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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**  
**January 1, 2009 – March 31, 2009**

Submitted to:  
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## I. EXECUTIVE SUMMARY

In the last several months, a number of events have occurred that indicate an improvement in the effectiveness of REAP. Instead of being able to point to one specific tipping point for the renewed and energized role of the project, REAP thinks that a confluence of events, illustrated below, have occurred that returned a focus to technical assistance in the energy sector:

- SERC has requested that REAP assist and advise the Informal Regulator Working Group on market opening.
- SERC has requested that REAP assist the Commissioners to devise a resolution to the request for approval of the ISO congestion management rulebook, which is opposed by the RS, the SERC having been deadlocked on the issue for 1 ½ years.
- MOFTER has invited REAP to attend the Expert Gas Working Group meeting with DGTREN.
- REAP is assisting FERC on an ongoing basis, at the FERC commissioners' request.
- The three EPs have all requested that REAP advise and assist them on regulatory issues and update them on a regular basis with regard to the status of reform and activities of the Energy Community Secretariat.
- The Federation Ministry of Energy, Mining and Industry has requested REAP's ongoing assistance on moving the new Federation Electricity Law through the Parliament. REAP assisted with the amended draft after the first reading and has recently completed assistance to the Ministry after amendments were proposed in the House of Representatives. REAP not only was able to defend the independence of the regulator but was also able to have the requirement for an energy strategy and policy inserted into the law, along with an authorization process for new generation capacity that is fully in accord with the EU Directive.
- The Federation Ministry has also requested REAP's assistance on the Electricity Policy and Interim regulatory policy.
- REAP's encouragement in the Federation for unbundling of the EPs is beginning to bear fruit as EPBiH intends to obtain consultants to assist with its unbundling.

To set the context for the fortuitous above sequence of events, REAP has shifted its approach to stakeholders to engage on a more informal basis. It is noteworthy that while the RS Government and Ministry have declined to work with REAP (and other foreign assistance), REAP is interacting with the RS regulator and with EPRS, at their request.

Notwithstanding the above positive events that affect REAP's ability to impact the energy sector, the conditions in the sector continue to deteriorate, mostly due to the stymied negotiations between the two Entity shareholders to resolve the 2008 proposal by the RS to reorganize the Transco, in essence desiring to reverse the delegation of jurisdiction to the State. This issue affects the ability of the Expert Working Group on Gas to agree to a structure for gas transmission and its regulation. The instability in the Transco has affected the willingness and ability of MOFTER, the ISO and SERC to act, due to uncertainty and concern about the security of the individuals' positions. This was evident in the reactions to SERC's efforts to activate needed changes to comply with the Security of Supply Directive and Annex to Regulation 1228 on cross border trade.

The difficulties in reaching the power balance in the Federation continues to cause difficulties, based primarily on EPHZHB's supply deficit in supplying Aluminij, while EPBiH has an even larger surplus quantity. The rewritten Federation Electricity Law has hit a snag in the Parliament, as the Minister and Parliament are in disagreement over Parliament's approval of capacity development plans. This problem is an offshoot of the ongoing difficulties in getting any needed capacity on the drawing boards, due to political difficulties.

## 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

*MOFTER's proposed decision on the State Gas Law.* MOFTER submitted to REAP its compromise-solution for the organization of the gas sector. This solution includes: (i) coordination of the sector by MOFTER and the Entities' ministries; (ii) regulation of the transport infrastructure and international trade on the state level; (iv) several transport companies on the entity levels; and (v) several distribution companies on the entity levels. MOFTER plans to renew discussions with the Entity ministries by proposing this solution. Since this solution contains proposals which are partly in disagreement with positions of Entity proposals, it is clear that the path towards final agreement is long and uncertain.

*RS Ministry of Industry, Energy and Mining Inquiry.* The RS Ministry responsible for energy telephoned REAP for advice about the Gas Directive with regard to whether there is a need to file for a derogation, because this topic is on the agenda for the Expert Group's meeting with DGTREN, which was scheduled for the following Monday. The Ministry had received an email from the RSERC Chairman indicating that a derogation is not necessary, since the RS is moving down the road of restructuring, and she wanted to oppose the Federation's effort to obtain a derogation. REAP pointed out that the provisions for a derogation indicated that the *Member State* could ask for a derogation, which means that a country asks for a derogation. In BiH, this means that both Entities would have to agree. Further, there must be a legal basis for filing a derogation on the State level, and there is no State Gas Law.

