



REPUBLIC OF ALBANIA
ASSEMBLY

LAW

No. 9072, dated 22.05.2003

ON POWER SECTOR

Based on Articles 78, 81 and 83, paragraph 1 of the Constitution, with proposal of the Council of Ministers,

**ASSEMBLY
OF THE REPUBLIC OF ALBANIA**

DECIDED:

FIRST PART

GENERAL PROVISIONS

Article 1

The Purpose of the Law

The purpose of the law is and to ensure the conditions for an electricity supply to the customers according to the standard parameters. This can be achieved through an efficiently functioning power market and the development of competition, taking into consideration the protection of consumers' interest, cost minimisation in providing electric power service and its compatibility with the environment.

Article 2

The Object of the Law

1. This law regulates activities in the electrical power sector and defines the rights and duties of the physical and juridical persons and state administration involved in this sector as well as the procedures for selecting and developing a market model and the rules for an electricity market.
2. This law provides and determines:
 - a. The institutional authority of the regulatory authority of the Electric Regulatory Entity, hereinafter ERE;
 - b. The restructuring, commercialisation and ultimate privatization of KESH and the development of a competitive energy market;
 - c. The encouragement of regional electricity trade;
 - d. The improvement of investment conditions in the electricity sector.

Article 3 Definitions

In this law the following terms are defined as follows:

1. **“Minister Responsible for Energy”** is the Minister of Industry and Energy or the minister responsible for energy.
2. **“KESH”** is the National Electroenergetic Corporation.
3. **“Electricity Regulatory Commission”** is the regulatory institution of electric power sector, which operates according to this Law.
4. **“Board of Commissioners”** or **“Board”** is the decision-making body of ERE composed by five members appointed according to the procedures provided for by this law.
5. **“Member”** is a member of the ERE Board of Commissioners nominated and serving according to this law, including the Chairman of the ERE unless the law provides for differently.
6. **“Chair”** is the Chair of the ERE appointed or serving under this law.
7. **“Person”** is a physical or legal person.
8. **“License”** is an authorization granted to a person according to third part of this law.
9. **“Licensee”** is a person that holds the license according to the third part of this law.
10. **“License fees”** is the fees imposed by the ERE for every issued license to perform an activity in the electric power sector.
11. **“Regulatory fees”** is the annual fees imposed by the ERE for licensed activities that are subject to regulation.
12. **“Power System”** is an interconnected system consisting of electric plants, power lines, substations and distribution equipment, intended for transmission or distribution of electricity to the customers.
13. **“Power Generation”** is the production of electric power through transformation of different energy resources by a Generation Company.
14. **“Generation Company”** is a person licensed for carrying out the power generation activities.
15. **“Independent power producer”** is a producer who does not carry out electric power transmission or distribution functions in the electric power system.
16. **“Privileged Producer”** is a producer who meets the criteria established by Article 39 and enjoys a privileged status.
17. **“Auto-producer”** is a person generating electric power essentially for his own use.
18. **“Back-up Source”** is a secondary source of electricity supply not connected to the power system.
19. **“Cogeneration”** is the combined production of useful electrical and thermal energy, which results in a significant energy saving compare to separated production.
20. **“Transmission”** is the transport of electric power on the high-voltage system or on any other installation, regardless of their voltage, whose functions include transmission or international interconnection;
21. **“Transmission System”** is a system of lines, supporting structures, transforming, and switching equipment used for the transmission of electricity.

22. **“Transmission Company” or “Transmission System Operator”** is a person licensed for carrying out electric power transmission and dispatching activities.
23. **“Dispatching”** is the adjustment of electricity generation to consumption requirements at national level.
24. **“Grid Operation Code”** is a set of technical rules, which governs the operation of transmission system.
25. **“Distribution”** is the transport of electric power on medium-voltage and low-voltage distribution systems with the goal to distribute it to the end-use customers.
26. **“Distribution Company”** is a person licensed to carry out electric power distribution within a defined area.
27. **“Distribution Operation Code”** is a set of technical rules, which govern the operation of distribution network, and establishes conditions and terms of service provided by the distribution companies to the customers.
28. **“Standard parameters”** are values of voltage and frequency level of supplied power to customers as defined by the regulations of power system operation approved by the ERE.
29. **“Third party access”** is the legal right of eligible customers and suppliers to use the transmission and distribution networks.
30. **“Supply”** is the delivery and/or sale of electric power to customers.
31. **“Qualified Supplier”** is a person licensed to supply electricity directly to Eligible Customers.
32. **“Eligible Customers”** is a customer that has the right to choose the electric supplier for the electricity he uses for his own needs.
33. **“Non-Eligible Customer or Captive Customer”** is a customer other than an Eligible Customer who is supplied by a distribution company licensed to supply in the territory in which that customer is located.
34. **“End-use Customer”** is a customer buying electricity for his own use.
35. **“Electricity Market”** is an exchange of offers for electricity purchase with offers for electricity supply.
36. **“Market Rules”** are rules regulating operation and management of the market, as well as commercial relations among license holders.
37. **“Direct Line”** is an electric power line connecting generation to an end use customer that is not connected to the power system.
38. **“Small Power Plant”** is a power plant of a capacity less than 5 Megawatts.
39. **“Renewable energy sources”** are sources of energy, which are preserved in nature and are entirely or largely renewed as solar, wind, hydro, geothermal, biomass or biogas and energy from urban wastes.
40. **“Force Majeure”** is an natural or social act or event occurred in the country as earthquakes, lightning, cyclones, floods, volcanic eruptions, fires or wars, armed conflict, insurrection, terrorist or military action, which prevent the licensee from performing its obligations under the license or other acts or events that are beyond the reasonable control and not arising out of the fault of the licensee, and the licensee has been unable to overcome such act or event by the exercise of due diligence and reasonable efforts, skill and care.

