

THE KYRGYZ REPUBLIC

ELECTRICITY LAW

Adopted by the Legislative Assembly of the Jogorku
Kenesh of the Kyrgyz Republic on January 23, 1997

The present Law is based on provisions of the Energy Law of the Kyrgyz Republic and other legislation of the Kyrgyz Republic and applies to all legal entities regardless of the form of ownership and individuals that generate, transmit, distribute, sell or consume electricity and thermal energy.

Article 1: Objectives of the Law

This law is aimed at assuring reliable, safe and uninterrupted supply of electricity and thermal energy and at improving the quality of service to all consumers, creating a competitive environment and energy market, encouraging development of the private sector and attracting investments.

Article 2: Definitions

As used in the Law, the meaning of the terms listed below shall be interpreted as follows:

Generation of electricity and thermal energy - The production of electricity and thermal energy from energy resources.

Generator - Any state, private legal entity or individual which operates a Power Plant and generates electricity.

Hydro-Electric Station - Any station for the generation of electricity by use of the energy of the water and hydrotechnical constructions and equipment associated with such generation.

Integrated Enterprise - Any state or private enterprise performing two or more of the activities of generation, transmission, distribution and sale of electricity and thermal energy.

National Grid - The system of means for transmitting high voltage electricity.

National Energy System - A complex of existing Power Plants, Hydro-Electric Stations, electric (including National Grid) and district heating network tied together by an integral operational regime under centralized management, carried out by the dispatcher service.

Interconnected Systems - A number of transmission and distribution systems linked together by means of one or more systems.

Electricity for Own Needs - Electricity generated by any state, private legal entity or individual for its own consumption.

Major Consumer - A purchaser of electricity from High Voltage Network directly from a Generator.

Transmission - The movement of high voltage electricity on the National Grid for delivery to Major Consumers or Distributors.

Transporter - Any state, private legal entity or individual which transmits electricity between the Delivery Point of the Generator and the point of reception by the Distributor or the Major Consumer.

Captive Customer - An end-use consumer who is supplied exclusively by one Distributor with low voltage electricity and thermal energy.

Electricity Distribution Network - The electricity-conducting system, including the support structures together with associated constructions and equipment, used to distribute electricity and send it to the Connection Point.

Distributor - Any state, private legal entity or individual which supplies electricity or thermal energy to Consumers within a specified territory.

High Voltage Networks - Electricity networks and substations with a voltage of 35 kV and higher.

Standard Contract on Supply of Electricity - A defined list of rights and obligations of Generators, Transporters, Distributors and Consumers that constitutes a contract to which each agrees to abide by providing or receiving service.

Connection Point - The boundary of property between a Distributor of electricity and thermal energy and a consumer or between a Transporter and Distributor or a Major Consumer.

Delivery Point - The boundary of property between a Generator and a Transporter or between a Transporter and a Distributor of electricity and thermal energy or a Major Consumer.

Installation - Apparatus designed for the generation, transmission, distribution of electricity and thermal energy, including equipment, buildings and lands used in connection therewith.

Electricity Sector - The structure of the state and non-state enterprises involved in the generation, transmission, distribution or sale of electricity or thermal energy.

Power Plant - Any station for generation of electricity or thermal energy by using any energy resources.

Electric/Thermal Enterprise - Any state, private legal entity or individual engaged in the generation, transmission, distribution or selling of electricity or thermal energy regardless of the form of ownership.

Theft of Electricity or Thermal Energy - Unauthorized connection, consumption and delivery of electricity or thermal energy without proper permission.

Article 3: Separation of Function

The Assemblies of the Jogorku Kenesh shall approve the Program of Denationalization and Privatization of the Electricity Sector and also approve the National Energy Program upon submission by the Government of the Kyrgyz Republic.

The Government of the Kyrgyz Republic shall define policy for the Electricity Sector and implement it in accord with the approved National Energy Program.

The State Energy Agency under the Government of the Kyrgyz Republic shall balance the interests of the producers and consumers of electricity and thermal energy, and the local population in the areas of construction of hydro power stations.

All state and non-state legal entities and individuals that generate, transmit, distribute or sell electricity and thermal energy will be responsible for safe, reliable and efficient operation and management of their enterprises.

Article 4: State Regulation of the Electricity Sector

State regulation of the Electricity Sector shall be carried out to provide electricity and thermal energy throughout the Republic at economically justified, socially affordable and non-discriminatory prices, as well as to control for the provision of reliable, safe and uninterrupted generation and consumption of electricity and thermal energy.

