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PROPOSED AMENDMENTS TO THE LAW OF GEORGIA ON ELECTRICITY AND NATURAL GAS

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PROPOSED AMENDMENTS TO THE LAW OF GEORGIA ON ELECTRICITY AND NATURAL GAS

USAID HYDROPOWER INVESTMENT PROMOTION PROJECT
(HIPP)

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DELOITTE CONSULTING LLP

IN COLLABORATION WITH BLACK & VEATCH AND PIERCE
ATWOOD ATTORNEYS LLC.

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This document was prepared by

Author	Organization	Contact Details
Mari Ioseliani	Deloitte Consulting LLP	mioseliani@dcop-hipp.ge
Robert Taylor	Pierce Atwood LLP	rft10@hotmail.com
David Lockhart	Pierce Atwood LLP	david@lockhartda.com
Reviewer	Organization	Contact Details
Jake Delphia	Deloitte Consulting LLP	jdelphia@deloitte.com

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1.0 INTRODUCTION

The HIPP Enabling Environment Team drafted proposed amendments to the Law on Electricity and Natural Gas of Georgia for discussion purposes among the MENR and all relevant parties. It is important to note that the amendments have been drafted so as to make the most minimal changes required in order for the first stage of the ETM to be accomplished. Later, much more significant amendments will be necessary (preferably achieved through the passage of a new law).

The draft amendments seek to:

- broaden the scope of GNERWC's regulatory and licensing authority (to include market operation, transit for electricity generated outside Georgia, and approval of new relevant rules and codes);
- broaden State policy to cover these areas also;
- introduce two new licensed entities and two new sets of rules: (i) a Market Operator (MO) operating under Market Operation Rules; and (ii) a Transmission System Operator (TSO) and new Transmission Grid Code;
- provide for the new MO's functions to be performed by the present Commercial System Operator. The MO's functions are organizing and administering electricity trade, managing contracts to balance the system and calculating payment settlements [see new Article 23(5)];
- provide that the present Dispatch Licensee will be licensed as the new TSO (the Dispatch License will terminate) and that all functions of the Dispatch Licensee will be performed by the TSO. The TSO's functions are managing the security of the Transmission System, coordinating supply and demand and contracting for Ancillary Services [see new Article 24(1)];
- the Market Operating Rules, as well as governing the electricity market, establish relations and data flows between participants and service providers in the market;
- the Grid Code establishes technical and engineering standards for operation of and connection to the Transmission System;
- grant authority to GNERWC to: monitor progress towards the establishment of a competitive electricity market; and prepare rules requiring the exchange and provision of relevant data and other information between licensees and ESCO required for the efficient performance by the MO and TSO of their functions.

The proposed amendments are marked on the latest English translation of the Law.

2.0 PROPOSED AMENDMENTS TO THE LAW OF GEORGIA ON ELECTRICITY AND NATURAL GAS

LAW OF GEORGIA ON ELECTRICITY AND NATURAL GAS

(30.04.99 Legislative Bulletin #15(22))

CHAPTER I GENERAL PROVISIONS

Article 1. Objectives and Purposes of the Law

1. This Law regulates activities and relations of individual entrepreneurs, physical and legal persons in the areas of water supply, electricity system operation, wholesale electricity and capacity trading, electricity generation, transmission, transit, dispatch, market operation, distribution, import, export and consumption, as well natural gas supply, import, export, transportation, distribution and consumption and maintenance of the functioning and development of the electricity and natural gas sectors in Georgia based on market economy principles. The present law shall not apply to groundwater intake and/or extraction, exploration, production, processing and storage of natural gas, also to relations between the producer of natural gas and supplier, and to electricity or natural gas transit through the territory of Georgia. (20.11.2007 N5466)

2. The objective of this Law is to:

- a) Based on the development of competition and using ~~the of~~ the existing non-competitive market's regulation mechanisms, to ensure the establishment of electricity and natural gas markets and tariff systems, which shall accurately reflect the economically justified electricity generation, transmission, transit, dispatch, distribution, export, import and consumption costs, as well as the costs associated with natural gas transportation, distribution, import, export, supply and consumption in the tariff systems; (20.11.2007 N5466)
- b) To provide the legal basis for reliable electricity, natural gas and drinking water supply for all categories of consumers; (05.07.2008 N92)
- c) To encourage the attraction of domestic and foreign investments for rehabilitation and development of electricity, natural gas and water supply sectors; (05.07.2008 N92)
- d) To encourage the priority use of indigenous hydro, renewable, alternative and gas resources. (9.06.2006 N3292 to be enacted, September 1, 2006)

3. The purposes of this Law are to:

- a) Attribute to the Ministry of Energy and Natural Resources of Georgia the function of establishing main directions of the state policy in the electricity and natural gas sector, securing their implementation and creating and adopting the legal framework; (11.03.2011N4395)
- b) Determine the main principles of regulating electricity system operation, wholesale electricity and capacity trading, electricity generation, transmission, dispatch, market operation, transit, distribution, import, export, as well as natural gas supply,

import, export, transportation and distribution and the main principles of regulating consumers' activities and relations based on the principles of publicity and equality, and for these purposes to form a legal basis for establishing an independent regulatory framework; (27.12.2005 N2537)

- c) Promote growth of efficiency in the areas of electricity generation, transmission, dispatch, distribution, import, export and consumption, as well as in the areas of natural gas supply, import, export, transportation, distribution and consumption; (27.12.2005 N2537)
- d) Promote development of competition in Georgia's electricity and natural gas markets;
- e) Ensure formation of market and tariff systems in the electricity and natural gas sector of Georgia based on which the legal framework of tariff regulation must be created protecting customers from monopolistic tariffs and at the same time promoting long-term financial stability and development of the energy sector; (9.06.2006 N3292, effective date 1st September, 2006)
- f) Charge the Georgian National Energy and Water Supply Regulatory Commission with tariff regulation in the areas of drinking water supply and wastewater drainage and treatment. (20.11.2007 #5466)
- g) [Charge the Georgian National Energy and Water Supply Regulatory Commission with authority to issue licenses for the performance of certain activities related to, and approve and issue regulations that are necessary for, a sound competitive electricity market, and to monitor progress towards the establishment of such a market.](#)

Article 2. Definitions

The terms used in this Law shall have the following meanings:

- a) Electricity Transmission Activity – transmission system operation for the purpose of electricity (capacity) transportation through the transmission system from the point of receipt to the point of delivery; (27.12.2005 N2537)
- b) Transmission Network–electricity (capacity) transmission facility interconnecting the points of receipt and delivery. Transmission network includes transmission facilities above 110kV, including, substations and electricity transmission lines, also those 35 and 110kV transmission networks and corresponding substations, which are specifically identified in the transmission license and are used for a system and/or intersystem transit of electricity; Other 35 and 110 kV networks are part of the distribution facilities. A list of the transmission lines used for the system and/or intersystem transit of is approved by the Ministry of Energy and Natural Resources of Georgia. (11.03.2011N4395)
- c) Distribution Network– facilities used for electricity (capacity) distribution connecting the sending points to consumers. The distribution system includes 0.4-6-10–35–110 kV-distribution facilities, except those specified in paragraph “b” of this Article. The same term shall also apply to the natural gas distribution system including 1.2-0.6-0.3-0.005 Mpa pressure piping. (27.12.2005 N2537)
- d) Electricity Distribution Activity– receipt of electricity (capacity) from two or more independent Points of Delivery (from two or more substations under possession of Transmission Licensee or Electricity Generator),exploitation of distribution network and sale (distribution) of received electricity to retail consumers, also wheeling of electricity; (6.07.2010. N3349,to be enacted from September 1, 2010)
- e) Electricity Dispatch Activity- technical management/control of licensees and consumers in order to ensure a stable supply and consumption regime and the implementation of the parallel operation electricity system between Georgia and other state (states). Only one dispatching license shall be granted in Georgia; (27.12.2005 N2537)

- f) Commission- the Georgian National Energy and Water Supply Regulatory Commission; (20.11.2007 N5466)
- g) License–the right granted under the Georgian National Energy and Water Supply Regulatory Commission resolution to a person in compliance with the requirements defined by law to engage in the activity stipulated by this Law. (20.11.2007 N5466)
- h) License Holder (Licensee) – the person having been granted the right by the Georgian National Energy and Water Supply Regulatory Commission resolution to engage in the license-prescribed activity. (20.11.2007 N5466)
- i) Point of Receipt– point within transmission and/or distribution network in which transmission and/or distribution licensee receives electric power and capacity from the network of a generation and/or other distribution licensee and/or from the network of a small power plant and electricity system of other country, including electricity import, or a point within the transportation system, in which the natural gas transportation licensee receives natural gas, including import; 9.06.2006. N3292, to be enacted from September 1, 2006)
- j) Point of Delivery– the point in which transmission and/or generation licensee supplies electric power and capacity from the transmission and/or generation network to the distribution licensee, direct customer and/or other country's power system, or the point within transportation system in which natural gas transportation licensee supplies natural gas to the natural gas distribution licensee, direct customer and/or other country's transportation systems; (9.06.2006. N3292, to be enacted from September 1, 2006)
- (j¹) Consumer– direct customer or retail customer, as well as the person using drinking water from the water supply system for personal needs only; (05.07.2008 N92)
- k) Direct Customer – the person who receives electricity (capacity) from the power generation, transmission or distribution licensee-owned systems in compliance with the rules and conditions defined by the “Electricity (Capacity) Market Rules”, and natural gas – from the gas transportation system, and who is not a distribution licensee; (27.12.2005 N2537)
- l) Regulatory Fee – fee prescribed by the Law of Georgia on Regulatory Fees; (27.12.2005 N2537)
- m) Electricity Generation Activity– connection of generation facilities to the transmission and/or distribution systems and supply of electricity (or readiness to supply) to the transmission and/or distribution or consumer's systems, as well as sales of such electricity; (9.06.2006 N3292 effective date 1st September, 2006)
- n) Exporter– the person who at the point of delivery sells abroad electricity/capacity; (27.12.2005 N2537)
- o) Importer- the person who at one or more points of receipt receives from abroad and sells, and/or consumes electricity (capacity); (9.06.2006 N3292 effective date 1st September, 2006)
- p) Repealed; (9.06.2006 N3292, effective September 1, 2006)
- q) Repealed; (27.12.2005 N2537)
- r) Repealed; (27.12.2005 N2537)
- s) Electricity (Capacity) Market Rules – the document which regulates: operation of electricity market; activities of the Electricity System Commercial Operator and dispatch licensee; technical, commercial and financial relations arising in connection with the direct contracts on electricity purchase and sale, including through Electricity System Commercial Operator, terms of conclusion and effect of the direct contracts; technical, commercial and legal relations arising in connection with electricity generation, transmission, dispatch, wheeling, distribution activities, maintenance of the state uniform electricity system guaranteed capacity, electricity import and export,

operation of electricity systems in parallel regime, electricity generation licensee and with electricity generated by a small hydro power plant for its own use; establishment of different conditions and procedures for electricity generation, consumption import and export in accordance with the principles established by this Law; determination of rules concerning drafting and enforcement of electricity (capacity) balances; other issues connected with these relations (6.07.2010 N3349, to be enacted from September 1);

