- 2.3. the co-generation of electricity and heat;
- 2.4. the transmission of electricity, including transmission system operation;
- 2.5. the transmission of natural gas;
- 2.6. the distribution of electricity, including distribution system operation;
- 2.7. the public supply of electricity;
- 2.8. the distribution of heat, or natural gas;
- 2.9. the storage of natural gas;
- 2.10. the supply of electricity, heat, or natural gas; including transit, import or export of electricity or natural gas
- 2.11. the operation of market for electricity or natural gas;
- 2.12. the transit, import or export of electricity or natural gas;
- 2.13. transmission or distribution system operation of natural gas.

3. All licence applications and supporting documents that are not deemed confidential shall be made available to the public by the Energy Regulatory Office, in accordance with rules on licensing, issued by the Energy Regulatory Office. All licenses containing public service obligations shall be published.

Article 28 Activities that Require no Licence

1. No licence shall be required for:

- 1.1. the generation of electricity at an electricity site with total capacity not exceeding 5 MW;
- 1.2. heat generation by heating plants for self-consumption or with capacity not exceeding 1 MW;
- 1.3. the generation of electricity for self-consumption, where neither the generation facility nor the consumers of the electricity are connected to the transmission system or the distribution system;
- 1.4. storage of natural gas where the total storage capacity is less than ten thousand (10,000) cubic meters.

Article 29 Criteria for Licences and Conditions of Licence

1. A licence shall only be issued to any energy enterprise registered under Kosovo's applicable law which:

- 1.1. possesses the technical and financial capability, material and human resources, and organizational structure for meeting the regulatory requirements under the licence;

- 1.2. holds property rights over or a legal right to use the energy facilities to be used to perform the activity;
 - 1.3. provides evidence that the energy facilities to be used to perform the activity meet health, safety and environmental protection requirements;
 - 1.4. is not insolvent or in a process of liquidation or bankruptcy;
 - 1.5. has not had a licence for the same activity terminated within five (5) years of the date that the application is submitted.
2. The criteria for granting a licence shall, to the extent relevant to the licence in question, relate to the following:
- 2.1. the safety and security of the electricity system, installations and associated equipment;
 - 2.2. the protection of public health and safety;
 - 2.3. the protection of the environment;
 - 2.4. land use and siting;
 - 2.5. use of public land;
 - 2.6. energy efficiency;
 - 2.7. the nature of the primary energy sources;
 - 2.8. characteristics particular to the applicant, such as technical, economic and financial capabilities;
 - 2.9. the renewable energy targets and standards of the Energy Strategy;
 - 2.10. the emission reduction targets and standards of the Energy Strategy; and
 - 2.11. the promotion of a competitive energy market.
3. Licences may contain such conditions as the Energy Regulatory Office considers necessary for the activities to be undertaken, and may include conditions relating to:
- 3.1. tariff methodologies, tariffs, or other charges for services provided;
 - 3.2. any obligations to provide rights of universal service in line with Article 25 of the Law on Electricity;
 - 3.3. quality of service or supply;
 - 3.4. disconnection of customers and other measures necessary to protect the interests of vulnerable customers;
 - 3.5. requirements for the preparation and submission of accounting and other information;
 - 3.6. other reporting requirements;
 - 3.7. unbundling or separation of business activities;
 - 3.8. limitations on other activities that may be undertaken by the licensed enterprise; and
 - 3.9. public service obligations that apply to the licensed enterprise.

Article 30
Term of Licences

1. A licence may be granted for a period up to forty (40) years.
2. The term and validity of the licences shall be fixed as follows:
 - 2.1. for the activities of generation of electricity or heat, or the co-generation of electricity and heat, transmission of electricity or natural gas, or distribution of electricity, heat, or natural gas, or the storage of natural gas, on the basis of the lifespan of the assets used for performing the relevant activity with a maximum length of forty (40) years;
 - 2.2. for the activities of the supply of electricity, heat, or natural gas, or operator of an organised market, on the basis of the applicant's financial circumstances with a maximum length of twenty-five (25) years;
 - 2.3. for the activities of transmission or distribution system operator, where carried out separately from the activities of transmission or distribution, on the basis of the lifespan of the assets used for performing the relevant activity with a maximum length of thirty (30) years;
 - 2.4. for the activities of public supply, on the basis of the applicant's financial circumstances with a maximum length of thirty (30) years; and
 - 2.5. for the activities of import and export of electricity or natural gas where licensed separately, on the basis of the applicant's financial circumstances, but not more than five (5) years and not less than one (1) year.
3. The duration of any licence may be extended for a period that does not exceed the relevant period of the time specified in paragraph 2 of this Article, provided that the licensee meets all its obligations and requirements under the licence and has submitted a written application for its extension. The application for the extension of the licence shall be submitted no later than six (6) months prior to the licence expiration date.