*Comments on ECRB Consultation Paper on Gas Ring.* As requested by MOFTER, REAP reviewed a draft consultation paper by the Energy Community Regulatory Board (ECRB), on "A Common Regulatory Approach for the Development of the Energy Community Gas Ring" and submitted to MOFTER comments thereon. The proposal for designing and organizing the Gas Ring, has two options: Option A, which is that the Gas Ring through the Energy Community is a whole piece of infrastructure that should be developed simultaneously so that it enters into service all at the same time, even though it is developed by several TSOs, and Option B, which provides that the gas ring is the result of the gradual development of the national gas grids of the countries through which the ring will pass, including other current pipeline development projects. With regard to the route of the gas ring, the consultation paper swings between the route being decided at the regional level and the route being decided by the national TSOs, and the REAP comments suggest that input from the consultation may help the Energy Community solidify its opinions. REAP expressed its concern that because there is no State gas regulatory or transportation structure in BiH, BiH is not a player in the planning of the gas ring.

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

*ISO/SERC pending documents.* REAP communicated with the ISO, the SERC Commissioners and other stakeholders in order to obtain information on the status of the SERC's issuing the Rule on Congestion Management, and the status of the new versions of the Grid Code and Market Rules. There is no progress within SERC on issuing the Rule on Congestion Management. The ISO is nearly finished with a new version of the Grid Code and intends to send the Grid Code to REAP for comments. The Market Rules have not been worked on.

*SERC Draft Decision on Ancillary Services.* REAP analyzed the new SERC proposal on Ancillary services and concluded that SERC accepted almost all comments and suggestions from REAP that REAP submitted on the first proposal presented in December, 2008. REAP talked with ISO representatives about the new proposal and obtained the following comments:

(i) the EPs are both service providers and service consumers; therefore, one EP (Generation) issues invoices to its own DSOs and Suppliers; (ii) It is not ISO that purchases ancillary services and that provides system services; (iii) The ISO sees some legal problems on VAT in this case; (iv) It is not the ISO that is financed from ancillary services. REAP was told that the ISO held a meeting with the EPs to set up technical rules and the manner of decision implementation. The meeting went well, and the ISO expects further steps ahead.

*Congestion Management.* REAP met with the ISO to discuss the establishment of the European Network of TSOs (ENTSO). ISO informed REAP that the EU is discussing the possibility of not allowing any revenue from the ITC mechanism to flow to countries that do not apply market-based capacity allocation mechanisms. Since BiH receives a substantial amount of revenue from the ITC mechanism and is the only country in the region to allocate capacity on a pro rata basis, this will be a strong motivation for SERC to approve the proposed explicit auction method. SERC informed REAP that the ISO filed an updated Rulebook for Congestion Management, which REAP will review.

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

*ISO Grid Code.* REAP has been analyzing the Energy Community Ministerial Council Decisions, all of which BiH is required to implement as a Contracting Party. REAP prepared a Note that addresses Directive 2005/89/EC and the Ministerial Council Decision incorporating it into the Energy Community Treaty obligations. An analysis of the directives and Energy Community Ministerial Council Decision, along with the BiH Grid Code, written by the ISO and approved by SERC, indicates that some of the required provisions for safeguarding the electricity network during big disruptions have not been implemented. It is urgent that ISO update the Grid Code taking into account Directive 2005/89 to develop a document that will define measures and processes to guard the power system during big disruptions. All stakeholders of the EPs, Transco and ISO have to agree on the document and implement it, which is not a matter of commitment only, but is also a financial issue, since the EPs have to purchase and install missing equipment for automated sub-frequency unloading. REAP intends to communicate this problem to the ISO and EPs to try to build momentum to initiate the procedure.

*First sector meeting on BiH progress report in regard to Stabilization and Association Agreement.* REAP received documentation and information from the EC's first energy sector meeting on the BiH Progress Report. The BiH Directorate for European Integration has prepared draft conclusions from the Report and Recommendations from the meeting for the BiH Ministerial Council. The BiH Ministerial Council shall discuss the draft and perhaps will adopt it.