SECOND PART

STRUCTURE AND ORGANIZATION OF INDEPENDENT ELECTRICITY REGULATORY ENTITY (ERE)

Article 4

1. ERE is a legal and public person with headquarters in Tirana.
2. ERE is composed by the Board of Commissioners and the Technical Staff.
3. Board is composed by the Chairman and four members who shall be appointed by the Parliament in conformity with the provisions of paragraph (5) of this Article.
4. The Selecting Team is composed by two representatives of Parliament, respectively, the chair of the Parliamentary Commission of Industry, Public Works and Trade and the chair of the Parliamentary Commission of Economy, Finance and Privatisation as well as the Minister Responsible for Energy.
5. The Selecting Team shall:
 - a) be convened when necessary and always no later than six months before the termination of the mandate of one of the members of the Board;
 - b) proposes two candidates for each vacancy in Board who have the ability and experience by paragraph (7) of this Article.
6. When the post of the Board's Chair is vacant, until the appointment of the new Chair, the longest serving member of the Board will act as chair. The seniority is acknowledged from the date that he was appointed a member of the Board.
7. Members of the Board must be persons with the following qualifications and experience:
 - a. the chair should be a distinguished person in the energy field. He should have at least 15 years experience at state administration, juridical system, electric energy sector or other recognised businesses;
 - b. two of the members should have no less than 10 years engineering experience in generation, transmission and distribution of electric energy;
 - c. two members should have professional qualification and no less than five years of experience in economics, trade, accountancy, finance, law, judicial administration or public administration;
8. The term of membership in the Board of ERE shall be 5 years, except the first Board appointed according to this law, which will be appointed with staggered terms through the lot. Two of members will be replaced after 4 years and the other two will be replaced after 3 years. The Chair will be replaced after 5 years. The Chair in the presence of all members according to a regulation approved in advance will conduct the lot.
9. When a member is appointed in a vacant position created before termination of the term he must be appointed only for the remaining period of the predecessor's term.
10. Any member of the Board shall be appointed for a 5 years term with the right of re-appointment.
11. The Parliament defines the salaries of the Chair and of the members of the Board.

Article 5

Dismissal of Members of the ERE

1. Any member of the Board may be dismissed only in case he or she:

- a) is restricted or removed the authority to act by a final court decision;
- b) is incapable of fulfilling the duties and responsibilities of a member of the Board for a period of more than six months;
- c) acts in contradiction to the provisions of this law;
- d) becomes or runs to become a member of Parliament, becomes an employee in state administration or in any local authority;
- e) is punished for committing a criminal act by a final court decision.

Article 6

Conflict of Interest

1. No member of the Board or of technical staff may be:
 - a) owner, shareholder or holder of assets property of any licensee;
 - b) employee or contractor of any licensee;
 - c) member of the boards or supervisory boards or other relevant governing bodies;
 - d) director or president or other manager of any licensee, nor shall he has a material interest or other interest in the energy area.
2. In the event a member of the Board or a staff member has any of the interests during the application procedures for a license he shall not participate in consideration of the license application.
3. Any member of the Board or staff member may be a customer of any licensee, but no licensee shall offer, nor shall any member of the Board or staff member accept more favourable or different service than the rates and conditions generally available to the public.
4. Upon ceasing to serve as a member, no member of the Board may accept remunerated employment or be compensated in any way by any entity that was, or applied to be, a licensee during the time that he was a member of the Board without prior approval of the Council of Ministers.

Article 7

Chair of the ERE

2. The Chair of the ERE is the executive administrator of the ERE and shall be responsible for the administration of the ERE, for presiding over the meetings of the Board and for publishing the Board's decisions.
3. When absent, the Chair shall designate one of the members of the Board to exercise his rights and duties.

Article 8

Responsibilities of the ERE

1. The ERE shall exercise its activity consistently with this law.
2. The ERE has the following competencies:
 - a) sets the rules and requirements for granting, modifying and revoking licenses to companies for generation, transmission, distribution, supply, export and import of electric power;

- b) sets, regulates and reviews wholesale and retail tariffs and the terms and conditions of service of electric energy proposed by a licensee or reviews them according to circumstances;
- c) assures that the Investment Programs and Power Purchasing Agreements are consistent with least cost planning principles;
- d) protects the interests of consumers of electric energy concerning tariffs by assuring that:
 - i) such tariffs are in accordance with recognised ratemaking principles; and
 - ii) the other conditions of service as to quality, efficiency reliability and security of electric energy supply are reasonable according to the circumstances;
- e) resolves disputes raised between the licensees and consumers and between or among the licensees;
- f) maintains a proper balance between the interests of licensees, consumers, the state, investors and other participants in the electric energy sector;
- g) promotes electric energy efficiency and improvements in the quality of service in electric power sector;
- h) promotes competition in the electric energy sector;
- i) monitors and controls the operation of services by licensees, with powers of inspection, access, acquisition of documentation, and relevant information;
- j) controls whether the licensee providing electric power service to customers is respecting the terms of the contract or is providing services consistently with standards established by the terms of license or any regulation approved by the ERE;
- k) co-operates with corresponding authorities of other countries or international organizations and participates in the activities organised by such authorities and organizations;
- l) publicises and makes known the conditions under which the electric energy services are provided in order to ensure maximum transparency and the competitiveness of the supply;
- m) approves the Grid Operation Code and Distribution Operation Code and other codes which regulate the licensees' activities and their relations with customers;
- n) approves mandatory working standards for licensees in generation, transmission and distribution of electric energy; and
- o) approves Rules of Practice and Procedures which will be used in performing the ERE's function under this law.

Article 9

Sessions and Decisions of the Board of Commissioners

1. The deliberative sessions and hearings of the Board shall be open. In specific cases, the Board may hold closed sessions.
2. The number of members needed to achieve the quorum of a deliberative meeting of the Board is not less than three members. The Board shall take its decisions by majority vote of all its members. In case of equal votes, the Chair's vote is decisive.
3. All Board decisions shall be made independently.

4. The decisions of the ERE's Board may be appealed to the court within 30 days after the decision is published in the "Official Journal". The court shall judge only the lawfulness and grounds of the Board decision, and it may rule to cancel partially or wholly the decision if found not based on the law.
5. In case of cancelling, the Board either reviews its decision or appeals the court decision according to provisions of the Code of Civil Procedure.
6. All Board decisions, except those dealing with ERE's internal matters, shall be published in the Official Journal.