Article 31
Restrictions on Certain Types of Licence

1. Only one licence shall be issued for the whole territory of Kosovo for the transmission of electricity including the Transmission System Operator of electricity.
2. Only one licence shall be issued for the whole territory of Kosovo for the Transmission System Operator of natural gas.
3. Only one licence shall be issued for the whole territory of Kosovo for the public supply of electricity.
4. Only one licence shall be issued for each licensed territory in Kosovo for the distribution of electricity, heat or natural gas; there may be one or several licensed territories for the distribution of each of electricity, heat and natural gas;
5. The energy enterprise which holds the licence for the transmission of electricity, including transmission system operation may not obtain a licence for the generation or supply of electricity, or for the generation of heat.
6. The energy enterprise which holds a licence for the Transmission System Operator of natural gas may not obtain a licence for generation, or for supply of natural gas.
7. The energy enterprise that holds the licence for the public supply of electricity may not apply for or hold a licence for the generation or transmission system operation of electricity.
8. Nothing in paragraph 7 of this Article shall prevent the holder of the public supply licence from applying for or holding a licence for either or both of:

8.1. the supply of electricity; and

8.2. until 31 December 2014, the distribution system operation of electricity.

9. An energy enterprise which holds a licence for the distribution system operator of natural gas may not obtain a licence for any other activity in natural gas subject to licensing under this law.

Article 32 Procedure for Issuing Licences

1. The procedure for obtaining a licence shall be commenced by submitting a written application to the Energy Regulatory Office, supported by all required documents, and shall be conducted in accordance with the rules on licensing specified in Article 36 of this law.

2. Within ninety (90) calendar days of the submission of the complete application, the Energy Regulatory Office shall either issue the licence, or refuse to issue the licence in a justified way, and such decisions shall be promptly published on the web site of the Energy Regulatory Office.

3. Any applicant refused a licence pursuant to paragraph 2 of this Article may not reapply until ninety (90) calendar days after the date of the decision, or, if applicable, after the effective date of a court ruling on the decision.

Article 33 Refusal to Issue a Licence

1. The Energy Regulatory Office shall refuse to issue a licence if:

1.1. the energy enterprise does not meet the requirements, conditions, or criteria provided in this law, or any rules established in accordance with this law;

1.2. another energy enterprise has already been selected and licensed to conduct an activity for which only one licence can be issued.

Article 34 Amendment of Licences

1. Subject to the rules specified in Article 36 of this law, a licence may be amended by the Energy Regulatory Office:

1.1. at the request of the licensee, when justified reasons for amendment have emerged after the licence was issued; and

1.2. on the Energy Regulatory Office's own initiative under circumstances defined in the licensing rules, such as the need to enhance competition, changes in other applicable law, changes in public service obligations, a risk to the security of energy supply, to national security, or to the life and health of citizens, or the protection of the environment.

Article 35 Termination and Suspension of Licence

1. Subject to the rules specified in Article 36 of this law, a licence shall be terminated:

1.1. on the expiration of its term, including any extension to its term;

1.2. at the request of the licensee, provided that the obligations of the licensee will be carried out by another licensee or that customers are not disadvantaged by the termination of the licence;

1.3. upon withdrawal of the licence by the Energy Regulatory Office in accordance with this law and the rules.

2. The Energy Regulatory Office may withdraw a licence if:

2.1. the licensee defaults or violates material conditions or obligations covered by the licence and does not remedy such default by a reasonable deadline set by the Energy Regulatory Office;

2.2. the licensee's operation is terminated by a declaration of insolvency or liquidation; provided, however, that this provision shall not apply to a court-supervised reorganization process if the licensee continues operations during such process;

2.3. the licensee has presented false information which was used as the basis for granting the licence, and such information is material to the proper conduct of licensed activities.

