

**LAW No.03/L –184**

**ON ENERGY**

**The Assembly of Republic of Kosovo,**

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

Adopts:

**LAW ON ENERGY**

**CHAPTER I  
GENERAL PROVISIONS**

**Article 1  
Purpose and Scope of Application**

1. This law establishes the general principles and rules that will govern activities in the energy sector in the Republic of Kosovo, with the aim to achieve a safe secure reliable, and high-quality supply of energy, to provide the conditions for functioning energy markets, and to also promote a more efficient use of energy, increased renewable energy sources and co-generation, and improved environment protection during energy activities.

2. The scope of this law includes electricity, heating, natural gas, and renewable energy sources, and the law provides for:

2.1. the development and implementation of an energy strategy, including forecasting of energy balances and policy on energy efficiency, renewable energy sources and co-generation;

2.2. the roles of the Government of Kosovo, of local governments, and of other institutions, and provides for wider public participation in the development of energy strategy and its implementation;

2.3. activities for the regulation of the energy sector to be carried out by the Energy Regulatory Office;

2.4. the promotion of competition in the energy sector;

2.5. the imposition of public service obligations on energy enterprises where appropriate;

2.6. the issuance by the Ministry of secondary legislation on matters specified in this law; and

2.7. measures that may be taken in the event of energy emergencies.

3. In order to advance the public interest by promoting investment in energy enterprises, this law clarifies and secures the rights of energy enterprises over property currently in their use or possession necessary for the operation or maintenance of existing energy facilities and property rights which may in future be required by energy enterprises to carry on energy activities.

**Article 2  
Definitions**

1. The terms used in this law shall have the following meanings:

1.1. **Codes** - the rules that are intended to establish the minimum technical design, operational requirements and standards, and commercial terms for relevant activities in the energy sector, and which are required by law to be submitted for approval to the Energy Regulatory Office;

1.2. **Co-generation** - any technological process involving the simultaneous generation of useful heat and electricity, for consumption by the producer or for sale;

1.3. **Customer** - a wholesale customer or final customer of energy;

1.4. **Distribution** - the transport of electricity, natural gas, or heat on distribution systems, or in local or regional pipe networks, with a view to their delivery and sale to customers, but not including supply;

1.5. **Distribution System Operator** - a natural or legal person who carries out distribution and is responsible for operating, ensuring the maintenance of, and if necessary, developing a distribution system in a given area and, where applicable, its interconnections with other systems, and for ensuring the long-term ability of the system to meet reasonable demands for the distribution of electricity, heat, or natural gas;

1.6. **Electricity** - the form of energy that can be transported by means of an electrical current through metal wires, with a view to its sale to customers;

1.7. **Energy** - any form of produced or obtained energy (electricity, heat, or natural gas) intended for supply or sale;

1.8. **Energy activities** - carrying out one or more of generation, transmission, distribution, supply, or storage of energy;

1.9. **Energy efficiency** - the ratio between the value of the output in terms of performance, service, goods or energy and value of the input of energy;

1.10. **Energy enterprise** - a person or undertaking that is lawfully performing one or more energy activities and is responsible for the commercial, technical and /or maintenance tasks related to those activities (but not including final customers);

1.11. **Energy facilities** - any installation, building, facility, including any auxiliary or related facility, systems and equipment, to include poles, pylons, transmission or distribution lines whether underground or over-ground, that are used by an energy enterprise for its energy activities, or form part of a generation plant, transmission system or a distribution system, or are part of any directly connected customer equipment, any interconnectors, or any direct lines, or (for the purposes of Article 25 to 28 of this Law only) are at the date of this law used by an energy enterprise for its mining activities under lawful rights held by that enterprise as a licensee or permit holder in respect of those activities;

1.12. **Energy Regulatory Office** - the independent regulator of energy activities vested with the powers prescribed in the Law on the Energy Regulator, this law, and other laws that regulate the performance of energy activities;

1.13. **Energy sector** - activities involving generation, distribution, transmission, storage, sale, resale, purchase, or supply of energy;

1.14. **Final customer** - a customer purchasing energy for its own use;

1.15. **Generation** - the production of electricity or heat, with a view to its consumption or sale;

1.16. **Renewable energy target** - the targeted quantity of energy to be generated from renewable energy sources or co-generation;

1.17. **License** - a document issued by the Energy Regulatory Office that allows the holder to perform an activity in the energy sector for which a license is required in accordance with the provisions of any laws relating to the energy sector;

1.18. **Long-term planning** - the planning of the need for investment in generation, transmission, and distribution capacity, on a long term basis, with a view to meeting the demand of the system

for electricity, heat, or natural gas in Kosovo, ensuring diversification of sources, and securing supplies to customers;

1.19. **Metering device** - an instrument registered in the registry for certified metering equipment in Kosovo and used for the measurement of generated, transmitted, distributed, supplied and consumed energy;

1.20. **Ministry** - the Ministry of the Republic of Kosovo designated with responsibility for the energy sector;

1.21. **Natural gas** - a mixture of hydrocarbon compounds existing in the gaseous phase or in solution with crude oil in natural gas underground reservoirs at reservoir conditions. The principal hydrocarbons usually contained in the mixture are methane, ethane, propane, butanes and pentanes.

1.22. **Predecessor entity** - a public or socially owned entity that provided services for the operation of Kosovo's electricity sector prior to 22 December 2005. The Ministry of Economy and Finance shall have the responsibility for identifying and issuing a list of such entities.

