

LAW No. 05/L – 084

ON THE ENERGY REGULATOR

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**

1. The law defines the powers, duties and functions of the Energy Regulatory Office, including the conditions for issuing licenses to carry out energy activities, certification of transmission system operators, procedures for granting authorizations 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. This law is partially in compliance with the Directive 2009/72/EC on common rules for the internal market in electricity, the Regulation No.714/2009/EC on conditions for access to the network for cross-border exchanges in electricity, Directive No. 2009/73/EC on common rules of the internal European natural gas market Regulation No 715/2009/EC on conditions of access to natural gas transmission networks, and Directive No. 2009/28/EC concerning promotion of use of energy from renewable energy sources.

**Article 2
Scope**

The provisions of this Law are applied by the Energy Regulatory Office that shall exercise the powers of an independent agency within the institutions of Republic of Kosovo, subject to applicable legislation, except as, in specific way, provided to the contrary.

**Article 3
Definitions**

1. Terms used in this Law shall have the following meaning:

1.1. **Board** – Board of the Energy Regulatory Office, as determined in Chapter II of this Law;

1.2. **Energy Community Regulatory Board** – board of regulatory agencies of the

signatory parties of the Energy Community Treaty;

1.3. **Cogeneration** – process of simultaneous generation of electricity and thermal energy from an energy source;

1.4. **Thermal energy** – energy for heating/cooling, spaces, sanitary hot water and industrial water that is transported and distributed through water, steam or gases, benefited from thermal energy facilities, using fuel, geothermal sources, solar energy, unused thermal energy, to supply for customers through central thermal energy systems;

1.5. **Declared export** – dispatch of electricity in one Contracting Party on the basis of an underlying contractual arrangement to the effect that the simultaneous corresponding take-up (declared import) of electricity will take place in another Contracting Party or a third country;

1.6. **Guaranteed supply** – temporary supply of final customers, in the events stipulated in this law and the Law on Electricity, which are provided temporary supply within the limits defined by this Law and the Law on Electricity;

1.7. **Generators in the distribution network** – equipment for the generation of energy, connected to the distribution network;

1.8. **Interconnection** – equipment used to link electricity systems;

1.9. **Declared import** – take-up of electricity in a Contracting Party or a third country simultaneously with the dispatch of electricity (declared export) in another Contracting Party;

1.10. **Confidential information** - 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;

1.11. **Customer** – a wholesale or final customer of electricity;

1.12. **Wholesale customer (trader)** - a natural or legal person purchasing electricity for the purpose of resale inside or outside the system where he is established;

1.13. **Final customer**– a customer purchasing electricity for his own use;

1.14. **Household customer**- a customer purchasing electricity for his own household consumption, excluding commercial or professional activities. Tariffs of household consumers shall be applied to the facilities serving for religious purposes;

1.15. **Customer in need** - a household customer that qualifies for protection or assistance according to the rules and criteria established by the Ministry in charge of social welfare as define in the Law on Electricity and Law on Natural Gas;

1.16. **Non-household customer** - a natural or legal persons purchasing electricity

which is not for their own house hold use and includes producers and wholesale customers;

1.17. **Tendering procedure** - procedure through which planned additional requirements and replacement capacity are covered by supplies from new or existing generating capacity;

1.18. **Dispute settlement rules** – rules determined by the Regulator, in accordance with this law, which represent the basis for settlement of disputes in the energy sector;

1.19. **Rules** – acts drafted and issued by the Regulator;

1.20. **Cross-border flow** - physical power flows through cross border tie-lines as a result of the activities of electricity undertakings or of third party generators, purchasers or traders outside Kosovo;

1.21. **Security**- both security of supply and provision of electricity, and technical safety;

1.22. **Energy Community Secretariat (ECS)** – institution that provides administrative assistance to the Ministerial Council, High Permanent Level Group, Regulatory Board and Forums, in the management of the development process of Energy Community;

1.23. **Energy Regulatory Office (hereinafter – The Regulator)** – an independent agency, at the energy sector, established by the Law on Energy Regulator.

2. Other terms used in this Law shall have the meanings given in the Law on Electricity, Law on Energy, Law on Natural Gas and Law on Thermal Energy.

CHAPTER II

ORGANIZATION, FUNCTIONING AND HEADQUARTERS OF THE REGULATOR

Article 4

Independence, legal basis and headquarters

1. The Regulator is an independent agency and separate in the legal and functional aspect from any other natural or legal person.

2. Board and personnel of the Regulator should act independently from market interests;

3. Board and personnel of the Regulator should not request and take instructions from any government entity or other public or private enterprise in discharging their duties. Such request shall not prejudice close cooperation, as required, with other relevant authorities or general instructions on policies issued by the Government, which are not related to the tasks and competencies of the Regulator.

4. The Regulator shall perform its functions and tasks, as determined in this Law and other energy sector Laws.

5. The headquarters of the Regulator shall be in Pristina.

Article 5

Board, appointment and composition

1. The Regulator is managed by its Board, comprised of five (5) members, one of which shall be elected Chairperson. Chairperson and members of the Board are appointed by the Assembly of the Republic of Kosovo.

2. Within sixty (60) days prior to the expiry of the term of the member of the Board of the Regulator, or upon issuance of the vacancy notice for other reasons, the Ministry in charge of the energy sector (hereinafter the Ministry) shall issue a public notice, for a period no shorter than the term set forth in the law. The Ministry shall direct the procedure on appointment of the candidates for members of the Board upon the public vacancy notice. In the vacancy there shall be noticed the criteria on election of the Chairperson and members of the Board, the application deadline and documents necessary for the application. Government shall, after receiving the files of the applicants, deliver to the Assembly at least two (2) candidates for one (1) free post.

3. Based on the Rules of Procedure of the Assembly, for each respective post in the Board, Assembly shall elect by secret voting one of the proposed candidates. Election shall be considered valid when there vote more than the half of the deputies of the Assembly and when the candidate for that post obtains the majority of votes of the deputies of the Assembly that took part in voting.

4. The term of each Member of the Board shall be five (5) years, with the possibility of appointment for one more consecutive term. The term of each member of the Board shall commence on the date of the appointment by the Assembly of the Republic of Kosovo. The end date of the term of office of the board members cannot be the same for all members.

5. If the position of a member of the Board becomes vacant, a new member of the Board is appointed for a term of five (5) years unless the vacancy is due to death, resignation or dismissal of a former member prior to the end of his/her term. In such cases the new member shall serve until the end of the term of the former member. The new member may be reappointed for one (1) additional five (5) year term after the end of remaining period of the term of the former member.

