

Act CX of 2001

On electricity completed with the Governmental Decree 180/2002 (VIII.23.) on the enforcement of it

Bold letters: text of Act CX of 2001 (hereinafter: VET), normal letters: Governmental Decree 180/2002. (VIII.23.) (hereinafter: Vhr)

In order to provide consumers with a secure, supply of low-cost electricity, to develop an objective, transparent and non-discriminatory regulatory regime, to promote the establishment of a competitive market in electricity, to create regulated access to electricity networks, and to align the applicable regulations with the relevant legislation of the European Communities, with due consideration of the aspects of energy efficiency, energy conservation and environmental protection requirements, Parliament hereby adopts this Act:

The Government has accepted the following provisions in order to execute the different clauses of the Electricity Act, according to the authorization of the paragraphs 4.§ a), b), e), f), i), j), k) and the paragraph 113 § a) of the Act No. CX of 2001 (hereinafter: VET):

Chapter 1

GENERAL PROVISIONS

Scope of the Act

1. (1) The provisions of this Act shall apply to:

- a) the generation, transmission, distribution, trade and consumption of electricity,**
- b) the operation of the electricity grid and ancillary services thereof,**
- c) the establishment, operation and decommissioning of electrical installations, customer connection systems, consumer equipment and direct lines,**
- d) undertakings licensed to perform activities subject to licensing in the electricity sector (hereinafter: “licensees”), consumers of electricity, the legal relationship between licensees and operators of small power plants, on the one hand, and licensees and their consumers, on the other.**

(2) In respect of nuclear power plants, the provisions of this Act shall be applicable in compliance with the special rules of the Act on Atomic Energy.

(3) In respect of heat co-generated with electricity, the provisions of this Act shall be applicable in compliance with the special rules of the Act on District Heat Supply.

General Requirements

2. Electricity shall be generated, transmitted, distributed, traded and utilized, and the electricity grid shall be operated with a view to the protection of life, health, the environment, nature, consumer interests, property, operational safety and energy efficiency, and in compliance with the requirements specified in the Civil Code (hereinafter: the “Civil Code”) and in the technical safety regulations.

Definitions

3. For the purposes of this Act:

- 1) Stranded cost: the financial claims of public service wholesalers arising from the entry into force and implementation of the regulations of this Act subsequent to the re-negotiation of long-term contracts specified in subsection 23) hereof, or arising from the receipt of electricity co-generated with the use of coal – but not exceeding**

the compulsory heat supply limit – before December 31, 2003, which are recognized by law, but cannot be claimed in the price of electricity. Stranded costs may not be claimed on any other legal grounds;

2) **Transmission:** the transportation of electricity by a transmission network licensee through the transmission network;

3) **Transmission network:** a system of lines, supporting structures, and transformer and switching equipment used for the transmission of electricity and classified as a public power grid. The transmission network shall be treated as a single unit;

4) **Connection equipment:** a system of lines – including the relevant transformer and switching equipment – linking a transmission or distribution network to a connection point. Metering equipment shall be considered part of the connection equipment;

5) **Connection point:** the property boundary between an electrical installation or a power plant and the consumer equipment, or a power plant and the direct line;

6) **Distribution:** the transportation of electricity by a distribution licensee (hereinafter: the “distributor”) to consumers through a distribution network;

7) **Distribution network:** a system of lines – including the supporting structures, transformer and switching equipment – classified as a public power grid and used for distributing and transmitting electricity to consumer connection equipment;

8) **Settlement (of accounts):** documentation evidencing the performance of commercial agreements, the actual energy turnover of public service electricity supply, use of the public power grid and ancillary services, in compliance with the Operating, Business and Distribution Codes (hereinafter collectively referred to as the “Electricity Supply Codes”);

9) **Tariff metering:** a metering system used for authenticated metering of energy turnover, formulated in compliance with the Electricity Supply Codes and operated under the supervision of a transmission or distribution network licensee (hereinafter collectively referred to as “network licensees”), or the independent system operator;

10) **Power plant:** an energy-transforming facility which generates electricity from energy gained from some other energy source, in particular coal, hydrocarbons, fissile materials, renewable sources or wastes;

11) **Generating capacity:** the sum of nominal active capacity (in watts) of installed energy-generation units measured on generator terminals under design circumstances;

12) **Plant capacity:** the effective capacity that can be delivered or received at a power plant’s connection point;

13) **Eligible consumer:** a consumer which buys electricity of its own free will, by virtue of an authorization specified in a separate statutory regulation other than under a public service contract, from an electricity generation licensee or an electricity trader, or which buys the electricity co-generated with the heat energy which it uses;

14) **Consumption site:** any contiguous area supplied by one or several connection points, where the consumer uses electricity; however, separate statutory regulations may declare a non-contiguous area as a single consumption site, or a contiguous area as several consumption sites;

15) **Consumer:** a private individual or body corporate or incorporate who (which) receives electricity for his (its) own use; however, separate statutory regulations may declare private individuals or bodies corporate or incorporate as a single consumer despite the fact that they receive electricity at several consumption sites;

16) **Consumer equipment:** equipment, wire networks and electrical installations including their associated fittings and fixtures required for generating, transforming and switching electricity and used by a consumer;

17) **Energy from waste:** energy generated from waste – used as fuel or for other purposes – in compliance with the relevant environmental protection requirements;

18) **Integrated electricity undertaking:** an undertaking which is

- licensed to perform at least two separate electricity sector activities subject to licensing under this Act (called a “vertically integrated undertaking”), or
 - licensed to perform at least one electricity sector activity subject to licensing under this Act and engaged in an activity outside of the electricity sector (called a “horizontally integrated undertaking”);
- 19) Co-generated energy: electricity and heat energy generated at the same generation facility from identical fuels by an energy conversion process with an efficiency of no less than 65%;
- 20) Trade: regular and businesslike purchase and sale of electricity by a party licensed to trade in electricity (hereinafter: “electricity trader”) for purposes other than the purchaser’s own use;
- 21) Small power plant: a power plant with a capacity below 50 megawatts (hereinafter: “MW”);
- 22) Public power grid: a transmission or distribution network which, at the proposal of the independent system operator, the Hungarian Energy Office declares necessary for the secure, efficient operation of the electricity grid;
- 23) Contracted public electricity (contracted for public service consumers): the amount of electricity an electricity generation licensee (or its predecessor), or an undertaking licensed to import electricity across the electricity border (or its predecessor) is entitled to sell under a long-term contract concluded prior to August 18, 1999, or an amendment of such a contract made prior to the date of this Act entering into force, or which became entitled to conclude such a contract by virtue of a power plant establishment tender before the contractual date of guaranteed receipt;
- 24) Public service consumer: a consumer which receives electricity from a public service supplier under the terms of a public service contract;
- 25) Public service wholesale trade: trade within the framework of which an undertaking licensed to carry out public service wholesale trade (hereinafter: “public service wholesaler”) is obliged to satisfy the contractual electricity demand of an undertaking licensed to provide public service supply;
- 26) Public service supply: continuous, safe electricity supply provided to a public service consumer by an undertaking licensed to provide public service supply (hereinafter: “public service supplier”), on the basis of a public service contract in accordance with the consumer’s requirements set forth in said contract;
- 27) Direct line: a line or network element not classified as part of the public power grid which connects a single consumer or a specific group of consumers to electrical installations for the purpose of supply;
- 28) Minimum cost: justified expenses required for the performance of a licensed activity;
- 29) Renewable energy: geothermal, solar, wind, bio- or water energy;
- 30) Interconnected electricity grid: a minimum of two electricity grids connected by a transmission line, provided that at least one of them is operating within the territory of the Republic of Hungary (hereinafter: the “country”);
- 31) Customer connection system: the unmetered part of an internal network at a property used by several consumers, not owned by the distributor, which links the connection point of the distribution network at the property with the connection point of the consumer metering device;
- 32) Grid user: a private individual or body corporate or incorporate connected to the public power grid for the purposes of delivering or receiving electricity;
- 33) Grid control: all strategic activities performed by the undertaking licensed to manage the system (hereinafter: the “independent system operator”) in order to operate, maintain, and develop the electricity grid (including integrated management of the networks) and to provide for the availability of ancillary services, international interconnections, and the safety, regulation, and quality of power plant operation in an environmentally sound manner;

- 34) Ancillary service:** a service above and beyond simple electricity supply, required for the secure and adequate operation of the electricity grid and provided by the independent system operator uniformly for all network users;
- 35) Organized electricity market:** a form of trade conducted by licensees of the organized electricity market, whereby electricity demand and supply are focused in a manner, at a place and time publicly announced and specified in advance;
- 36) Generation:** the production of electricity by an undertaking licensed to generate electricity (hereinafter: “generator”) or a small power plant;
- 37) Transit:** transmission of electricity through a transmission network – as specified in a separate statutory regulation – crossing at least one border between Member States of the EU, and having either its starting or end point outside the boundaries of the EU;
- 38) Electricity:** a product sold within the framework of electricity supply, which consists of specific available active power and the amount of energy generated and used by means of such power in a specified period of time;
- 39) Electricity grid:** the power plants, transmission and distribution networks operated by the independent system operator in compliance with the principles of the Electricity Supply Codes and in cooperation with the undertakings specified in the Act on Distribution;
- 40) Electrical installations:** power plants, transmission and distribution networks and connection equipment;
- 41) Green certificate:** a document issued by a generator or by an operator of a small power plant in evidence of the quantity of electricity, or a part thereof, generated by energy from renewable sources or waste.

In the application of Vhr. 1. § E

1. *Disposal of assets:* it is extended especially, but not exclusively to the sale, transfer, granting, letting, mortgaging, burdening of some of the elements of means of generation, transmission, system operation and supply, the waiver of operation rights of assets or part of them or the assignment of operation rights, including the take over of any of burdens related to the assets of making available for third party or maintain the right to burden of assets or undertake any other burden without comprehensive and adequate legal protection;

2. *physically performed transaction:* a transaction requiring performance throughout power supply or by making available the power capacity;

3. *related activity:* any activity to be performed by the licensee and included in the implementation deed that is indispensable for performing the activities subject to license according to the paragraphs VET 51. § (1) and (4);

4. *joint venture:* a joint venture according to the paragraph 3. § (2) / 7) of the Act C. of 2000 on accountancy;

5. *balancing power:* the electric power provided by the system operator for the balance circle managers during balancing regulation;

6. *balancing regulation:* the scope of activity of the system operator for providing actual supply and consumption balance of power during real time delivery of electric power;

7. *public service resolution:* a license or other administrative resolution issued by the Hungarian Energy Office (hereinafter: Office) representing common interest of wide circle of consumers or licensees, if the Office qualifies the license or decision as that of common interest;

8. *secondary activity:* any type of activity listed in the implementation deed of the licensee, apart from the activities subject to license (or related with the license) according to the paragraphs VET 51. § (1) and (4);

9. *schedule:* data line of average electric power performance specified according to the settlement period of a given calendar day;

10. *balance circle:* a settlement organisation established for the definition and settlement of actually justified utilisation of balancing power, including the execution of related tasks for the regulation of relevant scope of responsibilities;

11. *balance circle manager*: a licensee specified in 27.§ of this Decree or an operator of a small power plant or an eligible consumer performing balance circle tasks specified in the Commercial Code;

12. *senior employee*: a senior officer according to the Act No CXLIV of 1997 about economic companies and a senior employee according to the Act No. XXII. of 1992 about the Labour Code. Especially, a senior employee is an employee authorised by the company to sign on behalf of the firm or to represent it other way.

Chapter 2

ADMINISTRATIVE POWERS

Responsibilities of the State

4. The Government shall specify

- a) the maximum amount of fines which may be imposed by the Hungarian Energy Office;
- b) the detailed rules pertaining to the Electricity Supply Codes;
- c) the conditions for using social welfare electricity allowance and the eligibility criteria;
- d) the conditions and date of consumer authorization;
- e) the detailed rules of licensing, as well as the conditions for performing activities subject to licensing and the amendment of operating licenses;
- f) energy policy requirements for the establishment of power plants;
- g) rules governing cross-border electricity transmission;
- h) rules governing the operation of the organized electricity market;
- i) detailed rules on the rights relating to the establishment, content, licensing, termination and indemnification of properties in third-party ownership;
- j) detailed rules on the legal relationship between public service suppliers and public service consumers, and the minimum content of public service contracts concluded between public service consumers and public service suppliers;
- k) detailed rules on the legal relationship between network licensees and system users, and the minimum content of contracts for network services;
- l) detailed rules for the definition and management of stranded costs;
- m) detailed rules governing electricity supply emergencies and significant malfunctions of the electricity grid, restrictive regulations and the principles applicable in cases of emergency or significant malfunctions, as well as system users' rights and obligations;
- n) the date of introducing the green certificate system.

5. The Minister of Economic Affairs (hereinafter: the "Minister")

- a) shall specify
 1. the rules for publishing the Hungarian Energy Office's resolutions of public interest;
 2. the financial and technical conditions for connection to the public power grid;
 3. the rules for selecting consumers whose energy use is to be metered on the basis of a statistical curve of consumer electricity demand;
 4. the minimum amount of fuel reserves to be held at power plants with a capacity of 50 MW or more;
 5. rules for the supply of data by licensees and system users, the Hungarian Energy Office's provision of data to consumer interest representations and other organizations, in compliance with the country's international commitment, and the protection of data specified as confidential;
 6. the authority entitled to grant licenses for performing preparatory activities and for cable rights;

7. the technical and safety requirements of electrical installations;
 8. rules pertaining to safety zones surrounding electrical installations;
 9. rules for the technical and safety classification of connection equipment, customer connection systems, and consumer equipment, and the marketing of such;
 10. the qualifications and experience required for holding positions of key significance in respect of technical and safety issues;
 11. detailed electricity transit rules.
- b) shall define the rules of obligatory receipt of electricity generated from renewable sources or waste, co-generated or produced in any other way specified by law, and establish, acting in agreement with the Minister of Finance, the order of supporting electricity generated in any of the above-specified manners,
- c) shall define, in agreement with the Minister of the Interior and the Minister of Transport and Water Management, the rules of electricity used for public lighting,
- d) shall specify, in agreement with the Minister of Finance, the administrative fees due and payable to the Hungarian Energy Office and the relevant specific payment terms,
- e) shall establish, in agreement with the Minister of Finance, the official prices (tariffs) applicable for electricity supply as regulated in the Pricing Act, and the conditions for the actual application of such tariffs, including specification of extra charges, charges collected together with grid control fees for compensation of stranded costs, and payable stranded costs,
- f) may define, in agreement with the Minister of Finance, a special rate for employees and pensioners of electricity undertakings and the detailed rules on the application of such,
- g) shall regulate, in agreement with the Minister of Transport and Water Management and the Minister in charge of the Prime Minister's Office, the manner in which network licensees may approach and cross facilities marked by a location line on the energy flow-chart, rivers, water flows, lakes, canals and buildings pursuant to their cable easement rights.
- h) shall appoint the organization responsible for technical and safety supervision,
- i) shall define specific rules for the Hungarian Energy Office's certification of power plants using energy from renewable sources or waste, the reporting and data provision requirements pertaining to the generators and small plant operators entitled to sell green certificates, and the rules of selling and receiving green certificates,
- j) shall operate an advisory board for energy affairs in order to act in concert with electricity undertakings and their employee organizations. By way of their representatives, the three parties shall establish the detailed terms of cooperation in mutual agreement.

The Hungarian Energy Office (hereinafter: the "Office")

6. (1) The Office is a national, public administration body with independent powers and competence, acting under the Government's control and the Minister's supervision. The Office is a budgetary corporate body with separate and independent financial management.

(2) The Office shall be self-financing. For its supervisory activity, licensees shall be charged a regulatory fee amounting to 0.05% of the net sales revenues of the immediately preceding year. In respect of the Office's administrative procedures, an administration fee shall be paid. The scope and amounts of fees and administrative fees as well as the terms of payment shall be regulated in a separate decree by the Minister issued in agreement with the Minister of Finance.

7. (1) At the proposal of the Minister, the Prime Minister shall appoint and dismiss the President and the Vice-President of the Office. Their appointment shall be for a term of six years. The Minister shall exercise the employer's rights vis-à-vis the President and Vice-President, except for their appointment and dismissal from office. The President shall be entitled to remuneration and benefits identical to the monthly salary and

benefits of a State Secretary; the Vice-President shall be entitled to remuneration and benefits identical to the monthly salary and benefits of a Deputy State Secretary.

(2) The appointment of the Office's President or Vice President shall be terminated, if

- a) his term of office expires,
- b) he resigns from his position,
- c) he is dismissed from his position,
- d) he dies.

(3) The appointment of the President or Vice-President of the Office shall be terminated by dismissal, if

- a) he commits a crime as declared in a final and legally binding judgment, or he disgraces his position,
- b) he becomes permanently incapable of performing his duties,
- c) a conflict of interests with his position is not resolved within three months,
- d) his activities jeopardize the operation of the Office.

(4) The President of the Office shall

- a) direct the Office,
- b) establish the Operating and Business Rules of the Office,
- c) exercise employer's rights with regard to the civil servants of the Office,
- d) supervise the financial management of the Office,
- e) represent the Office,
- f) perform all the duties assigned to his competence by law or the Operating and Business Rules of the Office,
- g) participate in and be entitled to speak at Government sessions discussing proposals on the duties and competence of the Office.

8. (1) Above and beyond the provisions of the Act on the Legal Status of Civil Servants (hereinafter: the "Ktv."), regulating the conflict of interests and expulsion of civil servants, civil servants of the Office may not be employed by companies in the energy sector which are subject to licensing by the Office, nor may they maintain any other legal relationship involving the performance of work at such companies.

(2) Civil servants of the Office may not acquire, except by way of inheritance, ownership in any energy sector company subject to licensing by the Office.

(3) Upon appointment, civil servants of the Office shall make a statement on their compliance with the provisions of section (2) hereof to the person exercising employer's rights over them. Civil servants of the Office shall terminate their ownership acquired prior to appointment or through inheritance within three months of appointment or acquisition.

(4) Prior to performing the obligation specified in section (3) above, no civil servant of the Office may participate in the preparation or adoption of decisions affecting a company or companies affected by the conflict of interests.

(5) Civil servants of the Office shall be subject to the provisions of the Ktv. in every respect except the ratio specified in section (1) of Article 30/A of the Ktv., which shall be thirty-five per cent, and the salary supplement specified in section (1) of Article 44 in the Ktv., which shall be thirty-five per cent of the basic salary in the case of civil servants with secondary school qualifications.

9. (1) The President of the Office shall report, on an annual basis, to Parliament on the activities of the Office, and publish an annual report.

(2) The Office may enter into cooperation agreements, exchange information with foreign energy regulatory organizations and become a member of such organizations, provided that it complies with the provisions of the statutory regulations in force.

(3) The procedures of the Office shall be performed in compliance with the provisions of the Act on the General Rules of State Administration, except that the deadline for administration shall be 90 days. Remedy may be sought against the resolutions of the Office only and exclusively at court. The court shall be entitled to amend resolutions of the Office.

(4) The Office shall publish the operative part and justification of any and all resolutions in public interest specified as such in a separate statutory regulation, as well as the final licenses in the official bulletin of the Ministry of Economic Affairs (hereinafter: the “Ministry”).

10. (1) In relation to electricity supply, the Office shall

- a) issue, (in cases specified in statutory regulations) amend, and withdraw the licenses required for performing activities subject to licensing under this Act,**
- b) approve the Business Conduct Rules elaborated by the licensees, supervise the observation of their provisions, and in the event of violations thereof, impose fines in the amount specified in a separate statutory regulation,**
- c) supervise the observation of statutory regulations in the scope of its competences specified herein and the provisions of the license,**
- d) approve the Electricity Supply Codes compulsory for all participants of the electricity grid,**
- e) specify the general rules of access to the public power grid for eligible consumers,**
- f) prepare the official prices (tariffs) applicable in electricity supply and the terms of their application,**
- g) decide, at the proposal of the independent system operator, on the classification or re-classification of lines as transmission, distribution or public lines,**
- h) be entitled to announce tenders for the establishment of power plants in compliance with the provisions of section (3) of Article 106 hereof,**
- i) establish – in the form of a resolution – the minimum quality requirements of performing licensee activities and their expected standard for each individual licensee,**
- j) revise a public service wholesaler’s application for the disbursement of stranded costs, and submit a proposal to the Minister on the amount of stranded cost it considers justified,**
- k) identify and certify the energy-producing materials used by generators or operators of small power plants for the generation of electricity, provided that these are renewable sources or waste, and establish the amount of electricity that can be generated from such,**
- l) perform the procedures specified in Chapter 9 hereof in relation to the restrictions on the acquisition of interests in licensed undertakings,**
- m) be entitled to inspect the documents related to the activities subject to licensing, including the fuel supply activities of horizontally integrated electricity undertakings as well as documents containing business secrets,**
- n) be entitled to make copies of or extracts from any and all documents, and to request from licensees ad-hoc and regular information required for the performance of its duties,**
- o) be entitled to suspend transactions for a period of three days in the organized electricity market, when unfavourable market developments do not ensure safe, transparent trading,**
- p) inspect, in order to maintain a continuous, secure supply of electricity, whether major changes of power plant capacity and performance are justified.**

11. With a view to the provisions of the Act on Consumer Protection and in order to enforce consumers’ interests, the Office shall act in concert with the General Inspectorate for Consumer Protection and the regional inspectorates (hereinafter: “consumer protection inspectorates”) in performing the following consumer protection duties in the field of electricity supply:

- a) investigation of consumer claims related to the settlement of accounts, billing, payment of bills, metering, and complaints about electricity supply failures,**
- b) review of the use of connection fees paid by consumers for connection to the public power grid,**
- c) cooperation with consumer interest representation organizations,**

- d) organization and conduct of consultations between consumer interest representations and licensees; decision-making in disputes unresolved after such consultation,
- e) providing consumer interest representation organizations and consumer protection inspectorates with all public data and information that are likewise related to a licensee's activities subject to licensing and the enforcement of consumer interests,
- f) reviewing the level of supply and monitoring the satisfaction of consumer demand in order to ensure security of supply to consumers.

