



Acquis Communautaire

GENERAL RULES

As an initial step, a Statement by both Prime Ministers should be sought, supporting the implementation of the Road Map and reform of the sector. This will ensure momentum and cooperation throughout the sector.

1.1. Imposition on undertakings: means the following:

- impose on undertakings the duty for electricity undertakings to conduct their activities in accordance to Directive 2003/54 Chapter II General Rules for the Organization of the Sector, *Article 3* Public service obligations and customer protection; and
- specifically, in the Federation the implementation of the Action Plan by restructuring of EPs and unbundling of the DSO and Supply; and in the RS the unbundling of the DSO and Supply.
- establishing a power utility in the Brcko District.

Status: FBIH EPs still operate as vertically integrated utilities. EPRS has already unbundled generation and distribution, while unbundling of the DSO and supply must still be done. A power utility is not formed in the Brcko District.

To do list:

1. Analyze if primary and secondary legislation has appropriately transposed the requirements of the Directive: amend as necessary.
2. Enact legislation and regulations that will provide for the establishment and operation of a power utility in the Brcko District.

Obstacles:

There has been no publicized and clear definition of the requirements to transpose of EU Law to the law of BiH to guide the exact process of transferring information in the Directives into the Law. An official position is needed.

Overcome Obstacles: obtain commitment by the three ministries and EPs through dialogue of all stakeholders

Implementing Partners: Three ministries, regulators, EPs, Directorate for European Integration and the Brcko District.

This publication is made possible by support from the American People sponsored by the United States Agency for International Development (USAID). The contents are the sole responsibility of the author/s and do not necessarily reflect the views of USAID or the United States Government.

Necessary Resources: Technical assistance

Timing: minimum 15 months.

EP FBiH, EPHZHB holding formation – 9 months

Enacting legislation and regulations in Brcko District – 12 months.

Establishment of Company in Brcko District – 15 months

1.2. Customer Protection: means (i) include provision of universal service for households and, if deemed appropriate, small enterprises at reasonable, easily and clearly comparable and transparent prices; and (ii) create law provisions for vulnerable customer protection, which includes measures to help them avoid disconnection.

Status: Provisions on customers’ protection exist in the laws. Customer protection is addressed in the Law, license conditions for performing electricity-related activities and General Conditions for electricity supply (enacted in RS). The FBiH and RS Laws on Electricity have vulnerable customer provisions. The manner in which the laws have addressed the customer protection issue is not harmonized with the Directive. The Banjaluka Economic Institute prepared a vulnerable customer study in April 2004. The Energy Study for BiH, prepared by the Institute Hrvoje Pozar in 2007/08, analyzed to what extent the vulnerable customer study has been implemented. The RS allocated 10 million KM to assist vulnerable customers in 2008. The FBiH Government is not working on a plan for vulnerable customer protection.

To do list:

1. The Federation to formulate a vulnerable customer program.
2. The RS Government should review a possibility and the need for expansion of vulnerable customer assistance and consolidation, if deemed appropriate, with other social assistance.
3. Analyze if primary and secondary legislation have appropriately transposed the requirements of the Directive in regard to customer protection and socially vulnerable customers. Amend if necessary.
4. Amend the entity laws on electricity and other relevant laws, if necessary, to include the provision on vulnerable customer provision (Reference, Social MOU, ERGEG document on vulnerable customers, ECRB guidelines for protection of vulnerable customers)

Obstacles:

Political Will: Due to the costs associated with the vulnerable customer program, the Federation may resist this activity.

Implementing Partners: the Ministries, the Governments, the legislative bodies, the regulators, and the EPs.

Necessary Resources: Legal advisors

Timing: 1 year

1.3. Public Service Obligations: means the imposition of the Public Service Obligation (PSO), which requires that tariff customers be served. This duty must be included in the primary and secondary legislation, and General Conditions for Electricity Supply and Distribution Code rulebooks should be checked.

Status: General Conditions for Electricity Supply and Distribution Grid Code are adopted in RS. These two documents have not been adopted in FBiH and need to be endorsed by FERC.

To do list:

1. FERC to process through the procedures and endorse General Condition for Electricity Supply and Distribution Code. Harmonize if possible.
2. RS to expand assistance and either consolidate with other social assistance in legislation and/or amend electricity law, if appropriate.

Obstacles: N/A

Implementing Partners: FERC, RSERC, and 3 EPs

Necessary Resources: N/A

Timing: 6 Months

1.4. Security of Supply: means (i) the existence of Energy Strategy, Energy Policy, and ISO Generation Indicative Plan; (ii) identification of the responsible Institution for monitoring security of supply; and (iii) report every two years

Status: There is neither an Energy Strategy nor an Energy Policy Document for any of the Entities or BiH. The existing ISO Generation Indicative Plan is not based on realistic data because of the nonexistent Strategy and Policy and because of the paucity of data submitted by the EPs; as a result, while the indicative plan can estimate expected future demand, it can only give an idea of required new generation capacity. Thus, it is difficult to produce a viable Transco investment plan based on the indicative plan. The domestic generation deficit is imminent -- before or in 2012. This is a short time frame, given the paucity of properly processed generation projects for development of new generation capacity and the shortage and high prices of new generation equipment because of demand. Finally, no organization or persons are accountable for developing the proper procedures or a mechanism for the above and/or monitoring the same. **Milestone Dependent.**

To do list:

1. Prepare the BiH Energy Strategy supported by the Entity Strategies, if any.
2. The Governments and legislative bodies to insert policy provisions in their Electricity Laws.

3. EPs to support and supply necessary data to the ISO so that ISO can prepare a viable Generation Indicative Plan.
4. Transco and distribution companies to develop network development plans based on documents referred to in above three bullets.
5. Make an institution(s) accountable for the monitoring of the resolution of the security of supply problems and reporting.

Obstacles:

1. Political: the limited sense of urgency on behalf of the governments to create the energy strategy and policy documents;
2. The poor relations and cooperation in the transmission sector with Transco, the EPs, and SERC refusing to assume/enforce the proper roles according to the Transco and ISO Laws, allowing the ISO to function as prescribed therein.
3. Technical/Legal: no clearly-defined institution is accountable for security of supply and monitoring the ongoing situation in BiH.

Implementing Partners: the three Ministries, Transco, ISO, EPs, SERC

Necessary Resources: Technical Assistance

Timing: 24 months

1.5. Technical Rules: means the adoption / issuance of Connection Rules and Distribution Grid Codes.

Status:

Transmission:

- the Transmission Grid Code and Market Rules have been issued (with references to multiple rules that must yet be developed),
- the SERC has yet to approve the draft Connection Rules.

Distribution:

- FERC has yet to issue the General Conditions for Electricity Supply.
- FERC has yet to issue the Distribution Grid Codes.

To do list:

1. General Conditions for Electricity Supply to be issued by FERC.
2. Distribution Code to be issued by both FERC and RSERC.
3. SERC to approve the Connection Rules.
3. Revision of Grid Code and Market Rules according to references to remaining rules to be developed.