3. A licence may be terminated only if the Energy Regulatory Office concludes that the obligations of the licensee, including public service obligations, will be satisfactorily carried out by another licensee or if customers are not unreasonably disadvantaged by the termination of the licence.

4. The Energy Regulatory Office may transfer a licence that has been terminated to another licensee, provided that the new licensee applies for the licence, and the application for the licence is approved.

5. The Energy Regulatory Office may temporarily suspend a licence in a situation where a suspension is reasonably justified. In such case the licensee shall be given a reasonable time to remedy its action or lack of action, and when the licensee proves that it is capable and willing to such remedy.

Article 36 Licensing Rules and Criteria

1. The Energy Regulatory Office shall draft, adopt, and publish rules that elaborate on the criteria set forth in paragraph 2 of Article 29 of this law, and prescribe the terms, conditions, and procedures for issuing, amending, transferring, suspending, or terminating licences as well as the rights and obligations to be included in the licences.

2. In adopting licensing rules and in issuing licences, the Energy Regulatory Office shall take into account all policies, guidelines, and regulations related to the production of energy from renewable energy resources.

CHAPTER VIII SECURITY OF SUPPLY, AND CONSTRUCTION OF NEW GENERATION CAPACITIES, GAS SYSTEMS, DIRECT LINES AND PIPELINES

Article 37 Monitoring of Security of Supply

1. The Energy Regulatory Office shall be responsible for monitoring and taking the actions specified in this law to promote and enhance the short-term and long-term security of supply of energy.

2. This monitoring by the Energy Regulatory Office shall include:

2.1. the supply/demand balance of the energy sector, including the projected balance of supply and demand for the next five (5) year period;

2.2. the level of expected future demand and expected additional generation and transmission capacity being planned or under construction over a five (5) year period, including any cross-border interconnection capacity;

2.3. the energy balances drawn up by the Ministry under the terms of the Law on Energy;

2.4. the prospects for security of energy and electricity supply for the period between five and fifteen (15) years from the time of the monitoring;

- 2.5. the investment intentions, for the next five (5) or more calendar years, of Transmission System Operators and those of any other party of which they are aware, as regards the provision of cross-border interconnection capacity.
 - 2.6. levels of operational system security achieved and expected;
 - 2.7. the quality and level of maintenance of the systems; and
 - 2.8. measures to cover peak demand and to deal with shortfalls of one or more suppliers.
3. The Energy Regulatory Office shall prepare and publish every two (2) years, by 31 July at the latest, a report outlining the findings resulting from the monitoring of security of supply issues, as well as details of any measures taken or envisaged to be taken to address them.

Article 38

Authorization Procedure for Construction of New Capacity

1. Construction of new generation capacities, new systems for the transmission and distribution of gas, including interconnectors, and direct electricity lines and direct pipelines for the transmission of natural gas shall be undertaken in line with authorization procedures as described in this law, except where paragraph 1 of Article 39 of this law specifically permits the use of a tendering procedure.
2. The authorization procedure for the construction of facilities referred to in paragraph 1 of this Article shall be carried out by the Energy Regulatory Office, in line with objective, transparent and non-discriminatory criteria. Criteria for issuing such authorizations shall correspond to the criteria stipulated in respect of licensing in Article 29 of this law.
3. The Energy Regulatory Office shall establish specific procedures for the authorisation of construction of small decentralised and/or distributed generation, which shall take into account their limited size and potential impact.
4. If an authorization application is refused, the Energy Regulatory Office shall inform the applicant of the reasons for refusal in writing. Reasons must be objective, non-discriminatory, well-grounded and verifiable.

Article 39

Tendering Procedure for Construction of New Capacity

1. The Government may authorize the launching of a tendering procedure for the construction of new generation capacities if the Energy Regulatory Office issues a written determination that the authorization procedure under Article 38 of this law has not resulted in either:
 - 1.1. the building of sufficient electricity generation capacity to ensure security of supply or to meet environmental targets; or
 - 1.2. adequate energy efficiency or demand-side management measures being provided;
2. Any determination by the Energy Regulatory Office under paragraph 1 of this Article shall be consistent with Kosovo's obligations under the Energy Community Treaty.
3. Except as provided in paragraph 4 of this Article, a tendering procedure authorized by the Government under paragraph 1 of this Article shall be conducted by the Public Private Partnerships Inter-Ministerial Steering Committee ("PPP-ISC") established by Article 11 of the Law on Public Private and Concessions and the Procedures for Their Award ("PPP Law"). The Energy Regulatory Office shall serve as an ex officio member of the PPP-ISC under paragraph 3 of Article 11 of the PPP Law when the PPP-ISC is conducting such a tendering procedure.
4. If at the time the Government authorizes a tendering procedure under paragraph 1 of this Article, the Republic of Kosovo controls an electricity generation, transmission, distribution or supply company, the