Article 10 **Reporting**

1. No later than the end of the first quarter of each year, the ERE shall submit to the Parliament and the Government an annual report on the electric energy sector situation and ERE's activities, including its financial activities. This report shall be made public.
2. The auditing of ERE's financial activity shall be carried out by financial independent auditors in compliance with the legislation in force.
3. ERE shall also submit to the Minister responsible for energy, upon request, information within the scope of the ERE's authority and expertise.

Article 11 **Technical Staff and The Advisors**

1. A technical staff shall assist the Board in the performance of its duties. The staff shall be selected, appointed and promoted according to the criteria and procedures provided for by the Law No.8549, dated 11.11.1999 "On the Status of Public Servant".
2. The Board has the exclusive authority to define the organisation, duties and salaries of its technical staff in compliance with the legislation in force.
3. In addition to permanent technical staff, the Board, from time to time and when necessary, can hire specialists or advisors to assist the ERE in accomplishing its functions.

Article 12 **Financing**

1. The ERE's financial sources shall be regulatory fees set by the ERE on electric power sector licensees and license fees.
2. The ERE keeps thorough and précised accounts of occurred expenses in compliance with accounting Albanian legislation.
3. The ERE determines a regulatory fee to be paid by a licensee.
4. When ERE establishes such regulatory fee, it shall notify the licensee of the amount due and payable. If the licensee shall fail to pay such fee within 30 days after receiving such notice, the licensee will be subject to sanctions according to Article 64 of this law.
5. Regulatory fees shall be deposited in a separate account for the use of the ERE opened in one of the banks licensed according to Albanian legislation. Any funds

- in the ERE account not used in one year shall be carried forward to the next year, and the next year's regulatory fees reduced accordingly.
6. The ERE is authorized to borrow funds when capital or operating expenses cannot be met from the current regulatory fees. The ERE shall pay back the loans, including interest, from future regulatory fees.

THIRD PART

LICENSES AND LICENSING PROCEDURES

Article 13

Licensed Activities and Exceptions

1. The ERE shall grant licenses for the following activities:
 - a) the construction, installation and operation of a power plant, and generation of electricity;
 - b) the transmission of electric power;
 - c) the distribution of electric power;
 - d) supply of or trade in electric power in whatever form;
 - e) the export of electric power outside the territory of the Republic of Albania; and
 - f) the import of electric power inside the territory of the Republic of Albania.The application form, manner and fee are determined by the ERE.
2. The ERE shall grant a license for transmission of electricity only to one state juridical person.
3. Separate licenses shall be granted for the performance of each activity subject to licensing by the same person. The ERE shall be obliged to avoid discrepancies in the conditions of the licenses for different activities issued to the same person.
4. The ERE shall grant a license for distribution only to one person for a determined service area.
5. Municipalities and Communes may engage in any of the activities described in the paragraph (1) of this Law when they have received a license from the ERE.
6. No transmission or distribution license shall be required for a direct line.
7. No generation license shall be required of an auto-producer not connected to the power system.

Article 14

Licensing Procedures

1. Licenses shall be granted by the ERE pursuant to procedures that assure equal, non-discriminatory treatment and transparency of the license process. Such procedures shall specify the information that must be filed with request to each type of license application.
2. The ERE shall approve the regulation on licensing procedures and, consistently with this law, defining the criteria and conditions relating to the issuance, modification or withdrawal of licenses and the payment of license application fee. The ERE is authorized to adopt regulations to establish simplified and expedited licensing procedures for the establishment and operation of the power plants with a total capacity no greater than 5 MW.

Article 15
Conditions of a License

1. The ERE shall determine the conditions for every license taking into consideration:
 - a) the term requested for the validity of the license;
 - b) the locations and territories on which the licensed electric power activities will be performed;
 - c) operating safety and reliability of facilities, equipment or the network;
 - d) requirements for the nature of primary energy sources;
 - e) requirements connected with national security, citizens life, property and health and public order;
 - f) financial requirements;
 - g) environmental protection;
 - h) promotion of energy efficiency in the electric power sector;
 - i) public service obligations as provided for by this law;
 - j) promotion of a competitive electric power market and least-cost principles in electric power supply; and
 - k) the effect upon security and reliability of electric power supply within the territory of the Republic of Albania.
2. The ERE may ask for evidences, data and relevant documents needed to verify the qualifications and competences of the applicant for a license.
3. The ERE may refuse granting of a license to an applicant who fails to fulfil any of the conditions contained in paragraph (1) of this Article. When the ERE determines that any such failure is not serious or material and can be corrected, it may grant the license under conditions that the licensee will satisfy the failed condition within a specified period of time as determined by the ERE.

Article 16
Notice of License Applications and Objections

2. For any publication for a license according to this Law, the ERE must publicise, within 14 days after the application has been made, an announcement of the request for license in the manner provided in the Regulation on Licensing Procedure. For any application for a license to export or import power the ERE shall, upon receiving such application, send written notice of such application to the Minister responsible for energy.
3. The license will be granted after all objections or complaints to that license are considered. No objection or complaint received later than two months from the date of the first publication of announcement will be considered by the ERE.
4. When an objection or complaint is received from a relevant local authority and the ERE considers such objection or complaint insufficient, the ERE must notify the local authority in writing giving the reasons for such determination.

Article 17
Refusal of the License

1. The ERE may refuse to grant a license when it perceives hazard to citizens' lives, health, the environment, third persons property and consumers interests or the damaging of a reliable supply of electricity.

2. No license shall be granted to a person:
 - a) who is under any procedure of insolvency or liquidation provided for by the legislation on bankruptcy; or
 - b) whose license has been revoked or withdrawn and the period specified in the ERE decision of withdrawal during which reapplication is prohibited has not expired.
3. In the event of refusal, the applicant may not submit a new application for a license for the same activity until six months after effective date of an ERE's decision refusing to grant a prior application.

