

Pursuant to article 82 paragraph (1) clause 2 and article 91 paragraph (2) of the Constitution of Montenegro, the Parliament of Montenegro during its 24th electoral term, on the fifth sitting in the first regular parliamentary session in 2010, on the day of 22nd of April 2010, promulgated

ENERGY LAW

I. GENERAL PROVISIONS

Scope of the Law

Article 1

(1) This Law specifies energy activities and regulates terms and conditions for carrying out of those activities in order to ensure quality and secure energy supply to final customers; public services and other activities in the energy sector of public interest for Montenegro; procedure for organization and functioning of the electricity and gas market; manner and conditions for use of renewable energy sources and cogeneration; energy efficiency in the sector of energy generation, transmission and distribution, as well as other matters of relevance for the energy sector.

(2) This Law shall not apply to the activities relating to research and exploitation of coal, oil and gas, development, production or refining of crude oil or gas, as well as to energy efficiency in the final energy consumption sector.

Energy activities

Article 2

Energy activities in accordance with this Law are as follows:

- 1) generation of electricity;
- 2) transmission of electricity;
- 3) distribution of electricity;
- 4) supply of electricity;
- 5) organization of electricity market;
- 6) purchase of gas;
- 7) storage of gas;
- 8) transmission of gas;
- 9) distribution of gas;
- 10) supply of gas;
- 11) transport of oil through oil pipelines as well as all other non-specified means of transport that are not regulated with a separate regulation;
- 12) transport of petroleum products by petroleum products pipeline as well as all other non-specified means of transport that are not regulated with a separate regulation;
- 13) wholesale in petroleum products;
- 14) retail trade in petroleum products;
- 15) storage of oil and petroleum products;
- 16) heat production for district heating and/or cooling;
- 17) heat distribution for district heating and/or cooling;
- 18) heat supply for district heating and/or cooling;
- 19) trade, mediation and representation on the energy market;

- 20) transport and storage of liquefied natural gas (hereinafter: LNG);
- 21) operation of LNG facility;
- 22) operation of liquefied petroleum gas facility (hereinafter: LPG);
- 23) wholesale and supply of LPG to final customers;
- 24) wholesale and supply of LNG to final customers;
- 25) generation of energy from renewable energy sources and cogeneration.

Public interest

Article 3

(1) Ensuring sufficient quantities of energy that are required for life and work of citizens and for operation and development of business undertakings and their supply in a secure, safe, reliable and quality manner, at real prices, as well as development in the energy sector are activities of general economic interest for Montenegro (hereinafter: public interest).

(2) The public interest from the article (1) of this article, shall be achieved by carrying out the energy activities from the clause 67 herein, in accordance with the following principles:

- 1) efficient and economic use of natural resources that meets the energy needs and strategic economic interests of the country;
- 2) environmental protection;
- 3) efficient use of energy;
- 4) enhancement of competition on electricity market and establishing of competitive gas market;
- 5) protection of final electricity and gas customers;
- 6) profitable business operations;
- 7) promotion of private sector participation;
- 8) establishment of contractual relations relating to use of transmission and distribution systems for electricity and gas, and other gas systems, as well as to supply with electricity, gas and heat for district heating or for industrial purposes;
- 9) harmonization of organization and functioning of the energy sector of Montenegro with organization and functioning of energy sectors of the other European countries.

Article 4

(1) Organization, functioning and development of electricity and gas market shall be implemented in a manner that ensures security of supply, reliable and quality services, at realistic prices and tariffs that are acceptable for final customers, as well as integration of the electricity and gas market of Montenegro into the regional and European market.

(2) Regulation and functioning of the energy sector pursuant to this Law shall be carried out in order to ensure efficient and quality carrying out of activities, in a transparent and non-discriminatory manner.

Meaning of terms

Article 5

The terms used herein shall have the following meaning:

- 1) **Aerothermal energy** means energy contained in the air a form of heat;
- 2) **Biomass** means the biodegradable fraction of products, waste and residues from agriculture (including vegetal and animal substances), forestry and wood industries, as well as the biodegradable fraction of industrial and municipal waste;

3) **Interruptible Rate** means a price of energy, agreed in advance between an energy undertaking and an eligible customer, considering the interruptions in electricity or gas supply;

4) **district heating or district cooling** means distribution of thermal energy in a form of steam, hot water or cooling fluid from a central source through a system to several buildings or installations, with a purpose of heating or cooling of a space or process;

5) **Dispatching of electricity or gas** means controlling of electricity or gas flows in the system, including the exchange with other systems;

6) **Distribution of electricity** means the transport of electricity by way of electricity distribution systems with a view to its delivery to final customers, but not including electricity supply;

7) **Distribution of gas** means the transport of gas through gas pipeline systems with a view to its delivery to final customers, but not including gas supply;

8) **Distribution of heat** means the transport of heat for district heating and/or cooling or for industrial use by means of a medium of steam, hot water or cooling fluid through distribution systems;

9) **Heat distributor** means an energy undertaking carrying out the activity of heat distribution for the purpose of district heating and/or cooling;

10) **Economically reasonable heat demand** means a heat demand that is not greater than the one that could be covered on the market from some other source of heat which is not a cogeneration;

11) **Economic Precedence** means a type of dispatching where transmission system operator first accepts an offer with the lowest price for available electricity generation, followed by acceptance of a next more expensive generation and further on, in rising sequence;

12) **Electricity produced from renewable energy sources** means: energy produced in plants using only renewable energy sources; the proportion of electricity produced from renewable energy sources in combined-cycle plants also using conventional energy sources (e.g. co-burning of biomass in coal fired plants), and renewable electricity used for energy storage systems, and excluding electricity produced as a result of that storage systems;

13) **Energy Balance** means a planning document that gives systematic presentation of energy flows from their source in the nature (primary energy), acquisition and sale (primary and secondary energy forms), exchange in storages, through consumption or generation in central installations for transformation of energy, energy transmission and distribution losses, till supply of energy per individual sectors of final consumption;

14) **Energy facility** means a facility where one or more technological functions of generation, transmission, distribution of electricity and/or gas, storage of oil, petroleum products or gas and generation or distribution of heat are carried out;

15) **Energy Sector** means the energy activities specified in the article 2 herein and energy undertakings carrying out energy activities;

16) **Energy Undertaking** means any enterprise, legal person or entrepreneur carrying out energy activity;

17) **Gas** means the natural gas, liquified natural gas, liquefied petroleum gas, biogas or other gas, regardless of its origin, if this type of gas may be technically and safely transported through the gas system;

18) **Gas System** means transmission system, distribution system, gas storage system and LNG and LPG facilities, including facilities for provision of ancillary and system services, as well as facilities which are required to ensure access to transmission system, distribution system, storage system and LNG and LPG facilities that are owned by associated undertakings;

19) **Geothermal energy** means energy in a form of a heat present below solid surface of earth;

20) **Horizontally integrated undertaking** means an electricity or gas undertaking performing, besides from the energy activity, at least one of the activities outside the electricity or gas sector;

21) **Hydro-thermal energy** is energy present in surface water in a form of a heat;

22) **Integrated undertaking** means a vertically or horizontally connected entity;

23) **Interconnected system** means two or more systems which are connected with each other over a state boundary;

24) **Interconnector** means a transmission line which crosses a border between two countries for the sole purpose of connecting the transmission systems of those countries;