Obstacles:

1. Inordinate delay in issuing Conditions of Supply by FERC a result of complications with the Canton laws.
2. Delay in EPs submitting the Distribution Codes to be approved.
3. Difficulty in relations between Transco and ISO and failures in developing rules together in a task force or technical team.

Implementing Partners: The three regulators

Necessary Resources: Technical assistance.

Timing: 24 months

GENERATION

1.6. Authorization:¹ means the adoption and implementation of the authorization procedures as prescribed by the EC Directive 54. **Milestone Dependent**

Status: Construction of new facilities in RS is addressed in the Law on Physical Planning, the Law on Concessions and Policy on granting concessions. The Regulators understand the meaning of authorization differently. The Law on Physical Planning has not been issued yet. There is a Law on Concessions that is about to be amended. While elements of authorization and possible duplication exists in some currently-existing BiH laws in both Entities and at the level of BiH, a harmonized and clear precise definition of the authorization procedure for electricity projects that is in accordance with EC Directive 2003/54 does not exist. Even in the same Entity, the prescription does not exist in a consolidated manner. Because the connection of the authorization process to attracting investment is so strong, the entire process of development of the procedure, including the tendering procedure, should be made very transparent and be readily available to the public.

To do list:

1. Analyze the existing laws' provisions for the authorization process with regard to compliance with Directive 2003/54 and determine deficiencies, if any.
2. Prepare and adopt amendments to the existing laws that will prescribe the authorization and tendering procedure for energy projects as stipulated by the EC Directive 54 in a clear manner, all in one place. These amendments should include tendering procedures, discussed below.
3. Harmonize the existing laws.
4. Make the 'new' procedures easily accessible by the public.

Obstacles:

1. The applicable laws exist at all levels of government, including that of the Cantons in the Federation.
2. Further, an accountable organization or group should be designated to work on the problem.

¹ Jones, Christopher, EU Energy Law, Volume 1, The Internal Energy Market, Claeys & Casteels (2004), Section 2.3 states that the philosophy underlying the authorisation procedure is rather simple: “Member States are obliged to publish a list of criteria that must be met by any undertaking wishing to establish new generation capacity. These criteria must be ‘objective, transparent, and nondiscriminatory’. Any undertaking meeting these criteria must have the right to build and operate generation capacity.” [Both licensing and tendering can be part of an authorisation procedure.]

3. Because project development processes have been opaque in the past, high level buy-in is crucial.

Implementing Partners: Ministries, Regulators, ISO, Transco and EPs.

Necessary Resources: Technical assistance

Timing: 36 months

1.7. Tendering Rules: means the a transparent and public procedure to solicit expressions of interest or offers for new generation investments/projects through a tendering process, whose implementation is supervised by the relevant authority.

Status: Tendering procedures exist in the Concession Laws and Procurement Laws; however, the process of generation project development is not clearly articulated in one place for potential investors; and in new and ongoing development efforts, the process continues to be opaque.

To do list:

1. Analyze existing laws’ for the public tendering process with regard to compliance with the Directive 2003/54 and determine deficiencies, if any.
2. Draft in one place the authorization and tendering procedures for all electricity-related projects, as described in 1.6.
3. Perform a legal analysis to determine whether the current procurement law(s) and concession laws fully comply with the requirements of the EU. Draft revisions to current law(s) if not in compliance with EU standards;
4. If and when EC compliant, introduce and assist in passage of the amendments, if any, to the procurement law(s).
5. Ensure that identified procurement supervisory bodies/institutions processes are fully harmonized so as not to discourage potential investors. Ensure ongoing harmonization.

Obstacles:

1. Lack of commitment on behalf of the government/ institutions;
2. Insufficient resources.

Implementing Partners: The three ministries, Entity Governments, the Regulators

Necessary Resources: Technical assistance

Timing: 36 months

TRANSMISSION AND DISTRIBUTION SYSTEM OPERATORS

1.8. Designation (TSO and DSO): means the formation of DSO and TSO

Status: **Partially Completed** for Transco and ISO but **not** for DSOs, which are neither prescribed nor formed. DSO creation is not required by the domestic laws because at the time the laws were passed, there was no such requirement.

To do list: Amend the existing electricity laws to clearly require unbundling and DSO formation according to Directive 2003/54. Consider amendments to the laws.

Obstacles:

1. The task is not considered urgent, given the level of market development and number of eligible customers on the distribution voltage level;
2. Parties do not find it necessary to issue amendments in the short term that would expedite this issue.

Implementing Partners: the ministries, the EPs

Necessary Resources: Legal and Technical assistance.

Timing: 12 months, after the Federation EPs’ functional unbundling, estimated to take 24 months.

1.9. Tasks (TSO and DSO): means division of roles/ responsibilities between the TSO (Transmission Company and ISO) and DSOs.

Status: Roles have not been defined in the Law on Electricity in FBiH, while amendments of the RS Law (Article 65) defined formation of the DSO, as well as its tasks.

To do list:

1. Amend the FBiH law to require DSO creation;
2. Define the tasks for the functions of the DSO in FBiH as set forth in the EU Directive once formed;
3. Ensure that the efforts and results are harmonized as between the Entities.

Obstacles: Delay resulting from the time to amend the legislation.

Implementing Partners: FMERI, FBiH Parliament.

Necessary Resources: Legal and technical assistance.

Timing: 12 months, with DSO formation for both Entities beginning after Federation completes functional unbundling, which is estimated to take approximately 2 years.

1.10. Unbundling (TSO and DSOs): means legal, organization, decision-making and accounting separation of generation, DSOs, and supply from each other and any other activities

Status: RS unbundling complete regarding generation and distribution. The unbundling of transmission functions have already been completed (Transmission Company and Independent System Operator).

In both FBiH EPs all remains legally and functionally bundled. In RS distribution and supply continue to be bundled together but unbundled from generation; **Milestone Dependent**

To do list:

1. FMERI to impose, through the EP management boards, full unbundling;
2. RS Ministry to impose, through ERS management board, DSO/Supply unbundling to dovetail with the Federation’s completion of the same.
3. Technical Obstacles: EPs’ accounting systems need to be adjusted for unbundling; business processes need to be separated and reformulated/reorganized;

Obstacles: The ongoing uncertainties with regard to the Federation EPs’ commitment to unbundle.

Implementing Partners: the Ministries and EPs

Necessary Resources:

Timing: a minimum of 2 years, assuming that the DSO unbundling waits until the Federation has functionally unbundled.

1.11. Dispatching and Balancing (TSO and DSO): means the creation by the ISO and DSO, with approval of the applicable regulator, meeting technical pre-conditions for dispatching. Additionally, the ISO should create the technical pre-conditions and harmonize the rulebook for the balancing market and implement rules.