tendering procedure shall not be conducted by the PPP-ISC. Instead the Energy Regulatory Office shall have overall responsibility for the organization, monitoring and control of the tendering procedure; and the Energy Regulatory Office may delegate the management of the tendering process to another authority established to ensure independent decision making in procurement.

5. Any such tendering procedure shall be designed according to objective, transparent and non-discriminatory criteria and shall be conducted in full accordance with the applicable provisions of the PPP Law.

CHAPTER IX TARIFF REGULATION

Article 40 Cost-reflectivity of supply tariffs

1. In fixing the charges to be levied to final customers for energy supplied, an energy enterprise shall ensure that the price charged by it at any time to any final customer for the supply of energy is the same as the price charged by the licensee at that time to any other final customer for a comparable supply of energy, irrespective of where such final customers are located or reside, and such charges shall fully reflect the costs borne by the licensee in providing a supply to that final customer. For the purposes of this paragraph, supplies of energy shall be regarded as comparable if they:

1.1. are at the same or similar capacity requirements; and

1.2. are in accordance with the same or similar demand characteristics.

2. Where substantial historic price distortions exist, including cross-subsidies between different customers or classes of customer, the Energy Regulatory Office shall, in regulating tariffs for energy supplied, require that tariffs are rebalanced gradually over a period beginning on the effective date of this Law and ending 31 December, 2014 in order to smooth the effect of a price increase to cost-reflective levels for any customer or class of customer.

Article 41 Tariffs

1. Tariffs for energy supplied shall be unregulated where the energy is sold to an eligible customer.

1.1. the Energy Regulatory Office may set tariffs charged to eligible customers by the electricity enterprise holding the public supply license only where the Office is not satisfied that competition in the supply of electricity is effective.

1.2. after 1 January 2015 the Energy Regulatory Office shall discontinue setting tariffs charged to customers by the electricity enterprise holding the public supply license, unless the Office is not satisfied that competition in the supply of electricity is effective.

1.3. any finding by the Energy Regulatory Office that competition in the supply of electricity is not effective shall be based on a comprehensive and published assessment of the market conditions. Tariff regulation shall not go beyond what is necessary to compensate for the lack of effective competition.

2. Tariffs in the energy sector shall include (but not be limited to):

2.1. separate charges for the use of the transmission system, for the use of the distribution system, and for connection to those systems;

2.2. separate charges for energy production or energy supply shall be stipulated as subject to regulation in the Law on Electricity, Law on District Heating and Law on Natural Gas.

3. The Energy Regulatory Office shall also be responsible for monitoring, and where necessary approving and ensuring compliance with congestion management procedures and arrangements for charges and remuneration in respect of cross-border exchanges of electricity that are specified in the Law on Electricity.

Article 42 Tariff Methodology

1. The determination of regulated tariffs for the supply of energy shall be governed by one or more tariff methodologies which shall be developed and issued by the Energy Regulatory Office.

2. As part of the process of developing tariffs and tariff methodologies, the Energy Regulatory Office shall carry out consultations in accordance with Article 26 of this law. The Energy Regulatory Office shall promptly publish its determination on any tariff or tariff methodology.

