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Regulatory and Energy Assistance

**Regulatory and Energy Assistance Project in Bosnia and
Herzegovina (BiH) – REAP BiH**
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I. BRIEF OUTLINE OF PROJECT PURPOSE AND APPROACH

On March 12, 2011, the USAID Regulatory and Energy Assistance Project (REAP) was extended to September 30, 2013. The two main objectives of the project activities remain the same: to (i) achieve a fully integrated energy sector into the regional market and the EU; and (ii) restructuring and commercialization of energy companies. The tasks under each Task Objective have changed, as can be seen in Sections VI and VII of this Quarterly Report. REAP is a market development oriented project that specifically works to open the BiH market, with as many preconditions in place as possible. Market opening involves removing market impediments. To that end, REAP works to harmonize the regulatory work of the three commissions to facilitate integration of the market into the regional and EU markets, and assist in the technical and detailed regulatory preparation for market opening. REAP also assists the State institutions to facilitate BiH speaking with one voice in internal and international liberalization and to become familiar with the EU Third Liberalisation Package. Also, REAP assists the State Ministry for Foreign Trade and Economic Relations (MOFTER) to continue efforts on the state gas law. Regarding the second Task Objective, restructuring and commercialization of energy companies, REAP works in three areas: (i) assists the Federation to develop the Electricity Law where unbundling of the Federation EPs will be prescribed. REAP will also assist the Federation to develop an energy policy; (ii) comments on the EPs' restructuring documents as requested, and (iii) assists the EPs to develop and implement solutions to receive revenues that reflect their justified costs.

As energy reform technical assistance in BiH, REAP provides advice and assistance as needed to the international community through USAID and to other USAID, EU, and various international projects.

II. BRIEF DESCRIPTION OF SIGNIFICANT ACTIVITIES

Lead Case Study effort, consisting of open market base case and scenarios

In this quarter REAP continued the thorough analysis of the BiH primary and secondary legislation to identify the gaps in primary and secondary legislation and various operational rules, and recommendation of steps to fill in the gaps to establish the processes and liability of electricity sector participants for each detailed activity that is necessary for the electricity market to function successfully. The gap analysis addresses the following areas:

- i. Licensing
- ii. Making and Terminating Contracts, including Single and Dual Point Contracts and Third Party Access
- iii. Scheduling
- iv. Metering
- v. Procurement Law Process

In order to provide the stakeholders with up-to-date practice and standards in advanced electricity market systems, REAP paid special attention to the procedures established in the United Kingdom and NORDREG areas. Even though these electric power systems are much bigger than the BiH system, the basic rules can be adapted for BiH to enable smooth and effective functioning of the market.

Based on this analysis REAP prepared a basic Gap Analysis and a corresponding presentation for each of the above mentioned topics. In addition, REAP prepared the document “General Conclusions from the Gap Analysis,” which includes a summary of REAP’s findings on gaps identified so far.

All these documents were presented to the Case Study Subgroup in a meeting that took place on September 4, 2012. Twenty-two representatives from the four EPs, three regulatory commissions and ISO participated in the day-long meeting. Generally, the presentations showed that there are weak ties between the rules that determine processes and roles in the distribution network and the rules in the transmission network. These weak relations were identified as a significant obstacle for successful market functioning in BiH. REAP presented the gap analysis, and after each presentation, discussions on REAP’s findings took place. Although some different opinions on the findings on the identified gaps were given in the meeting, the general opinion of the Subgroup was that the presentations and gap analysis is leading the Case Study process in the right direction.

After the Case Study Subgroup meeting, REAP analyzed discussions from the meeting, revised presentations where and if needed and developed recommendations in regard to the analyzed market processes.

Brcko District Utility Unbundling

REAP met with Brcko District Public Utility (PU) and the Brcko District PU member of the Case Study Subgroup. Since the Brcko District PU consists of water supply, electricity and waste disposal departments, REAP suggested that they initiate unbundling of the distribution from the supply function as required by the Third Liberalization Package. REAP expressed its commitment to assist the Brcko PU in this process. In addition, REAP will prepare an explanatory paper to support this initiative.