Chapter 3

ELECTRICITY SUPPLY

General rules

12. Electricity may be supplied in accordance with

- a) a freely negotiated agreement concluded with eligible consumers,
- b) a public service contract, or
- c) a public service contract concluded simultaneously with a freely negotiated agreement by an eligible consumer, if the consumer purchases the electricity co-generated with the heat it purchased under the non-binding agreement directly from the generator, which must be identical with generator of the purchased heat.

Vhr. 2. § (1) According to the subsection VET 12 § c) the quantity of electric power generated by thermal station shall be calculated according to the provisions of the Grid Code.

(2) According to the Act No. XVIII of 1998 about district heating, consumers having individual contracts shall have right to purchase electric power on the basis of separate agreement from the generator and small power plant that provide it with heat energy directly or through the heat supplier. The quantity of the purchased energy shall not be more than the electricity that is co-generated at the heat supplier during the generation of heat required to fulfil the heat purchase contract, and the settlement shall be performed proportionally with the monthly energy consumption.

Vhr. 3. § (1) If the subject of the contract to be concluded between the parties cooperating in the electric power system comes under the administrative pricing procedure, the parties shall submit their contracts related to power trading and system use to the Office within 15 days of the conclusion of the contract.

(2) The Office – according to subsection VET 11. § f) – shall have right to charge independent auditor to survey the satisfaction of consumers, the expected level of supply provided by the licensees and the survey of quality of electricity in the supply area of licensees, with the exception of commercial licence holders.

13. (1) Licensees and operators of small power plants connected to the electricity grid shall cooperate with each other in compliance with the provisions of this Act, the decree on the execution thereof, and the provisions of the Electricity Supply Codes approved by the Office.

(2) For the purposes of their activities and in order to ensure undisturbed, reliable operation of the public power grid, uninterrupted satisfaction of consumer demand, fast, safe elimination of malfunctions, and the transmission of metering results, licensees may establish and maintain special telecommunication systems.

14. (1) Following consultation with the licensees, the independent system operator shall elaborate

- a) an Operating Code containing the rules, procedures and methods pertaining to the operation of the electricity grid,

b) the minimum content of commercial agreements, contracts concluded for tariff metering and for the exchange of data, the terms of international trade and the trade terms regulating ancillary services and the operation of the organized electricity market.

(2) Distributors shall consult with the other licensees to elaborate a common Distribution Code to control the operation of the distribution network.

(3) The Electricity Supply Codes shall be elaborated with a view to the principles of the security of supply, quality requirements, competition under equal terms, open access to the public power grid and minimum cost.

(4) The Electricity Supply Codes and amendments thereunto shall be approved by the Office and published in the official bulletin of the Ministry. When approving the Distribution Code, the Office shall consider the opinion of the independent system operator.

(5) The Electricity Supply Codes and the amendments thereunto shall be made available for the parties concerned.

(6) Details of the contents of Electricity Supply Codes and their method of elaboration and harmonization shall be regulated in a separate statutory regulation.

Electricity Supply Codes

Vhr. 4. § (1) General content requirements of electricity supply codes specified in paragraphs VET 14. § (1)-(2), including the Grid Code, the Commercial Code and the Distributional Code referring to the cooperation of electricity system:

a) regulations, expectation and requirements for the licensees of electric power system and the operators of small power plants, including those yet connected or obliged to connect and those presumed to be connected.

b) for standards to be applied – the identification data of these standards,

c) additional, detailed description in the appendix,

d) demonstration of organisational, structural and hierarchical relationship,

e) definition of individual concepts for cases when no definitions are included in the regulation,

f) definition of scope of competence related to power lines, substations and power plants,

g) the existing information can be published.

(2) All three electricity supply codes - beside the professional requirements related to the given area - shall include individual provisions about the following issues:

a) definition of individual concepts used in the electricity supply codes,

b) subject and scope of the electricity supply codes and the system of cooperation,

c) recommendations to be included in the business conduct rules about the relationship of licensees and the system users not falling under the effect of electricity supply code,

d) general rules of quality control and quality insurance,

e) maintaining connection between the subjects of electricity supply code, system, rules and agreement mechanisms of information exchange,

f) possibility of claims related to the provisions of supply codes, the method of the agreement of the required modifications and the method of submission to the Office.

g) list of appendices, registry of changes.

(3) The grid and commercial codes should be made available on the system operator's web site and the electricity distribution code should be made available on the proper web sites of the distribution companies, together with the approving decision of the Office; the decision itself should be published in the official paper of the Ministry of Economy and Transport.

Vhr. 5. § (1) Provisions of the electricity supply codes shall apply to the following issues:

a) grid code for generators participating in the cooperation of power system, the technical and professional operation of transmission network and system operation, definition of concepts, design, operation control, failure management, recording operational events and the related order of data- and information supply, settlement of supplied power quantity,

including the infrastructure required for the operation, in accordance with the commercial and the distribution codes;

b) the commercial code for generators participating in the cooperation of power system, the licensees of transmission network, distribution network, system operation, power trading, public service wholesale, public service supply, organized power market and the cross-border electricity transfer, as well as the commercial activity of small power plants, in accordance with the grid and distributional codes;

c) the distributional code shall apply to the technical and professional operation of the licensees of distribution network and to the power plants connected to the distribution network, in accordance with the grid and commercial codes.

(2) The electricity supply codes include especially the following provisions:

a) Measurement and settlement, access to the network:

aa) details of authentic invoicing of measurements and of the fulfilment of contracts, summary of measurement data, forwarding to the system operator (VET 23. §),

ab) detailed technical and professional rules of free access to the public network, the publication procedure of the available free public network (VET 31. §),

ac) method and date of information of licensees about the decision on the transmission of contracted electricity quantity through the public network according to the contract providing access to the free public service network [VET 32. § (2)],

ad) detailed provisions for the rejection of access to the public service network, limitation or suspension of transmission and distribution (VET 34. § (4)),

ae) technical specification of instruments suitable for measuring turnover and generation of electric power [VET 38. § (1)],

af) technical definition of appliances (of eligible consumers) suitable for measurements for settlement [VET 46. § (6)],

ag) date and method of reporting cross-border electricity transmission to the system operator [VET 48. § (1)],

ah) conditions for connecting electricity generating devices of consumers to the network (VET 109. §).

b) Operation and development of transmission and distribution networks:

ba) provisions of operation control of distribution network not affecting the operation of transmission network [VET 22. § (3)],

bb) notification on the establishment of lines with reporting obligation, not included in the network development project or offer [VET 27. § (1)],

bc) about the order of invitation for bid for development of transmission and distribution networks (VET 28. §),

bd) method of reporting of implementation of direct lines and network units to the system operator (VET 29. §),

be) detailed provisions for the operation control of transmission network and the distribution network affecting its operation mode (VET 40. §).

c) System operation, data supply, information:

ca) definition for the consumption of contracted electricity, including the date and method of reporting (VET 18 §),

cb) description of data and information supply to be exchanged between the licensees of the network and to be submitted for the system operator in order to enhance the safe and effective operation of electric power system (VET 25. §),

cc) method and date of submitting data of power trading contract by the licensees and system users to the system operator according to special regulation which are necessary for system operation [VET 32. § (1)],

cd) method and date of reporting obligation of the licensee for the consumers about the above data supply defined by the system operator [VET 32. § (3)],

ce) method of information of eligible consumers and licensees about the date and expected period of interruption due to maintenance and renewal works that can be planned by the network licensees [VET 34. § (3)],

cf) method of data acquisition and supply about consumer prices in order to provide their transparency (VET 37 §),

cg) order of preparation of ancillary capacity and electric power balance, method of reporting for the Minister of Economy and Transport (hereinafter called: Minister) and for the Office about the changes of balance, power plant capacity, public service networks and the consumption expected in the future (VET 37. § c)),

ch) scope of ancillary services that should be utilized by the system users [VET 39. § (1)],

ci) other tasks of system operation related to other licensees (VET 41. §),

cj) date and method of reporting to the system operator about the consumption of power contracted by public service wholesale trader for public service purposes [VET 43. § (1)],

ck) date and method of reporting about the obligation of public service wholesale trader for contracting and taking over of electric power for public service purposes [VET 45. § (2)],

d) Failures, limitations:

da) provisions for the case of failure of the power system [VET 33 § (1) c)], suspension of supply [VET 34. § (2)],

db) measures to be taken in case of failure, suspension of supply or limitation (37. § i)),

dc) disturbance in supply not causing emergency (VET 107. §).

(3) In the Commercial Code – for cross-border transmission the following issues should be included: order of reporting to the system operator and the balance circle manager about the cross-border transmission, confirmation and acceptance of reports, implementation of possible modifications, detailed rules for handling schedules, provisions for auctions or other allocation methods necessary for congestion management in case of insufficient cross-border capacity, and other detailed measures to be taken for the implementation of especially transit operations and tariff management.

General rules for the elaboration of electricity supply codes

Vhr. 6. § (1) The code committees to be created according to paragraphs 6-7. § shall prepare the agreement concerning the elaboration, maintenance and general revision of electricity supply codes. The condition of effective work, members, regulation of these committees and the method of agreement with other interested parties shall be defined at the start of work with the participation of these parties.

(2) The system operator shall implement the elaboration of operational and commercial codes and the distributors shall implement the elaboration of distributional code so as to provide safety and quality requirements of supply, free competition, free access to public service network and the compliance with the principle of least costs.

(3) The order of modification and supervision of supply codes together with the detailed rules of operation and composition of regulation committees – with regard to this Decree – are included in the relevant electricity supply code.

(4) The Office shall have right to have the revision of supply code made at any time, and the modifications required by the result of revision should be executed. For the approval required by the Office (VET 10 § d)), the system operator and the distributors, respectively shall submit to the Office the common standpoint of licensees according to paragraph 6 § (4), together with their application for approval.

(5) The system operator and the distribution companies – after the revision defined in paragraph (4) – shall submit the electricity supply codes to the Office for approval.

(6) The system operator and the distribution companies shall make available all information and documents for other licensees and small power plants at a reasonable time making possible the elaboration of standpoint, and to make possible the cooperation with the code committees and to consult the members of these committees, if necessary.

(7) The detailed content of data supply between licensees and system users specified in an individual regulation – required for the undisturbed operation of the power system – shall be defined in the electricity supply code.

Code Committees

Vhr. 7. § (1) With the elaboration of operational code, commercial code and the actual modification and revision of these regulations the system operator shall establish code committees with the participation of the licensees. Licensees shall take part in the work of code committees through their representatives.

(2) On the meetings of the code committee the operators of small power plants and the consumers shall have right to participate through their corporate representatives and interest representative bodies.

(3) When taking decision the system operator shall consider the remarks and opinion of code committees or their representatives, and shall justify the possible rejection.

(4) The code committees shall form a mutual standpoint about the draft declared by the system operator as final.

Vhr. 8. § (1) For the activity of the regulation committee responsible for the agreement and the revision distribution regulation the provisions of paragraph 6.§ are authoritative, accordingly, with the exceptions specified in sections (2) and (3).

(2) The obligations specified in paragraphs 6. § (1) and (3) shall be valid for the system operator with regard to the operational and commercial code and the distribution companies with regard to the distributional code.

(3) The establishment of the regulation committee shall not affect the corporate responsibility for the elaboration of a common distributional code.

15. (1) Generators, distributors, electricity traders, the independent system operator, public service suppliers, public service wholesalers, transmission licensees and licensees of the organized electricity market shall each prepare Business Conduct Rules.

(2) The Business Conduct Rules shall specify contractual terms for the general technical and commercial considerations, the settlement of accounts and payment for the services provided by licensees.

(3) The Business Conduct Rules are subject to approval by the Office. Licensees shall make the approved Business Conduct Rules available for all parties concerned.

Business conduct rules

Vhr. 9. § (1) Every licensee who is obliged to prepare a business conduct rules shall store this regulation in a room accessible for the customers in a well visible place and shall make it available for everybody, if requested, including the publication on web site.

(2) The obligatory provisions to be included in different business conduct rules shall be defined in the *appendix No. 31 of this Decree*.

(3) The provisions of electricity supply codes concerning system users without licence shall be included also in the business conduct rules of those licensees that can enter into contractual relationship with system users without license.

Electricity supply for social welfare purposes

16. (1) Consumer who are natural persons may receive a social welfare allowance for the purpose and to the extent of maintaining their real property which they use as their place of residence.

(2) The social welfare electricity allowance may not be provided as compensation in cash. The form and resources for the electricity allowance and the grounds for eligibility for such, as well as the detailed regulations pertaining to the applications for social welfare electricity allowance shall be specified by the Government.

(3) State budgetary and local governmental resources and other voluntary contributions provided for this specific purpose may be allocated for financing of the social welfare electricity allowance.

Generators

17. (1) Generators shall offer the amount of contracted public electricity they generate to public service wholesalers.

(2) Generators may freely sell any and all electricity in excess of the amount of contracted public electricity in compliance with the provisions of Article 18 hereof. Generators of co-generated electricity may directly sell to heat consumers any and all amount of electricity co-generated in the same heat-supply power plant along with the heat purchased by said consumer, unless such electricity qualifies as contracted public electricity under subsection 23 of Article 3 hereof.

Vhr. 10 § (1) A generator shall have right to sell only the power generated by itself according to the generation license. All further power sales can be implemented exclusively according to the power trading license. The small power plant shall have right to sell the power generated by itself, without commercial licence.

(2) The direct or indirect power supply of a mine carried out by a generator shall not be regarded as power trading if the mine is in the own property of the generator.

(3) Ancillary services utilised by the generator in case of its breakdowns specified in the supply codes cannot be regarded as electricity sale, even if the generator uses this supply for carrying out his contractual obligation.

(4) It shall not be regarded as power sale either the acquisition of power for proper goals related to the power plant technology, the service facilities and the operation of auxiliary plant, or for the commissioning of power plant units, or the sale of power for third parties engaged in the maintenance, reconstruction or extension of power plant equipment, including the resale of such power.

18. Purchasers of electricity shall be entitled to freely decide on the use of the plant capacity contracted in a contract. If a purchaser of electricity fails to indicate - in such a manner and prior to such date as is specified in the Commercial Code - its wish to use the electricity it has contracted, the generator may freely sell it. In this case, a generator shall settle the capacity commitment charges with the purchaser subsequently. A purchaser may also entrust the independent system operator with the technical regulation of using the available active power.

Vhr. 11. § The forms of consumption of power plant capacities contracted by the buyer of electric power shall be defined in the contracts concluded between the generator and the buyer.

Vhr. 12. § The posterior settlement of tariff defined for the contracted power capacity between the generator and the public service wholesale trader shall be executed with the consideration of the following settlement rules:

a) the power sold for the system operator according to the capacity consumed by the system operator shall be included in the guaranteed take-over specified in the contract between the generator and the buyer. If the power was used for supplying ancillary services, then the system operator shall pay to the power plant the total availability fee for the day of utilization – specified in the contract or regulation - with further notification of the buyer;

b) in the claim to be set up for the public service wholesale trader the generator shall include the availability fee paid to him by the system operator for the availability of ancillary services as a reducing item;

c) if the generator sells the whole or a part of the “not consumed capacity” on the competition market or the market of ancillary services, then the generator shall repay fifty percent of capacity fee to the public service wholesale trader in the posterior settlement phase for the ratio realized on competition market out of the amount of the guaranteed taking-over compared to the ratio of the total guaranteed taking-over, if otherwise not agreed by the parties.

Vhr. 13. § The licensee shall not have right to restrain his power generation without justified reason. According to the authorization granted in paragraph VET 10 §, the Office shall declare the cessation of power generation as an especially unjustified restrain when the cessation occurs due to circumstances other than failure or fuel deficiency, or does not fall under the effect of paragraph 51. § of this Decree about the stoppage of power generation, it is not a consequence of significant technological changes or economic conditions of the generation activity, however, the restrain endangers the continuous and safe power supply, the safe and transparent trading and market relationship, or causes single or steady price rise at a level of more than 10% on some engaged power markets or partial markets (e.g. balancing power market, peak capacity market).

Electricity generated from renewable sources and waste

19. In order to enforce environmental protection requirements and diversify energy sources, the use of renewable sources and waste for power generation shall be promoted. Support shall be regulated along the following principles:

- a) in order to promote the establishment of power plants generating energy from renewable sources and waste, an effective and transparent system of support must be established in harmony with the principles of the energy policy;**
- b) while preserving market competition between generators and small power plants, the competitive handicap of electricity generated from renewable sources and waste must be reduced;**
- c) the technological features of renewable sources and waste as energy sources should be considered;**
- d) consumers shall be properly informed of the environment-friendly features of the energy source used for electricity generation;**
- e) directly or indirectly, consumers shall uniformly bear the operating costs of the support system;**
- f) upon establishment of the amount of support, the efficiency of using the individual energy sources, in relation to the country's natural resources, should also be taken into consideration.**

20. (1) At the request of a generator or an operator of a small power plant, the Office shall certify the capacity of the power plant using renewable sources and waste, as well as the source used for electricity generation.

(2) Based on the certificate of the Office as specified in section (1) hereof, a generator or operator of a small power plant is entitled to issue and sell a green certificate of the amount of electricity produced from renewable sources and waste.

(3) At the intervals specified in a separate statutory regulation, generators and operators of small power plants shall provide statements of the green certificates sold and the amount of electricity generated from renewable sources and waste, and submit such statements to the Office for approval.

(4) If in the period specified in a separate statutory regulation the amount of electricity specified in a green certificate is not equivalent to the amount of electricity actually generated by a generator or an operator of a small power plant from renewable sources and waste, the Office may

- a) impose the legal consequences specified in Article 67 hereof against the generator,**
- b) impose the legal consequences specified in subsections (a) and (b) of Article 67 hereof against the operator of a small power plant. The Office may refuse access to the public power grid for the operator of the small power plant, if despite written notice or a fine, it fails to meet or is incapable of meeting its obligations specified by law.**

21. Electricity traders, public service wholesalers, public service suppliers and generators selling electricity directly to eligible consumers shall acquire a green

certificate evidencing the generation of the amount of electricity specified in a separate statutory regulation.

Network Operation

22. (1) In order to ensure system cooperation and access to the public power grid, network licensees shall

- a) operate and maintain the public power grid under their control in a safe and effective way and with a view to environmental protection requirements,**
- b) perform timely maintenance, repair, renovation and development, and provide for the required stocks and reserves,**
- c) ensure that the technical conditions required for the operation of the public power grid are in place.**

(2) The independent system operator shall ensure that any information regarded as a business secret is handled confidentially.

(3) In cooperation with the independent system operator, the distributor shall operate those distribution networks or network parts that do not affect the operation of the transmission network and that are specified in Electricity Supply Codes.

Vhr. 14. § In the area of competence the network licensee shall perform his/her obligations related to the development of public service network in a way that the access to the public service network could be provided for all consumers in the area of competence.

Vhr. 15. § (1) The network licensee shall have right to authorise third parties for carrying out a part of the licensed activities. The scope of activity to be performed by third party in the name of the licensee with the approval of the Office shall be defined by the Office in the operation licence. If the licensee – according to the operation license –authorises a third party for carrying out some activities, then the licensee shall bear responsibility for the obligations specified in the operation license, the VET and the decrees issued according to the VET, as if such activities had been performed by the licensee himself.

(2) In the operation license the Office shall define the scope of means which are necessary for carrying out the licensed activities and of which means the licensee can dispose only with the preliminary permission of the Office, as well as the conditions of disposal.

Vhr. 16. § In order to supplement the loss of distribution network – unless it is specified otherwise by the government in its decree about the authorization of power consumers – the distribution company can buy power only from the public service wholesale trader at a wholesale price.