3. In addition to the principles of cost-reflectivity set out in Article 40, any tariff methodology shall be based on the following principles:

3.1. tariffs shall be reasonable, non-discriminatory, based on objective criteria, including those specified in paragraph 4 of Article 14 of this Law, and determined in a transparent manner;

3.2. tariffs shall be primarily dependent upon justified and prudently asserted costs, including a reasonable return of investment;

3.3. tariffs in respect of transmission and distribution systems shall be adequate to permit the necessary investments in the systems to be carried out in a manner allowing these investments to ensure the viability of the systems;

3.4. the Energy Regulatory Office shall be permitted to establish performance-based tariffs, that is tariffs that incorporate incentives for improved services, including productivity factors, that encourage the regulated energy enterprise to improve efficiencies over time, or penalties for the failure to meet defined performance standards;

3.5. tariffs shall take into consideration consumer protection concerns, provided that no tariff may be set below the actual cost of providing the service to the customer in questions;

3.6. tariffs shall take into consideration environmental considerations, provided that such considerations and pricing mechanisms are dealt with in a non-discriminatory and transparent manner;

3.7. tariffs for the individual groups of customers shall conform to the costs of delivery of electricity, heat, and natural gas to those customers;

3.8. except as provided in paragraph 2 of Article 40 of this law, cross-subsidies between customer classes shall not be permitted;

3.9. cross-subsidies between two or more licensed activities shall not be permitted;

3.10. interruptible tariffs, load balancing tariffs and other mechanisms to improve energy efficiency and demand side management shall be encouraged, including consideration of the development of cost-effective renewable energy sources.

3.11. seasonal and time-of-use tariffs are permitted, with tariffs adjustable according to the cost of peak and off-peak service;

3.12. connection fees may be established for new connection to the system or for substantially increasing the capacity of an existing connection.

4. Energy enterprises subject to regulated tariffs for the supply of energy shall develop their proposals for these tariffs based on the methodology approved by the Energy Regulatory Office, in line with principles

outlined in this Article, and submit their proposals to the Energy Regulatory Office for review and approval.

Article 43 Approval of Tariffs

1. The Energy Regulatory Office shall approve tariffs for regulated energy services based on tariff methodologies for regulated tariffs and proposals for tariff revisions submitted by energy enterprises. The decisions taken on such proposals shall be published.

2. No licensed energy enterprise may implement or modify any regulated tariff or tariff methodology until it has been approved by the Energy Regulatory Office in accordance with this law.

3. In approving or fixing tariffs, the Energy Regulatory Office shall ensure that licensees are permitted to recover all reasonable costs, including:

3.1. the costs of fuel maintenance and fuel reserves, wages and salaries;

3.2. the costs of the purchase and supply of lignite.

3.3. the costs of reasonable levels of energy losses in the transmission and distribution systems;

3.4. the costs of management, operation, maintenance, replacement and construction of energy facilities, the cost of decommissioning energy facilities and facilities for storage of fuel reserves;

3.5. the costs of maintenance of reserve and regulating capacities, reasonably required for ensuring reliable supply to customers;

3.6. the normal costs of depreciation in respect of the Regulatory Asset Base, where "Regulatory Asset Base" means those assets used and useful in the delivery of services by the regulated entity, except fully depreciated assets.

3.7. the cost of public service obligations and other obligations imposed on the licensee, as determined by The Energy Regulatory Office in accordance with Article 18 paragraph 4 of the Law on Energy;

3.8. such other reasonable variable, fixed and capital costs including cost of borrowing, financing, working capital and bad debts.

4. The procedures for reviewing, approving, and fixing the tariffs shall be established and published by the Energy Regulatory Office.

5. Where the Energy Regulatory Office considers it necessary in the case of a licensee responsible for transmission or distribution, it may require the licensee to modify its tariff and related terms and conditions to ensure that they are proportionate and applied in a non-discriminatory manner.

Article 44 Complaints Relating to Tariffs and Tariff Methodologies

1. Where any person is adversely affected by a decision of the Energy Regulatory Office relating to a regulated tariff or tariff methodology, that person may complain to the Energy Regulatory Office regarding the decision no later than two (2) months after the decision is published.

2. Upon receipt of such a complaint the Energy Regulatory Office shall review it and provide a reasoned response to the complainant. No such complaint or its review shall delay the implementation of the regulated tariff or tariff methodology, unless the Energy Regulatory Office so decides.

3. In the interests of transparency the Energy Regulatory Office shall be bound to follow the requirements of Article 26 of this law in all aspects of handling a complaint in terms of paragraph 1 of this Article.

Article 45
Subsidies to vulnerable customers

1. Where the Government of Kosovo identifies the need to provide financial support to vulnerable customers, it shall do so in a targeted and transparent manner and in such a way as shall be least likely to distort competition in the supply of energy.

2. All subsidies to the energy sector shall be subject to the provisions of any applicable state aid legislation and the monitoring procedures provided for therein.