6. Members of the Board of the Regulator who are reappointed to their position under this law shall serve at the position of the member of the Board until the end of their current term, but may not be reappointed again.

7. Members of the Board of the Regulator who were appointed at the Board under this Law and those who on the date of entry into force of this Law, are serving their first term, shall serve at the position of the member of the Board until the end of that term and may be reappointed once.

8. Upon the entry into force of this Law, the current members of the Board, including the Chairperson, shall continue to exercise their functions until the expiration of their regular term, in compliance with their foreseen appointment period.

Article 6

Members of the Board

1. Members of the Board should be citizens of Republic of Kosovo with permanent residence in Kosovo. Each member of the Board shall be with a regular employment relationship at the Regulator on full-time basis.

2. Member of the Board shall fulfil the following conditions:

2.1. possess university diploma in the field of technical studies, economy, or law from an accredited institution of high education;

2.2. have at least ten (10) years of work experience in the energy sector;

2.3. not to have an open investigation record or earlier records of criminal conviction, or of activities that may place suspicions on his sincerity, integrity or competence;

2.4. the Chairperson of the Board, besides that he/she should have at least ten (10) years of work experience in the energy sector, from which five (5) years should be the experience in management in the field of energy.

3. A member of the Board is not, during his/her term of office, allowed:

3.1. to be a government official;

3.2. to be a member of the structures of any political party;

3.3. to be himself/herself, or have the spouse or any close family member who is a shareholder, partner, owner or manager of an energy enterprise subject to this Law, or any subsidiary or affiliate of an energy enterprise;

3.4. to perform any work for an energy enterprise subject to this Law, or for any subsidiary or affiliate of an energy enterprise;

3.5. to hold any other position within the Regulator.

3.6. to perform any other activity that may give rise to a conflict of interest according to the Code of Professional Ethics drafted and approved by the Regulator, or according to the respective Laws.

Article 7

Dismissal, termination of the mandate of Board Members

1. The Assembly of the Republic of Kosovo may dismiss a member of the Board before the expiration of his/her term in cases when he/she:

1.1. is convicted with imprisonment for a criminal offence;

1.2. is incapable of performing his/her duties for a period of more than three (3) consecutive months, due to health conditions;

1.3. breaches the Code of Professional Ethics issued pursuant to this Law;

1.4. violates the conditions prescribed in Articles 6.3 and 10.3 of this Law;

1.5. for any reason, does not attend more than five (5) consecutive meetings.

2. In case a member of the Board is dismissed in line with the provisions of paragraph 1 of this Article, a new member shall be appointed according to Articles 5 and 6 of this Law.

3. The term of the Chairperson and Members of the Board is terminated by a Decision taken from the Assembly of the Republic of Kosovo, upon proposal by the Government of the Republic of Kosovo.

4. The mandate of the Chairperson and Members of the Board shall be terminated even in these cases:

4.1. upon resignation;

4.2. upon reaching the retirement age.

Article 8

Status and Salaries of Members of the Board and Personnel

1. The salary of the Chairperson and members of the Board shall be set by the Assembly until the issuance of the respective Law on Salaries of Senior Public Officials.

2. Wages and salaries of the personnel of the Regulator shall be set by the Board, taking into consideration the level of the salaries in the sector regulating it.

3. For a period of one (1) year after the termination of the mandate as a member of the Board, former member 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 licensed enterprise.

4. No person shall, while a serving member of the Board, have the right to initiate negotiations, or become involved in negotiations, concerning his/her employment or consulting work, with any energy enterprise licensed under this Law or an entity directly or indirectly controlled by such licensed enterprise.

5. No energy enterprise licensed under this Law, or an entity directly or indirectly owning or controlled by such licensed enterprise, 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. The licensed energy enterprise engaging in negotiations in breach of this paragraph shall be considered in breach of its license, and dealt with accordingly by the Regulator.

Article 9

Main Duties of the Regulator

1. In addition to the other responsibilities set out in this Law, the Board of the Regulator shall:
 - 1.1. approve regulatory and operational policies of Regulator;
 - 1.2. organize and supervise the work of the Regulator;
 - 1.3. supervise the implementation of the budget and the financial management of the Regulator and approve its financial reports and statements;
 - 1.4. organize the recruitment procedures and supervise the work of personnel employed by the Regulator;
 - 1.5. approve the remuneration and other terms and conditions of employment for the employees of the Regulator;
 - 1.6. draft and approve the Code of Professional Ethics for members and staff of the Regulator;
 - 1.7. draft and approve sublegal acts necessary for the implementation of this law.
2. The Chairperson of the Board shall represent the Regulator before third parties.
3. The Board shall prepare and adopt rules that govern the operation of the Regulator, 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 procedure for employing staff on the basis of fixed term contracts, as envisaged in the Law on Labour in Kosovo.
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 on the funding of activities of the Regulator.

Article 10

Annual Report

1. The Chairperson of the Board of the Regulator shall submit to the Assembly of the Republic of Kosovo every annual report no later than three (3) months after the end of each calendar year. The report be made public and shall include at least:
 - 1.1. a survey of the developments within the scope of the Regulator'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 decisions on the settlement of disputes and

any enforcement proceedings taken by the Regulator 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 Regulator for the preceding year, including an accounting of revenues collected by the Regulator and expenses incurred, in conformity with Articles 20 and 23 of this Law, and

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

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

3. Assembly of Kosovo may initiate the procedure on dismissal of the Chairperson and members of the Board of the Regulator when after two (2) consecutive years of the review of performance of ERO, functional Committee finds that:

3.1. Regulator has failed to prove that it has implemented the functions and duties fully and actively according to the Laws regulating the energy sector in Kosovo; and

3.2. such fail of the implementation has seriously damaged the efficient, effective, independent regulation of the energy sector.

Article 11 Consultancy

The Regulator may appoint such professional consultancy as it deems necessary to assist it in the exercise of its functions and duties. Where such hired consultants are to be paid from the Regulator's budget, such engagement shall be made in accordance with the Law on Public Procurement.

Article 12 Information Required by the Regulator

1. The Regulator 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 fulfilment of its functions and duties, in line with this Law and other respective Laws.

2. The Regulator 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 treated in accordance with the Law on Access to Public Documents.

4. The Regulator shall provide the Energy Community Secretariat or another competent institution with all information on cross-border electricity flows, as may be requested by agreements in force, or under obligations in the context of the Energy Community.

Article 13

Obligation to Cooperate

1. All public authorities and energy enterprises shall be obliged cooperate with the Regulator in order to facilitate the performance of its functions, and duties.
2. In exercising its functions and duties, the Regulator shall cooperate with persons or organizations that represent or protect the interests of consumers.