23. (1) In order to ensure correct invoicing, the following shall perform the measurements set forth in the Commercial Code:

- a) for contracts concluded between licensees, or between licensees and operators of small power plants: the independent system operator, on the basis of the measurement data of meters integrated into the metering system under the independent system operator's control, and with the involvement of network licensees in the manner specified in the Electricity Supply Codes;**
- b) for contracts between consumers and licensees: network licensees, on the basis of the data measured by wattmeters indicating and storing the data of active energy consumption, or if electricity consumption remains below a level specified in a separate statutory regulation, on the basis of a statistical electricity demand curve specified in the relevant Commercial Code.**

(2) Network licensees shall read the meters, summarize the measurement data in such manner as is specified in the relevant Commercial Code and forward such data to the independent system operator.

(3) Network licensees shall provide for the installation, calibration and maintenance of the connection, switching, transformer and tariff metering equipment specified in the Electricity Supply Codes – excluding those specified in subsection a) of section (1) hereof – and required for connecting consumers and small power plants and power

plants to the public power grid. The meters specified in subsection a) of section (1) hereof shall be installed, calibrated and maintained by the independent system operator.

(4) The costs of equipment installation, calibration and maintenance shall be borne by generators, or operators of small power plants, in the case of small power plants and power plants, while in the case of consumers – excluding those specified in section (5) hereof – it shall be borne by the network licensees.

(5) The costs of installing the consumption indication and storage meter shall be borne by the consumer upon authorization, provided that the consumer does not yet own a meter as specified in the Electricity Supply Codes.

Vhr. 17. § In the interest of metering and invoicing electricity consumption of customers without consumption meters suitable for storing and signalling capacity, the distribution company shall prepare electricity capacity demand profiles based on statistical analysis with the consideration of authorization schedules defined in the paragraph VET 4. § d) of the Government Decree about the authorization of power consumers. The acquisition of sampling measurement data should be started simultaneously with coming into force of this decree.

Vhr. 18. § (1) The measurement data defined according to the supply regulation shall be submitted to the system operator in a data format and before deadline specified in the commercial code. Besides this requirement, the distributor shall forward the invoicing data to the competent trader and public service supplier, and the transmission network licensee shall send these data for the public service wholesale trader, the competent trader and the public service supplier according to the provisions and data processing level specified in the commercial code.

(2) In order to implement the cooperation of ancillary services including especially for the cooperation required for the settlement, all licensees shall operate a data transmission and communication system coordinated by the system operator. The fundamental requirements of the communication system are included in the supply codes.

(3) The system operator and the network licensees shall keep and store the summarised measurement and settlement data authenticated by them for 8 years and make available for the competent system users, according to the conditions and in a data format specified in the commercial code.

24. In order to secure supply for consumers connected by a customer connection system, network licensees shall conclude contracts for operating the customer connection system and repairing malfunctions under the terms of the relevant Business Conduct Rules, at the initiative of the operator of the customer connection system.

25. Network licensees shall provide each other and the independent system operator with the data and information specified in the Operating Code in order to ensure the secure, effective operation of the grid.

26. (1) Local governments shall be entitled to install and operate light sources and fittings to provide public lighting, and place their accessories on the supporting structures of the public power grid. In addition to tolerating this, network licensees shall cooperate with local governments in the implementation of such. Local governments shall reimburse network licensees and indemnify them for all costs and damages incurred in connection with such activities, provided that such expenses cannot be recovered from other sources. All issues related to the installation and operation of light sources and fittings for public lighting purposes and attachment of their accessories on the supporting structures of the public power grid shall be regulated in contracts between the network licensees and the local government in question.

(2) In agreement with the Minister of the Interior and the Minister of Transport and Water Management, the Minister shall specify the detailed rules on electricity supply

for public lighting and the establishment, maintenance and operation thereof in a decree.

Network development

27. (1) With due regard to the development plans and proposals of network licensees, the independent system operator shall prepare a development plan for the grid no less than once every second year. The installation of lines not included in the development plan or in proposals, but specified in the Electricity Supply Codes must be reported to the independent system operator.

(2) Based on the independent system operator's proposal, the Office shall decide on the re-classification of lines as transmission, distribution or public lines.

Vhr. 19. § The Office shall adopt a resolution in accordance with the proposal of the system operator about the requalification of line to distribution line or public line considering the cooperation of electric power system, security of supply, effective and continuous power supply, number of consumers connected to the given line, volume of consumption and other actual special circumstances.

28. With a view to the provisions of section (1) of Article 27, the independent system operator shall initiate the improvements required in the transmission network for the secure, effective operation of the grid, and developments in the distribution system specified as such in the Electricity Supply Codes and affecting the operation of the transmission system. If - despite a request by the independent system operator - a licensee fails to carry out the network development, the independent system operator – with the agreement of the Office – may announce a tender for the development of the electricity transmission network and the distribution system specified in the Electricity Supply Codes as affecting the operation of the transmission system. The independent system operator shall judge the bids. Prior to announcement, the results shall be submitted to the Office for approval. If the tender is unsuccessful, the independent system operator shall undertake the required network development at the initiative of the Office.

29. Any party shall be entitled to set up a direct line or a new network element at its own business risk, but it shall obtain the prior consent of the Office – granted in agreement with the independent system operator and the competent network licensees of the area – and report installation to the independent system operator in the manner specified in the Electricity Supply Codes.

30. (1) Network licensees shall maintain the technical conditions necessary for electricity supply to the consumers connected to them at a connection point in such a manner as previously agreed with the independent system operator.

(2) A transmission licensee, the competent distributor of a specific area or a public service supplier shall provide information on the technical and financial conditions of satisfying consumer demand and cooperate with the consumer in specifying the most favorable manner of electricity receipt.

(3) If a connection is made under financial and technical conditions specified in a separate statutory regulation, network licensees may claim the connection cost specified therein.

Access to the public power grid

31. (1) The public power grid operated by network licensees shall be made available for generators, operators of small power plants, electricity traders, eligible consumers, public service wholesalers and public service suppliers for the purposes of electricity transmission at the official price specified as per Article 95 hereof.

(2) The conditions of access to the public power grid may not be discriminatory, provide grounds for abuse, contain unjustified restrictions or jeopardize the security of supply and the quality of services.

(3) The detailed technical rules of open access and the rules governing release of information on the available open public power grid shall be specified in the Electricity Supply Codes.

32. (1) Licensees and system users shall forward those particulars of their electricity sales contracts that are specified in a separate statutory regulation as required for grid control to the independent system operator in the manner and by the deadline specified in the Electricity Supply Codes.

(2) In compliance with the provisions of section (1) of Article 33 hereof, the independent system operator shall decide on matters of access to the public power grid and the transmission of contractual volumes of electricity via said grid. The independent system operator shall inform the licensees of its decision in the manner and by the deadline specified in the Electricity Supply Codes.

(3) Electricity sales contracts may be performed in compliance with the independent system operator's decision as per section (2) above. Licensees shall inform consumers of the independent system operator's decision specified in section (2) above as well as of the feasibility of contracts in the manner and by the deadline specified in the Electricity Supply Codes.

Limitation and suspension of electricity transmission and distribution

33. The independent system operator may deny access to the transmission network and/or limit, curtail or suspend contracted supplies in an objective, transparent and non-discriminatory manner,

a) in the event of extraordinary network conditions,

b) owing to a shortage of electricity in the public power grid, generating capacity or electricity transmitted across borders,

c) in the event of a malfunction in the interconnected electricity grid or the electricity grid,

d) if the contracts to supply eligible consumers are suspended.

(2) Denial of access to the public power grid shall be explained.

(3) At the request of the system user, the Office shall investigate within 8 days whether the conditions for denial exist. The Office may declare its resolution promptly enforceable. If the conditions for denial do not exist, the Office may oblige the independent system operator to restore access to the public power grid.

34. (1) For the smallest possible group of consumers and the shortest possible period of time, network licensees may curtail or suspend transmission or distribution,

a) if life or property is endangered,

b) in the event of malfunctions at electrical installations,

c) in order to carry out technical work that cannot be performed in any other way.

(2) Network licensees shall be entitled to curtail or suspend transmission and distribution specified as affecting the operation of the transmission system in the Electricity Supply Codes upon instruction or preliminary consent of the independent system operator.

(3) In the case of scheduled preventive maintenance, network licensees shall inform in advance eligible consumers and licensees affected regarding the starting time and planned duration of the suspension, in the manner specified in the Electricity Supply Codes.

(4) Detailed regulation of denial of access to public power grids or the curtailment or suspension of transmission and distribution shall be specified in the Electricity Supply Codes.

35. Network licensees shall pay indemnity to the licensees and eligible consumers affected to the extent of the evidenced damages, if

a) they fail to provide the licensees and eligible consumers affected with timely information on the suspension of electricity distribution due to scheduled technical work,

b) electricity distribution is interrupted due to reasons within their power, or they curtail or suspend it to an extent exceeding the limits specified in section (1) of Article 34 hereof.

The independent system operator

36. The independent system operator shall be responsible for the management and operational safety of the electricity grid – including international interconnections.

Vhr. 20. § In order to supplement the losses of the transmission network the system operator shall buy electric power from domestic generation based on free agreement up to the level of the consumption of this power.

Vhr. 21. § (1) If the system operator – with regard to the operation of the electric power system or with regard to the system itself – detects any circumstance endangering the safety of power system, power trading or other disadvantageous conditions for the market players, he shall notify the Office in writing, without delay. The Office shall investigate the notification and take the relevant decision. The decision of the Office can be declared as a decision to be executed without delay.

(2) The system operator shall provide balance between the actually consumed and the actually contracted cross-border capacity components.

Vhr. 22. § (1) The senior manager, member of the supervisory committee or senior employee of the system operator shall not be the senior manager or member of the supervisory committee of another licensee of the electric power industry or its related undertaking or of a consumer with more than 6.5 GWh annual consumption or its related undertaking.

(2) The senior manager, member of the supervisory committee or senior employee of the system operator shall not have right to acquire share either directly or indirectly through a related undertaking – with the exception of share of not more than 5% in a corporation registered on the Stock Exchange – in a licensee of electric power industry or its related undertaking, or in a consumer of electric power industry with more than 6.5 GWh annual consumption or its related undertaking. He or she should alienate the above shares being in his or her possession at the time of this decree coming into force within 60 days .

(3) The share acquired in a corporation registered on the Stock Exchange in case of termination should be alienated in 60 days of the last day of trading on Stock Exchange.

(4) The senior manager, member of the revision committee or senior employee of the system operator in the period of one year after the termination of his position or employment can be appointed as a senior manager, member of the revision committee or senior employee of other licensee and related undertaking or consumer with more than 6.5 GWh annual consumption or its related undertaking only with the permission of the Office. In case of establishment of such position or employment the senior manager, member of the supervisory committee or senior employee of the system operator, besides the business secrets, shall handle all data or other information which are related to the system operation activity implemented according to the VET, or which concern the condition of electricity market, activity of different market players, business position or any other useful information or data not published or not disclosed to the companies of energy industry, but the concerned party had an access to it during he/she was in legal relationship with the system operator as confidential.

(5) According to the paragraph (4) the licensee, the operator of a small power plant, the firm establishing a direct line and the consumer should be regarded as market players.

(6) In case of cross-border electricity transmission and foreign trading, all foreign natural and legal entities should be regarded as market players, with whom the above listed market

players enter into legal relationship for the cross-border transport and implementation of a foreign trade transaction of that.

37. With special regard to the security of electricity supply, the independent system operator shall

- a) collect and provide the information required for the operation of the electricity grid and for continuous, secure electricity supply,
- b) collect and provide data related to consumer prices in the manner specified in a separate statutory regulation and in the Electricity Supply Codes, in order to ensure transparency of prices and fulfillment of the country's international obligations,
- c) prepare a balance sheet for the system, and (on the basis of data collected) inform the Minister and the Office of projected future changes in the balance sheet, generating capacity, the public power grids and consumption,
- d) integrate electricity sales contracts,
- e) announce tenders for the development of the electricity transmission network and the distribution system specified in the Electricity Supply Codes as affecting the operation of the transmission system,
- f) coordinate the execution of electricity sales,
- g) plan and provide ancillary services, and regulate – in agreement with the Office – their utilization and settle accounts,
- h) cooperate in the performance of transactions on the organized electricity market,
- i) plan and order the measures required for maintaining the cooperative capacity of the electricity grid, including measures taken in the event of significant malfunction of the electricity grid, or the curtailment or suspension of transmission, distribution and supply to consumers,
- j) represent the electricity grid in the international organizations of the interconnected electricity grid.

38. (1) The independent system operator shall perform the measures specified in the Electricity Supply Codes in order to provide accurate billing for

- a) electricity turnover crossing the borders of transmission and distribution networks,
- b) electricity generation,
- c) the transmission of electricity across electricity borders and transit electricity turnover.

(2) The independent system operator shall perform the quantitative settlements specified in the relevant Operating Code for the transmission of electricity through public power grids in order to provide accurate billing for

- a) the turnover specified in section (1) hereof,
- b) public service electricity wholesale trade,
- c) the performance of contracts concluded between licensees, operators of small power plants and eligible consumers.

Data supply

Vhr. 23. § The system operator shall perform his data and information supply specified in a separate legal regulation in a non-discriminatory way, it shall remain neutral in the competition and shall provide free access for every system user and the Office to all data and information without limitation, free of charge, effectively and continuously.

Measurement data acquisition systems for settlements

Vhr. 24. § (1) The system operator shall have right to use every mean required for the measurements for settlement being in the property of other licensees. The authorization for use shall be provided for the required capacity level (including reasonable volume of reserve capacity) necessary for the reliable and actual data acquisition. The instruments required for

measurements for settlements shall be provided by the owners for the utilization of the system operator up to the extent defined in this decree.

(2) With regard to the instruments defined in paragraph (1) the owners shall bear obligation against the system operator for concluding contract.

(3) If – according to the obligation for concluding contract – the system operator and the owner of the above instruments in any question can not agree in 30 days of the first invitation for offer of the system operator sent to the owner of the instruments, then – up to the date of conclusion of contract between parties – the conditions of utilisation of instruments required for the measurements for settlement – upon the request of any of the parties, shall be specified by the Office in a resolution, with the acknowledgement of justified expenses of the lender.

(4) The owner of the network (or a part of network) shall take care about the maintenance of network or network element, including the maintenance of necessary condition for the safe system operation and the normal operation of the network or network element.

Utilisation and disposal of telecommunication devices required for system operation

Vhr. 25. § (1) The system operator shall have right to use telecommunication networks or network elements owned by other licensees, which are necessary for the system operation. The authorization for utilization shall be valid up to the extent required for the safe system operation (including a reasonable reserve capacity). The owner of the telecommunication networks or network elements required for the safe system operation shall be made available for the system operator by the owner – against a fee proportional to the costs – up to the extent defined in this decree.

(2) When defining the fee for network use with regard to the elements of telecommunication system registered at the price authority, the owners of these elements shall bear obligation against system operator for concluding contract.

(3) If – based on the obligation for concluding contract – the system operator and the owner can not agree in some issue with regard to the utilization of network element in 30 days of the first invitation for bid forwarded to the owner, the Office shall submit a proposal for the conditions of the utilization of the network element.

(4) The owner of the network or network element shall provide for the maintenance of the network and the network element, in order to keep the conditions required for the safe system operation and for the operation of network element.

(5) Network elements can be used freely by the owners of the elements up to the measure they are not needed for the system operation. Such utilization shall not endanger the safety of system operation activity, the free availability of required capacities, including the reasonable reserve capacity. The system operator and the owner of the network element shall agree within the framework of a network utilization contract on the capacity volume necessary for the system operation and on circle of utilization of capacity not endangering the system operation activity.

(6) The network utilization contract shall be submitted to the Office for approval.

(7) If the parties, do not sign the contract about the utilization of network or network element in 30 days of issuing the proposal defined in paragraph (3), then the Office shall have right to impose fine to the parties jointly or separately.

Obligations of system operator with regard to the licensee of organized electric power market

Vhr. 26. § (1) The system operator and the licensee of the organized power market shall cooperate in order to provide the effective, transparent and safe operation and the feasibility of transactions of the organised electricity market.

(2) The system operator shall carry out the safe transaction and implementation of physical transactions of adequate form and volume registered and accepted by him according to the commercial code. The execution of the given transaction can be restricted only according to the provisions of paragraphs VET 10. § o) 33 and 34. § and the provisions of this decree.

(3) The system operator shall elaborate the commercial and operational code with the maximal consideration and enhancement of the establishment of organized power market and to facilitate its effective operation, transparency, including the executability of transactions concluded on the organized power market.

(4) When establishing and licensing the first organized power market the system operator shall request the opinion of the licensee of the organized power market with regard to the commercial code and to proceed with the consultation procedure in accordance with the relevant provisions of this decree related to the revision of the commercial code or to initiate the amendment of electricity supply codes, if required.

(5) The system operator shall contact the licensee of the organized power market or the party applying for such license and shall take part in the elaboration of business conduct rules of the organized market in order to enhance the development of an effective, transparent and operative business conduct rules acceptable from the point of view of system operation and providing maximal executability of the concluded transaction.

Relationship between the system operator and the balance circles

Vhr. 27. § (1) In order to execute the paragraph VET 37 § the system operator shall have right to operate a settlement system based on balance circles and scheduling obligations defined by the number of power supply or delivery points duly specified for him in Hungary. The detailed rules of this obligation are included in the commercial code. The system users or licensees not declared as system users shall have right to found balance circles.

(2) The generator, operator of a small power plant, power trader, eligible consumer, public service supplier, distributor and the licensee operating the organized power market shall found balance circle or join a balance circle. However, if they do not join any balance circle they should be regarded as an individual balance circle. The public service wholesale trader shall found a public service balance circle. Every connection point shall be assigned to a balance circle, and one connection point can be assigned only to one balance circle.

(3) The public service suppliers shall form an individual public service balance circle, or according to the agreement concluded with the public service wholesale trader they shall become members of the public service balance circle of the public service wholesaler.

(4) As a balance circle manager of the balance circle not coming under the effect of the paragraph (3) only a commercial licensee can be appointed, with the exception of a balance circle consisting of one person.

(5) The member-licensee (of the balance circle), the operator of small power plant or the eligible consumer can act as balance circle manager.

(6) The balance circle manager shall sign a contract with the system operator and the members of the balance circle, according to the provisions of the commercial code and the business conduct rule of the system operator. If the balance circle manager is a licensee, he shall report the fact of signing contract with the system operator to the Office in 15 days.

39. (1) System users shall use the ancillary services related to the purchase of electricity, specified in the Electricity Supply Codes and provided by the independent system operator, and reimburse the latter for their use.

(2) The independent system operator shall acquire the ancillary services publicly, in a manner accessible for any licensee or small power plant operator, or on the organized electricity market. The terms of acquiring ancillary services shall be made public.

40. In respect of the public power grid the independent system operator shall have the following specific duties:

a) submission of proposals to the Office on the classification or re-classification of lines as transmission, distribution or public lines,

- b) planning the operation of distribution lines and interconnection lines specified in the Electricity Supply Codes as affecting the operation of transmission and the transmission network,
- c) the use, uniform treatment and management of the operation of the transmission network and interconnection lines,
- d) the operational management of distribution lines specified in the Electricity Supply Codes as affecting the operation of the transmission network along with the continuous maintenance of equilibrium of supply and demand,
- e) harmonization of duties arising from system coordination, definition of open transmission networks, and provision of information to licensees and independent system operators of neighboring and concerned countries,
- f) ensuring the conditions of performing transit turnover,
- g) management of the organization of the ancillary services market.

41. (1) The independent system operator shall ensure confidential treatment of information constituting business secrets.

(2) The independent system operator's further duties shall be regulated in detail in the Electricity Supply Codes.

Electricity traders

42. (1) Pursuant to its license, an electricity trader shall be entitled to

a) purchase power from a generator, another electricity trader or a public service wholesaler in an amount not exceeding the value specified in section (2) of Article 44, or

b) sell power to eligible consumers, other electricity traders or – in an amount not exceeding the value specified in section (2) of Article 44 – a public service wholesaler.

(2) Provided that it is a member, an electricity trader shall be entitled to trade on the organized electricity market.

Vhr. 28. § The power trader shall sell electric power for the eligible consumer or shall sell exclusively electric power (as requested) and shall provide access to the network or the use of the system on behalf of the eligible consumer.

Vhr. 29. § In order to provide the possibility of reconsideration for the potential group of consumers the power trader shall publish sample offer every quarter in a national daily newspaper and on his web site from the date and for the group of consumers specified in government decree about the authorization of power consumers with the content specified by the Office.

Vhr. 30. § The power trader may trade on the organized power market according to the provisions of the separate government decree about the organized power market.

The public service wholesaler

43. (1) In the manner and by the deadline specified in the Commercial Code, a public service wholesaler shall inform the independent system operator of the use of electricity contracted for public service purposes.

(2) A public service wholesaler shall supply public service suppliers with electricity to an extent not exceeding the amount to be supplied under the public service contracts concluded between the public service suppliers and the public service consumers. In order to contract and receive the electricity required for supplying the public service consumers, public service wholesalers shall enter into agreements with the public service suppliers.