- t) Repealed (27.12.2005 N2537)
 - u) Natural Gas or Gas- the carbohydrates which are in the gaseous state at 1.2 MPa pressure and 200C temperature, and whose heat content is not less than 31.8 MJ/m³ (7600 kcal/m³);
 - v) Natural Gas Transportation System or Transportation System - each and all pipelines, compressor stations, metering stations, and other facilities being used for natural gas transportation, operated or designed to work at a pressure over 1.2 MPa, interconnecting the points of delivery and receipt and owned, managed or operated by a transportation licensee. The transportation system includes each and all pipes and facilities operating or designed to work at a pressure over 1.2 MPa, including compressor stations, metering stations and other facilities being indicated in the transportation license; (30.04.1999 N1934)
 - w) Natural Gas Transportation Activity- the operation of the transportation system for the purpose of transporting natural gas through the transportation system from the point of receipt to the point of delivery; (27.12.2005 N2537)
 - x) Natural Gas Distribution Activity- the receipt of natural gas from one or more points of delivery, the operation of the distribution system and the supply of natural gas to customers at their request within a specific distribution network; (27.12.2005 N2537)
 - y) Supplier– person who purchases Natural Gas and sells it to other suppliers and/or other consumers; (11.03.2011 N4395)
 - z) Ministry- the Ministry of Energy and Natural Resources of Georgia; (11.03.2011. N4395)
- (z.a) Natural Gas Market Rules- the document regulating technical, commercial and financial relations arising from purchase and sale, delivery and transportation of natural gas, including natural gas balances' making up and implementation rules; (31.07.2009 N1558)
- (z.b) Operation of Electricity Systems in Parallel Regime -the synchronous operation of two or more neighboring electricity systems (part of electricity system) with uniform parameters which is aimed at the maintenance of stability of energy systems; (15.12.2010 N4065)
- (z.c) Repealed; (15.12.2010)
- (z.d) Reliability Standards- the ability of a transmission or transportation licensee to meet the required system operation conditions, notwithstanding variations in the operating conditions. The said standard may be reflected in the relevant market rules as well as in the relevant licenses; (27.12.2005 N2537)
- (z.e) Contracting Party's Reliability Standard- that a dispatch or transportation licensee and other party is required to adequately reflect its expected load and variations in order to avoid other contracting parties from undue costs. The said standard may be reflected in the relevant market rules as well as in the relevant licenses; . (27.12.2005 N2537)

(z.f) Deregulation – for the purposes of this Law and based on an administrative-legal act means granting to a generation licensee the right to engage in tariff-free activity or granting to a small hydro power plant the right to engage in tariff- free and license- free activity, as well as granting the right to engage in gas supply tariff-free activity, also in case of construction of a new gas transportation or distribution networks granting the right to engage in transportation or distribution tariff-free activity; (8.06.2007 N4911).

(z.f¹) Partial Deregulation – for the purposes of this Law and based on an administrative legal act means the granting to a generation licensee of the right to operate with imposition of a marginal tariff or the granting to a small hydro power plant the right to operate without a license and by imposition of a marginal tariff, or the granting of the activity right by imposition of a marginal tariff on natural gas delivery, also in the case of construction of new gas transportation or distribution networks, the granting of the activity by imposition of transportation or distribution marginal tariffs respectively (8.06.2007. N4911);

(z.g) Emergency– the event stipulated by the Law of Georgia on Emergencies; (27.12.2005 N2537)

(z¹) Market Rules- the Electricity (Capacity) Market Rules and the Natural Gas Market Rules; (27.12.2005 N2537)

(z²) Supply and Consumption Rules- “Electricity (Capacity) Supply and Consumption Rules”, “Natural Gas Supply and Consumption Rules” and “Drinking Water Supply and Consumption Rules” (5.07.2008 N92).

(z³) Electricity (Capacity) Supply and Consumption Rules – document which regulates relations on the one hand between Distribution Licensees, Generation Licensees, Small Hydropower Plants and on the other hand retail customers in the course of purchase, sale, distribution, wheeling and/or consumption.

(z⁴) Natural Gas Supply and Consumption Rules mean the document regulating the relations between suppliers, Distribution Licensees and/or Retail Customers during sale, purchase, distribution, transmission and/or consumption of natural gas through the distribution network; (31.07.2009 N1558)

(z⁵) Small Power Plant- a power plant with the design capacity not exceeding 13 MW. Also this term is used to designate a person who owns and operates the above-mentioned power plant; (6.07.2010 N3349 to be enacted from September 1, 2010)

(z⁶) Retail Consumer- the person who receives electricity (capacity) from the generation, transmission or distribution system and natural gas from the distribution licensee’s system for own consumption only and who is not a Direct Customer; (9.06.2006 N3292; to be effective from September 1, 2006)

(z⁷) Direct Agreement- the bilateral power purchase agreement made between the wholesale buyer and seller of electricity (qualified enterprises) that defines the price, terms, conditions and quality parameters of electricity (capacity) to be purchased and is duly registered by the dispatch licensee; (9.06.2006 N3292; to be effective from September 1, 2006)

(z⁸) Balance Electricity- the electricity (capacity) purchased and/or sold by qualified enterprises and used to satisfy actual needs of buyers and sellers, including

balancing of the electricity amounts stipulated by direct agreements; (9.06.2006 N3292; to be effective from September 1, 2006)

(z⁹) Guaranteed Capacity-the capacity made available from the guaranteed capacity sources which serves the stability, safe and reliable functioning of state's uniform electricity system, the amount of guaranteed capacity source is defined by the Government of Georgia (6.07.2010 N3349).

(z¹⁰) Qualified Enterprise- the generation and distribution licensees, direct customer, importer, exporter, commercial system operator, small power plant authorized to participate in wholesale electricity (capacity) trade under this Law and the Electricity (Capacity) Market Rules; (9.06.2006 N3292, to be enacted from September 1, 2006)

(z¹¹) Electricity System Commercial Operator (hereinafter "the ESCO") – commercial legal entity of private law which for the satisfaction of requirements of qualified enterprises buys and sells balance electricity and guaranteed capacity, also fulfills the functions stipulated in this Law in accordance with the Georgian legislation; (6.07.2010 N3349, to be enacted from September 1, 2010)

(z¹²) Long-term Tariff- the preliminary fixed price or limit made for a no less than a 3-year period. (9.06.2006 N3292 to be enacted from September 1, 2006)

(z¹³) Source of guaranteed capacity – a thermal power plant or thermal power plants (generation licensee or generation licensees) defined by the Government of Georgia for the maintenance of safe functioning of state uniform electricity system and needed minimum guaranteed capacity which can synchronize with electricity system no later than within 24 hours and take capacity no later than 12 hours from the moment it is (they are) stopped. The Government of Georgia also defines the period within which the relevant source can ensure state uniform electricity system with guaranteed capacity; (6.07.2010. N3349 6.07.2010 N3349 to be enacted from September 1, 2010)

(z¹⁴) Wheeling – the transfer of electricity capacity owned by other person to the electricity network of the preliminary identified person through the distribution or generation Licensee, small power plant or directs customer, except the transfer service, also the transfer of natural gas owned by other person through natural gas distribution licensee's network (31.07.2009 N1558).

(z¹⁵) Water Supply Activity-the operation of water supply system, drinking water supply to consumers or/and water withdrawal within the concrete water supply system (s); (21.06.2011 N4865).

(z¹⁶) Drinking Water- the water of a respective quality determined under the drinking water standards; (20.11.2007 N5466)

(z¹⁷) Water Disposal- the wastewater transmission and purification up to the permissible standard by water treatment facilities; (20.11.2007 N5466)

(z¹⁸) Drinking Water Supply System- the aggregate of water receipt, transportation and distribution networks (piping, reservoirs, open and closed channels, where appropriate pumping stations, etc.) being used for supplying water to the consumer; (20.11.2007 N5466)

(z¹⁹) Drinking Water Supply- the supply of drinking water to the consumer through the Drinking Water Supply System; (20.11.2007 N5466)

(z²⁰) Drinking Water Supply and Consumption Rules mean the document that regulates relations between the supplier and the consumer during purchase, sale, supply and consumption of drinking water through the Drinking Water Supply System; (5.07.2008 N92)

(z²¹) Drinking Water Consumption Norm - drinking water norm per capita established by the Georgian National Energy and Water Supply Regulatory Commission individually defined by each water supply licensee, which will be reflected in water supply tariff; (21.06.2011 N4865)

(z²²) Renewable Energy Sources –non fossil, each source of sustainable energy, which is generated but not limited to: bio and hydro energies, geothermal, solar, wind and sea (including tide, wave and thermal) energies. (2.07.2010 N3295)

(z²³) Market Operator (MO) - a legal person licensed by the Commission responsible for the organization and administration of trade in electricity, managing contracts for balancing of the power system, and calculating payment settlements among generators, suppliers and Direct Customers;

Z²⁴) Market Operation Rules - the set of rules approved by the Commission governing the operation of the electricity market, including electricity trading and transactions, and that establish procedures for the management of market operation and—by the Market Operator and the relations among and data flows between participants and service providers in the market so as to ensure that sales and purchases of electricity are balanced. Such rules may comprise transitional or temporary rules, transaction arrangements and procedures that may be approved by the Commission;

(z²⁵) Transit - the transportation of electrical energy from Georgia across a national border on behalf of an entity, in quantities equal to quantities received from that entity and generated outside Georgia;

(z²⁶) Transmission Grid Code (Grid Code) - the set of technical rules by that name defining the technical and engineering standards applicable to the operation and maintenance of and connection to the Transmission Network that has been approved by the Commission;

(z²⁷) Transmission System Operator (TSO) - a legal person licensed by the Commission as having responsibility for operating interconnections, managing the security of the Transmission Network in real time by coordinating the supply of and demand for electricity and contracting for Ancillary Services in a manner that ensures the Transmission Network remains balanced.;

(z²⁸) Ancillary Services - those services provided by market participants and service providers connected to a Transmission Network or Distribution Network in order to ensure secure and balanced operation of the Georgian power system and the provision of electricity supply to users in accordance with applicable security and quality standards.

