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## **Regulatory and Energy Assistance**

**Regulatory and Energy Assistance Project in Bosnia and  
Herzegovina (BiH) – REAP BiH**  
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**Quarterly Progress Report**  
**October 1, 2007 – December 31, 2007**

Submitted to:  
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## **I. EXECUTIVE SUMMARY**

The Federation activities in issuing a Federation Gas Decree, the effect of which was to move all regulatory functions into the Federation Ministry of Energy, Mining and Industry, combined with the activities of the Ministry Working Group to develop amendments to the Federation Electricity Law, indicated the direction REAP must take to lobby to protect the independence of the FERC. A roundtable was held to assess the potential success of an Expert Working Group for the State Gas Law and members from the Entities and State were nominated to participate in it. Additionally, REAP worked intensively to plan the structure of and commence drafting a realistic Internal Action Plan based on the Enhanced Energy Community Secretariat Road Map, believing that to comply with its obligations, BiH as a signatory of the Athens Treaty, must get a good grip on the work that remains for each of the Secretariat Road Map's required items, along with a realistic timeline. This action was taken after meetings on the Secretariat Road Map that tended to avoid the substance of the remaining work. Gas training for the sector was planned, with invitees including not only regulators but also representatives of the Ministries and gas companies. Finally, the Public Outreach efforts continued with planning and conducting several media trainings, commencing journalist briefings/trainings to give the professionals the requisite technical understanding, and conducting an initial survey on public knowledge and understanding of energy issues.

## **II. SUMMARY OF TECHNICAL ACTIVITIES AND OUTCOMES**

### **A. Fully Integrated Energy Sector into the Regional Market and the EU**

#### ***1. Creation of Legal and Regulatory Framework for Gas***

BiH Federation Gas Decree. REAP prepared a legal analysis of the Decree on Gas that the Federation Government passed on October 17, 2007. In general, the decree is internally inconsistent, in some places not in line with the EU Gas Directive and targeted to remove the regulatory function and place it in the Ministry, which is contrary to the increase of regulatory authority supported by the EC Third Liberalization Package. In one article, each of the 10 Cantons in the Federation is charged with long-term planning. While the decree is not legislation, the act allowed the Federation Government to finesse decisions on the gas Transportation Company and its regulation, as it would prefer a unified regulator and only one BiH State gas law. REAP comments were submitted to the Minister and the three members of the working group who wrote the Decree. In the meeting with REAP representatives, the Federation Ministry responsible for energy said that the Ministry will commence transforming the Federation Government Decree on Gas into a Federation Gas Law and indicated that in future the regulator for gas will be FERC.

State umbrella law. A Gas Law Roundtable was held in MOFTER on October 19, 2007. The group consisted of representatives of the entity ministries, MOFTER gas companies and REAP, who collectively discussed the desirability of a State umbrella law to resolve joint issues. The possibility for derogation from the EU Directives was also discussed since BiH is an isolated system with a take-or-pay gas import situation; REAP advised that filing a derogation is premature. The most valuable conclusion that resulted from the meeting was that the activities on the gas legislation need to be intensified and for that purpose the Expert Group would be nominated to consider "development, coordination and harmonization of the legal regulation in the natural gas sector." It was decided that when the small group hits political snags like the last Working Group, the group will send questions to the Ministers to resolve; if the Ministers cannot resolve the issues, then the questions will go to the Council of Ministers for resolution. When these issues arise, the group will offer potential solutions with pros and cons to help the Ministers make decisions. The three issues that probably need to be worked through for the three Ministers are: Transport, Regulation and Future Construction. Since being formed, the working group met several times without REAP with no major results.

Gas Regulatory Training. REAP scheduled Gas Regulatory Training for February 13 -14, 2008. This will be high level training and will address (i) how gas is produced and how pipelines work; (ii) gas tariffs and costs; and (iii) independent regulators and ministries, the latter point meant to address issues of policy v. implementation of policy. REAP will invite the three regulatory commissions, three respective ministries, the gas companies, large consumers and a consumer association, adding up to approximately 75 invitees. In the invitation to participants, REAP will request a list of specific questions from the participants to prepare responses in advance. REAP worked to finalize comments on the gas training presentations and agenda prepared by technical assistance, who will conduct the training.

## **2. Transformation of the ISO into a full Market Operator**

REAP met the MOFTER Minister and, among other things, discussed the ISO position in the power sector.

REAP assisted the ISO to prepare the draft list of specific problems that exist between ISO and Transco. The list was necessary for the FBiH level meeting organized by Federation Energy Ministry.

The REAP team prepared three draft documents for the ISO's review and filing with SERC, although the ISO did not decide to make such filings:

- Complaint and Request for SERC's Initiation of a Proceeding on Automatic Measuring. This draft complaint and request tracks the underlying legal authority for the ISO's need for automatic measuring data. Basically, without automatic measuring data, the ISO cannot implement its functions assigned to it by the laws and SERC itself. The document argues that it is incumbent upon the regulator to ensure that the ISO is able to retrieve data that is as close to raw data as possible, in the most efficient, effective and practical manner. The Transmission Company has insisted that, rather than the ISO retrieving data directly from the four regional operational centers, the Transmission Company collect all the data in its home office in Banja Luka and then transfer it to the ISO. The Elektroprivredas have been unwilling to install the appropriate metering for automatic measuring of generation.
- Complaint requesting unified action by the Transmission Company. Because, the Transmission Company acts in conflicting ways on the same issues, SERC is requested to require the Transmission Company to act with one voice and in accordance with appropriate procedures. For example, the Transmission Company assigned individuals to work on a joint draft of Connection Rules; and, immediately before the Joint Task Force filed its draft connection rules with the SERC, the General Director of Transco filed a version of Draft of Connection Rules, most of which was incorporated in the SERC's own Proposed Draft Connection Rules. Similarly, the Facilities Planning department of the Transco sent its investment plan to the ISO for review (as required by law); the General Director of Transco informing the ISO General Director to disregard the investment plan sent one day later. No subsequent investment plan was forwarded to the ISO, so it compiled comments on the original plan sent.
- Request for Decision on the Rules of Connection. The drafting process of the Connection Rule is described above. On March 14, 2007, the SERC's proposed rule was published and the rule was scheduled to be approved by April 19, 2007. To date, the rule has not been issued. The request asks for the SERC to issue the rule.