Article 14

Regulatory regime for the cross-border issues

1. The Regulator shall cooperate with all regulatory authorities in the region, with the aim of integrating their respective markets into one or more regional levels, as the first step towards the establishment of an entirely liberalized common market. The Regulator, in cooperation with regional regulatory authorities and signatory parties of the Energy Community, shall in special promote and provide cooperation between transmission system operators at the regional level, including in cross-border issues, with the view of creating a competitive energy market, ensuring compliance of the market with the legal, regulatory and technical framework, and enabling integration of energy systems. The geographic area covered by such regional cooperation shall include geographic zones determined in Chapter IV of the Energy Treaty for Southeast Europe.
2. The Regulator shall cooperate with the Regulatory Board of the Energy Community, regional regulatory authorities and transmission system operators, in order to ensure compliance of the regional regulatory frameworks, with the view of creating a competitive internal energy market.
3. The Regulator shall cooperate with regional regulatory authorities in providing the Regulatory Board of the Energy Community, as well as each-other, with information necessary for fulfilling their obligations deriving from applicable European and local legislation. Efforts shall be made to ensure that a similar level of confidentiality is maintained in the exchange of information among parties.
4. The Regulator shall cooperate at the regional level, with the view of:
 - 4.1. encouraging the creation of operational arrangements to enable optimal network management, promotion of mutual electricity and gas exchanges and allocation of cross-border capacities at the regional level, including new interconnection capacities that enable the development of effective competition and improved supply services, without discrimination of supply companies from signatory parties of the Energy Community;
 - 4.2. coordinate the development of all grid codes for transmission system operators and other parties in the market; and
 - 4.3. coordinate the development of rules which regulate congestion management.
5. The Regulator may sign cooperation agreements with regulatory authorities in the region, with the aim of strengthening cooperation among regulators.

CHAPTER III
DUTIES AND COMPETENCIES OF THE REGULATOR

Article 15
Duties and Responsibilities of the Regulator

1. To meet its duties, the Regulator shall have the authority and responsibility as follows:
 - 1.1. to approve during the legal term, methodologies that are used to calculate or establish the terms and conditions for:
 - 1.1.1. connection and access to national networks, including transmission and distribution tariffs, as well as respective methodologies;
 - 1.1.2. provision of balancing services which shall be performed in the most economic manner possible and provision of appropriate incentives for network users to balance their input and off-takes. The balancing services shall be provided in a fair and non-discriminatory manner and should be based on objective criteria;
 - 1.1.3. connection and access to cross-border infrastructures, including the procedures for the allocation of capacity and congestion management;
 - 1.1.4. publication of the methodologies or the terms and conditions referred to in paragraph 1.1;
 - 1.1.5. establishment of public service obligations in the license of each supplier, obliging such suppliers to supply electricity of a certain quality and at regulated conditions to household and small customers;
 - 1.2. to foster the transparent and non-discriminatory functioning of energy markets based on free market principles for competitive activities and regulated activities;
 - 1.3. to monitor and enhance the security of supply of electricity, thermal energy and natural gas, including through ensuring the maintenance and construction of necessary generation, transmission, distribution, storage capacity, and interconnection capacity;
 - 1.4. to secure the transparent and non-discriminatory performance of energy activities which are subject to public service obligations, as well as to ensure the non-discriminatory access to transmission and distribution systems and interconnection;
 - 1.5. to ensure that tariffs regulated for energy activities are reasonable and fixed on the basis of an appropriate, simple and easy tariff methodology, including ensuring that tariffs in respect of transmission and distribution systems are adequate to enable the necessary investments in the systems to be carried out in a manner allowing these investments to ensure the viability of the systems;
 - 1.6. to monitor and prevent any abuses of dominant positions and anti-competitive practices by energy enterprises and take appropriate measures in accordance with this

Law and other relevant Laws;

1.7. to ensure that customers have the right to connect their facilities to the energy systems and to receive a supply of energy;

1.8. to ensure that customers and licensees are protected with adequate dispute settlement rules;

1.9. to ensure that the interests of customers and energy enterprises are adequately balanced and that customers in need are protected; and

1.10. to act in compliance with 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;

1.11. to promote the competitive energy market, by ensuring effective market opening for all consumers and suppliers and providing necessary conditions for effective and sustainable electricity market functioning, taking into consideration long-term sector objectives, related to regulatory energy sector authorities of Energy Community Contractual Parties;

1.12. to develop competitive and properly functioning markets within Kosovo as part of the Energy Community;

1.13. to eliminate restrictions on trade in natural gas and electricity across Kosovo's national borders, including developing appropriate cross-border transmission capacities to meet demand and enhancing the integration of national markets which may facilitate natural gas and electricity flow across the Energy Community;

1.14. to help in achieving, in the most cost-effective way, the development of secure, reliable and efficient non-discriminatory systems that are consumer oriented, and to promote system adequacy and, in line with general energy policy objectives, energy efficiency as well as the integration of large and small scale production from renewable energy sources and distributed production in both transmission and distribution networks;

1.15. to facilitate access to the network for new production capacities, in particular removing barriers that could prevent access for new market entrants from renewable energy sources;

1.16. to ensure that system operators and system users are granted appropriate incentives, in both the short and the long term, to increase efficiencies in system performance and foster market integration;

1.17. to ensure that customers benefit through the efficient functioning of their national market, promoting effective competition and helping to ensure consumer protection;

1.18. to help in achieving high standards of public service, contributing to the protection of customers in need and contributing to the compatibility of necessary data exchange processes for customer switching.

2. In discharging the responsibilities specified in paragraph 1 of this Article, the Regulator shall also take account:

2.1. the implementation of appropriate measures to strengthen social and economic cohesion throughout Kosovo;

2.2. gradual improvement in the standards of environmental protection in Kosovo; and

2.3. the safeguarding of confidential information, as determined in this Law and the Law on Access to Public Documents.

3. In the event that the objectives of universal service can not be achieved otherwise in market conditions, the Regulator may regulate final consumption prices, provided that they are in compliance with conditions determined in paragraphs 4 and 8 of this Article.