Article 18 **Withdrawal of the License**

1. The ERE may withdraw a license when the licensee:
 - a) does not accomplish the conditions of the license granted according to this law;
 - b) in performing its activity, violates the legal provisions on environmental protection;
 - c) endangers the health, life and property of people;
 - d) fails to pay regulatory fees established by the ERE as required by Article 12;
 - e) has not started the licensed activity within the time provided by the license; or
 - f) fails to fulfil the conditions of the license due to financial reasons;
2. If the ERE determines that the license withdrawal may affect the public interest it may act according to Article 64 of this law.
3. The ERE must adopt regulations establishing procedures for withdrawal of a license. These procedures shall require the ERE to:
 - a) notify the licensee in writing, that the ERE proposes to withdraw his license, at least sixty days before the withdrawal is enforced and must clearly state the reasons for such withdrawal;
 - b) give the opportunity to the licensee to reply in writing within thirty days from the day the notification is received;
 - c) when in the general interest, the ERE may give the licensee 30 days, after the reply of the licensee in writing, to act in conformity with the license and eliminate the cause for the proposed withdrawal.
4. When the ERE withdraws a license, it must apply one of the temporary conditions given in paragraph (3) of this Article, in order that equipment and property owned by licensee can continue to operate in providing electric power service to customers:
 - a) allow the licensee to continue utilising such equipment and property under conditions and terms set out;
 - b) contract with one or more private companies that can undertake to carry out this operation;
 - c) as a last resort, appoint an administrator to supervise or undertake the running of the equipment and property under license.
5. Temporary conditions may be imposed until the license is transferred to another person who will continue the operation;
6. When a license is withdrawn, the Council of Ministers shall determine to expropriate with a reasonable compensation the licensee's assets according to

procedures provided for by the Law No.8561, dated 22.12.1999 “On expropriation and taking for temporary use of private property for public interest”.

Article 19

Modifications of the License

1. Every licensee may request modification of the license.
2. The ERE can make modifications of terms and conditions of a license that it considers proper, after it has taken into consideration the effect of the proposed modification upon the licensee's duties under this law and his license, provided that modifications shall be in writing and with the consensus of the licensee.
3. For doing modifications to a license, the following provisions are applied:
 - a) The ERE shall publish an announcement of his application in the form defined in the regulation on licensing procedure;
 - b) The ERE cannot make any modification before it has received all objections and complaints related to this application within two months from the first publication of application and after it has analysed such objections or complaints.
4. Before approving a modification in a license at the request of the licensee, the ERE must publish the proposed modifications and analyse all the objections and complaints regarding to the proposed modifications received within two months from the first publication of the announcement.

Article 20

Prohibition of Transfer of Assets

1. No licensee may transfer his business or any of its parts through sale, mortgage, leasing, exchange or otherwise, without written approval of the ERE.
2. The ERE, within one year after this law enters into force, shall adopt a regulation on reviewing and approving the sale, lease, transfer, encumbrance or other disposition of any licensee’s facilities or asset defined as “generation,” “transmission” or “distribution” under Article 3 of this law, including exemptions from approval for minimal dispositions.

Article 21

Uniform Accounting Standards

The ERE, within one year from the date this law enters into force, shall establish and adopt a uniform and standardised system of accounts for all the licensees in the electric power sector based on Albanian legislation and internationally accepted accounting standards. The annual financial and economic reporting to the ERE by all licensees shall be done according to this system.

Article 22

Licensee Annual Reports

1. All licensees shall submit to the ERE, no later than three months after the end of a year complete financial statements for that financial year. Such annual report shall include:

- a) revenue/expenditures summary for each individual activity (generation, transmission and distribution);
 - b) revenue/expenditures summary allocated over all branches of the enterprise, and a summary of the rules under which revenues, expenditures assets and liabilities have been distributed among business activities and branches;
 - c) other supplementary materials as the ERE may request.
2. Such financial statements shall be consistent with the uniform and standard system of accounts when adopted by the ERE pursuant to Article 21 of this law.

Article 23

Accounting Balances Record

Any licensed power sector company, conducting more than one of the activities related to generation, transmission and distribution, will keep separate accounts for each of the activities in its inside bookkeeping unit and shall also prepare consolidated accounting statement and balance in conformity with require accounting practices. In addition, such integrated company will keep separated accounts for activities unrelated to generation, transmission and distribution activities.

Article 24

Investment Programs and Power Purchasing Agreements

1. Every licensee, within December 31 of every year, is obliged to file with the ERE its Investment Programs for coming year. The Power Purchasing Agreements entered into by a licensee with a power supplier shall be consistent with the general terms and standards required by applicable regulations adopted by the ERE.
2. The ERE, within 6 months from the date this law enters into force, shall elaborate and approve a regulation on the procedures for submission of licensees investment programs and prescribing the general terms and standards for power purchasing agreements.
3. An investment program or a power purchasing agreement should take into account the national strategy for power sector as developed by the Council of Ministers, least cost planning principles and fuel diversity.

Article 25

Public Service Obligations

1. The activities of electricity generation, electricity transmission, electricity distribution, supply of electricity to tariff (captive) customers, organization of the electricity market and operation of electricity system shall be carried out as public services.
2. In imposing and enforcing licensees' public service obligations, the ERE may consider obligations in relation to:
 - a) security of supply;
 - b) regularity, quality and price of supplies,
 - c) use of indigenous energy sources;
 - d) efficient utilisation of fuels and energy;
 - e) environmental protection, and;
 - f) protection of the citizens' health, life and property.

3. No licensee shall have a public service obligation to provide electric service in an area in which it is not providing service on the effective date of this law, except as may be required by regulations adopted by the ERE that provide for a fair allocation of the additional costs of providing such service between those customers seeking such service and existing customers of the licensee.
4. The costs incurred by any licensee under public service obligations shall be recognised as justified pursuant to Articles 27 and 28 of this law.