(3) A public service wholesaler shall perform its obligation to supply with a view to the principle of minimum cost, and may not take discriminatory measures.

(4) The conditions of cooperation between a public service wholesaler and a public service supplier shall be regulated in a contract.

44. (1) If the amount of electricity contracted for public service purposes remains below the extent of its obligation to supply, a public service wholesaler may purchase electricity on the organized electricity market from generators with free power plant capacity or from electricity traders, or import such across borders.

(2) Within the framework of the organized electricity market, or in any other way available for any and all electricity traders, including export across borders, a public service wholesaler may sell any amount of electricity contracted for public service purposes in excess of its supply obligation.

(3) A public service wholesaler shall not be considered an electricity trader under Article 42 hereof.

Public service suppliers

45. (1) A public service supplier shall supply electricity to public service consumers within the territory specified in its license.

(2) Public service suppliers shall contract the amount of electricity required for supplying the public service consumers using electricity in its territory with a public service wholesaler in the manner and by the deadline specified in the Electricity Supply Codes, and receive such electricity from the public service wholesaler at an official price specified in Article 95 hereof. No public service supplier may be compelled to receive and pay for electricity in excess of the amount contracted.

(3) With the Office's preliminary consent, public service suppliers shall be entitled to purchase the electricity specified in sections (2) and (3) of Article 65 hereof.

Vhr. 31. § (1) The public service wholesale trader shall not have right to discriminate generators, traders or public service suppliers in business relationship. Public service agreements concluded or to conclude between the public service wholesale trader and the individual public service suppliers or between the public service wholesale trader and the generators shall not specify prices or conditions which are much more advantageous or disadvantageous compared to the conditions offered by the public service wholesale trader for other public service suppliers, traders or generators characterized by the same conditions, and which do not comply with the principle of the lowest costs.

(2) According to the paragraphs VET 43. § (3) and 44. § (1) the public service wholesale trader shall purchase the power at the lowest price from the generators having scarce power plant capacity or from the organized power market or from power traders or from cross-border traders, which comply with the principle of the lowest expenses. The public service wholesale trader shall not have right to discriminate, when buying power.

(3) The generator and the operator of the small power plant shall offer the power with feed-in obligation to the public service wholesale trader, if they want to sell this power according to the provisions of the concerned regulation. The public service wholesale trader can waive the right of feeding-in of this power (with regard to the total quantity or a part of it) – with the exception of conditions in paragraph (4) – for the benefit of a public service supplier having operation license for the given area. In the latter case the public service supplier shall not have right to reject the take over the supplied power.

(4) The public service wholesale trader shall not have right to reject

a) the taking over of power offered by the generator connected to the transmission network or by a small power plant according to the paragraph (3),

b) the taking over of power which is generated according to a separate regulation and the generation of which is required – in accordance with a separate regulation - as a minimal power for the heat supply of interested domiciliations.

Eligible consumers

46. (1) Consumers specified in a separate statutory regulation shall have the legal status of public service consumers until the period of notice specified in their public

service contracts expires, and subsequently they shall have the legal status of eligible consumers. In order to become an eligible consumer, the consumer may terminate a public service contract only and exclusively in the manner specified in section (2) hereof.

(2) At its discretion, a consumer specified in a separate statutory regulation may be authorized

a) under the terms and from the date specified in a separate statutory regulation,

b) by termination of the public service agreement no later than by the first day of a calendar month, subsequent to the period of notice.

(3) A separate statutory regulation may specify a shorter period of notice than specified in subsection b) of section (2) hereof.

(4) Eligible consumers may purchase electricity under the terms and conditions specified in the Business Conduct Rules, on the basis of a freely negotiated agreement.

(5) Eligible consumers shall purchase at least one-half of the amount of their annual consumption from domestic production.

(6) Should an eligible consumer deviate from the specifications relevant to the equipment specified in the Electricity Supply Codes, it shall provide for the installation of the tariff meter as well as connection to the network licensees at its own cost.

(7) For the purposes of settlement of accounts, network licensees shall meter consumption by eligible consumers.

(8) Under the conditions specified in the Business Conduct Rules, an eligible consumer may initiate its re-classification as a public service consumer and the conclusion of a public service contract. The licensed public service supplier of the area of the consumption site shall conclude such a contract within six months from the announcement of such a request.

Vhr. 32. § The eligible consumer shall have right to deliver the purchased electricity for third party, inside its consumption area, through his own network or the network operated by him and supplied with measurement devices. The delivery shall not be deemed as a public service supply or trading.

Cross-border transmission of electricity

47. (1) Under a license issued specifically for such an activity, electricity may be transmitted across borders by

a) an electricity trader,

b) an eligible consumer for its own use,

c) the independent system operator in order to perform its duties specified in subsection g) of Article 37 hereof.

(2) Based on its license, a public service wholesaler may transmit electricity across borders as specified in sections (1) and (2) of Article 44 herein.

(3) The independent system operator may transmit electricity in order to obtain and to the extent of obtaining ancillary services.

48. (1) Transmission of electricity in either direction across the border must be reported to the independent system operator in the manner and at the date specified in the Electricity Supply Codes.

(2) Pursuant to the provisions of a separate statutory regulation and with a view to the provisions of section (1) of Article 33 hereof, the independent system operator may deny access to a public power grid or the transmission of electricity in either direction across the border, or may reduce the amount of electricity permitted for import or export, if such transmission jeopardizes the operation or controllability of the electricity grid.

(3) Pursuant to the provisions of a separate statutory regulation and with a view to the provisions of section (1) of Article 33 hereof, the independent system operator may

deny access to a public power grid or the transmission of electricity in either direction across the border, or may reduce the amount of electricity permitted for import or export, if

a) electricity is imported from installations the operation of which directly or indirectly endangers or may endanger persons in the country, their property, or the natural environment,

b) the imported electricity fails to comply with the relevant statutory regulations and the Operating Code,

c) the electricity is imported from a country where a consumer authorized under Hungarian law is not considered as authorized,

d) the import of electricity is disadvantageous for the co-generation of electricity with heat or the use of energy gained from renewable sources and waste.

(4) An appeal against the independent system operator's decision pursuant to sections (2) and (3) above may be lodged at the Office. The Office shall investigate the independent system operator's decision pursuant to section (3) of Article 33 hereof.

(5) Cross-border electricity transmission shall be regulated in detail in a separate statutory regulation and in the Electricity Supply Codes.

Chapter 4

LICENSING

General rules governing licensing

49. The activities specified in section (1) of Article 51 hereof may be conducted and practiced in compliance with and in possession of the appropriate licenses issued by the Office.

50. (1) The Office shall issue a license, provided that the license application complies with the requirements set forth by law.

(2) The licensing procedure shall be conducted in compliance with the prohibition on discriminatory practices.

(3) The Office shall refuse to issue a license, if

a) any of the statutory conditions have not been met, or the applicant does not possess the licenses specified in other regulations,

b) the content of the application fails to comply with the energy policy requirements regulated in a separate statutory regulation regarding power plant establishment or does not satisfy the principle of minimum cost,

c) the applicant does not have the financial, business and technical conditions and facilities, professionals, and commercial opportunities specified in a separate statutory regulation as required for the continuous and long-term execution of the activity in the license, or does not comply with the energy efficiency requirements,

d) bankruptcy or liquidation proceedings have been initiated against applicant,

e) within a period of ten years the applicant's operating license (pursuant to section (1) of Article 51) was revoked for reasons within the applicant's power.

(4) Extension of licenses shall be subject to the rules pertaining to the license in question.

51. (1) Activities subject to licensing under this Act shall include:

a) the establishment and operation of a power plant with a capacity of 50 MW or more, or its expansion, the increase of its capacity, the selection or change of the fuel used in the power plant, in such a manner and to such extent as specified in a separate law, the termination of electricity generation or the decommissioning of a power plant;

b) the transmission of electricity;

c) the distribution of electricity;

d) grid control;

- e) electricity trade in any form whatsoever;
- f) the wholesale of public service electricity;
- g) the supply of public service electricity;
- h) the operation of the organized electricity market;
- i) cross-border electricity transmission.

(2) The establishment of a small power plant or direct line shall not be subject to licensing.

(3) No less than three months prior to the envisaged commissioning of a power plant with a capacity in excess of 1 MW, the operator shall inform the Office of such commissioning, and upon connection to the grid, it shall also inform the transmission licensee as well as the competent local distributor and the independent system operator.

(4) The establishment of the lines shall be approved by the authority appointed in a decree of the Minister.

52. (1) Within the scope of the detailed rules of licensing, the Government shall specify

- a) the rules of the licensing procedure,
- b) the conditions for issuing the license including public hearings,
- c) the contents of the application, the license and the feasibility study required for the establishment of a power plant,
- d) the size and type of financial guarantees required for trade, public service wholesale and public service supply in electricity.

(2) The licenses regulated by this Act shall not affect the licenses and licensing procedures specified in other statutory regulations.

Vhr. 33. § (1) With regard to licensing according to the paragraph VET 51 § (1) a) the 50 MW power limit shall be interpreted as follows: all power plant units and other part or equipment of the power plant suitable for power generation and operated and installed on the same site and being in the property of the party applying for the license shall be considered together. For this paragraph the term "site" shall be interpreted according to the definition of paragraph 4. § 33 of the Act No LXXXI of 1996 about corporation and dividend taxes.

(2) When issuing license for power plants the Office shall enforce the following criteria of the energy concept:

- a) the scheduling of termination of the power generation and the power plant should not endanger the competition on free market, the power supply of different areas or the combined distance heat consumption,
- b) in order to reduce the fuel consumption only state-of-the-art power plants with an adequate coefficient of efficiency should be established,
- c) it should not endanger the continuous and safe supply of country with different energy carriers,
- d) the combined power generation and the renewable energy carriers and utilization of wastes for power generation shall be given higher priority.

(3) In case of system development endangering the power supply balance of the country and the safe supply with different energy carriers the Minister shall have right to order the Office to reject the utilization of the given energy carrier in its licenses during development period.

(4) For a new power plant using natural gas as a fuel the generation license can be issued only if the power plant can replace natural gas supply of the power plant with an alternative fuel (e.g. fuel oil, gas turbine, oil, and so on) to the extent and with the means defined in the decree of Minister about the "Minimal reserve of energy carriers and the order of reserving of power plants with 50 MW and higher capacity" issued according to the section 4 of paragraph VET 5. § a).

Vhr. 34. § The activity subject to license specified in paragraph VET 51 § – with the exception of section i) of paragraph VET 51 § (1) – can be performed only by

- a) company limited,
- b) corporation

having domestic residence and falling under the effect of Act No CXLIV of 1997 on business associations and complying with the provisions of VET, this Decree and other effective regulations.

Vhr. 35. § (1) The application for the licenses defined in paragraph VET 51. § (1) shall be submitted according to the form specified in *Appendix No 15*, and the applicant shall enclose all documents and declarations required by the VET, this Decree and other effective regulation. The application, besides the above form should be forwarded to the Office also by E-mail or data carrier (disk).

(2) The appendices of the application for license are included in the *Appendices 2-14* of this Decree, the content of the license is included in the *Appendices 17-28* and the content of the feasibility study required for the establishment, extension and the increase of capacity of power plant is included in the *Appendix 30*.

(3) To any application for licence of establishment, operation and activity defined in paragraph VET 51. § (1) the following documents should be enclosed. If a business association having operation license according to the Act No XLVIII of 1994 about the power generation, transmission and supply shall apply for an operation license, then – with the exception of the business conduct rules – no other documents should be submitted to the Office, if the requested data are included in the documents submitted earlier, and the applicant encloses a declaration about the validity of these data:

a) the articles of association of the business association applying for license (its foundation deed, statute);

b) the relevant draft of structure, management, decision taking and controlling order of the business association, including the draft of organizational and operational regulation, if such documents are not included in the articles of association;

c) the opening balance for a new firm and the balance for the last two years for an old firm;

d) the business plan checked by an independent auditor for the period specified for the individual licensed activities;

e) the draft of the business conduct rules;

f) the quality control system checked by the independent authority of quality certification, or the plan of introduction or scheduling of such system;

g) introduction of an available qualified staff number specified in a separate regulation, or the plan for such introduction;

h) a certificate of incorporation not older than 30 days, or if any change is in progress, the document certifying the change and the application for the registration of changes with the seal of incoming registration of documents received by the Registry Court;

i) other documents specified in the effective regulation.

(4) If there is an undertaking with majority or direct control in the applicant, then also the following documents should be enclosed to the application for license to be submitted according to paragraphs VET 103-105 §:

a) a copy of the articles of association (foundation deed, statute) with majority or direct control, or in case of a foreign undertaking the authenticated Hungarian translation of articles of association;

b) the extract from the Registry Court of the company with significant influence, majority or direct control not older than 30 days, in case of a foreign undertaking the authenticated Hungarian translation of this document or an authenticated translation of the certificate about the fact that the foreign undertaking has been registered in the company (economic) registry;

c) the identification data or a certificate about clean record specified in *Appendix No 16* of a foreign enterprise or a natural person having significant influence, majority or direct control in the licensee;

d) a certificate not older than 30 days about the incumbrance of the company with significant influence, majority or direct control or the foreign undertaking against the Hungarian taxation authority, customs Office and social insurance authority;

e) the audited balance and income statement of the company with significant influence, majority or direct control or foreign undertaking for the previous three business years;

f) detailed description of the ownership structure of the company or foreign undertaking with significant influence, majority or direct control and the description of circumstances because of which the owner is qualified as a member of group of persons having relationship with enterprises or foreign undertaking, as well as the consolidated annual report of the controlling company for the previous business year, if the controlling company comes under the obligation of preparing a consolidated report;

g) a declaration of the business association, foreign undertaking or natural persons concerned in the application issued in a form of private document having conclusive strength about their approval for the control of validity of the documents enclosed to the application by the bodies called upon by the Office.

(5) Besides the documents specified in paragraph (3) the licensee shall have the followings:

a) official permissions issued for his name and required for the implementation of activity and defined in effective regulation;

b) technical and financial conditions and means required for the implementation of the given activity.

(6) The applicant shall have an obligation to declare

a) the existence or provision of conditions defined in paragraph (5);

b) the lack of exclusions defined in sections c)-e) of the paragraph VET 50. § (3);

c) the existence of permissions specified in this decree and the effective regulations;

d) that the content of the application is in accordance with the principle of lowest cost and the relevant requirements of energy concept of the establishment of power plant, if the application is related to the establishment of a power plant.

(7) The licenses for nuclear power plant are issued by the Office in case of the existence of permissions required by the Act No CXVI of 1996 about the nuclear power.

(8) In case of application for the operation of a power plant for heat generation the Office shall proceed with the licensing according to the provisions of Act No XVIII of 1998 on district heat supply (hereinafter: Tszt).

(9) When proceeding with licensing special attention should be paid to the compliance with the provisions of government decrees 193/2001. (X. 19.) and 20/2001.

Vhr. 36. § When proceeding with licensing, the Office shall have right to check the existence of licensing criteria also at the site.

Vhr. 37. § The conditions of the implementation of related and secondary activities can be stipulated by the Office in the licence. The Office can stipulate the criteria for the implementation of scope of activity of the balance circle manager in the license of the licensee.

Vhr. 38. § The Office shall proceed with the licensing started according to the Act No XLVIII of 1994 and not finished until coming into force of VET in accordance with the paragraph VET 121§ and the effective enforcement decree.

Vhr. 39. § (1) The licensee shall have to comply continuously with the conditions of issuing the license and shall comply with, implement and execute the actual decisions of the Office issued for the licensee.

(2) The equity capital of the licensee cannot be reduced in two consecutive years below the actual value of the called up share capital (registered or authorised capital).

(3) The license for establishment, operation and activity, other administrative decisions of the Office, including the different authorisations of these decisions cannot be transferred either totally or partially. In case of transfer of these licenses, decisions or authorizations the Office shall have right to withdraw these preferences.

Vhr. 40. § For the extension of validity period of operation licenses the provisions of licensing procedures are governing.

Financial securities

Vhr. 41. § (1) According to the paragraph VET 61 § the licensees of public service supply, public service wholesale trade and power trade shall allocate and keep on a special sub-account a sum of 1/12th part of their yearly power turnover, but at least 20 million HUF and max. 500 million HUF as a transaction security.

(2) In the first business year the amount of the security shall be defined in the audited business plan according to the estimated value of the yearly electric power turnover realised from the licensed power trading. In the following business years the amount of security shall be defined according to the turnover of the previous year or the turnover of the actual year depending on which amount is larger.

(3) The licensee shall issue an authorisation to the Office in writing with the confirmation of the bank keeping his sub-account in which the bank undertakes to issue direct information to the Office, if requested, about the balance and turnover of the sub-account. The possible costs of the information services shall be born by the licensee.

(4) The lack or rejection of information supply – until affirmation of the contrary – can be deemed as a lack of security.

(5) The amount deposited as a financial security can be used by the licensee exclusively for the implementation of obligations defined in the power purchase contract. In case of utilization of financial security the licensee shall refill the sub-account again in three banking days up to the specified security amount.

(6) *The Office shall have right to accept an irrevocable bank guarantee with the same value and conditions or other financial security of the same value, identical liquidity and the same security if it was declared by him as an acceptable security upon the request of the licensee.*

Licensing of the establishment of a power plant with a capacity of 50 MW or more

53. (1) A license shall be requested from the Office for the establishment of a power plant with a capacity of 50 MW or more.

(2) The following shall be attached to applications for such a license:

- a) the feasibility study,**
- b) statements of opinion by the competent specialized authorities.**

(3) The license shall be published in the official bulletin of the Ministry.

(4) The license for the establishment of a power plant shall have a limited duration. Upon request, the Office may extend the license once, for a term identical to the term for which the original establishment license was granted, but for a maximum of two additional years.

(5) If the licensee is in delay with the commencement of construction or with the continuation of the establishment due to a reason attributable to him, and thereby the original or the extended deadline could not be kept, the license may be withdrawn without indemnity.

(6) Cancellation of a license shall be published in the official bulletin of the Office.

(7) Upon request, the Office may modify a power plant establishment license.

Licence for establishment of power plant

Vhr. 42. § (1) The applicant shall have:

- a) a permission for selecting fuel,**
- b) a business plan for the period of implementation of the investment and the planned return audited by an independent auditor according to the *Appendix No 29*,**
- c) a feasibility study prepared according to the *Appendix No 30*.**

(2) The power plant to be established shall comply with the minimal coefficient of efficiency of power plants specified in *Appendix 2/b* of this decree.

(3) The documents specified in the *Appendix No2/a*, shall be enclosed to the application for the license for the establishment of power plant.

(4) The power plant to be established according to the establishment license shall comply with the requirements defined in the decree of Minister about the “Minimal reserve of energy carriers and the order of reserving for power plants with 50 MW and higher capacity” issued according to the section 4 of paragraph VET 5. § a).

Vhr. 43. § The content of the feasibility study required for the establishment of the power plant is defined in Appendix No 30 of this decree.

Licenses for the expansion, capacity increase, selection or change of fuel of a power plant, or for the termination of electricity generation and for power plant decommissioning

54. (1) The regulations pertaining to the expansion, capacity increase, selection or change of fuel of a power plant and termination of electricity generation or establishment or decommissioning of a power plant in such manner and to such extent as specified in separate statutory regulations, shall be applied in pursuance to the provisions of said statutory regulations.

(2) If the capacity of a small power plant reaches or exceeds 50 MW as a result of expansion or capacity increase, the operator shall request a license from the Office for the expansion, generating capacity increase or operation.

Licence for extension of power plant

Vhr. 44. § (1) The increase of the power plant capacity with a new main equipment of at least 10% additional capacity should be regarded as power plant extension. Also the increase of the small power plant capacity with a new unit should be regarded as power plant extension if the new capacity of the small power plant will be 50 MW or higher.

(2) The applicant shall have:

- a) a permission for selecting fuel;
- b) a business plan for the period of implementation of the investment and the planned return audited by an independent auditor according to the *Appendix No 29*;
- c) a feasibility study prepared according to the *Appendix No 30*.

(3) The power plant to be extended shall comply with the minimal coefficient of efficiency of power plants specified in *Appendix 2/b* of this decree.

(4) The documents specified in the *Appendix No 2/a* shall be enclosed to the application for the license of the extension of power plant.

(5) After the implementation of the extension, in 30 days of the date of closing protocol of trial test run, the licensee shall apply for the modification of his operational license or in case of small power plant for the issue of the operational license.

(6) The application for the extension shall comply with the requirements defined in the decree of Minister about the “Minimal reserve of energy carriers and the order of reserving of power plants with 50 MW and higher capacity” issued according to the section 4 of paragraph VET 5. § a).

License for increasing power plant capacity

Vhr. 45. § (1) Every increase of power capacity of power plants defined in the operational license or the capacity increase due to reconstruction or repair of small power plants shall be regarded as a capacity increase, if the capacity of any existing equipment (unit or aggregate) or their total capacity exceeds the 10% limit or the 50 MW limit specified in the operational license in case of small power plants.