Article 5: General Provisions for Licensing

No state, non-state legal, private entity or individual is authorized to engage in the generation, transmission, distribution or sale of electricity or thermal energy unless it has obtained a License issued by the State Energy Agency under the Government of the Kyrgyz Republic, except those who are subject to Article 12 of this Law.

Procedures and conditions for issuing licenses as well as the duration and form of the licenses for Electric Enterprises shall be determined in accord with the provisions of the present Law and other legislation of the Kyrgyz Republic.

Decisions on issuing a license or on refusing to issue it shall be made within 30 days after receiving an application with all required documents.

Licenses shall be issued on a fee basis. The size of the fee for consideration of the application, necessary examination and issuance of the license will be based on the corresponding expenses of the State Energy Agency under the Government of the Kyrgyz Republic. Procedures for determining the fee shall be specified in the provisions on licensing specific types of activities, which will be approved by the Government of the Kyrgyz Republic.

Integrated Enterprises shall obtain licenses separately for each type of activity - generation, transmission, distribution and sale of electricity and thermal energy.

Article 6: Revocation, Suspension or Modification of the License

The State Energy Agency under the Government of the Kyrgyz Republic has the right to revoke a License or impose a fine if the License Holder:

- violates the conditions of the License or legislation of the Kyrgyz Republic;
- operates in a manner that endangers the life and safety of the people;
- violates conditions on environmental protection.

The State Energy Agency under the Government of the Kyrgyz Republic cannot revoke or suspend a License or modify the conditions contained in the License without prior notice sent to the License Holder by the Agency in accord with procedures and the conditions set forth in the License. The License Holder has the right to appeal the decision to revoke or suspend the license to the court.

The License Holder may request a modification to the content of the License in the case of a substantial change in circumstances that affects the ability of the License Holder to meet the conditions of the License.

Article 7: Review of License

License Holders do not have the right to transfer or sell their licenses. A change of structure or ownership of a License Holder through acquisition, merger, sale, separation, division or divestiture shall require review and modification of the conditions of the License.

Article 8: Rules on Generation Licenses

No Generator will be granted exclusive or monopoly rights under the legislation of the Kyrgyz Republic. Energy Enterprises can sell electric or thermal energy that they generate to the National Grid, Distributors or Major Consumers. The market is open to all businessmen provided that they comply with the licensing requirements, provisions of the National Energy Program, and legislation of the Kyrgyz Republic.

Generation Licenses shall specify the conditions for the use of the resources involved in the generation of electric or thermal energy, the limitations of the rights of the Generator, and such other conditions as are appropriate.

Article 9: New Generation Capacities

Any proposal for the construction of new generating capacity shall be made in accord with the National Energy Program and executed under the conditions established in Article 19 and 20 of this Law.

Issuance of licenses for the construction of Power Plants and High Voltage Networks is carried out by the State Energy Agency under the Government of the Kyrgyz Republic. The construction of a Power Plant or a High Voltage Network of 220 kV or higher must be approved by the Government of the Kyrgyz Republic. Work permits for the construction of Distribution Networks is carried out by the Local Authorities upon agreement with Distributors. Construction of Power Plants and High Voltage Network and Distribution Network can be carried out by people who have appropriate licenses for this type of activities.

Article 10: Hydro Electric Stations

The issuance of any License related to hydro electric generation must be subject to a prior study concerning the impact on the use of water for purposes other than electric generation. The results of that study must be transmitted for information to the Local Authorities of the territory in which the Hydro-Electric Station will be constructed or will have effects.

It is compulsory that any call for tenders relating to a Hydro Electric Station, either for the extension of existing power capacities or for the construction of new power capacities, shall contain a memorandum on such study and its results.

All expenses and losses incurred by the local population as the result of construction of a Hydro Electric Station shall be included in the cost estimate of the construction.

Article 11: Nuclear Plants

The construction of any nuclear power plant must be authorized by the Legislative Assembly and the Assembly of People's Representative of the Jogorku Kenesh of the Kyrgyz Republic.

Article 12: Generation of Electricity for Own Needs

No Generation License shall be required for any legal entity or individual wishing to generate electricity for its own use. With capacity of 1000 kW or more, they must obtain permissions from the State Energy Agency under the Government of the Kyrgyz Republic and local authorities in accord with legislation of the Kyrgyz Republic.