Status: Regarding transmission, the ISO’s technical pre-conditions (SCADA, accounting measurement) are underway but are subject to multiple delays and have not yet been met. The balancing market has not been designed. No DSO has been formed. **Milestone dependent.**

To do list:

1. SCADA system is to be completed.
2. EPs and Transco need to meet technical pre-conditions by, at a minimum, fully cooperating with the ISO to install automatic measurement for as direct data as possible from the regional areas of the Transco and each generation plant, and responding in all cases to requests by the ISO in the context of its authorities;
3. The rulebook on balancing market must be created;
4. DSOs must be formed;
5. The DSO role in dispatching must be defined and appropriate rulebooks issued, all consistent with the roles set forth in the EU Directive.

Obstacles: Partly because there is no clear energy policy and because there are neither incentives to meet nor penalties for not meeting these technical pre-conditions, designing the balancing market, and forming and then defining the operational rulebooks for the DSOs, the EPs have not been seriously focused on the problem.

Implementing Partners: EPs, ISO, DSO when formed and regulators

Necessary Resources: Technical committees to create processes to be submitted to regulators and technical assistance.

Timing: 36 months

1.12. Confidentiality (*TSO and DSO*): means that data of a confidential nature obtained by the TSO and DSO by virtue of their functions must be kept confidential.

Status: Article 18 of the Market Rules contains one provision that addresses confidentiality, saying, “Strict confidentiality will apply to the contract notifications, and no commercial information will need to be notified to the ISO,” and the Grid Code contains references to confidentiality of information in the connection contract and metering data (Articles 3, 4.3, 9.1.2, 9.10.2, 9.11.1, 9.11.6). Since no DSOs have been formed, then as of yet, no confidentiality provisions have been developed. However, the tendency in the sector is to maintain that *everything* is a business secret.

To do list:

1. Assess the definitions in various legal documents of “business secret” and develop an appropriate definition that is consistent with a transparent and competitive market, with a bias toward transparency rather than confidentiality, unless true business interests would be jeopardized.
2. Determine whether the confidentiality provisions in the Market Rules and Grid Code (i) are reasonable, (ii) prescribe appropriate procedures for keeping the information confidential; and work toward an open and transparent market.
3. Once the DSO is formed, a Technical Committee must determine confidentiality practices and procedures.

Obstacles:

1. The concept of confidentiality is over-asserted, with regulated companies generally asserting that almost everything is a “business secret.” This does not lead to an appropriately transparent and competitive market.
2. The regulators cooperate in the regulated companies’ over-use of the assertion of confidential information unless a company’s competitive position would truly be damaged.

Implementing Partners: Ministries, EPs, ISO, Transco and regulators,

Necessary Resources: Legal and technical analysis and drafting.

Timing: 1 year

1.13 Combined Operators: means that the ISO and DSO can combine into one organization.

Status: **N/A**. The ISO is the operator of the transmission system.

UNBUNDLING/TRANSPARENCY OF ACCOUNTS

1.14 Rights of Access to Accounts: means regulators have the legal right to access all information in the regulated companies’ accounting systems.

Status: All regulators have the legal right through the electricity laws and their regulations to access regulated companies’ accounts; Regulators demonstrate satisfactory status in regard to access to accounts. There is no appropriate obligatory mechanism for the regulators to force access.

To do list:

1. Assess the adequacy of enforcement mechanisms for the regulators to mandate the submissions of data by regulated companies.
2. Appropriately amend the laws/regulations in order to ensure actual, not theoretical access to accounts and other information.

Obstacles:

Laws and rules and obligation of access to accounts and other information are ineffective without the regulators being able to enforce them.

Implementing Partners: Ministries, Regulators and EPs.

Necessary Resources: Technical and legal assistance.

Timing: 1 year

1.15. Unbundling of Accounts: means regulated companies separate their accounts according to function, i.e., generation, distribution and supply in the current EPs, and then by individual company, to further transparency. This is typically done according to charts of accounts required by regulators.

Status: The RS accounts are unbundled and charts of accounts and instructions therefor have been issued by RSERC. Neither FERC nor SERC have issued charts of accounts. Whether EP HZHB has fully cost accounting unbundled generation, distribution and supply and EPBIH has unbundled costs of generation but has not separated distribution from supply.

To do list:

1. FERC and SERC to issue their charts of accounts and instructions thereon;

2. Owners to impose accounting unbundling within the Federation EPs.

Obstacles: Delay in verification and moving forward.

Implementing Partners: the Ministries, FERC, SERC, EPBiH, EPHZHB.

Necessary Resources: Technical assistance

Timing : 12 months

ORGANIZATION OF ACCESS TO THE SYSTEM

1.16. Third Party Access: means third parties may use the transmission and distribution networks, based on published tariffs that are applicable to all eligible customers and other third parties who want to use the system and applied objectively and without discrimination.

Status:

1. RSERC has embedded its third party access rules in the General Conditions of Supply.
2. The SERC issued a third party access rule in December 2007, which references a contract for TPA; however, no such contract has been drafted by the ISO [or any other body.]
3. FERC has neither issued the General Conditions of Supply nor a third party access rule.
4. Currently, only one third party access contract has been signed by Aluminij with the Transmission Company, the contract not being in standard form or according to international best practice.

To do list:

1. FERC needs to either issue General Conditions of Supply that will include a third party access rule/or publish a separate third party access rule; harmonize to the extent possible with documents issued by RSERC.
2. Standard, pro forma contracts for access to the system for the transmission and distribution networks must be drafted.
3. Access to transmission contracts should be signed by generators, distributors, directly connected consumers, traders and any other third party wishing access to the transmission network.
4. The access to distribution contracts should be entered into by third parties with the EPs now in FBiH, distribution companies in Republika Srpska and the DSOs when formed.

Obstacles: FERC faces a problem of how to avoid double charging for connection (different policies in different cantons with respect to charging for connections); because of this, the Conditions of Supply have not been issued.

Implementing Partners: Ministries, SERC, FERC, ISO, Transco and EPs

Necessary Resources: legal assistance for drafting the TPA pro forma contracts

Timing : 6 months

1.17. Market Opening and Reciprocity: Reciprocity means that the legislating country may limit the right of companies established in other countries to sell in its domestic market to the extent that such customers are permitted to choose their supplier in the exporter’s home market. Market opening means that eligible customers may choose their supplier. **Milestone Dependent.**

Status: The concept of reciprocity has not been addressed either in the Entity electricity laws or in the RSERC or FERC regulations. Whereas eligibility thresholds have been defined, a market design for market opening beyond that has not been developed.

To do list:

1. Entity laws to be amended to include the reciprocity provision.
2. RSERC and FERC to include provisions on reciprocity between contracting parties in their regulations;

Obstacles: Ability of regulators to organize their resources to manage the day-to-day regulatory duties and attend to reform issues.

Implementing Partners:, RSERC, FERC and Entity Ministries

Necessary Resources: Technical Assistance

Timing: 36 months

1.18. Direct Lines: means either an electricity line linking an isolated production site with an isolated customer or an electricity line linking an electricity producer and an electricity supply undertaking to supply directly their own premises, subsidiaries and eligible customers. Provisions to enable direct lines with the criteria of authorization for the construction of direct lines are necessary.