The ISO has requested FERC to ensure that a new license for the two Federation EPs includes a provision that will oblige them to provide ancillary services to the ISO in order for the ISO to balance the system. In a meeting with FERC, REAP expressed its support for this idea.

## **3. Unification of the Regulators**

Because the three Ministers agreed not to unify the three regulators, REAP put immediate action on this item on hold, pending a better political environment that is more conducive to accomplishing this task.

## **B. Restructuring and Commercialization of Energy Companies**

Amendments to the Federation Electric Power Law. REAP representatives met a number of times with the Working Group on the Federation Electric Power Law Amendments and was given all of the proposed amendments for comment. REAP wrote an article-by-article analysis of the Amendments and submitted it to the Working Group:

- In effect, the Ministry would become the regulator;
- The Ministry has only four expert employees and none of them has regulatory training, or, more importantly, time;
- The proposed legislation is out of sync with the Republika Srpska and the State so that if it passed, there would no longer be a harmonized BiH regulatory regime;
- Instead of leading the region with its functioning regulatory structure (even though there are three regulators), BiH will regress; and
- Whereas investors currently are wary of the investment complexities in BiH, the resulting regulatory regime will actively work to discourage investors because of increased regulatory risk.

An article-by-article analysis of the Amendments was submitted to the Working Group.

Meeting with the advisor to the FBiH Prime Minister. In a meeting with the Prime Minister's advisor, REAP emphasized that it is very important that the amendments to the Electricity law and the Gas Decree be in compliance with the Energy Treaty, EU Directive on Gas and intentions of the Third EU Liberalization Package with regard to further strengthening of energy regulator, rather than the transfer of regulatory competencies to the Ministry. The Advisor stated that in the meeting between the Federation Prime Minister and Minister responsible for energy and his advisors, the Ministry stated it had no intention to reduce the jurisdiction of the FERC, but rather to amend the Electricity Law to provide that the Ministry shall create energy policy that will be implemented by the regulator. The Decree was issued pending the issuance of a State Gas Law as a sort of place holder.

Energy Community Road Map. REAP attended a meeting of the sector participants led by MOFTER on BiH fulfilling in the Energy Community Road Map. This new version of the Road Map requires filling out a form that will indicate the degree of completion of individually-listed tasks and/or a commitment of when, before June 2008, all tasks will be completed. REAP commented a second time on the filled-in detailed Roadmap that was sent by MOFTER to the Secretariat. Some but not all of the comments from REAP were included. The new sets of comments suggest that a more accurate picture be given of the situation in BiH as the MOFTER response is overly optimistic. REAP has been working to create an Internal Action Plan that specifies for each action required by the Secretariat Road Map exactly what steps are necessary and the realistic time frame within which the steps can be completed. REAP plans to submit the Internal Action Plan to the ministries.

Market Design. REAP contacted the three ministries to kindly remind them to appoint the members for the small Task Forces on Market Design. All three ministries in general agreed with the names that had been proposed by REAP.

Vulnerable customers. REAP updated its Vulnerable Customer Program talking points to include the new programs from Albania and Bulgaria and delivered them to the two entity ministries and MOFTER. In the meeting between REAP and the RS Ministry the RS Minister explained that a working group comprised of representatives of various Ministries had had two to three meetings on the topic. Further, the RS consented to and BiH signed the Energy Community Social MOU, which will result in available funds divided between the Entities. REAP reviewed the Chapter on Vulnerable customers from the Hrvoje Pozar Study financed by the World Bank (to become the basis for the upcoming EC-financed Energy Strategy) and concluded that it basically reiterates recommendations and results from the preexisting World Bank Study so this Hrvoje Pozar chapter does not add new value to the Social Vulnerable

Customer Protection issue. In fact, this is the same approach that was previously recommended by the REAP talking points.

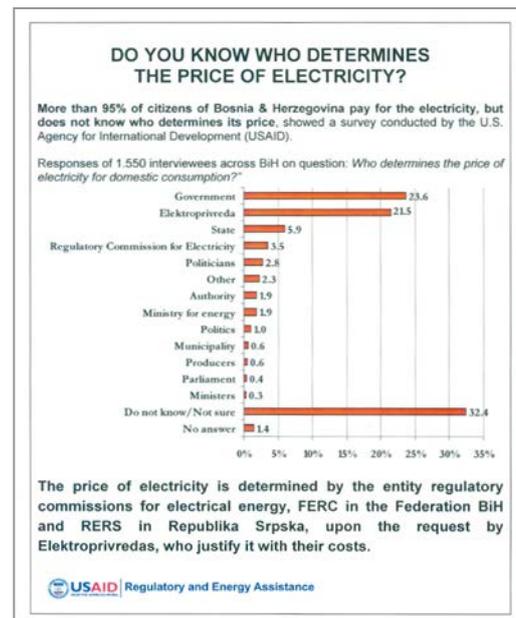
REAP reviewed the translated extracts of the Hrvoje Pozar module on restructuring and provided the comments, which were, for the most part, accepted.

### C. Broader Public Understanding of Specific Energy Sector Issues and Challenges

Public Opinion Survey. In order to benchmark REAP public outreach achievements, two surveys are to be conducted during the Project, the first to be conducted in October/November 2007 and the second in the last year of the project. REAP met with the director of the PRISM Research Agency to discuss how to prepare questions for the initial public opinion survey. The Prism Research Agency conducted a public opinion survey in November 2007 that included five questions related to the energy sector; more than 1,500 randomly selected respondents throughout entire BiH participated in the research.

Media campaign and Public Education in Media. After results received from the Public Survey related to citizens' knowledge about the energy sector, the Public Outreach team created the first paid press release to be published in the media.