4. Where the Regulator regulates electricity prices for final customers, it shall provide detailed explanations and reasoning, relating such regulation with extraordinary circumstances in the electricity market, and providing reasoning on the necessity of preserving final consumption price regulation as a public service obligation, in compliance with conditions set in this Article. In such cases, the Regulator shall undertake these actions:

4.1. ensures that various customer categories do not benefit from the same treatment and protection, and that final consumption price regulation shall be made available only to ensure the provision of universal services for household consumer and customers that are entitled to the universal service;

4.2. ensures that electricity prices that are subject to price regulation with the aim of providing universal service are cost-reflective. Cost-reflectivity shall cover real costs of electricity supply, including cost of generation short-term marginal cost, reflecting full generation portfolio, necessary investments, appropriate rate of return, cost of imports, cost of supply services, and bad debts;

4.3. in its decision to regulate prices for final consumers, then Regulator shall determine a final date for the revocation of final customer price regulation, as well as an action plan for such revocation, thus clearly depicting the provisional nature of final customer price regulation;

4.4. conducts annual reviews of methodologies and the approved price levels for final customers, as well as of the existence of necessity to regulate prices for certain customer categories based on the public service objectives pursued. Such reviews shall be submitted to the Energy Community Secretariat, which, based on regional market analyses, may propose other measures for the removal of price regulation for certain categories;

4.5. ensures compliance of transmission and distribution system operators, and where relevant, system owners, as well as of all natural gas and electricity enterprises, with their obligations under this Law, the Law on Energy, the Law on Electricity and the Law on Natural Gas, including provisions regarding the cross-border issues.

5. Energy enterprises licensed by the Regulator must apply to the Kosovo Competition Authority, 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 Authority shall take duly into account the opinion of the Regulator.

6. Energy enterprises licensed by the Regulator must apply for:

6.1. approval of any proposed disposal of capital equipment and rights to real property used for conducting licensed activities;

6.2. the issue of certificates of origin; and

6.3. any change in the principal business of the licensed enterprise.

7. The Regulator shall also have the duty to ensure:

7.1. that the terms, conditions, and tariffs for connecting new producers of electricity or thermal energy are objective, transparent, and non-discriminatory, cover all reasonable costs of the enterprise at regulated tariffs, and take into account the costs and benefits of renewable energy resources, new technologies, distributed generation and the opportunities created by the cogeneration of electricity and thermal energy;

7.2. that the Transmission and Distribution System Operator fulfils its tasks;

7.3. that the creation and maintenance of competitive markets when possible, and the prevention and punishment of any anti-competitive conduct, in cooperation with the Kosovo Competition Authority.

7.4. the establishment and implementation by relevant licensees of mechanisms to deal with congested capacity within the electricity and natural gas systems;

7.5. fair and non-discriminatory procedures for the management and allocation of interconnection capacity.

7.6. 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, provided that all persons or undertakings claiming to be potential system users may be required to substantiate such claims, and that the Regulator shall publish the results of the consultation process, in particular on the possible needs for investments.

8. The Regulator 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.

9. The Regulator shall monitor and evaluate the implementation of the ten (10) year system development plan.

10. In circumstances where the Transmission System Operator, other than for overriding reasons beyond its control, does not execute an investment, which, under the ten (10) year system development plan, was to be executed in the following three (3) years, the Regulator

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:

10.1. require the Transmission System Operator to execute the investments in question;

10.2. follow the procedure of article 44 of this Law; or

10.3. oblige the Transmission System Operator to accept a capital increase to finance the necessary investments and allow independent investors to participate in the capital.

11. In cases when the Regulator has made use of its powers according to Article 10 paragraph 2 of this Law, it may oblige the Transmission System Operator to agree to one of the following:

11.1. financing by any third party;

11.2. construction by any third party;

11.3. building the new assets concerned itself;

11.4. operating the new asset concerned itself.

12. The Transmission System Operator shall provide the investors in new transmission investments with all information needed to realize 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.

13. The relevant financial arrangements arising from actions taken in compliance with paragraphs 10, 11 and 12 of this Article shall be subject to approval by the Regulator.

14. In cases when the Regulator has made use of its powers under Article 10 paragraph 2 of this Law, the relevant tariff decisions shall cover the costs of the investments in question.

15. Monitoring of technical cooperation between Energy Community and transmission system operators of third countries.

Article 16

Market Monitoring and Measures to Further Competition

1. The Regulator shall be responsible for monitoring of the operation of the markets for electricity, thermal energy 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 including interconnectors. To that end, transmission system operators or market operators shall submit their congestion management rules, including capacity allocation, to the Regulator. The Regulator may request amendments to those rules;

1.4. the time taken by transmission and distribution operators system 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 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 thermal energy 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 cogeneration of electricity and thermal energy, biogas, biofuels and biomass;

1.8. the extent to which Transmission and Distribution System Operators fulfil their responsibilities under this law, their licenses, 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 Authority;

1.10 monitoring of system performance overall, based on defined objectives. Also, it may include information on average network performance and on the understanding of network tendencies, certain regions, tension levels, and impact of generators in distribution. The Regulator shall undertake such independent monitoring of system performance as is necessary to ensure that licensed electricity undertakings are fully discharging their statutory and licence obligations and, where necessary and following public consultation, it may impose monitoring and reporting requirements and/or performance standards relating to security and quality of energy supply on any undertaking;

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 Authority of such practices, whenever possible;

1.12. the implementation of compliance by the transmission system operators and the distribution system operators and the effective 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 Regulator shall take appropriate enforcement action in respect of compliance programs and unbundling;

2. The Regulator 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 of this Article shall be subject to a separate annual report.

3. The Regulator 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 criteria 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;

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

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

3.5. respect contractual freedom with regard to interruptible supply contracts as well as with regard to long-term contracts provided that they are compatible with the Energy Community legislation.

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

Article 17

Settlement of Disputes

1. The Regulator 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, thermal energy or natural gas systems and transmission, and cross border flows of electricity or natural gas.

2. Procedures for the review and settlement of final customer complaints shall be transparent.

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 Regulator shall issue a decision within a period of two (2) months after receipt of the complaint. That period may be extended by two (2) months where additional information is sought by the regulatory authorities. That extended period may be further extended with the agreement of the complainant.

4. The Decision of the Regulator shall have binding effect unless and until overruled on appeal.

5. The procedures for the settlement of disputes shall be issued and published by the Regulator.

Article 18

Public Registers

1. The Regulator shall maintain a public register of:

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

1.3 all authorizations issued for the development of new generating capacities and their details; and

1.4 other registers required for regular functioning of the Regulator.

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 Regulator.

CHAPTER IV

FINANCING OF THE REGULATOR

Article 19

Funding Sources

The fees collected by the Regulator in respect of licensing and other activities, as specified in Article 24 of this law, shall be the dedicated revenue of the Regulator. In addition, the Regulator may use for the purpose of discharging its responsibilities under the law any appropriation granted to it under the terms of Article 23 of this Law.