CHAPTER II

STATE POLICY IN ELECTRICITY AND NATURAL GAS SECTOR

Article 3. Development and Implementation of the State Policy in the Electricity and Natural Gas Sector

1. The Ministry shall set the main directions of the state policy in the power industry, including the electricity and natural gas sectors and secure their implementation upon approval by the Georgian Parliament. In the course of implementing this goal, the Ministry's main functions will be: (27.12.2005 N2537)

a) Elaboration of short- medium- and long-term strategies and priorities in the power sector, as well as coordination of their implementation;

b) Promotion of the attraction of short, medium, and long-term investments and credit resources, also implementation of state investments for rehabilitation and development of the energy sector;

c) Promotion of the efficient restructuring and privatization of state-owned enterprises in the energy sector, also support to competition development in the electricity and natural gas sectors; development of rules and strategy for conservation and liquidation of energy facilities;

d) Participation in the elaboration and development of a legal and regulatory framework; monitoring the technical and economic condition of the energy sector;

e) Development and coordination of the implementation of a uniform State program targeted to increase efficiency in the areas of [electricity system operation, wholesale electricity trading,](#) electricity generation, transmission, ~~dispatch,~~ [market operation, transit,](#) distribution, import, export and consumption, as well as in the areas of natural gas supply, import, export, transportation, distribution and consumption;

f) Promotion of the development of scientific research, design-construction and education spheres in the energy sector, including promotion of the attraction of investments and credit resources, also state investing;

g) Promotion of the environmental protection in the energy sector and optimal reflection of ecological aspects in energy programs during their development and implementation;

h) Promotion of the cooperation between licensees, importers and exporters, suppliers and electricity and natural [gas](#) sector entities in foreign countries, and support to transit and import/export relationships in the electricity and natural gas sectors;

i) Development of state strategies for emergencies in the energy sector;

j) Determination of a strategy for safety in the energy sector, elaboration of recommendations as well as studying the emergency events and causes of technical faults and making of the appropriate conclusions;

k) Promotion of the extension of energy resource production, priority utilization of the renewable (alternative) energy resources and support to energy-efficient measures relating to an increase in the efficiency of production;

l) [Repealed] (5.07.2008 #92)

2. The Ministry shall not assume the functions of an owner, the regulatory and operational-economic activities in the electricity and natural gas sectors.

3. The Ministry, under its administrative-normative act – the order, also approves the following documents: (27.12.2005 N2537)

a) Electricity (Capacity) Balance;

b) Natural Gas Balance;

c) Electricity (Capacity) Market Rules;

d) Natural Gas Market Rules;

e) The Rules of Operation, Arrangement and Use of Energy Facilities and other Technical Equipment in the Power Sector;

4. Based on the state policy in the energy sector, the Ministry shall be authorized to make decisions on deregulation or partial deregulation(9.06.2006. N3292,to be enacted September 1, 2006).

5. Repealed (6.07.2010 N3292, to be enacted September 1, 2010)

6. The protection zones of electricity units, cuttings in forests and plantations, the parameters of roads leading to the protection zones, the limitations existing in protection zones and the conditions for the conduct of works are defined by the decree of the President of Georgia.(6.07.2010 N3349, to be enacted from September 1, 2010).

CHAPTER III

GEORGIAN NATIONAL ENERGY AND WATER SUPPLY REGULATORY COMMISSION

(20.11.2007 N5466)

Article 4. Status and Functions of the Georgian National Energy and Water Supply Regulatory Commission (20.11.2007 N5466)

1. The Georgian National Energy and Water Supply Regulatory Commission (hereinafter “the Commission”) is an entity defined under the Law of Georgia on Independent Regulatory Bodies that is not founded on the basis of state property. (20.11.2007 N5466)

2. The legal basis for the Commission's activities shall be the Georgian Constitution, international treaties and agreements, the present Law, the Charter of the Commission, and other legal acts.

3. The Commission shall elaborate and approve its Charter, structure and manning table.

4. The Commission shall be authorized to grant licenses and regulate activities of licensees, importers, exporters, ESCO and suppliers within the electricity and natural gas sectors of Georgia, and to the Market Operator and Transmission Services Operator, and participants and service providers in the electricity sector. (9.06.2006 N3292, to be enacted from September 1, 2006)

5. The Commission shall be authorized to monitor progress towards the establishment of a competitive electricity market, including the development of the

Market Operation Rules and the Grid Code and the matters covered thereby, and report on these to the Government of Georgia.

6 The Commission shall be authorized to prepare rules requiring the exchange and provision of relevant data and other information between licensees and ESCO required for the efficient performance by the Market Operator and Transmission System Operator of their functions, roles and responsibilities.

75. The main functions of the Commission shall be:

a) The establishment of rules and conditions for electricity system operation, wholesale electricity trading, electricity generation, transmission, ~~dispatch~~ and distribution, market operation and transit, natural gas transportation and distribution as well as for water supply, issuance of licenses, modification and revocation of licenses in compliance with the Law of Georgia on Licenses and permits, this law and licensing rules; (21.06.2011 N4865)

b) The setting and regulation of tariffs for electricity generation, transmission, ~~dispatch,~~ distribution, wheeling, transit, import and consumption, ESCO service, also natural gas transportation, distribution, wheeling, delivery and consumption, also guaranteed capacity fee and guaranteed capacity source electricity generation fee, excluding tariffs on natural gas sold at gas filling stations, pursuant to this law, main directions of the state policy in the energy sector and administrative legal acts adopted based on them and the established methodology; (6.07.2010 N3349, to be enacted September 1, 2010)

c) Within its competence, the settlement of disputes arising between licensees, small power plants, importers, exporters, suppliers and consumers, also the commercial system operator; (5.07.2008 N92)

d) The establishment of control over the protection of licensing conditions within the electricity and natural gas sectors of Georgia and application of relevant measures for violation of the provisions of law;

e) The organization and coordination of certification in energy sector;

f) Repealed (27.12.2005 N2537)

g) Repealed (27.12.2005 N2537)

h) The setting of water supply tariffs. (20.11.2007 N5466)

i) Defining the norm of Drinking Water Consumption (21.06.2011 N4865)

j). Approval of Market Operation Rules and such electricity market regulations consistent with the objectives and purposes of this Law.

Article 5. Rules and Regulations of the Commission

1. The Commission within its competence issues normative administrative-legal act – the resolution. The Commission shall, by resolution approve its charter, rules and procedures of proceedings, procedural rules for consideration of disputes, the amount of regulatory fee and calculation methodology of regulatory fee, licensing

rules, delivery and consumption rules, tariff methodology, tariff including marginal), amount of normative losses and rules for their calculation. The resolution of the Commission may be adopted by a legislative act in other cases prescribed; (21.06.2011 N4865)

2. The Commission shall, within its competence, be authorized to decide on certain specific issues under this Law, including the Resolution-based ones. (27.12.2005 N2537)

3. The Commission resolutions and decisions shall be made at the Commission's meeting by a majority vote of the Commission members. The meeting of the Commission shall be competent to decide if attended by at least 3 (three) Commission members. The Commission resolutions and decisions shall be binding upon licensees, small power plants, suppliers, importers, exporters, consumers and the ESCO. (6.07.2010 N3349 to be enacted from September 1, 2010)

4. The chairman of the Commission issues orders on internal organizational issues of the commission.

Article 6. Commission Members (Commissioners) and Their Term of office

1. The Commission shall consist of five members. The Commissioners shall be appointed and dismissed by the President of Georgia. (2.10.2008 N317)

2. An individual may be appointed as a Commissioner if he or she is a citizen of Georgia, has a university degree, and is qualified by training and experience to discharge the duties prescribed by this Law. (27.12.2005 N2537)

3. A Commissioner shall be appointed upon presentation by the Chairman for a six-year term. A Commissioner may be re-appointed for another six-year term. In case of a pre-term termination of a Commissioner's duties, the President shall, upon presentation by the Chairman, appoint a new member to serve for the remainder of the unexpired term.

4. Each Commissioner shall have one vote in the Commission decision-making.

Article 7. Termination of a Commissioner's Authority and Dismissal

1. A Commissioner's authority shall terminate:

a) if the Commissioner has voluntarily retired;

b) if an accusatory court decision has been taken against the Commissioner;

c) if the court has announced him disabled or missing;

d) if the Commissioner has lost Georgian citizenship;

e) if the Commissioner has violated provisions of the Law of Georgia on the Conflict of Interests and Corruption in Public Service; (17.10.1997)

f) if for four consecutive months the Commissioner has failed to discharge his or her duties;

g) if the Commissioner has died.

2. A Commissioner shall be dismissed only in the cases referred to in paragraph one of this Article.

3. A Commissioner shall have the right to appeal his dismissal as prescribed by the effective legislation.

Article 8. Chairman and his duties

1. A chairman of the Commission shall be appointed by the President of Georgia from among the Commissioners. The Chairman of the Commission may resign from his office and remain a Commissioner for the remainder of the Commissioner's term of office. The Chairman of the Commission may, in his absence, designate one of the Commissioners to serve as an Acting Chairman.

2. The Chairman of the Commission shall preside over the sessions/meetings of the Commission, be responsible for meeting the rules of procedure for the Commission judgments and decisions and their promulgation, also for the administration of the Commission and its staff.

Article 9. Appointment and Dismissal of the Commission Staff Employees

For the proper discharge of its duties the Commission shall have staff. The Chairman, in consultation with other Commissioners, appoints and dismisses the staff employees, in accordance legislation in force. The authority of the Commissioners shall equally apply to the Commission staff, except the issues related to the administrative management.

Article 10. Political Activity of a Commissioner

A Commissioner shall discontinue membership in any political party. The creation of political or social organizations or their organizational units within the Commission shall be prohibited.

Article 11. Principal Rights and Duties of the Commission

1. The Commission shall be guided in its activities by the main directions of the state energy policy, national security, economic, environmental, and other state policies and the administrative-normative acts adopted on their basis. The commission is authorized to take into consideration the agreements concluded [or authorized by](#) the Government in the field of energy and water supply and other legal acts. (6.07.2010. N3349 to be enacted from September 1, 2010)

2. The Commission shall provide the respective parties, including electricity and natural gas consumers, with an opportunity of an unimpeded presentation of their interests at its sessions. (5.07.2008 N92)

3. Any Commissioner and staff employee shall, within his/her competence, have an opportunity of unimpeded work with the personnel and access to the records of every licensee, importer, exporter, supplier and ESCO that are necessary for

implementing the Commission-assigned functions. (9.06.2006 N3292, to be enacted from September 1, 2006)

4. Within its competency, the Commission shall be authorized to check accuracy of the presented records and data.

Article 12. Commission sessions; information confidentiality

1. Sessions of the Commission shall be public. The Commission decisions and resolutions shall be made public in a prescribed manner. (30.04.1999 N1934)

2. The Commission shall keep the minutes of a session and other relevant documents for the term fixed thereby. A Commissioner shall have unimpeded access to information, records and documentation kept in the Commission.

3. All resolutions and decisions, orders, records, and other documents of the Commission shall be accessible for public examination. A procedure for keeping confidential the information available in the Commission shall be determined by the Commission in accordance with the effective legislation.