Monitor decisions made by the Energy Community and update implementation

- REAP analyzed conclusions from the 18th Athens Forum held on June 27 and 28, 2012: The conclusions addressed the following issues for MOFTER to initiate immediate action in coordination with the entity ministries: (i) Implementation of the Third Liberalization Package; (ii) Development of the Energy Community Strategy; (iii) Security of Supply; (iv) Implementation of the Regional Action Plan for Wholesale Market Opening; (v) Renewable Energy Sources. REAP wrote a Memorandum on these conclusions and sent it to MOFTER for further implementation.
- Upon MOFTER’s request REAP analyzed the agenda and draft decisions prepared for the 10th Energy Community Ministerial Council (MC) Meeting and prepared proposals for MOFTER’s discussions and actions. REAP also participated in the preparatory meeting for the 10th Energy Community CM meeting, along with the representatives of the three regulatory commissions in BiH, Transco and all three ministries responsible for energy.

REAP prepared and sent the Memorandum to MOFTER proposing further MOFTER steps to coordinate stakeholders in order to define BiH positions on these decisions.

- As requested, REAP advised MOFTER in preparation for the meeting on the Energy Community Policy regarding social partnerships. Among other things, REAP informed MOFTER that two documents exist on these issues and explained that both documents impose certain obligations on local governments with regard to social dialogue between them and workers in the energy sector.

Execution of Load Research – Load Research Data Analysis

To date REAP and the consultants have developed all planned guidelines modules for Load Research except the one that guides users on how to perform Data Analysis. This last module was drafted by technical assistance, was reviewed by REAP and will be the focus of the next Load Research Subgroup meeting. In addition, REAP has analyzed international practice on Load Research Data Analysis. REAP also analyzed international practice in the balancing settlement process, which requires a specific type of data analysis, and commenced a survey on how data analysis of metered data gathered from a load research process is used in jurisdictions where a retail market is functioning.

In order to initiate the Load Research in EP HZHB, REAP met with the General Manager of EP HZHB and discussed the delay in the load research activities in this power company. After this discussion, REAP was informed that immediate action to establish the Load Research Team in EP HZHB and commence measurements had been requested by the General Manager.

Assist MOFTER and EPs in the revision of the Procurement Law to allow operational trading of electricity

Since some provisions from the Procurement Law were identified as an obstacle for successful functioning of an electricity market in BiH, REAP initiated discussions with the EPs on it. REAP met with EP BiH representatives and was informed that EP BiH has no problems buying electricity on an urgent basis: the problem appears when they need to buy electricity for resale. In addition, REAP was told that EP BiH contacted and sent proposals to the Agency for Public Procurement to initiate changes in the law, but nothing has happened up to now.

REAP participated in the conference “Road to Recovery - Response to the Economic Crisis”

REAP participated at the conference organized by the Centre for Policy and Governance on September 24 in Sarajevo. Representatives of relevant ministries, experts from relevant fields, representatives of the international community and civil society participated in the meeting. During the panel “Public Investment in the Energy Sector, Key to Overcome the Crisis” REAP’s representative addressed BiH’s need to join the regional wholesale electricity market in order to make its electricity sector attractive for foreign investors, emphasizing the need to accelerate implementation of the Energy Community Treaty to create a legal and regulatory framework that is predictable and transparent for investors. In addition, REAP addressed the importance of the development and implementation of the Energy Efficiency measures in BiH, which can not only save energy and reduce environmental pollution but also stimulate the development of SMEs.

III. PERFORMANCE PROBLEMS

- Unbundling. The Federation EPs still remain fully bundled, but the new Draft Electricity Law prescribes functional, operational and legal unbundling of the Public Power Utilities.
- Investments. Investment is still problematic in BiH. In spite of the plans to build new power plants in both Entities, very little interest has been shown by investors. High investment risk remains due to the political situation, the situation with Transco and an unclear investment legal framework.

