

TRANSLATION

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Pursuant to Article 88 of the Constitution of the Republic of Croatia, herewith I pass the

D E C I S I O N ON PROMULGATION OF THE LAW ON ELECTRICITY MARKET

I promulgate the Law on Electricity Market passed by the Croatian Parliament on its session held on 19 July 2001.

Ref. No. 01-081-01-2393/2
Zagreb, 24 July 2001

President of the
Republic of Croatia
Stjepan Mesić (signed)

LAW ON ELECTRICITY MARKET

I. GENERAL PROVISIONS

Article 1

This Law shall regulate the following activities of the energy sector: power generation, transmission, distribution, retail supply, operation and control of the electricity system and organization of the electricity market.

Article 2

(1) The terms used in this Law shall have the meaning stipulated in the Energy Law.

(2) Other terms used in this Law shall have the following meaning:

1. System Operator - the energy undertaking that operates and controls the electricity system
2. Market Operator – the energy undertaking that carries out activities related to organization of the electricity market.

Article 3

- (1) Energy activities: power generation and supply of electricity to eligible customers shall be carried out in compliance with the rules that regulate market relations and according to which energy undertakings negotiate freely the quantity and price of delivered electricity by concluding short-term or long-term contracts or directly within the organized market.
- (2) Energy activities: power generation for tariff (captive) customers, power transmission and distribution, supply of electricity to tariff customers, operation and control of the electricity system and organization of the electricity market shall be carried out as public services.

II. CARRYING OUT ENERGY ACTIVITIES

Article 4

- (1) Plants, facilities and networks used for power generation, transmission and distribution can be constructed by energy undertakings that have licences for carrying out energy activities, under conditions prescribed by the Law on Construction and special technical and safety criteria and criteria related to environmental protection, that are stipulated in special regulations.
- (2) Energy undertakings produce electricity in facilities that are constructed and put into operation pursuant to the provisions of the Energy Law, the Law on Construction and other regulations.

Article 5

- (1) Costs of connection of new energy undertakings and customers to the network as well as costs related to the transmission or distribution network that may arise as a result of such connection, shall be borne by the applicant for connection to network and by other network users that may benefit from such connection, in accordance with Grid Code.
- (2) Conditions and the manner of calculating connecting costs and their distribution on users that benefit from such connection shall be regulated by the Rules to be passed by the Minister.
- (3) Cadastral data for the electricity network needed for the connection of a new user shall be made available to energy undertakings and customers upon request.

Article 6

The Market Operator, System Operator, the energy undertaking engaged in power transmission and the energy undertaking engaged in power distribution shall be obliged to keep confidential data and information received from other energy undertakings if such data are private and confidential, unless they are not entitled or obliged to make them public or to submit them to the relevant government bodies.

A. Power generation

Article 7

(1) A power generator is entitled to:

- use energy sources it finds most convenient for the production of required electricity, provided it complies with technical requirements and criteria related to environmental protection as they are stipulated in the licence and relevant regulations,
- conclude contracts for the sale of electricity under conditions prescribed by this Law and other regulations,
- have access to transmission and distribution network.

(2) A power generator is obliged to:

- comply with conditions stipulated in the licence for carrying out energy activity,
- possess adequate measuring devices for the measurement of electricity that enters the respective network,
- comply with the rules prescribed by the Market Operator,
- comply with the regulations related to environmental protection.

(3) Power generation plants must meet prescribed environmental protection criteria and ensure permanent control of impact on environment.

(4) Power generators, owners of power generation plants, shall pay effective dues to local government on whose territory the plant is located. The Croatian Government shall prescribe the amount of such dues and the manner of their allocation.

Article 8

(1) Energy co-generators that produce electricity and heat in a single plant and that use waste or renewable energy resources in an economically viable way and in compliance with environmental protection measures, can gain the status of eligible (preferential) producer.

(2) Energy co-generators from point (1) above shall gain the status of eligible producer on the basis of a decision to be issued by the Energy Regulatory Council in accordance with criteria prescribed by the Minister.

Article 9

(1) An energy undertaking may make the decision on the construction of plants for power generation for eligible customers at its own discretion, provided it has a licence for carrying out power generation activities.

(2) An energy undertaking may construct plants for power generation for tariff customers upon public tendering and approval issued by the Energy Regulatory Council.

(3) The Terms of Reference for the tenders from point (2) above shall contain the following:

- the location where the plant is to be constructed,
- the type of primary energy source to be used for power generation,
- the manner and conditions of power generation and taking,
- conditions to be met after cessation of plant's operation,
- conditions related to environmental protection and health and safety of citizens,
- the required energy efficiency level,
- conditions for the use of common and public goods.

(4) The Energy Regulatory Council shall issue the approval for the construction of power generation plant that will supply electricity to tariff customers, to a power generator who meets the requirements prescribed in the tender and who offers the lowest price of produced electricity.

