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Regulatory and Energy Assistance

AMENDMENTS BY THE FEDERATION BIH GOVERNMENT (AS A RESULT FROM THE DISCUSSIONS BY THE HoR REPRESENTATIVES IN THE FBiH PARLIAMENT)

AMENDMENT I

In Article 3, the definition of “Non-household customers/entrepreneurs,” after the words other consumption, the part of the text “/entrepreneurs” will be deleted.

AMENDMENT II

In Article 3, the definition of “Public service obligations” is changed and it reads: “Public service obligation” shall mean that level of service that is guaranteed to be provided to customers by a power undertaking that ensures that power companies are operated with a view to achieving security, including security of supply, regularity, quality and price of supplies, and environmental protection, including energy efficiency and climate protection, as further described in Article 13 of this law”.

AMENDMENT III

In Article 3, the definition of “Universal service” is changed and it reads: “Universal service” is part of the public service obligation and guarantees connection and supply to be provided to households and small business enterprises at reasonable, easily and clearly comparable and transparent prices, all as further defined in Article 13 of this Law”

AMENDMENT IV

Article 4 of the Proposed Law shall be changed and it reads:

Article 4

The Ministry competent for energy shall develop, the Federation Government shall propose and the Federation Parliament shall issue a long-term Federation Energy Strategy, which is a constituent part of Bosnia and Herzegovina Energy Strategy.

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A constituent part of the Federation Energy Strategy is the Federation Electric Power Strategy.

The Federation Electric Power Strategy consists of:

- 1) an Electric Power Policy,
- 2) an Electric Power Sector Development Plan, within the Strategic Plan and Program for Development of Energy Sector of Federation BiH.
- 3) an Implementation Plan for Electric Power Policy and Plan for Development of Electric Power Sector that defines the strategy activities to be implemented.

The Federation Electric Power Strategy is issued for the period of at least ten (10) years.

The Federation Electric Power Strategy is reviewed and updated by the respective Ministry for energy every two years and modifications and amendments thereof shall be made pursuant to the procedure referred to in paragraph 1 of this Article.

Electric Power Policy and Development plan is issued for the period of at least three years and is reviewed at least every two years and is updated when necessary.

Federation Electric Power Strategy and Electric Power Sector Development Plan determine the development of electric power infrastructure harmonized with Development Plan and Federation Spatial Planning, and determine necessary investments into public infrastructure as well as the expected level of domestic and foreign investments into electric power sector.

AMENDMENT V

Paragraph 1, Article 7 of the Electricity Law shall be changed and it reads:

“Measures, implementers and a schedule are contained in the Implementation Plan for the Electric Power Policy and Plan for Development of the Electric Power Sector referred to in Article 4, paragraph 3, line 3, and the Ministry of Energy will be in charge of monitoring and realization of the same.”

AMENDMENT VI

Article 13 of the Proposed Law shall be changed and it reads:

“Article 13

For the purpose of the overall economic interest, a public service obligation that ensures security, including security of supply, regularity, quality and price of supply, and environment protection, including energy efficiency and climate protection, may be imposed on the Business Companies that perform electric power related activities.

The obligation to perform public services is determined by the operational license issued by the Regulatory Commission.

Public service obligations are clearly defined, transparent, non-discriminatory and verifiable and shall guarantee the power companies equal access to the domestic customers.

The Government of the Federation will initiate and coordinate the activities of its Ministries and other governmental agencies responsible on the development of a strategy to protect vulnerable customers, including measures that will ensure the protection of vulnerable customers to avoid disconnection and to protect customers in remote areas.

As part of the public service obligation, the Business Companies that perform electric power related activities shall be charged with the obligation to provide universal service to all households and small business enterprises, public institutions and crafts and similar within its operational area in accordance with the Federation Electric Power Policy. These customers have a right to be supplied with electricity of a certain quality, with reasonable, easy and clearly comparable and transparent prices. Universal service includes the obligation of a distribution operator to provide connection of customers to the grid with reasonable, easily and clearly comparable and transparent prices.