Status: **Completed**

To do list:

Obstacles

Implementing Partners

Necessary Resources:

Timing

1.19. Regulatory Authorities: means authorities that are independent of the industry and that regulate the sector by ensuring the application of the appropriate articles of the EU Directive on electricity, ensuring non-discrimination, effective competition and the efficient functioning of the market. The Secretariat’s Road Map states, “Provide for harmonized operation and cooperation of Regulators; consider integration.”

Status: The three Ministries have agreed that there will be no regulator unification. The three regulators meet periodically and generally work together on a high level.

To do list:

1. Generally harmonize secondary regulation to ensure a seamless regulatory regime as much as possible to facilitate investment.
2. Consider the institution of periodic plenary sessions of the three regulators together.
3. Determine an appropriate regulatory regime for Brcko District.

Obstacles Sufficient resources.

Implementing Partners: prime ministers, governments, regulators

Necessary Resources: technical assistance

Timing: 24 months

FINAL PROVISIONS

1.20. Safeguard Measures: means a procedure in the event of a sudden crisis where the physical safety or security of persons, apparatus, installations or system integrity is threatened.

Status: There are some safeguard provisions in the RS Electricity Law but none in the FBiH or Law at the level of BiH. The procedural rules of the regulators contain provisions for emergency sessions and procedure in the event of such crisis.

To do list:

1. Analyze the safeguard issues prescribed in the law(s) and procedural rules to ensure that they are consistent and harmonized, with the goal being that the procedures are perfectly clear to the appropriate bodies exactly who will do what in the event of a physical crisis.
2. Amend the laws and the regulatory rules to include harmonized safeguard measures that provide for a clear process that eliminates confusion or duplication;
3. The Entity DSOs to develop a harmonized process for a safeguard issue on distribution lines, and the ISO to develop a consolidated rulebook regarding safeguard measures on transmission, working with the Ministries and regulators to ensure that all processes are clear, ensure sufficient notification to the respective governments, regulators and contiguous or affected neighboring systems.

Obstacles Lack of coordination and initiative.

Implementing Partners: the Ministries, the regulators and the ISO

Necessary Resources: technical assistance.

Timing : 12 months

1.21. *Monitoring Imports*: means reporting every three months on the imports of electricity as regards physical flows from third countries.

Status: **Completed**

To do list:

Obstacles

Implementing Partners

Necessary Resources:

Timing

1.22. *Derogations*: means the ability to apply for exceptions to the relevant provisions of EC Directive 54/ 2003, as provided therein for small isolated systems, Member States that face technical difficulties in respecting the deadline for opening the market to certain limited groups of non-household customers, and for micro-isolated systems with regard to refurbishing upgrading and expansion of existing capacity. ,

Status: No provisions have been made for applying for a derogation from the EU Directive in any of the primary or secondary legislation. There is a general consensus that there is no need for exemption.

To do list:

1. Develop coordinated criteria for derogations.
2. Derogation criteria and applications should be fully transparent.
3. Transpose the derogation provisions into legislation by amendment.

Obstacles. Sufficient resources.

Implementing Partners; Governments, Ministries.

Necessary Resources: Legal assistance.

Timing: 12 months

REGULATON 1228/2003

1.23 (Skipped number)

Status:

To do list:

Obstacles

Implementing Partners

Necessary Resources:

Timing

1.24. Inter-TSO Compensation Mechanism: means contracting party legislation/regulations in line with Article 23 of the Regulation 1228.

Status: **Completed**

To do list:

Obstacles

Implementing Partners

Necessary Resources:

Timing

1.25. Charges for Access to the Networks: means international charges (cross-border exchanges in electricity), according to Article 4, Charges for Access to Networks 1228/2003

Status: **Completed**

To do list:

Obstacles

Implementing Partners

Necessary Resources:

Timing

1.26. Transparency: means the ISO should: (i) publish on its website actual physical flows and outages, actual and planned; (ii) develop coordination and information exchange mechanisms to ensure the security of the networks in the context of congestion management should be developed; (iii) make public safety operational and planning standards public, the information published including a calculation of total transfer capacity and the transmission reliability margin based on the electrical and physical features of the network. (This feature is subject to the approval of the regulatory authorities); and (iv) publish an estimate of the available transfer capacity for each day, indicating any available transfer capacity already reserved. These postings should be made at specified intervals before the day of transport and should include, in any case, week-ahead and month-ahead estimates, as well as a quantitative indication of the expected reliability of the available capacity.

Status: Recently the ISO started to publish required information on interconnection capacities is published.

To do list:

1. Identify whether the published data is fully in accord with required in Regulation 1228/2003.

2. Identify technical and other obstacles, if any, to meet requirements of Regulation 1228/2003.
3. Develop solutions to all identified obstacles.
4. Amend appropriate documents if needed.
5. Ensure there are enforcement mechanisms to require all stakeholders to provide needed data. See 1.14.

Obstacles:

1. Resistance by EPs and Transco to the function of the ISO.
2. Neither the ISO nor the regulators can enforce production of data from the regulated companies or others, despite the requirement to produce information articulated in the laws.

Implementing Partners: ISO, SERC, EPs, Ministries

Necessary Resources: Technical assistance.

Timing: 12 months

1.27. Congestion Management: means that congestion on cross border transmission lines should be relieved by market orientated, non-discriminatory methodologies.

Status: BiH does not have long-term contracts that can create an obstacle to the market approach of cross-border capacity allocation. Currently, the ISO applies a pro-rata methodology (NTC based, 50%) approach, the rights to capacity are not tradable on a secondary market, and there is no secondary market on which to trade them. The ISO has submitted a Rule on cross border capacity allocation to SERC, but SERC has not issued a decision. Further, there seems to be confusion regarding custodial arrangements for collected funds from penalties on allocated but unused capacity, their purpose and the process for pass-through of the funds to the appropriate recipient

To do list:

1. Auction of interconnection capacities must be designed and established.
2. Issue Rule on cross-border capacity allocation.
3. A secondary market for allocated but unused capacity must be developed.
4. A fully transparent custodial mechanism for the funds collected as penalties on allocated but unused capacity must be developed.
5. The use of the funds resulting from penalties on allocated but unused capacity must be determined. Possible uses of the funds are: (a) guaranteeing actual availability of the allocated capacity; (b) network investments maintaining or increasing interconnection capacities; and/or (c) as income to be taken into account by the regulatory authorities when approving the calculation of Transco tariffs, and/or in assessing whether tariffs should be modified.
6. A mechanism to enforce market instruments should be developed.

Obstacles:

1. Delay in issuing a Rule on Cross Border Capacity Allocation.
2. The delay in developing an appropriate, transparent custodial mechanism for funds collected from penalties on allocated but unused capacity.
3. Delay in publicly determining the use of the funds from allocated but unused capacity
4. The lack of a fully transparent, public process for designing the processes and mechanisms involved in custody of funds, use of funds, secondary market, design of auction procedures, mechanism to enforce market instruments and wisdom and viability the long-term agreements.