IV. TWENTY-SECOND QUARTER DELIVERABLES

Deliverables

- Conclusions from 18 Athens' Forum, dated 7-5-2012, in English and local language
- LR Minutes, dated 6-19-12, in English and local language
- Trip _ Report Tatjana Konjic –Sarajevo, dated 19-06-2012, in English language only
- Paper on Scheduling, dated 7-12-12, in English and local language
- REAP Twenty-first Quarterly Report, dated 7-31-12, in English language only
- Metering process, dated 7-31-12, in English and local language
- Scheduling paper, dated 7-12-12, in English and local language
- Combined Making and Terminating Contracts, dated 7-31-12, in English and local language
- 10th Ministerial Council Meeting – Decisions, dated 8-7-2012, in English and local language
- Excerpt from international tender EP BiH, dated 8-7-2012, in English and local language
- Detailed Agenda for Case Study meeting in Konjic, dated 9-4-12, in English and local language
- Case Study Scheduling process, dated 9-3-12, in English and local language
- Case Study Combined Making and Terminating Contracts, dated 5-23-12, in English and local language
- Case Study Licensing, dated 9-3-12, in English and local language
- Case Study Metering process, dated 8-30-12, in English and local language
- Paper on metering process in BiH, dated 9-3-2012, in English and local language
- Combined Making and Terminating Contracts, dated 9-4-12, revised 9-6-12, in English and local language
- Comments from ED Brcko to CS presentations, dated 9-17-12, in English and local language
- General Conclusions from Gap Analyses, dated 9-17-2012, in English and local language

V. ANTICIPATED ACTIVITIES FOR THE FOLLOWING QUARTER

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

- REAP will continue to follow the regulators' and EPs' work to eliminate earlier-identified obstacles for successful market functioning and will present its finding to the regulators.
- REAP will continue its research on ancillary services and balancing service and elicit comments and suggestions from the utilities.
- After finalizing the Guidelines on load research data analysis and carrying out the fifth Subgroup meeting, REAP and the Subgroup will organize a Workshop to review Load Research results that the EPs will have obtained and present them to the regulators, EPs, and ministries.
- Consistent with its detailed Scope of Work for the Case Study and the approved Action Plan of the Subgroup, REAP will continue analyzing processes that determine all actors' roles in the retail and wholesale market, mutual relations and market related information flow (commercial processes). REAP will present its preliminary gap analysis, based on a review of primary and secondary legislation, and operational rules, on all areas except balancing to the Subgroup and request comments on the presentations for finalization of the initial analysis. In particular, REAP will research international practices regarding balancing settlement.
- REAP technical assistance will analyze the preliminary gap analysis developed by REAP and the Case Study Subgroup and write a paper based on it, including recommendations to change primary legislation, regulations and operational rules.
- REAP will organize a Workshop to present international practice on balancing and the gap analysis, along with recommendations for closing the gaps, to regulators, EPs, and ministries.
- REAP will continue assisting MOFTER to coordinate activities on the development of the Wholesale Regional Electricity market.
- REAP will assist MOFTER to initiate efforts with the entity ministries and monitor the implementation of the Energy Community Ministerial Council decisions.
- FBiH Draft Electricity Law: REAP will analyze the final version of the Draft Electricity Law for the FBiH and send comments and suggestions to FMERI.
- State Gas law: If and when requested, REAP will assist MOFTER, the two entity ministries and BiH Gas in development of the State and FBiH gas laws and changes to the RS Gas Law.

Restructured and commercialized energy companies

- Restructuring of public power utilities: If and when requested, REAP will continue its assistance to the Federation Ministry of Energy, Coal and Industry on the development of the energy policy and adoption of the new draft electricity law to ensure a framework for restructuring of public power utilities is prepared.
- REAP will prepare a memorandum for the Public Utility Brcko District on the need to restructure the company to meet Energy Community Treaty requirement. In particular, the

memorandum will address the unbundling of supply and the DSO. Further assistance on the unbundling process will be explored.

VI STATUS OF ACTIVITIES AS DEFINED IN WORK PLAN

TASK OBJECTIVE 1: FULLY INTEGRATED ENERGY SECTOR INTO THE REGIONAL AND EU MARKETS

In the reporting quarter, REAP focused primarily on the two Market Working Group active subgroup activities: the Load Research Group and the Case Study during the reporting period. Efforts were also directly towards assisting the two Entity regulators on their draft rule revisions on the eligible customer, which would include the Default Supplier structure. Also, since the last election repopulated the political landscape, REAP also had a series of meetings to see whether a State Gas Law is possible at this time. Finally, additional assistance was given to MOFTER, particularly in the area of the Energy Community Secretariat's Annual Report.