With a view to providing universal service, the Regulatory Commission shall prescribe the procedure that will define the criteria for designation and appointment of the reserve supplier including the term and prices for the reserve supply. “

AMENDMENT VII

In Article 30, paragraph 3 of the Law shall be changed and it reads:

“In case of the termination the term of office for a member of the Regulatory Commission for one of the reasons specified in Article 29 of this law, in order to prevent blockade of work of the Regulatory Commission, the Government of the Federation BiH shall be obliged within 10 days from the day the term of office for a member of the Regulatory Commission is terminated, to appoint an acting member of the Regulatory Commission from the staff of the Regulatory Commission who is the most qualified for the performance of this function and who is representative of the same constitutional

peoples as the member of the Regulatory Commission whose term of office expired, until Parliament of the Federation appoints new member.”

AMENDMENT VIII

Article 77 of the Law shall be changed and it reads:

“Electric power companies licensed to perform the activity of generation of electric power may build facilities for generation of electric power, as a rule, in accordance to the authorization procedure in accordance to Electric Power Strategy and based on the applicable laws and prescribed procedures and criteria related to the authorization of building.

The criteria for authorization shall be related to the following:

- 1) the safety and security of the electricity system, installations and associated equipment;
- 2) location on which the facility will be constructed;
- 3) type of primary energy sources that the facility will use;
- 4) manner and conditions for generating and receiving electric power as public service obligation referred to in Article 13 of this Law;
- 5) conditions related to the termination of the facility's activity;
- 6) conditions related to environmental and health protection;
- 7) required energy effectiveness;
- 8) conditions for use of general and public goods;
- 9) characteristics particular to the applicant such as technical, economic and financial capabilities.

Before it commences to construct facilities referred in paragraph 1 of this Article, an electric power company shall be obliged to obtain a consent from the Ministry competent for energy, initial license for construction issued by the Regulatory Commission and licenses set forth by this and other laws.

The Regulatory Commission shall issue an initial license for construction of facilities for generation of electric power to the electric power company/companies that obtain a permit from the Ministry competent for energy that certifies that the building of electricity facility in accordance to the Electric Power Strategy “.

AMENDMENT IX

Article 78 of Electricity Law shall be changed and it reads:

“The Ministry competent for energy shall issue a Rule that will more precisely define the Authorization procedure and the Tendering procedure regarding construction of electric power facilities foreseen by the Federation Electric Power Sector Development Plan.

The authorization procedure shall be conducted in accordance to the objective, transparent and nondiscriminatory criteria. Public Tendering for the building of new capacity shall be launched in the event that on the basis of the authorization procedure it is not possible to ensure planned realization as determined by the Electric Power Strategy.

Following the completed procedure the Decisions on granting Authorization shall be made by the Federation Government with consent by the Federation Parliament.”

**AMENDMENTS BY THE HDZ CAUCUS IN THE HoR OF THE FEDERATION
BiH PARLIAMENT**

Amendment I

In the Proposed Law, Article 2 is changed and it shall read:

Article 2

The objectives of this Law shall be:

1. the development of the electricity market;
2. to stimulate development in the field electric power sector;
3. to stimulate local and foreign investments;
4. security of supply to electric power customers;
5. connecting to the international electric power market through a unified electric power market in Bosnia and Herzegovina;
6. cost-effective and rational use of electric power;
7. to attain energy efficiency;
8. to introduce competition and transparency and to prevent unwanted monopoly effects;
9. to protect the environment in accordance with the regulations and domestic and international standards;
10. to protect the interests of the system users;
11. to use renewable sources of electric power

AMENDMENT I is not accepted because it does not substantively change the provisions of Article 2 of the Proposed Electricity Law but rather only emphasizes the provision specified in paragraph 1 of this Article.

AMENDMENT II

In the Proposed Law Article 3, line 2 shall be changed and it reads:

“**Distribution**” shall mean transport of electric power on medium and low voltage distribution systems with a view to its delivery to customers, but not including supply.