Implementing Partners: Three Ministries, ISO, Technical Committee, and SERC

Necessary Resources: Technical assistance.

Timing: 12 months

1.28. New Interconnections: Insert in legislation and regulation positions from the Directive 2003/54 and Regulation 1228/2003 that are related to exemption of revenue allocation of new interconnections from cross-border capacity defined in Article 6 of the Directive 2003/54.

Status: No rules, guidelines or procedures have been developed to facilitate and enforce the planning and construction of new interconnectors. **Milestone Dependent**

To do list:

1. A harmonized policy with regard to planning and constructing new interconnectors should be developed. This includes policy with regard to the conditions under which the interconnections are exempt from third party access, regulated transmission tariffs, tariffs for the provision of balancing services and the requirement that such tariffs be proportionate and applied in a non-discriminatory manner, and
2. The ISO should draft a rule on planning and constructing new interconnectors, along with the Technical Committee, and submit the rule for approval to the SERC.

Obstacles: Since these issues concern system and investment planning, the same difficulties could be encountered between the Transco and ISO with regard to who is responsible for what.

Implementing Partners: Three Ministries, Transco, SERC, ISO, Technical committee

Necessary Resources: Technical assistance

Timing 24 months

1.29. Penalties: means the definition of effective, proportionate and dissuasive penalties applicable to infringement of the rules on access to the network for cross-border exchanges in electricity (Regulation 1228/2003).

Status: While the SERC has the ability to impose penalties provided in the state electricity law, rather than the penalty-assessing ability of the regulator being effective, proportionate and dissuasive, the penalty amounts addressed in the electricity law are *de minimus*. The same weak penalty provisions actually exist for violations of all regulations. See 1.14.

To do list:

1. Strengthen the SERC’s ability to assess penalties for violating the rules developed pursuant to on cross-border to be effective, proportionate and dissuasive. [The penalty assessment abilities of all three regulators in general should also be examined as discussed in 1.14.]
2. Define mechanism for monitoring the use of the funds resulting from the penalties.

Obstacles: There has been some confusion about the custody and disbursement of other penalty amounts. The same confusion may occur in this area.

Implementing Partners: Three Ministries, three regulators, ISO, Transco and the three EPs.

Necessary Resources: Legal and technical assistance.

Timing 12 months

MARKET STRUCTURE

2.1. Generation Supply – Assessment of Market Concentration in Electricity Industry: means that the relevant authorities shall define the transparency rules on market concentration and develop instruments for monitoring it.

Status: As a policy matter, the relevant authorities have not defined the market either as it exists today or will become in terms of market design. **Milestone dependent**

To do list:

1. Define the relevant market design, define transparency rules on market concentration, and define transparency rules for purposes of measuring market concentration.
2. Determine appropriate analytical tools and techniques to measure market concentration consistent with international best practice.

Obstacles: There may not be adequate technical knowledge of the methodologies to measure market concentration.

Implementing Partners: The Governments, the Competition Council.

Necessary Resources: Appropriate technical assistance.

Timing: 36 months

2.2. Generation/ Supply: means to adopt measures to reduce the level of market concentration in Generation and Supply through further unbundling and the implementation of measures by regulator.

Status: There is a high level of concentration in both generation and supply. Measures must be determined to reduce the level of concentration, once the issues in 2.1 above are addressed. **Milestone dependent.**

To do list:

1. The Federation EPs must fully unbundle generation, distribution and supply, and then the EPs should unbundle their supply functions into that for tariff customers and a competitive supplier function.
2. The current rules for transparency should be fully enforced. Further measures for transparency to ensure a lower market concentration in generation and supply should be developed.
3. Measures to reduce the level of market concentration may be defined in the market design process.
4. Implementation of measures may be enforced through mandatory posting of all filings and worksheets and all decisions and rationales by the regulators, along with the posting of generation capacity, quantities and sales (without prices), available network capacity, import and export, and dispatch information by the ISO.

Obstacles: Acceptance of the basic concept of transparency and enforcing any rules with regard thereto.

Implementing Partners: Three Ministries, three EPs, three regulators, ISO and Transco.

Necessary Resources: Technical assistance.

Timing: 36 months

2.3. Transmission System Operations- Unbundling and Implementation of Technical Rules: means the unbundling of Transmission and the ISO from vertically integrated companies and enforcement of technical rules. **Milestone dependent.**

Status: Transmission and the ISO are unbundled and functions defined pursuant to enacted laws. Part of the required rules was enacted. While Transco and ISO are fully unbundled from the EPs, the companies have not assumed all of their functions because of difficulties in cooperation between Transco, the ISO, SERC and the EPs. This has resulted in a delay or postponement in issuing certain rules/rulebooks. The Transco Law and ISO Laws clearly set forth the planning procedures, but Transco has declined to follow the law-prescribed procedures. Further, Transco has not developed all of its business processes and activities because of internal management issues. No clear, step-by-step transmission third party access procedures exist, although the SERC has issued a

third party access rule. There is no pro forma contract for access to the transmission network. Dispute resolution is set forth in the SERC Procedural and Hearing Rules, although the procedures have not been used. The three electricity laws prescribe contradictory roles for monitoring of the market, creating confusion as to who is responsible for what. No market monitoring procedures designating what body(ies) are accountable to implement them have been developed. While there are legislative and regulatory requirements for transparency, many documents and much information is not published.

To do list:

1. Transco and ISO must assume all of their functions, each with the full cooperation of the other (fulfill the technical preconditions, issue rules, define and delineate the Transco/ISO roles and responsibilities, and implement the rules);
2. Transco must attend to its internal management issues.
3. Determine a list of the missing technical rules, instructions and contracts.
4. Once developed, all technical rules, instructions and contracts must be scrupulously implemented.
5. An analysis of the market monitoring provisions in the laws and regulations must be made. After appropriate, harmonized market monitoring procedures are developed, amendments to the laws should be made.
6. The current rules for transparency should be fully enforced. Further measures for transparency to ensure a lower market concentration in generation and supply should be developed, such as mandatory posting of all filings and worksheets and all decisions and rationales by the regulators, along with the posting of generation capacity, quantities and sales (without prices), available network capacity, import and export, and dispatch information by the ISO. See 2.2.

Obstacles: Transco, EPs, ISO, and SERC.

Implementing Partners: The ministries, regulators, EPs, Transco, ISO

Necessary Resources: Technical assistance

Timing: 24 months

2.4. Distribution System Operator: means the unbundling of the operation of the distribution network from supply, implementation of technical rules and consolidation of distribution companies.

Status: In FBIH, generation and distribution are not effectively unbundled, nor have third party access rules been issued. While EPRS has legally unbundled generation from distribution, the distribution network and supply have not been unbundled to create a separate DSO. In the RS, the Distribution Code and third party access rules (as a part of the general conditions of supply) have been issued. Consolidation of distribution companies has not occurred in either Entity. **Milestone Dependent**

To do list:

1. The FBiH EPs must fully unbundle;
2. FERC must issue the Distribution Code and third party access rules, either separately or as part of the general conditions of supply.
3. Clear instructions for obtaining third party access to the distribution network must be issued, and a standard pro forma contract for access to the network must be developed. Both the instructions and pro forma contract should be harmonized between the Entity regulators and DSOs.
4. The strategy for consolidation of distribution companies, if any, should be decided in both Entities.