(2) The applicant shall have:

- a) a business plan for the period of implementation of the investment and the planned return audited by an independent auditor according to the *Appendix No 29*;
- b) a feasibility study prepared according to the *Appendix No 30*.

(3) If the increase of capacity involves the change of fuel, then the licensee shall have a permission for changing fuel – as a criteria for issuing license.

(4) The documents specified in the *Appendix No 2/a*, shall be enclosed to the application for the license of the capacity increase of power plant.

(5) After the implementation of the increase of capacity, in 30 days of the date of closing protocol of trial run, the licensee shall apply for the modification of his operational license or in case of small power plant for the issue of the operational license.

License for selecting or changing fuel

Vhr. 46. § (1) To the application for selecting or changing fuel the documents listed in the Appendix No 5 of this decree should be enclosed.

(2) The deviation of more than 10% measured in fuel capacity value from the fuel type defined in the license should be regarded as a fuel change.

(3) Before the submission of application for establishment, extension of power plant capacity or changing fuel, the licensee shall participate in public hearing and the protocol of hearing should be enclosed to the application submitted to the Office according to the Government Decree 73/1996. (V. 22) about the proceeding of the committee of public information, public hearing and expertise required for licensing the establishment and commissioning of power plants with significant effect on the nature, society and the economic environment.

(4) Energy carriers to be used as fuel, excluding nuclear fuel suitable for generation, are as follows, especially:

- a) biomass
 - aa) of vegetal origin,
 - ab) of animal origin,
- b) coal, lignite, turf (coal type fuels)
 - ba) lignite,
 - bb) brown coals,
 - bc) stone-coals,
 - bd) turf;
- c) oil (oil products)
 - ca) oil products,
 - cb) coal tar products;
- d) gas
 - da) natural gas (interruptible or continuous),
 - db) artificial gas fuels (carbonisation or gasification);
- e) waste fuel
 - ea) waste gas,
 - eb) liquid waste,
 - ec) solid waste.

(5) The permission, if it was issued by the Office for the applicant without operational license, in the phase of establishment of the power plant, shall have limited validity and can not be extended.

55. A licensee shall request a decommissioning license from the Office at least 180 days prior to the termination of electricity generation of a power plant commissioned on the basis of an establishment license or operated with an operating license.

License for the termination of power generation and/or power plant

Vhr. 47. § According to the permission for termination of power generation or power plant the licensee shall terminate the power generation and the power plant according to the conditions defined by the Office in the license. The termination of power generation and the power plant shall not involve the termination of the permission of the same licensee for distance heat generation and supply or the termination of power plant from the point of view

of heat generation, if the licensee is authorised to perform this scope of activity according to Tszt. The licensee shall apply for the termination of these activities and the power plant from the point of view of heat generation according to the permission of distance heat supply and the relevant regulation.

Vhr. 48. § (1) The licensee shall apply for permission to terminate the power generation and the power plant in the following cases:

a) in case of expiration of validity of the license, if the licensee does not want to extend it or is not able to continue the licensed activity in accordance with the operation license,

b) in the period of validity of license the licensee wants to terminate the generation and the power plant,

c) if the period of suspension of power generation approved by the Office expires and the licensee does not apply for the approval of extension of his activity,

d) the termination has not effect on other supply areas regulated in section (1).

(2) To the application for the termination of power generation the documents specified in the Appendix No 6/a of this decree should be enclosed.

(3) A permission for termination can be issued only if the applicant

a) has acquired the licenses listed in section (2) and can present the plan for the execution of obligations specified in those licenses and can certify that he has the required coverage for the costs of works to be performed,

b) he had acquired the permission (the right for disposal) for the given power plant or a unit one year before,

c) the licensee can attest that the public service wholesale trader or the previous buyer does not want to use the capacity,

d) the public auction for the realisation of the given power plant or a unit was not successful.

(4) If the licensee fails to submit the application to the Office within the deadline specified in paragraph VET 55. § or he terminates the power generation without permission from the Office, the Office shall have right to apply sanctions defined in paragraphs VET 67. § a) and b).

Operating licenses for electricity generation

56. (1) A generator shall be entitled to generate, use and sell electricity based on an operating license.

(2) A generator whose operating license stipulates that it is required to produce electricity for public service purposes shall offer such electricity for sale to public service wholesalers.

(3) Operating licenses shall be published in the official bulletin of the Ministry.

(4) An operating license required for electricity generation shall have a limited duration, which may be extended.

Conditions of power generation license and performing power generation activity

Vhr. 49. § (1) The Office shall issue operation license for power plants according to the license for the establishment of power plant or the license for the extension of power plant, if the power plant – after the successful commissioning procedure complies with technical data specified in the license for establishment (capacity increase, extension) and with the provisions of relevant regulation.

(2) The applicant shall have

a) the means required for performing the activity;

b) a business plan for the first three years audited by an independent auditor, according to the Appendix No 29;

c), Fuel purchase contracts in case of power plant generating for public service goals and the official license authorising for the exploitation of fuel sources in case of own fuel production,

(3) To the application for the operation license of the power plant the documents specified in the Appendix No 3/a shall be enclosed. The licensees having license according to the Act No XLVIII of 1994 about the power generation, transmission and supply shall enclose to their application the documents defined in the Appendix No 3/b of this decree.

(4) The applicant engaged in generation for public service shall declare the capacity contracted for the public service supply and the quantity of power to be offered for public service supply with a yearly schedule according to the long term contracts.

Vhr. 50. § The period of validity of the generation operational license shall be defined by the Office according to the provisions of paragraph VET 56. § (4).

Vhr. 51. § Upon the written request of the licensee the Office can take a decision and can issue a license for the suspension of power generation for a defined period if this suspension does not endanger the operation of the electric power system and the safety of supply. The licensee shall submit his request to the Office 90 days in advance before the starting date of the planned suspension.

Vhr. 52. § The documents defined in the Appendix No 6/b shall be enclosed to the application for the approval of generation suspension.

Vhr. 53. § The period of suspension should not be shorter than 30 days and should not be longer than 3 years.

Vhr. 54. § If the licensee wants to continue the suspended activity, he shall request the approval of the Office and has to submit the documents specified in the Appendix 6/b of this decree. With the consideration of the period of suspension the Office shall have right to put aside certain documents.

Operating licenses for electricity transmission and distribution

57. (1) Operating licenses issued for electricity transmission and distribution shall be valid for a period of twenty-five years and may be extended.

(2) A license shall include the description of the public network operated under the license and must list the transmission lines and all related transformer and switching equipment.

(3) In the event of establishment, alteration or removal of public lines, the licensee shall – pursuant to the resolution of the Office specified in section (2) of Article 27 – initiate amendment of the operating license for electricity transmission and distribution in a manner and in the cases as specified in other statutory regulations.

Operation license for power transmission

Vhr. 55. § (1) A power transmission license can be issued for the following entities:

a) the owner having at least 2/3rd of the domestic transmission network and having authorised for the utilisation of transmission networks not being in his property according to legal regulation, contract or other legal titles, and

b) the entity who submits his application for power transmission for the whole territory of the country.

(2) The applicant shall have:

a) a business plan for 3 years audited by an independent auditor,

b) a medium range (at least 5 years) survey of transmission demand and calculation for power flow and network capacity plan.

(3) In the application for the transmission the documents specified in the Appendix No 8 of this decree should be included.

Operation license for electric power distribution

Vhr. 56. § (1) The Office shall not reject the issue of electric power distribution license upon the request of a business association, the legal predecessors of which had performed power distribution activity without interruption according to the Act No XLVIII of 1994 before coming into force of this decree and the application for license had submitted for his supply area defined in his license issued according to the Act No XLVIII of 1994, if it complies with the legal requirements of this decree according to the deadlines specified by the Office.

(2) The area of competence of the distributor shall be defined by the Office in the distribution license in order to provide the necessary coverage of public service suppliers with the distribution network. The area of competences shall be defined by the Office in order to enforce the criteria of safety of supply, quality of supply and the possibility of settlement measurement. When taking decision, the Office shall have right to request the opinion of the system operator.

(3) The applicant shall have:

a) the distribution network capable for power supply for costumers of reliability level and quality specified in regulation and standards, including the required lines, switchgears and transformer stations and the service equipment, establishment and professional staff required for the maintenance of operation and the service of consumers connected to the network;

b) Feed-in points required for the satisfaction of power capacity demand of consumers to be supplied from the distribution network and contracts for network capacities available at the feed-in points and other related contracts;

c) a medium range (5 years) survey of distribution capacity demand and network capacity plan;

d) a business plan for three business years audited by an independent auditor.

(4) In case of establishment, reconstruction or termination of a high voltage distribution line of 120 kV or higher the licensee shall initiate the modification of his operation license.

(5) The documents specified in the Appendix No 7 of this decree shall be enclosed to the application for the distribution operation license.

Operating licenses for the operation of the electricity grid

58. (1) The independent system operator shall be a business association operating as a company limited by shares.

(2) The operating license for the management of electricity grid shall be valid for a period of twenty-five years and may be extended.

(3) The rights and obligations of the independent system operator shall be described in the license.

Electric power system operation license

Vhr. 57. § (1) The operation license for the power system operation on national level can be issued for a corporation founded for this goal by the state and being in its exclusive property, if the corporation complies with the conditions defined in the VET and this decree and the registered capital of the corporation is at least 500 million HUF, that was paid in or was made available as a whole.

(2) The applicant shall have:

a) the right for the operation of information, data transfer, process regulation, telecommunication and measurement systems and other means, systems and procedures required for the implementation of tasks specified in the electricity supply codes and business rules (including property rights or other utilisation rights),

b) medium range (5 years) survey of power transmission demand, calculation of transmission flow, and the network capacity plan in order to perform the provisions of paragraph VET 27. §,

c) a business plan for three years audited by an independent auditor.

(3) The documents specified in the Appendix No 9 of this decree shall be enclosed to the application for the system operation license.

Operating licenses for electricity trade, public service wholesale and public service supply

59. An operating license for electricity trade shall be valid for a period of ten years and may be extended.

Operation license for power trading

Vhr. 58. § (1) The actual value of registered capital of a power trader should not be lower than 50 million HUF.

(2) The applicant shall have a business plan for one year audited by an independent auditor.

(3) The documents specified in the Appendix No 12 of this decree shall be enclosed to the application for the power trader's operation license.

Vhr. 59. § The power trader shall request a separate license from the Office for the cross-border trading of electric power.

60. An operating license for public service wholesale and public service supply of electricity shall be valid for a period of seven years and may be extended.

Operation license for public service wholesale of electric power

Vhr. 60. § (1) A public service wholesale trader's license can be acquired by an entity, who (or its legal predecessor) has performed power trading activity for ten years according to the effective regulation of electric power system and has concluded contracts for the implementation of this scope of activity, for the acquisition or sale of electric power contracted for public service goals and complies with other conditions.

(2) The value of the actual called up share capital of the public service wholesale trader should not be less than 100 million HUF.

(3) The applicant shall have

- a) a business plan for three years audited by an independent auditor,
- b) the financial security specified in paragraph 41. § of this decree.

(4) The documents specified in the Appendix No 11 of this decree shall be enclosed to the application for the public service wholesale trader's operation license.

Operation license for public service power supply

Vhr. 61. § (1) An operation license for public service power supply can be acquired by an entity or founder or its legal predecessor, who has performed continuous power supply activity for ten years according to the effective regulation of electric power system, before coming into force of this decree.

(2) The actual value of the called up share capital of the public service supplier shall not be lower than 100 million HUF.

(3) The applicant shall have:

- a) a business plan for three years audited by an independent auditor,
- b) the financial security specified in paragraph 41. § of this decree.

(4) The documents specified in the Appendix No 10 of this decree shall be enclosed to the application for the public service supplier's operation license.

61. Electricity traders, public service wholesalers and public service suppliers shall provide suitable financial guarantees.

Licenses for the operation of the organized electricity market

62. (1) The organized electricity market shall be a business association operating as a company limited by shares. Generators with available power plant capacity, electricity traders, the independent system operator, and eligible consumers shall be eligible to trade within the frameworks of the organized electricity market. Trade on the organized electricity market shall be conducted through standardized contracts.

(2) Public service wholesalers may purchase electricity to the extent specified in section (1) of Article 44 and may sell electricity to the extent as specified in section (2) of Article 44 on the organized electricity market.

(3) The independent system operator may trade on the organized electricity market for the purpose of and limited to purchasing ancillary services.

(4) A license to operate the organized electricity market shall be valid for a period of five years and may be extended.

Licensing conditions for the operation of the organised power market

Vhr. 62. § (1) Conditions for issuing license for the organised power market:

- a) the called up share capital of the applicant is not less than 100 million HUF;
- b) the applicant has the personal, material and safety conditions and means required for the implementation of activity and safe operation;
- c) the settlement of the organized power market is provided;
- d) the applicant has a business plan (for at least three years) audited by an independent auditor, and the plan can provide a stable and reliable operation;
- e) the applicant has business conduct rules approved by the Office and complying with the requirements of the VET and this decree, a preliminary balance sheet contract signed with the system operator according to the commercial code, operational code of the organised market relating to its internal operation and other regulations specified in this decree;
- f) the applicant has a liability insurance suitable for handling risks of the applicant on the organized power market;
- g) the applicant complies with the owner's limitations defined in paragraph 65. §;
- h) the system operator disposes of at least 15% of the registered capital of the applicant and of the actual votes of general meetings;
- i) the applicant complies with other requirements specified in the VET and this decree.

(2) The first approval of regulations under the paragraph (1) e) shall be implemented simultaneously with the licensing procedure as a part of the licensing procedure.

(3) From the requirement of paragraph (1) e) the Office can release the applicant totally or partially in case of submission of a separate application for max three years, of the date of issuing permission. The application for release should be justified additionally by the applicant.

(4) The permission shall be issued even if the requirement defined in paragraph (1) h) is not met, if the applicant encloses the declaration of the system operator about the intent that he does not want to participate in the company operating the organized power market. If the system operator disposes of less shares compared to the value defined in paragraph (1) h) in the company operating organized power market, then the applicant shall submit his declaration to the Office about the acceptance of such lower share.

(5) The applicant or the licensee shall comply with the requirements of paragraph (1) h) only at the submission of application for the license, despite the provisions of paragraph 39. § (1) of this decree.

Approval of products, transaction types and trading methods on the organized power market

Vhr. 63. § For the introduction of new products, transaction types or trading methods or for changing characteristics of the existing products, transaction types or trading methods,

including the termination of those the special approval of the Office should be acquired, besides the approval of the modification of the related regulations.

Vhr. 64. § To the application for the organized power market the documents according to the Appendix No 13 should be enclosed.

Provisions for the ownership structure of the organized power market

Vhr. 65. § (1) In the corporation operating the organized power market the property share of licensee according to the VET or the property share of eligible consumer or the number of their votes should not be higher than 5% of the registered capital of the company or 5% of the actual votes.

(2) In the corporation operating the organized power market the sum of property share of licensee according to the VET or the property share of eligible consumer or the sum of the number of their votes should not be higher than 50% of the registered capital of the company or 50% of the actual votes.

(3) In the corporation operating the organized power market, besides the owners according to the paragraph (2), the property share of one owner or his number of votes shall not be higher than 10 % of the registered capital of the company or 10% of the actual votes.

(4) When performing calculation according to the paragraphs (1)-(3) the property share or the share of number of votes of the owner, the licensee or the eligible consumer should be regarded as the sum of property shares or the shares of number of votes of the owner, the licensee and the eligible consumer and their related undertakings. The property share is defined as percentage of sum of nominal values of the owned shares compared to the registered capital of the company.

(5) If the conditions of paragraphs (1)-(3) are not met the Office shall have right to reject the issue of license also if any employee of the company operating the organized power market endangers the independence of market or correctness or neutrality of market from the point of view of competition or has a prevalence endangering the safety of the power system in any ways different from the provisions defined in paragraphs (1)-(4).

Vhr. 66. § The share of system operator can be higher compared to the above limitations.

The authorities participating in the licensing procedures of the organized power market

Vhr. 67. § The application for the license for operating organized power market and the notification about the introduction of new products, transaction types or trading methods shall be sent by the Office to the Hungarian Financial Supervisory Authority for recension. Upon the request of the Office the Supervisory Board shall issue a meritorious answer in writing in 30 days.

Obligations of organized power market against the system operator

Vhr. 68. § The licensee of the organized power market shall cooperate with the system operator. The detailed conditions of the cooperation are defined in a separate regulation and the supply codes. The licensee of the organized market shall sign a contract with the system operator about the operation of balance circle.

Regulation for the operation of the organized power market

Vhr. 69. § (1) Exclusively electricity products can be traded on the organised power market based on physical transactions.

(2) Trading with products on the organized power market shall be implemented according to the regulation of organized power market and – at least with regard to the delivery time, method and the definition of delivered quantity – according to standard contracts.

Vhr. 70. § (1) Operation of the organized power market can be implemented exclusively by the licensee of the organized power market.

(2) The Government can specify the operation rules of the organized market in a decree according to the authorization of VET 4. § *h*).

(3) The company operating the organized power market shall have right to perform settlement activity with regard to the organized power market.

Conflict-of-interest regulations

Vhr. 71. § The person having labour relations with the company operating organized power market or the close relative of him or her cannot be appointed as a senior manager or cannot be employed by the owner of the company or the company having trading right on the organized power market.

Material, organisational and personal conditions of trading on the organized power market

Vhr. 72. § (1) On the organized power market, in the circle defined by the paragraph VET 62 §, the trading activity can be performed by entities, who

- a) comply with the conditions specified in the regulations of organized power market;
- b) sign contract with the licensee of the organized power market and undertakes to follow and comply with the provisions of regulation for the organized power market;
- c) who have signed contract with the settlement organization for the settlement of transactions on the organized power market.

(2) The licensee of the organized power market shall pass judgement on the offer for contract in 30 days and shall sign the contract with the applicant according to the decision.

(3) The licensee of the organized power market shall sign the contract with the applicant if he complies with the conditions defined in paragraphs (1) *a*) and *c*).

(4) The number of traders on the organized power market should not be limited.

Codes of the organized power market

Vhr. 73. § (1) Within the frame of VET and this decree the organized power market shall define the general rules of market activities and the rights and obligations of the market players having trading rights on the organized power market in a Grid and Operational Code.

(2) The operational code of the organized power market and its modification shall be submitted by the organized power market to the Office for approval. The codes and their modifications shall come into force after the approval of the Office.

(3) The codes of the organized power market– according to the general interests of the market – should provide for the transparency and controllability of the activity of the organized market, the trading and the relevant information, establishing equal chances and non-discrimination for the participants of trade and the safety of power supply.

(4) The codes of the organized power market should not contain unjustified discriminative provisions for the owners of trading rights.

63. (1) The Office may suspend transactions on the organized electricity market for three business days if safe and transparent trade is compromised by unfavorable market developments.

(2) The Office shall request the opinion of the Hungarian Financial Supervisory Authority pertaining to the measures taken by the Office in relation to licensing and supervision of the organized electricity market.

(3) The detailed rules pertaining to the organized electricity market shall be specified in separate statutory regulations.

Licenses for cross-border transmission of electricity

64. (1) The licensees and eligible consumers specified in Article 47 may perform cross-border electricity transmission.

(2) A license for cross-border electricity transmission shall

- a) have a duration of five years and may be extended for eligible consumers,**
- b) have a limited duration and may be extended for licensees.**

(3) Under the license

- a) the independent system operator, electricity traders and public service wholesalers may perform cross-border export and import of electricity,**
- b) eligible consumers may import electricity for their own use.**

(4) The detailed rules for cross-border export and import of electricity shall be specified in separate statutory regulations and in the Electricity Supply Codes.

Cross-border transmission of electric power

Vhr. 74. § (1) The license for the cross-border transmission of electric power can be issued for:

- a) power trader,**
- b) consumer authorized for own consumption,**
- c) the system operator in order to perform his tasks according to the paragraph VET 37. § g), and**
- d) the public service wholesale trader to perform the activity according to the paragraphs VET 44. § (1) and (2).**

(2) The applicant shall have

- a) license for performing the activity defined in paragraph (1) or it was registered as an eligible consumer,**
- b) such documented internal order of procedures and records that make possible the control of regulations and provisions related to the applicant,**
- c) the applicant shall comply with the conditions of government decree and other effective regulation related to the cross-border power transmission and the official licenses issued for his name.**

(3) If the applicant applies for the license for cross-border transmission, he does not have to submit the unchanged documents which were enclosed to the application earlier. However, the applicant shall refer to the application submitted earlier and shall declare that these documents have not been changed.

(4) In order to certify the condition of paragraph (2) a) the applicant shall define the date and number of the referred license. If the applicant submits the two applications simultaneously, it is sufficient to refer only to the fact of the above condition, however the cross-border transmission of power can be licensed only after coming into force of the operation license, which serves as basis for the cross-border license.