On December 17, the paid press release was published in various broadcast and print media outlets. It stated that more than 80 percent of citizens of Bosnia and Herzegovina do not know that they can influence the price of electricity; more precisely, they have neither heard about public hearings organized by the independent electricity regulators nor are they familiar with how to participate in public discussions on electricity prices. However, the press release underlined that the laws on the entity regulatory commissions, FERC and RSERC, enable citizens to attend and to participate in public hearings about new electricity prices and also that public hearings are organized upon requests from power utility companies (EPs), which need to justify any request to increase prices.



Briefings/trainings for journalists. REAP developed an idea for organizing a regular briefing/training for journalists with the technical members of the REAP team: a group of five to seven journalists would be gathered together for informal training, the goal being to give the journalists a resource for technical background and explanation. REAP organized the first in the series of briefings for journalists on December 3, 2007. Seven journalists from prominent media outlets, both print and electronic, who cover the energy sector were invited to the REAP premises. The REAP experts briefed the journalists about the REAP Project itself, BiH's obligations in the reform of the energy sector, and the participants in the energy sector and their roles and authorities. The journalists' reactions to the briefing were very positive.

Support to FERC. As an external member of the job selection committee for FERC's Public Relations position, a REAP representative participated in interviewing 13 job applicants. After the interviews were conducted, the Selection Committee short-listed five candidates, to be tested in the second round of the process. The test, designed by REAP, took place in FERC, and thereafter REAP independently evaluated the test results. A telephone conference was held with the FERC recruiting committee to share the results; the whole Committee had

chosen the same candidate. A written evaluation of all candidates by REAP was sent to FERC.

After the meeting with FERC representatives in Mostar, REAP had a meeting with the recently employed PR officer to draft a scenario for the upcoming ceremony for presentation of licenses, at which media will be present along with ministry and electricity sector representatives. Also discussed was the unsynchronized media appearances of the key FERC personnel, and a strategy was developed for strengthening FERC public relations.

**Media and Public Relations Training.** REAP developed a media and public relations training program, which includes the following modules: Public Relations; Persuasion as a Public Relations function; Crisis Management; Ways to Communicate; Radio and Television. The training will be provided to the ISO, three Ministries and three regulators.

At a meeting with MOFTER, REAP presented the possibility of the training that REAP could deliver for key MOFTER personnel. MOFTER was receptive to the idea and agreed to name a point person to set the training's date. REAP met with the MOFTER public relations person, to discuss the training for MOFTER. The team found the employee to be a capable and well educated person and willing to learn. REAP conducted a one-on-one training for the employee, who will arrange and present the MOFTER training.

On November 15 and 16, REAP delivered the training to the RS Ministry. Eight individuals attended, including the two Deputy Ministers and Advisors. Unfortunately, the training was held in the middle of the Ministry's move to a new Government building; even so, the training was successful. This training was also used to promote the spokesperson of the Ministry and to emphasize the importance of the job the spokesperson performs. Prior to the training, this employee had been a marginalized employee; but after the training, the Ministry's employees said that only then did they realize the value of her job. They all agreed to cooperate with this employee's requests for information after the training.

On December 10 and 11, 2007, REAP organized and delivered a two-day public relations training for ISO BiH key personnel. The training was attended by eight ISO employees, and the feedback received from them was very positive.

### **III. PROBLEM AREAS**

- **Expert Gas Working Group.**
  - The composition of the Expert Gas Working Group presents problems with regard to the potential polarization of positions.
  - The plan of the MOFTER group leader is to come at the two core issues (formation of the transportation company and State regulation) in a gradual manner.
  - The leader of the group has been instructed that the Gas Working Group must produce a product.
- **Federation Decree.** Whereas the Federation Minister agreed to write a Federation Gas Law, subsequent information indicates that no action has been taken on this commitment.
- **Market Design.** Much work faces REAP in this area: (i) all three task forces from the Ministries must be formed; (ii) REAP must develop and implement a clear and understandable approach to addressing market design issues; (iii) implementing the initial work with the three separate ministries; and (iv) conduct the necessary harmonization of the results of the three task forces.
- **Draft Internal Action Plan based on Secretariat Road Map.** REAP must complete the Internal Action Plan and then obtain the Ministries' approval of the draft so that input can be solicited from the regulators and commercial stakeholders.



#### **IV. THIRD QUARTER DELIVERABLES**

- Draft letter to Minister Heco regarding including REAP in the Working Group on Amendments to the Electricity Law, dated 10-1-07, in English language
- 1 ½ page Summary of the Third Liberalization Package, dated 10-2-07, in English and local language.
- Draft responses to issues raised by Mr. Jamak, the member of the Federation Working Group on the Electricity Law from EPBiH, dated 10-3-07, in English and local language.
- Federation Electric Power Law Working Group Final Amendments, dated 10-8-07, in English and local language
- REAP comments on Working Group Amendments to Federation Electric Power Law, dated 10-12-07, in English only
- Legal Memorandum re holding company in Federation, dated 10-12-07, in English and local language
- Agenda for Meeting with Minister Puhac, 10-17-07, in English and local language.
- Table showing Status of Reform: Transition, 10-17-07, in English and local language.
- Suggestion to move the sector forward, 10-17-07, in English and local language.
- Draft Statement on Reform in the Electricity Sector in Bosnia and Herzegovina, 10-17-07, in English and local language.
- Presentation entitled “An Idea” regarding the formation of a trader in Bosnia and Herzegovina, 10-17-07, in English and local language.
- Legal Memorandum on Transco and ISO IMs After Formation is Complete, dated 10-18-07, in English and local language.
- Training for Stakeholders, containing a list of modules from which trainees can choose, 10-4-07, in English and local language.
- Minutes from a BiH Parliament Session on 7-26-07, in local language.
- Parliamentary Report on the Implementation of the Action Plans, dated 8-10-07, scanned in local language.
- Enclosure Letter forwarding Gas Law drafts to the Ministries, dated 9-7-07, in local language.
- Exercise for FERC PR person, dated 10-24-07, in English and local language.
- Updated Talking Points on Vulnerable customers, dated 10-23-07, in English and local language
- Evaluation of FERC PR Candidates, dated 10-18-07, in English and local language.
- Work Plan, revised to incorporate Public Outreach Strategy, dated 10-31-07, in English only.
- Information on Transco-ISO Problems, dated 10-26-07, in English only.
- Paper on Transmission Sector Status, dated 10-31-07, in English only.
- ISO Concerns Regarding Its Ability to Function, dated 10-31-07, in English and local language.
- ISO Letter to Federation Government on Problems in establishment of ISO BiH ignoring REAP draft, dated 11-1-07, in English and local language.
- ISO annex to letter to Federation Government regarding ISO Problems Regarding Establishing its Functions Set Forth in the Law, dated 11-2-07, in English and local language.
- The FBiH Gas decree, dated 10-17-07, in English and local language
- Status of Transmission Sector for Minister Puhac, dated 11-6-07, in English and local language.
- Status of Transmission Sector for USAID, updated with refined facts, dated 11-7-07, in English only.
- Memorandum to ISO regarding ownership proportions under the Law, dated 11-5-07, in English and local language.
- Titles of the Seven Modules for Media Training, dated 11-7-07, in English only.
- Memorandum Suggesting Strategic Direction, dated 11-7-07, in English only.
- Memo on Rules on Connections, dated 9-11-07, in English and local language
- USAID REAP Media &PR training – Kreiranje reputacije in local language only