Obstacles: The FBiH EP unbundling is a precondition to the simultaneous creation of DSOs by all EPs..

Implementing Partners: Entity ministries, Entity regulators, EPs

Necessary Resources: Technical assistance,

Timing: 2 years +.

WHOLESALE MARKET

3.1. Market Design and Liquidity: means the adoption of a market design and accompanying measures to ensure a liquid competitive, wholesale market. **Milestone Dependent.**

Status: A bilateral contract with balancing market design was included in the Action Plans passed by both Entity Parliaments. A final consensus on market design should be reached.

To do list:

1. Starting from what has been accomplished so far in the market Governments should define an energy policy, which will be the foundation for further market design.
2. Once the market design is agreed, exactly how it will be implemented must be defined and then implementation takes place.
3. The results must be submitted to other stakeholders for comments and suggestions.
4. An assessment of regulatory criteria that are related to market design, if any, must be made and harmonized if necessary.

Obstacles: The Governments have not formed the task forces that will work on market design and the details of its implementation.

Implementing Partners: Governments, and then all other stakeholders,

Necessary Resources: REAP, governments, regulated companies, regulators

Timing: 36 months

3.2. Implementation of Market Rules and Balancing Market: means enhance and implement Market rules and balancing market.

Status: Even though the market rules are written, the ISO is still not functioning well, regulated companies do not respect the market rules, the regulator does not enforce the market rules, and there is as of yet no competitive balancing market. Whereas SERC issued the Decision on tariffs for ancillary services, there are implementation issues with regard thereto. **Milestone Dependent.**

To do list:

1. Analyze and improve market rules to upgrade the competitive market provisions;
2. Market Rules enforcement mechanisms must be devised and the regulatory must enforce the Market Rules
3. Resolve implementation issues with regard to the Decision on tariffs for ancillary services.
4. Establish a competitive balancing market.

Obstacles: Relationships in the sector are not cooperative: Transco, ISO, SERC and the EPs do not cooperate on operations in the sector.

Implementing Partners: ISO, SERC, EPs, and Transco

Necessary Resources: Technical assistance

Timing: 36 months

3.3. Market Transparency: ensuring that information on interconnectivity capacity, generation, balancing market and balancing capacity, information/availability from the wholesale market, and other information is fully transparent to the public. **Milestone Dependent.**

Status: Technical pre-conditions for full market transparency do not yet exist due to the fact that the ISO does not have access to data from Transco and the EPs: particularly in the area of automatic measurement and ensuring that the ISO has adequate data, the unresolved relationships between the Transco, EPs, SERC and ISO are apparent. Transco and the EPs do not submit all the necessary data in its most immediate form to provide for transparency of market activities (real-time data, accounting measurements, contract data, to name a few). As the result of decisions issued before formation of ISO and Transco built SCADA systems that duplicated the SCADA and plans to duplicate the automatic measurement system, so that the tariff payers pay for these systems twice. SERC does not have adequate enforcement power to impose a solution and perhaps does not see its role as facilitating development of the market.

To do list:

1. Complete the implementation of SCADA;
2. Develop a system for accounting measurement;
3. Ensure that Transco and EPs provide ISO with the necessary automatic measuring data in as raw form as is possible and practicable;
4. Transco should (i) refrain from duplicating ISO systems to minimize transmission tariffs, and (ii) cede responsibilities to the ISO according to the Transco and ISO Laws;
5. The ISO should commence publishing all data related to Market Transparency on the ISO website, starting with whatever information is available and supplementing the information as the ISO acquires it;
6. Governments to encourage SERC to assume the mantle of facilitator in development of the market and appropriately participate, initiating a proceeding if necessary, to ensure that the ISO has appropriate support from the stakeholders and all functions occur as prescribed in the Transco and ISO Laws.

Obstacles:

1. Transco duplication of ISO systems and refusal to cede ISO functions to the ISO.
2. Lack of official assistance to the ISO in assuming its appropriate role as provided in the ISO and Transco Laws.
3. SERC’s lack of desire or inability because of unanimity requirement to enter into the problems of developing transparency of the market.

Implementing Partners: SERC, Transco, ISO , Governments

Necessary Resources: Technical assistance

Timing: 24 months

3.4. Market Monitoring: means implementation of a market monitoring system to obtain reliable data to (i) identify anti-competitive behavior by periodic assessments of market concentration and abuses of dominant position; (ii) further develop the market; (iii) obtain information on the liquidity of the wholesale market; (iv) and determine market opening data, such as customer switching rates, eligible and regulated retail market prices. **Milestone Dependent.**

Status: Even though the regulators monitor the licensees operations and business activities, as no market design has yet been defined and the ISO and Transco have not properly assumed their legislative duties, this activity is on hold.

To do list:

1. Once the market has been fully defined, a market monitoring system must be designed and a process established.
2. The market monitoring system must clearly designate the market monitoring authority(ies) and avoid duplication of functions to maintain lower costs.

Obstacles:

1. There is a low sense of urgency due to the situation as described under other topics of this Wholesale Market.
2. Energy policy has not been developed by the governments.

Implementing Partners: Governments, regulators, EPs, ISO

Necessary Resources: Technical assistance

Timing: 36 months

3.5. Licensing and Authorization: harmonized licensing and authorization criteria.

Status: A licensing system is in place for all three regulators and has been implemented. It is harmonized to the extent it can be; but because of differences in the laws, it cannot be 100% harmonized. Further, because of the legislative prescriptions, the ability to take short-cuts and implement efficiency measures is constrained. While some elements of appropriate authorization and tendering procedures do exist in the various current BiH laws, a precise definition of the authorization procedures for the electricity sector do not exist in one place. Further, as currently implemented, the project authorization process is not transparent. Whereas there should eventually be a regional effort on harmonization, the BiH system should be harmonized first.

To do list:

1. Prior to the harmonization of the regional licensing system, analyze the current prescriptions for licensing in all three laws and the resulting regime implemented in all three jurisdictions. Determine differences and how they can be harmonized to be more efficient and understandable by potential investors.
2. Harmonize the existing laws and regulations.
3. Monitor and become involved in regional activities regarding harmonization of licenses and their recognition.
4. See Section 1.6 above.

Obstacles:

1. No authority has been tasked with working on this issue of authorization and tendering procedures, neither at the BiH nor the Entity levels.
2. Local authorities may not understand the importance and impact of a transparent and public authorization procedures as they relate to new/potential investors.