25) **Public supplier** means an electricity or gas supplier carrying out a public service of electricity or gas supply at regulated tariffs to households and eligible customers that choose that form of a supply;

26) **Cogeneration** means the simultaneous generation in one process of thermal energy for district heating and/or cooling and electrical energy or thermal energy for district heating and/or cooling and mechanical energy;

27) **Useful heat** means heat produced in a cogeneration process to satisfy an economically reasonable demand for heat or cooling energy;

28) **System user** means any legal or natural person using transmission or distribution system for gas or LNG facilities or gas storage system or interconnected system of pipelines, or electricity transmission or distribution system or electricity interconnector, for delivery of energy to system or receipt of energy from system or a future system user;

29) **Customer** means any natural or legal person purchasing electricity or gas for its own use or for resale;

30) **Final customer** means a customer purchasing electricity or gas for its own use;

31) **Eligible customer** means a final customer who is free to purchase electricity or gas from the supplier of its choice;

32) **Small scale power plant** means power plant of up to 10 MW installed capacity;

33) **Network** means a system of pipelines or electricity lines;

34) **Upstream pipeline network** means any gas pipeline or network of gas pipelines operated or constructed as part of an oil or gas production installations, or used to convey gas from one or more such installations to a processing plant, terminal or final coastal landing terminal, and to convey gas from a source where it is produced to the point of delivery to transmission line;

35) **Oil** means liquefied hydrocarbon or a synthesis of a hydrocarbon and a compound;

36) **Petroleum products** means products obtained from crude oil;

37) **Compulsory minimum contribution of renewable sources** means a percentage of electricity generated from renewable sources that a supplier of electricity is responsible to achieve in a total volume of electricity it delivers to final customers;

38) **Renewable energy sources** means energy sources existing in nature, fully or partially renewable, particularly the energy of water courses, wind, non-accumulated solar energy, biofuel, biomass, biogas, geothermal energy, hydro-thermal energy, aerothermal energy, wave, tidal, landfill gas, sewage treatment plant gas energy;

39) **Electricity Distribution System Operator** means an entity carrying out the electricity distribution activity, and who is responsible for operation, use, reliability, management, maintenance and development of the distribution system in a given area;

40) **Gas Distribution System Operator** means an entity carrying out the gas distribution activity, and who is responsible for reliable operation, management, maintenance of, and development of the distribution system in a given area and, where

applicable, its interconnections with other systems, and for ensuring the long-term ability of the system to meet reasonable demands for the distribution of gas;

41) **LNG and LPG facility operator** means an entity that carries out the function of liquefaction of natural gas, or the loading, offloading, and re-gasification of LNG and LPG and is responsible for operating an LNG and LPG facility, its operation, maintenance and development;

42) **Electricity Transmission System Operator** means an entity carrying out the electricity transmission activity and that is responsible for operation, use, reliability, management, maintenance and development of the transmission system, dispatch, and the matching of generation and demand, reserve in the system, matching supply and demand in time;

43) **Gas Transmission system operator** means an entity that carries out the function of transmission of gas and that is responsible for operating, managing, maintenance of, and developing of the transmission system in a given area and, where applicable, its interconnections with other systems, and for ensuring the long-term ability of the system to meet reasonable demands for the transmission of gas;

44) **Gas Storage system operator** means an entity that carries out the storage activity and is responsible for operating the system and functioning of a storage system, its maintenance and development;

45) **Market Operator** means an energy undertaking legally or functionally unbundled and responsible for the organization and administration of the electricity market;

46) **Ancillary and system services in the electricity sector** means services necessary for operation of transmission and distribution network, including delivery of reactive energy, frequency and voltage regulation, spinning reserve, cold reserve, black start up and back-up capability and regulating load fluctuations;

47) **Ancillary and system services in the gas sector** means all services necessary for the operation and use of transmission or distribution system, LNG facilities, or storage systems, including load balancing, but shall not include facilities exclusively reserved for carrying out of the Transmission System Operator's activities;

48) **Special customers** means customers for whom gas suppliers have to ensure additional safeguard measures in the event of disturbances and general gas deficit;

49) **LNG facility** means a terminal which is used for the liquefaction of natural gas or the loading, offloading, and re-gasification of LNG, and shall include ancillary and system services and temporary storage necessary for the re-gasification process and subsequent delivery to the transmission system, but shall not include any part of LNG terminals used for storage of re-gasified LNG;

50) **Privileged producer** means a producer that uses renewable energy sources or waste or in its individual generating plant simultaneously generates electricity and heat for district heating and/or cooling or for industrial use, in an economically suitable manner complying with environmental protection requirements and which has a special status pursuant to this Law;

51) **Legal Unbundling** means a procedure through which the functions performed within an integrated energy undertaking are legally separated so that they are performed in different legal entities operating independently from all other energy undertakings;

52) **Transmission of electricity** means transmission of electricity over high-voltage interconnected transmission system from generating plants to distribution system or to installations of final customers directly connected to the transmission system or to some other transmission system, but excluding supply;

53) **Transmission of gas** means the transport of gas through pipelines, other than upstream pipeline networks, from entry into transmission system to distribution system, gas

storage system, neighbouring transport system or eligible customers over a direct line, but excluding supply;

54) **Connection** means one or more meeting places between facilities of energy undertakings or between systems and facilities owned by a final customer or between a system and another system on a different voltage level or under a different pressure;

55) **Access to transmission or distribution system** means a right of a system user to use electricity or gas transmission or distribution system;

56) **Access to LNG facility** means the right of a producer, supplier, transporter, eligible customer, natural person and legal person to use LNG facility;

57) **Access to gas storage system** means the right of a producer, supplier, transporter, eligible customer, natural person and legal person to use storage system;

58) **Generation** means the physical or chemical process whereby fuel and renewable energy resources are transformed into electricity, heat and other forms of energy;

59) **Generator of electricity** means any energy undertaking generating electricity for sale;

60) **Generator of electricity for own use** means a natural or legal person generating electricity essentially for its own use;

61) **Producer of heat** means an energy undertaking producing heat for district heating and/or cooling or for industrial use;

62) **Producer of Coal** means an entity producing coal for generation of electricity;

63) **Available capacity** means capacity of transmission or distribution system or storage system capacity, which the system operator can provide to system or network users;

64) **Re-gasification** means the process of warming up of the LNG until it is transformed into gaseous state;

65) **Linepack** means the storage of gas by compression in gas transmission and distribution systems, but excluding facilities reserved for transmission system operators carrying out their functions;

66) **Security of Supply** means the provision of an adequate quantity of energy to service the needs of final customers, as well as a capability of transmission and distribution systems to ensure delivery of that energy to final customers;

67) **System** means any gas transmission system, gas distribution system, LNG facility or storage system owned or operated by a gas undertaking, including a linepack and devices required to ensure access to gas systems, or electricity transmission or distribution system;

68) **Storage facility** means a reservoir area with a capacity above 0.3 cubic meters, meeting prescribed conditions for storage of gaseous or liquid hydrocarbons;

69) **Storage** means the injection, preservation and withdrawal of gas from storage system or oil and petroleum products from storage for oil and petroleum products;

70) **Supply** means acquisition, delivery and sale, including resale of electricity, gas or heat to customers;

71) **Supplier** means an energy undertaking engaged in supply of electricity, gas, or heat;