(5) The public service wholesale trader shall issue a certificate of origin of the realized power for the request of the buyer or the eligible consumer.

(6) The documents specified in the Appendix 14 of this decree shall be enclosed to the application for the license for cross-border power transmission.

Exclusive rights and obligations

65. (1) An operating license provides exclusive rights for and specifies the obligations

- a) of public service wholesalers,**
 - 1. to receive the contracted public electricity of power plants,**
 - 2. to perform public service wholesale of electricity,**
 - 3. to meet the public service electricity demand of public service suppliers,**

b) of public service suppliers to supply public service electricity in areas authorized by the license,

c) of the independent system operator to operate the transmission system of the electricity grid in compliance with the Electricity Supply Codes.

(2) Upon the preliminary approval of the Office, a public service supplier may waive (wholly or partly) its exclusive right in favor of another public service supplier.

(3) Upon the preliminary approval of the Office, a public service wholesaler may waive (wholly or partly) its exclusive right to obtain the electricity mandatory offered by the power plants in favor of a public service supplier.

Vhr. 75. § The public service wholesale supplier or trader waiving his exclusive right as a whole or partially shall prepare a application jointly with the public service supplier or public service wholesaler whom he intends to waive for, to be submitted for the Office for approval. One original copy of contract signed between the public service wholesale trader, or the public service supplier waiving his right and the entitled public service wholesale supplier shall be enclosed to the application.

Amendment of an operating license

66. (1) The contents of an operating license may, in the event of significant changes in circumstances, be amended at the request of the licensee.

(2) The Office may initiate or order an amendment of an operating license in cases specified in separate statutory regulations.

(3) If a licensee has waived its exclusive right wholly or partly, the parties concerned shall, subsequent to the preliminary approval of the Office, jointly request amendment of the existing operating license or issuance of a new operating license.

(4) The amendment of a license shall not be detrimental to the security, quality and price of public service supply.

Vhr. 76. § The licensee shall notify the Office in 30 days of the occurrence of circumstances causing the modification of license – especially with regard to the content of appendices of the license.

Vhr. 77. § The Office shall have right to initiate the modification of operation license or the Office can modify it ex officio in the following cases:

a) in order to observe the provisions of international agreements signed by the Hungarian Republic and declared in law,

b) in order to enforce domestic regulations,

c) in the case specified in paragraph VET 67. § c).

Violation of an operating license

67. (1) In the event of a violation of a licensee's obligations as specified in the operating license, the law or the Electricity Supply Codes, the Office

a) shall send a written notice to the licensee – with reference to the legal consequences – to observe the obligations set forth by law, the Electricity Supply Codes or the operating license,

b) may impose a fine as specified in separate statutory regulations,

c) may amend or cancel the license, if - despite the written notice and the fine imposed - the licensee continues to operate the electrical installation in a manner that seriously endangers supply, life, health, operation, property safety or the environment,

d) shall withdraw the license if the licensee fails comply with the obligations set forth by law, the Electricity Supply Codes or the license.

Vhr. 78. § The Office shall have right to apply the sanctions specified in paragraphs VET 67. § *a), b), c)* simultaneously.

Vhr. 79. § (1) The Office shall have right to impose fine on the licensee for the infringement of provisions defined in the paragraph VET 67 § b), in other regulations and the electricity supply codes.

(2) The upper limit of the fine imposed according to the paragraph (1) shall be the higher of the amounts below:

- a) 1% of the net yearly revenue of the licensee prior to the year under review, or
- b) 100 million HUF.

(3) The upper limit of fine imposed on the operator of a small power plant according to the paragraph VET 20. § (4) shall be the higher of the amounts below:

- a) 1 % of the net yearly revenue of the operator of a small power plant prior to the year under review, or
- b) 55 million HUF.

(4) The fine can be imposed repeatedly.

(5) The fine should not be considered in pricing as a cost factor.

68. (1) In order to ensure continuous, secure supply of electricity, the activities specified in the license shall be uninterrupted and sustained until the conclusion of proceedings pursuant to Article 67, liquidation proceedings or voluntary dissolution proceedings.

(2) The Office may assign another licensee to ensure uninterrupted supply if the activities specified in the license are not performed in a manner compliant with section (1) and, as such, could directly lead to a significant malfunction of the electricity grid.

(3) In the event of appointing another licensee, the Office may oblige the licensee undergoing liquidation proceedings or voluntary dissolution proceedings to transfer its facilities necessary for continuous, secure electricity generation, transmission, distribution, supply, trade and grid control to the licensee so-assigned and to make available the records and data required to perform those activities.

(4) The Office may execute its resolutions issued under sections (1)-(3) with immediate effect.

Chapter 5

LIMITATIONS ON OWNERSHIP RIGHTS AND RIGHTS OF USE OF THIRD-PARTY PROPERTY

69. (1) As regards third-party property, the licensee of an electrical installation may apply for

- a) a right to perform preparatory work,
- b) cable rights,
- c) a right to use,
- d) easement, or
- e) expropriation.

(2) In the course of exercising rights under section (1) herein the licensee shall compensate the owner or user (hereinafter jointly: "owner") of the property for any damage caused by

- a) placing marks, taking measurements and conducting investigations,
- b) constructing facilities, or accessing or using such for the performance of work,
- c) obstructing (limiting) the use of the property, or impairing its market value.

(3) Rights under section (1) above may only be exercised in nature conservation areas with the prior approval of the competent nature conservation authority or national park directorate. With respect to areas enjoying the protection of a local government, prior approval shall be sought from the competent local government.

(4) Upon the cessation of rights under section (1), a licensee shall restore the property to its original state, or failing to do so, provide compensation pursuant to subsection i) of Article 4.

Vhr. 80. § (1) When exercising rights defined in paragraph VET 69 § the licensee of the electrical installation (hereinafter: licensee) and the owner or operator of the expropriated site (hereinafter: owner of the property) shall agree in the amount of depreciation of real estate, the damage or the indemnification paid for the expropriated site. If no agreement can be achieved, the licensee shall have right to start the licensed works only when he has transferred the indemnification value of the damage defined in the expert's report prepared on his own costs to the owner of the property or has deposited to the benefit of the owner of the property according to the separate regulation on deposits handled by court, with simultaneous notification of the owner about these measures.

(2) If the licensee does not pay the damage or indemnification value related to the works performed on the basis of rights specified in VET 69 § (1) or the failure of execution or not acceptable execution of the remedy obligations according to the paragraph VET 69 § (4) to the owner of the property or the amount of deposit handled by the court is insufficient for the coverage of the caused damage, then the owner shall have right to enforce his claim on court.

(3) In case of expropriation, when the owner of the property does not agree on the amount of expropriation, he can enforce his further claims according to the regulations on expropriation.

Right to perform preparatory work

70. (1) A licensee may submit an application for the right to perform preparatory work with the objective of establishing electrical installations.

(2) On the basis of the right to perform preparatory work, the owner of the property shall, in return for compensation, tolerate that the required markings are placed out, soil tests are conducted and measurements are taken on his property. The owner of the property must be notified of the plans prior to the commencement of work.

Vhr. 81. § (1) Technical descriptions, local layout drawings, schedule to be enclosed to the application for the right to perform preparatory works shall be completed with the content, size and copies according to the Appendix No 32.

(2) According to the right to perform preparatory works the licensee or its representative shall be authorized – in one year after the date of license and against the obligation for indemnification – to implement walkdown, place marks, perform measurements, soil expertise on sites being in foreign property or under the operation of other entities, where it is required for the establishment of electrical installations. The licensee of the right for preparatory works shall notify the owner of the property and the notary of the local municipality 15 days in advance. The validity of the right for preparatory works can be extended once for another year.

Cable rights

71. (1) A licensee may be granted a right to install a public network element, or connection equipment in consideration of section (2) hereof, if the network and equipment are to be installed and operated on property owned by a party other than the licensee, provided that such construction work does not significantly obstruct use of the property.

(2) Cables and associated equipment with a nominal voltage of less than 1000 V may also be installed and operated with the approval of the property owner. The owner's approval is equivalent to cable rights and gives rise to the same rights and obligations as specified in this Act.

72. On the basis of the cable rights, a network licensee may

- a) install and/or place underground and overhead cables and telecommunication connections,
- b) establish supporting structures and install transformer and switching equipment thereon,
- c) operate, maintain, repair, reconstruct and remove the facilities constructed pursuant to subsections a)-b) above,
- d) remove trees, bushes, and the branches and roots of such which infringe on the security zone along the lines,
- e) approach or cross constructions marked by a location line on the energy flow-chart, rivers, waterways, lakes, canals, and buildings in the manner specified in an order issued by the Minister and the Minister of Transportation and Water Management and the Minister in charge of the Prime Minister's Office.

73. A licensee shall submit an application for registration of the cable rights in the land register. The incumbent licensee shall be entitled to the cable rights, which shall burden the incumbent owner of the property. Cable rights may be exercised prior to registration based on the final public administration resolution or owner approval.

74. (1) Cable rights shall cease to be exercisable if a licensee fails to erect, construct or remove entirely the facilities specified in subsections a)-b) of Article 72 within five years of being granted the license.

(2) In the event of the cessation of the cable rights, a licensee shall apply for removal of the entry from the land register. Failing to do so, the owner may request deletion of the entry at the expense of the licensee.

Vhr. 82. § (1) The authority appointed by the Minister in a separate regulation for licensing cable right shall exercise also the rights of construction authority with regard to the power cables coming under the effect of VET. Naturally, this provision shall not restrict the other rights of the construction authority with regard to the establishment. Before the applicant submits the application for cable rights to the authority responsible for issuing licenses a preparatory procedure should be carried out. The preparatory procedure shall be carried out by the licensee or the designer according to the authorization of the licensee. The preparatory procedure should be executed also when the public network is established on a site being in foreign property with the permission of the owner of it.

(2) Prior to the preparatory procedure the licensee (or his authorized representative) shall prepare a technical project, which shall contain – among others – the routing of the public network qualified as electric installation and of the connecting equipment, the area occupied by the supporting structures and the area of the safety zone (see Appendix No 32). In the technical project, the property limits (connecting point) of the direct line connected to the public network and of the consumer's installation shall be defined.

(3) within the course of the preparatory works, the following aspects should be taken into consideration: villages and settlement areas affected by the electric installations, settlement development plans of large importance from the point of view of protection of architectural heritage, enhancing professional development of construction and technical projects, constructional and technical concepts for environmental change or coordinated enforcement of related regulations and the medium term plans of property owner affecting the property of him or her.

(4) within the course of the preparatory works, the view of parts of settlement of historical or pictorial importance should be preserved and the buildings of architectural heritage should be protected or reconstructed while maintaining the scenery of the ancient monuments and landscape.

Vhr. 83. § (1) After the preparatory work a on-site inspection should be performed and organised by the licensee. The licensee shall invite for the on-site inspection the property owners affected by the cable right and by the safety zone of the cable, the professional authorities specified in the Appendix No 4/b and the public utilities.

(2) The licensing procedure of cable right is governed by the provisions of Act No IV of 1957 about the general rules of administration procedure, modified at different times, with the exception that the deadline of procedure is 90 days.

(3) Authorities acting as professional authorities according to paragraph (1) shall elaborate their standpoint in 30 days of the walkdown with regard to their approval, and the public utilities shall express their opinion with regard to their scope of interest and shall notify the organization of the on-site inspection accordingly.

(4) If the professional authority conditions his approval to the deviation from the national standards or specifies an individual clause against the licensee, it shall justify such condition or clause.

Vhr. 84. § (1) The possible dimensions of area occupied by the supporting structure, the possible distance between the supporting structures and the area of safety zone specified as safety area of the public line in order to avoid impeding normal utilization of the property should be defined in the cable right license.

(2) The licensee – in accordance with the paragraph 80 § of this decree – shall indemnify the damage caused with the activity performed according to the cable right, specified in paragraph VET 72 §.

(3) If the licensee, using his authority according to paragraph VET 72. § d), will cut out bushes, their branches and roots and the owner of the property will not lay claim to them, the licensee shall remove branches and roots from the site at his own cost.

(4) In case of cutting through forest or wood, the owner of the forest or wood shall have right and he shall bear responsibility for the removal, transportation and utilisation of blocks and branches – according to the agreement. If the owner does not perform his obligation specified herein, despite the notice of the licensee, the licensee may carry out the lumbering work at his own cost, and in this case the blocks and branches shall be transferred into the property of the licensee.

Vhr. 85. § (1) The party initiating the cable right licensing procedure shall pay administration service fee. The amount of the administration service fee shall be defined by the Minister in agreement with the Minister of Finance according to the authorization of the Act about duties.

(2) The professional authority responsible for licensing cable rights shall duly communicate the cable right license and the parts of technical projects serving as a base for this license with the involved property owners, the owner of cable right, the notary of the local municipality and the professional authorities participating in the procedure.

(3) The licensee shall notify the property owner and the notary of the local municipality about the start and finish of works to be performed according to the cable right.

Vhr. 86. § (1) The approval of property owner regulated in the paragraph VET 71 § (2) cannot be withdrawn.

(2) The property owner may request the removal, reconstruction or translocation of the public service network or its supporting structure from the licensee, if the technical conditions are provided or such operation will not hinder significantly the operation of electric installations and the property owner undertakes the related costs.

(3) In case of termination of the cable right the licensee shall remove the public network and its supporting structure from the property and return it to the owner and restore the property in a form suitable for the exploitation according to the original designation.

Right to Use

75. (1) Any transformer and switching equipment related to an electrical installation, but not installed on a supporting structure and not mentioned in subsection b) of Article 72 may only be constructed, operated and maintained on the basis of a right to use unless the property is owned by the licensee.

(2) A right to use is established by an agreement between a licensee and a property owner.

(3) In return for the right to use, licensees shall pay compensation to the property owner.

(4) When, in the absence of an agreement, a right to use cannot be concluded with the owner, licensees may request the competent building authority to grant the right to use the property.

Vhr. 87. § The licensee and the property owner shall agree to establish utilisation right. If they cannot agree, the licensee may apply for utilization right to the construction authority. For the establishment of utilisation right the provisions of paragraphs 108. § and 171. § of the Act No IV of 1959 about the Civil Code (hereinafter: Ptk) shall be governing.

76. A licensee shall submit an application for entry of the right to use in the land register. The incumbent licensee shall be entitled to the right to use, which shall burden the incumbent owner of the property. Any delay in making the entry in the register shall not affect the enforceability of the right.

77. (1) A right to use shall cease to be exercisable if a licensee fails to construct or remove entirely the transformer and switching equipment on or from the property within five years of being granted the right. A right to use shall also cease upon an agreement of the parties to this end.

(2) If a right of use has terminated, a licensee shall apply to delete the entry from the land register; failing this, the owner of the property is entitled to do so.

Easements

78. Pursuant to separate statutory regulations, a licensee may apply for the establishment of an easement to construct and operate suspension facilities for electrical installations (suspension rails, cable tracks) and supporting structures thereof on third-party property.

Vhr. 88. § In accordance with a separate regulation, a licensee may apply for the establishment of an easement also to establish and operate conveyor conveying fuel, carbon-dioxide transmission line and target line from the mine or carbon-dioxide field to the power plant.

Expropriation

79. (1) A licensee shall be entitled to initiate the expropriation of third-party property for the establishment of a power plant in a manner specified in separate statutory regulations.

(2) A licensee may only initiate an expropriation procedure with a view to establishing and operating transmission and distribution lines and the supporting structures thereof if the cable rights pursuant to section (1) of Article 71 significantly obstruct or prevent the proper use of the property.

(3) A licensee may only initiate an expropriation procedure with a view to establishing and operating transformer and switching equipment related to an electrical installation, but not installed on a supporting structure if the parties fail to agree in relation to the right to use pursuant to Article 75 or the competent building authority did not grant the right.

(4) Any property expropriated pursuant to sections (1) - (3) shall be placed in the possession of the State and the licensee shall be given a free right to use the property.

Rights related to direct lines

80. The provisions of the Civil Code shall be applied in relation to the establishment, maintenance, and cessation of rights relating to the establishment and operation of direct lines on properties owned by parties other than the licensee.

Vhr. 89. § (1) Provisions of paragraphs 82-89 § shall be applied also with regard to direct lines with the deviations according to the Ptk.

(2) Parties establishing direct line shall agree with the owner of the foreign property to be limited in use in the extent of limitation of utilisation and in the indemnification, or in case of unsuccessful negotiations the parties establishing direct line shall initiate judicial proceedings.

Security zones

81. (1) In order to protect electrical installations and the surrounding environment, a security zone shall be designated. The extent of the security zone, as well as any bans and restrictions to be enforced in the security zone shall be established in separate statutory regulations and standards.

(2) Within the security zone construction or erection of such buildings or establishments, or planting of such plants (trees) or performance of such activities that may pose a threat to the safety and uninterrupted operation of the electrical installation, the safety of life or health, or property is prohibited or subject to limitations.

(3) Regulations relating to security zones shall be taken into consideration in the course of licensing and exercising cable rights and the right to use.

(4) In respect of the designation of security zones for newly constructed electrical installations, the licensee of the electrical installation shall compensate any owners of properties previously existing and used in that location.

Chapter 6

PUBLIC SERVICE SUPPLY

Public service contracts

82. (1) Public service suppliers may supply public service consumers with electricity only and exclusively on a contractual basis. In order to provide public service consumers access to the public power grid, public service suppliers shall conclude contracts with network licensees. A public service contract shall be concluded

a) on the basis of a public service contract with customized content, if consumer demand or supply conditions differ from the average requirements specified in the Business Conduct Rules,

b) in the absence of a customized contract, under the general conditions specified in the Business Conduct Rules.

(2) Even if a customized contract is concluded, the public service supplier shall inform the public service consumer of the general conditions specified in the Business Conduct Rules.

(3) Public service contracts shall be concluded for an unlimited duration.

83. (1) Public service consumers may terminate public service contracts with 30 days' notice. However, the parties to a public service contract may stipulate more favorable notice conditions for the consumer.

(2) Public service suppliers may terminate public service contracts in the following cases:

a) in the event of a breach of contract as specified in Article 92 hereof, or

b) if the contracting consumer ceases to draw electricity at the consumption site specified in the contract.

Passing on electricity

- 84. (1) Public service consumers may transmit the received electricity to a territory outside the consumption site or pass it on to a user located in an area outside the consumption site only and exclusively with the consent of the public service supplier.**
- (2) A party which passes on electricity may terminate the legal relationship between itself and the user which receives electricity from it only and exclusively if the latter breaches its obligations undertaken in the relevant agreement, or the public service supply relationship between the party which passes on electricity and the public service supplier is terminated.**

Metering, settlement of accounts and payment of fees

- 85. Unless otherwise provided for by law, public service suppliers shall establish and settle accounts in respect of the amount of electricity used under the public service contract in the period specified therein on the basis of a calibrated meter owned by the distributor.**
- 86. (1) Public service consumers shall have payment obligations as per the public service contract.**
- (2) Public service consumers shall pay the invoice upon presentation or as specified in the relevant contract.**

Violation of public service contracts

- 87. A public service supplier shall be deemed to have violated the public service contract, if:**
- a) it fails to commence the supply of electricity at the date and time specified in the contract,**
 - b) the manner of supplying electricity does not comply with the provisions of the public service contract,**
 - c) it fails to meet the quality requirements of supply,**
 - d) it fails to resume electricity supply on the day immediately following receipt of the consumer's written notice of the termination of the reason for suspending service,**
 - e) it fails to notify the public service consumer at the time and in the way specified in the Business Conduct Rules or in the contract of the date and projected duration of suspension of service due to scheduled maintenance or renovation performed by network licensees.**
- 88. A public service consumer shall be deemed to have committed a violation of contract, if it:**
- a) exceeds the electrical capacity specified in the contract,**
 - b) receives electricity in such a way that creates load or tension conditions or causes disorder which interrupt electricity supply,**
 - c) impedes or interferes with the continuous, secure supply of electricity or that of another consumer in its contractual drawing of electricity,**
 - d) fails to observe the specifications relevant to the establishment and operation of consumer equipment, and the connection of such to electrical installations,**
 - e) willfully or negligently damages the connection or metering equipment, removes the lead meter seal, or fails to report any damage thereunto to the supplier,**
 - f) receives the supplied electricity by tampering with the operation or circumventing the use of an electricity meter,**
 - g) draws electricity without the public service supplier's consent after the electricity supply has been suspended,**
 - h) pays overdue electricity charges in default, not by the time specified in the contract,**
 - i) transmits electricity - without the consent of the public service supplier - to a place different from the consumption site, or passes it on to another user located at a place different from the consumption site,**

- j) violates the terms of consumption without a meter,
- k) fails to comply with the provisions on the restriction of consumption.

Consequences of the violation of public service contracts

89. (1) Violation of a public service contract shall entail:

- a) repayment of the fee or payment of an extra charge,
- b) a contractual penalty,
- c) indemnity,
- d) suspension of electricity supply,
- e) exclusion from electricity supply.