CHAPTER X
UNBUNDLING AND TRANSPARENCY OF ENERGY ENTERPRISES

Article 46
Unbundling and Transparency of Energy Enterprises

1. Energy enterprises carrying out transmission or distribution of electricity shall be independent in terms of their legal form, organization, and decision making in accordance with the Law on Electricity.

2. Energy enterprises carrying out transmission or distribution of natural gas shall be independent in terms of their legal form, organization, and decision making in accordance with the Law on Natural Gas.

3. On or before 31 December 2014, energy enterprises licensed for the activities of generation, distribution and supply shall separate their internal accounts for all of these activities as if the activities in question were carried out by separate enterprises, with a view to avoiding discrimination, cross subsidies, and distortion of competition.

4. All energy enterprises shall have separate accounts for their licensed energy activities and for all other activities, and shall ensure that such accounts are audited.

5. The public supplier will maintain separate accounts for the supply of eligible customers and supply of non-eligible customers, as if they were carried out by separate enterprises, and shall ensure that such accounts are audited.

6. The Energy Regulatory Office shall monitor the implementation of compliance by the Transmission System Operator and the Distribution System Operator and the effective legal and accounting unbundling of integrated energy enterprises in accordance with this Law, the Law on Energy, the Law on Electricity, the Law on Natural Gas, and any other applicable legislation. The Energy Regulatory Office shall take appropriate enforcement action in respect of compliance programmes and legal and accounting unbundling.

CHAPTER XI
PUBLIC SERVICE OBLIGATIONS

Article 47
Imposition of Public Service Obligations

1. The Energy Regulatory Office may impose public service obligations on any energy enterprise, providing that the Energy Regulatory Office also makes arrangements to ensure that:

1.1. the public service obligations are implemented in a transparent and non-discriminatory way and do not impede the opening of the energy markets as provided in this law and other applicable laws;

1.2. the energy enterprises on which the obligations are imposed are able to recover the additional costs caused by those imposed public service obligations in accordance with Article 16 paragraph 4 of the Law on Energy.

1.3. regularly assesses the possible effects of the public service obligations on national and international competition in the energy markets, and considers whether or not such obligations should be revised,

2. Public service obligations, as specified in the license, shall be clearly defined, proportionate, transparent non-discriminatory and verifiable. The obligations shall relate to the security, regularity, quality and price of supply, or to environmental protection.

CHAPTER XII BANKRUPTCY OF LICENCEES

Article 48 Procedure in the Event of Bankruptcy

1. In the event of a liquidation or bankruptcy of a licensee, the Energy Regulatory Office shall have the competence to terminate the licence and to transfer the obligations of the licensee to another licensee who is willing to assume the obligations, or who is required to perform the obligations, under the provisions of its licence; provided, however, that this Article shall not apply to a court-supervised reorganization process if the licensee continues operations during such process.

2. If no existing licensee is willing or able to assume the obligations of the bankrupted or liquidated licensee, the Energy Regulatory Office will use its best endeavours to bring about the transfer of those assets that are necessary for the continuation of the licensed activity to a new licensee.

3. The Energy Regulatory Office may include in the licence of any energy enterprise that is subject to public service obligations an obligation which requires the licensee to take over the obligations to supply the customers of a liquidated or bankrupt licensee for a fixed period of time, either at the same or different terms and conditions of supply, and provided that the energy enterprise on which the obligations are imposed is able to recover the additional costs imposed by the obligations.

CHAPTER XIII SUPERVISION

Article 49 Supervisory Competencies of the Energy Regulatory Office

1. The Energy Regulatory Office shall exercise supervision over:

1.1. the compliance with the terms and conditions of licences;

1.2. implementation of regulated tariffs and tariff methodologies;

1.3. implementation of its rules, individual acts, and decisions issued to licensees.

Article 50 Supervisory Procedure

1. In the course of exercising its supervisory powers, as prescribed in Article 46 of this Law, the Energy Regulatory Office shall:

1.1. carry out inspections through persons authorized by it;

1.2. notify public authorities or independent bodies of measures that should be carried within the scope of their competencies;

1.3. suspend, amend, or terminate licences when it is necessary to address a violation of licence conditions;

1.4. impose compulsory administrative measures and administrative fines set out in this law or another law regulating the energy sector in Kosovo.