*Summary of REAP Activities re Security of Supply:* REAP has initiated a thorough and careful consideration by electricity sector stakeholders, including MOFTER, SERC, RSERC, FEREC, ISO and the three EPs, of the security of supply issue in order to prevent a possible large disruption in the power system. The goal is for MOFTER, SERC and the ISO to develop documents that are in compliance with Directive 2005/89. With this initiative, REAP in fact initiated implementation of Items 1.4 and 1.20 from the Internal Action Plan. Next steps in this area will be to follow up with the above-listed parties.

*Meeting with SERC Commissioners.* REAP met with the three SERC Commissioners:

- *Congestion Management.* All three SERC commissioners requested consulting assistance, particularly with congestion management because they are locked in a disagreement. REAP agreed to assist.
- *Export Fee.* All of the Commissioners strongly insisted that the “Transmission tariff for declared export” is not an “export fee.” The Commissioners reminded REAP that the tariff on exports was originally created because the Inter-Transmission System Operator Compensation Mechanism (ITC Mechanism) produced less revenues than expected.

- However, SERC has been considering revising the tariff methodology to incorporate a “G” tariff to “rewrap” the tariff design so that the optics of the tariff are better.
- *Imposition.* One of the biggest problems for SERC is that it cannot impose its decisions. They are pessimistic on the operations of the ISO. Last year SERC issued a decision and the ISO refused to comply with it.

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

*Implementation of Energy Community Treaty Ministerial Council Decisions.* REAP researched the recent decisions made by the Energy Community Ministerial Council and found that there are a number of actions required by signatories that need to be completed in short order. Because of the information discovered in this research, REAP scheduled a meeting with MOFTER to discuss MOFTER’s role in implementing the Ministerial Council decisions, including actions that MOFTER is taking to motivate the stakeholders to implement the decisions, and whether there is a monitoring system in place to help MOFTER follow up activities. REAP suggested that the Internal Action Plan should be emphasized in the Reform Process Management meetings, as it is something that BiH has actually accomplished and can be used to monitor progress. It needs to be a dynamic document that is revised as issues require. REAP drafted and sent to MOFTER a Road Map for complying with the Security of Supply Directive for MOFTER to kick off its coordinating role. According to the meeting with SERC, as reported above, there are some steps being taken but not in a structured way.

*Market Design.* REAP and technical assistance developed a draft Concept Outline for BiH’s electricity market structure design. The paper proposes that rather than approach market design in a “big bang” way, the process be incremental, starting with the Federation’s internal market problems with supply and tariffs. The suggestion is that the project be comprised of two steps: the first as a pilot in the internal market of the Federation and the second step could address cross-border trade, with the goal to stimulate additional trade, including physical upgrades, dispatch protocols, commercial arrangements and settlement functions. On the basis of the document that exactly specifies which items could be addressed in the pilot project for the Federation, REAP has prepared a Federation-specific list of issues that would be covered by the pilot project on market design. The Federation must first deal with all issues before it achieves parity with the RS. When drafting the Federation-specific list, REAP took into consideration that none of it involves cross-border issues that would require consultation throughout the country. REAP and its technical assistance reviewed the Regulator Market Working Group’s list of issues and redlined in certain suggestions. The Market Working Group met and all members agreed that they want REAP to lead their efforts. REAP received a specific request from SERC for assistance regarding various alternatives for market opening and resolution of a list of concerns that are specific to the BiH market. Further, the request stated that SERC expected that REAP will cooperate with representatives of the respective ministries and other relevant stakeholders to help the group fully achieve its objectives.