(2) The consequences specified in section (1) hereof may also be applied jointly and in the cases listed in Articles 90 to 93 hereof.

(3) The amount of the extra charge shall be specified in a separate statutory regulation.

(4) The contractual penalty shall be due and payable on the fee for the supply affected by the violation of the contract. The amount of penalty shall be specified in the Business Conduct Rules.

(5) The repayment of the fee, payment of an extra charge or penalty shall not release the violating party from the obligation of indemnifying the damage caused.

90. (1) A public service supplier shall pay the public service consumer

- a) a penalty, in the event that it violates the contract as specified in subsections a), and c) to e) of Article 87 hereof,
- b) repay the proportionate fee in the event of a violation of the contract as specified in subsection b) of Article 87 hereof.

(2) A public service consumer shall pay the public service supplier:

- a) an extra charge in the event of a violation of the contract as specified in subsection a) of Article 88 hereof,
- b) a penalty in the event of a violation of the contract as specified in subsections b) to g) of Article 88 hereof.

91. (1) A public service supplier may suspend the supply of electricity in the event of a violation of the contract specified in subsections b) to f) and i) to k) of Article 88 hereof.

(2) A public service consumer shall notify the public service supplier in writing of the termination of the reason for suspension. The public service supplier shall resume supply on the business day following immediately following receipt of such notice.

92. In the case specified in subsection h) of Article 88 hereof, the public service supplier shall be entitled to disconnect a public service consumer from electricity supply and terminate the contract concluded with the public service consumer, or supply further electricity on condition that a device connected to the metering device is used which allows for the supply of electricity subject to the prepayment of consideration for the supply, if - despite a written request - the consumer fails to perform its payment obligation within sixty days from its due date, or if it receives electricity as specified in subsection g) of Article 88 hereof.

93. The public service supplier and the public service consumer shall indemnify the other party for any and all proven damages caused by violation of the contract and not covered by the penalty.

Unlawful receipt of electricity

94. (1) Receipt of electricity without a contract shall also be considered as unlawful.

(2) In the event of unlawful receipt of electricity,

- a) the receiving party shall pay the fee due for the electricity it has received so far, together with an extra charge to the network licensees, and shall indemnify them for any and all proven damages not covered by the extra charge,
- b) based on an agreement with the public service supplier, the network licensees may cut off an unlawfully receiving party from electricity supply.

Chapter 7

PRICING, PRICE REGULATION

95. (1) The effect of the official price regulation as specified by the Pricing Act shall extend to the transmission, distribution, grid control by the independent system operator, sale of contracted public electricity produced by generators, trade between public service wholesalers and public service suppliers and to electricity sold to public service consumers.

(2) The effect of the official price regulation shall not extend to trade between generators and electricity traders and between electricity traders *inter se* and electricity sold to eligible consumers shall not fall under the scope of official pricing.

96. The detailed rules pertaining to pricing and the price regime shall be established by the Office based on the principle of minimum cost. The prices shall be specified in a ministerial decree and enacted by the Minister. The Office shall review the price level and the price at the request of any interested party and shall make public the results of such review.

97. Licensees engaged in activities subject to official pricing, or operators of small power plants under the scope of official price setting shall

- a) observe the principle of minimum cost and make all data certifying compliance therewith available to the Office,
- b) provide the Office with all relevant information to assist the Office in the proper administration of price control, and official price calculation activities,
- c) ensure that the cost and revenue structure in their records and accounting systems remains transparent.

98. (1) Stranded costs shall be covered solely from the funds managed on the separate account of the independent system operator and collected together with the electricity grid control fee. Funds collected together with the grid control fee shall not be considered as revenues for the independent system operator. The independent system operator may not spend the funds collected together with the grid control fee and the proceeds earned from such funds on any other purpose and shall handle such revenues separately from its other funds. In its accounting the independent system operator shall record the revenues collected on a separate account but not forwarded to a public service wholesaler as well as any proceeds earned on such amounts as liabilities.

(2) The funds specified in section (1) above – and constituting part of the grid control fee – shall be specified annually by the Minister based on the recommendation of the Office. The funds to be collected together with the grid control fee shall be specified with a view to the payment obligations recorded in the independent system operator's books under such title for the immediately preceding period, any and all proceeds earned on such funds, any and all unpaid stranded costs recognized in statutory regulations, together with the related expenditures incurred by a public service wholesaler.

99. At the request of a public service wholesaler and on the recommendation of the Office, the Minister shall specify the payable stranded costs at the end of given periods. The preliminary approval of the Office is required for the execution of payments from the separate account of the independent system operator.

100. (1) The licensees shall endeavor to minimize stranded costs in the course of performing their activities. Generators shall not produce directly or indirectly any stranded costs due on electricity sold in accordance with Article 18.

(2) A public service wholesaler shall inform the Office on the commencement of negotiations with generators with a view to amending contracts specified in section (3) of Article 23 and shall forward the amended contracts to the Office.

Chapter 8

UNBUNDLING OF ACTIVITIES

101. (1) A horizontally or vertically integrated electricity undertaking shall record its assets and liabilities, and its income and expenditure separately in two categories as electricity sector activities and non-electricity sector activities in its internal accounting and shall indicate such in its notes to the annual report, its profit and loss account and its balance sheet broken down separately by activity, as if the individual activities were carried out by independent undertakings.

(2) The Accounting Act shall specify all rules pertaining to reporting and accounting requirements, the compilation of reports, the keeping of records, and the disclosure and publication of accounts.

Vhr. 90. § (1) An integrated electricity undertaking (see paragraph (VET 3. § 18) – having operation license for one or more activities subject to license – except the subsections of VET 51. § (1) *h*)-*i*) – shall organize its internal accountancy settlement, in accordance with the actual effective act on accounting, so that its activities not subject to license shall be recorded separately from its activities subject to licence and the certain activities subject to license shall be recorded separately from each other in a transparent and controllable way. Thereinafter, the undertaking shall prepare an individual balance and profit and loss account for the activities subject to license and an annual report for the whole undertaking.

(2) The undertaking named in paragraph VET 3 § 18 shall exclude the accumulations (in revenues, expenses etc.) due to separation according to the paragraph VET 101 § (1) in the annual report relating to the whole undertaking prepared according to the paragraph (1). The excluded accumulation shall be detailed in the additional appendices of the annual report of the undertaking.

(3) The annual report on the total scope of activity of the undertaking [balance sheet, profit and loss account, additional appendix, and as a part of it the balance sheets and profit and statement accounts for the unbundled activities according to the paragraph (1)], and the annual report for the total scope of activity of the undertaking [balance sheet, profit and loss account, additional appendix] shall be sent to the Office and simultaneously to the Registry Court together with the enclosed business report of the year under review.

(4) In order to enforce a unified system of conditions for the power industry undertakings, when performing tasks specified in paragraphs (1) and (2), the Office shall issue guidelines for the adequate application of methods of division of balance sheet and profit and loss account among different activities in compliance with the provisions of VET, and he shall publish these guidelines in the official newspaper of the Ministry of Economy and Transport.

(5) In order to enforce the provisions specified in paragraph VET 102. § (1) employees and senior managers of the trader should not establish labour relation or other relationship intent on performing work with the system operator, network licensees, licensee of the organized market, the public service wholesaler and the public service supplier and should not be appointed as senior manager in these companies.

102. (1) The independent system operator, network licensees, licensees of the organized electricity market, public service wholesalers and public service suppliers may not pursue any other electricity sector activities subject to licensing by the virtue of this Act with the exception of those specified in section (2).

(2) Transmission licensees may pursue public service wholesale activities and distribution licensees may engage in public service supply in compliance with the provisions of Article 101.

(3) The founder shall – without receiving compensation – transfer the equipment and property entitlements necessary to perform their activities to the business associations established by the founder in order to execute section (1).

Chapter 9

LIMITATION ON PARTICIPATION IN LICENSED UNDERTAKINGS

103. (1) The demerger, or conversion to a different legal form, or merger with another business association of a licensed undertaking, or the reduction of the initial capital or equity capital by at least one-quarter shall be subject to the executive and approving resolution of the Office. An application for registration in the company register shall be submitted to the court of registry together with the resolution of the Office. The Office may not refuse to grant an approval of reduction of initial or equity capital if the reduction is rendered mandatory for the licensee by a separate statutory regulation.

(2) The executive and approving resolution of the Office shall be required if any licensee wishes to acquire a significant or majority ownership or a controlling interest in a licensed undertaking and to exercise the rights associated therewith.

(3) The Office may refuse to grant approval or render such approval subject to conditions if the execution of actions specified in sections (1) and (2) poses a threat to the security of electricity supply or to economic competition.

(4) In the event that the approving resolution specified in sections (2) above is not granted, the shareholder or member may not be entered into shareholders' register or the members' register, and may not exercise its rights vis-à-vis the company.

(5) For the purposes of granting official approval by the Office for capital concentration as specified by section (2), or acquisition of interest by means of merger as specified in section (1), the Office shall seek the opinion of the Office of Economic Competition.

Vhr. 91. § (1) The application for the approval defined in paragraphs VET 103 § (1) and (2) shall be submitted in the form specified in Appendix No 16 of this decree, and the applicant shall enclose all documents and declarations required by the VET, this decree or other regulations.

(2) If there is a power undertaking among the founders with foreign residence intending to acquire a significant or majority ownership or a controlling interest, then – besides the documents specified in paragraph (1) – also the certificate and declaration of the competent supervisory authority in the resident country shall be enclosed to the application about the compliance with the relevant regulations related to safe operation of the undertaking.

(3) The licensee — shall include in his articles of association within 90 days of receiving the operation license that the preliminary declaration of approval issued by the Office shall be regarded as precondition for the validity of the events related to the acquisition of firm rights and the acquisition of interest. In the articles of association the licensee shall refer to the consequence defined in paragraph VET 103 § (4). The licensee shall certify the fulfilment of the obligation specified in this section to the Office in writing - by forwarding one copy of the articles of association with the proof of receipt of the Registry Court - and simultaneously submitting the articles of association to the Registry Court.

104. (1) The Office may not approve the acquisition of an interest providing a majority or controlling interest if

a) the total capacity of the controlled licensed ventures exceeds 30% of the nominal capacity of all power plants,

b) acquisition of the interest results in the acquisition of more than 50% of votes in more than three distribution or public service supply undertakings,

c) the total market share of controlled distribution and public service supply undertakings exceeds 50%.

(2) The Office may not approve the acquisition of interest if

a) the licensee or the organization with a controlling interest ensuring majority or direct control over the licensee acquires more than 10% of votes in the grid control, transmission or public service wholesale undertakings;

b) the licensees, separately or together, acquire more than 50% of votes in the grid control, transmission or public service wholesale undertakings.

(3) The Office may not approve the acquisition of controlling interest ensuring majority or direct control in electricity generating undertakings if the following conditions prevail concurrently:

a) the market share of electricity generating undertaking or of the generating undertaking controlled by the interest-holder exceeds 15%, and

b) the interest-holder has a controlling interest ensuring majority or direct control in the distribution undertaking or undertakings,

c) the market share of a controlled distribution undertaking or undertakings exceeds 15%.

(4) Interest-holders with a controlling interest that ensures majority or direct control in a generation undertaking shall apply the provisions of section (3) accordingly, should they wish to acquire controlling interest in an undertaking engaged in electricity supply.

(5) Should the provisions of sections (1) to (4) on limitation be violated, the shareholder or member may not be entered into shareholders' register or the members' register, and may not practice its rights – except for the right to dividends – vis-à-vis the company to the extent of the violation committed.

105. (1) When applying the provisions of section (2) of Article 103 and sections (1) to (3) of Article 104, both direct and indirect controlling interests shall be considered relevant.

(2) Acquisition of indirect interest with the assistance of a third-party business association shall qualify as direct acquisition of interest. When calculating the extent of indirect ownership, the voting rights or the ownership stake of the interest holder in the intermediary business association shall be multiplied by the voting rights or ownership stake – whichever is greater of the two – of the intermediary business association in the business association in which the intermediary business association has acquired an interest. The indirect ownership stake or voting rights of close relatives pursuant to subsection b) of Article 685 of the Civil Code shall be calculated together. If the voting rights or ownership stake exceeds 50% in the intermediary business association, it shall be considered as a single whole.

(3) When applying the provisions of section (2) of Article 103 and sections (1)-(4) of Article 104, a contract between the interest-holder and the owner of the ownership stake or exerciser of the voting rights in the licensed undertaking shall be considered as the acquisition of controlling interest if the contract

a) entitles the interest-holder to elect the majority of directors and the members of the Supervisory Board, or

b) aims at establishing control over the licensed undertaking along uniform principles or the parties act jointly to establish such control.

(4) In order to investigate the extent of acquisition of interest, the Office shall be entitled to request information as to the proprietary structure of licensees.

(5) The provisions of Articles 103-105 shall not affect the proceedings of the Office of Economic Competition conducted pursuant to the Act on the Prohibition of Unfair and Restrictive Market Practices.

Chapter 10**MALFUNCTION OF ELECTRICITY SUPPLY**

106. (1) The independent system operator shall carefully monitor the development of the system-level balance, generating capacity, the public network and consumption.

(2) Pursuant to the provisions of Article 28 hereof, the independent system operator may announce a tender for development of the transmission network and the distribution system specified in the Electricity Supply Codes as affecting the operation of the transmission system, if - upon due consideration of the system balance, the load on the public networks, and the network development plans filed by network licensees - it is established that the volume of electricity transmittable via public networks is insufficient to meet the expected future demand of the system users.

(3) The Office may announce a tender – in a manner and under the conditions specified in separate statutory regulations – for the establishment of a power plant provided that the volume of electricity available in the country is insufficient to meet the expected future electricity demand of the consumers in the long run. When announcing the tender, the Office shall take the following factors into consideration; data supplied by the independent system operator under subsection c) of Article 37 and all applications submitted for licenses to establish power plants, increase capacity, or make expansions thereof, or applications for operating licenses relating to electricity generation. The contracts concluded by operators of power plants established pursuant to the announcement of tender may not create grounds for compensation of stranded costs.

107. (1) An operational failure that does not qualify as an electricity supply emergency situation as specified in Article 108 hereof shall qualify as a significant malfunction of the electricity grid when an event, as specified in the Electricity Supply Codes, occurs in the power plants of the electricity grid or in its public networks that curtails or stops electricity generation, generation capacity, distribution, supply or utilization or seriously endangers the operational safety and cooperative capacity of the energy system.

(2) Irrespective of the rights and obligations stipulated in contracts concluded by the system users, in the event of a significant malfunction of the electricity grid, they shall execute the orders of the independent system operator and suffer the relevant expenditures in a manner specified by separate statutory regulations.

108. (1) An electricity supply emergency situation (hereinafter: “emergency”) is a malfunction in electricity supply which does not yet qualify as crisis or danger situation, as specified in separate statutory regulations, but directly endangers persons, property, nature and the environment, or supply to the majority of consumers. The following event may lead to an emergency situation in particular:

- a) long-term shortage of electricity from power plants or from cross-border imports,**
- b) long-term shortage of fuel,**
- c) environmental pollution or malfunction of lines producing a shortage lasting several days in the electricity supply of the country or part of the country,**
- d) malfunction in supply to eligible consumers.**

(2) In the event of an emergency the Government shall regulate the following by decree:

- a) the order of suspending the contracts concluded for the supply of eligible consumers,**
- b) curtailment of the supply of electricity to consumers,**
- c) rights and obligations of the licensees,**
- d) the maximum price of all products and services with either regulated and non-regulated prices, relating to electricity supply.**

(3) Licensees shall have no indemnification liability for losses arising from the measures set forth in section (2) above, provided that they behave in a way that can reasonably be expected of them.

(4) The measures set forth in section (2) shall be implemented with minimal disturbance to the operation of the market and in the shortest possible time.

Chapter 11

TECHNICAL SAFETY PROVISIONS

109. (1) While operating consumer equipment, a consumer

a) may not endanger life, health, operation and the safety of property,

b) may not endanger or disturb the operation of electric installations and the electricity consumption of other consumers.

(2) A consumer may connect its electricity-generating equipment (device) to electric installations solely under the conditions specified in the Electricity Supply Codes.

Vhr. 92. § (1) If the consumer's installation due to its technical condition, abnormal operation or changes of the environment heavily endangers life, health, operation safety or safety of property, heavily endangers or disturbs the operation of electric installations or power supply of other consumers, the network licensee, upon the request of the authority entitled to take measure based on the circumstances of the justified cause, or without such request, according to the order of regional technical safety inspectorates, shall disconnect the consumer's installation from the network and suspend power supply unless the customer certifies reliably the elimination of the cause of suspension.

(2) If a dispute arises between the licensee and the consumer with regard to the estimation of severity of risk or disturbance leading to disconnection or suspension, the authority appointed by the Minister as specified in the paragraph VET 110 § (1) shall take decision. If the consumer contests the decision on court, the contest shall not have delaying force.

110. (1) The organization performing technical and safety supervision shall be appointed by the Minister.

(2) Proper qualifications and professional experience shall be required to fill positions carrying technical safety responsibilities or implications. The professional qualifications and experience required to fill certain positions shall be specified in separate statutory regulations.

(3) The detailed technical safety rules for the establishment of electric installations, connection equipment, customer connection systems and consumer equipment and the operation or decommissioning thereof shall be specified in separate statutory regulations.

111. (1) The organization specified in section (1) of Article 110 shall elaborate a system of quality assurance for the planning, construction, reconstruction, operation and the decommissioning of connection equipment and customer connection systems, and shall submit such to the Office.

(2) The conditions and procedures required to register an electrician's undertaking entitled to establish, supervise, install or remove connection equipment, customer connection systems and consumer equipment shall be specified and the organization keeping such registry records shall be appointed by the Minister in a decree.

Chapter 12

CLOSING PROVISIONS

Miscellaneous and authorizing provisions

112. (1) With the exceptions set forth in sections (2)-(3), this Act shall enter into force as of January 1, 2003.

(2) Articles 115-116, 119 and 122, as well as sections (1) and (4) of Article 121, and section (2) of Article 127 of this Act shall enter into force on January 1, 2002.

(3) Subsection 37 of Article 3 of this Act shall enter into force upon the entry into force of the act promulgating the international treaty on the accession of the Republic of Hungary to the European Union.

Vhr. 93. § (1) This decree – with the exception defined in paragraph (2) – shall come into force on 1st January 2003.

(2) In order to make possible the submission of application for the operation license to be valid earliest from 1st January, 2003 specified in paragraph VET 121 § (1) the paragraphs 33-37, 39, 41, 47-50, 55-61§ and the appendices 2/a-14, 17-28 and 30 shall come into force on the date of proclamation.

Vhr. 94. § (1) Concurrently with this decree entering into force the following decrees shall lose effect: government decree 34/1995 (IV. 5) on the enforcement of different provisions of Act No XLVIII of 1994 about power generation, transmission and supply, decree 1/1967 (IV. 28) of NIM about cable right related to power lines, joint decree 1/1967 (XII. 19) of NIM-MÉM about crossing forest with power line of electric installation and the proximity of power line, joint order 38/1964 (NIM.É 29) of NIM-OVF about regulation of crossing river, water flow, lake and channel with power-current cable and the government decree 107/1995 (IX. 8) about establishment and commissioning procedure of power plants.

(2) The rights specified in chapter VET V. and granted according to the regulations prior to the VET coming into force shall remain effective for the legal relationship between the licensee and the property owner.

113. (1) With regard to this Act,

a) the Government shall provide for the execution of the provisions of Article 4, section (6) of Article 14, section (2) of Article 16, sections (1) to (3) of Article 46, sections (2), (3) and (5) of Article 48, section (1) of Article 52, section (1) of Article 54, section (3) of Article 57, section (3) of Article 63, section (4) of Article 64, section (2) of Article 66, section (3) of Article 106, section (2) of Article 107, section (2) of Article 108, section (1) of Article 125 and subsection b) of section (3) of Article 50,

b) acting in agreement with the concerned ministers, the Minister shall provide for the execution of the provisions of Articles 5, 21, 96, 99 and 110, section (2) of Article 6, section (4) of Article 9, sections (3) and (4) of Article 20, section (2) of Article 26, section (3) of Article 30, section (1) of Article 32, section (4) of Article 51, section (1) of Article 81, section (3) of Article 89, section (2) of Article 98, section (2) of Article 111, sections (2) and (3) of Article 125, subsection b) of section (1) of Article 23, subsection b) of Article 37 and subsection e) of Article 72.

114. (1) Concurrently with this Act entering into force, Act XLVIII of 1994 on the generation, transmission and supply of electricity shall lose effect.

(2) Section (5) of Article 46 and Articles 104 and 105 of this Act shall lose effect upon the entry into force of the act promulgating the international treaty on the accession of the Republic of Hungary to the European Union.