Article 20
Financial Management Procedures

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

Article 21
Use of Funds

1. The Regulator shall use the funds available to it in accordance with Article 20 of this Law in an efficient and reasonable manner, and in specific for:

1.1. financing the activities of the Regulator and its administration, including operating costs, salaries and wages of Board members and staff and related expenses, costs for studies, and analyses and expert appraisals and assessments related to the functions of the Regulator 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 Regulator pursuant to this Law or a rule.

2. The Ministry of Finance may require auditing of the accounts and financial activities of the Regulator, in conformity with the applicable Laws.

Article 22
Annual Budget

1. The Regulator shall have a special budget allocation funded through own-revenues, as set in Article 19 and 20 of this Law, and shall have full independence in the implementation of its budget.

2. The Regulator shall propose and submit the budget in compliance with the Law on Public Financial Management and Accountability.

3. The Regulator shall prepare its annual budget based on the relevant planning documents, and the annual budget shall include:

3.1. the expected costs of the work program listed in the planning document;

3.2. a detailed estimation of the expenditures that expects to transfer during the year;

3.3. an estimation of the revenues which expects to collect during the year;

3.4. an estimation of sufficient human resource and financial needs for adequate functioning;

3.5. an estimation of the amount, if any, of funds required from the Budget of the

Republic of Kosovo for that year.

4. In preparing its budget for the use of its dedicated revenue and any supplemental appropriations being requested, the Regulator shall act in the most effective manner in the discharge of its responsibilities and duties under this Law and other applicable Laws.

5. Where it is assessed that revenues of the Regulator are insufficient to cover the total expenditure required for it to effectively discharge its obligations, the Regulator 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 23 Types of Fees

1. The Regulator shall collect fees for:

1.1. modifying and amending licenses and other license applications;

1.2. initial and annual licensing fees;

1.3. issuing certificates of origin;

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 Regulator in administering the dispute resolution process for such parties;

1.5. review of applications;

1.6. review / revision of applications for authorization and licensing

2. In accordance with the Law on Public Financial Management and Accountability, all fees determined in paragraph 1 of this Article shall be dedicated revenue of the Regulator.

3. Fees collected based on paragraph 2 of this Article, which exceed the foresights of the Regulator, shall be deposited to the state budget.

4. The Regulator shall prepare and publish details of all fees that are currently applicable.

Article 24 Payment of fees

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

2. License fees consist of:

2.1 initial fees for the issuance or amendment of the license, the expenses for the preparation of the license, 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 instalment payments agreed to by the Regulator.

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 cost-effective operation of the Regulator as per adequate benchmarks with regulatory authorities operating under similar and comparable circumstances and may not exceed in any event an amount equivalent to two percent (2%) 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 Regulator. The Regulator ensures that all such fees received by the Regulator are deposited into the Regulator'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 25 Sessions of the Board

1. The sessions of the Board of the Regulator shall be convened by the Chairperson. In absence of the Chairperson, during his/her leave, he/she may appoint one of the members of the board to convene board sessions.

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 when two third of Board members are present. The Board shall adopt the decisions with at least three (3) votes pro of the 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, should be published.
8. Decisions of the Board shall be immediately binding and not subject to any, except judicial review.
9. Decisions of the Board shall be fully reasoned and justified to allow for judicial review shall be and published while preserving the confidentiality of commercially sensitive information.
10. The Board shall meet at least ten (10) times per year.
11. When the post of the Chairperson of the Board remains vacant, in compliance with Article 5 paragraphs 2 and 3 of this Law, his/her duties shall be performed by the oldest Board member, until the appointment of the new Chairperson. For the purposes of this paragraph, the oldest member of the Board shall be considered the member with the longest experience as a Board Member.

Article 26

Sub-legal acts

1. In exercising its competencies, duties and responsibilities, the Regulator may issue the following acts and decisions:
 - 1.1. general acts on the regulation of energy sector activities, as determined in this Law;
 - 1.2. individual acts, including decisions related to licenses, authorizations, tariffs and decisions on dispute settlement, referred on this law.
2. General and individual acts of the Regulator shall be taken in an open and independent manner, independently of any external politic, industrial or other influence. General and individual acts shall be issued in written and contain explanations on the basis or reasons for their issuance, and shall be binding for respective energy enterprises and/or respective customers.
3. Any individual acts issued by the Regulator pursuant to paragraph 1 of this Article shall be subject to an administrative review procedure within the Regulator. After the said review, such acts may not be appealed or disputed by any other public institution, with the exception of judicial review by the competent court in Kosovo, in accordance with the Law on Administrative Conflicts.
4. General acts of the Regulator shall be published in the official web-site of the Regulator within ten (10) working days of their adoption.
5. Individual acts and other decisions related to licenses and tariffs shall be made public by being

posted on the website of the Regulator within thirty (30) days of the relevant act or decision being made, and also being published in the Bulletin of the Regulator. The Bulletin shall be published at least once every six (6) months and posted on the Regulator's official web-site.

6. All decisions shall be taken in an autonomous manner, and independently from any politic or public body, or any public or private enterprise.

7. Decisions of the Board shall be effective immediately and shall not be subject to any review or veto from other public bodies, except for judicial review.

Article 27 **Consultations**

1. The Regulator 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 Regulator shall:

2.1. be announced in a daily newspaper in the territory of Kosovo and published on the Regulator'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 fifteen (15) days of the publication.

3. The Regulator shall, as part of any consultation process, shall:

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

3.2. hold a public consultation at which the concerned energy enterprise shall have the opportunity to review the basis for the Regulator'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.

CHAPTER VII LICENSES AND CERTIFICATION

Article 28 Obligation to Obtain License

1. Energy activities shall, be carried out by energy enterprises on the basis of licenses granted by the Regulator.

2. Licenses issued by the Regulator shall be required in order to perform the energy activities in the Republic of Kosovo. Depending on the requirements of the Law on Electricity, the Law on Natural Gas, and the Law on Thermal Energy, the issued licenses may cover more than one (1) activity listed below:

- 2.1. the generation of electricity;
- 2.2. the generation of thermal energy;
- 2.3. the co-generation of electricity and thermal energy;
- 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 guaranteed supply of electricity according of the Law on Electricity;
- 2.8. the distribution of thermal energy and natural gas;
- 2.9. the storage of natural gas;
- 2.10. the supply of electricity, thermal energy, or natural gas; including transit, import or export of electricity or natural gas
- 2.11. the wholesale supply (trade) of electricity or natural gas;
- 2.12. the operation of market for electricity or natural gas;
- 2.13. transmission or distribution system operation of natural gas.