### *Federation Electricity Law*

- *Work with the Ministry on Draft Electricity Law.* REAP spent two full days working with representatives of Federation Ministry of Energy, Mining and Industry to finalize Government proposed amendments to the Proposed Federation Electricity Law and the Government’s responses to proposed amendments from the political parties, SDU, HDZ and SDA.
- *Lobby Efforts on Behalf of Amendments.* REAP agreed with the Federation Ministry of Energy, Mining and Industry that it would lobby the amendments to the law prior to the session. As a result, REAP met with SDU, HDZ and SDA and carefully explained the implications of a single tariff throughout the Federation, in that no one should think that with a regulator, such situation would be as it was previously. In the meeting with SDA, its caucus head was in possession of language that had been deleted by the Federation Minister responsible for energy that required a capacity development plan be submitted to the Parliament for approval. (OHR had sent SDA this language.) When asked about

whether REAP thought this language should be included, REAP responded that the language represented a political issue, and the SDA parliamentarians were the experts in that field, not REAP.

- *Federation Parliament Session, Second Reading.* REAP attended the Parliamentary session. All parties accepted the amendments, except for SDA, which insisted that the previously-deleted language be reinserted into the draft. The Minister responsible for energy declared that he did not want the Parliament involved in any of the capacity development issues. As a result, SDA refused to vote for the law. SDP suggested a compromise that Parliament vote only on capacity over a certain size and the Minister agreed to consider it. In a short conversation after the session, REAP suggested to SDP that the norm for such provision is approval for capacity over 50 MW.

*Interaction with EBRD and World Bank on Authorization Process for Construction of Capacity.* Pursuant to comments from an SDP Parliamentarian that he thought that EBRD still required a full tender, in spite of the provisions of the Directive, REAP asked EBRD whether it was in compliance with Articles 6 and 7 of the Directive. EBRD responded by sending its policy, which, unfortunately, had been developed in 2001 *before* the 2003 version of the directive. The draft law, the Directive and explanatory text from the Jones, *EU Energy Law, The Internal Market*, was sent to the EBRD London attorneys. In another discussion with a representative of the World Bank on the same issue, he felt certain that it was only logical that tenders be conducted for all capacity, regardless of the EU Directive. REAP will follow up on this issue so that stakeholders understand the requirements and meaning of the capacity construction provisions of the Directive.

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

### **Parliamentarians**

*Energy Sector Presentation to the State Parliament:* The Energy Sector Presentation for the Parliamentary Assembly of BiH (PA BiH) was held on February 19, 2009, in the State Parliament. The Presentation was organized by the Common Committee for Economic Reform and Development of both Houses of the PA BiH and REAP. REAP prepared the talking points for the moderator that laid out the highlights in regard to the purpose of the presentation and the role that the parliamentarians could have in energy sector reform. The Parliament members participated actively in the Presentations and asked the presenters numerous questions. At times, the discussion was very intense, mostly concerning the Transco issue. In their presentation, the ISO and EP BiH mentioned the USAID REAP's Internal Action Plan as one of the key documents which can serve as a good basis for the further sector reform and which should be implemented in order to fulfill the requirements from the Road Map. EP BiH expressed its readiness to fulfill all the obligations that were assigned to them in the Internal Action Plan and suggested that "the engagement of USAID-REAP should be regulated in such a manner as to officially promote USAID-REAP into the Consultant that will assist in implementation of the energy sector reform." Benefits from the Sector presentation were: (i) most likely the State Parliament will initiate a discussion on the Transco problem and situation in the power sector; (ii) USAID assistance project was presented to those who were not aware of it; and (iii) the attendees were informed that the sector reform has been stalled and that the intervention of parliamentarians is needed in order to resume the process.

### **Media**

*Briefing for journalists.* REAP organized a fourth briefing for journalists who cover energy sector for major daily newspapers. The topics covered at this briefing were the European Commission Progress Report – section on the energy sector; Federation Law on Electricity;

and Internal Action Plan. The journalists asked many questions and found the briefing very helpful, indicating that multiple articles could be derived from the briefing.

**Completion of this portion of the Project:** On January 31, 2009, the Public Outreach portion of REAP was concluded.

### III. PROBLEM AREAS

- Expert Gas Working Group. The Gas Working Group remains blocked, even though REAP and three members of the Energy Community Secretariat have attended meetings and attempted to assist. Whereas the RS has a gas law, and RSERC is regulating the sector in the RS, the Federation Minister refuses to work on a Federation Gas Law until there is a State Gas Law.
- Implementation of Energy Community Ministerial Decisions. REAP is attempting to activate the sector to implement the EU Supply Directive and new annex to Regulation 1228 on cross-border trade; however, there remains a lack of coordination and effort to take action.
- Unbundling. The Federation EPs remain unbundled with discussion of unbundling but little, if any, action taken, even though the long-awaited amendments to the Public Companies Law, providing for the formation of holding companies, has been passed by the Federation Parliament.