Article 51 Investigation

1. The Energy Regulatory Office shall, after receiving a complaint or on its own initiative, investigate whether a licensee, its employees or representatives, has violated:

1.1. a licence term or condition, and;

1.2. an act, rule, decision or instruction issued by the Energy Regulatory Office.

2. If, after carrying out an investigation under paragraph 1 of this Article, the Energy Regulatory Office finds a violation of any provision, it shall have the power to:

2.1. enjoin the licensee from repeating or continuing the illegal action, or if the action has stopped, to issue a regulatory decision requiring that a particular action or remedy be undertaken;

2.2. impose an administrative fine on the persons responsible for such violation.

3. The Energy Regulatory Office shall provide sustainable justification for any regulatory decision that it issues under this Article.

CHAPTER XIV PUNITIVE PROVISIONS

Article 52 Fines

1. The Energy Regulatory Office shall issue rules relating to fines and other penalties that may be imposed under the terms provided with this law. Such rules shall be published before any action is taken to impose such punitive provisions or fines.

2. A fine shall be imposed on any person who commits the following violations:

2.1. employs persons without qualifications required by this law;

2.2. fails to perform his/her duties under this law;

2.3. fails to provide information required pursuant to Article 12 of this Law;

2.4. improperly discloses confidential information;

2.5. fails to provide the assistance required by Article 13 of this law;

2.6. fails to comply with the measure imposed pursuant to Article 15 of this Law to prevent the abuse of a dominant position;

2.7. engages in energy activities subject to licensing without obtaining a licence;

2.8. fails to comply with the terms or conditions of a licence;

2.9. constructs facilities regulated by Chapter VIII without obtaining an authorization;

- 2.10. charges tariffs subject to regulation which have not been approved by the Energy Regulatory Office;
- 2.11. maintains accounts for a licensed energy enterprise in a manner that is inconsistent with the requirements of relevant legislation;
- 2.12. refuses to enter in a contract for supply of energy or to provide access to the systems without a justified reason;
- 2.13. connects to a system without obeying the relevant conditions;
- 2.14. carries out operations in violation of this Law, the Law on Electricity, the Law on Energy, rules established in accordance with these laws, or relevant technical standards, or codes.
3. If it involves an energy enterprise, penalties provided in paragraph 2 of this Article may not exceed the amount of 10% of revenues accumulated by the energy enterprise during the previous fiscal year.
4. When the penalty mentioned in paragraph 2 of this Article is imposed on an individual, it shall not exceed 300% of the monthly salary of the individual.
5. In cases of repetitious violations to the law, the imposed penalty may be three (3) times higher than the one provided in paragraphs 3 and 4 of this Article.
6. When imposing the penalties provided in this Chapter, the Energy Regulatory Office shall take into account the extent of the damage caused to the society, the previous behavior of the person and the financial situation of the person.
7. When imposing penalties as provided in this Chapter, the Energy Regulatory Office shall inform the persons on the violations committed, and shall provide them with the opportunity and time to respond in writing, within fourteen (14) days after the information is sent.
8. If a fine imposed by the Energy Regulatory Office is not paid, the Energy Regulatory Office shall initiate court proceedings for the collection of the fine as a civil debt.
9. All fines collected under this Chapter shall be paid into the Budget of the Republic of Kosovo.

CHAPTER XV TRANSITIONAL AND FINAL PROVISIONS

Article 53 Transitional Provisions

1. This Law shall repeal and replace the Law on Regulatory Office No. 2004/9. All bylaws, decisions, rules and other documents adopted or promulgated according to the Law No. 2004/9 shall remain in force for nine (9) months after this law enters into force.
2. Nine (9) months after this law enters into force, all bylaws, decisions rules and other documents adopted or promulgated according to Law No. 2004/9 shall be harmonized with this law.
3. Energy Regulatory Office shall issue the rules, codes, procedures and bylaws required for the implementation of this Law after consultations with all interested parties.

Article 54 Entry into force

This law shall enter into force fifteen (15) days after its publication in the Official Gazette of the Republic of Kosovo,

**Law No. 03/L-185
07 October 2010**

Promulgated by Decree No. DL-059-2010, dated 25.10.2010, Acting President of the Republic of Kosovo, Dr. Jakup Krasniqi.