1.23. **Producer** - a natural or legal person generating electricity or heat;

1.24. **Public land** - land which is owned directly or indirectly by the Republic of Kosovo or by a municipality (as that term is defined in the Law on Local Self-Government);

1.25. **Public service obligation** - a duty imposed upon energy enterprises entrusted with the provision of services of general economic interest, which may relate to security including security of supply, regularity, quality and price of supplies, and environmental protection, and which takes into account general social, economic and environmental factors;

1.26. **Renewable energy sources** - renewable non-fossil energy sources (wind, solar, geothermal, wave, tidal, hydropower, biomass, landfill gas, sewage treatment plant gas, and biogases);

1.27. **Security of energy supply** - the ability of the energy systems to supply customers with adequate amounts of energy to meet their needs;

1.28. **Supply** - the sale, including resale, of energy to customers;

1.29. **Tariff** - a price or set of prices for energy, for use of energy systems, or for other energy related services;

1.30. **Tariff methodology** - the rules, methods, and principles that are prescribed by the Energy Regulatory Office to apply in the setting of regulated tariffs;

1.31. **Transmission** - the transport of electricity, heat, or natural gas, respectively, and high-voltage interconnected networks or high-pressure networks or pipes (other than upstream pipes) with a view to its delivery to customers, but not including supply;

1.32. **Transmission System Operator** - a natural or legal person responsible for the operating, ensuring the maintenance of, and if necessary, developing a transmission system in a given area and, where applicable, its interconnections with other systems and for ensuring the long-term ability of the system to meet reasonable demands for the transmission of electricity, heat, or natural gas.

1.33. **Wholesale customer** - any natural or legal person (other than transmission system operators and distribution system operators in the case of natural gas) who purchases energy for the purpose of resale inside or outside the system where they are established;

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

**CHAPTER II**  
**ENERGY STRATEGY, IMPLEMENTATION PROGRAMMES AND ENERGY BALANCES**

**Article 3**  
**Energy Strategy**

1. The Energy Strategy shall be the basic document that outlines the energy policies and planning for the development of the energy sector in Kosovo, in line with the overall Development Strategy of the Republic of Kosovo.
2. The Energy Strategy shall be developed by the Ministry in accordance with paragraphs 3, 4, 5 and 6 of this Article. The Energy Strategy may include development goals for the energy sector where appropriate. The Ministry shall ensure that the preparation of the Energy Strategy is carried out in co-ordination with other relevant policy development, both in the Ministry and within the Government of Kosovo.
3. The Energy Strategy shall be submitted by the Ministry to the Government of the Republic of Kosovo for review and adoption. After review by the Government of the Republic of Kosovo, the Strategy shall be sent to the Assembly of the Republic of Kosovo for adoption.
4. The Ministry shall, at intervals of not more than three (3) years, carry out a review of the Energy Strategy and prepare an updated Energy Strategy in accordance with the procedure described in this Article. Any proposed modifications to the Energy Strategy must be submitted for approval to the Assembly.
5. In developing the Energy Strategy, the Ministry shall consult with the Energy Regulatory Office, the transmission system operators for electricity, heating and natural gas and other entities licensed by the Energy Regulatory Office, representatives of consumers, and other interested public authorities in Kosovo. Upon completion of the draft Energy Strategy, the Ministry shall, subject to ensuring confidentiality of information is maintained, release such draft for public discussions for a period of sixty (60) days. After the review of all comments, suggestions, proposals, etc., and their incorporation where relevant, the Ministry shall send the draft Energy Strategy to the Government of the Republic of Kosovo.
6. The Energy Strategy shall be developed for a ten (10) year period taking into account the relevant developmental circumstances of Kosovo, and with a view to:
  - 6.1. promoting security of energy supply within a secure and stable energy sector, including promoting the diversification of sources;
  - 6.2. providing for an adequate balance between supply and demand for energy in the long-term development of the energy sector, taking into account the energy demand forecast and energy sources diversification;
  - 6.3. providing for a reasonable use of energy resources available in Kosovo, in line with the principles of sustainable development;
  - 6.4. enabling continuity in energy supplies, through a combination of adequate levels of available generation capacity, of sufficient transmission and distribution capacity in Kosovo, and of interconnections with other systems;
  - 6.5. encouraging flexibility in energy contracting and energy use, for example through the removal of barriers that prevent the use of interruptible contracts or that prevent the conclusion of contracts of varying lengths for producers and customers;
  - 6.6. providing for an optimal use of renewable energy sources consistent with renewable energy targets;

6.7. improving energy efficiency and encouraging energy conservation measures consistent with energy efficiency targets;

6.8. encouraging the adoption of real-time demand management technologies, such as advanced metering systems;

6.9. protecting the interest of energy customers, in particular vulnerable customers;

6.10. ensuring both the availability of universal service and an ability to choose energy supplier for final customers in accordance with the Law on Electricity;

6.11. provide for a sustainable environment during energy activities;

6.12. promoting investments in the energy sector;

6.13. promoting competition in the energy sector consistent with non-discrimination and transparency principles, including the development of active wholesale energy markets within Kosovo;

6.14. facilitating an appropriate level of co-operation with neighboring countries, for connection of the Kosovo energy system or its parts with European energy systems or systems of other countries, and for integration of regional energy markets, taking account of the costs and benefits of such connection.

7. The Ministry shall where appropriate prepare position papers and guidelines on any matter that is consistent with the Ministry's role in defining energy policy.

8. All position papers and guidelines prepared by the Ministry shall be subject to the same public consultation requirements as the Energy Strategy, but such papers and guidelines need not be submitted to the Government of the Republic of Kosovo but may be issued directly by the Ministry.

#### **Article 4** **Energy Strategy Implementation Programme**

1. Based on the Energy Strategy, the Ministry shall prepare and the Government of the Republic of Kosovo shall adopt an Energy Strategy Implementation Programme for a minimum period of three years. The Ministry shall be responsible for the execution of the Energy Strategy Implementation Programme.

2. The Energy Strategy Implementation Programme shall define the measures, programmes and activity to be implemented, including the cost estimates and anticipated sources of funding, the time scales for implementation, the entities responsible for implementation of each activity, and arrangements for monitoring and reporting on progress.

3. The Energy Strategy Implementation Programme shall also specify the cooperation required with local government bodies and institutions in the area of development planning in the energy sector, and the cooperation required with energy enterprises and international organizations.

4. For the implementation of the duties related to the Energy Strategy, the Government may adopt secondary legislation for the establishment, funding and operation of Communal Energy Offices where they are necessary to deal with implementation and monitoring matters at local level.

5. Ministries and other Government institutions, including local government bodies, shall advise and assist the Ministry in the implementation of the Energy Strategy Implementation Programme, to the extent that is consistent with their wider duties and powers.