(5) The Energy Regulatory Council shall inform in writing the undertakings whose tender was not accepted about the reasons of refusal and shall furnish them a copy of the licence issued to the most successful tenderer.

(6) Energy operators from point (5) above can form an appeal against the Energy Regulatory Council's decision before the Ministry.

B. Transmission and distribution of electricity

Article 10

- (1) The energy undertaking carrying out transmission of electricity shall be responsible for the construction, operation and maintenance of the transmission network, and the generation of a portion of reactive power.
- (2) The energy undertaking carrying out transmission of electricity shall ensure third party access to the transmission system in compliance with the Rules as laid out in Article 5, point (2) hereof.

Article 11

- (1) The energy undertaking carrying out distribution of electricity shall be responsible for the development, construction, operation and maintenance of the distribution network.
- (2) The energy undertaking carrying out distribution of electricity shall:
 - guarantee reliability of the operation of distribution network and shall maintain electricity quality parameters at the prescribed level,
 - coordinate operation of the distribution network with operation of the transmission network, interconnection lines and users' facilities,
 - submit information to System Operator and Market Operator about its future electricity needs,
 - ensure third party access to distribution network in accordance with prescribed criteria.

Article 12

- (1) The System Operator shall prepare plans for the development and construction of transmission network for a 3-year period, in cooperation with the energy operator carrying out electricity transmission and subject to the prior approval of the Energy Regulatory Council.
- (2) The energy undertaking carrying out distribution of electricity shall prepare plans for the development and construction of the distribution network for a 3-year period subject to prior approval of the Energy Regulatory Council.
- (3) Plans from points (1) and (2) above shall comply with the Energy Strategy and the Energy Strategy Implementation Program.
- (4) The Energy Regulatory Council shall set electricity transmission fees and distribution fees upon the proposal of the energy undertaking carrying out transmission or distribution of electricity, respectively.
- (5) The energy undertaking carrying out distribution of electricity shall not disclose to any third party any confidential information of energy undertakings and customers, unless specific regulations prescribe that certain data should be made public or should be disclosed to the relevant government bodies.
- (6) The electricity transmission fee and distribution fee will be set on the basis of network development and construction plans from points (1) and (2) of this Article.

Article 13

- (1) The System Operator and/or energy undertaking carrying out electricity distribution shall be obliged to allow access to the distribution network to power generators and eligible customers on non-discriminatory basis, based on the principle of regulated third party access.
- (2) Prior to submitting an application for access to the network, a power generator must make sure that it complies with the technical requirements specified in Article 16, point (2) hereof.
- (3) An eligible customer shall obtain approval for access to the network from the System Operator.
- (4) The data on availability of access to and use of electricity transmission and distribution networks shall be public.

Article 14

- (1) The System Operator and/or energy undertaking carrying out electricity distribution may refuse access to the distribution network due to technical or operational constraints. The

refused power generators or eligible customers shall be informed about the reasons of refusal, which must be substantiated and submitted in written form.

- (2) Power generators or eligible customers who have been refused access to the network or have objections concerning terms and conditions of access, may appeal to the Energy Regulatory Council. The award of the Energy Regulatory Council shall be final. After that the party may appeal against such final award before the Administrative Court.

Article 15

When a power generator and a customer intend to conclude a contract on electricity delivery and/or supply, and cannot obtain access to the network, they can construct a direct line, subject to the Energy Regulatory Council's approval.

Article 16

- (1) Operation and management of the electricity transmission and distribution networks shall be regulated by the Grid Code.
- (2) The Grid Code shall specifically regulate:
 - technical and other criteria for access to the network,
 - technical and other criteria for safe operation of the electric energy system that can ensure reliable supply of the market with quality electricity,
 - procedures to be applied for system operation in emergency situations,
 - technical and other criteria for interconnection and operation of networks.
- (3) Grid Code shall be drafted by the System Operator in cooperation with energy operators carrying out electricity transmission and distribution. The Grid Code shall be passed by the Minister subject to the prior opinion of the Energy Regulatory Council.

C. Retail supply of electricity

Article 17

- (1) Retail supply of electricity is the energy activity of electricity delivery and/or sale and it is an independent activity in respect to electricity transmission and distribution, and it refers to processing of billing elements related to delivery of electricity, billing of consumed electricity, billing of customers and collecting payments for each consumption site.
- (2) Every energy undertaking can carry out retail supply of electricity to eligible customers provided it obtains a licence for carrying out electricity supply services.
- (3) An energy undertaking holding a licence for carrying out public services may provide electricity retail supply services to tariff customers upon obtaining the relevant licence for carrying out this activity.