Article 13. Conduct of Commission Sessions

Before any resolution or decision is taken, the Commission shall be obligated to notify the interested parties and provide them with an opportunity to attend the respective session of the Commission. For the purpose of keeping the information confidential, the Commission may conduct closed sessions. The resolutions and decisions taken in closed meetings shall be made public.

Article 14. Liability for Breach of Law

The Commission, may, in accordance with the legislation, hold any natural or legal person liable for violating the provisions of this Law or resolutions and decisions made by the Commission.

Article 15. Appeal (23.06.2005 N1738)

Decisions taken by the Commission may be appealed in court in a manner prescribed by law.

Article 16. Commission Meetings and Consultations with Parties

Rules for meeting of the Commissioners and staff employees with interested parties shall be established by the Commission. Pursuant to these rules, a Commissioner shall notify in writing and in advance the interested parties of such consultations and provide them with an opportunity to take part in the consultations.

Article 17. Conflicts of Interest

1. The rules declaring restriction of Commissioners' activities, incompatibility of office and economic interest shall be determined under the Law of Georgia on the Conflict of Interests and Corruption in Public Service. (17.10.97, Parliamentary Gazette N44)
2. The Commission staff employee shall not have any direct or indirect ownership or economic interest in respect of any licensee, importer, exporter, supplier or ESCO. (9.06.2006 N3292, to be enacted from September 1, 2006)
3. A staff employee may be the customer of any licensee, importer, exporter or supplier; however, no licensee, importer, exporter or supplier shall have the right to offer and the staff employee free or discounted services from any one of them. (27.12.2005 N2537)

Article 18. Personal Security and Support in Further Employment

1. Commissioners and staff members shall not be subjected to violence, threats and other wrongful actions when discharging their official duties. Breach of the provisions of this Article shall invoke liability as prescribed by law.
2. The State shall assist a Commissioner in further employment after he/she has completed his term of office.

Article 19. Commission Budget; Regulatory Fee (27.12.2005 N2537)

1. The Commission shall, by October 1 of each year, approve its budget for the following year, which shall indicate all the expenses of the Commission, including salaries and benefits of the Commissioners and the staff members. On the basis of load forecasts for the following year's activity received from the licensees, importers and suppliers by September 15, the Commission shall establish a regulatory fee at a level sufficient to cover the expenses planned by the Commission for the next budget year. The Commission shall promulgate its budget.
2. The regulatory fee shall be deposited at the Commission's account. The Commission shall have sole access to the funds. Any funds in the Commission's account not used in one year shall be carried forward to the next year, and the next year's regulatory fee shall be reduced accordingly. The Commission shall be entitled to borrow in order to cover the operating expenses that cannot be met from the current regulatory fee. The Commission shall repay the loans and the corresponding interest from the next year's regulatory fee. The Commission may make use of the state budget allocation and grants for its activities.

Article 20. Financial Reporting; Audit

1. By March 31 of each year the Commission shall prepare and publish a financial report of the past year reflecting amounts of the regulatory fee placed on the Commission's account and the Commission's expenses from this account during the year, as well as the loans taken during the year and other funds used by the Commission. The Commission shall ensure the promulgation of its financial report.

2. Control over the fiscal activities of the Commission shall be exercised by the competent authorities in accordance with the Georgian legislation in force, including by an independent auditor invited by the Commission. Audit of the fiscal activities of the Commission shall not affect its day-to-day operation.

Article 21. Annual Report

By March 31 of each year, the Commission shall make the past year's activity report to be presented to the President of Georgia, Georgian Parliament and the Ministry. The report shall be accessible to the general public. (30.04.99 N1934, Law Bulletin N15(22))

CHAPTER IV ELECTRICITY (CAPACITY) WHOLESALE TRADE; SYSTEM COMMERCIAL OPERATOR

(9.06.2006 N3292, to be enacted from September1, 2006)

Article 22. Electricity (Capacity) Wholesale Trading

1. The subject of wholesale trading in the uniform electricity system of Georgia is electricity and guaranteed capacity.

2. Qualified enterprises, also —transmission and dispatch licensees in cases envisaged by “Electricity (Capacity) Market Rules”, are authorized to participate in electricity wholesale trading. But in case of guaranteed capacity wholesale trading, only qualified enterprises are authorized to participate. The registration of participants in wholesale trade, amending registration data and revocation of registration is done by ESCO in accordance with “Electricity (Capacity) Market Rules”. The registration of participants in wholesale trade, amending registration data and revocation of registration is done by ESCO in accordance with “Electricity (Capacity) Market Rules”.

Article 22¹. Electricity Wholesale Trading (6.07.2010 N3349, to be enacted from September 1, 2010)

1. Wholesale trading of electricity is implemented based on Direct Contracts or through System Commercial Operator under Standard Terms of Direct Agreement.

2. The parties to the electricity wholesale trading direct contract are obliged to register direct contract with dispatch licensee meeting the terms, conditions and procedures envisaged by the “Electricity (Capacity) Market Rules”. The direct contract enters into force only after its registration by the dispatch licensee. The dispatch licensee is authorized not to register a direct contract only in case if it contradicts terms, conditions and procedures established by the “Electricity (Capacity) Market Rules”.

3. Balance electricity trading is carried out only through system commercial operator. Because of this reason the system commercial operator registers the standard terms of direct contract with dispatch licensee for both, balance electricity buyers and sellers.

4. The system commercial operator purchases the balance electricity from electricity generation licensee, small power plant and importer. The balance electricity from system commercial operator is purchased by distribution licensee, direct customer and exporter. The qualified enterprise which delivers or receives balance electricity is deemed to be a party of direct contract with standard terms.

5. The formation of balance electricity price is done in accordance with "Electricity (Capacity) Market Rules".

6. The purchase of electricity, in case if the demand of electricity seller exists, may only be carried out if the relevant guarantee of payment envisaged by the legislation of Georgia is presented.

Article 23. System Commercial Operator (9.06.2006. N3292, to be enacted from September 1, 2006)

1. Functions of the System Commercial Operator are:

a) Purchase and sale of balance electricity (capacity) (including through the execution of medium- and long-term import/export contracts);

b) Purchase and sale of guaranteed capacity as prescribed by this Law and the "Electricity (Capacity) Market Rules"; (6.07.2010. N3349, to be enacted from September 1, 2010).

c) Repealed; (6.07.2010. N3349, to be enacted from September 1, 2010)

d) Creation and maintenance of a wholesale trade database, including an integrated register of accounts;

e) Identification of the number of electricity sellers and purchasers, including the amounts of electricity sold and purchased thereby in accordance with the information obtained on the basis of subparagraph "h" of paragraph 3 of Article 35 of this Law and submission of the information for reporting purposes in accordance with "Electricity (capacity) Market Rules"; (6.07.2010 N3349, to be enacted from September 1, 2010)

f) Implementation of other functions specified by this Law.

2. Repealed (6.07.2010 N3349, to be enacted from September 1, 2010)

3. ESCO who independently carries out the functions stipulated in this Law shall be guided by the Electricity (Capacity) Market Rules and other normative administrative decrees.

4. Qualified enterprises and the parties to transit arrangements shall submit to the ESCO information that is necessary for proper execution of its functions.

5. In the case of an agreement on the construction of a new hydropower plant in Georgia made between the Georgian Government, ESCO and the competent person, ESCO shall make a direct contract with the competent person on the purchase of electricity output of the newly constructed power plant on conditions that

have been agreed by the Georgian Government, ESCO and the competent person. In such a case, where a decision on deregulation in respect of the newly constructed hydropower plant has been taken in accordance with Article 3(4) of this Law, the price of the electricity to be purchased shall be determined under the agreement made between the Georgian Government, ESCO and the competent person. (5.07.2008 N92)

6. For the promotion of investments in Georgia the system commercial operator is obliged to conclude electricity (capacity) sale (delivery) contract with the Government of Georgia and the relevant person with the agreed terms and price. (15.12.2010. N4065)

Article 23¹.Guaranteed Capacity(6.07.2010 N3349 to be enacted from September 1, 2010)

1. The maintenance of electricity system stability, safety and reliability, also balancing electricity (capacity) delivery-consumption is carried out through guaranteed capacity existing within the electricity system.

2. The guaranteed capacity is at the disposal of dispatch licensee. Guaranteed capacity source is obliged to subordinate the capacity to dispatch licensee. The decision concerning guaranteed capacity source utilization and the volume of loading of production facilities existing in its ownership and its expedience is independently made by the dispatch licensee. The guaranteed generation source is obliged in case of dispatch licensee demand to deliver electricity (capacity) in the uniform electricity system of Georgia in accordance with the terms and conditions established by this law and “Electricity (Capacity) Market Rules”.

3. The readiness of guaranteed capacity source is checked by the dispatch licensee in accordance with the terms and conditions established by the “Electricity (Capacity) Market Rules”. The testing of generation means is mandatory at least once a year, also after doing repairs, in cases envisaged by the “Electricity (Capacity) Market Rules”. The guaranteed capacity source is obliged to provide the dispatch licensee upon request the documentation confirming the technical characteristics and parameters of generation means existing in its ownership.

4. The guaranteed capacity trading is done only through the system commercial operator. With that end the system commercial operator registers the contract standard terms with the dispatch licensee both for guaranteed capacity sources and for qualified enterprises purchasing guaranteed capacity.

5. The system commercial operator purchases guaranteed capacity and pays the guaranteed capacity fee to thermal power plant which is defined to be guaranteed capacity source by the Government of Georgia and the readiness of which is verified and confirms by the dispatch licensee in accordance with the terms and conditions established by this Law and “Electricity (capacity) Market Rules”. The dispatch licensee is obliged to provide commercial system operator with the information concerning guaranteed capacity indicating relevant guaranteed capacity source within the terms established by the “Electricity (Capacity) Market Rules”.

6. The rules of electricity purchase and sale by the guaranteed capacity source through direct contract or system commercial operator are defined by the “Electricity (Capacity) Market Rules”.

7. The guaranteed capacity source may not be reimbursed with the guaranteed capacity fee:

a) in case if the guaranteed capacity source does not provide the electricity system with the amount of guaranteed capacity which is established by the Government of Georgia;

b) within the period of repairs of generation means owned by the guaranteed capacity source;

c) in cases envisaged by the “Electricity (Capacity) Market Rules”.

8. The guaranteed capacity fee shall not be reimbursed in cases envisaged by paragraph 7 of this Article until the testing does not prove the relevant amount of guaranteed capacity established by the Government of Georgia.

9. The purchase of electricity from system commercial operator is made by the distribution licensees, direct customers and exporters who are contract parties with standard terms registered with dispatch licensee by the system commercial operator. The distribution licensees, direct customers and exporters are obliged to pay the system commercial operator the guaranteed capacity fee to be paid to guaranteed capacity sources in the proportion to electricity received by them at the point of delivery. The charging of sum to be paid and its collection, settlement with guaranteed capacity sources is done by the system commercial operator in accordance with this Law and “Electricity (capacity) Market Rules”.