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

Article 29
Activities that Require no License

1. No license shall be required for:

1.1. the generation of electricity at an electricity site with total capacity not exceeding five (5) MW;

1.2. heat generation by heating plants for self-consumption or with capacity not exceeding one (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;

Article 30
Criteria for Licenses and Conditions of License

1. A license shall only be issued to any energy enterprise registered under applicable laws in Kosovo which:

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

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 license for the same activity revoked within five (5) years of the date that the application is submitted.

2. The criteria for granting a license shall, to the extent relevant to the license in question, relate to the following:

2.1. the safety and security of the energy 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 accomplishment of renewable energy source targets, as per the Energy Strategy;
 - 2.10. the emission reduction targets and standards, as per the Energy Strategy; and
 - 2.11. the promotion of a competitive energy market.
3. Licenses may contain such conditions as the Regulator 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 public service obligations, including obligations to provide universal service in line with 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 customers in need;
 - 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;
 - 3.9. public service obligations that apply to the licensed enterprise.

Article 31 **Supply Agreement**

Regulator shall ensure that all customers have the right of choosing their supplier, based on supply agreements, regardless of which member/contracted parties of energy community, the supplier is registered in, as far as the supplier respects/follow compliance with trading and balancing rules defined from responsible institution, according to the laws in Kosovo. In this regard, the Regulator shall undertake all measures necessary to ensure that, the administrative procedures shall not discriminate supply enterprises registered in other states as contracted parties of Energy Community.

Article 32

Term of Licenses

1. A license may be granted for a period up to forty (40) years.
2. The term and validity of the licenses shall be fixed as follows:
 - 2.1. for the activities of generation of electricity or thermal energy, or the co-generation of electricity and thermal energy, transmission of electricity or natural gas, or distribution of electricity, thermal energy, 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, thermal energy, or natural gas, or operator of an organized 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 guaranteed supply of electricity, on the basis of the applicant's financial circumstances with a maximum length of three (3) years; and
 - 2.5. for the activities of wholesale supply (trade) 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 license 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 license and has submitted a written application for its extension. The application for the extension of the license shall be submitted no later than six (6) months prior to the license expiration date.

Article 33

Restrictions on Certain Types of Licenses

There may be one or several licensed territories for the distribution of each of electricity, thermal energy or natural gas.

Article 34

Procedure for Issuing Licenses

1. The procedure for obtaining a license shall be commenced by submitting a written application to the Regulator, supported by all required documents, in accordance with the rules on licensing specified in Article 38 of this Law.
2. Within sixty (60) calendar days of the submission of the complete application, the Regulator shall either issue the license, or refuse to issue the license with the justification, and such

decisions shall be promptly published on the web site of the Regulator.

3. In cases of refusal of license pursuant to paragraph 2 of this Article, the applicant may not submit a new application before sixty (60) calendar days, or, if applicable, from the date of entry into force of the court decision.

Article 35 **Refusal to Issue a License**

1. The Regulator shall refuse to issue a license if:

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

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

2. The energy enterprise which holds the license for the transmission of electricity, including Transmission System Operation may not obtain a license for the generation or supply of electricity, or for the generation of thermal energy.

3. The energy enterprise which holds a license for the Transmission System Operator of natural gas may not obtain a license for generation, or for supply of natural gas.

4. The energy enterprise that holds the license for the guaranteed supply of electricity may not apply for or hold a license for the generation or transmission system operation of electricity.

5. Nothing in paragraph 4 of this Article shall prevent the holder of the guaranteed supply license from applying for or holding a license for either or both of:

5.1. the supply of electricity, provided that the respective accounts are unbundled.

5.2. an energy enterprise which holds a license for the Distribution System Operator of natural gas may not obtain a license for any other activity in natural gas subject to licensing under this law.

6. The Regulator shall ensure that reasons for refusing the issuance of licenses shall be objective and non-discriminatory and shall be relayed to the applicant. For reasons for such refusal shall be notified to the Energy Community Secretariat, for information purposes.

Article 36 **Amendment of License**

1. Subject to the licensing rules and criteria specified in Article 38 of this law, a license may be amended by the Regulator:

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

1.2. on the Regulator'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 37

Termination and Suspension of License

1. Subject to the rules specified in Article 39 of this Law, a license 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 purchasers are not disadvantaged by the termination of the license;

1.3. upon withdrawal of the license by the Regulator in accordance with this Law.

2. The Regulator may withdraw a license if:

2.1. the licensee defaults or violates material conditions or obligations covered by the license and does not remedy such default by a deadline set by the Regulator;

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 license, and such information is material to the proper conduct of licensed activities.

3. A license may be terminated only if the Regulator concludes that the obligations of the licensee, including public service obligations, will be satisfactorily carried out by another licensee or if purchasers are not unreasonably disadvantaged by the termination of the license.

4. The Regulator may transfer a license that has been terminated to another licensee, provided that the new licensee applies for the license, and the application for the license is approved.

5. The Regulator may temporarily suspend a license 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 38

Licensing Rules and Criteria

1. The Regulator shall draft, adopt, and publish rules that elaborate on the criteria set forth in paragraph 2 of article 30 of this Law, and prescribe the terms, conditions, and procedures for issuing, amending, transferring, suspending, or terminating licenses as well as the rights and

obligations to be included in the licenses.

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

Article 39

Certification

1. Regulator drafts, approves rules, criteria and procedures for certification of energy enterprises that fulfil unbundling criteria, as the Transmission System Operator.

2. Before an undertaking is licensed as Transmission System Operator, Regulator shall certify the energy enterprises whenever such enterprise fulfils unbundling and decision-making independence criteria set for transmission system operators.

3. Transmission system operators shall notify to the Regulator any planned transaction which may require a reassessment of their compliance with the unbundling and decision-making independence criteria set for transmission system operators in the Electricity Law or/and in the Law on Gas.

4. The Regulator shall monitor the continuously compliance of transmission system operators with the unbundling and decision-making independence criteria set for transmission system operators. Regulator shall open a certification procedure to ensure such compliance:

4.1. upon notification by the Transmission System Operator pursuant to paragraph 3 of this Article;

4.2. on its own initiative where there is knowledge that a planned change in rights or influence over transmission system owners or transmission system operators may lead to an infringement of the unbundling and decision-making independence criteria set for transmission system operators, or in cases where Regulator has reason to believe that such an infringement may have occurred; or

4.3. upon a reasoned request from the Energy Community Secretariat.

5. Regulator shall issue a Decision on certification of the Transmission System Operator, within four (4) months from the date of notification by the Transmission System Operator, or from the date of submission of such request by the Energy Community Secretariat. Upon expiry of this period, the certification shall be considered to have been granted.

6. The decision shall be taken by the Regulator only upon conclusion of the procedures set in the provisions of this Article.