### IV. SEVENTH QUARTER DELIVERABLES

#### *Information for USAID*

- Sarajevo x article on line pack, dated 1-14-09.
- FERC Draft Decision on Intercompany Exchange, dated 1-16-09, in English and local language
- FERC Final Decision on Intercompany Exchange, dated 1-19-09, in redline English and clean local language version
- Charts of Gas Proposals, dated 19-1-09, in English and local language
- Tariff Pricing Methodology SERC Proposal with redlined amendments, dated 20-1-2009, in English language only
- Final RPM Answers from MOFTER, dated 1-16-09, clean local language version
- Compared MOFTER RPM Answers, dated 1-20-09, in redline English and local language
- Federation Ministry Transco proposal to implement the conclusions from the special session held on 12-3-08, dated 1-26-09, in English and local language.
- Article Sarajevo x re Gazprom financial situation-2-9-09\_loc and English
- Letter ISO BiH to EP BiH re plan-2-4-09-Local and English
- Letter EPBiH to ISO re Construction of 110 kV Facilities 1-22-09\_local and English
- Law on financial consolidation of mines-12-22-08-t-2-12-09-English
- Decision of the F BiH Government on transfer of shares in the coal mines 1-26-09 t 2-12-09\_English
- Invitation to Presenters for BiH Parliament Presentation 2-5-09\_local
- Agenda and Invitation to Parliamentarians for BiH Parliament Presentation 2-5-09\_local
- Agenda for BiH Parliament Presentation 2-5-09 t. 2-13-09\_English
- Article on Elektroprenos BiH, dated 2-17-09, in English and local language.
- Elektroprenos BiH letter to EC Ambassador on Whitaker comments, dated 4-10-08, in English language only.

- Opinion by Mr. Ramiz Mehmedagić regarding Blockage of the Company, dated 2-12-09, in English and local language
- Proposal FBiH Electricity Law sent into parliamentary procedure February 2009 in local language
- FBiH Electricity Law received from FMERI including last REAP comments, dated 2-16-09, in English language only
- EP BiH Presentation to the BiH Parliament, dated 2-19-09, in English and local language
- EP RS Presentation to the BiH Parliament, dated 2-19-09, in local language only [English language version will be sent next week]
- Excerpt from RPM sector report, dated 2-16-09, in English and local language
- Proposed amendments to the Federation Electricity Law FBiH Government to FBiH Ministry of Energy Saradzic and Santic, dated 2-27-09, in local language only.
- Annex 2—12 PHLG-Implementation of Roadmaps – Security of Supply Directives, dated 3-2-09, in English only.
- Annex 3-12 PHLG – Security of Supply Group-List of Industry and Consumers, dated 3-2-09, in English only.
- Electricity – Directive 2005-89 (Security of Supply) Roadmap BiH, dated 9-5-08, in English and local language.
- Gas Road Map Directive 2004-67 BiH, dated 9-5-08, in English only.
- Organization of Gas Sector, dated 3-2-09, in English only.
- Otvaranje trzista (public) EnREG Hervoje Pozar, dated 2-26-09, in local language only.
- Task 7 – Otvaranje trzista – Tehnicki dio EnReg Hervoje Pozar 2-26-09, in English and local language.
- MOFTER Report on the work of the Gas Expert Team, undated, in English and local language.
- Draft Federation Law on Electricity, HDZ proposed amendments, dated 2-26-09, in local language only.
- Letter from BiH Ministry of foreign trade to Mr. Piebalgs EC, dated 3-4-09, in English only.
- Letter from EPBiH to FMERI re SDU proposed amendments to the Federation Electricity Law, dated 3-9-09, in English and local language.
- Letter PM Brankovic to PM Dodik re Transco Shareholders Meeting, undated, in English and local language
- Letter from Transco Chair to Dodik and Brankovic re unheld sessions, dated 3-11-09, in English and local language.
- Letter from Transco Chair to Mehmedagic and Vukic re appointment of their positions, dated 3-11-09, in English and local language.
- Letter from Transco Chair to the Independent Member re next Management Board meeting, dated 3-11-09, in English and local language.
- Letter from EPRS to SERC re ancillary services, dated 2-4-09, in English and local language.
- Letter from SERC to EPRS re ancillary services, dated 2-10-09, in English and local language.
- Letter from EPRS to SERC re ISO tariff filing, dated 2-4-09, in English and local language.
- Letter from ISO to SERC re new congestion management Rulebook, dated 3-19-09, in English and local language.
- ECRB Consultation Paper, Regulatory Approach for the Development of the Energy Community Gas Ring, dated 2-4-09, in English only.