- (4) The Croatian Government shall prescribe the minimum share of renewable energy resources, excluding large hydro plants (exceeding 5 MW), to be used by an energy undertaking carrying out electricity supply activities as a public service.

Article 18

- (1) Supply of electricity to eligible customers is the activity where eligible customers and electricity suppliers freely negotiate the quantity and price of electricity that is the subject of delivery.
- (2) Electricity suppliers and eligible customers shall submit the contracts from point (1) of this Article, as well as the contracts concluded with the electricity transmission undertaking and/or distributor to the Market Operator.

D. Operation and control of electricity system

Article 19

- (1) The System Operator shall guarantee regular and reliable supply of electricity and proper coordination of the power generation, transmission and distribution systems.
- (2) The System Operator shall ensure proper coordination of transmission network operation with the operation of neighbouring transmission networks.
- (3) The System Operator must be independent in consideration to power generation and supply, and must carry out its function in cooperation with Market Operator based on the principles of transparency and non-discrimination.
- (4) The System Operator may not be engaged in electricity trading activities.
- (5) The System Operator may dispatch power generation plants intended for temporary use only in following cases:
- in case of serious disturbances or failures of the system,
 - in case of crises as defined in Energy Law.

Article 20

- (1) The System Operator shall be responsible for:
- operation and control of the electricity system,
 - ensuring access to third parties on the basis of regulated access
 - cooperation with energy undertakings carrying out transmission and distribution of electricity concerning determination and allocation of transmission costs,
 - providing services of the electricity system,
 - balancing supply and demand for electricity with respect to contracted quantities on the organized market, and issuing approvals for feasibility of short-term and long-term schedules,

- providing information on electricity demand movements in cooperation with the Market Operator and other information required by the Energy Regulatory Council,
 - providing necessary instructions for proper operation of power generation and transmission systems in compliance with the criteria related to reliability and security in line with Grid Code, and management of ancillary services market,
 - providing information to power generators on generation scheduling and dispatch and available capacity requirements for each period.
- (2) The System Operator shall inform the Energy Regulatory Council about the complaints referring to its operation and about the resolution of such complaints.

E. Organization of electricity market

Article 21

- (1) The Market Operator shall be responsible for the organization of the electricity market.
- (2) The Market Operator shall be responsible for the economic viability of the electricity system and the management of purchasing and sale of electricity in accordance with the conditions determined by the law.
- (3) The Market Operator shall carry out its assignments by respecting the principles of transparency, objectivity and non-discrimination, under the supervision of the Energy Regulatory Council.

Article 22

- (1) The Market Operator shall be responsible for:
- recording all contract obligations among energy undertakings active in the energy market,
 - collecting tenders and selecting the most successful tenders for meeting the demand for electricity in a specific period up to the moment when the demand is met, by ranking the tenders according to offered prices,
 - submitting reports to energy undertakings and the System Operator about the results of evaluation of received tenders, planning of access to the network on the basis of tender evaluation and prices of the remaining portion of offered electricity,
 - receiving feedback from the System Operator regarding necessary harmonization in consideration of technical possibilities and in cases of extraordinary situations in the transmission or distribution network,
 - fixing final prices of electricity for specific time periods and informing energy undertakings participating in the market accordingly,
 - establishing the billing system for electricity according to the determined final price,
 - making public prices of electricity for the time period to be determined by the Energy Regulatory Council,
 - keeping records on eligible customers.
- (2) In selecting the most successful tenders, the System Operator shall give preference to:

- eligible producers,
 - producers that use domestically produced feedstock for power generation in an amount not exceeding 15% of total feedstock consumption within a calendar year, according to the Croatian Energy Balance.
- (3) The Market Operator shall ensure the purchase of total produced electricity volumes from eligible producers under at least equal conditions currently effective on the organized market.
- (4) The Market Operator shall publish the Rules of Electricity Market Organization subject to prior approval by the Energy Regulatory Council.

III. ELIGIBLE CUSTOMER

Article 23

- (1) An eligible customer can freely choose its electricity supplier.
- (2) Supply of electricity for eligible customers can be ensured from import by mediation of a market agent or broker or from domestic sources.
- (3) On the date of this Law coming into effect all customers with annual consumption exceeding 40 GWh shall gain the status of eligible customer.
- (4) The Croatian Government may prescribe a lower consumption level from point (3) above for gaining the status of eligible customer.
- (5) Eligible customer shall not lose the status of eligible customer until it maintains its consumption at the level upon which it was granted the status of eligible customer.

IV. TARIFF CUSTOMERS

Article 24

- (1) Tariff customers shall have electricity supplied under the provision of public service obligation according to prices set in the electricity tariff system.
- (2) The Market Operator shall ensure supply of electricity to tariff customers from:
- eligible producers
 - generation plants that have contracts for the supply of electricity pursuant to public service obligation, and
 - the electricity market.
- (3) The Croatian Government may, within the scope of a special economic or social program, set discounted electricity prices, in the area of generation, for specific categories of tariff customers.