- USAID REAP Media &PR training – Nacin komuniciranja in local language only
- USAID REAP Media &PR training – PR = ubjedjivanje in local language only
- USAID REAP Media &PR training – Public relations in local language only
- USAID REAP Media &PR training – Radio in local language only
- USAID REAP Media &PR training – Rukovodjenje kriznim situacijama in local language only
- USAID REAP Media &PR training – Television in local language only
- Note on REAP Approach and Activities to Preserve FERC's Role in the FBiH Power Sector, dated 11-13-07, in English only.
- Memorandum Ms. Wilson to USAID on proposed Federation legislation to weaken FERC, dated 11-21-07, English only.
- REAP comments on Gas Decree, dated 11-21-07, in English and local language
- Agenda for the meeting with Minister Heco on November 30, 2007, dated 11-21-07, in English and local language.
- Report Energy Sector Study-Module 7 Vulnerable Customers\_OM\_JW\_11\_22\_07\_in English
- Federation Gas Decree, REAP comments, dated 11-21-07, English and local language
- Note on Draft Hrvoje Pozar Study on coal module, dated 11-22-07, English only.
- Note on Draft Hrvoje Pozar Study on vulnerable customers module, dated 11-22-07, English only.
- REAP comments on Energy Community Road Map, dated 11-30-07, English only, accompanied by the original Road Map form and letter.
- USAID Scrapbook on media articles on Neum Conference, September 2007, dated 11-28-07, in English and local language.
- Possible media questions, dated 11-28-07, in English and local language.
- Draft letter USAID to Minister Heco, dated 11-30-07, in English and local language.
- Prism survey results, dated 12-3-07, in English and local language.
- Press release draft, dated 12-7-07, in English and local language.
- Note on Public Opinion Survey, dated 12-7-07, in English only.
- Letter Ognjen Markovic to SERC regarding connection rules, dated 12-4-07, English and local language.
- REAP comments on the filled-in Road Map sent to the Secretariat by MOFTER, dated 12-7-07, in English only.
- Agenda for Heco meeting, dated 11-30-07, in English and local language.
- Report on the 11th Athens Forum, dated 11-21-07, in English only
- Complaint and Request for SERC Initiation of Proceeding on Automatic Measurement, draft for ISO, dated 12-10-07, in English and local language.
- Memorandum Markovic to Wilson on automatic measurement and general strategy, dated 10-26-07, in English only.
- Complaint for SERC requesting Transco have unified position, draft for ISO, dated 12-10-07, in English and local language.
- Letter to SERC requesting decision on Connection Rules, draft for ISO, dated 12-12-07, in English and local language.
- Memorandum Markovic to Wilson on connection, dated 11-9-07, in English and local language.
- Memorandum Wilson to USAID re status of electricity sector, dated 12-13-07, in English only.
- Memorandum Markovic to USAID re EC presentation on market, dated 12-13-07, in English only.
- Digest of FERC 2007 correspondence on security of supply, dated 12-12-07, in English only.
- Press release, dated 12-13-07, English and local language.
- Memorandum Wilson to ISO General Director on Regulatory Strategy, dated 12-17-07, in English only.
- Memorandum Wilson to USAID regarding Transmission decision making, dated 12-21-07, in English only.

- Email from Markovic to FERC regarding supply situation, dated 12-19-07, in English and local language.
- Memorandum from Markovic to Wilson regarding FERC and supply, dated 12-18-07, in English only.
- Report on FERC license presentation session by Nisic and Haveric, dated 12-18-07.
- Memorandum Wilson to USAID regarding Transmission decision making, dated 12-24-07, in English and local language.
- Email from Wilson to USAID to use as cover for Transmission decision making memo, dated 12-27-07, in English and local language.
- Paid advertisement draft, “Who Determines the Price of Electricity,” dated 12-24-07, in English and local language.
- REAP Comments to Hrvoje Pozar on Module 6 Restructuring, dated 1-4-08, in English and local language.
- Questions received from journalists for preparation for the 1-14-08 briefing, dated 1-4-08, in English and local language.

## **V. ANTICIPATED ACTIVITIES FOR THE FOLLOWING QUARTER**

REAP’s technical team will continue to meet and work with our counterparts to advance reform in the electricity and gas sectors:

### BiH energy sector fully integrated into the regional market and the EU

- Encourage the Federation to transform the Federation Government Decree on Gas into a Federation Gas Law.
- Encourage the Expert Gas Law Working Group to address and compromise on the central issues.
- Implement the Gas Training.
- Commence the market design process by assembling small teams in each Ministry and assessing the current status of the market, in the context of a prepared approach and set of principles prepared by REAP.
- Continue to work directly with the ISO and indirectly through the Ministries to diminish opposition to the ISO function and allow it become more fully operational.

### Implement the Action Plan

- Assist the implementation of Road Map objectives by providing the stakeholders with a detailed Internal Action plan
- Give input into the Working Group on amending the Federation Electricity Law, directly and indirectly.
- Assist all three Ministries in devising a policy that will guide the regulators through both the Internal Action Plan based on the Secretariat Road Map and the market design process.