6. Energy enterprise and other persons shall be required to adhere policies and obligations deriving from the Energy Strategy or Energy Strategy Implementation Programme to the extent that is specified in the Energy Strategy Implementation Programme. Where adherence of such policies or obligations is likely to result in additional costs being incurred by energy enterprises, the Ministry shall, in collaboration with the Energy Regulatory Office, make arrangements to ensure that:

6.1. such additional costs are imposed in a transparent and non-discriminatory way; and

6.2. energy enterprises are able to recover all such additional costs that they reasonably incur by means of charges to consumers and other.

7. The Ministry shall submit annual reports to the Government of the Republic of Kosovo, outlining the progress on the realization of the Energy Strategy Implementation Programme, and the implementation level of the Energy Strategy. All such reports shall include details of progress relative to the Energy Strategy Implementation Programme in the period covered by the report, and outline developments expected over the remainder of the timescale for the Programme.

## **Article 5 The National Energy Balance**

1. The Ministry shall adopt and publish forecasts for both long-term and annual energy balances as provided in this Article. Energy balances shall include forecasts of the total energy demand and its composition, types of energy resources expected to be available, and implementation measures required to meet the energy demand. Long-term and annual energy balances shall be proposed to the Ministry by the transmission system operators, after consultations with the Energy Regulatory Office, distribution system operators and licensed suppliers.

2. The long-term energy balance will forecast over a ten (10) year period, and will be adopted and published by the Ministry no later than 1 December of every other year. Annual energy balances forecasts shall be adopted and published annually, at least one (1) month before the start of the year to which they relate. The annual energy balance for the previous year shall be adopted and published within the first six (6) months of the current year.

3. The Transmission System Operator and the Distribution System Operator shall consult with the Energy Regulatory Office on the development of forecasts necessary for energy balances, and take account of such consultation in their preparation of proposals for a methodology. Such a proposal shall be submitted for approval to the Energy Regulatory Office. Promptly after receiving such a proposal, the Energy Regulatory Office shall provide the Ministry with a copy thereof; and the Ministry shall have twenty (20) days to provide the Energy Regulatory Office with its comments to such proposal. The Energy Regulatory Office shall take into consideration any comments timely received from the Ministry when making its decision on whether to approve such a proposal; and such decision must be issued by the Energy Regulatory Office no later than forty five (45) days after receiving the proposal.

4. The Energy Regulatory Office shall issue an approved Methodology to be followed by the Transmission System Operator and the Distribution System Operator for the forecasting methodology and data collection processes to be followed for energy balance development.

## **Article 6 Role of Local Government**

1. Local government bodies shall plan, in their development documents, the need and the manner of energy supply and shall harmonize those documents with the Energy Strategy Implementation Programme, and energy balances.

2. In addition to those mentioned in paragraph 1. for this Article, local government bodies shall also cooperate with the Ministry, the Transmission System Operator and the Distribution System Operator on issues of the right of access to lands for the placement of energy equipment and energy facilities.

## **Article 7 Development Plans of Transmission and Distribution System Operators**

1. Transmission and Distribution System Operators shall prepare and publish medium and long-term development plans in accordance with the requirements of the Law on the Energy Regulator. Such development plans shall be consistent with their obligations under the licenses and compatible with the Energy Strategy, the Strategy Implementation Programme, and energy balances.

2. Development plans prepared by the transmission and distribution system operators shall recognize:

2.1. the importance of regular maintenance and, where necessary, renewal of the transmission and distribution networks to maintain the performance of the networks;

2.2. the importance of ensuring that they exchange information on network operations with other system operators, both in Kosovo and in other systems, on a timely and effective basis;

2.3. the need to satisfy all the performance objectives relative to their systems that are set in accordance with their licenses or other rules or codes;

2.4. the need to ensure sufficient transmission and generation reserve capacity for stable operation;

2.5. in the case of the Transmission System Operator, the need to take steps to secure an appropriate generation reserve capacity, to the extent that the transmission system operator is able to do so within the applicable codes;

2.6. the need for existing interconnectors to be used as efficiently as possible;

2.7. the desirability of ensuring an appropriate level of interconnection with European energy systems to facilitate the development of the regional energy market, taking account of the costs of building new interconnections relative to the benefits to customers.

3. Any development plan prepared by transmission or distribution system operators must be submitted to the Ministry for review. The Ministry shall review any such development plan and may publish an opinion regarding the extent to which such plan is deemed consistent with the Energy Strategy, Strategy Implementation Programme and Energy Balance, and the law. Any such submission or published opinion shall not reduce or change the obligations of transmission and distribution system operators to submit such plans to the Energy Regulatory Office in accordance with the Law on the Energy Regulator.

### **CHAPTER III ENERGY EFFICIENCY, RENEWABLE ENERGY SOURCES, CO-GENERATION**

#### **Article 8 Energy Efficiency Policy**

1. Energy Efficiency Policy shall be an integral part of the Energy Strategy, and its scope and content shall be consistent with Kosovo's obligations under the Energy Community Treaty and other legislation.

2. The purpose of the Energy Efficiency Policy shall be to improve the energy efficiency and the use of energy saving potentials with a view to achieving an optimal level of energy efficiency in Kosovo.

#### **Article 9 Implementation of Energy Efficiency Policy**

1. For the implementation of the Energy Efficiency Policy, the Ministry shall:

1.1. prepare ten (10) year and three (3) year action energy efficiency plans for development, in accordance with Kosovo's obligations under the Energy Community Treaty, including a ten (10) year target figure for energy saving;

1.2. monitor the implementation of the energy efficiency development plans and the realization of specified targets for energy savings;

1.3. foster improvements in the energy efficiency level of buildings, and arrangements for energy certification of buildings;

1.4. encourage an energy audit process and local energy saving development plans;

1.5. publish information on energy efficiency levels and developments;

1.6. draft and adopt sub-legal acts for the promotion of efficient use of energy, after consulting the Energy Regulatory Office and the public body that is designated by law as having principal responsibility for energy efficiency matters;

1.7. encourage non-governmental organizations to operate in the energy sector in order to influence energy saving.

2. The public body that is designated by law as having principal responsibility for energy efficiency matters shall be charged with the implementation of energy efficiency policies in a manner that is consistent with the Energy Strategy Implementation Programme. The organization, funding, and duties of such public body shall be specified in a separate law specifically dealing with energy efficiency matters.