KRA 1. Harmonize regulatory work of the three commissions to enhance performance of the market.

- KRA 1.1. Assist regulators to further harmonize rules that strengthen market regulation.
- KRA 1.2. Assist regulators to refine the model and revise the rules on tariff methodology to be more cost-based.
- KRA 1.3. Assist regulators to issue or amend regulations to meet EC Treaty requirements.
- KRA 1.4. Assist regulators as necessary to adapt to changing demands.
- KRA 1.5. Provide assistance in drafting commercialized contracts for an open market.

KRA 2. Technical and regulatory preparation for market opening.

- KRA 2.1. Advise and assist regulators' implementation of recommendations in the market opening policy paper to eliminate impediments.
 - KRA 2.1.1. Advise regulators on further development of policy paper. As requested, consult with Ministries on same.
 - KRA 2.1.2. Advise and assist regulators to revise licensing rules to accommodate market opening.
 - KRA 2.1.3. Assist regulators to require and EPs to implement load research.
 - The guidelines for Data Analysis in load research were drafted by technical assistance and are being reviewed by REAP.

- REAP researched and analyzed international practice on Load Research Data Analysis.
- REAP analyzed international practice in the balancing settlement process.
- REAP met with EP HZHB to discuss the delay in the load research activities in this power company.

KRA 2.1.4. Lead Case Study effort, consisting of open market base case and scenarios.

- REAP continued the particularly thorough analysis of the BiH primary and secondary legislation to identify the market processes gaps in the respective documents and recommend future steps
- REAP analyzed the procedures established in the United Kingdom and Nordreg areas.
- REAP prepared a number of presentations that included a Gap Analysis and “General Conclusions from the Gap Analysis.” These documents present a summary of REAP findings on gaps identified to date.
- REAP held the Case Study Subgroup meeting on September 4, 2012, where the presentations were made and discussed.
- REAP analyzed discussions from the meeting, revised presentations where and if needed and developed recommendations in regard to processes addressed in the Gap Analysis.

KRA 2.1.5. Assist/lead Market Working Group.

KRA 2.1.5.1. Lead and assist sub-group on assessment of World Bank Wholesale Market Study and its implementation in BiH.

KRA 2.1.5.2. Lead and assist sub-group on extension of transition period.

KRA 2.1.5.3. Lead/assist sub-group on Supplier of Last Resort (SOLR).

KRA 2.1.5.4. Lead /assist sub-group on Default Supplier (DS).

Please see KRA 2.1.5.2.

KRA 2.1.6. Advise regulators to create policy and requirements on new metering system to meet market opening requirements.

KRA 2.1.7. Research regional and EU best practices on ancillary services and balancing.

KRA 2.2. Advise and assist ministries on tasks needed to remove impediments to market opening.

- KRA 2.2.1. Assist MOFTER to communicate BiH position on wholesale market and market operator to ECRB and the Secretariat.
- KRA 2.2.2. Develop road-map on regional and local day ahead market (DAM) if BiH accepts the concept.
- KRA 2.2.3. Advise and assist MOFTER and regulators on the establishment of the regional Coordinated Auction Office (CAO).
- KRA 2.2.4. Advise and assist FMERI with regard to new Federation Electricity Law.
- KRA 2.2.5. If Federation drafts a Federation Gas Law, REAP will assist as requested.
- KRA 2.2.6. Advise and assist Ministries and regulators on needed legislation and amendments for market opening.
- KRA 2.2.7. Assist MOFTER and EPs in the revision of the Procurement Law to allow operational trading of electricity.

- REAP met with EP BiH representatives to discuss the Procurement Law.

- KRA 2.3. Assist regulators to adapt to changing demands, when necessary.
- KRA 2.3.1. Assist FERC to implement regulatory policy.
- KRA 2.4. Advise industrial and commercial customers on the status of market opening.
- KRA 2.5. Organize a closing conference on the status of the electricity market in BiH.

KRA 3. Assist and advise MOFTER with regard to the State Gas Law.

- KRA 3.1. Advise and assist if requested with further developments on drafting State Gas Law.

