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## Regulatory and Energy Assistance

### COMMENTS ON MODULE 6- Framework for regulation and restructuring of electricity sector

The Energy Sector Study in BiH

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Analyzing the Module 6 of the Study we paid special attention to chapters 5-7 that are related to:

- Characteristics of electricity market,
- Identification of situation in the sector,
- Obstacles for full implementation of the reform,
- Recommendations for amending rules and main elements of missing regulations.

For this analysis we used, among other things, USAID-REAP's Proposal of program of activities to be realized in BiH in order to meet requirements of the Road Map for BiH.

After a careful review of Module 6, we concluded that it includes it identifies well the condition of the electricity sector in BiH and that the main obstacles to full implementation of reform are identified. The proposed recommendations and the main elements for amending missing regulations are a good basis for efforts to fully complete the required documents and activities in relation to implementing energy sector reform.

Besides the obstacles and recommendations specified in Module 6, we think that the following issues will affect the successful implementation of recommendations and final success of reform and they should be included/considered in the Study:

1. **Leadership in leading the reform process:** Leadership of the overall reform process, developing the strategy, issuing an umbrella law and realization of proposed activities for implementing the recommendations should be discussed in the study – whether it necessary to designate the body that should be leading the reform process, whether the existing legislation has clearly defined the implementer of electricity sector reform or, if not, who should it be? If MOFTER is to provide such leadership, is it legally and capacity-wise capable to lead/coordinate the reform? Perhaps the study could recommend a joint commission, comprised of the entity representatives and coordinated by MOFTER to provide such leadership. At a minimum, the study should point out the need for BiH to address the leadership issue.
2. **Designating implementers of recommendations:** Either the specific designation of implementers or pointing out the need for BiH to determine an implementer of certain assignments/recommendations from Module 6 would help in realizing activities that need be led by competent authorities/bodies in BiH.

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3. **Designing electricity market in BiH:** The Entity Action Plans state that the market in BiH is based on bilateral contracts and a balancing market as said in Module 6. However, in fact, the design of the market has never been addressed in a collective manner on the BiH level. USAID-REAP is planning to commence efforts on market design in February 2008. The pre-condition for market design is defining the Government(s) policies and goals that should be achieved by establishing the market.  
As the electricity market has not been collectively designed yet, all participants on the market have not been defined either. As a result, the study should be very cautious in giving statements in regard to the market operator (Chapter 5.5. page 61, last paragraph). Also, one must keep in mind that the Entity Parliaments made the decision that the part of the action plans that is related to privatization of electricity sector should be on hold for certain period so the process of privatization as a pre-condition for comprehensive defining of market model (Chapter 6.3. first bullet) should be reconsidered.
4. **Influence of methods of constructing new facilities on electricity market opening:** The fact that two Entity Governments entered into the process of constructing new generation capacities based on principles that can be somewhat defined as Private-State-Partnership with unclear ownership relationships and uncertain obligations to supply customers in BiH. It is possible that these relationships will affect the schedule and transparency of the electricity market opening in BiH and the region in order to protect domestic production that the government partially owns. Given that similar or different examples of investing with participation of state capital and ownership in new facilities can be found elsewhere in the neighborhood as well, the question is raised to which extent governments will be disposed toward a full electricity market opening in the Region. This question should be addressed as possible obstacle in market opening and sector reform.
5. **Defining Tendering procedure:** The basic elements of a tendering procedure are included in various laws; however, the Energy Community Road Map requires a detailed description of who does what. The need for a clear definition of Tendering procedures in building new capacities should be articulated in the study. The Tender as an alternative to Authorization process in building new capacity is insufficiently defined, and one can say that what is defined does not provide for process transparency. We think that developing of appropriate Authorization process should be one of recommendations of Module 6.
6. We think that bringing up the issue of TSO vs. ISO and Elektroprenos can result in reader's confusion and even lead the reader to make incorrect conclusions. Therefore we think that referring to the TSO in the document does not help the reader to focus on the important elements in the sector reform process and thus the usefulness of addressing this issue in the Study should be considered.
7. **Drafting strategy and energy policy incorporation in existing laws: The need for defining the process for drafting the Energy strategy, Energy policy and Implementation plan through amending existing Entity laws:** Module 6 (Paragraph 7.1, second chapter) suggests exploring the possibility of drafting a



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single umbrella law... We think that issuing such a law would be a positive step in organization of the Sector, including defining energy policy for all stakeholders of sector at the level of BiH (SERC, Transco, ISO). However, we think it is necessary to amend the existing Entity laws on electricity in a manner that will provide for defining the process of developing the strategy, policy and implementation thereof. By adopting these documents in the parliament(s), the legal obligation of undertakings in the sector will be determined as to implementing the issued policy. In that regard, USAID-REAP proposed to the Federation Ministry of Energy, Mining and Industry amendments to the existing law that is already in the process of amendment as initiated by the Ministry.

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