72) **Gas undertaking** is any natural or legal person carrying out at least one of the following activities: production, delivery and sale of natural gas from own production, transmission of gas, distribution of gas, gas supply, purchase or storage of gas, which is responsible for the commercial, technical tasks as well as maintenance of system connected to those activities, but shall not include final gas customers;

73) **Tariff customer** means final customer that is supplied at regulated tariffs and that shall not be entitled a right to select a supplier;

74) **Transit** means transport of electricity or natural gas not originating from Montenegro, from one country to the other, and returning to the country of origin, across the territory of Montenegro;

75) **Trade** means purchase and sale of electricity, gas or petroleum products for resale;

76) **Vulnerable customers** means electricity or gas customers, where due to their social status or health conditions, a limited energy supply or interruption in supply could impose a direct threat to their lives or health;

77) **Participant on electricity or gas market** means a legal or natural person registered for purchase or sale of electricity or gas;

78) **“Take-or-pay” contract** means a contract binding supplier to supply contracted quantities of gas and binding customer to pay those quantities of gas regardless of whether he took them;

79) **Gross final energy consumption** means consumption of energy that is delivered to industry, transport, households, services (including also public services), agriculture, forestry and fishing industry, including energy sector’s own consumption of electricity and thermal energy, as well as losses in transmission and distribution of electricity and thermal energy;

80) **High efficiency cogeneration** means a cogeneration based on useful heat demand and primary energy savings;

81) **Vertically integrated undertaking** means an electricity or gas undertaking or several associated electricity or gas undertakings performing at least one of the following activities: transmission of electricity or gas, distribution of electricity or gas, storage of gas and operation of the LNG facility as well as at least one of the following activities: generation of electricity, supply with electricity or gas for tariff customers, and supply of electricity or gas for eligible customers.

II. ENERGY POLICY AND ENERGY DEVELOPMENT PLANNING

Energy policy

Article 6

(1) Energy policy of Montenegro that is adopted by the Government of Montenegro (hereinafter: the Government), determines the objectives for development in the energy sector from the article 7 herein and the manner and measures for their achievement.

(2) Energy policy from the paragraph (1) of this article, shall be elaborated in more detail and implemented by the Energy Development Strategy of Montenegro (hereinafter: the Energy Development Strategy), the Action plan for implementation of the Energy Development Strategy (hereinafter: the Action plan) and the Energy balance.

Objectives of development in the energy sector

Article 7

Development of the energy sector is planned with the following objective:

- 1) ensuring of regular, secure and quality energy supply;
- 2) ensuring sustainable and efficient generation and use of electricity;
- 3) developing and usage of different energy sources;
- 4) increasing production of energy from renewable energy sources;
- 5) efficient carrying out of energy activities and public services while ensuring sustainable development;
- 6) environmental protection in all areas of the energy activities;
- 7) ensuring competition on the energy market based on principles of objectivity;
- 8) encouraging investments into renewable energy sources, cogeneration;

- 9) maintaining of stable conditions and encouraging private sector participation in the energy sector;
- 10) protecting final energy customers;
- 11) connecting of the Montenegrin energy system with European energy systems and systems of other neighbouring countries in accordance with energy requirements and requirements in economic development;
- 12) developing energy market and its connecting with regional and internal EU market;
- 13) creating conditions for investments into the energy sector.

Energy Development Strategy

Article 8

- (1) The Energy Development Strategy shall specify:
 - 1) long-term development objectives and guidelines for development of supply and for meeting energy demand while taking into account technological and economic criteria and environmental protection criteria;
 - 2) developmental orientations for energy infrastructure and mechanisms to encourage use of renewable energy sources and increase energy efficiency;
 - 3) long-term projection of total energy balance of the country, timing and methods to be used in achieving and monitoring of development objectives, as well as assessment of their effects;
 - 4) other objectives and elements of importance for establishment and implementation of the energy policy in accordance with the Law;
 - 5) tentative financial resources for implementation of the Strategy.
- (2) The Strategy from the paragraph (1) of this article shall be adopted by the Government for a period of at least 10 years in accordance with the development plan of Montenegro.
- (3) The Strategy from the paragraph (1) of this article and the spatial plan of Montenegro shall be harmonized.

Action plan for implementation of the Energy Development Strategy

Article 9

- (1) The Government adopts the Action plan, for a five year period, for achievement of objectives established in the Development Strategy.
- (2) The Action plan from the paragraph (1) herein shall contain specifically the following:
 - 1) Manner and timing for implementation of the Energy Development Strategy;
 - 2) Plan for construction and reconstruction of energy facilities;
 - 3) Time schedule for implementation of activities under implementation of programs and projects;
 - 4) Implementation models for programs and projects and entities responsible for their implementation;
 - 5) Assessment of funds required for implementation of the Action plan and sources of funding, and
 - 6) Other elements of importance for implementation of the Energy Development Strategy.

Article 10

(1) The implementation of the Energy Development Strategy and of the Action plan shall be monitored by an authority in the state government authorized for the activities in the energy sector (hereinafter: the Ministry) and shall submit to the Government an annual report on implementation of the Strategy and Action plan, comprising the following:

- 1) results achieved in the last year relative to the objectives;
- 2) assessment of implications of the achieved results to implementation of the Action plan in the next year;
- 3) as circumstances require, proposal of measures to increase efficiency of implementation, and
- 4) assessment of requirement, if any, to update the Action plan and the Energy Development Strategy with realistic requirements.

(2) Report from the paragraph (1) of this article shall be submitted by 31st of March of the current year, for the previous year and shall be published on the Ministry's web site.

Article 11

(1) Local government authority shall plan energy demand and energy supply modes, as well as measures for energy efficiency, use of renewable energy sources and cogeneration in a local energy plan in accordance with the Energy Development Strategy and programs for development and use of renewable energy sources.

(2) Local energy plan shall be adopted for a period of 10 years.

(3) Local government authority shall submit to the Ministry by 31st of January of the current year a report about implementation of the local energy plan in the previous year.

Energy balance

Article 12

(1) Energy balance of Montenegro (hereinafter: the Energy balance) shall specify: the energy demand, i.e. fuels that need to be provided in order to ensure regular and continuous supply to customers, while taking into account the need for energy efficiency and efficiency in consumption of fuels and a requirement to ensure sustainable development in the energy sector; sources from which the required quantity of energy will be obtained, i.e. fuels; supply method for specific types of energy and fuels; required level of stocks and reserve capacities in energy facilities for the secure supply of final customers with energy and fuels.

(2) The Government adopts long-term and annual energy balances which shall identify total energy demand, sources (types) of energy, and modes and measures to be used to meet the energy demand.

Article 13

(1) The Energy balances from the article 12 herein comprise of the following:

- 1) electricity balance;
- 2) coal balance;
- 3) oil balance, balance of petroleum products, biofuel and gas, with exception of natural gas;
- 4) natural gas balance; and
- 5) balance of heat for district heating and/or cooling and for industrial use.

(2) Electricity balance shall identify:

- 1) electricity consumption forecast;
- 2) opportunities for generation and import of electricity;
- 3) export, including also transit of electricity, to other electric power systems;

4) opportunities to provide electricity for system balancing purposes, electricity required to cover transmission and distribution system losses and capacities for provision of ancillary and system services;

5) required maintenance of electric power facilities and an estimate of required new capacities; and

6) other important issues for functioning of the electric power system.