#### **Article 10**

##### **Policy for Renewable Energy Sources and Co-generation**

1. The aim of the Renewable Energy Sources and Co-generation Policy is to encourage the cost-effective and sustainable use of renewable energy sources and co-generation, with a view to achieving the targeted levels of usage of renewable energy sources and co-generation in Kosovo.

2. The Renewable Energy Sources and Co-generation Policy is an integral part of the Energy Strategy.

#### **Article 11**

##### **Implementation of the Renewable Energy Sources and Co-generation Policy**

1. For the implementation of the Renewable Energy Sources and Co-generation Policy, the Ministry shall:

1.1. draft long-term and mid-term plans for renewable energy sources and co-generation that are consistent with Kosovo's obligations under the Energy Community Treaty;

1.2. monitor the implementation of the Renewable Energy Sources and Co-generation Policy; and

1.3. develop renewable energy targets for the use of renewable energy sources and co-generation.

#### **Article 12**

##### **Obligations of Energy Enterprises for Renewable Energy Sources and Co-generation**

1. When dispatching electricity generation, the transmission system operator, or the distribution system operator where appropriate, shall give priority to electricity generation from renewable energy sources and co-generation, subject only to any limits specified for purposes of system security by the Grid Code and other rules and codes.

2. Transmission and distribution system operators shall establish and publish standard rules on who bears the costs of technical adaptations, such as grid connections and grid reinforcements, necessary to integrate new electricity generation feeding electricity produced from renewable energy sources into the interconnected system. Such rules shall be submitted for approval to the Energy Regulatory Office, shall be consistent with the Energy Strategy and shall be based on objective, transparent and non-discriminatory criteria, taking particular account of all the costs and benefits associated with the connection of these producers to the system.

3. Transmission and distribution system operators shall provide any new electricity producer using renewable energy sources or co-generation wishing to be connected to the system with a comprehensive and detailed estimate of the costs associated with the connection for which estimate the system operator may levy a charge that reflects its reasonable costs.

4. Transmission and distribution system operators shall establish and publish standard rules relating to the sharing of costs of system installations, such as grid connections and reinforcements, between all electricity producers benefiting from them. Such rules shall be submitted for approval to the Energy Regulatory Office, and shall be consistent with the Energy Strategy and any applicable secondary legislation, rules or codes.

5. The Energy Regulatory Office shall ensure that transmission and distribution fees for connection and for use of the transmission and distribution systems do not discriminate against electricity from renewable energy sources, including in particular electricity from renewable energy sources produced in peripheral regions, such as regions of low population density.

#### **Article 13**

##### **Renewable Energy Targets**

1. The Ministry shall establish annual and long-term renewable energy targets for the consumption of electricity or heat generated from renewable energy sources or cogeneration.
2. Long-term renewable energy targets shall be developed for a ten (10) year period, according to the methodology as determined by separate secondary legislation, issued by the Ministry.
3. The Ministry may prepare and issue secondary legislation containing measures intended to achieve the renewable energy targets, and any such measures shall take into account:
  - 3.1. principles of a competitive energy market; and
  - 3.2. the characteristics of renewable energy sources and generation technologies.
4. The Ministry shall draft and publish the report on the realization of long-term renewable energy targets annually, as part of the report on the implementation of the Energy Strategy Implementation Programme specified in paragraph 7 Article 4 of this law. The report shall include a progress analysis of the realization of renewable energy targets, particularly taking into account the impact of climatic factors. This analysis shall also indicate the extent of measures undertaken for the realization of renewable energy targets.
5. In accordance with the provisions of the Law on the Energy Regulator, the Energy Regulatory Office shall certify the origin of electricity produced from renewable energy sources according to objective, transparent, and non-discriminatory criteria.

## **CHAPTER IV INVESTMENTS**

### **Article 14 Promotion of Investments in the Energy Sector**

1. The construction of new energy plants and facilities and their maintenance and use shall be encouraged in Kosovo, as long as such actions are in compliance with Kosovo's obligations under the Energy Community Treaty and all other applicable legislation.
2. Private investment in the energy sector of Kosovo shall be encouraged and favorable foreign investment environment conditions shall be established, including conditions for an open market for the manufacture and purchase of energy materials for the purpose of attracting general investments, and investments for the construction of new energy facilities and for the modernization, rehabilitation, and expansion of existing generation capacities, transmission systems and distribution systems.
3. Where investments in new generation units with a capacity of fifty (50) megawatts or more are planned, the investor shall provide to the Ministry an analysis of the potential for the application of cogeneration in such investment. The analysis shall be performed by an independent expert, be based on well-documented scientific data, comply with the requirements of European Community Directive 2004/8/EC on the promotion of cogeneration, and be based on a forecast of useful heat demand in the internal energy market.
4. If the analysis referred to in paragraph 3 of this Article indicates that cogeneration could be applied in the investment without adversely affecting the profitability of the investment, the Ministry, in line with the aim identified in paragraph 3 of this Article on the creation of a favorable investment environment, may require that cogeneration is considered as an investment component.

## **CHAPTER V ECONOMIC REGULATION OF ENERGY ACTIVITIES**

### **Article 15 Regulation of Energy Activities**

1. The economic regulation of activities in the energy sector shall be implemented in compliance with the Law on the Energy Regulator, so as to establish a transparent and stable regulatory framework that will:

- 1.1. support a stable environment for investment in the energy sector,
  - 1.2. provide a proper framework for development of competition, including ensuring transparent and non-discriminatory terms of access to transmission and distribution systems;
  - 1.3. enhance security of energy supply; and
  - 1.4. protect the interests of customers, including provision for the protection of vulnerable customers.
2. The duties of the Energy Regulatory Office shall include monitoring of security of energy supply and this monitoring shall be carried out in accordance with the Law on the Energy Regulator.
3. Energy activities in the energy sector shall be carried out on the basis of licenses issued by the Energy Regulatory Office, except where the activities are exempt from the licensing requirement in accordance with the Law on the Energy Regulator.