Amended regulations

115. (1) Article 24 of Act XLVIII of 1994 on the Generation, Transmission and Supply of Electricity shall be replaced by the following provisions:

“24. (1) The demerger, or conversion to a different legal form, or merger with another business association of a licensed undertaking, or the reduction of the initial capital or equity capital by at least one-quarter shall be subject to the executive and approving resolution of the Office. An application for registration in the company register shall be submitted to the court of registry together with the resolution of the Office. The

Office may not refuse to grant an approval of reduction of initial or equity capital if the reduction is rendered mandatory for the licensee by a separate statutory regulation.

(2) The executive and approving resolution of the Office shall be required if any licensee wishes to acquire a significant or majority ownership or a controlling interest in a licensed undertaking and to exercise the rights associated therewith.

(3) In the event that the approving resolution specified in section (2) above is not granted, the shareholder or member may not be entered into shareholders' register or the members' register, and may not practice its rights vis-à-vis the company.

(4) For the purposes of granting official approval by the Office for capital concentration as specified by section (2), or acquisition of interest by means of merger as specified in section (1), the Office shall seek the opinion of the Office of Economic Competition."

(2) Article 24/A of Act XLVIII of 1994 on the Generation, Transmission and Supply of Electricity shall be replaced by the following provision:

"24/A (1) The Office may not approve the acquisition of interest providing majority or controlling interest if

- a) the total capacity of the controlled licensed ventures exceeds 30% of the nominal capacity of all power plants,
- b) acquisition of interest results in the acquisition of more than 50% of votes in more than three distribution or public service supply undertakings,
- c) the total market share of controlled distribution and public service supply undertakings exceeds 50%.

(2) The Office may not approve the acquisition of controlling interest ensuring majority or direct control in electricity generating undertakings if the following conditions prevail concurrently:

- a) the market share of electricity generating undertaking or of the generating undertaking controlled by the interest-holder exceeds 15%, and
- b) the interest-holder has a controlling interest ensuring majority or direct control in the distribution undertaking or undertakings,
- c) the market share of a controlled distribution undertaking or undertakings exceeds 15%.

(3) Interest-holders with a controlling interest that ensures majority or direct control in a generation undertaking shall apply the provisions of section (2) accordingly, should it wish to acquire controlling interest in an undertaking engaged in electricity supply.

(4) Should the provisions of sections (1) to (3) on limitation be violated, the shareholder or member may not be entered into shareholders' register or the members' register, and may not practice its rights – except for the right to dividends – vis-à-vis the company to the extent of the violation committed.

(5) When applying the provisions of section (2) of Article 24 and sections (1) to (3) of Article 24/A, both direct and indirect controlling interests shall be considered relevant.

(6) Acquisition of indirect interest with the assistance of a third-party business association shall qualify as direct acquisition of interest. When calculating the extent of indirect ownership, the voting rights or the ownership stake of the interest holder in the intermediary business association shall be multiplied by the voting rights or ownership stake – whichever is greater of the two – of the intermediary business association in the business association in which the intermediary business association has acquired an interest. The indirect ownership stake or voting rights of close relatives pursuant to subsection b) of Article 685 of the Civil Code shall be calculated together. If the voting rights or ownership stake exceeds 50% in the intermediary business association, it shall be considered as a single whole.

(7) When applying the provisions of section (2) of Article 24 and sections (1) to (3) of Article 24/A, a contract between the interest-holder and the owner of the ownership stake or exerciser of the voting rights in the licensed undertaking shall be considered as the acquisition of controlling interest if the contract

a) entitles the interest-holder to elect the majority of directors and the members of the Supervisory Board, or

b) aims to establish control over the licensed undertaking along uniform principles or the parties act jointly to establish such control.

(8) In order to investigate the extent of acquisition of interest, the Office shall be entitled to request information as to the proprietary structure of the licensees.

(9) The provisions of Articles 24 and 24/A shall not affect the proceedings of the Office of Economic Competition conducted pursuant to the Act on the Prohibition of Unfair and Restrictive Market Practices.”

(3) The following chapter shall be added to Act XLVIII of 1994 on the Generation, Transmission and Supply of Electricity:

“Chapter 10

Transitional provisions

“58. In order to promote the establishment of a competitive market in electricity and align the applicable regulations with the relevant legislation of the European Communities, the provisions of this Act and Schedules 2 to 4 to Government Decree 34/1995 (IV. 5.) on the execution of this Act (hereinafter: “Vhr.”) shall be applicable with the following derogations:

Licensing the establishment and commissioning of a power plant and the generation of electricity

59. (1) Within the framework of the preliminary licensing of a power plant, the applicant shall not be obliged to submit a statement of the purchaser of electricity as specified in section (1) of Article 13 herein and in point 6 of Schedule 2 of Vhr., if it submits an audited business plan relating to the implementation of the project and specifying the envisaged payback period. In such cases the applicant shall be exempt from the obligation to undergo the procedure specified in subsections a) and b) of Article 4. If an audited business plan is submitted, the Office shall not investigate compliance with the power plant implementation plan specified in section (2) of Article 2 of Vhr.

(2) An applicant in possession of a preliminary license issued with due consideration to the provisions of section (1) hereof shall not be compelled to submit a preliminary or final agreement as specified in point 6 of Schedule 3 and point 11 of Schedule 4 to Vhr. in the course of its application for the establishment or operation of a power plant.

(3) In the cases specified in sections (1) and (2) above,

a) instead of a description required in subsection e) of section (2) of Article 13, the preliminary license shall include the audited business plan relating to project implementation and the envisaged payback period,

b) instead of the description specified in subsection d) of section (2) of Article 17 of the license, the preliminary license shall include the audited business plan of the first 3 business years of the power plant.

(4) A generator licensed pursuant to the provisions of subsection b) of section (3) herein shall be exempt from the obligation

a) to yield the electricity generated in the power plant for the public purposes specified in Article 17,

b) specified in subsection b) of Article 22 hereof,

c) to offer and contract as specified in section (1) of Article 41 hereof.

(5) In the official bulletin of the Ministry the Office shall publish a list of the entities entitled to audit business plans.

(6) Licensees may not request or claim state support or other compensation as an indemnification for damages suffered or profit lost as a result of the establishment and operation of power plants as per sections (1) and (2) above, or the sale of the generated electricity in the competitive market in order to create a competitive electricity market or due to the manner of approximating the applicable regulations with the relevant legislation of the European Communities.”

116. (1) Article 4 of Act XLI of 1994 on Gas Supply shall be replaced by the following provisions:

“4. (1) The Office is a national public administration body with independent powers and competence, acting under the Government’s control and the Minister’s supervision. The Office is a budgetary corporate body with separate and independent financial management.

(2) The Office shall be self-financing. For its supervisory activity, licensees shall be charged a regulatory fee amounting to 0.05% of the net sales revenues of the immediately preceding year. In respect of the Office’s administrative procedures, an administration fee shall be paid. The scope and amounts of fees and administrative fees as well as the terms of payment shall be regulated in a separate decree by the Minister issued in agreement with the Minister of Finance.

(3) At the proposal of the Minister, the Prime Minister shall appoint and dismiss the President and the Vice-President of the Office. Their appointment shall be for a term of six years. The Minister shall exercise the employer’s rights vis-à-vis the President and Vice-President, except for their appointment and dismissal from office. The President shall be entitled to remuneration and benefits identical to the monthly salary and benefits of a State Secretary; the Vice-President shall be entitled to remuneration and benefits identical to the monthly salary and benefits of a Deputy State Secretary.

(4) The appointment of the Office’s President or Vice President shall be terminated, if

- a) his term of office expires,**
- b) he resigns from his position,**
- c) he is dismissed from his position,**
- d) he dies.**

(5) The appointment of the President or Vice-President of the Office shall be terminated by dismissal, if

- a) he commits a crime as declared in a final and legally binding judgment, or he disgraces his position,**
- b) he becomes permanently incapable of performing his duties,**
- c) a conflict of interests with his position is not resolved within three months,**
- d) his activities jeopardize the operation of the Office.**

(6) The President of the Office shall

- a) direct the Office,**
- b) establish the Operating and Business Rules of the Office,**
- c) exercise employer’s rights with regard to the civil servants of the Office,**
- d) supervise the financial management of the Office,**
- e) represent the Office,**
- f) perform all the duties assigned to his competence by law or the Operating and Business Rules of the Office,**
- g) participate in and be entitled to speak at Government sessions discussing proposals on the duties and competence of the Office.”**

(2) Article 5 of Act XLI of 1994 on Gas Supply shall be replaced by the following provisions:

“5. (1) Above and beyond the provisions of the Act on the Legal Status of Civil Servants (hereinafter: the “Ktv.”), regulating the conflict of interests and expulsion of civil servants, civil servants of the Office may not be employed by companies in the power sector which are subject to licensing by the Office, nor may they maintain any other legal relationship involving the performance of work at such companies.

(2) Civil servants of the Office may not acquire, except by way of inheritance, ownership in any energy sector company subject to licensing by the Office.

(3) Upon appointment, civil servants of the Office shall make a statement on their compliance with the provisions of section (2) hereof to the person exercising employer's rights over them. Civil servants of the Office shall terminate their ownership acquired prior to appointment or through inheritance within three months following appointment or acquisition.

(4) Prior to performing the obligation specified in section (3) above, no civil servant of the Office may participate in the preparation and adoption of decisions affecting a company or companies affected by the conflict of interests.

(5) Civil servants of the Office shall be subject to the provisions of Ktv. in every respect except the ratio specified in section (1) of Article 30/A of Ktv., which shall be thirty-five per cent, and the salary supplement specified in section (1) of Article 44 of Ktv., which shall be thirty-five per cent of the basic salary in the case of civil servants with secondary school qualifications."

(3) Section (3) of Article 6 of Act XLI of 1994 on Gas Supply shall be replaced by the following provisions:

"6. (3) The President of the Office shall report, on an annual basis, to Parliament on the activities of the Office, and publish an annual report."

(4) The following Article 6/A shall be added to Act XLI of 1994 on Gas Supply:

"6/A (1) The Office may enter into cooperation agreements, exchange information with foreign energy regulatory organizations and become a member of such organizations, provided that it complies with the provisions of the statutory regulations in force.

(2) The procedures of the Office shall be performed in compliance with the provisions of the Act on the General Rules of State Administration, except that the deadline for administration shall be 90 days. Remedy may be sought against the resolutions of the Office only and exclusively at court. The court shall be entitled to change the resolution of the Office.

(3) The Office shall publish the operative part and justification of any and all resolutions in public interest specified as such in a separate statutory regulation, as well as the final licenses in the official bulletin of the Ministry of Economic Affairs (hereinafter: the "Ministry")."

(5) The following section shall be added to Article 34 of Act XLI of 1994 on Gas Supply: "(7) Articles 4 and 5, section (3) of Article 6 and Article 6/A of this Act shall lose effect on January 1, 2003."

117. (1) Upon entry into force of this Act, in the Schedule to Act LXXXVII of 1990 on Pricing

a) with respect to the products classified as ITJ 14-2 and ITJ 14-3, the list of products subject to official pricing and the persons eligible to set official prices shall be supplemented as follows:

"/I. Maximum price/

/A) Products/

<i>/Product No. (BTO)</i>	<i>Description</i>	<i>Person setting the official price /</i>
“ex 403010	the price of steam sold directly or indirectly by an electricity generation licensee for the purposes of district heat supply	Minister of Economic Affairs
ex 403010	the price of hot water sold directly or indirectly by an electricity generation licensee for district heat supply purposes	Minister of Economic Affairs
ex 403010	the price of hot water sold directly	the local

	or indirectly for district heat supply purposes by an electrical power plant without an electricity generation license	government, in Budapest the Board of Representatives of the Metropolitan Government
ex 403010	the price of steam sold directly or indirectly for district heat supply purposes by an electrical power plant without an electricity generation license	the local government, in Budapest the Board of Representatives of the Metropolitan Government.”

b) the list of products subject to official pricing and the persons eligible to set official prices shall be supplemented as follows:

/I. Maximum price/

/A) Products/

<i>/Product No. (BTO)</i>	<i>Description</i>	<i>Person setting the official price /</i>
“ex 401010	the price of contracted public electricity sold by electricity generators	Minister of Economic Affairs
ex 401010	the price of contracted public electricity sold by public service wholesalers	Minister of Economic Affairs
ex 401010	the price of electricity sold by public service suppliers	Minister of Economic Affairs”

c) the list of services subject to official pricing and of the persons eligible to set official prices shall be supplemented as follows:

/B) Services/

<i>/Service No. (SZJ)</i>	<i>Description</i>	<i>Person setting the official price /</i>
“ex 40.10.92	the price of electricity transmission	Minister of Economic Affairs
ex 40.10.92	the price of electricity distribution	Minister of Economic Affairs
ex 40.10.92	the price of managing the electricity transmission system	Minister of Economic Affairs
ex 40.10.92	the price of electricity-related system services	Minister of Economic Affairs”

(2) Upon entry into force of this Act, the following section (4) shall be added to Article 22 of Act LXXXVII of 1990 on Pricing:

“(4) As of January 1, 2004, in the list of products subject to official pricing and the persons eligible to set official prices – attached as a Schedule to this Act –, the following text shall lose effect:

ex 401010	the sales price of public electricity contracted by	Minister of Economic Affairs.”
-----------	---	--------------------------------

electricity generators

118. Upon entry into force of this Act, subsection b) of section (3) of Article 2 of Act IL of 1991 on Bankruptcy Proceedings, Liquidation Proceedings and Voluntary Dissolution shall be amended as follows and the following subsection c) shall be added:

“(3) b) The provisions of this Act relating to bankruptcy proceedings and liquidation proceedings shall be applied to insurance companies limited by shares, insurance associations with due consideration of the derogations set forth in the Act on Insurance Institutions and Insurance Activities, to voluntary mutual insurance funds with due consideration to the derogations set forth in the Act on Voluntary Mutual Insurance Funds, and to private old-age pension funds with due consideration to the derogations set forth in the Act on Private Pensions and Private Pension Funds;

c) the provisions of this Act relating to bankruptcy proceedings and liquidation proceedings shall be applied to the licensees of the electricity sector with due consideration of the derogations set forth in the Act on Electricity.”

119. Upon entry into force of this Act, the Independent Hungarian System Operator Company Limited by Shares shall be added to the list of companies specified in the Schedule to Act XXXIX of 1995 on the Sale of State-Owned Assets as companies in permanent state ownership. The Minister of Economic Affairs shall exercise ownership rights over said company and no less than 100% of its shares shall remain in permanent state ownership.

120. Upon entry into force of this Act, the following provisions shall be added to Article 64 of Act CXVI of 1996 on Atomic Energy:

“(2) In order to maintain stability of value, the Fund shall be granted support from the central budget in an amount calculated on the basis of the central bank’s base rate in the previous year’s average as projected on the Fund’s average money stock in the previous year.

(3) The amount specified in section (2) hereof shall be made available to the Fund no later than by January 31 each year, starting from 2003. ”

Transitional provisions

121. (1) Licensees under Act XLVIII of 1994 on the Generation, Transmission and Supply of Electricity, other business associations engaged in activities subject to licensing and their legal successors shall submit an application for a license pursuant to the provisions of this Act (generators for a generation license, transmitters for transmission and public service wholesale licenses, the operator of the co-operating grid for a grid control license, and suppliers for distribution and public service supply licenses) to the Office by September 1, 2002 at the latest. Generators with long-term contracts for the purchase of electricity shall indicate their obligations undertaken to provide for contracted public electricity in their license applications.

(2) Licensing procedures instituted prior to the enactment of this Act shall be conducted pursuant to the provisions of this Act, however, the Office shall not request a repeated submission of documents which are already available.

(3) Upon entry into force of this Act, licenses issued for power plants with a capacity in excess of 20 MW but below 50 MW shall lose effect.

(4) Civil servants in public service at the Office at the time of this Act entering into force shall declare their titles to shares in power companies to the person entitled to exercise the employer’s rights within 15 days from the entry into force of this Act and shall alienate such shares within three month after this Act enters into force.

122. In order to enforce the provisions of Chapter 8 hereof, companies licensed under Act XLVIII of 1994 on the Generation, Transmission and Supply of Electricity shall not be required to pay charges – except for the registry court fee – for the establishment of companies licensed in grid control, network operation, electricity generation and trade before this Act enters into force.

123. The stranded costs specified in subsection 1. of Article 3 herein may be reimbursed within the period prior to 2010.

(2) With derogation to the provisions of section (2) of Article 44 hereof, in the period specified in section (1) above as open for reimbursement, a public service wholesaler may sell the electricity contracted for public service purposes in excess of its supply obligation in part or full directly to any trader, provided that no stranded cost as specified in subsection 1. of Article 3 is generated.

124. (1) As of January 1, 2004, Article 95 of this Act shall be replaced with the following provisions:

“95. (1) The effect of the official price regulation as specified by the Pricing Act shall extend to the transmission, distribution, grid control by the independent system operator, the sale of contracted public electricity produced by generators, trade between public service wholesalers and public service suppliers and to electricity sold to public service consumers.

(2) The effect of the official price regulation shall not extend to trade between generators and electricity traders and between electricity traders *inter se* and electricity sold for eligible consumers shall not fall under the official pricing.”

(2) Until the day of entry into force of the act promulgating the international treaty on the accession of the Republic of Hungary to the European Union, transmission the starting and end-points of which are outside of the territory of the Republic of Hungary shall qualify as transit.

125. (1) The date of introducing the green certificate system shall be specified by the Government. Upon selecting the date of introduction, allowances should be made for a date when the aggregate capacity of power plants generating electricity from renewable sources and waste and the green certificates they issue ensure appropriate supply for the purchasers of electricity. When the date of introduction is established, the international experience and success of the green certificate system should also be considered.

(2) With due regard to the security of electricity supply and gradual increase of consumer charges, prior to the Government decision specified in section (1) hereof, normative support shall be applied in prices to facilitate the establishment of power plants generating power from renewable sources and waste with an element integrated into the grid control fee. The extent and manner of support in electricity prices shall be established by the Minister in agreement with the Minister of Finance based on a proposal by the Office. The extent and manner of price support may differ for each energy source, as the payback period of the technologies linked with the individual sources of energy vary.

(3) Prior to the Government decision specified in section (1) hereof, the acceptance of electricity generated from renewable sources or waste, or specified in a separate statutory regulation may not be denied if its transmission capacity exceeds 0.1 MW, it meets the technical requirements of network delivery, and its price does not exceed the officially established value. The acceptance price shall be established by the competent body in charge of pricing.

(4) The price authority shall establish the system of acceptance prices in a manner that from the sale of electricity power plants using renewable sources and power generated from waste should earn revenues which can be planned.

(5) The support granted to promote renewable sources may not be used for supporting

a) the generation of power from waste by thermal methods, if it fails to meet the

requirements of refuse collection and separation specified in a separate statutory regulation, or if power is not generated from biologically decomposing organic matters, and

b) hydroelectric generating plants of a capacity exceeding 5 MW.

(6) The scheme of supporting power plants that use solar energy in excess of 1 MW and those using other renewable sources in excess of 50 MW shall be specified separately from the support scheme of smaller power plants.

126. The provisions specified in Article 45 hereof shall be applicable to contracts concluded by a public service wholesaler (or its predecessor) and public service suppliers (or their predecessors) prior to this Act entering into force.

127. (1) The provisions specified in section (2) of Article 103 and sections (1) to (4) of Article 104 shall

a) leave the validity of controlling interests acquired prior the promulgation of this Act unaffected, and

b) the power plants licensed before this Act entered into force and under the direct or majority control of an interest holder shall be disregarded when the acquisition of interest providing majority or controlling interest is judged in compliance with the provisions of subsection a) of section (1) and section (3) of Article 104 hereof.

(2) The provisions of section (2) of Article 24 and sections (1) to (3) of Article 24/A of Act XLVIII of 1994 on the Generation, Transmission and Supply of Electricity

a) leave the validity of controlling interests acquired prior the promulgation of this Act unaffected,

b) nuclear power plants licensed before this Act entering into force and under the direct or majority control of an interest holder shall be disregarded when the acquisition of interest providing majority or controlling interest is judged pursuant to the provisions of subsection a) of section (1) and section (2) of Article 24/A in Act XLVIII of 1994 on the Generation, Transmission and Supply of Electricity.

128. The Government shall establish the order of managing social concerns arising in consequence of decreasing electricity generation and coal production resulting from the re-negotiation of the long-term contracts specified in subsection 1, of Article 3 hereof.

Approximation with the legislation of the European Communities

129. In accordance with Article 3 of Act I of 1994 promulgating the Europe Agreement establishing an association between the Republic of Hungary and the European Communities and their Member States, signed on 16 December 1991 in Brussels, this Act contains regulations harmonized with the following legislation of the European Communities:

a) Directive 96/92/EC of the European Parliament and of the Council concerning common rules for the internal market in electricity;

b) Council Directive 90/547/EEC on the transit of electricity through transmission grids;

c) Council Directive 90/377/EEC concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial consumers.

Ferenc MádI m.p.,
President of the Republic

Dr. János Áder m. p.,
Chairman of Parliament

Appendices %