



**USAID**  
FROM THE AMERICAN PEOPLE

## Regulatory and Energy Assistance

### MEMORANDUM

**TO:** Zdenko Simunovic  
Dulizara Hadzimustafic  
Risto Mandrapa

**FROM:** Jane Wilson

**CC:** Ankica Altumbabic  
Ognjen Markovic

**DATE:** 14 July 2010

**RE:** Tariff methodology and under-estimated production

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In our review of the Presiding Officer's decision and recommendations, our discussions with you and our review of the Rule on Tariff Methodology, we note that the energy balance used in the tariff proceeding strongly underestimates production based on weak hydrology. In fact, hydrology has been excellent. Estimates have been exceeded up to the present time, so that, if the tariffs are fully based on the energy balance rather than actuals, the EP will make an extremely large profit, far larger than is normal or prescribed for regulated companies. (I should note that the practice of underestimating production is an old one, with which regulators all over the world struggle on an ongoing basis.) My understanding is that earlier in the year the projected quantities had already been produced, leaving the remainder of production (and all of the contracted import quantities) to render profit. Of course, the role of the regulator is to monitor regulated companies to prevent exactly this type of event – “gaming” of the regulations to reap inordinate profits, all at the expense of the customers.

The Rule on Tariff Methodology states in Articles 12 and 24 that the regulated company will submit an electricity balance of planned power generation to FERC that is harmonized with the FBiH electricity balance. Note, however, that in Article 74(3) for the first tariff proceeding, it was anticipated that a true-up in generation would take place in the following tariff proceeding. I would submit that a true-up could occur in all following tariff proceedings based on this language and the language in other Articles, as described below.

I would suggest that two other Articles be examined for applicability in this case – Articles 71 and 75. As we are all aware, the recession has hit hard in all countries, including BiH. Thus, for the regulators to allow the gaming of the energy balance as described above would be inappropriate in the current environment.

Article 71 requires a gradual approach in the application of the tariff methodology and, in Article 75, FERC retains the right to act to protect the general public on supply matters to regulate the purchase and sales of electricity *in a manner that will ensure the interests and needs of all customers for the electricity supply*. I suggest that the rationale of the recession

and tariff increases up to now can serve as the basis for at least truing up the production volumes to this point and articulating FERC's intention to use the intent expressed in Article 74(3) to true up the remainder of the year in a tariff proceeding next year.

In the meantime, I recommend that we review the tariff methodology to bring it up to date, including the truing up of the energy balance on a yearly basis. This will make it much more appropriate to allow a specific and proper rate of return for the company.

On a separate topic, REAP is aware that comments on the documentation of the tariff model by the Tariff Department are owed to FERC. We will provide these comments to you and schedule a meeting on the topic after vacations at a mutually convenient time.

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