#### **Article 16 Types of Regulatory Activities**

1. Energy activities shall be carried out according to rules that regulate them as competitive, market-based, activities or as uncompetitive activities for which tariffs and other terms are subject to regulation by the Energy Regulatory Office in accordance with the Law on the Energy Regulator.
2. All energy enterprises shall serve the interests of individual customers by providing a safe, efficient, and reliable supply of quality electricity, heat energy or natural gas, ensuring the efficient use of energy resources; respecting the protection of the environment; and preserving the health, life, and property of the people of Kosovo.
3. Specific public service obligations may be imposed by the Energy Regulatory Office on energy enterprises which shall relate to the security and reliability of energy supply, the regularity, quality and price of the supply, and the protection of the environment. Such obligations shall be clearly defined, transparent, non-discriminatory and verifiable and shall guarantee equality of access for energy enterprises from Energy Community parties.
4. The costs and expenses incurred by energy enterprises in connection with paragraph 3 of this Article shall, subject to review by the Energy Regulatory Office to ensure their reasonableness, be acknowledged as justified costs and expenses for the purposes of setting tariffs. The compensation for these costs must not exceed the costs incurred in the discharge of public service obligations minus the revenues earned from providing the service. The compensation may include a reasonable profit.

#### **Article 17 Regulation of Energy Sector Tariffs**

As provided in the Law on the Energy Regulator, all regulated tariffs and tariff methodologies shall allow the regulated energy enterprise the opportunity to charge for and recover its full annual reasonable cost of service.

#### **Article 18 Confidential Information**

1. Energy enterprises which perform energy activities in the areas of electricity, heat, or natural gas shall protect the confidential information obtained in the performance of their activities and tasks under this law, unless other laws require that such information be published or made available to government bodies specified in such laws.
2. The determination of what information is confidential shall be made in accordance with the Law on the Energy Regulator and rules issued by the Energy Regulatory Office.
3. Notwithstanding paragraph 1, in this Article the Energy Regulatory Office or the Ministry may require energy enterprises to provide the Energy Regulatory Office or the Ministry with any confidential information that either may require to perform their functions, powers, and duties. Provided that where any such information is provided to the Energy Regulatory Office or the Ministry, and the Energy Regulatory Office or the Ministry considers that the information is lawfully registered or secret, such

information shall be protected as secret by the Energy Regulatory Office or the Ministry and shall not be subject to laws on public disclosure.

## **CHAPTER VI COMPETITION IN ENERGY ACTIVITIES**

### **Article 19 Prohibition on Restrictions of Competition**

1. Energy enterprises are strictly prohibited from entering into, participating in, or taking any action in the furtherance of: any agreement between undertakings, any decision by an association of undertakings, and/or any concerted practice if such agreement, decision or practice has as its object or effect the prevention, restriction or distortion of competition.

2. The prohibition of paragraph 1 of this Article applies, in particular, to any such agreement, decision or practice that:

- 2.1. directly or indirectly fixes purchase or selling prices or any other trading conditions;
- 2.2. limits or controls production, markets, technical development or investment;
- 2.3. shares markets or sources of supply;
- 2.4. applies dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
- 2.5. makes the conclusion of contracts subject to acceptance by the other parties of supplementary obligations, which, by their nature or according to commercial usage, have no connection with the subject of such contract.

3. All agreements and decisions prohibited pursuant to this Article shall be automatically void.

4. The provisions of paragraph 1 may, in accordance with the Law on Competition, be declared inapplicable in the case of:

- 4.1. any agreement or category of agreements between undertakings;
- 4.2. any decision or category of decisions by associations of undertakings;
- 4.3. any concerted practice or category of concerted practices, which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:
  - 4.3.1. impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;
  - 4.3.2. afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

### **Article 20 Prohibition on Abuse of a Dominant Position**

1. Any abuse by one or more energy enterprises of a dominant position shall be prohibited.

2. The abuse prohibited by paragraph 1 of this Article may, in particular, consist in:

- 2.1. directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;
- 2.2. limiting production, markets or technical development to the prejudice of consumers;

2.3. applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;

2.4. making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

#### **Article 21**

#### **Competencies of Regulatory Bodies on Competition Matters**

1. The Energy Regulatory Office shall, within the scope of its authority under the Law on the Energy Regulator, implement measures aimed at preventing violations of Articles 19 and 20 of this Law.

2. If the ERO acquires reasonable evidence of an actual or suspected violation of either Article 19 or 20 of this Law by an energy enterprise, the Energy Regulatory Office shall provide such evidence to the Kosovo Competition Commission. The Kosovo Competition Commission shall institute an investigation of the alleged violation, and shall take whatever enforcement measures it deems necessary and appropriate to remedy or otherwise address such alleged violation as provided for by the Law on Competition.

3. Whenever the Kosovo Competition Commission is conducting an investigation – whether on information obtained from the Energy Regulatory Office or any other source – of an alleged or potential violation by an energy enterprise of the Law on Competition or Article 19 or 20 of this Law, the Energy Regulatory Office shall, provide assistance to the Kosovo Competition Commission with the conduct of such investigation, and the assessment of the alleged violation.

4. The Kosovo Competition Commission and the Energy Regulatory Office shall agree a protocol setting forth more detailed provisions governing their cooperation on the matters specified in this Article.

### **CHAPTER VII**

### **EMERGENCY MEASURES IN ENERGY SUPPLY**

#### **Article 22**

#### **Right to Restrict Energy Supply**

1. The Government may, as an emergency measure, restrict the supply of energy to customers or impose special obligations on energy enterprises to be effective during the existence of any State of Emergency declared by the President pursuant to the Constitution, if such action is necessary and appropriate under the circumstances justifying such declaration and such action is not contrary to the declaration or any limitations imposed thereon by the Assembly pursuant to its authority under the Constitution.

2. The Government may also, as an emergency measure, restrict the supply of energy to customers or impose special obligations on energy enterprises in any other emergency situation where the Government determines that emergency measures in respect of the energy sector are required, including a situation involving:

2.1. any material accident with installations for the generation, transmission, or distribution of electricity, heat or natural gas;

2.2. any sudden or unexpected long-term shortage of energy generation capacity or energy transmission or distribution capacity; or

2.3. any terrorist activities and acts of war.