### Broaden public understanding of the BiH energy sector issues and challenges.

- Complete the media training of all Ministries, regulators and the ISO.
- Continue the journalist trainings with regard to energy, with a focus on gas.
- Develop a lobby plan for Parliamentarians in the Federation to develop relationships to assist lobbying the amendments to the Electricity Law, encourage the development of a Federation Gas Law and protect the independence of the FERC.
- Continue with paid public service advertisements to increase the knowledge of the BiH citizens with regard to energy.

## **VI. ADDITIONAL INFORMATION**

**A. Progress during the quarter v. scheduled**

All scheduled activities during the quarter were completed.

**B. Supporting Materials**

Annex A includes (i) a task list from the Project Contract that shows accomplishments grouped under the appropriate task, and (ii) a task progress chart show activities completed, in process, or deferred during the quarter is included in Annex A. This is followed by a financial summary in Annex B, and a List of Staff in Annex C.

**C. Staffing Status**

There are no changes in the staffing status in this period.

## ANNEX A

### TASKS, ACHIEVEMENTS AND PLANS

**Task 1: A fully integrated energy sector into the regional market and the EU.**

Task 1.A. **Unification of the Regulators.** The contractor shall help create a single energy market throughout BiH regulated by a single integrated regulation.

Task 1.A.(i) Provide assistance to the existing regulators to further strengthen their principal functions of issuing licenses and tariffs;

Advice and support were provided to FERC with regard to the supply and tariff difficulty they faced with regard to the EPHZHB supply deficit and with the Federation Ministry not completing the power balance within the proper time frame.

Task 1.A.(ii) Draft amendments to the electricity law that are consistent with the unbundling of the existing company structure. **ENREG dependent.**

Task 1.A.(iii) Draft necessary by-laws; and assist in their implementation to assist with the passage of the amendments to the electricity laws to enable unification of regulators; and **ENREG dependent.**

Task 1.A.(iv) Once in place, assist the unified regulator to reconfigure itself – which would include organizational issues and the revision of all internal documents (Statute, Rules of Work, organization charts, internal financial procedures, and the like) as well as the Rules of Practice and Procedure, and assist the State Regulatory Commission (SERC) in its interactions with the Energy Regulators Regional Association (ERRA) in moving towards the single regulator. **ENREG dependent.**

Task 1.B **Creation of the Legal and Regulatory Framework for Gas.** The contractor shall assist the state regulator to consolidate and incorporate the regulation of gas into its regime and to assemble a capable staff to support the gas sector.

Task 1.B.(i) Draft a state level gas law working with a Gas Working Group.

A Gas Law Roundtable was held in MOFTER on October 19, 2007, with the result that it was determined that because the activities on the gas legislation need to be intensified and for that purpose the Expert Group will be nominated to consider “development, coordination and harmonization of the legal regulation in the natural gas sector.”

REAP prepared a legal analysis of the Federation’s Gas Decree issued by the FBiH Government and submitted the comments to the Ministry, along with the three individuals who wrote the Decree, which included two members of the incumbent utility and one member of the Ministry. The Decree worked to maintain the status quo and move the regulatory functions into the Ministry, rather than the regulator.

The Federation Minister of Energy, Mining and Industry informed the REAP representatives that the Ministry will commence transforming the Federation Gas Decree into a Federation Gas Law and indicated that in the future the

regulator for gas will be FERC. The Law would replace the interim Gas Decree.

- Task 1.B.(ii) Provide technical assistance to MOFTER to complete the enactment of the Gas Law;

REAP attended the MOFTER Gas Law Roundtable. It was determined that when the Expert Working Group has questions or hits snags like the last working group, it will submit the issue to the three Ministers to resolve; if they cannot resolve the issue, then the questions will go to the Council of Ministers for resolution. The group will offer potential solutions with the pros and cons to help the Ministers make such decisions.

Once the Expert Gas Working Group is formed by MOFTER, REAP will be a member.

- Task 1.B.(iii) Draft foundation gas regulation documents and plan training on gas specific regulatory issues.

The Gas Regulatory Training has been scheduled for February 13-14, 2008. This will be high level training and will address (i) how gas is produced and how pipelines work; (ii) gas tariffs and costs; and (iii) independent regulators and ministries, i.e., policy v. implementation of policy.

Secondary legislation is ENREG dependent.

- Task 1.B.(iv) Assist the state regulator to hold public hearings and issue rules for gas regulation, including such matters as the practice and procedure for establishing tariffs and the conditions for licenses, third party access, and market opening.

ENREG dependent.

- Task 1.B.(v) Assist the state regulator to consolidate and incorporate the regulation of gas into its regime and to assemble a staff to support the gas sector; and

ENREG dependent.

- Task 1.B.(vi) Assist the regulators in planning activities to require the appropriate and timely filings from all gas companies and ensure that concomitant changes called for in the law are made for the gas sector, as required.

ENREG dependent.

- Task 1.C. **Transformation of the Independent System Operation (ISO) into a Full Market Operator for all of BiH.**

- Task 1.C.(i) Assist the state regulator (SERC) in its approval of ISO activities to create the Market Operator function for balancing the market.

- Task 1.C.(ii) Assist MOFTER in the ongoing efforts to formulate the Market Rules for the energy market (electricity and gas) and to help delineate the rules for a financial settlement system;

REAP assisted the ISO to prepare a draft list of specific problems that exist between ISO and Transco. The list was necessary for the FBiH level meeting organized by FBiH Ministry for Energy.

Task 1.C.(iii) Help revise the Grid Code; and

Task 1.C.(iv) Ensure that the appropriate market monitoring mechanisms are in place and being utilized to ensure that ISO governance is proper.

The REAP team collectively drafted three draft documents for the ISO's review and filing with SERC: Complaint and Request for SERC's Initiation of a Proceeding on Automatic Measuring; Complaint requesting unified action by the Transmission Company; and a Request for Decision on the Rules of Connection.