Implementing Partners: Ministries

Necessary Resources: Technical assistance

Timing: 24 months

RETAIL MARKET

4.1. Eligibility Thresholds: means the development of plans for implementation of eligibility, establishment of the criteria and timeframe for acquiring eligible customer status, and elaboration and implementation of measures on market opening. **Milestone Dependent.**

Status: The development of the criteria and timeframe for acquiring the status of eligible customer has been completed. However, practical implementation is dependant upon the market design and policy with regard to deregulation of generation prices to allow their movement towards those of the market prices in the region.

To do list:

1. Harmonize the legal and regulatory criteria that are related to market design.
2. Ensure that the TPA rules have been thoroughly defined, with detailed and clear procedures.
3. Define an energy policy that will help actualize the Market Design in a way that encourages market opening.
4. Form task forces for market design.
5. Further develop market design and implement it.
6. Ensure full development of vulnerable customer policies.

Obstacles:

1. There is no clear energy policy/strategy developed that would encourage real (not theoretical) market opening, consistent with best international practice.
2. There is no sense of urgency regarding this issue.
3. FBiH must develop a vulnerable customer program.

Implementing Partners: Ministries, all stakeholders

Necessary Resources: Technical assistance

Timing: 24 months

4.2. Payment Reform: means the adoption of measures to improve payment, including improved collection rates (to at least a 90% level); development and implementation of a plan for reduction of losses, upgrading of measurement and billing systems, sufficient to facilitate load research and the consequent application of load-based tariff criteria.

Status: The necessary activities are in process. Both entity regulators and all three EPs are implementing the reforms. This process needs more time and activities should be addressed in an energy policy. Reduction of technical losses means significant investment in infrastructure.

To do list:

1. Create an energy policy that incorporates a policy for payment reform;

2. Develop the payment reform programs; continue with the implementation of the existing and newly developed (defined by the new energy policy) payment reform.
3. Continue commenced programs for reducing technical and non-technical losses.

Obstacles:

1. There is scant consolidated knowledge of the detailed status of these activities outside of the EPs.
2. No energy policy has been defined (this policy should define all the technical, legal, commercial and financial measures for a successful payment reform).

Implementing Partners: Ministries, regulators and EPs

Necessary Resources: Technical assistance

Timing: 24 months

4.3. Customer Switching: means the introduction of technical measures, as well as commercial support instruments, for customer switching.

Status: The RSERC has included customer switching rules in its General Conditions of Supply, while the FERC has not issued any rules with regard to customer switching. No legal or commercial rules are in effect, other than the deadlines and procedures to obtain eligible customer status. While the Rules on Eligible Customer were issued by RSERC and FERC, detailed rules for customer switching and default suppliers were not thoroughly developed. **Milestone Dependent**

To do list:

1. Develop detailed rules/rulebook on customer switching.
2. Ensure that default service provider and customer switching is fully prescribed and harmonized in the entity laws and regulations, and that the processes are fully developed.
3. Analyze existing procedures and timelines of the three regulators and ensure harmonization.
4. Analyze what detailed customer switching protocols currently exist.
5. Determine what additional protocols must be written and adopted by regulators.
6. These protocols should include, *inter alia*:
 - a. Timeframes for each task in the switching process,
 - b. Processes to identify suppliers for eligible customers.
 - c. Definition of metering and settlement arrangements for suppliers in a retail setting, along with the technical pre-conditions. This includes protocols for switching between a meter reading cycle.
 - d. Load profiles for individual customers switching from one to another supplier.
7. EP supply functions that are unbundled into tariff customer supply and competitive supply should be implemented.
8. Streamlined licensing procedures for competitive suppliers should be developed.

9. Ensure sufficient metering is in place to develop detailed load profiles (and perform load research). [The lack of appropriate metering is also constraining the full application of the tariff methodology by the regulators.]
10. Upgrade IT systems and electronic filing required for customer switching.

Obstacles:

1. No clear consensus of what is required.
2. No party(ies) is charged with implementing this process.

Implementing Partners: Regulators, EPs

Necessary Resources: Technical assistance

Timing: 36 months

4.4 Customer Protection: means the development of Customer Protection rules which shall at least harmonize rules for electricity supply and connection to the distribution network and introduce quality of service monitoring instruments. **Milestone Dependent**

Status: RSERC has prescribed a few rules for quality of supply and connection to distribution and intends to expand them; FERC has not addressed this issue.

To do list:

1. FERC to prescribe rules for quality of supply and connection to the distribution network within a reasonable time and at a reasonable price.
2. Ensure rules for quality of supply are complete and fully harmonized.
3. The distribution companies should provide the terms and conditions of connection and service to customers prior to connection and sign a contract indicating the parties' obligations.
4. The question of whether, when and how contracts with existing customers should be executed should be addressed and decided, or whether current documentation is sufficient.
5. Retail prices must be fully transparent: the various services should be clearly stated for the customers' choice, with itemized price component information on the bill.
6. Comparable supply pricing information must be available to customers to facilitate choice of supplier.
7. Information should be sent to the consumers in the event the regulated company requests a tariff revision of any sort.
8. Quality and continuity of supply standards, including the monitoring thereof, should be developed, such as:
 - a. Rules for dispute settlement rules for the regulated companies should be developed and enforced, along with companies' codes of conduct.
 - b. Regulated companies should report the number of black-outs, unexpected outages and time to correct problems.
 - c. Service response time to consumer requests should be measured and reported.

- d. Time between request for connection and actual connection should be measured.

Obstacles:

1. FERC must issue its conditions of supply.
2. Federation EPs have not fully unbundled at all, and none of the EPs have separated supply into supply for tariff customers and competitive supply.
3. Insufficient attention has been paid to quality of service, which is a technical pre-condition

Implementing Partners: Entity Governments, regulators, EPs

Necessary Resources: Technical assistance

Timing: 36 months

TARIFF REFORM AND AFFORDABILITY

5.1 Regulated Retail Tariffs that are costs-based: means ensuring the application and enforcement of harmonized pricing criteria based on cost-reflectivity and removal of cross-subsidies; improvement of transparency of cost-based tariffs determined according to load profile.

Status: RSERC and FERC have issued Rules on Tariff Methodology: FERC has conducted three tariff proceedings, and RSERC completed its second proceeding. Whereas tariffs are not yet fully cost-reflective and cross-subsidies are not fully removed, the process has begun.

To do list:

1. Both Entity regulators should calculate to the best of their abilities and inform the governments of what the anticipated fully cost-reflective tariffs without cross-subsidies will be, so that the Governments have an idea of what kind of changes to the tariffs would be necessary for the development of policy and enabling the setting of timeframes for the transition to fully cost-reflective tariffs. Further, this information will assist the Governments to set a policy with regard to the reduction of costs of the regulated companies.
2. Energy policy should be prescribed by the Entity Governments.
3. The vulnerable customer policy should be prescribed by the Federation.

Obstacles:

1. The lack of an estimate from the two Entity regulators of the end-point fully cost-reflective tariffs without cross-subsidies, so that the Government can incorporate gradual phase-in of fully cost-reflective tariffs into its policies.
2. The crafting of energy policies by both Entity Governments that would, *inter alia*, define the timeframe and structure of the regulated retail tariffs.
3. The Federation must address the issue of vulnerable customer programs.