3. In the event the Government makes a determination under paragraph 2 of this Article, it shall immediately adopt a written decision thereon describing the circumstances justifying such determination and specifying the restrictions and/or special obligations being imposed. The Government may immediately implement such decision, and shall forward such decision to the Assembly within three (3) calendar days after its adoption. Within seven (7) calendar days after receiving the decision, the Assembly shall approve or disapprove such decision by a majority vote of the deputies present and voting. If the Government fails to deliver its decision to the Assembly within three (3) calendar days after its adoption, or if the Assembly fails to approve such decision within seven (7) calendar days after receiving such decision, the Government's decision shall have no further force or effect.

4. A decision taken by the Government under paragraphs 2 and 3 of this Article and consented to by the Assembly shall last only as long as the emergency continues and shall have a maximum duration of sixty (60) days, unless extended by the Assembly. With the consent of a majority vote of the deputies of the Assembly present and voting, the decision may be extended if necessary for successive periods of thirty (30) days up to a total of one hundred and eighty (180) additional days. Thereafter a new Government decision on the emergency is required.

5. The Assembly may place limitations on the duration and extent of a Government decision adopted under paragraphs 2 and 3 of this Article.

6. In the event of a declaration under paragraph 1 of this Article or a decision under paragraph 3 of this Article, the Government may prescribe, as may be necessary and consistent with such declaration or decision and any restrictions imposed by the Assembly, the following measures to deal with the concerned emergency:

6.1. impose constraints on commercial activities in respect of specific energy resources;

6.2. prescribe special commercial conditions;

6.3. limit exports and imports of energy or prescribe special conditions for the export and import of energy;

6.4. compel energy generation to take place at specified generation facilities; and

6.5. impose an obligation to supply energy to selected customers only, in accordance with pre-defined and objective criteria developed by the Transmission System Operator and the Distribution System Operator, and approved by the Energy Regulatory Office; and

6.6. may prescribe other reasonable measures depending on the circumstances.

7. An energy enterprise shall not be obligated to pay for any damage caused to any person as a result of the restriction or interruption in the supply of electricity, heat, or natural gas imposed under this Article, unless it is established by the Energy Regulatory Office that the emergency occurred as a result of negligence by the energy enterprise or its employee. The Energy Regulatory Office shall establish a procedure for assessing such negligence, the estimated damage caused by such negligence, and the estimated compensation, if any, payable to customers and/or other energy enterprises. Any such determination by the Energy Regulatory Office shall be subject to judicial review in accordance with the law on administrative procedures.

## **CHAPTER VIII PROPERTY RIGHTS OF ENERGY ENTERPRISES**

### **Article 23 New and existing Energy Facilities**

All new and existing energy facilities for the generation, transmission and distribution of electricity, heat or natural gas shall be on property in which the concerned energy enterprise enjoys appropriate rights of ownership, use or access. Lines and pipes for the transmission and distribution of energy may pass through, over, on or under any property only if the concerned energy enterprise holds a servitude or right of use or ownership in the concerned property or such a servitude or right of use or ownership is granted to or obtained by the concerned energy enterprise in accordance with this Law and any applicable sub-legal acts promulgated by the Ministry pursuant hereto.

### **Article 24 Property currently in use or possession of energy enterprises**

1. Any energy enterprise that owns, uses (or has the right to use), operates or otherwise possesses energy facilities sited on property over which the energy enterprise has not formally acquired or been granted a servitude, right of use or property ownership right, shall – if such energy facilities are in the possession or use of the energy enterprise on the effective date of this Law - have, all necessary servitudes, rights of use and/or other property rights in or to the concerned property by operation of this

Law. Such servitudes, rights of use or other property rights shall be subject to the applicable terms and conditions set forth in this Article.

2. The property upon which energy facilities are situated, other than lines or pipes for the transmission and distribution of energy, shall be the subject of a ninety-nine (99) year right of use commencing on the effective date of this Law. Under such right of use, the concerned energy enterprise shall have the right to:

2.1. possess and to use the concerned property for any purpose not prohibited by the law of Kosovo;

2.2. have any illegal possessors removed from the property;

2.3. be compensated for damages caused by an illegal possessor to the same extent as an owner of real property in accordance with the law of Kosovo;

2.4. freely sell, transfer or otherwise dispose of such right of use, or any aspect thereof; and

2.5. establish encumbrances on such right of use.

3. The following terms and conditions shall also apply to such right of use:

3.1. municipalities and other public authorities may levy taxes and fees on the energy enterprise in the same manner and extent as if the energy enterprise were the owner of the property;

3.2. physical changes of the concerned property, including any construction thereon, shall not affect the scope and the conditions of the right of use;

3.3. the right of use shall not be affected by any change to the underlying ownership of the concerned property;

3.4. the right of use shall not be expropriated except in accordance with the conditions, requirements and procedures, including the requirement for the payment of compensation, provided under the law of Kosovo;

3.5. the energy enterprise shall appropriately compensate the public owner for the right of use; and

3.6. where necessary, the perimeter of the concerned property shall be determined in accordance with any applicable sub-legal acts promulgated by the Ministry pursuant to this Law.

4. Any lines and pipes for the transmission and distribution of energy that pass through, over, on or under any property shall give rise to a servitude in perpetuity over the affected property held by the concerned energy enterprise commencing from the effective date of this Law. The aforesaid servitudes shall be subject to the mandatory standards and restrictions contained in any applicable sub-legal acts promulgated by the Ministry pursuant this Law.

5. A right of use or servitude established by this Article 24 shall include rights of access from a public street or highway to the concerned property over other property if and to the extent, in accordance with the law of Kosovo and any applicable decision of the Energy Regulatory Office, such access is required by the concerned energy enterprise to ensure proper operation and maintenance of the concerned energy facilities.

6. Where an energy enterprise holds, as of the effective date of this Law, a right of use over public land which is registered by a Municipal Cadastral Office in its own name or in the name of a Predecessor Entity, such right of use shall - by operation of this Law be – subject to the terms and conditions specified in the foregoing provisions of this Article.

7. The property rights established by this Article 24, as well as the property rights over assets granted during the process of incorporation of an energy enterprise that was licensed in 2006 to operate Kosovo's electricity distribution or transmission system,, shall, immediately upon the request of the concerned energy enterprise, be registered in such energy enterprise's name in the concerned Immovable Property Rights Register by the concerned Municipal Cadastral Office, and such registration shall be made without

regard as to whether there is or is not a contract with respect thereto between the energy enterprise and the registered owner of the property, if any.