Legal entities or individuals generating electricity for their own needs are forbidden to connect to the National Grid and to sell electricity to third parties without the appropriate authorization.

Article 13: Maintenance and Operation of the National Grid

The State Energy Agency under the Government of the Kyrgyz Republic shall issue a license for transmission of electricity through the National Grid, which functions for the duration of the valid license as an integrated system dispatched under the control of the Holder of Transmission License. Issuance of the License must be approved by the Government of the Kyrgyz Republic.

The Holder of Transmission License does not have any monopoly on sectors or geographic areas, other than related to the maintenance and management of the National Grid.

The Holder of Transmission License has the duty to carry out the dispatch of electricity in an economically efficient way, as well as to operate and maintain the National Grid and Interconnected Energy Systems in accord with legislation of the Kyrgyz Republic and the National Energy Program.

The Holder of Transmission License through the National Grid can not restrict access to the National Grid, or impose unreasonable requirements on users of or sellers to the National Grid. However, under emergency circumstances, the Holder of Transmission License through the National Grid may take any action necessary to ensure the safety of people or assets and the continuity of supply of electricity.

Article 14: The Obligation of Distributors

Holders of Distribution Licenses are obligated to supply electricity to all customers who request service within the territory of their operations, including supply of electricity to clients in remote areas.

Distributors are obliged to reimburse customers within 6 months for expenses on purchasing materials, installation and repairs of energy equipment which is the property of the Distributor.

Distributors are obliged to indemnify the customers for the damage caused by disconnection of electricity without prior notice and by supply of electricity that does not meet the State Standards.

Article 15: Standard Contract on Supply of Electricity

The State Energy Agency under the Government of the Kyrgyz Republic will establish a Standard Contract on Supply of Electricity that will govern the rights and obligations of Distributors and consumers. None of the provisions of this Standard Contract can be changed by either party to the contract. However, Distributors may propose that the State Energy Agency under the Government of the Kyrgyz Republic consider additional conditions on rights and obligations that do not conflict with the purpose and wording of the Standard Contract on Supply of Electricity.

Standard Contract on Supply of Electricity shall be approved by the Government of the Kyrgyz Republic.

Article 16: Compliance with Main Principles of Operation

Distributors will carry out their activities in accordance with the following principles:

- Maintain a safe, reliable and uninterrupted supply of electricity;
- Adopt such management practices that result in continual improvements in productivity and efficiency;
- Show respect for the interests and needs of consumers, including matters of their safety;
- Provide continual improvements in quality of service to consumers at fair prices;
- Take prompt measures on consumer complaints;
- Do not damage the environment.

Article 17: Distributors Right to Interrupt Service

If a consumer does not pay within the time period set forth in the supply contract, the Distributor may disconnect the consumer under conditions and procedures set forth in the supply contract, except those cases when disconnection would result in a threat to life, health or safety of the people.

Electricity supply for an uninterrupted industrial process shall be interrupted in accord with conditions and procedures which ensure completion of technological cycle of production.

The bills of Captive Customers who are unable to pay for service provided may be settled through the mechanisms provided for in Article 22 of this Law.

Consumers have the right to submit their complaints to the State Energy Agency under the Government of the Kyrgyz Republic or to the court if an interruption in supply of electricity or thermal energy or worsening of the quality of supply takes place because of the supplier's fault.

Article 18: Sale of Electricity

Any state, private entity or individual engaging in the import, export or sale of electricity is required to obtain a License from the State Energy Agency under the Government of the Kyrgyz Republic.

Article 19: Call for Tenders

The competent government entity will call for international tenders for the construction of Power Installations, generation, transmission, or distribution of electricity and thermal energy.

Article 20: Tender Procedure

Details of the tender procedure and the criteria for the selection of bids and identification of the winner will be set forth in a Decree of the Government of the Kyrgyz Republic and shall be published in the Official Gazettes.

Article 21: Tariffs

The State Energy Agency under the Government of the Kyrgyz Republic shall establish tariffs in accord with the following principles:

- Prices should reflect the full cost of the generation, transmission and distribution of electric or thermal energy, including operating and maintenance costs, the recovery of the capital invested, the costs of borrowing funds and interest rate of return;
- Changes in prices should not cause sudden economic hardship to either consumers or producers;
- Discrimination in tariffs and provision of service, including quality of service, is prohibited;
- All consumers within the same group and with the same characteristics of consumption and served by the same Distributor shall receive the same tariffs and service;
- Tariffs for each group of energy consumers shall reflect full cost of providing service;
- Subsidies from one group of consumer to another are prohibited;
- Tariffs should be established to reflect the difference in the cost of providing service in different seasons and at different times of the day, as well as the different types of services or services of a different quality, so customers have the ability to choose.