Task 1.D. **Broader Public Understanding of Specific Energy Sector Issues and Challenges.** The contractor shall develop and implement a program of public outreach and education efforts to develop broader understanding of the energy sector, its needs, the challenges it faces, the major issues of the reform of this sector and what are the means needed to achieve them. Through a variety of efforts, e.g., short-term trainings, the project should strive to educate cabinet members and parliamentarians, both at the entity and state level, the media and the broader public. While serving as an educational effort, the aim is to help develop advocates for energy sector reform in these areas. This will require consultation and working closely with USAID Economic Reform Office CTOs, with parliaments, and the media. This may include, but not be limited to:

Task 1.D.(i) Support reform efforts surrounding the drafting and adoption of legislation and regulation for the unification of regulators. **On hold.**

Task 1.D.(ii) Support the drafting of legislation and regulation supporting the state level gas law, and

Task 1.D.(iii) Assist the state energy regulator to hold hearings and issue rules for gas regulation on topics such as tariff setting, conditions for licenses, and helping the regulators in developing and implementing requirements that the gas sector meetings the new requirements under the law on the gas sector. **On hold.**

## **Task 2. Restructuring and commercialization of energy companies.**

Task 2.A. **Implementation of the Action Plans.** The contractor shall assist with a number of actions to help facilitate action plan implementation. These shall include:

REAP met a number of times with the Working Group on the Federation Electric Power Law Amendments and was given all of the proposed amendments for comment.

After completing the analysis of the Federation Gas Decree, REAP wrote a Memorandum to USAID that drew certain conclusions from the Federation's attempt to amend the electricity law and the gas decree.

REAP attended the meeting of the sector participants led by MOFTER on filling in the Energy Community Road Map. This new version of the road map requires filling out a form that will indicate the degree of completion of individually-listed tasks and/or a commitment of when, before June 2008, all tasks will be completed.

REAP concluded that all three organizations in the State transmission sector (Transco, ISO and SERC) are functioning at a level that is less than optimal for the proper operation and regulation of the transmission system. As a result, two notes were written to review the status of the transmission sector.

A legal memorandum was written to address the lack of a need, in the context of the Transco and ISO Laws, for the appointment of foreign Independent Members to the companies.

Vulnerable customer talking points that were presented to the Federation Prime Minister in 2005 were updated to include the new programs from Albania and Bulgaria and delivered to the two entity ministries and MOFTER. The RS Ministry explained that a working group comprised of representatives of various Ministries had had two to three meetings on the topic. Further, the RS consented to and BiH signed the Energy Community Social MOU, which will result in available funds divided between the Entities.

REAP reviewed the Module on Vulnerable customers from the Hrvoje Pozar Study and concluded that it basically recalls recommendations and results from the previous WB Study so this module does not add a new value to Social Vulnerable Customer Protection issue.

REAP also reviewed the translated extracts of the Hrvoje Pozar module on restructuring and provided the comments which were for the most part accepted.

- Task 2.A.(i) The formation of Headquarters functions in the EP companies.
- Task 2.A.(ii) Integration and coordination of the Federation coal Mine Action Plan with the Electricity Action Plans in preparation for the privatization of the thermal power plants along with the coal mines that support them.
- Task 2.A.(iii) Separation of the accounting of all of the daughter business units of the EPs.
- Task 2.A.(iv) Combination of certain of the generating companies and distribution companies into more efficient operating units as identified in the action plans.
- Task 2.A.(v) Incorporation of Holding Companies and the separate daughter companies as joint stock companies from the reconfigured EPs.
- Task 2.A.(vi) Transition to full cost-based tariffs for all of the new Joint Stock Companies; and
- Task 2.A. (vii) Preparation of the generation and distribution companies in BiH for privatization plus agreement with the Governments on social programs for redundant workers.

**Task 2.B. Broader Public Understanding of Specific Energy Sector Issues and Challenges**

The contractor shall develop and implement a program of public outreach and education efforts to develop broader understanding of the energy sector, its needs, the challenges it faces, educate entity and state level cabinet members and parliamentarians, the media and the broader public. This program will support the efforts to transform the ISO into a full market operator. It will also educate stakeholders and the public on the need for the privatization of the EPs, including the preparatory steps required to do so, i.e., the reorganization of EPs, the hiving off of EPs' daughter business units, the incorporate of Holding Companies, etc. While serving as a broad educational effort, the chief aim of this program will be to help develop advocates for energy sector reform in these specified areas. This will need to consult and work closely with USAID's Economic reform Office CTOs, with parliaments and the media.

Briefings/trainings for journalists. REAP developed its idea for organizing regular briefing/training sessions for journalists with the technical team. The first such briefing/training was organized was organized for seven journalists.

Media and Public Relations Training. REAP developed media and public relations training. The training includes the following modules: Public Relations; Persuasion as a PR function; Crisis Management; Ways of Communication; Radio and Television. REAP delivered the training to eight individuals in the RS Ministry and delivered a two-day training for ISO BiH key personnel.

ANNEX A Cont'd

Task Progress Chart

ACTIVITIES & DELIVERABLES Scheduled For This Period	PROGRESS TO DATE		
	Completed	In Progress	Deferred
Contract signature and authorization to start work	•		
Inception meetings with USAID CTO, March; project briefing with USAID Mission BiH	•		
Install REAP systems and equipment in local office	•		
Introduce project to the stakeholders	•		
Review and finalize Annual Work Plan and PBMS with USAID; performance indicators with CTO	•		
PBMS and R-4 reporting to USAID	•		
Annual and Completion Reports	•		
Demobilization Plan			•
<b>TO 1: BIH ENERGY SECTOR FULLY INTEGRATED INTO THE REGIONAL MARKET AND THE EU</b>			
<b>KRA 1 Creation of Legal and Regulatory Framework for Gas</b>			
<b>KRA 1.1 Legal gas framework creation</b>			
<b>KRA 1.1.1 Draft three gas laws</b>		•	
RS Draft Gas Law brought into substantial compliance with the EU Gas Directive.	•		
State Gas Law draft from previous project separated into draft Federation and State laws based on the electricity sector structure and to the extent possible, harmonized with the RS passed gas law.		•	
<b>KRA 1.1.2 Introduce draft gas laws into three legislative bodies and work to assist their passage</b>			
Assisted with revisions to the law when the individual Ministries put it into final format.		•	
Interacted as requested with the legislative committees responsible for an energy law, individual parliamentarians or party heads that desired information on the law.			•
Reviewed as requested amendments from the committees and the plenary sessions from each House of the RS National Assembly and Federation and State Governments.			•
Talking points, presentations and other lobby materials were prepared in conjunction with the REAP Public Outreach program to make the laws understandable for parliamentarians and the media, as well as the Ministries involved.			•
<b>KRA 1.2 Secondary gas legislation</b>			
Advised regarding the amendment of the existing regulator formation documents to include jurisdiction over the gas sector.			•
Advised and assisted with regard to appropriate regulations to be drafted by each regulator covering practice and procedural rules, tariff methodology, licensing rules, system operational rules, conditions of supply, third party access rules and uniform system of accounts;			•
Advised on design of coordinated format for drafting of the system			•