8. When making a registration pursuant to paragraph 7 of this Article, the energy enterprise shall include in the Immovable Property Register a notice describing the rights and restrictions provided by paragraphs 9 and 10 of this Article.

9. Subject to paragraph 10 of this Article, any private person who believes that the rights granted to an energy enterprise by this Article negatively affects the property rights of such private person in such a way as to amount to an expropriation for which compensation is due under the Law on the Expropriation of Immovable Property may, at any time within thirty-six (36) months from the date the notice requirement of paragraph 8 is fulfilled, file a complaint with the Supreme Court of the Republic of Kosovo seeking payment of such compensation from the Government of Kosovo. The Government of Kosovo shall have the right to reimbursement or indemnification from the concerned energy enterprise for any compensation the court requires to be paid unless a contract to which the Republic of Kosovo is party specifically provides otherwise. In the event that compensation is determined to be payable, the amount of compensation due (if any) shall be determined in accordance with the compensation provisions of the Law on the Expropriation of Immovable Property and the sub-legal acts issued pursuant thereto.

10. No compensation shall be owed or paid under paragraph 9 of this Article to any person if:

10.1. prior to the date on which the complaint seeking compensation is filed, the concerned rights registered by the energy enterprise have already been paid for or have already arisen by the operation of a contract or another law (such as by prescription);

10.2. the law applicable at the time the facilities were placed on the property did not require the payment of compensation;

10.3. the law applicable at the time facilities were placed on the property provided for compensation but the affected owner or owners failed, without a compelling and legally cognizable justification, to timely exercise their legal rights to obtain such compensation within the applicable legal time limit, which shall be deemed to have begun running on the date on which the facilities were first placed on the property; or

10.4. at the time the facilities were placed on the property, the property was in social or state ownership.

#### **Article 25 New developments over private land**

1. If an energy enterprise proposes construction of new, or expansion of existing, generation, transmission or distribution facilities that require the acquisition of servitudes, rights of use or other property rights to be established on private land, the concerned energy enterprise shall give notice to the private land owner. Such notice shall specify the details of the land to be encumbered by, or transferred to, the concerned energy enterprise and the compensation proposed, based on the fair market value of the land. Any servitudes or other property rights agreed by the parties shall be registered with the competent Municipal Cadastral Office, provided that, all servitudes shall be subject to the mandatory standards and restrictions outlined in any applicable sub-legal acts of promulgated by the Ministry pursuant hereto.

2. If the concerned energy enterprise and the land owner cannot agree on the need for the new or expanded servitudes or the proposed route within thirty (30) days of delivery of the written proposal by the energy enterprise under paragraph 1 of this Article, the energy enterprise may request that the Energy Regulatory Office issue its own determination as to whether the new or expanded facilities are needed to meet the energy enterprise's license obligations or are otherwise required under the laws of Kosovo.

3. The Energy Regulatory Office shall issue its determination within thirty (30) days of the written request of the concerned energy enterprise being submitted to the Energy Regulatory Office in the form prescribed by that Office.

4. If the Energy Regulatory Office determines that the new or expanded facilities are needed to meet the concerned energy enterprise's license obligations, such determination shall be deemed to meet the requirements of Article 4 of the Law on Expropriation of Immoveable Property and the Energy Regulatory Office shall forward that determination to the Government with its request for initiation of the proceedings for expropriation of the private land and the transfer of that land to the energy enterprise for the compensation determined in accordance with the relevant provisions of the Law on Expropriation of Immoveable Property.

#### **Article 26 New developments over public land**

1. If an energy enterprise proposes construction of new, or expansion of existing, generation, transmission or distribution facilities that require the acquisition of servitudes, rights of use or other property rights to be established on public land, the concerned energy enterprise shall notify the appropriate municipality or other public authority and shall request that a servitude or other property right be granted on the basis set out in the following paragraphs.
2. If the concerned energy enterprise and the municipality or public authority cannot agree on the need for the new or expanded servitudes or other property rights within thirty (30) days of delivery by the concerned energy enterprise of a written request for such servitudes or other property rights, the energy enterprise may request that the Energy Regulatory Office issue its own determination as to whether the servitudes or other property rights are needed to meet the concerned energy enterprise's license obligations or are otherwise required under the laws of Kosovo.
3. If the Energy Regulatory Office determines that the servitudes or other property rights are so needed, such determination shall be deemed to meet the requirements of Article 4 of the Law on Expropriation of Immoveable Property.
4. The Energy Regulatory Office shall issue its determination within thirty (30) days of the written request of the concerned energy enterprise being submitted to the Energy Regulatory Office in the form prescribed by that Office.
5. The Energy Regulatory Office shall forward its determination to the Government with its request or the initiation of proceedings for the expropriation of the public land and that the expropriated land be transferred to the energy enterprise against appropriate compensation. Any servitudes created shall be subject to the mandatory standards and restrictions outlined in any applicable sub-legal acts.
6. Nothing in this law shall affect the validity of servitudes granted to an energy enterprise pursuant to applicable sub-legal acts promulgated by the Ministry in accordance with the previous Law on Energy.

#### **Article 27 Servitudes**

1. Energy enterprises shall have a right to use without charge in reasonable instances of need some parts of buildings for fitting metering devices and other equipment connected with the distribution or supply of electricity, heat, and natural gas.
2. Energy enterprises shall have a right to use without charge in reasonable instances of need bridges, roads, streets, sidewalks, and buildings not belonging to them for constructing, connecting, passing, and maintaining overhead and underground electricity lines, heat pipelines, gas pipelines, water pipelines.

#### **Article 28 Inspections Maintenance and Metering**

1. Natural and legal persons shall allow officials carrying out inspections according to this law to enter and pass through a person's property for the purpose of inspecting energy equipment, installations or systems.
2. Natural and legal persons shall allow authorized representatives of energy enterprises to access their property on which there are facilities, apparatus, networks, or energy systems where such access is necessary for the purpose of checking and maintaining them, or cutting trees or other vegetation that might obstruct the operation of facilities, apparatus, networks or the system.
3. Natural and legal persons shall allow authorized representatives of energy enterprises to access their property where such access is necessary to inspect metering devices situated on their property and may

not prevent an energy enterprise representative from turning off metering devices or other apparatus used in the energy system.