Article 22: Provision of Service to Low Income Consumers

The Government of the Kyrgyz Republic, Oblast, Rayon and City State Administrations, and the Bishkek City Administration may provide direct subsidies exclusively to pay for a determined amount of energy consumed by Captive Customers who are unable to pay the full cost of electric or thermal energy.

Article 23: Metering, Billing and Collection

Every Distributor is required to install reliable and secure meters at every point of service delivery, to regularly read the meters, to bill, and to institute effective methods of collection.

Article 24: Remedies for Theft

For the theft of electrical or thermal energy, tampering with a meter, altering a meter reading, unauthorized connections to electrical and thermal networks or other illegal acts, the Electric/Thermal Enterprises and consumers will be subject to administrative and criminal sanctions established by legislation, similar to those for theft of property belonging to legal entities and individuals.

Article 25: Time for Consideration of Tariffs

After submission by enterprises and organization of all required documents and calculations for tariff consideration, the State Energy Agency under the Government of the Kyrgyz Republic must make a decision within one month. The documents re-submitted for changing tariffs shall be considered by the State Energy Agency under the Government of the Kyrgyz Republic no sooner than 6 months.

Article 26: Accounting Standards

Regardless of legal form or type of ownership structure, all enterprises that generate, transmit, distribute or sell electricity or thermal energy shall keep their books and records in accord with applicable laws of the Kyrgyz Republic taking into consideration internationally accepted accounting standards and practices and, if it is necessary, submit them to audits carried out in accord with international standards and legislation of the Kyrgyz Republic.

Article 27: Separation of Accounts

License Holders that are Integrated Enterprises shall keep separate accounts for each of their activities: Generation, Transmission, and Distribution of electricity and thermal energy, as if they were separate legal entities.

A copy of the annual balance sheet of the enterprise (organization) shall be provided to the State Energy Agency under the Government of the Kyrgyz Republic.

Article 28: Environmental Protection

License Holders should bear the cost of preventing or mitigating pollution from their operations in accord with the environmental protection laws and regulations of the Kyrgyz Republic.

Article 29: Environmental Impact Assessment

The decision to site a new power plant or hydro-electric station shall be subject to an environmental impact assessment prior to the issuance of a construction permit. The assessment reports must be made available to the public and subject to public inquiry in accord with legislation of the Kyrgyz Republic.

Article 30: Crisis Situations

In the event of an emergency or natural disaster, and when the physical safety or security of people, installations or system integrity is threatened, the Government of the Kyrgyz Republic shall take the

necessary protective measures and may invoke temporary limitations on the use of electricity. Such measures must cause the least possible inconvenience in the operation of the electricity market and must not be broader in scope than is strictly necessary to remedy the suddenly emerged crisis situation.

Article 31: Responsibilities for Violation of Legislation

Any state, private entity or individual who violates this law, other legislative acts, or Licenses will be subject to material, administrative and criminal responsibilities set by the legislation.

The imposition of fines and penalties through disciplinary, administrative or criminal proceedings will not relieve those entities or individuals found guilty from making restitution in accord with the legislation of the Kyrgyz Republic for the damage caused as a result of the violation.

An energy supplying organization shall be responsible for implementation of a plan for development of the Electric Network, timely and proper repairs and prevention works, and for preparation for work in winter conditions.

Article 32: Dispute Resolution

The resolution of disputes between two or more public entities and between legal entities and individuals engaged in the Electricity sector should not harm the rights and privileges granted to License Holders.

If disputes between domestic and foreign parties concerning the interpretation of rights and duties under a License cannot be settled amicably through negotiation and mediation within a period of three months, either party may choose to submit the dispute to international arbitration in accord with prior agreement.

The State Energy Agency under the Government of the Kyrgyz Republic must establish clear procedures through which conflicts arising between a Captive Client and a Distributor can be quickly resolved.

Article 33: Effect of the Law

This law shall go into effect on the day of publication.

A. Akaev

The President of the Kyrgyz Republic

Bishkek, House of the Government
January 28, 1997
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