AMENDMENT II cannot be accepted because it is contrary to the State Law on the Transmission of Electricity, Regulator and System Operator in BiH, having in mind the provisions referred to in Article 102, paragraph 6 of the Proposed Law

AMENDMENT III

In the Proposed Law Article 3, line 12 shall be changed and it reads:

“Eligible customer” means customers who are free to purchase electricity from the supplier of their choice and who offers for its load curve appropriate quality, safety and price. These customers cannot be public service users unless they are households; some business enterprises, public institutions, crafts in accordance to the Electric Power Policy in the Federation.

AMENDMENT III cannot be accepted because it is not in accordance to the Directive EC 2003/54.

AMENDMENT IV

In the Proposed Law, Article 7, paragraph 1 shall be changed and it reads:

Measures, implementers and the schedule related to Measures, implementers and the schedule related to The Ministry in charge of energy shall perform the monitoring of the Implementation Plan for the Electric Power Policy and Plan for Development of Electric Power Sector are prescribed by the Ministry in charge of Energy. The Ministry in charge for Energy monitors the implementation of the Implementation Plan for the Electric Power Policy and Plan for Development of Electric Power Sector

AMENDMENT IV is not accepted considering that the provisions of the proposed amendments are included in Amendment II of the Federation Government.

AMENDMENT V

In the Proposed Law Article 10 shall be changed and it reads:

The long-term electricity balance is issued for a period of ten (10) years, with rolling annual updates.

It shall be mandatory that the electricity balance contain:

- 1) the structure and level of available capacities for power facilities;
- 2) the required level of reserve capacity of power facilities;
- 3) the required level of operating stocks of the specific types of energy;
- 4) the requirements related to energy efficiency each year ;
- 5) the assessment of electricity consumption;
- 6) the planned and accomplished consumption of the specific types of energy in the past year and the planned consumption for the current year;

- 7) the requirements in regard to the minimal proportion of renewable energy sources and energy efficiency.

In the process of issuing the annual power balance the Government of the Federation shall prescribe for the power companies in the Federation an obligation to ensure the needs of electricity market in the FBiH from the domestic production.

The Annual electricity balance is issued not later than October 31 of the current year for the next year.

The FBiH Government shall approve export only after the needs of electricity market have been ensured from the domestic production.

AMENDMENT V shall not be accepted for the following reasons:

Paragraph 6, which reads about prohibition of the electricity export, is not in the spirit of competitive market as prescribed by the Directive 2003/54 EC on common rules for the internal electricity market, and thereby with Article 2 of the Proposed Law.

The obligation to supply tariff customers is set forth in Article 56 of the Proposed Law.

The issue of tariff customer supply within the territory of the Federation BiH will be regulated by the Electric Power Policy and the Electric Power Policy Interim Guidelines for the Regulatory Commission pursuant to Article 11 (approval for which is granted by the Parliament).

AMENDMENT VI

The following electric power sector activities are considered to be the subject matter of this law:

- generation of electric power,
- distribution of electric power,
- supply of electric power,
- trade, representation and mediation on the electricity market .

One or more electric power activities referred to in paragraph 1 of this Article shall be performed by business enterprises established in accordance with the Law on Business Enterprises and Crafts Law under the condition that they obtain a license for performance of the activity determined by this Law.

Power related activities in the Federation may be performed by the domestic and foreign legal and physical persons in accordance to the applicable regulations and this Law.

A Business Enterprise that performs one or more power related activities and other complementary activities (engineering, heating-thermal water activities, distribution of gas, metering etc.) shall be obligated to maintain accounting books and financial reports for each individual power related activity separately and separated from the other activities in accordance to the accounting rules.

AMENDMENT VI shall not be accepted because the proposed amendment to the Article 12 is fully contained in the provisions of Article 12 and Article 14 of the Proposed Law.

AMENDMENT VII

In the Proposed Law, after Article 12, introduce the new chapter VI named.