10. Guaranteed capacity source is a party to the relevant contract with standard terms registered with the dispatch licensee by the system commercial operator and it is obliged to have its own generation means perfectly ready for the maintenance of guaranteed capacity. The responsibility for the provision of electricity system with the guaranteed capacity rests with the relevant guaranteed capacity source.

Article 23². Electricity Import and Export (9.06.2006. N3292, to be enacted from September 1, 2006)

1. Any person may engage in electricity import and export; import and export is carried out by Direct Contracts.

2. Repealed (8.06.2007 N4911)

3. Repealed (8.06.2007 N4911)

4. Repealed (8.06.2007 N4911)

5. When registering agreement on electricity import, the Dispatch Licensee may reserve a certain amount (reserve margin) of the transmission line capacity.

Article 23³. Energy Balances(8.06.2007. N4911)

1. Dispatch Licensee shall develop and submit to the Ministry for approval a probable energy balance, which includes the energy supply and consumption details.
2. Given the approved energy balance and the interests of the reliable operation of the electricity system, dispatch licensee shall, based on the situation in the electricity system, carry out daily and hourly planning (where necessary, double checking) of the generating facilities and the electricity (capacity) supply sources.

Article 23⁴.Electricity Trading by Small Power Plants(9.06.2006. N3292, to be enacted from September1, 2006)

1. A small power plant is authorized to sell electricity to:
 - a) Qualified enterprise;
 - b) Retail Customer.

Article 23⁵ System Commercial Operator Functions Performed under Market Operation License

The System Commercial Operator shall be licensed by the Commission as the Market Operator. Upon the issuance of such license, the role, functions and responsibilities of the System Commercial Operator set forth in this Chapter IV and elsewhere in this Law, that relate to the role, functions and responsibilities of the Market Operator as defined by Article 36³ of this Law shall be performed by the System Commercial Operator in its capacity as the licensed Market Operator.

CHAPTER V

LICENSES AND LICENSING RULES

Article 24. Issue of licenses; licensed activities; exclusions

1. The Commission shall be entitled to issue permanent licenses for the following activities: (27.12.2005 N2537)
 - a) Electricity generation;
 - b) Electricity dispatch;
 - bc) Electricity transmission;
 - ed) Electricity distribution;
 - fe) Natural gas transportation;
 - ef) Natural gas distribution.
 - hg) water supply (21.06.2011. N4865)
 - hi) Transmission system operation;
 - i) Market operation.

1¹ The Dispatch Licensee shall be licensed by the Commission as the Transmission System Operator. Upon the issuance of the Transmission System Operator License,

the Dispatch License shall immediately terminate and the requirements and conditions specified in respect of the Dispatch License set forth in Chapter VI and the roles, functions and responsibilities of the Dispatch Licensee set forth elsewhere in this Law shall be performed by the Transmission System Operator. From such termination, references in this Law to the Dispatch Licensee shall be deemed to be references to the TSO Licensee.

2. Electricity system operation, electricity generation, transmission, transit, market operation~~dispatch~~, distribution, natural gas transportation and distribution as well as water supply without a relevant license issued by the Commission shall be forbidden, except for the case envisaged in paragraph 3 of this Article. (21.06.2011. N4865)

3. A person who generates electricity only for own consumption and is not connected to the transmission or distribution network shall not be subject to licensing.

Article 25. Documents to be submitted by the license applicant (27.12.2005 N2537)

1. In addition to the requirements set in the Law of Georgia on Licenses and Permits, the license applicant stipulated in this Law shall submit to the Commission the following documents together with license application: (21.06.2011. N4865)

- a) Document certifying ownership (use) of production facilities;
- b) Report on compliance of the technical status of the production facilities with standards;
- c) List of fixed assets and audit report of the enterprise;
- d) Environmental impact assessment report;
- e) Technical conditions for connecting to the electricity or natural gas network (except electricity dispatch license);
- f) Layout of the electrical or natural gas network (except electricity dispatch license).

¹. In order to obtain water supply license, except for the requirements established by the law of Georgia on Licensees and Permits the license applicant together with the license application shall submit to the Commission: (21.06.2011 N4865)

- a) document certifying ownership (use) of production facilities;
- b) list of fixed assets and audit report of the enterprise.

2. Repealed(21.06.2011. N4865)

3. Persons issuing the documents specified in paragraph one of this Article shall be defined in the licensing rules.

Article 26. Requirements to License Applicants; License Terms; Interruption of Service

1. The Commission shall issue licenses only to an individual entrepreneur or commercial legal person complying with the law-stipulated conditions. (27.12.2005 N2537)

2. A license certificate shall specify the type of a service, location of the service assets and the service territory to which the license shall apply, the license issue date, conditions for its modification and revocation. (27.12.2005 N2537)

3. Licensees may not, without a prior consent of the Commission, terminate, reduce or increase the license-prescribed services, except the cases when the termination or reduction takes place for failure of the consumer to pay the service fees and/or for technical or safety reasons. In any other case, for termination or reduction of services the licensee shall submit an application to the Commission. On receipt of the Commission's consent for termination or reduction of services, the licensee shall turn in the license. In such a case, the Commission shall be authorized to amend or revoke the license. (27.12.2005 N2537)

4. No licensee shall, under the license of tariff conditions, be required to continue the license-prescribed services where another service-receiving licensee, direct customer, or other natural or legal person defaults contractual duties or service-specified conditions.

5. Subject to the Commission's request, each natural gas supplier shall submit to the Commission details and information relating to commercial terms, including but not limited to the natural gas purchase price. Where law and the supplier so require, the Commission shall keep all such price-related and other information confidential. (27.12.2005 N2537)

6. The Commission is authorized to issue license without documents envisaged by paragraphs 1 and 1¹ of Article 25 of this Law in case of public necessity with the condition that the documents shall be submitted to the Commission by the Licensee within reasonable terms.(21.06.2011. N4865)

7. The Commission is authorized to revoke license or/and define additional term for the submission of documentation for the licensee or/and take other measures against it envisaged by the legislation of Georgia in case if the licensee given a license in accordance with paragraph 6 of this Article does not provide the Commission with the documentation within the terms established. (6.07.2010. N3349)

Article 27. Rights and Duties of ESCO, Licensee, Importer and Exporter; Preparation of Information (5.07.2008 N92)

1. The Licensee shall comply with the license conditions. Legal acts issued by the Commission and the Ministry shall be binding upon the ESCO licensee, supplier, importer, exporter and consumer. The Commission's legal acts shall be also binding upon suppliers and consumers in the water supply sector.

1¹. The non-fulfillment of Commission's decision represents the violation of licensing conditions causes the responsibility envisaged by the legislation of Georgia including taking measures stipulated in the Law of Georgia on Licenses and Permits. (1.10.2010. N3650)

2. Any System Commercial Operator, licensee, supplier, importer and exporter shall, as far as possible, operate according to the cost-minimizing rule, with due regard for economic efficiency.

3. System Commercial Operator, importer, exporter, natural gas supplier and licensee shall submit to the Ministry and Commission and make publicly available, whereas a drinking water supplier shall submit to the Commission and make publicly available the following information:

a) Last year's activity report;

b) Work plan for the following year;

c) Other information which the Commission or the Ministry will deem necessary and based upon regulations on the provision of data and information approved and issued by the Commission.

Article 28. Electricity Metering, Sales; Meters

1. The licensee, direct customer and small power plant are obliged to record electricity output delivered through their facilities and make this information publicly available in accordance with standards, rules and other requirements. The ESCO shall be obliged, while the Ministry and the Commission are authorized, to inspect metering devices in compliance with the Electricity (Capacity) Market Rules. (9.06.2006. N3292, to be enacted September 1, 2006)

2. Relations of sale and purchase of electricity and transmission and dispatch services shall be regulated under relevant contracts, pursuant to this Law and the Electricity (Capacity) Market Rules. (8.06.2007 N4911)

Article 29. Disputes (5.07.2008 N92)

The ESCO, licensees, small power plants, importers, exporters, suppliers and consumers may apply to the Commission for considering a dispute arising in the sphere of electricity, natural gas and drinking water supply, if the resolution of such a dispute is within the Commission's competence.

Article 30. Repealed (27.12.2005 N2537)

Article 31. Modification and revocation of a license (27.12.2005 N2537)

A license shall be modified pursuant to its terms and conditions, and revoked for non-compliance with its terms and conditions, this Law and the Law of Georgia on Licenses and Permits. In any other case, the Commission may modify or revoke a License only with a prior consent of the licensee, In addition, when modifying a license, the Commission may demand from the Licensee meeting of conditions different from those indicated in the initial license, including more stringent requirements.

Article 32. Repealed (9.06.2006 N3292 effective date 1st September, 2006)

CHAPTER VI

LICENSES: REQUIREMENTS AND CONDITIONS

Article 33. Generation License

1. The Generation License granted by the Commission authorizes an individual entrepreneur or legal person to generate energy and connect the respective facilities to the transmission or distribution network at the corresponding Points of Receipts for electricity and/or capacity supply purposes.
2. Repealed. (27.12.2005 N2537)
3. According to the license conditions, the Generation Licensee shall for the term of the License: (27.12.2005 N2537)
 - a) Repealed(9.06.2006. N3292, to be enacted from September 1, 2006)
 - b) Make the generation facilities available to the dispatch licensee at the point of receipt for the safe, reliable, non-discriminatory, and economic dispatching of the transmission network and connected facilities, pursuant to the terms power sales contracts or approved rates and terms and conditions of service;
 - c) Comply with the requirements of the Electricity Market Rules [and Market Operation Rules](#) regarding the operation of generating facilities and of the Dispatch Licensee regarding operation of the transmission and distribution facilities; (9.06.2006 N3292, to be enacted from September 1, 2006)
 - d) Make timely payments of the Regulatory Fee set by the Commission and comply with other license terms.