#### *Deliverables*

- Transco shareholders assembly alternate agenda rationale, dated 1-13-09, in English and local language.

- Transco shareholders regular session agenda, dated 1-13-09, in English and local language.
- Agenda for Reuf Hadzibegic meeting, dated 1-16-09, in English and local language.
- REAP Comments on FBiH Electricity Law received from FMERI, dated 1-14-09, in English and local language.
- Internal Action Plan security of supply redline, dated 1-14-09, in English and local language.
- Memorandum from REAP to FERC on security of supply, dated 1-16-09, in English and local language.
- Present situation with regard to the SERC Draft Decision on the Ancillary Services, dated 1-23-09, in English language only
- REAP Comments on RPM MOFTER Responses, dated 1-21-09, clean version in English and local language
- REAP Comments on RPM MOFTER Responses, dated 1-21-09, redline version in English and local language
- REAP Suggested RPM Highlight Talking Points for Hadzibegic, dated 1-21-09, in English and local language
- REAP Comments on RPM MOFTER Responses redline working version, dated 1-20-09, in English language
- Email to Mr. Hadzibegic transmitting Highlight Talking Points on RPM Answers, dated 1-21-09, English and local language in one document
- Email to Mr. Hadzibegic transmitting REAP Comments on RPM Answers, dated 1-21-09, English and local language in one document
- Presentation to EPs in English language
- Facts on Transco, REAP to USAID, dated 1-28-09, in English only.
- REAP comments on talking points for USAID RS meeting on Transco, dated 1-29-09, in English only.
- BiH Draft Concept Outline on market design, dated 1-29-09, in English only.
- Report on EU energy law and policy conference of January 22 and 23, 2009, dated 1-30-09, in English only.
- Federation only pre-conditions to Market design FINAL 02\_09\_09\_English
- BiH Power System and Directive on Security of supply 02\_13\_09\_English
- FBiH Electricity Policy 2-13-09\_English
- Presentation to the State Parliament 02\_13\_09\_local and English
- Brief on the Transco meeting 02\_11\_09\_English
- Meeting Mr. Spahic\_EP BiH 02\_11\_09\_English
- Memo Markovic to Wilson regarding sector meeting, dated 2-17-09, in English language.
- Memo REAP to USAID on Federation Law, dated 2-17-09, in English language.
- Report on Energy Sector Presentation in BiH Parliament, dated 2-20-09, in English language only.
- Talking points for State Parliament Energy Sector Presentation, dated 02\_18\_09, in English and local language
- Talking points for meeting between EPRS and REAP, dated 2-25-09, in English and local language.
- Talking points for meeting between RSERC and RESP, dated 2-25-09, in English and local language.
- Presentation for EPRS on Athens forum issues, dated 2-25-09, in English and local language.
- Email REAP to USAID re Federation market, dated 2-24-09, in English only.
- REAP Report on ISO meeting on Security of Supply, dated 2-27-09, in English only.
- REAP article published in Fondeko on climate and energy, February 2009, in local language only.
- Agenda and talking points for Hadzibegic meeting, dated 3-3-09 in English and local language.