VI PUBLIC SERVICE OBLIGATION AND CUSTOMER PROTECTION

AMENDMENT VII is accepted.

AMENDMENT VIII

In the Proposed Law, Article 13 is changed and it reads:

Article 13

Without prejudice to that the electricity undertakings are operated in accordance with the principles of a competitive, secure and environmentally sustainable market within the Electricity sector the public service obligation may be imposed in general public interest.

For the purpose of overall economic interest, on the Business Companies that perform the electric power related activities can be imposed a public service obligation that can relate to safety, regularity, quality and price of supply, to environment protection, including energy efficiency and climate protection.

Public service obligations are clearly defined, transparent, non-discriminatory, and confidential and they guarantee the power companies equal access to the customers.

The public service obligation is related to the clearly defined safety, quality regularity and the price of the service, environment protection, energy efficiency and climate protection

The obligation to perform public services is determined by the operation license issued by the Regulatory Commission.

AMENDMENT VIII shall not be accepted in the proposed form, but rather the comments are inserted in the Amendment VI of the Government that defines Article 13 of the Law.

AMENDMENT IX

In the Proposed Law Article 14 shall be changed and it reads:

Article 14

Public service obligation shall be ensured for all households.

Small business companies, crafts public institutions and in accordance to the Electric Power Policy of the Federation shall be entitled to use universal service, i.e., the right to be supplied with electricity of a certain quality, inside their territory with reasonable, easy and clearly comparable and transparent prices.

Small business enterprises are defined in the Law on incentives and the development of the small industry (Official Gazette FBiH 19/05)

For the purpose of providing universal service, the Regulatory Commission shall prescribe the procedure which will define the criteria for choosing and appointing the Supplier of Last Resort as well as the time and price for such supply.

AMENDMENT IX shall not be accepted in the proposed form, but rather the comments are inserted in the Amendment VI of the Government that defines Article 13 of the Law.

AMENDMENT X

In the Proposed Law, Article 17 shall be changed and it reads:

For the purpose of reaching the goals set forth in Article 15 of this Law and regulating the electric power market in the Federation, the Regulatory Commission for Energy in the Federation of Bosnia and Herzegovina was established. (hereinafter called the Regulatory Commission) that acts in acts pursuant to this Law.

AMENDMENT X: can be accepted provided that the following text is added, so Article 17 reads as following: “For the purpose of reaching the goals set forth in Article 15 of this Law and regulating the electric power market in the Federation, the Regulatory Commission for Electricity in the Federation of Bosnia and

Herzegovina was established, that with this Law changes the title into Regulatory Commission for Energy in the Federation BiH. (Hereinafter called: the Regulatory Commission)”

AMENDMENT XI

In the Proposed Law Article 21., bullets 3), 4) and 7), shall be changed and they read:

- 3) to set prices for distribution systems users
- 4) to set prices for ineligible customers

- 7) General Conditions for Generation, Distribution, Supply and Metering

AMENDMENT XI: Cannot be accepted given that the language whereby the Regulatory Commission sets the tariffs for the use of distribution network and the tariffs for ineligible customers is more precise. Related to the changes of line 7, the contents of general conditions are precisely defined in Articles 61 and 62 of the Proposed Law.

AMENDMENT XII

In the Proposed Law, Article 31, last paragraph is changed and it reads:

The Regulatory Commission submits to the Parliament an annual activity report. In principle, the Federation Parliament, requests from Power Companies having the status of regulated to submit an opinion on the work of Regulatory Commission. The Federation Parliament may request that the FBiH Government give its opinion on the report on work, budget and work plan of the Regulatory Commission.

AMENDMENT XII: Cannot be accepted because this would be a unique case in the world that a Regulated Company evaluates the work of the Regulator.

AMENDMENT XIII

In the Proposed Law Article 37 shall be changed and it reads (as in the Draft)

Article 37

An interested party can file a complaint with Complaint Council on individual acts of the Regulatory Commission which address the field of tariffs, network access and connection to the network as well as licenses.