Article 34. Transmission License

1. The Commission-granted license authorizes a legal person to render transmission service through the transmission network.
2. The License shall indicate the transmission system connected to the transmission network to be operated by the licensee, implying the facilities between the point of receipt and the point of delivery. Where the Generation Licensee's facility is to be directly connected to the distribution licensee's or the direct customer's facilities, the Commission may, for the purpose of establishing the transmission service parameters, request separation of the interconnection of the point of receipt and the point of delivery by a minimum section of the transmission network.
3. Repealed(6.07. 2010. N3349, to be enacted from September 1, 2010)
4. Repealed(6.07.2010. N33349, to be enacted from September 1, 2010)
5. Repealed. (27.12.2005 N2537)
6. According to the license conditions, the transmission licensee shall for the term of the license:
 - a) Ensure functioning of the transmission network in accordance with the "Electricity (Capacity) Market Rules"; (27.12.2005 N2537)
 - b) Develop and submit to the Commission and the public an investment program;

- c) Develop instructions for the safe, reliable, and non-discriminatory interconnection and operation of the transmission network and connected facilities;
 - d) Render services in compliance with this Law and regulations issued on its basis; (27.12.2005 N2537)
 - e) Make timely payments of the regulatory fee set by the Commission and comply with other license terms. (27.12.2005 N2537)
7. Repealed(9.06.2006 N3292, to be enacted from September 1, 2006)

Article 35. Dispatch License

- 1. ~~The Commission granted dispatch license authorizes a legal person to manage the Georgian electricity system through its central and regional dispatch centers. (30.04.99 N1934 Law Bulletin N15 (22))~~
- 2. ~~Repealed. (27.12.2005 N2537)~~
- 3. ~~According to the license conditions and for the term of license, the dispatch licensee shall:~~
 - a) ~~Ensure reliable functioning of the electricity system, satisfy the needs of all relevant licensees, importers, exporters and direct customers in accordance with balances approved based on the principle of safe operation and cost-effectiveness of the electricity system and pursuant to the “Electricity (Capacity) Market Rules”;(9.06.2006. N3292. N3292, to be enacted from September 1, 2006)~~
 - b) ~~Install and maintain all facilities necessary for ensuring the operating control and electric stability of the electricity system; develop regimes and utilize appropriate dispatch protocols that will support efficient operation of the energy sector and full satisfaction of the requirements of the distribution, import, export licensees and consumers, in compliance with the “Electricity (Capacity) Market Rules”;~~ (9.06.2006. N 3292, to be enacted from September 1, 2006)
 - c) ~~be guided by the approved balances, ensure the execution of direct contracts, satisfaction of electricity buyers and sellers with balance electricity and guaranteed capacity, or curtail or interrupt power supply to electricity buyers under the terms and conditions prescribed by this law and the “Electricity(Capacity) Market Rules”.~~ (6.07.2010. N3349, to be enacted September1, 2010)
 - d) ~~Develop and submit to the Commission and public an investment program;~~
 - e) ~~Render services in compliance with this Law and regulations issued on its basis;~~ (27.12.2005 N2537)
 - f) ~~Make timely payments of the regulatory fee set by the Commission and comply with other license terms;~~ (27.12.2005 N2537)
 - g) ~~Maintain an integrated register of direct contracts;~~ (9.06.2006 N3292 to be enacted from September 1, 2006)
 - h) ~~According to the “Electricity (Capacity) Market Rules”, provide the ESCO with the information on the amount of electricity to be sold as defined in direct contracts and the amount of the actually sold electricity.~~ (9.06.2006 N3292 to be enacted from September 1, 2006)

Article 36. Distribution License

1. The Commission-granted distribution license authorizes an individual entrepreneur or legal entity to buy, transmit, distribute and sell electricity (9.06.2006 N3292 to be enacted from September 1, 2006)

2. Repealed (27.12.2005 N2537)

3. According to the license conditions and for the term of the License, the Distribution Licensee shall:

a) In the events of emergency, ensure electricity supply limits, protection of the fixed operating conditions, priority electricity supply to the objects of special importance on condition they pay the electricity bills.

b) Ensure full, timely and guaranteed bill collection for received electricity and services according to the "Electricity (Capacity) Market Rules". The Distribution Licensee who defaults this provision shall be held liable in accordance with the applicable law. (9.06.2006 N3292 to be enacted from September 1, 2006)

c) Repealed (9.06.2006 N3292 to be enacted from September 1, 2006)

d) Render distribution services to consumers in accordance with the Commission-established rules and the Licensee's investment program;

e) Ensure uninterrupted electricity (capacity) supply to customers within the License-specified area subject to respective payment of electricity bills; (9.06.2006 N3292 to be enacted from September 1, 2006)

f) Elaborate and submit to the Commission for approval procedures for service recording, metering, billing, and collections;

g) Develop and submit to the Commission and public an investment program;

h) Render services in compliance with this Law and regulations issued on its basis; (27.12.2005 N2537)

i) Make available to the public for review in the Licensee's offices the following documents and information:

(i) The License and approved tariffs;

(ii) approved terms of service, which include the procedures concerning acquisition and revocation of service rights, as well as metering, billing and collection of electricity fee.

(iii) Description of the performance standards applicable to the Licensee, including the terms of connecting new customers;

j) Make timely payments of the regulatory fee set by the Commission and comply with other license terms; (27.12.2005 N2537)

4. Repealed (9.06.2006 N3292 to be enacted from September 1, 2006)

Article 36¹ Transmission System Operator License

1. A single TSO license will be issued by the Commission which authorizes the TSO to conduct the TSO activities specified in this Article.

2. For the duration of the TSO license, the TSO licensee shall:
- a) Contribute to security of supply through adequate system reliability;
 - b) Manage energy flows on the system in the territory of Georgia and imports/exports with neighboring systems;
 - c) Ensure a reliable and efficient system and availability of all necessary ancillary services;
 - d) Conduct capacity allocations and congestion management for cross border interconnections;
 - e) Provide other interconnected system operators with sufficient information and implementation of information exchange mechanisms to ensure security of networks in the context of congestion management;
 - f) Ensure non-discrimination between users and information necessary for efficient access to the system;
 - g) Dispatch generating installations and the use of the interconnectors, pursuant to objective, transparent and non-discriminatory rules;
 - h) Publish safety, operational and planning standards, including a scheme for total transfer capacity and estimates of transfer capacity for each day;
 - i) Define common technical requirements for secure system operation using common planning, operation, connection and data exchange procedures;
 - j) Ensure secure system operation with operational planning for the following year by using information exchange between TSOs that enable the TSOs to make the best possible forecast of regional grid stability in order to assess the flows in their network and the available transmission capacities and coordinating the conduct of maintenance operations across the borders;
 - k) Exercise consistent and coordinated transmission capacity calculation procedures to ensure secure system operation for the day-ahead when establishing the capacity available to the markets;
 - l) Implement procedures for congestion management where congestion occurs in accordance with regulations issued by the Commission;
 - m) Secure power system operation during operational hours according to operational agreements and utilizing the available resources within the power system effectively with the help of measurements and control systems;
 - n) Manage disturbances by proper system protection planning and activate remedial actions without delay using the automatic and manual disturbance reserves and automatic load shedding if required; in the case of the system blackout ensure black start capability and rapid system restoration;
 - o) Maintain balance between supply and demand within operational hours through automatic frequency control and demand response;
 - p) Manage any electricity generation shortfall situation working together with other licensees by up-to-date action plans and agreements including enforced disconnections;
 - q) Prepare a grid code and present it for approval to the Commission within three (3) months of receiving its license.
 - r) Maintain secure and reliable operation of the transmission system, extension, reconstruction and modernization of the Transmission System in accordance with the long-term planning and forecasts;
 - s) Ensure single control of the Georgian electricity system and secure and reliable functioning of the transmission system on the territory of Georgia and with neighboring interconnections;

t) Ensure transit of electricity through the territory of Georgia.

Article 36² Grid Code

1. No later than 90 days after the date the Commission issues its license, the Transmission System Operator shall submit to the Commission for approval a Grid Code that shall, among other things:

- a) set forth the technical rules establishing the minimum technical design and operational requirements for connection to the network and interconnection and operation of other networks;
- b) identify economic criteria for dispatch and use of inter-connectors while taking into account the required supply reliability;
- c) set forth the procedures applicable for network operation in contingency situations.

2. The Grid Code shall be published, shall ensure the interoperability of networks, shall be objective and non-discriminatory, and shall be applied in an objective and non-discriminatory manner.

Article 36³ Market Operator License

1. The Commission shall issue a license for the conduct of Market Operation (MO) activities. The MO license granted by the Commission authorizes a legal person to organize and administer the trade in electricity including the payments and settlements process.

2. The MO shall, pursuant to the Market Operation Rules:

- a) conclude accession agreements with all persons wishing to become Parties to the Market Operation Rules;
- b) monitor compliance of all parties to accession agreements;
- c) maintain accounts on behalf of market participants and the TSO and DSO;
- d) manage the settlement process;
- e) award capacity availability certificates to generation units and traders
- f) establish, maintain and update an Interconnector capacity register;
- g) publish all information necessary to carry out annual and monthly capacity auctions and for the allocation of Interconnector capacity on a daily basis;
- h) prescribe the form of the transfer of Interconnector capacity rights from one trading party to another, and for accepting and rejecting trade proposals;
- i) charge the market participants appropriate Market Operator charges and amounts required to provide security to the market;
- j) pursuant to the TSO license and as agent of the TSO, invoice and collect

- charges owed to or by market participants to the TSO;
- k) for the purposes of managing the settlement, procure and install adequate computer and other equipment and software and shall draft and publish the necessary standards for communication with such software, using appropriate international standards.
 - l) maintain complete and accurate records of all settlement data submitted by the market participants;
 - m) publish on its web-site all information regarding annual, monthly, and day ahead forecasts of demand and other factors as provided to it by the TSO;
 - n) settle the bid and offer contracts through the relevant energy accounts;
 - o) calculate and publish for every settlement period the energy imbalance price
 - p) calculate the metered energy and non-delivery bid and offer volumes with respect to the relevant energy accounts, and settle such accounts;
 - g) establish, maintain and update the capacity register ;
 - r) cooperate with the TSO for the identification of the generation unit availability and record the full history of capacity availability notifications submitted by the market participants;
 - s) manage the Market Operation Rules amendment process; and
 - t) perform all other function assigned to it under the Market Operation Rules.
3. The MO shall not engage in electricity generation, public supply, and or supply/trading.
4. The MO shall take all reasonable steps to ensure that confidential information is not used or disclosed for any purpose other than that for which it was provided, pursuant to the rules on confidentiality information issued by the Commission.
5. The MO shall not disclose directly or indirectly any confidential information to any other business of the Licensee or an Affiliate or related undertaking of the Licensee, unless the Market Operation Rules provide for disclosing or publishing such information.

Article 37. Importer (27.12.2005 N2537)

1. During the import period, an importer shall act in compliance with relevant Georgian laws, the “Electricity (Capacity) Market Rules”, electricity (capacity) balances and the Commission-set tariffs.
2. The Importer shall make timely payment of the Regulatory Fee set by the Commission

Article 38. Exporter (27.12.2005 N2537)

In the course of exporting, an exporter shall act in accordance with the relevant Georgian laws, the “Electricity (Capacity) Market Rules”, and electricity (capacity) balances.

Article 39. Natural Gas Supplier (27.12.2005 N2537)

The Natural Gas Supplier shall:

- a) Render services in compliance with this Law and regulations issued on its basis;
- b) Develop emergency plans to be implemented in emergencies or conduct negotiations and enter into agreements with other parties concerning natural gas deliveries during such events;
- c) Repealed; (5.07.2008 N92)
- d) Ensure timely payment of the Regulatory Fee set by the Commission.