- Amendments to Proposed Federation Electricity Law Santic English redline, dated 3-4-09, in English.
- List from Mr. Cokorilo regarding market opening in BiH, dated 3-6-09, in English and local language.
- Proposed Federation Electricity Law with both Vesna Saradzic amendments and REAP comments, dated 3-6-09, in English and local language.
- REAP comments on the amendments to the Federation Electricity Law, filed by Vesna Saradzic, dated 3- 6-09, in local only.
- REAP report on MOFTER meeting, dated 3-3-09, in English only.
- REAP Comments on the HDZ proposed amendments to the Federation Electricity Law in classic format, dated 3-10-09, in both English and local language.
- REAP comments on the SDU proposed amendments to Federation Electricity Law in classic format, dated 3-6-09, in English and local language.
- REAP comments on the proposed HDZ amendments to the proposed Federation Electricity Law redlined into the Law, dated 3-10-09, in English and local language
- Informal regulator working group issues list with REAP redlined comments, dated 3-11-09, in English and local language.
- Letter from EPHZHB to REAP, dated 3-9-09, in English and local language.
- REAP Agenda for SERC meeting for internal use, dated 3-11-09, in English only.
- REAP Paper on Congestion management, amended and simplified for distribution, dated 3-9-09, in English and local language.
- Road Map for Implementation of Directive on Security of Supply, dated 3-12-09, in English and local language.
- FBiH Electricity Law REAP and FMERI [the Ministry] with redlined accepted amendments, dated 3-18-09, in English and local language.
- FBiH Electricity Law Amendments by FMERI and REAP in classic format, dated 3-18-09, in English and local language.
- Amendments by Federation Government sent to the Federation Parliament, redlined , dated 3-20-09, in English and local language.
- Invitation to EC Meeting with the Gas Expert Group, dated 3-19-09, in English and local language.
- SERC request for assistance to the Informal Regulator Working Group, dated 3-18-09, in English only.
- Memo from Markovic to Wilson re upcoming meeting with EPHZHB, dated 3-18-09, in English only.
- CIGRE Round Table proposal, dated 3-20-09, in English only.
- EP BiH Education proposal, dated 3-19-09, in English only.
- FBiH Rough Draft Electricity Policy, dated 3-27-09, in English and local language.
- Federation only pre-conditions to market design, dated 3-27-09, in English and local language.
- Talking Points for Meeting with Minister Heco, dated 3-27-09, in English and local language.
- Memorandum re status of network and TSO, dated 3-18-09, in English only.
- Supporting Constructive Dialogue, dated 3-27-09, in English only.
- REAP Comments on ECRB Consultation Paper on Gas Ring, dated 3-25-09.

## **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

- A meeting of the Expert Gas Group with DGTREN will occur in the next quarter. As a result, it is hoped that there will be movement in agreeing on a State Gas Law.
- ENREG, the EC Project on regulatory assistance, will close in May, leaving REAP to provide more active assistance to the regulators. It is anticipated that interaction with SERC and FERC in particular will increase.
- In particular, REAP will assist the SERC to try to reach a decision on capacity allocation and congestion management, which is been undecided for 1 ½ years.
- FERC has had difficulty with reaching the end-point tariff, which is required prior to planning market opening. REAP will offer short-term assistance to help FERC achieve this goal.
- REAP intends to interact more proactively with the ISO, particularly with regard to capacity allocation and congestion management.

#### Implement the Action Plan

- REAP will assist the Informal Regulatory Working Group with regard to market design, first helping to organize the commissions to gather data in a collaborative effort with the EPs and then address market design options, with the assistance of Pierce Atwood.
- There has been confusion within the sector, Ministry and Parliamentarians with regard to the authorization process under the EU Directive. REAP will conduct a survey and share the information with the sector.
- REAP will continue to urge MOFTER to kick off a coordinated effort to implement the Security of Supply Directive and Annex to Regulation 1228 on cross-border trade.
- Although the Federation Electricity Law is help up by lack of agreement on the approval of capacity development, REAP will commence working on the policy and interim regulatory policy.
- REAP will continue to advise and assist on the Transco as requested.

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

This portion of REAP has been completed.

## **VI. ADDITIONAL INFORMATION**

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

Progress on reform in Bosnia and Herzegovina has slowed almost to a halt, affecting REAP's activity timetable:

#### TO1: BiH Energy Sector Fully Integrated Into the Regional Market and the EU

KRA 1.1 Legal gas framework creation. Due to the failure of the Expert Gas Working Group to agree on the structure of the transportation/transmission sector, there is as yet not enough information to complete the State Gas Law draft.