(3) The Coal Balance shall identify:

1) coal consumption forecast;

2) coal production and import potential;

3) quantity of coal for electricity generation, industrial consumption and general consumption;

4) export of coal; and

5) other important issues for achievement of the coal balance.

(4) Oil balance, balance of petroleum products, biofuel and gas, with exception of natural gas, shall specify:

1) oil and petroleum products, biofuel and gas consumption forecast;

2) opportunities for production and acquisition of oil, petroleum products, biofuel and gas; and

3) usage of oil and petroleum products as feedstocks.

(5) Natural gas balance shall specify:

1) natural gas consumption forecast;

2) opportunities for natural gas production and import;

3) exchange, including a transit of natural gas, with other transmission systems for natural gas;

4) opportunities for providing natural gas for system balancing purpose, natural gas to cover the transmission and distribution system losses and capacity for provision of ancillary and system services;

5) required maintenance of facilities and an estimate of required new capacities;

and

6) other important issues for functioning of the natural gas system.

(6) Balance of heat for district heating and/or cooling or for industrial use shall identify:

1) estimated heat consumption for district heating and/or cooling and for industrial use;

2) opportunities for production of heat for district heating and/or cooling and for industrial use;

3) required maintenance of facilities and an estimate of required new capacities;

and

4) other issues of importance for functioning of the heat system for district heating and/or cooling and for industrial use.

Article 14

(1) Consumption forecasts from the article 13 herein for each type of energy and fuel shall include the realized consumption of energy or fuel in the previous year, estimated consumption for the current and planned consumption in the subsequent year.

(2) The balances from the article 13 herein shall specify for each type of energy and fuel, the way in which a demand for a certain type of energy will be met as well as the method of supply, from primary to final energy, while specifying renewable and conventional sources of that energy.

(3) Annual energy balance shall also include an annual analysis of a contribution of energy from renewable energy sources in the gross generation of energy.

Article 15

- (1) Annual and long-term energy balance shall identify:
 - 1) volume of energy from renewable energy sources and cogeneration;
 - 2) energy efficiency requirement;
 - 3) required level of reserve capacities and operational stores of certain types of energy required to ensure security of energy supply.
- (2) The long-term energy balance shall have the following components:
 - 1) energy consumption forecast per each type of energy in accordance with the principle of efficient and sustainable use of energy in the future long-term period;
 - 2) the method for ensuring supply of specific types of energy, from primary to final energy;
 - 3) environmental impact resulting from generation and use of energy;
 - 4) other relevant elements.
- (3) The Long-term energy balance shall extend over the period of at least 10 (ten) years and shall be updated every 5 (five) years.
- (4) Energy undertakings and qualified customers shall prepare and submit to the Ministry the relevant data from the articles 13 and 14 herein for development of energy balances not later than by November 15th of the current year for the following year.
- (5) The Government shall adopt the annual Energy balance not later than by December 15th, of the current year for the following year.
- (6) The Ministry shall adopt a regulation which will specify in more details the contents of the energy balance, required data from the paragraph (4) of this article, a form of such data to be submitted and a methodology used in analysis of the realization of energy balance.

Article 16

- (1) Ministry shall monitor implementation of the energy balance and shall make analysis of realization of the energy balance from the previous year.
- (2) Energy undertakings shall submit to the Ministry the required data specified by a methodology from the article 15 paragraph (6) herein not later than by February 15th of the current year for the previous year.
- (3) The Ministry shall prepare and publish on its web page the analysis of realization of the energy balance from the previous year not later than by March 31st of the current year.

III. RENEWABLE ENERGY SOURCES, COGENERATION AND SUPPORT SCHEMES

Renewable energy sources and cogeneration

Article 17

- (1) Development and use of renewable energy sources shall be set in the program for development and use of renewable energy sources that shall be adopted by the Government for a period of 10 years in accordance with the Energy Development Strategy, and that shall contain specifically the national indicative target with regard to use of renewable energy sources and time schedule i.e. timing for its implementation, together with support schemes.
- (2) The national indicative target for renewable energy sources means the contribution of energy produced from renewable energy sources to the gross final energy consumption, that is expressed as a percentage and shall be calculated based on a methodology set by the Ministry.

(3) The targets with regard to a contribution of renewable energy sources to the gross final consumption of electricity, energy for heating and/or cooling purposes and energy for transport shall be separately indicated in the national indicative target for use of renewable energy sources.

(4) The Government shall adopt the national indicative target for renewable energy sources with regard to the contribution of energy produced from renewable energy sources to the gross final energy consumption for the period of ten years and shall publish it in the „Official Gazette of Montenegro“.

Article 18

(1) The Ministry shall monitor implementation of the program from the article 17 paragraph (1) herein and shall submit a report on its implementation to the Government every second year.

(2) The report from the paragraph (1) herein shall contain:

1) analysis of a success in achieving the national target with regard to individual contribution (electricity, heating and cooling, transport) and total contribution of renewable energy sources to the gross final consumption of energy in the previous two years;

2) measures undertaken in the previous period and measures planned to be taken towards achieving national target in a following period according to time schedule set by the program from the article 17 paragraph (1) herein;

3) overview of procedures and regulations governing the authorization procedure in compliance with spatial-planning documents, and connection of power plants which use renewable energy sources to electric power network, with connection costs;

4) assessment of support schemes for use of renewable energy sources;

5) assessment of functioning of the system of guarantees of origin for electricity, heating and/or cooling from renewable energy sources and measures undertaken for prevention of frauds;

6) assessment of availability of biomass for use in energy purposes;

7) assessment of change in prices and manner of use of land as a result of increased use of biomass and other renewable energy sources;

8) assessment of reduction in emission of gases that cause the greenhouse effect, as a result of increased use of renewable energy sources;

9) assessment of impact of use of renewable energy sources on a biodiversity, watercourses, quality of water and soil;

10) assessment of surpluses of energy generated from renewable energy sources, if any, in respect to the scope and level of its use envisaged in the program, as well as assessment of potential of those energy sources for joint projects with other states for the period of 10 years;

11) assessment of required volumes of energy from renewable sources that need to be obtained from import, for the period of 10 years;

12) manner in which a share of biodegradable waste in the waste used for generation of electricity is identified;

13) assessment of requirement for amendments to regulations;

14) adjustment of data from the previous report, if required;

15) other data of importance for reporting purposes.

Article 19

(1) Development and use of high-efficiency cogeneration in accordance with the Energy Development Strategy shall be set in the program for development and use of high-efficiency cogeneration, that shall be adopted by the Government for a period of 10 years.

(2) The program from the paragraph (1) of this article, shall specifically set the following: available and feasible potential for use of high-efficiency cogeneration with planned indicative target for a period covered by the program, barriers, support schemes, time schedule, i.e. timing for its implementation and tentative financial resources required for its implementation.

(3) A report on implementation of the program from the paragraph (1) of this article, that shall specifically contain: extent to which targets were achieved, implemented support schemes and proposal for upgrade of measures in the following period, shall be submitted by the Ministry to the Government every second year.

Support schemes for use of renewable energy sources and cogeneration

Article 20

(1) Construction and use of renewable energy sources may be supported by increasing compulsory minimum contribution of renewable energy sources, by impacting on a decrease in investment costs and by increasing purchase price for energy and by other measures pursuant to the Law.