FOURTH PART

ELECTRICITY TARIFFS

Article 26

ERE Authority for Tariff Setting

1. The ERE is the responsible institution for setting tariffs in all activities carried out by the licensees in electric power sector.
2. The ERE, within six months from the date this law enters into force, must provide through regulation, the procedures and standards through which it will approve, modify or disapprove the tariffs, terms and conditions of electric power services.

Article 27

Tariff Setting Principles

1. Tariffs for electric power services established by the ERE shall:
 - a) protect consumers from monopolistic prices;
 - b) provide licensees with an opportunity to recover their reasonable costs of providing service;
 - c) encourage efficiency in internal operations and management practices by allowing a licensee's financial returns to increase as a result of the licensee having minimised its costs of providing service, and meeting all requirements of its license concerning the reliability and quality of service;
 - d) encourage economic efficiency within the electric power sector by reflecting short run and long run marginal costs and by sending appropriate price signals to licensees;
 - e) take into account the Council of Ministers policy in regard to priority consumers for electric power supply, provided that it shall not prevent a licensee to disconnect any legal or physical person for failure to pay for the consumed electricity as provided by any applicable tariff or contract or terms and conditions of service approved by the ERE;
 - f) take into account any policy of the Council of Ministers, prohibiting the subsidisation of any category of consumers by the licensee or any other category of consumers;
 - g) reflect cost differences between different categories of consumers.
2. Tariffs shall be just and reasonable in accordance with recognised ratemaking principles, non-discriminatory, based on objective criteria, and determined in a transparent manner.
3. Costs shall be recovered from each customer category in proportion to the costs of serving that category.

4. Different tariffs may be established for each customer category taking into account the season, the time of day (day or night), the time of peak, medium or base usage or similar parameters.

Article 28

Rules for Tariff Setting

1. The ERE shall establish the methods and procedures applied by the licensees to calculate their economic and financial figures for setting tariffs for any power sector activities.
2. In reviewing tariffs submitted by a licensee for approval, the ERE shall take into consideration:
 - a) costs for the generation or purchase of electric power;
 - b) operational, maintenance costs and repair, including depreciation expense;
 - c) costs of maintaining back-up and regulating capacities required for a reliable supply of electricity;
 - d) costs of fuel supply and maintaining fuel stocks;
 - e) costs of environmental protection;
 - f) costs for salaries, wages and similar expenses;
 - g) taxes and other fiscal duties provided for by the Albanian legislation;
 - h) license and regulatory fees as provided for by this law;
 - i) the return on the invested capital, taking into account the business risk and capital costs;
 - j) cost of compliance with the public service obligations as provided for by this law;
 - k) costs of energy saving programs.
3. The ERE will not include in rates excessive or unreasonable costs imprudently incurred as the result of licensee inefficiencies.
4. No tariff change increasing charges to consumers can be requested more than once within a financial year, except when the ERE shall permit such a filing upon a showing of good cause.

Article 29

Transition Period for Tariff Increase

To ameliorate impacts of tariff increases upon residential customers, the ERE may provide for a transition period of no more than four years to move in annual increments to tariffs designed to recover a licensee's costs of providing electric service as determined by the ERE pursuant to the provisions of this law.

FIFTH PART

ELECTRIC POWER SYSTEM

SECTION I GENERAL PROVISIONS

Article 30
Composition of Electric Power System

1. The power plants, the transmission system and related interconnection and information system facilities the individual distribution networks and electric appliances of customers compose the electric power system of the country.
2. Electric power system shall operate as an integrated system with continuous process of electric power generation, transformation, transmission and distribution.

Article 31
Interconnection with other Electric Power Systems

1. The electric power system of the country shall be connected to the electric power systems of other countries by means of interconnection lines, which shall be constructed pursuant to the decision of the Council of Ministers at the proposal of the Minister Responsible for Energy.
2. Operation of the electric power system in parallel to other power systems and interconnected power systems shall be carried out in accordance with multi or bilateral agreements in the field of electric power and observing technical standards, safe operation requirements and other interconnection standards established by the ERE pursuant to Article 55.

Article 32
Technical and safety standards of electric power system

1. Electric power generation, transmission and distribution installations, together with those designed for electric power reception by users and the technical elements and materials for electric power system installations must satisfy technical and safety standards pursuant to decisions or guidelines proposed by the Ministry Responsible for Energy approved by the Council of Ministers.
2. The by-legal acts described in paragraph (1) of this Article shall guarantee:
 - a) protecting of individuals and the integrity and functionality of property that may be affected by the installations;
 - b) achieving of the required regularity of electric power supplies;
 - c) establishing of standards to facilitate installation inspection and unify supply conditions;
 - d) increasing of the reliability of the installations and improve the quality of electric power supply;
 - e) protecting of the environment and the rights and interests of the consumers;
 - f) achieving of suitable efficiency standards in the use of electric power.

Article 33
Unbundling of Activities

1. No later than 12 months from the date this law enters into force, any electric power company that carries out activities of electric power generation, transmission and distribution shall unbundle its financial accounts according to generation, transmission and distribution activities.

2. Any company engaged in generation, distribution and supply of electric power, which deals with other non-electric power activities, will ensure separate accounting records for their generation, distribution and supply activities, with a view to avoiding discrimination, cross-subsidisation and distortion of competition. They shall keep separate accounts for each activity as if they were performing these activities in separated companies.

SECTION II
ELECTRIC POWER GENERATION

Article 34
Licensees in Electric Power Generation

1. Power generation may be carried out by a physical or legal person holding power generation licenses under the provision of the Third Part of this law.
2. Generation activity shall include the transformation of electric power produced by the plants and its connection to the transmission grid or distribution network.
3. The granting of a generation license does not exempt its holder from the obligation to obtain other authorisations or approvals provided by laws in force.
4. In case of electric power generation by hydro, the generator should obtain prior administration permission for use of water for public purposes from responsible institutions as provided for by Legislation in Force.