The President and two members of the Complaint Council shall be appointed by the FBiH Parliament based on a conducted public advertisement.

Members of the Complaint Council are appointed based on their personal qualifications as individuals that have previous experience and knowledge in the field of electricity activities, law, economy, for the period of four years and can be again re-appointed for only one mandate.

Members of the Complaint Council shall not have the status of Regulatory Commission employees and the fees for their work will be provided from the Regulatory Commission budget. The amount of the fees will be prescribed in the acts of Regulatory Commission. The Complaint Council shall issue Rules of Practice and Procedure for their work.

A complaint that is filed on individual acts of the Regulatory Commission postpones the execution of the acts until the complaint proceeding ends.

In decision making upon complaint referred to in paragraph 1 of this Article, the Complaint Council confirms the act or cancel thereof within the period not exceeding 30 days from the day of submission of the complaint. Complaint Council shall make decision with majority vote.

Individual acts from paragraph 1 issued by the Complaint Council from this Article are final.

An administrative dispute can be filed with the respective court against individual acts of the Regulatory Commission on which a complaint cannot be filed as well as against decisions of the Complaint Council

AMENDMENT XIII: It cannot be accepted because in the period of consideration of this law a majority of the Parliament representatives commented that the provisions about the Complaint Council are contrary to the Directive and do not ensure the independent operation of the Regulator.

AMENDMENT XIV

In the proposed Law Article 44., shall be changed and it reads:

Article 44

A distribution system consists of power facilities (plants and lines) of high, low and medium voltage through which electric power is distributed to customers.

AMENDMENT XV

In the Proposed Law in Article 59., after second paragraph, add the third paragraph that reads:

An eligible customer that is about to be connected or is connected to the transmission network must have an approval for the connection and execute a connection contract in accordance to the law and regulations.

AMENDMENTS XIV and XV cannot be accepted because they are contrary to the State Law, with the rationale from Article 102 paragraph 6 of the Proposed Law.

AMENDMENT XVI

In the Proposed Law Article 61 bullet 3) shall be changed and it reads:

3) the requirements and deadlines for, and the manner in which the contracts on connecting to the distribution network, usage, metering and supply of electric power shall be concluded

AMENDMENT XVI to Article 61 can be fully accepted

AMENDMENT XVII

In the Proposed Law Article 88, paragraph second shall be changed and it reads:

The licensee may transfer by its foundation act or by contract its operational license to one or more companies in its ownership, which are occupied with the same activity, but it must first obtain the approval for such transfer from the Regulatory Commission.

AMENDMENT XVII to Article 88: cannot be accepted because it minimizes the role of the Regulatory Commission.

AMENDMENT XVIII (submitted to the House of Representatives on 3.3. 2009, with a special act as an Amendment):

In Article 42 paragraph 2. is deleted.

AMENDMENT XVIII (submitted to the House of Representatives on 3.3. 2009, with a special act as an Amendment): This Amendment is accepted but in Article 42 paragraph 1 before the full stop, add a comma and the following text should be inserted: “in accordance to the Electric Power Strategy”.

AMENDMENTS BY MR. ŽARKO ŠANTIĆ

Amendment I

In Article 12 in paragraph 2 after words “pursuant to Law on Business Companies” add words “and the Law on Crafts”.

Amendment II

In Article 91 paragraph 3 after words “and foreign” add words “and physical”

Amendments I and II

Related to Articles 12 and 91 of the Proposed Law, cannot be accepted fully.

REPRESENTATIVE VESNA SARADŽIĆ

AMENDMENT I to Article 10.

AMENDMENT I

In the Proposed Law Article 10 shall be changed and it reads:

The long-term electricity balance is issued for a period of ten (10) years, with rolling annual updates.