(2) Privileged producers may acquire a right to price support scheme for electricity generated that will be established in the tariff system for generation of electricity from renewable energy sources and cogeneration, that is adopted by the Government, pursuant to this Law.

Article 21

(1) Every final electricity customer shall pay a compensation that will be used to encourage electricity generation from renewable energy sources and cogeneration, as an addition to a price of electricity.

(2) Supplier of electricity shall clearly indicate a compensation to be used to encourage generation of electricity from renewable energy resources and cogeneration on an electricity bill that the supplier delivers to the final customer.

(3) Supplier of electricity shall transfer to the Market Operator the funds from the compensation from the paragraph (1) of this article.

(4) Upon a request of the Market Operator, Supplier of electricity and privileged producer who acquired a right to a price support scheme for generation of electricity from renewable energy sources or cogeneration, shall enable him access to business books, operational documentation and other records about generation and delivery of electricity from renewable energy sources and cogeneration.

(5) Types and means of encouragement of generation from renewable energy sources and cogeneration from the article 20 herein, method for establishment of an amount of compensation to be used to encourage electricity generation from renewable energy sources and cogeneration, more details regarding the method of calculation of proportional share of supplier from the article 153 paragraph (10) herein, as well as model for allocation of funds collected from compensations, shall be set by the Government's regulation.

Article 22

Construction of facilities or use of installations that use renewable energy sources for generation of electricity or for heating and/or cooling that is implemented with other states shall be implemented in accordance with the ratified international agreement.

Article 23

Joint support schemes for use of renewable energy sources implemented with other states shall be implemented in accordance with the ratified international agreement.

IV. ENERGY REGULATORY AGENCY

Status

Article 24

(1) The Energy Regulatory Agency is autonomous, non-profit organization, functionally independent from the state authorities and energy undertakings, that carries out its public authorizations in the energy sector in accordance with this Law.

(2) The Agency has a status of a legal person.

(3) The Agency conducts its business under the name of the Energy Regulatory Agency.

(4) The seat of the Agency is in Podgorica.

Bodies of the Agency

Article 25

(1) The bodies of the Agency are:

- 1) the Board of the Agency;
- 2) Director of the Agency.

(2) The Board of the Agency shall consist of three members professionally engaged in the Agency.

(3) The Board shall make all decisions by majority vote.

(4) The Board of the Agency shall have a Chairman that will be nominated by the members of the Board of the Agency in accordance with the Statute of the Agency.

Article 26

(1) The members of the Board of the Agency shall be nominated by the Parliament of Montenegro (hereinafter: the Parliament) upon a proposal of the Government.

(2) Members of the Board of the Agency, Director and Deputy Director of the Agency shall be elected in a procedure following a public advertisement that will be published in at least one printed media distributed on the territory of Montenegro.

(3) The advertisement for election of the members of the Board of the Agency, Director and Deputy Director shall be published by the Agency in accordance with the Statute of the Agency.

(4) In addition to an application in writing submitted by a candidate based on the advertisement, candidates shall give the evidence about compliance with requirements specified in this Law, as well as their personal view about conditions and development of the regulatory process in the energy sector.

Article 27

The Members of the Board, Director and Deputy Director and employees of the Agency shall exercise their employment rights and duties in accordance with applicable labor regulations, this Law and general acts of the Agency.

Selection procedure for the Agency's Board members

Article 28

(1) Ranking of the candidates for members of the Agency's Board, based on the public advertisement, shall be carried out by the Commission for ranking of candidates (hereinafter: the Commission).

(2) The Commission shall compose of five members that shall be proposed by:

- 1) one member - the Government;
 - 2) one member - the Montenegrin Academy for Science and Arts;
 - 3) two members - the University of Montenegro, one of whom shall be proposed by the Faculty of Electrical Engineering; and
 - 4) one member - the Chamber of Economy of Montenegro.
- (3) The Commission from the paragraph (2) from this article shall be appointed by the Government.
- (4) A member of the Commission from the paragraph (2) clauses 2), 3) and 4) of this article, shall not be:
- 1) state official or Government appointee;
 - 2) employees of any energy undertaking or a person with a piece-work agreement with an energy undertaking.
- (5) The Decision on nomination of the Commission shall be published in the „Official Gazette of Montenegro“.

Article 29

- (1) Not later than thirty (30) days after the closing date for the advertisement, the Commission shall submit a proposed ranking list with the candidates for the Board member to the Government with a rationale.
- (2) Not later than thirty (30) days after the Government receives from the Commission the proposed ranking list with a rationale, the Government shall submit to the Parliament a proposal for nomination of the Board member together with a ranking list.

Article 30

- (1) Upon obtaining prior opinion of the Government, and in a procedure implemented upon a public advertisement, the Board of the Agency shall appoint a Director and a Deputy Director.
- (2) The decision on the appointment of the Director and the Deputy Director of the Agency shall be published in the „Official Gazette of Montenegro“.

Term of office

Article 31

- (1) Term of the Agency's Board Member shall be five (5) years.
- (2) Term of Director and Deputy Director of the Agency shall be four (4) years.
- (3) The Board Members, Director and Deputy Director of the Agency shall not be appointed for more than two (2) terms.

Conditions for the conduct of business of the Agency's Board member

Article 32

- (1) Agency's Board member may be a citizen and permanent resident of Montenegro who holds an advanced university degree – four year study or specialized study in technical sciences, law or economics, with a minimum of seven years of work experience in his or her profession and who fulfils the conditions from the article 33 herein.
- (2) Director and Deputy Director of the Agency may be a citizen and permanent resident of Montenegro who holds an advanced university degree – four year study or specialized study in technical sciences, law or economics, with a minimum of five years of work experience on managerial positions and who fulfils the conditions from the article 33 herein.

(3) The Members of the Board of the Agency, Director or Deputy Director may not be at the same time: members of Parliament; members of any municipal parliament; nominated, appointed and assigned persons in the Government.

(4) No person shall be selected to be a member of the Board of the Agency, or as Director or Deputy Director if such person:

1) has been convicted with a final and binding verdict of a crime relating to abuse of office, corruption, fraud or other crime that makes him unsuitable for the mandate to be given to him;

2) holds personal, spousal or direct family interest in an energy undertaking that is licensed by the Agency for carrying out of energy activities (hereinafter: license), as well as in an entity dealing with trade in energy.

Conflict of interest

Article 33

(1) The Members of the Board of the Agency, Director and Deputy Director shall submit a statement, when starting employment, containing information about personal earnings and property, and a statement that they do not have any property interest and managerial interests in energy undertakings.

(2) The statement from the paragraph (1) of this article shall be submitted annually to the Commission for Preventing Conflict of Interest, prior to expiry of the term of service.

(3) The Members of the Board of the Agency, Director and Deputy Director and other employees in the Agency, as well as members of their immediate family shall not be managers and shall not have material, financial or other interest in an undertaking in the energy sector.

(4) Persons from the paragraphs (1) and (3) of this article shall not use free of charge or discounted services from energy undertaking, unless at prices and under conditions that are otherwise applicable to other tariff customers or to a category of eligible customers pursuant to this Law or general acts.

(5) The Members of the Board of the Agency, Director, Deputy Director and other employees in the Agency may not enter into labour agreement or receive a remuneration on some other account from an undertaking from the energy sector during their term, i.e. employment and within one year from expiry of the term of service or from discharge.