Article 35
Generator Rights and Responsibilities

1. Generators shall be entitled to:
 - a) use in their power plants those primary energy sources they deem most suitable, abiding by the outputs, technical characteristics and environmental protection conditions contained in their licenses;
 - b) contract for the sale of power under terms set out in this law, ERE regulations and Market and System Operator rules adopted by the ERE;
 - c) dispatch their electric power through the Transmission System Operators;
 - d) have access to the transmission and distribution networks based on transmission tariffs set by the ERE;
 - e) receive the remuneration due them under their contracts.
2. Generators shall be obliged to:
 - a) obey the conditions of their generation licenses;
 - b) comply with all applicable Grid Operation Code, Market Rules and other regulations;
 - c) equip themselves with metering equipment that enables the measurement of the electric power flowing into the corresponding network; and
 - d) comply with all other obligations that may arise from the enforcement of this law, applicable regulations and other Legislation in Force imposing obligations upon the operation of generation plants.

Article 36
Reserves of Fuel or Generating Capacity

1. Persons who produce electricity shall be obliged to hold specific reserves of fuel or specific reserve generating capacity for electric power in order to ensure a reliable supply to customers.
2. The type and extent of the fuel reserves or of the reserve capacity for individual types of production facilities shall be defined by a decision of the Council of Ministers.
3. The costs of the fuel reserve and of the reserve capacity shall be treated as operating costs.

Article 37

Costs of Connection to the Network

The costs of connecting a new Independent Power Producer or Auto-producer and the costs in the transmission or distribution network arising due to this shall be borne by the generator, and such connection shall be in compliance with the grid operation code, or with the general conditions of electrical power supply. The system operator shall have the property rights of such a connection.

Article 38

Privileged Producer of Electrical Power

1. Privileged Power Producers are considered:
 - a) producers generating electric power using renewable energy sources, whose installed capacity does not exceed 25 MW and in case of hydroelectric energy source up to 10 MW;
 - b) producers generating electric power through cogeneration schemes whose installed capacity does not exceed 100 MW;
 - c) auto-producers for their electric power surplus, provided that they use renewable energy sources and their installed capacity does not exceed 10 MW.
2. The ERE is authorised to grant the status of privileged producer of electric power to producers who meet the criteria provided in paragraph (1) of this Article, which will enjoy a prioritised treatment by the Transmission System Operator when dispatching the generated electric power.
3. The manner, extent, terms and conditions under which the Transmission System Operator gives the prioritised treatment to the electric power producers will be defined in the Grid Operation Code. Prioritised treatment shall not affect application of the least cost principle in the generation activity.

Article 39

Renewable Energy Sources

1. All electric power producers, with an installed capacity higher than 100 MW, are obliged to produce electric power from renewable energy sources for the electro-energetic system no less than 2% of their total electric power production from other sources.
2. The above obligation may be fulfilled by buying the required amount of renewable energy electric power from other producers or the transmission operator. If this is the case, the obligation is considered fulfilled when the ERE or the Transmission System Operator certifies that purchased electric power whether

domestic or imported is produced from renewable energy sources and, in case of imported power the ERE and the like institutions of the exporting country have a reciprocal certification process for exporting power to that country.

SECTION III ELECTRIC POWER TRANSMISSION

Article 40

Transmission System

1. The electric power transmission system is made up of lines and transformers and any other facility whose functions include transmission or international interconnection.
2. Any assets involving communications, protection, control, auxiliary services, land, buildings and other auxiliary items, whether electrical or not, which are required for the proper operation of specific transmission grid installations as defined above are also deemed to be elements making up the transmission grid.

Article 41

Transmission System Operator

1. The transmission system shall be operated by a transmission system operator holding a licence for conducting electric power transmission activities.
2. The transmission system operator shall be responsible for the development and expansion of the transmission system.
3. The transmission system operator shall be responsible for managing any transit of electricity between foreign systems using Albanian electricity network.
4. The transmission system operator shall provide for:
 - a) integrated management and reliable operation of the transmission system;
 - b) maintenance of the transmission system sites and facilities in accordance with the technical and operation safety requirements;
 - c) transmission system development in accordance with the long-term forecasts and electric power sector development plans;
 - d) maintenance and development of the transmission auxiliary items;
 - e) electric power supply to customers connected directly to the transmission system;

Article 42

Grid Operation Code

1. The operation of transmission system will be carried out in compliance with the provisions of the Grid Operation Code that shall be adopted and approved by the ERE in accordance with Article 55.
2. The Grid Operation Code will regulate the following:
 - a) the conditions for the submission of an application for access to the System and the required documents;
 - b) the minimum technical and functional specifications in order to provide access and connection to the Transmission System of the generating installations, distribution companies, eligible consumers as well as interconnections;

- c) the deadline, in which the Transmission System Operator is obliged to respond to the submitted application, as well as the consequences of non-response within the said deadline;
 - d) the criteria applied by the System Operator for load dispatching to the available generating installations as well as for the use of the interconnections;
 - e) the mode, the extent, the terms and conditions under which the System Operator, when dispatching generation installations, gives priority to the generation installations using renewable energy sources as well as the co-generation installations;
 - f) any other detail necessary for the regulation of the System Operation.
3. The ERE may adopt regulations to facilitate access to the grid by power plants with a total capacity no greater than 5 MW.

SECTION IV
ELECTRIC POWER DISTRIBUTION

Article 43
Electric Power Distribution Companies

- 1. Distribution networks shall be operated by distribution companies who hold licenses for conducting business in the field of electric power distribution in a definite territory.
- 2. A distribution company shall provide for the following in the area covered by its distribution network:
 - a) electric power supply and sale to customers connected to the distribution network;
 - b) management of the distribution network;
 - c) maintenance of sites and facilities in accordance with the technical requirements;
 - d) development of the distribution network in accordance with the prospects of economic development and demand change forecasts in the region or territory;
 - e) other customer services necessary to fulfil its obligations under this Article.

Article 44
Distribution Operation Code

- 1. The operation of the distribution network shall be performed in accordance with the provisions of the Distribution Operation Code that is adopted and approved by the ERE.
- 2. The ERE will cooperate with all energy sector participants for the purpose of considering and adopting a Distribution Operation Code.
- 3. The Distribution Operation Code shall prescribe the standard terms and conditions of service comprising the general utility contract between a consumer and the distribution company and shall also prescribe the circumstances under which certain terms and conditions may be addressed by special contract between the customer and the distribution company.
- 4. The Distribution Operation Code shall be approved by the ERE no later than December 31, 2003.