It shall be mandatory that the electricity balance contain:

- 8) the structure and level of available capacities for power facilities;
- 9) the required level of reserve capacity of power facilities;
- 10) the required level of operating stocks of the specific types of energy;
- 11) the requirements related to energy efficiency each year ;
- 12) the assessment of electricity consumption;
- 13) the planned and accomplished consumption of the specific types of energy in the past year and the planned consumption for the current year;
- 14) the requirements in regard to the minimal proportion of renewable energy sources and energy efficiency.

In the process of issuing the annual power balance the Government of the Federation shall prescribe for the power companies in the Federation an obligation to ensure the needs of the electricity market tariff customers in the FBiH from the domestic production.

The Annual electricity balance is issued not later than October 31 of the current year for the next year.

The FBiH Government shall approve the export only after the needs of the FBiH electricity market have been ensured from the domestic production.

Amendment I cannot be accepted for the following reasons: Paragraph 6 that reads about the prohibition of the electricity export is not in the spirit of competitive market as prescribed by the Directive 2003/54 EC on common rules for the internal electricity market, and thereby with Article 2 of the Proposed Law. The obligation to supply tariff customers is set forth in Article 56 of the Proposed Law.

The issue of tariff customer supply within the territory of the Federation BiH will be regulated by the Electric Power Policy and the Electric Power Policy Interim

Guidelines for the Regulatory Commission pursuant to Article 11 (approval to which is granted by the Parliament).

AMENDMENT II TO ARTICLE 13

AMENDMENT II

In the Proposal Law in Article 13, paragraphs 4 and 5 are changed and they read:

The Business Companies that perform electric power related activities can be charged with an obligation to provide universal service to all households when the conditions are met in accordance to the principles of market opening. The Business Companies that perform electric power related activity may be charged with an obligation to provide universal service to small business enterprises, public institutions and crafts in accordance with Federation Electric Power Policy.

Universal service means the right to be supplied with electricity of a certain quality, with reasonable, easy and clearly comparable and transparent prices. For the purpose of providing universal service, the Regulatory Commission shall prescribe the procedure which will define the criteria for choosing and appointing the Universal service provider.

AMENDMENT VIII is not accepted in the proposed form, but rather the comments are inserted into the Government's Amendment VI that defines Article 13 of the Law.

AMENDMENT III na član 21.

In the Proposal Law, Article 21 paragraph 1 between bullets 4 and 5 a new bullet is inserted that becomes a new bullet 5 and it reads:

5) to set feed-in electricity prices from renewable sources (eligible producers)

We propose that the bullets 8) and 9) of the paragraph 1 of Article 21 be deleted

1. to supervise and regulate the relations between generation, distribution, supply and customers of electric power; including electric power traders in accordance to this Law and enforcement acts of the Regulatory Commission;
2. to issue the methodology and criteria for setting prices of electric power supply for ineligible customers and implementation of the adopted methodology;
3. to set electric power tariffs for distribution systems users

4. to set electric power tariffs for ineligible customers;
5. to set feed-in electricity prices from renewable sources (eligible producers
6. to grant and revoke licenses for electric power generation, distribution, supply and trading;
7. to grant initial licenses for construction of facilities for electric power generation in accordance with the implementation act,
8. To issue the General Conditions for Electricity Delivery (hereinafter: General Conditions),and Grid Code

Proposal of the new bullet in paragraph 1 that is related to the obligation of the FERC for setting feed-in tariffs is accepted.

The proposal that bullets 8) and 9) be deleted cannot be accepted because it is not in accordance to Article 17 of the Proposed Law, given that it is crucial that the independent Regulatory Commission sets the prices for coal earmarked for electricity generation in thermal power plants. Previous practice was that the Federation Government determined prices of coal for electricity generation in TPPs.

AMENDMENT IV to Article 65

In the Proposed Law, Article 65 paragraph 1 shall be changed and it reads:

“Upon the proposal by the Ministry competent for energy, and based on the criteria determined in advance, the Federation Government may prescribe the restricted measures for the electric power supply for customers or determine special measures for electric power companies in Federation in the following cases.”

AMENDMENT IV can be fully accepted.