operational rules, conditions of supply, and submission to commissions for approval.

**KRA 1.3 Gas license and tariff proceedings commenced and completed**

According to REAP advice, regulators ordered commencement of interim licensing proceedings.

Regulated companies filed applications for interim licenses.

Interim licenses issued to natural gas undertakings.

Regulators ordered the commencement of initial tariff proceedings utilizing the uniform system of accounts.

Regulated undertakings filed applications for tariffs as ordered.

Decisions on tariffs were issued in all proceedings.

**KRA 2 Transformation of ISO into a full MO after the Transition Phases of the internal BiH Market**

**KRA 2.1 Market Opening Plan**

Held a large conference with presenters from the region that addresses fundamental market concepts.

Developed a market design to move from the current closed market to bilateral contracts and the balancing market, with gradual deregulation of generation, addressing the issue of export in a hydro-thermal generation market.

The market design clarified the party responsible for each step of market evolution and for market operation.

The market opening plan for both electricity and gas included a vulnerable customer plan.

A concerted lobby and communication effort for a vulnerable customer plan, directed to the RS Ministry of Economy, Energy and Development, Federation Ministry of Energy, Mining and Industry, MOFTER, the Entity Prime Ministers and Presidency, the legislative bodies, and the public as appropriate and necessary was effected.

The electricity market opening plan was built upon, and one was created for natural gas with detailed regulations for suppliers of last resort and customer switching.

A new Grid Code was developed by the ISO and approved by the State Electricity Regulatory Commission.

New Market Rules were developed by the ISO and approved by the State Electricity Regulatory Commission.

A tactical decision was made with the ISO, Technical Committee, regulator(s), and other stakeholders whether to develop new Market Rules for the balancing market as provided in KRA 3.8, or whether to evolve the Market Rules in two steps.

Support was given to the ISO in working with the Technical Committee on any revisions needed to the Grid Code and Market Rules.

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**KRA 2.2 Market Monitoring**

Developed practices and procedures for the ISO and the Regulatory Commission(s) to employ market monitoring for anticompetitive conduct/market power.

**KRA 2.3 Grid Code and Market Rules**

A new Grid Code was developed by the ISO and approved by the State Electricity Regulatory Commission.

New Market Rules were developed by the ISO and approved by the State Electricity Regulatory Commission.

A tactical decision was made with the ISO, Technical Committee, regulator(s), and other stakeholders whether to develop new Market Rules for the balancing market as provided in KRA 3.8, or whether to evolve the Market Rules in two steps.

Support was given to the ISO in working with the Technical Committee on any revisions needed to the Grid Code and Market Rules.

**KRA 2.4 ISO and Transco governance for smooth operations**

Reported with regard to the EU’s new energy directives’ direction to maximize the leverage of the ISO as the organization of the future, the alternative being the requirement to unbundled ownership of a TSO. This premise underlay and supported all activities of this KRA.

Areas where the Transmission Company, Elektroprivrede regulator(s), governments and other stakeholders do not accept the mandates of the Transco and ISO Laws were identified and those areas were included for consideration in the workshops identified in KRA 2.1.

The status and operability of the EBRD’s SCADA system installation and operation and the EBRD’s assessment of ISO operation were determined, along with the ISO’s and European Investment Bank (EIB) plan for funding of the ISO balancing market software and other software necessary for market monitoring, dispatch and other functions.

The regulatory filings of the ISO were reviewed, including the tariff filings, to determine if appropriate financial and legal support for tariff and any other requests had been included to enable SERC to afford nondiscriminatory support and all due consideration to the ISO to enable it to develop into a robust and functioning ISO that phases into the role of balancing market operator according to the ISO Law.

A financial plan was developed for the ISO’s next tariff proceeding to finance requirements for the future software and the ongoing training necessary for a robust ISO and balancing market operator.

Assisted with the compilation of the next ISO SERC tariff filing to assist with the inclusion of the appropriate legal and financial arguments to the regulatory commission to ensure legal and nondiscriminatory regulatory support to the ongoing development of this organization were agreed and approved.

**KRA 2.5 Labeling sources of electricity**

A suppliers’ labeling program developed and provided that enables customers to identify the characteristics of the electricity generated

REAP team gathered EU nuts and bolts practice and enlisted in-house experts for research. This information was passed to the regulators and other stakeholders for addressing in the technical or regulatory rules, and/or conditions of supply. The REAP team advised the regulators with regard to implementing this practice in its rules.

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**KRA 2.6 Balancing market price methodology**

An expert developed a price methodology for setting balancing market prices, which will govern the supply and purchase of electricity in the current non-liquid situation. The methodology was submitted by the ISO to the regulator and accepted thereafter.

Support was given to the ISO in working with the Technical Committee, if any, with regard to the balancing market price methodology.

Detailed workshops were arranged for the SERC and ISO with regard to implementation of the balancing market pricing methodology.

A workshop was arranged for the sector as a whole to explain the pricing methodology.

**KRA 2.7 State Regulatory Commission MO Approval**

Guidelines and draft procedures developed for the ISO to become a Market Operator in a procedure that complied with the ISO Law and any rules of the regulator.