Discharge

Article 34

(1) A member of the Board, the Director and the Deputy Director of the Agency may be released prior to the expiration of his or her office, if such person:

1) is not performing his or her duties, or is performing them negligently, untimely or inattentively;

2) is incapable of performing his or her duties for a period of more than six (6) months;

3) ceases to be a resident of Montenegro;

4) has misrepresented his or her qualifications;

5) has been convicted of a crime punishable by imprisonment;

6) has submitted a written resignation;

7) is found to have a conflict of interest;

8) has been absent and unexcused from more than three (3) consecutive meetings of the Agency's Board;

9) is not complying with the Code of Conduct;

10) has provided false statements described in article 33 paragraph(1) herein.

(2) The Government and/or 1/3 of members of the Parliament may propose to the Parliament to release a member of the Agency's Board.

(3) Members of the Agency's Board shall be released prior to expiration of their office in the event that the annual report about situation in the Energy sector in Montenegro that relates to the Agency's work is not adopted.

Article 35

(1) Member of the Board, Director and Deputy Director of the Agency whose mandate terminated on a personal request or due to expiry of term of office, as well as who was discharged due to incapability to perform his or her duties for a period of more than six (6) months, shall be entitled to earnings compensation in amount of his/her earning in a month preceding termination of mandate, which shall be aligned with level of earnings that belong to the same mandate in the Agency.

(2) The right from the paragraph (1) of this article may be exercised one year from termination of mandate of the Member of the Board, Director and Deputy Director of the Agency.

(3) The right for the earnings compensation shall be exercised on a personal request of a person from the paragraph (1) of this article, which may be submitted not later than 30 days from a date when the mandate ended.

(4) The Agency's Board member, Director and Deputy Director may not be entitled to earnings compensation after expiry of his/her mandate if he/she became eligible for retirement pursuant to Law.

(5) The right from the paragraph (1) of this article ceases before the specified date, if its beneficiary:

- 1) enters into a labour agreement;
- 2) is selected, appointed or nominated to another position based on which he has earnings;
- 3) becomes eligible to be retired.

(6) The Agency's Board shall decide about earnings compensation upon expiry of a mandate.

Statute of the Agency

Article 36

(1) The Agency has a Statute that shall define in particular:

- 1) rights and duties of the Board of the Agency and appointment of a Chairman;
- 2) rights and duties of the Director and Deputy Director of the Agency;
- 3) principles for internal organization of the Agency;
- 4) the process to be employed to select a Director and Deputy Director of the Agency;
- 5) and other matters of importance for operation of the Agency pursuant to the Law.

(2) The Statute is adopted by the Board of the Agency.

(3) The Government shall give a consent to the Statute of the Agency.

Authorities of the Agency

Article 37

(1) The Agency shall issue, modify and revoke licenses for energy activities and maintain a registers of issued, modified and revoked licenses;

(2) The Agency shall issue guarantees of origin for electricity generated from renewable energy sources or from high-efficiency cogeneration and shall maintain a register of issued guarantees.

Article 38

(1) The Agency shall set the methodologies:

1) for setting of prices, the terms and conditions for:

- use of transmission and distribution systems for electricity and gas;
- use of gas storage systems, LNG and LPG facilities;
- provision of ancillary and system services and balancing services for transmission systems for electricity and transmission systems for gas;

2) for setting of prices for use of transmission or distribution system which shall be paid by users of a direct line when the direct line is connected to the transmission or distribution system;

3) for setting of regulated tariffs for tariff customers and customers supplied at regulated tariffs for electricity or gas by a public supplier.

(2) The Agency shall set rules and procedures, as follows:

1) for resolution of disputes by applying rules of arbitrage;

2) for change of tariffs initiated by an energy undertaking or initiated by the Agency;

3) about manner and more detailed conditions for issuance, modification and revocation of licenses;

4) for unbundling of electricity market operator;

5) for functioning of a public supplier;

6) about requirements for award of permits on the basis of which generators and suppliers of electricity and gas undertakings, may supply eligible customers through a direct line;

7) about conditions and procedure in which eligible customers for electricity and gas may switch to another supplier;

8) for settling of difference between justified and actual revenues and allowed costs between individual distribution system operators;

9) for unbundling of accounts, management and information, in order to avoid cross-subsidies between activities in the gas sector;

10) maintain confidentiality of commercially sensitive information used by system operators.

(3) The Agency shall set:

1) tariffs for supply to vulnerable customers;

2) minimum standards regarding quality of supply, including as follows:

- quality of service, specifically regarding the time taken by transmission and distribution system operators for electricity and gas to make connections and repairs;

- continuity of supply;

- voltage quality for electricity and quality of gas;

3) contents of the report from the article 80 paragraph (1) clause 1) herein.

Article 39

(1) The Agency approves methodologies for:

1) setting of prices, terms and conditions for connection to transmission and distribution systems for electricity and gas;

2) setting of prices, terms and condition for connection of gas storage system, LNG and LPG facilities;

3) calculation and charging of unauthorized use of electricity;

4) setting of tariffs of a Supplier of last resort.

(2) The Agency shall approve rules and procedures for:

1) functioning of transmission system for electricity and gas;

2) functioning of distribution system for electricity and gas;

3) metering of energy in distribution systems for electricity and gas;

4) balancing in gas transmission system;

5) operation and functioning of gas storage system;

6) setting of transparent mechanisms for operation and allocation of gas capacities based on market principles;

7) implementation of transparent mechanisms for operation and allocation of capacities for transmission of electricity based on market principles;

8) allocation of cross-border capacities in conformity with agreed rules in the region.

(3) The Agency shall give approval for general conditions of supply, for electricity market rules and gas market rules.

(4) The Agency may establish methodologies from the paragraph (1) of this article and set prices, tariffs and charges from the article 40 herein, in the event that responsible energy undertaking fails to propose them by specified deadline.

Article 40

(1) The Agency shall approve charges for:

1) use of transmission and distribution system, separately for electricity and gas;

2) for gas storage;

3) for ancillary and system services and balancing;

4) and costs for connection to transmission and distribution systems for electricity and gas.

(2) The Agency approves:

1) Regulated tariffs for electricity or gas supply to tariff customers and tariffs for supply to eligible customers that are supplied by a Public supplier, and that may be also offered by other suppliers to eligible customers;

2) tariffs applied by a supplier of last resort;

3) tariffs for use of LNG and LPG facilities;

4) charges for removal of congestions on identified entry or exit points in the gas transmission system, that is a part of price (tariff) for transmission and transit of gas;

5) charge for operation of market operator.

Article 41

(1) The Agency gives consents to:

1) Ten year development plan for electricity transmission system;

2) Annual investment plan of electricity and gas system operator;

3) Ten year development plan for gas transmission system, which is harmonized on a national level and with interconnected systems;

4) Ten year development plans for electricity and gas distribution systems, which are harmonized with development plans for electricity and gas transmission systems;

5) Five year development plan for LNG and LPG facilities, with an annual update, that is issued by LNG and LPG facility Operator.

(2) The Agency approves:

- 1) Program i.e. a time schedule for replacement of electricity meters that are owned by other legal and natural persons, as well as their relocation when required;
- 2) Program of measures for ensuring non-discriminatory conditions for access to transmission and distribution systems for electricity and gas;
- 3) Technical-operational agreements of a supplier that is exporter or user of gas transit on the territory of Montenegro;
- 4) Exemption from application of specified terms, conditions and prices for use of new infrastructure for electricity or gas;
- 5) Exemption from »take or pay« commitment for gas undertakings.