7. The Regulator shall notify the Energy Community Secretariat on the explicit or tacit decision on certification of Transmission System Operators, along with relevant information related to the Decision.

8. Within two (2) months of receiving an opinion of the Energy Community Secretariat, the Regulator shall adopt its final decision regarding the certification of the Transmission System

Operator, taking into account of that opinion. Decision of the Regulator and opinion of the Energy Community Secretariat shall be published together.

9. Where the final Decision of the Regulator diverges from the opinion of the Energy Community Secretariat, the Regulator shall provide and publish together with such Decision the reasoning underlying its diverging Decision, and shall inform the Energy Community Secretariat accordingly.

10. The Energy Community Secretariat and the Regulator may request from the transmission system operator and enterprises that conduct supply functions any relevant information on the performance of duties according to this Article.

11. The Regulator and Energy Community Secretariat shall protect the confidentiality of sensitive business information.

Article 40

Certification in relation to third countries

1. Where certification is requested by a transmission system owner or operator, which is controlled by one or more persons from one or more third countries, the Regulator shall notify the Energy Community Secretariat. The Regulator shall also notify the Energy Community Secretariat without any delay on circumstances that could lead one or more persons from one or more third countries to gain control over a transmission system or a Transmission System Operator.

2. The Transmission System Operator shall notify the Regulator on all circumstances that could lead one or more persons from one or more third countries to gain control over a transmission system or a transmission system operator.

3. The certification procedure in relation to third countries shall be implemented following the requirements of Article 39 of this Law taking into account specific requirements stipulated in this Article.

4. The Regulator shall adopt a draft-decision on the certification of a Transmission System Operator within four (4) months from the date of the notification given by the transmission system operator. The Regulator shall reject such certification if:

4.1. the entity in question has not fulfilled requirements in accordance with of this Law, Article 15 of the Law on Gas and Article 11 of the Law on Electricity;

4.2. granting of the certification shall put at risk the security of energy supply in Kosovo and the Energy Community. In considering this matter, the Regulator shall take into account:

4.2.1. the rights and obligations of the Energy Community with respect to a third country arising under international law, including any agreement concluded with one or more third countries to which the Energy Community is a party and which addresses the issues of security of energy supply;

4.2.2. the rights and obligations of the Republic of Kosovo with respect to a third country arising under agreements concluded with it, insofar as they are in compliance with Energy Community law;

4.2.3. the rights and obligations resulting from association or trade agreements between Kosovo and the European Union; and

4.2.4. other specific facts and circumstances of the case and the third country concerned.

5. The Regulator shall inform the Energy Community Secretariat on its Decision, and shall provide all relevant information related to that Decision. The Energy Community Secretariat shall examine the request as soon as it is received. Within a period of two (2) months after receiving the request, it shall deliver its opinion to the Regulator. In preparing the opinion, the Energy Community Secretariat may request the views of the Regulator, the Republic of Kosovo, and interested parties. In the event that the Energy Community Secretariat makes such a request, the two (2) month period shall be extended by other two (2) months. In the absence of an opinion by the Energy Community Secretariat, the Energy Community Secretariat shall be deemed not to raise objections to the Decision of the Regulator.

6. When evaluating whether control by one or more persons from one or more third countries could threaten security of energy supply in Kosovo, the Energy Community Secretariat shall take into consideration:

6.1. specific facts related to the said case and third country or countries; and

6.2. Kosovo's rights and obligations in relation to the said third country or countries deriving from international law, including agreements signed with one or more third countries, to which Republic of Kosovo is a signatory party, related to security of supply issues.

7. The Regulator shall, within a period of two (2) months after the expiry of the period referred to in paragraph 4 of this Law, adopt its final Decision on the certification. In adopting its final decision the Regulator shall take utmost account of the Energy Community Secretariat's opinion. The Regulator shall have the right to refuse certification where granting certification puts at risk security of supply in Kosovo or in any other Energy Community Party, or threatens the public security interests of Kosovo.

8. The Regulator's final Decision and the Energy Community Secretariat's opinion shall be published together. Where the final decision diverges from the Energy Community Secretariat's opinion, the Regulator concerned shall provide and publish, together with that Decision, the reasoning underlying such Decision.

Article 41

Closed Distribution systems

1. The Regulator approves rules on performance of distribution activities within a closed system, taking into consideration that this system acts as an isolated group within a confined geographical location, in which industrial or commercial economic activities are performed, excluding household customers.

2. The Regulator may release the Closed Distribution System Operator from the following:

2.1. obligation to purchase the energy used for covering electricity losses and reserve capacities in its own system, based on transparent, non-discriminatory and market-

based procedures;

2.2. obligation to have the Regulator approve prices, respectively compensations or methodologies on which their calculation is based, prior to their entry into force.

3. In the event relief from obligations envisaged in paragraph 2 of this Article is applied, existing prices, respectively compensations or methodology on which their calculations are based, could be reviewed and adjusted with the methodology and prices approved by the Regulator, upon request by new users of such networks.

4. The Regulator approves rules on the performance of closed energy distribution system operator, in accordance with provisions of the Law on Electricity.

CHAPTER VIII

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

Article 42

Monitoring of Security of Supply

1. The Regulator 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 Regulator 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 of the Law on Energy;

2.4. the prospects for security of energy and electricity supply for the period between five (5) 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 Regulator 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. This report shall be submitted to the Energy Community Secretariat for information purposes.

Article 43

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 44 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 Regulator, in line with objective, transparent and non-discriminatory criteria. Criteria for issuing such authorizations shall correspond to the criteria determined in respect of licensing in Article 30 of this Law.

3. The Transmission System Operator shall provide investors in new transmission capacities all information necessary for the implementation of investments, shall connect new assets in the transmission and shall remain in general engaged in the facilitation of implementation of investment projects.

4. The Regulator shall establish specific procedures for the authorization of construction of small decentralized and/or distributed generation. Such procedures related to new capacity or to energy efficiency/demand-side management measures which shall take into account their limited size and potential environment impact. The procedures and criteria shall be made public.

5. If an authorization application is refused, the Regulator shall inform the applicant in writing. Reasons must be objective, non-discriminatory, well-grounded and verifiable. Refusals and reasons shall be notified to the Energy Community Secretariat, for information purposes.

Article 44

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 Regulator issues a written decision that the authorization procedure under Article 43 of this Law has not resulted successfully in either:

1.1. the building of sufficient electricity generation capacity to ensure security of supply or to meet environmental targets; or

1.2. accomplishment of objectives related to the use of renewable energy sources/or ensuring adequate efficiency.