V. RECIPROCITY PRINCIPLE

Article 25

The System Operator may, upon the proposal of a power generator or the Ministry, refuse access to the electricity system to a power generator from a State where the level of opening of electricity market is lower than in the Republic of Croatia.

VI. TRANSIT

Article 26

(1) When international agreements signed by the Republic of Croatia impose a commitment, the System Operator is obliged to carry out the transit of electricity through the transmission network under terms and conditions stipulated in these agreements.

(2) Access to the transmission system for carrying out the transit of electricity shall be regulated by provisions referring to access to eligible customers.

VII. SUPERVISION

Article 27

(1) The administrative control over implementation of this Law and regulations passed on the basis of this Law shall be carried out by the Ministry.

(2) The inspection control over implementation of this Law shall be carried out by the State Inspectorate.

VIII. PENALTY PROVISIONS

Article 28

(1) A cash fine ranging from HRK 10,000.00 to 50,000.00 shall be imposed on an energy undertaking that:

- fails to maintain the transmission network (Article 10, point (1)),
- fails to proceed in accordance with Article 10, point (2) hereof,
- fails to maintain the distribution network (Article 11, point (1)),
- fails to proceed according to Article 11, point (2) hereof,
- fails to prepare plans for development and construction (Article 12, point (1)),
- does not prepare development and construction plans in compliance with the Energy Strategy and Strategy Implementation Program (Article 12, point (3)),
- refuses access to the network contrary to Article 13 or Article 14 hereof,
- starts construction of direct line without prior approval of the Energy Regulatory Council (Article 15),
- does not apply the Grid Code (Article 16),
- provides electricity to eligible customers without prior approval of the Energy Regulatory Council (Article 17, point (2)),

- fails to submit contracts on electricity supply to the Market Operator (Article 18, point (2)),
- dispatches power generation plants contrary to Article 19, point (5) hereof,
- fails to submit reports about complaints on its work and their resolution to the Energy Regulatory Council (Article 20, point (2)),
- during selection of tenders fails to proceed in compliance with Article 22, point (2) hereof,
- fails to ensure purchase of electricity generated by eligible producers under equal terms (Article 22, point (3)),
- publishes the Rules of Electricity Market Organization without approval issued by Energy Regulatory Council.

(2) A cash fine ranging from HRK 2,000.00 to 10,000.00 shall be imposed on a responsible official of energy undertaking for offences laid out in point (1) above.

(4) In addition to a fine penalty, in case of several breaches or repeated offences as laid out in point (1) of this Article within one year, the energy undertaking may be sanctioned by suspension from carrying out the same activities up to one year, and the responsible person may be barred from carrying out the same activities for a period up to one year.

IX. TRANSITIONAL AND FINAL PROVISIONS

Article 29

(1) From the date of the application of this Law, Hrvatska Elektroprivreda d.d. (Croatian Electricity Company) shall continue with carrying out its activities as public services, i.e. as the electricity utility in the Republic of Croatia.

(2) Pursuant to the provision from point (1) above, Hrvatska Elektroprivreda d.d. shall carry out the following activities:

- generation of electricity for tariff customers,
- transmission of electricity,
- distribution of electricity,
- supply of electricity to tariff customers,
- operation and control of the electricity system,
- organization of the electricity market.

(3) Hrvatska elektroprivreda d.d. is obliged to bring its organizational structure in compliance with the provisions of Energy Law and provisions of this Law in the way that individual activities are carried out by related legally independent companies (HEP Group) within 6 months from the date of the application of this Law.

(4) The legal entities within HEP Group shall obtain licences for carrying out their respective activities from the Energy Regulatory Council within the period stipulated in point (3) above.

(5) Hrvatska elektroprivreda d.d. shall found the share-based company that will operate the Croatian electricity system and organization of electricity market up to the date of this Law application, pending the approval of the Croatian Government.

- (6) Hrvatska elektroprivreda d.d. shall within 12 months from the date of founding of the company pursuant to point (5) of this Article, transfer the shares, i.e. interests in this company to the Republic of Croatia.

Article 30

The Law on Electricity Company (Zakon o elektroprivredi) published in Official Gazette issues 31/90, 47/90, 61/91, 26/93, 78/94, 105/99, 111/99 and 51/01 shall cease to be in effect beginning with the date of application of this Law.

Article 31

This Law shall come into effect on the eighth day from its publication in "Narodne novine" and its implementation shall start from 1 January 2002.

Class: 310-02/01-01/02

Zagreb, 19 July 2001-08-08

CROATIAN PARLIAMENT

Chairman
of the Parliament

Zlatko Tomčić (signed)