**Article 29**  
**Compensation for Damage**

1. Energy enterprises shall compensate the owners or users of property for any damage caused in the course of their activities which may result with a limitation of the use of their property, or reduction of its fair market value.

2. The criteria and conditions of compensation shall be regulated with the Law on Contested Procedure of the Republic of Kosovo.

**Article 30**  
**Security Zones**

1. Security zones shall be established around energy sites.

2. Within any established security zones, it shall be prohibited or subject to restrictions to construct or erect any building, to cut plants or trees, or to perform activities that may pose a threat to the security or uninterrupted operation of the energy installation, the safety of the property or the safety, life or health of persons.

3. The conditions and manner for determining the location, the size, the boundaries and the regime of the security zones, and the rights and the obligations of the owners of the property, shall be set forth in a secondary legislation adopted by the Ministry.

**Article 31**  
**Violation of Security Zones**

1. Where owners or users of property perform unauthorized building development, enclosure, cutting, or other activity that violates rules for the security zones, and fail to remove such illegal construction or cease performing the unauthorized activity within a deadline set by an energy enterprise, the energy enterprise shall have the right to request that the municipality remove the illegal construction or stop the activity at the expense of the owner or user.

2. Municipalities receiving such requests by energy enterprises shall, within seven (7) days, perform actions to demolish the illegal construction or to stop the illegal activity.

**CHAPTER IX**  
**SUPERVISION**

**Article 32**  
**Administrative Supervision and Inspection**

1. Administrative supervision of the implementation of this law and other related secondary legislation is carried out by the Ministry.

2. Inspections necessary for supervision of the implementation of this law will be carried out by the Energy Inspectorate, as a body operating within the Ministry. The Energy Inspectorate may, where it considers it necessary, carry out inspections of energy facilities and prepare a written report on the inspection, a copy of which it shall submit to the Ministry.

3. Where the Energy Regulatory Office considers it necessary, it may request the Energy Inspectorate to carry out, without charge, inspections of energy facilities and provide the Energy Regulatory Office with a written report on the inspection.

4. All natural or legal persons owning or operating energy facilities, equipment, buildings, systems or energy installations to which this law applies are obliged to promptly inform the Energy Inspectorate of any damage or error that has occurred or may occur as a result of energy supply outage or other cause, or of any hazard to life or human health, traffic, or to neighboring buildings or surrounding environment.

5. In the course of any inspection which it is to be carried out under the terms of this law, the Energy Inspectorate shall be entitled to access to equipment and facilities for the purposes described in subparagraphs 5.1 to 5.5 of this paragraph. Any energy enterprise or other natural or legal person shall provide such access where requested to do so by an authorized representative of the Energy Inspectorate:

5.1. inspect equipment, materials, and technical documentation in compliance with the purpose of inspection or supervision;

5.2. collect or require provision of necessary evidence or samples;

5.3. inspect documents or other data from energy enterprises or professional organizations or individual experts;

5.4. examine energy services under their responsibility; and

5.5. undertake inspections of the technical condition and safety of energy equipment, on a regular basis or whenever required;

6. If inspectors of the Energy Inspectorate notice, during their supervisory inspection that an energy enterprise or any energy customer is not carrying out operations in accordance with the provisions of this law and other related acts, in addition to the general authorizations according to general acts they have the authority to issue written decisions to:

6.1. instruct the elimination of the confirmed deficiencies within a determined period of time;

6.2. prevent the construction of generation facilities, if all the necessary construction permissions have not been obtained;

6.3. instruct the suspension of further construction or use of the energy facility;

6.4. instruct the discontinuation of energy supply or use of energy if the equipment or facility is not generating or the facilities are not constructed, used or maintained in line with the technical requirements of codes, rules, or primary or secondary legislation, and if there is a direct threat to the energy facility and the security of the building, health, life, security of circulation and security of neighboring buildings.

7. Where, as a result of its inspection, the Energy Inspectorate believes that any energy enterprise or any other natural or legal person is in violation of this law, the Law on Electricity, the Law on District Heating, the Law on Gas, or the Law on the Energy Regulator, or any secondary legislation deriving from any of these laws, or of any license, the Energy Inspectorate may:

7.1. issue a written notice containing mandatory instructions on correction of violations within a set deadline;

7.2. propose to the Energy Regulatory Office to suspend, amend or revoke the relevant license;

7.3. propose to the Energy Regulatory Office to impose administrative fines and penalties pursuant to this Law;

7.4. file the case before competent authorities for further proceedings which fall beyond the Inspectorate's mandate; or

7.5. inform the public on any such illegal activity.

8. The inspections activities carried out by the Energy Inspectorate shall not prevent or limit inspections of any premises by any other authorities whose powers are provided by other laws, particularly with regard to inspections in connection with compliance of laws and standards on environmental protection and public health.

### **Article 33 Safeguarding Information**

1. Inspectors of the Energy Inspectorate shall keep confidential any official or commercial information which may become known to them during or in connection with the performance of their inspections.

2. Inspectors of the Energy Inspectorate shall perform their activities on their own or, if necessary, jointly with other specialized control bodies as considered appropriate.

## **CHAPTER X TRANSITIONAL AND FINAL PROVISIONS**

### **Article 34 Transition**

1. This Law repeals and replaces the Law on Energy No. 2004/8, whereas all acts, decisions, rules and other documents adopted or promulgated in accordance with the Law on Energy No.2004/8 shall remain in force for nine (9) months after this Law enters into force.

2. Nine (9) months after entry into force of this Law, all acts, decisions, rules or other documents adopted or promulgated in accordance with the Law on Energy No. 2004/8 shall be harmonized with this law.

3. With a view of implementing this Law, the Ministry shall issue the secondary legislation as set forth by this Law.

### **Article 35 Entry into Force**

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

**Law No. 03/L-184  
07 October 2010**

**Promulgated by Decree No. DL-058-2010, dated 25.10.2010, Acting President of the Republic of Kosovo, Dr. Jakup Krasniqi.**