Article 39¹. Drinking Water Supplier (5.07.2008 N92)

The Drinking Water Supplier shall:

- a) Render services in compliance with this Law and regulations issued on its basis;
- b) Carry out operation of the drinking water supply system, drinking water supply and disposal;
- c) Ensure through the water supply system the supply to Georgian consumers of drinking waters of the quality complying with the standards applicable in Georgia;
- d) Ensure the appropriate protection of water bodies and prevent any adverse impact on the water supply system and/or drinking water contamination on the part of outside persons;
- e) Develop emergency plans to be implemented in emergencies or conduct negotiations and enter into agreements with other parties concerning drinking water supply during such events;
- f) Make available to the public for review in the Licensee's offices the following documents and information:
 - (i) The approved tariffs;
 - (ii) The approved terms of service.
- g) Make timely payments of the Regulatory Fee set by the Commission and comply with other license terms;

Article 40. Natural Gas Transportation License (Transportation License)

1. The Commission-granted natural gas transportation license authorizes a legal person to carry out natural gas transportation by a transportation system.
2. The license shall identify the route, pipelines and other facilities to be used for the proposed service, including the Points of Receipt Delivery, to be applied thereby.
3. Repealed (6.07.2010. 3349, to be enacted from September 1, 2010)
4. Repealed (6.07.2010. 3349, to be enacted from September 1, 2010)
5. Connection of the direct customer or the distribution network to the natural gas transportation system does not require modification of natural gas transportation license, when the natural gas supply system is equipped with such connection that causes connection and installation of a pipeline, gas distribution station, regulator,

valve, metering point and/or other metering devices prior to the new point of delivery. (9.06.2006 N3292 to be enacted from September 1, 2006)

6. According to the license conditions and for the term of the License, the Transportation Licensee shall:

a) Develop and maintain the natural gas transportation system in a manner to meet the Natural Gas Supply Licensee's requirement;

b) Develop and submit to the Commission and public an investment program;

c) Work out and implement all instructions for the safe, reliable, and non-discriminatory interconnection and operation of the transmission network and connected facilities;

d) Render services in compliance with the requirements of this Law and regulations issued on its basis; (27.12.2005 N2537)

e) Make timely payments of the Regulatory Fee set by the Commission and meet the requirements defined in the License. (27.12.2005 N2537)

Article 41. Natural Gas Distribution License

1. The Commission-granted natural gas distribution license shall authorize a legal entity to operate the distribution network, distribute and deliver natural gas within a specific distribution network. (31.07.2009 N1558)

2. Repealed (27.12.2005 N2537)

3. According to the License Conditions and for the term of the license, the distribution licensee shall:

a) Render services in compliance with this Law and regulations issued on its basis and the licensee's investment program; (27.12.2005 N2537)

b) Elaborate and submit to the Commission for approval procedures for service recording, metering, billing, and collections;

c) Develop and submit to the Commission and public an investment program;

d) Repealed (27.12.2005 N2537)

e) Make available to the public for review in the Licensee's offices the following documents and information:

(i) The license and approved tariffs;

(ii) The approved terms of service including the right to obtain and revoke service authorization, procedures for recording, preparation and sending of a report, and payment of natural gas bills by consumers;

(iii) Description of the performance standards applicable to the licensee, including the terms of connecting new customers;

f) Make timely payments of the Regulatory Fee set by the Commission and comply with other license terms. (27.12.2005 N2537)

CHAPTER VI¹ (27.12.2005 N2537)
PARALLEL OPERATION OF ELECTRICITY SYSTEMS

Article 41¹.Management and Implementation of Operation in Parallel Regime(9.06.2006. N3292, to be enacted from September 1, 2006)

1. The electricity dispatch licensee shall, on the basis of a preliminary agreement with the ESCO, be authorized to make agreements on parallel operation and on asynchronous operation, including entering into international interconnection and operation agreements with corresponding companies of the electricity systems in neighboring countries according to the established procedure.

2. Repealed (15.12.2010. N4065)

3. The regulation and technical management of relations related to parallel operation and asynchronous operation of electricity systems shall be carried out in accordance with the contracts concerning ~~parallel~~such operation concluded by the dispatch licensee and in conformity with “Electricity (Capacity) Market Rules” and the Market Operation Rules.(15.12.2010. N4065)

Article 41².Parallel Operation Agreement and Electricity Transfer Balance

1. The supply and receipt of electricity (capacity) by the dispatch licensee between Georgia and relevant neighboring electricity system during the parallel operation of electricity systems is allowed only in case of operation (execution) of export/import contract, emergency aid contract, transit or/and other commercial contracts concluded in accordance with the terms established by the system commercial operator or other authorized enterprise. (15.12.2010. N4065)

2.In cases envisaged by the “Electricity (Capacity) Market Rules” system commercial operator is obliged to conclude electricity import and export contracts with the authorized enterprise of neighboring electricity system concerning the factual flows of electricity which are caused by the deviations from the planned schedule during the parallel operation of electricity systems. (15.12.2010. N4065)

[To be considered: specific authorisation of “Electricity Trade” as envisaged under the CBETA.]

Article 41³.Legal Status of Operation in Parallel Regime (27.12.2005 N 2537)

1. Relations arising under the electricity system parallel operation agreement do not constitute import or export of electricity and shall not be subject to individual licensing or permitting.

2. Repealed (15.12.2010. N4065)

Article 42. Commission Authority for Tariff-setting (27.12.2005 N2537)

1. The Commission shall be authorized to review, approve, modify or reject an application submitted by licensee, importer, supplier and ESCO regarding prices,

terms and conditions of products and services, except for the cases provided for in this Law.

2. The Commission is obliged taking into consideration the principles for setting tariffs envisaged by Article 43 of this law, to set tariffs or/and modify the existing tariffs in accordance with main directions of state policy in energy and water supply sector and normative acts adopted on their basis. The Commission is obliged to take into consideration the agreements concluded in the field of energy and water supply and other relevant legal acts. (6.07.2010. N3349)

3. The Commission is authorized to review tariffs on its initiative, as well as marginal customer tariffs. The Commission is authorized to request necessary information and documentation from relevant licensee, small power plant, supplier, importer, exporter or/and system commercial operator. (6.07.2010. N3349)

4. Licensee, small power plant, supplier, importer, exporter or/and system commercial operator are obliged to provide the Commission with the information in the defined form and within the terms established by the Commission. (6.07.2010. N3349)

CHAPTER VII TARIFFS

Article 43. Tariff-setting Principles (27.12.2005 N2537)

1. The Commission-approved methodology and the prices and tariffs set on its basis shall:

a) Protect consumers from monopolistic prices;

b) provide licensees, importers, system commercial operator and suppliers to ensure rate of return on investments within reasonable terms, to cover their costs including the cost of fuel purchased at a reasonable price, the operating and maintenance costs, the current and capital repair costs, remuneration of work, payments of the principal amount and interest on loans taken as liquid assets, regulatory fee, system commercial operator service fee and other expenses. At the same time a tariff shall provide for reasonable and fair return on capital investments and amortization sufficient to attract investments for the sector rehabilitation and development; (6.07.2010. N3349, to be enacted September 1, 2010)

c) Encourage increased receipts of licensee, Importer, ESCO or Supplier by reduction of service costs through a rise in the operational and management effectiveness, provided, that the licensee, importer, ESCO or supplier comply with the requirements of legislation and/or license conditions for service quality; (9.06.2006 N3292 to be enacted from September 1, 2006)

d) Encourage a rise in economic efficiency within the electricity and natural gas sectors by setting short-run and long-run marginal costs and by forecasting dynamics of prices with due regard for a probable abundance or deficit of the electricity generation;

e) Repealed (9.06.2006 N3292 to be enacted from September 1, 2006)

f) Take into account the main directions of the state policy in regard to priorities of the categories of electricity and natural gas consumers, provided that it shall not prevent the right of licensee, importer, ESCO or supplier to demand from consumers the payment of its services, and to disconnect any customer for failure to meet its payment obligations;(9.06.2006 N3292, to be enacted from September 1, 2006)

g) Take into account the state policy on tariff preferences, given that that subsidizing of tariff preferences for any category of consumers at the expense of licensee, importer, ESCOs or supplier or any other category of consumers shall be prohibited; (9.06.2006 N3292 to be enacted from September 1, 2006)

h) Reflect different service [cost] fees for different categories of customers.

2. Service costs incurred by the licensee, importer, ESCO and supplier shall be covered from the amounts received from each category of customers in proportion to the costs of services rendered to that category.

3. Different tariffs may be set by customer categories to reflect peak, average weighted and limit values, overall consumption seasonality, day-to-day changes, the type of services, or similar parameters. Innovative tariff methodologies may be used that take into account income and price indexation and other factors in case the application of such methodologies is in the interest of the licensees, importers, ESCO, suppliers and consumers.

4. Repealed (8.06.2007 N4911)

5. The Commission may set long-term tariffs taking into account the Main State Energy Policy Directions; (9.06.2006 N3292 to be enacted from September 1, 2006)

6. Electricity wheeling tariffs in the distribution network shall be determined as prescribed by the tariff methodology.

7. Electricity transmission tariffs shall be determined within the distribution network for transporting the electricity which is not purchased by electricity consumers from the distribution licensee owing this distribution network, also in the cases when the distribution licensee transports through its network the electricity owned by other licensee. Transmission tariff shall be calculated based on the transmission service costs incurred by the distribution licensee and the amount of the transported electricity, concerning which the distribution licensee shall submit to the Commission a respective application and documents, either at own initiative or at the Commission's request. (8.06.2007. N4911)

8. Electricity transmission tariff shall be reimbursed to the respective licensee. (8.06.2007 N4911)

9. No generation tariff shall be set in respect of generation licensee for the amount of electricity generated and intended for own consumption. (9.06.2006 N3292, to be enacted from September 1, 2006)

10. Repealed (8.06.2007 N4911)

11. Unless the methodology or other normative administrative decree issued on the basis of this Law provides otherwise, the upper limit of electricity sale tariff shall be set for electricity generation licensee and importer, whereas for the electricity generation licensee who, under the normative administrative decree (Electricity

(Capacity) Balance), is among the regulatory stations of the country's electricity system, a fixed tariff prescribed by this Law shall be set. (8.06.2007 N4911)

12. Transmission tariff within a natural gas distribution network shall be set under the tariff methodology. The natural gas transmission tariff shall be reimbursed to the respective licensee. (31.07.2009 N1558)

Article 43¹.Guaranteed Capacity_Fee and Electricity Generation Tariff of the Guaranteed Capacity_Source(6.07.2010. N3349, to be enacted September 1, 2010)

1. The Commission establishes the guaranteed capacity fee for guaranteed capacity source (generation licensee) and tariff for electricity generation of guaranteed capacity source in accordance with this Law and tariff methodology.