SECTION V
ELECTRIC POWER SUPPLY

Article 45

Electric Power Supply Activities

1. Electric power supply to users shall be performed by the licensed distribution companies for mandatory (tariff) customers and by a Qualified Supplier licensed by the ERE in case of customers enjoying the status of the Eligible Customers.
2. Any Qualified Supplier may apply for and obtain a Supply License to serve specified Eligible Customers upon adoption of market rules according to Article 54 of this law.
3. A Supply License shall in no way be deemed as granted on a monopoly basis, nor shall it grant exclusive rights.

Article 46

Suppliers Rights and Responsibilities

Suppliers shall have the following rights and responsibilities:

- a) to obey the conditions of their supply license;
- b) to satisfy the demand of customers for electricity in accordance with the terms of the utility contract;
- c) to receive the remuneration due them under contracts;
- d) to purchase the electric power they need to supply their customers;
- e) have access to networks as set forth in this law and applicable regulations adopted by the ERE;
- f) to meter supplies of electric power, ensuring the accuracy of metering and the accessibility of metering equipment; and
- g) to comply with all other obligations that may arise from the enforcement of this law and related effective regulation.

Article 47

Emergency Situations in the Supply of Electric Power

1. The Council of Ministers may declare an emergency situation in the supply of electric power only in case of:
 - a) a force majeure event;
 - b) measures of government authorities taken to ensure the defence alert status of the country;
 - c) accidents in the generation, transmission and distribution facilities of the electric power;
 - d) long-term shortages of primary energy resources for production of electric power.
2. During the emergency situations, the licensees and the consumers shall have to abide to restrictions on the use of electric power. The Minister responsible for energy through a special regulation shall define the extent and the manner of restriction of electric power supply.
3. Licensees or other suppliers shall not be liable for sanctions as a result of the restriction or interruption of electric power in cases under paragraph 1 of this

Article except for emergency situations occurring as the direct result of the licensee's or supplier's fault.

Article 48

Eligible Customers

1. Upon the adoption of electricity market rules by the ERE, all customers with an annual consumption over 100 GWh per consumption site may apply to the ERE for obtaining the status of Eligible Customers. Upon obtaining such status, may conclude contracts for buying electric power from any licensed Qualified Supplier of their choice either domestic or foreign. Such contracts shall be consistent with the electricity market rules adopted by the ERE.
2. The consumption threshold, provided in paragraph (1) of this Article, for receiving the status of eligible customers may be lowered over time consistently with the opening of the electricity market.

Article 49

Direct Lines

If network access is unavailable, electric power producers who wish to conclude a contract with an Eligible Customer may, after the adoption of electricity market rules by the ERE and with prior permission from the ERE, construct a direct line in accordance with applicable ERE regulations.

Article 50

Back-Up Sources

1. The supplier shall define the technical conditions for installing a back-up source of electric power supply for customers requiring such service and the conditions, which shall be met by such a back-up source in order to prevent disturbances in the supplier's network. The conditions shall be binding upon the customers receiving back-up services.
2. A customer who wishes to install its own back-up source shall send to the supplier a written notice for that purpose and shall provide access for the supplier's representatives to the back-up source for inspections of such installation.
3. The supplier shall have the right to interrupt the supply of electric power to a customer in the event that the latter fails to comply with obligations under paragraphs (1) and (2) of this Article.

Article 51

Metering of Supplied Electric Power

1. Electric power used by the customers shall be metered and billed by the supplier according to the records of the metering equipment. The installation, maintenance and verification of the accuracy of the meter are made by the supplier at his expenses. The ERE is authorised to require a supplier to conduct inspections of the metering equipment of every category of customers
2. At the written request of a customer that doubts the accuracy of a meter or has observed failures in the meter, the ERE may order the supplier to inspect the

meter. When upon inspection a failure in the meter is observed, the expenses incurred for its repair or replacement are the responsibility of the supplier. When there is no failure observed, the reasonable expenses of the inspection shall be billed to and paid by the customer.

3. Any interference in the meters is prohibited and punished according to the Legislation in Force.

Article 52

Customers without Meters

1. The Suppliers are obliged to provide metering equipment for every customer.
2. For customers that at the moment this law enters into force are equipped with no meters, for a transitory period, the suppliers will propose for approval by the ERE a usage assumption (aforfe) for this category of customers taking into account the criteria established by the ERE. Customers having no meters shall be billed in accordance with such assumptions.
3. The transitory period contained in paragraph (2) of this Article shall terminate on December 31, 2004.

SIXTH PART

ELECTRIC POWER MARKET

Article 53

Selecting a Market Model

1. Within December 31, 2003, the ERE in cooperation with all energy sector participants shall propose to the Council of Ministers a model for a commercial electricity market (such as the single buyer or bilateral contract models for structuring the market) and the method of mandating third-party access for eligible consumers consistent with Directive 96/92EC.
2. The Council of Ministers will consider the ERE's recommendation, and will determine the appropriate market model no later than March 31, 2004.

Article 54

Adoption of Market Rules

Upon approval of the Council of Ministers of the appropriate electricity market model, the ERE will cooperate with all energy sector participants for the purpose of considering and adopting electricity market rules, including rules governing scheduling, dispatch, balancing governance and reserve requirements.

Article 55

Regional Electricity Market

1. The ERE will collaborate with all energy sector participants to establish grid operation and metering codes and interconnection rules that conform to

- international standards and the requirements of a regional market, including transit protocols and the requirements of the Energy Charter Treaty.
2. The ERE will initiate such collaborative proceeding no later than July 1, 2004. Grid Operation Code, Distribution Operation Code, Metering Code and interconnection standards will be adopted by the ERE no later than December 31, 2004.