Supervision of operations of energy undertakings

Article 42

(1) The Agency shall supervise and analyze operation and business activities of all energy undertakings in respect of:

- 1) actual costs and revenues of entities carrying out an activity for which prices or tariffs are set or approved by the Agency;
- 2) quality of electricity supply, including quality of service, continuity of supply, and voltage quality;
- 3) application of regulations relating to quality control for petroleum products and gas;
- 4) implementation of market rules and operation of entities in the energy market, including their impact on competition and protection of final customers' rights;
- 5) consumption of energy;
- 6) implementation of support schemes in the area of renewable energy sources, including terms and conditions and prices for connection of new generators to transmission and distribution systems;
- 7) application of regulations governing cross-border energy exchange, as well as operation and functioning of entities allocating cross-border capacities on auctions or organizing purchase and sale of energy;
- 8) application of regulations governing obligation to publish information about cross-border capacities, use of transmission and distribution systems;
- 9) unbundling of activities from the articles 103, 104 and 132 herein, as well as implementation of program of measures from the articles 108 and 136 herein;
- 10) activities and measures undertaken by energy undertakings with the objective to increase energy efficiency.

(2) The Agency shall monitor and control operation and functioning of energy undertakings in respect of compliance with license requirements.

(3) In the event that it determined that an energy undertaking failed to comply with requirements established in a license i.e. that it operates and functions contrary to license requirements, the Agency shall order the undertaking to remove the identified irregularities and shall set a deadline for their removal, i.e. shall undertake other measures pursuant to the Law;

(4) Through monitoring and analysis of operation and functioning from the paragraphs (1) and (2) herein, the Agency shall control:

- 1) regularity of work and operations or abuse of office of energy undertakings on the market;
- 2) reliability of supply with energy in order to prevent disturbances on energy market or in supply of heat;

3) accuracy and correctness in financial operations in respect of presentation of operational costs that may have an impact on establishment of charges for use of transmission or distribution systems or storage system charges, or

4) carrying out of obligations from this Law or acts issued or approved by the Agency.

(5) In the event that any deviation i.e. irregularity is detected through control from the paragraphs (1) and (4) of this article, which have caused or which may cause financial consequences for final customers and market participants, the Agency shall:

1) instruct the energy undertaking to undertake adjustments of detected irregularity;

2) without delay or during the next approval of justified costs and revenues, undertake adjustment of costs and revenues and set adequate prices for use of transmission or distribution systems for electricity or gas or for gas storage systems;

3) carry out change of proposed tariffs at the occasion of their approval, or

4) initiate a procedure before a responsible state authority.

(6) Report on results of analyses and control from the paragraphs (1), (2) and (4) of this article, shall be a component part of annual report on conditions in the energy sector.

Article 43

(1) Upon a request made by authorized person from the Agency, gas undertaking and energy undertaking carrying out activities in the electricity or heat sector shall provide premises and allow access to its business books as necessary for control of its work and business activities.

(2) The Agency shall maintain confidentiality of commercially sensitive information and other trade secrets that it obtains during carrying out the activities pursuant to the Law and regulations of the Agency.

Article 44

(1) Energy undertaking that is carrying out activity for which the Agency is setting or approving tariffs or prices for services or products, shall regularly, not later than every five years, determine the structure and value of property and assets used in carrying out the those activities, in accordance with International Accounting Standards.

(2) The Agency may, by hiring independent valuator, as circumstances may require, control i.e. establish structure and value of property and assets from the paragraph (1) of this article.

Funding of the Agency

Article 45

(1) The Agency shall be funded from license fees, annual charges for use of licenses for carrying out energy activities and charges for settlement of disputes, that the Agency sets pursuant to this Law.

(2) The funds from the paragraph (1) of this article shall be established in a budget of the Agency, which shall be approved by the Agency's Board on the basis of work plan, and which shall be adopted by the Parliament pursuant to the Law.

(3) After adoption, the budget shall be published on the web site of the Agency.

(4) The license fees from the paragraph (1) of this article shall be established at a level allowing that the total amount of license fees may cover the planned operating costs established in the Agency's budget.

(5) The level of license fees from the paragraph (1) of this article charged per energy undertaking shall be set by the Board of the Agency in accordance with the methodology of the Agency.

(6) Funds from fees shall be paid into the Agency's account.

(7) The funds that remain on the Agency's account after end of the business year in which they are collected, shall be carried forward by the Agency to the subsequent year, and the fees for such a subsequent year shall be reduced by that amount.

(8) Decision of the Agency setting the amount of fee may be challenged by an energy undertaking in an administrative dispute.

Transparency of work of the Agency

Article 46

(1) The proceedings of the Agency shall be open to the public, except in extraordinary circumstances where confidential information and business secrets are involved, as determined by the Law.

(2) General acts of the Agency shall be adopted after a public debate that will be open to all interested legal and natural persons that have a right to participate on the market, as well as to their representatives.

(3) Agency may adopt interim acts from the paragraph (2) of this article even without a public debate, if this is requested by market conditions.

(4) In order to solve complex issues under its competence, the Agency may hire expert assistance.

Annual reports

Article 47

(1) Not later than June 30 of each calendar year, the Agency shall submit to the Parliament for adoption an annual report on conditions in the energy sector of Montenegro for the previous calendar year.

(2) The report on conditions in the energy sector of Montenegro shall specifically contain:

- 1) energy resources and capacities;
- 2) findings from monitoring of energy undertakings;
- 3) investments into energy sector;
- 4) financial operations of energy undertakings;
- 5) condition and activities on electricity market.

(3) The report on conditions in the energy sector of Montenegro shall be published on the Agency's web site.

(4) The Agency shall prepare proposal of financial report for the previous year and shall nominate a representative who will participate in the parliamentary proceedings.

(5) Relevant authority shall submit to the Ministry of Finance the proposal of the financial report and an act nominating the Agency's representative not later than by 30th of April of the current year.

(6) The Agency shall also prepare other reports in accordance with the Law.

Responsibilities of the Agency with respect to renewable energy sources and cogeneration

Article 48

The Agency shall carry out the following activities in the sector of renewable energy sources and cogeneration:

- 1) annual analysis of contribution of renewable energy sources and cogeneration to the gross generation and consumption of electricity;
- 2) publication of results of the analysis of contribution of renewable energy sources and cogeneration to the gross generation and consumption of electricity;
- 3) issuing of guarantees of origin to generators of electricity;
- 4) maintaining of a register of issued guarantees of origin;
- 5) approval of a status of privileged generator;
- 6) maintaining of register of privileged generators;
- 7) reporting to responsible Ministry, market operator, distribution system operator and transmission system operator about issued decisions on obtaining a status of privileged generators.

Dispute resolution and decision about objections and complaints

Article 49

- (1) The Agency shall decide about complaints relating to:
 - 1) an act of the transmission or distribution system operator about denial of access, i.e. connection to transmission or distribution system;
 - 2) terms and conditions from a connection consent;
 - 3) calculation of electricity volumes in the event of unauthorized consumption;
 - 4) final customers in case of suspension of delivery of electricity or gas.
- (2) Decisions of the Agency are final and they may be challenged in an administrative dispute procedure.