KRA 2.1 Market Opening Plan. After a promising start, this effort is now very delayed due to the RS' declining to name members to an officially sanctioned task force on the issue. This effort needs a minimum of two years, and the effort has not started.

KRA 2.3 Grid Code and Market Rules. This quarter was to have seen the commencement of the process to revise the Grid Code and Market Rules. The ISO sees this process as REAP's commenting on their drafts; however, drafts are four quarters overdue. To be fair, this is also connected to the blockage of the market design process.

## TO2: Restructured and Commercialized Energy Companies

KRA 2.3 Integrate coal mine and electricity Action Plans. The Federation Parliament passed legislation this quarter that permits the merger of the Federation coal mines with EPBiH. Thus, while this activity was scheduled to commence last quarter, because it will require a completely expanded and new plan of action from the Federation Government, EP and the Mines, it must be pushed into the future. It is questionable whether in fact REAP will be able to accomplish this task.

KRA 2.5 Implementation of EU environmental directives. This activity is scheduled to begin next quarter; however, due to the extensive activity required to implement this activity and the limited Governmental resources available to assist in this area, REAP will at a minimum be delayed regarding this activity.

TO3: Cross Cutting Objective: Broaden Public Understanding of BiH Energy Sector Issues and Challenges. Notwithstanding that the Activity Timetable shows public outreach activity up to 9-13-09, this portion of the project has been 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**

Drazena Peranic and Nermin Nisic, Public Outreach employees of the sub-contractor Chemonics are no longer with the project, since the Public Outreach portion of the project has been completed.

## 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;

REAP received a request for assistance from SERC with regard to reaching a decision on congestion management and capacity allocation.

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.

REAP reviewed a proposed compromise on the State Gas Law developed by the State Ministry, MOFTER.

REAP responded to an inquiry from the RS Ministry responsible for energy with regard to the requirements for a derogation, which the Federation desires and the RS opposes.

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

As requested by MOFTER, REAP reviewed the ECRB Consultation Paper on the Gas Ring and submitted comments thereon.

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

**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.

REAP identified the market design issues with which the Federation are faced (which differ from and are more complex than those faced by the RS)

REAP was invited by the Market Working Group on market opening to assist and lead their efforts on gathering data regarding the market and considering market issues and how they can be solved by a market design.

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 composed Action Plans for MOFTER to kick off a country-wide effort to comply with the new Security of Supply Directive and Regulation 1228 (cross-border transactions) new Annex.

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.

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 EnReg Dependent.
- 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 provided ongoing assistance and advice to the Federation Ministry of Mining, Energy and Industry with regard to the proposed draft Federation Electricity Law, including drafting, advising on amendments and lobbying the Federation Parliament.

- 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.

## 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. <b>EnReg dependent.</b>		•	
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. **EnReg Dependent.**

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

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.

**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.

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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.

**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.

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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 [ENREG dependent.](#)**

**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 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.

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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.

**KRA 1.4 Training Programs for Redundant Employees**

Policy options analyzed in the development of social programs for redundant employees made redundant because of efficiency streamlining measures as the unbundled EP companies are rationalized for current or future planned privatization,

Government's intentions regarding the policy options determined,

Other countries' experience with regard to redundancy programs

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Developed a system of mutual information from the citizens to the regulators, the ISO and the decision makers, and cooperation with the media.

**KRA 4: media Reports on Energy Reform**

**KRA 4.1 Journalists/Editors Understand Energy Reform**

# trainings conducted for journalist/editors regarding Legal and Regulatory steps that BiH should take to meet the Energy Community Treaty requirements, the function of the ISO, the function of the regulators and restructuring and preparation for the commercialization of energy companies

**KRA 4.2 Media employ high professional standards**

# of trainings conducted for journalist in business and economy reporting, particularly in covering the energy sector.

**KRA 4.3 Use research and expert sources**

Meetings guided/organized and a collaborative relationship established between media outlets and professional research agencies and experts in the energy sector

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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>Nermin Nisic</b>	<i>Public outreach and communication Assistant Specialist</i>	<i>August 1, 2007</i>
<b>Alma Brkovic</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>