2. Any determination by the Regulator under paragraph 1 of this Article shall be consistent with Kosovo's obligations under the Energy Community Treaty.

3. 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, as per the Law on Public Private Partnership. The Regulator shall serve as an ex officio member in conducting such a tendering procedure.

4. 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 Law on Public-Private Partnerships.

CHAPTER IX TARIFF REGULATION

Article 45 Cost-reflectivity in 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 such an energy enterprise 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 energy enterprise 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 Regulator shall, in regulating tariffs for energy supplied, require that tariffs are rebalanced gradually over a period beginning on the effective date of this Law in order to smooth the effect of a price increase to cost-reflective levels for any customer or class of customer.

Article 46 Supply Tariffs

1. Tariffs in the energy sector shall include but not be limited to:

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

1.2. separate charges for energy supply shall be stipulated as subject to regulation in the Law on Electricity, Law on Thermal Energy and Law on Natural Gas.

1.3. the Regulator 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 47

Tariff Methodology

1. The determination of regulated tariffs for the supply of energy shall be governed according to tariff methodologies which shall be developed and issued by the Regulator.

2. As part of the process of developing tariffs and tariff methodologies, the Regulator shall carry out consultations in accordance with Article 28 of this Law. The Regulator shall promptly publish its determination on any tariff or tariff methodology.

3. In addition to the principles of cost-reflectivity set out in Article 45 of this Law, 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 5 of Article 15 of this Law, and determined in a transparent manner;

3.2. tariffs shall be 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 Regulator shall be permitted to establish performance-based tariffs, that is tariffs that incorporate incentives for improved services, including production 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 set no below the actual cost of providing the service including a reasonable profit;

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 and thermal energy to those customers;

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

3.9. 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.

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

3.11. 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 Regulator, in line with principles outlined in this Article, and submit their proposals to the Regulator for review and approval.

Article 48 **Approval of Tariffs**

1. The Regulator 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 Regulator in accordance with this Law.

3. In approving or fixing tariffs, the Regulator 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 Regulator in accordance with Law on Energy, the Law on Electricity or the Law on Natural Gas;

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 Regulator.

5. Where the Regulator 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 in line with the methodology developed.

Article 49**Complaints Relating to Tariffs and Tariff Methodologies**

Parties not satisfied with the Decision of the Regulator in relation to regulated tariffs and tariff methodology may initiate an administrative dispute in front of the competent court, within thirty (30) days upon receipt of such Decision. The claim-suit shall not halt the execution of the Decision.

Article 50**Subsidies to customers in need**

1. When there is determined the need to provide financial support to consumers in need, the Government will implement such support strictly and transparently, based on Law on Electricity and the Law on Natural Gas, and in a way that is the least likely to restrict competition in the supply of energy.
2. All subsidies for the energy sector are subject to the provisions of the applicable legislation on state aid and monitoring procedures set out in such legislation.
3. The Government, through its general program for social categories, shall address the social categories of energy consumers. Such program shall be implemented by the Ministry responsible for social welfare.

CHAPTER X**PUBLIC SERVICE OBLIGATIONS****Article 51****Imposition of public service obligations**

1. The Regulator may impose public service obligations on any energy enterprise in line with the Laws on Electricity and Law on Natural Gas by way of decisions, providing that the Regulator 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;
 - 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 defined clearly, proportionally, transparent, non-discriminatory as well as verified. Obligation shall be related to the security, regularity, quality and price of the supply or environmental protection.

3. Any decision imposing public service obligations shall be published and submitted to the Energy Community Secretariat.

Article 52
Change of the supplier

1. The Regulator, based on the Law on Electricity, shall determine rules on the procedure for changing electricity suppliers by final household or non-household customers.

2. The Regulator shall determine the guaranteed supplier in accordance with the Law on Electricity.

CHAPTER XI
BANKRUPTCY OF LICENSEES

Article 53
Procedure in the Event of Bankruptcy

1. In the event of a liquidation or bankruptcy of a licensee, the Regulator shall have the competence to terminate the license 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 license; 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 Regulator 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 Regulator may include in the license 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 XII
SUPERVISION

Article 54
Supervisory Competencies of the Regulator

1. The Regulator among the others shall exercise supervision over:

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

1.2. implementation of regulated tariffs and tariff methodologies;

1.3. implementation of this Law, the Law on Energy, the Law on Electricity, Law on Thermal Energy and Law on Natural Gas.

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

Article 55 **Supervisory Procedure**

1. In the course of exercising its supervisory powers, the Regulator shall:

1.1. adopt decisions;

1.2. carry out inspections through persons authorized by it;

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

1.4. suspend, amend, or terminate licenses when it is necessary to address a violation of license conditions;

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

Article 56 **Investigation**

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

1.1. a license term or condition, and;

1.2. an act, rule, decision or instruction issued by the Regulator.

2. If, after carrying out an investigation under paragraph 1 of this Article, the Regulator 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 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 Regulator shall issue supporting reasoning for all decisions issued in relation to this Article.

CHAPTER XIII PUNITIVE PROVISIONS

Article 57 Fines

1. The Regulator shall draft and 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 16 of this Law to prevent the abuse of a dominant position;
- 2.7. engages in energy activities subject to licensing without obtaining a license;
- 2.8. fails to comply with the terms or conditions of a license;
- 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 Regulator;
- 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 into power purchase agreements or to provide access into the system, without a sustainable 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 ten percent (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 three hundred percent (300%) of the monthly salary of the individual.

5. In cases of repetitious violations to the Law, the imposed penalty shall 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 article, the Regulator shall take into account the extent of the damage caused to the society, the previous behaviour of the person and the financial situation of the person.

7. When imposing penalties as provided in this Article, the Regulator 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 Regulator is not paid, the Regulator with lawsuit shall initiate court proceedings at the competent court.

9. All revenues deriving from this article are transferred to the Budget of Republic of Kosovo.

CHAPTER XIV TRANSITIONAL AND FINAL PROVISIONS

Article 58 Transitional Provisions

1. Nine (9) months after this Law enters into force, all sub-legal acts, decisions rules and other documents adopted or promulgated according to Law No.03/L-185 on the Energy Regulator, shall be harmonized with this Law.

2. The Regulator shall, within nine (9) months after the entry into force of this Law, issue the rules, codes, procedures and sub-legal acts required for the implementation of this Law.

Article 59 Repealing provisions

With the entry into force of this Law there shall be repealed the Law No.03/L-185 on the Energy Regulator.

Article 60
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.05/L - 084
17 June 2016

Promulgated by Decree No.DL-023-2016, dated 01.07.2016, President of the Republic of Kosovo Hashim Thaçi.