SEVENTH PART

PROPERTY RIGHTS

Article 56

Property Rights of Licensees

1. In connection with providing electric power service, licensees may request the use of one of the following third party property rights:
 - a) cabling right;
 - b) right of use;
 - c) right of easement;
 - d) expropriation.
2. When exercising the rights according to paragraph (1), the damage caused by:
 - a. the placement of signs, measurements, tests;
 - b. the installation of facilities and access to them, performing work on them; and
 - c. impeding or restricting the use of the property,shall be reimbursed according to the Civil Code, Heading VI, Chapter II and Articles 23 and 27-37 of the Law No.8561, dated 22.12.1999 "On expropriation and taking for temporary use of private property for public interest" by the licensee to the owner or user of the property.
3. In nature conservation areas, the rights listed under paragraph (1) of this Article may be granted with the prior approval of the competent nature conservation authority in compliance with the Law No.8906, dated 6.06.2002 "On protected areas". In areas enjoying local protection, the prior consent of the competent municipality is needed.
4. In case of the termination of the rights according to paragraph (1) of this Article, the licensee shall re-establish the original condition of the property.

Article 57

Cabling Right

1. Taking the provisions of Article 58 into account, a cabling right may be granted to the licensee for the installation and operation of the transmission and distribution network on third party property provided that this does not impede the use of the property.
2. Pursuant to a cabling right, the transmission and distribution licensee may, on the third party property,
 - a) install and locate underground and aboveground mains, lines and telecommunication connections;
 - b) install supporting structures and transforming and switching equipment placed on them;

- c) operate, maintain, repair, transform and remove the facilities installed according to items (a) and (b) of this Article;
- d) remove the trees, bushes, their branches and roots located along the mains and lines in violation of the safety zone;
- e) in a manner specified in the technical regulations and the legislation in force, may approach and cross trackline facilities, rivers, waterflows, lakes, canals and edifices.

Article 58
Right of Use

1. Parts of power generation plants, equipment of transmission system and distribution networks, and auxiliary ones may be installed, operated and maintained on third party property on the basis of the temporary right of use.
2. The temporary right of use shall be regulated according to Articles 27-37 of the Law No. 8561, dated 22.12.1999 “On expropriation and taking for temporary use of private property for public interest”.

Article 59
Right of Easement

In accordance with the provisions of Heading VI, Chapter II of Civil Code, the licensee may request the foundation of the right of easement for the installation and operation of the suspended track (suspension rail, cableway) used for the purposes of constructing or operating the electric power plant, substations, transmission lines and its supporting structures in third party property.

Article 60
Expropriation

1. For the purposes of establishing electric power plants, substations or transmission lines, the licensee may initiate the expropriation of a third party property in accordance with Article 8 of the Law No. 8561, dated 22.12.1999 “On expropriation and taking for temporary use of private property for public interest”.
2. The initiation of an expropriation procedure for the purposes of the installation and operation of transmission and distribution networks and their supporting structures may be called for only if the cabling right according to paragraph (2) of Article 57 would substantially impede or terminate the regular use of the property.
3. An expropriation procedure may be initiated for the purposes of the installation and operation of the transforming and switching equipment located not on a supporting structure belonging to the electric power plant only if the parties are unable to agree on the right of use according to Article 58 of this law or if the competent territorial adjustment authority did not grant it.

Article 61
Rights Related to the Direct Line

The provisions of the Civil Code shall be applied to the foundation, maintenance and termination of the rights related to the installation and operation of the direct line encumbering the third party property.

Article 62

The Safety Zones

1. With a view to the mutual protection of electric facilities, including power plants, substations and transmission lines and the surrounding environment, a safety zone shall be designated.
2. The Council of Ministers shall determine by a decree the extent of the safety zone and the prohibitions and restrictions to be enforced in the safety zone.
3. Within the safety zone, it shall be prohibited to erect a building or other facilities, to plant vegetation (trees) and it shall be restricted according to effective regulations to perform activities which may jeopardise the safety and smooth operation of the electric power plants, substations and air or cabling lines, or life, health or the safety of people and property.

EIGHTH PART

OTHER PROVISIONS

Article 63

Investigations

The ERE, in compliance with its responsibilities defined in Article 8 of this law has right to control the applying of every fact, condition, practice or problem that it thinks necessary or appropriate to determine whether a person has violated one of the provisions of this law, a rule, or an order derived from them.

Article 64

Administrative Offences

1. The following offences, when they do not constitute a criminal act, shall be considered administrative offences and shall be fined by the ERE as follows:
 - a) non submission in time of financial and economic reports and technical indicators as requested by the ERE shall be fined with 150 000 Lek;
 - b) non payment of financial obligations in time as determined by the ERE shall be fined with 400 000 Lek;
 - c) non compliance with the ERE decisions on tariffs and prices shall be fined with 300 000 Lek;
 - d) non compliance with terms and conditions defined in license according to paragraph (2) of Article 18 of this law shall be fined with 350 000 Lek;
2. In case of systematic and repeated violations against this law and regulations adopted by the ERE, pursuant to its legal authority, the ERE may, according to Article 19, withdraw the license held by the offending person.
4. Review of the administrative offences, complains and execution of the decisions shall be done according to the Code of Administrative Procedures”.

5. Fine shall be considered an executive title which shall be collected by the ERE and deposited in the State Budget. The bailiff's offices are charged to execute the fines.

Article 65
Transitory Provision

The procedures for appointment of the Board shall start on September 1, 2003.

Article 66
By-legal acts

1. The council of Ministers is charged to adopt the by-legal acts according to articles 32, 36, 53 and 62 of this law.
2. The ERE is charged to adopt the by-legal acts according to articles 14, 20, 21, 24, 26, 44, 53, 54 and 55 of this law.

Article 67
Abrogation of legal acts and other provisions

Law No. 7962, dated July 13, 1995 "On Electric Power" and Law No. 7970, dated July 20, 1995 "On Regulation of Power Sector" are cancelled.

Article 68
Entrance into Force

This law enters into force 15 days after its publication in the Official Journal.

CHAIRMAN
Servet Pellumbi