Guidelines and draft procedures were provided to the state regulator regarding the approval of the ISO as a market operator.

The REAP Team submitted advice and assistance on recommended guidelines and procedures for the ISO to apply for the status of a balancing Market Operator.

Hands-on working meetings were held by the Chief of Party with the ISO and regulator(s) with regard to development of such guidelines and procedures.

**KRA 2.8 Procedures for balancing market**

Transparent, non-discriminatory and cost reflective mechanisms for balancing the market developed. Thereafter, they were approved by the regulator(s).

The decision regarding whether one or two sets of Market Rules would be developed determined whether both an interim and final set or only a final set of Market Rules were developed, the final set of Market Rules included the procedures for and operation of the mechanisms for the Balancing Market.

Support was given to the ISO in working with the Technical Committee and regulator on any drafting or revising of Market Rules.

Support was given to the ISO in creating a filing for approval of Market Rules that incorporated the procedures and mechanisms for market balancing, ensuring that the procedures were explained to the regulators (and public, since the filings are public) in an understandable way.

**KRA 3 Unification of the Regulators**

**KRA 3.1 MOU for unification of the regulators**

Developed a framework for an interim step to full unification that provides for more extensive interaction and cooperation between the three regulators.

Drafted a Memorandum of Understanding (MOU) to be signed by the Republika Srpska Ministry of Economy, Energy and Development, the Federation Ministry of Energy, Mining and Industry, and the Ministry of Foreign Trade and Economic Resources that memorializes closer

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coordination of the three regulators in planning and execution of their work, working toward the eventual full unification of the regulators into one regulator.

Obtained execution of the MOU by the respective Ministries.

Mobilized the public outreach and communication program to explain to the legislators, media and public the benefits of the work toward unification.

**KRA 3.2 Amendments to the three electricity laws**

**KRA 3.2.1 Draft amendments to the three electricity laws for unification of the regulators**

Drafted amendments to the three electricity laws that would allow the full and legal unification of the regulators.

**KRA 3.2.2 Introduce draft amendments into three legislative bodies and work to assist in their passage**

Assisted in getting the amendments to the three electricity laws passed through the legislative authorities, including:

Assisted with revisions to the amendments when the individual Ministries put them into final format;

Interact as requested with the legislative committees responsible for energy, individual parliamentarians or party heads that desire information on the draft laws.

Reviewed requested amendments from the committees and the plenary sessions from each House of the RS National Assembly and Federation and State Parliaments.

Mobilized of REAP public outreach and communication for lobby materials for all counterparts and press, including presentation materials to explain to the legislators, media and public what the unification effort means and what the benefits are.

**KRA 3.3 Establish State Energy Regulatory Commission**

State Energy Regulatory Commission established.

Assisted with the amendment of statutes, rules of work, organization charts, and internal procedures.

**TO 2 Restructuring and Privatization of the EPs**

**KRA 1 Implementation of the Action Plans**

**KRA 1.1 Unbundled EP Companies Corporatized**

Produce current status of the Action Plan and a base line of action plan implementation.

Determined the legal framework for further implementation of the Action Plans.

Determined the status of the Federation Government/EP intentions with regard to further implementation of the APs.

REAP Participation ensured in any working groups with the three Ministries, WB, EC, EPs and other members of the IC on the energy study and/or strategy being funded by the WB and EC.

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Identified RS Government plan with regard to further re-organization of EPRS.

Provided advice and encouraged the unbundling of the Federation EPs and lobbied the Federation Government therefor.

Memorialized guidance on the development of accounting systems of the separate unbundled daughter companies.

Determined the three EPs' intentions with regard to recombining generation and distribution companies into more efficient units.

Provided assistance with regard to realization of the EPs' plans to rationalize unbundled companies.

**KRA 1.2 Accounting Unbundling and Full Cost-Based Tariffs**

Reviews provided of the current accounting system at present time in all three EPs, shares of liabilities and commercial relations within each company, if any.

Determined status of the Federation EPs' intentions with regard to unbundling and developing of their accounting systems.

Determined status of the WB Manitoba Hydro accounting system pilot projects that will enable accounting unbundling.

Determined plans and the timing of Entity Regulatory Commissions and EPs to develop DSOs.

The commencement of specific activities aimed at creating the DSOs in the near future encouraged.

The three regulatory commissions assisted and encouraged to establish their uniform system of account rules and enforce them.

The EPs capacity and capability to implement uniform and separate accounting system assessed.

Advice provided to EPs on capacity building with regard to separated accounting systems.

**KRA 1.3 Integrate Coal Mine and Electricity Action Plans**

Reviewed the Coal Mine Action Plan.

Determined the status of the Coal Mine AP and extent of harmonization with the electricity AP.

Analyzed the rationale and wisdom of the merger of coal mines into generation plans.

Analyzed a gap with regard to different commercial and legal status of coal mines in the Federation.

Assessed necessity of keeping or moving the regulation of coal prices into regulators.

Ensured that the International Community and ministries understand and assist with the plan to resolve potential problems with regard to different bodies in charge of regulation of coal and electricity prices.

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**ANNEX C**

**REAP Staff**

<b>Name</b>	<b>Position</b>	<b>Start Date</b>
<b>Jane Wilson</b>	<i>Chief of Party</i>	<i>March 14, 2007</i>
<b>Ognjen Markovic</b>	<i>Deputy Chief of Party</i>	<i>June 1, 2007</i>
<b>Drazena Peranic</b>	<i>Public outreach and communication specialist</i>	<i>April 9, 2007</i>
<b>Dejan Bosnjak</b>	<i>Operations Manager and Legislative Assistant</i>	<i>March 27, 2007</i>
<b>Nermin Nisic</b>	<i>Public outreach and communication Assistant Specialist</i>	<i>August 1, 2007</i>
<b>Alma Hadziosmanovic</b>	<i>Office Manager/Translator</i>	<i>March 16, 2007</i>
<b>Dzenita Becic</b>	<i>Executive Assistant/Translator</i>	<i>April 9, 2007</i>
<b>Elma Haveric</b>	<i>Legislative and Regulatory Specialist</i>	<i>October 19, 2007</i>