2. The guaranteed capacity fee is established in accordance with Article 43 of this Article. Herewith, the fee shall ensure the reimbursement of permanent (fixed) expenses for guaranteed capacity source, which include: expenses for the maintenance of the readiness of the plant, expenses for the ordinary repairs and capital repairs, salary, the interest fee of a loan taken in the form of working capital and for investments, fee for the regulation and system commercial operator and other fixed expenses, which are not directly related to the electricity generation, and comprise reasonable and fair rate for capital investment and amortization.

3. The guaranteed capacity source's electricity generation fee reflects expenses related to electricity generation in accordance with the rule established by this law and tariff methodology excluding the expenses which are reflected in guaranteed capacity fee.

4. The Commission shall define the guaranteed capacity fee on a daily basis for each guaranteed capacity source.

Article 43². Water Supply Tariff-setting Principles (20.11.2007 #5466)

1. The Commission sets the water supply tariff in accordance with the principles stipulated in Article 43 of this law.

2. While setting the water supply tariff the Commission is obliged to set drinking water supply tariff and water withdrawal tariff separately.

3. The Commission is authorized upon the tariff application to set tariffs for drinking water supply existing in the ownership of water supplier licensee in accordance with self-governing territorial units. (21.06.2011. N4865)

Article 44. Tariff-setting Rules (27.12.2005 N2537)

1. In considering issues on tariff-setting, the Commission shall, according to Article 12 of this Law, conduct open session. When considering tariff-related applications and setting tariffs, the Commission shall be guided by the following:

- a) Substantiated tariff applications, attached with audit and financial information;
- b) Procedures for reviewing tariff applications and issuing relevant resolutions;

- c) Procedures for commenting on tariff-setting on the part of consumers and other interested parties;
 - d) Procedures for retrieving additional information necessary for assessing tariff applications;
 - e) Procedures for determining financial reimbursement of regulation costs.
2. Licensee, importer, ESCO, supplier and direct customer shall have a right to submit to the Commission an application for setting or modifying a tariff. (9.06.2006 N3292 to be enacted from September 1, 2006)

Article 45: Entry Into Force of Tariffs; Refund of Tariff-setting Costs

A tariff shall become effective within 150 days from its submission to the Commission for review, provided it complies with the Commission's requirements to tariff applications. In case a tariff is approved, the tariff applicant shall refund the Commission the respective expenses.

Article 46. Uniform Accounting System (27.12.2005 N2537)

- 1. Repealed (8.06.2007 N4911)
- 2. If a person holds more than one license or in parallel with the licensed activity is engaged in other entrepreneurial activity, such person shall keep separate records of income, expenses and financial results of such activity.

CHAPTER VII¹

ACCESS FOR THIRD PARTIES TO TRANSMISSION AND DISTRIBUTION NETWORK; CONNECTION TO THE NETWORK

(9.06.2006 N3292 to be enacted from September 1, 2006)

Article 46¹. Access for Third Parties to Transmission and Distribution Network

Based on the Commission-set tariffs, The transmission and/or distribution licensee shall transport through its network electricity for the persons authorized under this Law to sell electricity directly to electricity consumers.

Article 46². Charges for Connecting New Consumers to Transmission or Distribution Network

The Commission shall establish a charge for connecting a new consumer to transmission or distribution network that shall be payable to the relevant Licensee.

Article 46³. Replacement of External Supply Network or Construction of a New Network by a Retail Consumer

A retail consumer shall have a right to replace the external power supply network or construct a new network only based on technical conditions/specifications issued by

the relevant generation, transmission or distribution licensee, who owns the network to which the retail consumer is connected. Specifications shall also be issued by the generation, transmission or distribution licensee, to whose network the retail customer plans to be connected.

CHAPTER VIII TRANSITIONAL AND FINAL PROVISIONS

Article 47. Terms of Office of Initial Members of the Commission

The initial members of the Commission shall be appointed as follows: one member for 6 years, another member for 4 years, and third member for 2 years.

Article 48. Repealed (8.06.2007 N4911)

Article 49. Repealed (8.06.2007 N4911)

Article 49¹. Transitional Provisions

1. The Georgian Energy Regulatory Commission shall, prior to August 1, 2007, set by voltages the electricity transmission tariffs for qualified enterprises, at no less than 20% of the applicable distribution tariff, and at no more than the applicable distribution tariff for other consumers. Tariffs set under this Article shall be reviewed under the Tariff Methodology and subject to the relevant Licensee's tariff application. (8.06.2007 N4911)

2. Paragraphs 9 and 10 of Article 22 of this Law shall become effective from August 1, 2005. (15.06.2004 N122)

Article 49². Interim Procedure for Providing Guaranteed Capacity (8.06.2007 N4911)

1. For the purpose of providing the electricity system with guaranteed capacity, ESCO shall, on a contractual basis, at the guaranteed reserve source, purchase the entire guaranteed capacity.

2. Guaranteed capacity shall be at the dispatch licensee's disposal and used for balancing electricity (capacity) delivery and consumption. In addition, the reserve source (relevant electricity generator) shall sell electricity only based on a mutual agreement with the ESCO.

3. Distribution licensee, direct customer and exporter shall pay to the ESCO the cost of guaranteed capacity commensurate with the provisions of this Law and the Electricity (Capacity) Market Rules.

4. Availability of guaranteed capacity shall be checked and confirmed by electricity dispatch licensee in keeping with the Electricity (capacity) Market Rules.

5. Where, in checking availability of the guaranteed capacity, the capacity preliminarily determined from any reserve and/or the relevant degree of availability of the guaranteed capacity is not confirmed, dispatch licensee shall act in the interests of the electricity system and immediately notify the contractual parties thereof. Such circumstance shall serve as the grounds for waiving the agreement.
6. Collection of fees for guaranteed capacity from distribution licensee, direct customer and exporter and indemnification of the relevant qualified enterprise shall be conducted by ESCO.
7. Expiry of the term of this Article shall not exempt the parties from their financial obligations.
8. This Article shall be in force until September 1, 2007.

Article 49³. The Deregulation of Power Plants Built After August 1, 2008 (5.07.2008 N92)

All power plants built after August 1, 2008 shall be deregulated.

Article 49⁴. Provisional (Transitional) Rule for Setting Guaranteed Capacity Tariff and Tariff for the Generation of Guaranteed Capacity Source (6.07.2010 N3349)

1. The Georgian National Energy and Water Supply Regulatory Commission for the guaranteed capacity sources defined by the Government of Georgia before August 15 of 2010 shall prove:

a) Guaranteed capacity fee on daily basis in accordance with Article 43 of this Law. Herewith, the fee shall ensure the reimbursement of permanent (fixed) expenses for guaranteed capacity source, which include: expenses for the maintenance of the readiness of the plant, expenses for the ordinary repairs and capital repairs, salary, the interest fee of a loan taken in the form of working capital and for investments, fee for the regulation and system commercial operator and other fixed expenses, which are not directly related to the electricity generation, and comprise reasonable and fair rate for capital investment and amortization.

b) the tariff for the generation of guaranteed capacity source which will reflect the expenses related to the electricity generation despite the expenses reflected in the fee for guaranteed capacity.

2. The revision of guaranteed capacity fee and the tariff for guaranteed capacity source established by this Article shall be done in accordance with the tariff methodology according to this Law.

Article 49⁵ . Electricity Supply on the Occupied Territories (6.07.2010 N3349 –to be enacted from September 1, 2010)

The supply of electricity on the occupied territories of Autonomous Republic of Abkhazia is supplied by “Enguri HPP” and “Vardnili HPP” in accordance with the rules and conditions envisaged by the “ Electricity (capacity)

Article 49⁶.Integrated and Coordinated Maintenance of Electricity, Natural Gas, Water Supply and Cleaning Services' Uniform Administration(1.10.2010 N3650)

1. Electricity, natural gas, water supply and cleaning service (hereinafter “the service”) and payment of relevant fee is based on integrated and coordinated system of uniform administration (hereinafter “the uniform administration system”) together with the conditions defined by the Commission.

2. The Commission defines the territorial scope of uniform system of administration and persons providing services through this system. One of the service providers defined by the decision of the Commission (hereinafter “the administrator”) administers the service fee through applying uniform system of administration.

3. The administration of service through united system of administration is carried out on the basis of contract concluded between the administrator and service provider. While concluding the contract the parties are obliged to be guided with minimum price principle and conclude a contract on non-discriminatory and fair basis. In case if Parties do not agree the Commission will take a decision.

4. The administrator while providing service through uniform system of administration is obliged to suspend the provision of services to the customer in case if one of the fees indicated in the receipt is not paid or is partially paid. This act does not constitute the violation of contract obligations by the administrator before the customer. The responsibility for the correctness of information provided to the administrator by the service provider rests with the service provider.

5. The service providers are obliged to constantly harmonize their data base with the data base of Public Law Legal Person - Civil Registry existing within the Ministry of Justice.

Article 49⁷.The Provisional Rule for Water Supply Tariff Setting (12.10.2010 N3659)

Before January 1, 2021

- a) The requirements of subparagraph “g” of paragraph 1 of Article 43 and paragraph 2 of Article 43 do not apply to drinking water supply and water withdrawal tariff setting.
- b) The Commission is authorized to set drinking water and/or water withdrawal tariffs individually for each water supply licensee (21.06.2011 N4865).

Article 49⁸.The Provisional Rule for Charging Water Supply Fee Considering Seasonality (15.12.2010 N4065)

Before the final regulation of water supply systems the Commission is authorized to charge the water supply fee in different way for metering residential and/or non-residential customers, taking into consideration the seasonality.

Article 50. Enactment of the Law

1. This Law shall be enacted upon publication.

2. Article 23¹ of this Law shall be enacted from September 1, 2007 (8.06.2007 N4911)

Article 51. List of invalidated legal acts

1. Upon enactment of this Law the following shall be invalidated:

a) Paragraph 1 of Article 4 and paragraph 2 of Article 4 of the Law of the Republic of Georgia on Energy of September 22, 1994 (Georgian Parliamentary Gazette, 1994, N19-20, Art. 436);

b) Law of the Republic of Georgia of 11 October 1994 Concerning Paragraph 7 of Article 4 of the Law of the Republic of Georgia on Energy (Georgian Parliamentary Gazette, 1994, N21-22, Art. 446)

2. The Executive Authorities shall adjust sub-legislative acts to this Law.

President of Georgia

Eduard Shevardnadze

Tbilisi

June 27, 1997

N 816-IIS

USAID Hydropower Investment Promotion Project (USAID-HIPP)

Deloitte Consulting Overseas Projects - HIPP

11 Apakidze Street, “Tiflis Business Center”

Tbilisi, 0105, Georgia