KRA 4. Strengthen the State Government’s role in the energy sector to facilitate BiH speaking with one voice in the internal and international liberalization of the energy sector.

- KRA 4.1. Perform written analysis of Third Liberalisation Package.
- KRA 4.1.1. If the Energy Community requires compliance with the Third Package, develop a road map to implement it.
- KRA 4.2. Follow all activities in BiH Electric Power Sector.
- KRA 4.3. Monitor decisions made by Energy Community and update implementation.

- REAP analyzed conclusions from the 18th Athens Forum held on June 27 and 28, 2012.
- REAP analyzed the agenda and draft decisions prepared for the 10th Energy Community Ministerial Council Meeting and prepared proposals for MOFTER’s discussions and actions.
- REAP participated in the preparatory meeting for the 10th Energy Community Ministerial Council meeting.
- MOFTER requested REAP to advise on the Energy Community Policy regarding social partnerships. REAP informed MOFTER that two documents exist on these issues which MOFTER should consider when participating in the Conference.

KRA 4.4. Advise and assist MOFTER to undertake actions to implement new obligatory decisions made by the Energy Community Ministerial Council.

KRA 5. Initiate regulatory partnership in cooperation with NARUC that will pair the three BiH regulators with a U.S. regulatory commission.

KRA 5.1. Advise and assist NARUC, USAID and the regulators in the organization of the partnership.

KRA 5.2. Coordinate the partnership.

TASK OBJECTIVE 2: RESTRUCTURED AND COMMERCIALIZED ENERGY COMPANIES

KRA 1. Assist as necessary and when requested in restructuring and commercialization of energy companies.

KRA 1.1. Advise and assist FMERI to develop energy policy that prescribes unbundling deadline for the Federation EPs.

KRA 1.2. Comment on the EPs’ draft restructuring documents, as requested.

KRA 1.3. Assist and advise EPs to develop and implement processes that ensure every unbundled company receives revenue that reflects its costs.

- REAP met with the Energy Department in Brcko District Public Utility (PU) to discuss unbundling of the distribution from the supply function as required by the Third Liberalization Package.

VII STATUS OF OVERALL PROJECT PROGRESS PER IMPACT INDICATORS

No	Indicator	Achieved Units of Measurement in this Quarter	Cumulative Total Fiscal Year 2012
1.	Clean Energy related measure	2	27
2.	Number of policy reforms/laws/regulations/administrative procedures drafted and presented for public/stakeholder consultation to enhance sector governance and/or facilitate private sector participation and competitive markets as a result of USG assistance	10	40
3.	Number of days of technical assistance trade and investment environment provided to counterparts or stakeholders	40	187
4.	Number of days of USG funded technical assistance in technical energy fields provided to counterparts or stakeholders	39	181
5.	Number of new legislative, policy reforms and regulatory practices initiated to strengthen economic governance at all levels	1	6
6.	Number of public sector officials trained with USG assistance	0	85
7.	Support for International Standards	1	3

VIII OVERALL 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 stakeholder	•		
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		•	
TO 1: BIH ENERGY SECTOR FULLY INTEGRATED INTO THE REGIONAL MARKET AND THE EU			
KRA 1. Harmonize regulatory work of the three commissions to enhance performance of the market.		•	
KRA 1.1. Assist regulators to further harmonize rules that strengthen market regulation.		•	
KRA 1.2. Assist regulators to refine the model and revise the rules on tariff methodology to be more cost-based.		•	
KRA 1.3. Assist regulators to issue or amend regulations to meet EC Treaty requirements.		•	
KRA 1.4. Assist regulators as necessary to adapt to changing demands.		•	
KRA 1.5. Provide assistance in drafting commercialized contracts for an open market.		•	
KRA 2. Technical and regulatory preparation for market opening.		•	
KRA 2.1. Advise and assist regulators' implementation of recommendations in the market opening policy paper to eliminate impediments.		•	
KRA 2.1.1. Advise regulators on further development of policy paper. As requested, consult with Ministries on same.		•	
KRA 2.1.2. Advise and assist regulators to revise licensing rules to accommodate market opening.		•	
KRA 2.1.3. Assist regulators to require and EPs to implement load research.		•	