4. The enforcement powers of the regulators are weak and there is no effective legal process to compel licensed stakeholders to prepare and submit required information for input into cost-based tariffs.

Implementing Partners: Governments, regulators, EPs

Necessary Resources: Technical assistance

Timing: 36 months

5.2 TPA Tariffs (transmission, distribution and ancillary services): means the enforcement of third party access tariffs for transmission and distribution networks and the provision of ancillary services based on harmonized regulatory criteria and cost-reflective tariffs. **Milestone Dependent**

Status: Third party access tariffs and ancillary service tariffs remain to be fully clarified.

To do list:

1. Regulators should prescribe a manageable set of cost-reflective and cost-effective tariffs for ancillary services and mandate how they should be implemented.
2. The regulated companies must be compelled to contribute rendering ancillary services, rather than sell the electricity on the market.
3. To accomplish this, the regulators must take a proactive position with regard to enforcement of the ancillary services regulations. The enforcement mechanisms for the regulators are insufficient and need to be strengthened to provide incentives for compliance with regulations.
4. The entire situation regarding the management of depreciation resulting from the revaluation of assets should be carefully reviewed and appropriate amendments to the procedures developed.

Obstacles:

1. Weak enforcement powers of the regulators.
2. Generation price far below the market price, motivating the EPs to sell electricity for ancillary services on the market.
3. General lack of support for the ISO, which must arrange for and dispatch the ancillary services.
4. The depreciation costs are extremely high resulting from the revaluation of the assets.

Implementing Partners: Governments, regulators, ISO, EPs

Necessary Resources: Technical assistance.

Timing: 18 months

5.3. Other Regulated Tariffs Compatibility: means ensuring tariffs that reflect actual costs for regulated generators and suppliers of last resort; ensuring transparency of tariffs.

Milestone dependent

Status: The generation price remains regulated and the approved price of electricity is very low. FERC has issued no rules for switching suppliers and the role of the supplier of last resort and should address these issues and harmonize with RSERC. RSERC has issued generic rules for switching suppliers and the supplier of last resort, these rules should be analyzed and expanded. FERC must issue such rules. The final tariff systems are posted by the regulators on their websites; to improve transparency, the regulators should post the full initial applications for approval of the regulated companies, the worksheets and all revised information received as long as the decisions are posted.

To do list:

1. Energy policy should be issued by the Entity and State Governments.
2. As part of the policy and market design implementation process, a step-wise approach to move the generation tariffs toward market price should be explored.
3. The proceeds received by the companies as a result of the increase must be targeted towards improvements in the power plants, such as implementation of the environment directives, as well as in metering and the distribution system improvements. The implementation of these required improvements must be carefully audited by the regulators and Government auditors.
4. Customer switching of supplier rules must be elaborated as described elsewhere.

Obstacles:

1. Lack of studies by the regulators that estimate the end-point tariffs (subject to revision as additional information is received);
2. Lack of governmental policies that prescribe the approach to increasing tariffs, particularly generation tariffs.
3. Designation of required targets for the proceeds from either a return built into tariffs or increased generation prices. Without such mandates, the money will most likely dissipate rather than be invested into improvements in the current plants and networks.

Implementing Partners: Governments, EPs, SERC, RSERC and FERC

Necessary Resources: Technical assistance,

Timing: 36 months

5.4. Affordability: means the development and adoption of a coherent policy for implementation of price affordability and the protection of vulnerable customers based on non-market measures.

Status: There is no energy policy: while the RS has begun development of a vulnerable customer program, the Federation has done nothing in this area.

To do list:

1. The Federation must start from scratch to develop a vulnerable customer program.
2. The RS should continue its program.

Obstacles:

1. The Federation government system is so complex that accountability for the development of the vulnerable customer program is unclear.
2. Identification of recipients of the vulnerable customer assistance is difficult because of shifting populations and avoidance of registration.

Implementing Partners: Governments,

Necessary Resources: Technical assistance,

Timing 24 months

MARKET INTEGRATION

6.1. Interconnection Capacity: means to develop and implement market-based mechanisms for cross-border capacity allocation.

Status: Currently, the ISO applies the pro-rata methodology (NTC based, 50%) approach, rights. There is no secondary market. A draft Rule on Allocation of Interconnection Capacity has been pending at the SERC since 2006; until SERC acts on the Rule, the ISO is applying the NTC/50% approach as an interim measure. SERC has the capacity to conduct auctions.

Obstacles: Regulatory delay.

To do list:

1. SERC to initiate a public proceeding on the draft Rule on Allocation of Interconnection Capacity submitted by the ISO.
2. An appropriate custodial mechanism for funds from penalties on allocated but unused capacity must be developed, as described elsewhere. Also, the utilization of such funds must be designated, also as described elsewhere.
3. See section 1.27 above.

Implementing Partners: ISO, SERC

Necessary Resources: Technical assistance,

Timing: 12 months

6.2. Interconnection Capacity: means the implementation of a Coordinated Auction Office that will provide coordination at regional level.

Status: **REGIONAL COOPERATION ISSUE**

To do list: **TBD**

Obstacles:

Implementing Partners:

Necessary Resources

Timing

6.3. Inter TSO Compensation: means agreement on the merger of EU and SEE ITC funds.

Status: **REGIONAL COOPERATION ISSUE -- COMPLETED.** The EU and SEE funds have been merged.

To do list:

Obstacles:

Implementing Partners:

Necessary Resources

Timing

6.4. Inter TSO Compensation: means consideration of further implementation of the ITC mechanism, meaning the development of a methodology to invoice or credit market participants in relation with the ITC.

Status: **REGIONAL COOPERATION ISSUE.** The ISO is implementing the ITC; however, certain monies are owed within the region and remain to be paid.

To do list:

Obstacles:

Implementing Partners:

Necessary Resources

Timing

6.5. Market Design/Market Rules: means the EC is expected to state a preferred market model on market opening and accompanying market rules.

Status: **REGIONAL COOPERATION ISSUE. No market model has been decided on the regional level.**

To do list:

Obstacles:

Implementing Partners:

Necessary Resources

Timing

6.6. Market Design/Market Rules: means the development of guidelines and measures to start up competition.

Status: **REGIONAL COOPERATION ISSUE** Measures to increase competition in generation and supply are pending.

To do list:

Obstacles:

Implementing Partners:

Necessary Resources

Timing

6.7. *Market Design/Market Rules*: means the development of guidelines for further market development.

Status: **REGIONAL COOPERATION ISSUE**

To do list:

Obstacles:

Implementing Partners:

Necessary Resources

Timing

6.8 *Licensing*: means analyzing the compatibility and harmonization of licensing for trading energy across the region, including the harmonization of the concepts of trade and supply.

Status: **REGIONAL COOPERATION ISSUE.** Licenses are not mutually recognized. BiH participates in regional activities and supports harmonization and applicability on the regional level.

To do list:

Obstacles:

Implementing Partners:

Necessary Resources

Timing