Article 50

- (1) The Agency may resolve disputes between energy undertakings or between energy undertakings and users of their services, that result from their contractual relations regulated in accordance with this Law, if contract parties apply to it for resolution of a dispute.
- (2) Rules and procedures from the article 38 paragraph (2) clause 1), shall also establish a fee for resolution of disputes that will be set at the level of actual costs.
- (3) Submission of a dispute to the Agency for resolution shall not exclude the right of a party in dispute to resolve the dispute before another competent authority, in case it renounces from resolving the dispute by the Agency prior to the Agency's decision making.
- (4) The decision of the Agency made in the course of resolving of a dispute shall be final and binding for the parties.
- (5) Supplier i.e. a system operator shall arrange for receipt of objections and complaints of system users and shall ensure objective decision making within deadlines established by the Law.
- (6) Upon a request of the Agency, Supplier and system operator shall submit a report on resolution of objections and complaints of customers.

V. PRICES, TARIFFS AND CHARGES

Article 51

(1) Prices of electricity and gas shall be freely established on the organized market or bilaterally in a contract between sellers and buyers, with exception of the cases when they are component part of regulated supply tariffs.

(2) Tariff is a set of data established or approved in a prescribed manner, based on which the price is calculated of:

- 1) electricity or gas for supply to final customers, that includes a price of generated energy, transmission and distribution of electricity or gas and charges;
- 2) for use of gas storage systems and LNG facilities;
- 3) ancillary and system services.

(3) Regulated tariffs for supply of electricity or gas to tariff customers or to final customers supplied by a public supplier of electricity of gas, shall comprise:

- 1) electricity or gas prices;
- 2) electricity or gas transmission and distribution use of system charges;
- 3) a charge for operation of Market Operator;
- 4) a supply charge;
- 5) a charge for ancillary and system services;
- 6) compensation to be used to encourage renewable energy sources;
- 7) other charges in accordance with the Law.

(4) Regulated electricity and gas transmission and distribution use of system charges shall be set by a transmission i.e. distribution system operator based on methodologies from the article 38 paragraph (1) clause 1) indent 1 herein.

(5) Regulated tariffs for supply of electricity or gas shall be set by a supplier of tariff customers and by a public supplier based on methodologies from the article 38 paragraph (1) clause 3) herein.

(6) Gas storage tariffs shall be set by a gas storage system operator based on methodology from the article 38 paragraph (1) clause 1) indent 2 herein.

(7) Charge for ancillary and system services and balancing charge shall be set by electricity transmission system operator and by gas transmission system operator based on methodologies from the article 38 paragraph (1) clause 1) indent 3 herein.

(8) Charges and tariffs from the paragraphs (4), (5), (6) and (7) of this article shall be approved by the Agency.

Article 52

(1) The Agency decides about applications submitted by transmission or distribution system operators, suppliers of tariff customers or by a public supplier, for approval of regulatory allowed revenue, prices and tariffs not later than within 90 days from the day of receipt of the application.

(2) Regulatory allowed revenue from the paragraph (1) of this article is a total annual revenue from regulated energy activity that covers total justified operating costs, that is approved by the Agency on the basis of analysis of requested operating costs, depreciation and return on assets, while applying adequate adjustment based on realization of regulatory allowed revenue for the previous period.

(3) Regulatory allowed revenue decreased by adequate amount of other operating, extraordinary and non-operating revenues from regulated energy activity, in line with estimate made by the Agency, shall be transposed into tariffs and charges on the basis of which system users pay electricity and services.

(4) The application from the paragraph (1) of this article shall be submitted not later than 120 days prior to expiration of validity of an act setting prices and tariffs.

(5) If in the procedure from the paragraph (1) of this article, it determined that the proposed tariffs are inconsistent with criteria established in methodologies, the Agency shall instruct a supplier of tariff customers, i.e. a public supplier, to carry out required adjustment by a specified deadline.

(6) If a supplier of tariff customers i.e. a public supplier fails to carry out the instruction by the deadline from the paragraph (5) of this article, the Agency shall remove the deficiencies and shall set the tariffs.

(7) In the event of failure to submit an application by the deadline from the paragraph (4) of this article or in the case of delays in a procedure of setting prices and tariffs, the Agency may set temporary prices, tariffs or methodologies, and on the occasion of approving a final tariff it may make a decision about adequate compensation in case a final price or tariff deviates from the temporary one.

(8) The Agency may, upon a request of an energy undertaking, permit a revision of regulatory allowed revenue, prices and tariffs, if during the period of application of approved tariffs there was an increase of total operating costs as a result of circumstances that could not have been foreseen, and that was beyond control of an energy undertaking.

(9) The Agency shall instruct an energy undertaking to revise a tariff that is not reflecting allowed costs by a specified deadline or shall revise a tariff in the event that the energy undertaking failed to carry out the instruction.

(10) In the procedure of setting of regulatory allowed revenue, the Agency may limit increase in prices and tariffs under its competence in order to fulfil the adopted economy and energy policy of Montenegro.

(11) The rules and procedures from the article 38 paragraph (2) clause 2) herein shall specify in more detail the manner and procedure for approval of revisions of regulatory allowed revenue, prices and tariffs from the paragraphs (7), (8) and (9) of this article.

(12) The Agency shall publish decisions on tariffs in the „Official Gazette of Montenegro“ and on its web page.

(13) Supplier of tariff customers as well as a public supplier shall publish on its web page their tariffs at least 15 days prior to beginning of their application.

Article 53

(1) In order to secure sustainability of the system, methodologies for setting of prices and tariffs for use of transmission and distribution systems for electricity and gas shall contain specifically the following:

1) criteria to be applied in order to estimate reasonableness of costs and revenues;

2) elements as a basis of a calculation and payment of services at approved prices, in order to ensure adequate revenue to system operators;

3) support schemes for energy efficiency and for achievement of better quality of supply;

4) elements for assessment of effects from interruptible prices, load balancing prices and other mechanisms intended to improve energy efficiency;

5) elements for encouragement of energy efficiency;

6) elements for encouragement of financial efficiency in carrying out activities, decrease in costs of those activities and enhancement of quality of services;

7) elements for assessment of support measures for development of energy facilities, attraction of investments and transfer of technologies;

8) elements for assessment of environmental and final customer protection costs.

(2) Methodologies from the paragraph (1) of this article may specify elements for setting of prices and tariffs depending of the season, day in a week, time of day and time of

use, as well as reasonableness to approve costs, revenues or prices for a period longer than one year.

(3) During period of validity of tariffs from the paragraph (2) of this article lasting one or several years, and particularly at the end of that period, the Agency shall re-examine the revenues and costs for the entire period, and shall consequently take into account a difference between justified and actual revenues and costs, as well as a difference in realization of adequate balance values, when setting reasonable revenues and costs until the end of the regulatory period, or in a subsequent regulatory period.

Article 54

(1) Electricity and gas transmission and distribution use of system charges and tariffs shall be based upon objective criteria and established methodologies.

(2) Electricity and gas transmission and distribution use of system charges and tariffs shall be established in as manner that will:

- 1) facilitate efficient trade and competition;
- 2) ensure avoidance of cross-subsidies between categories of consumption at the same voltage level;
- 3) not restrict market liquidity or distort cross-border trade.

(3) Commitments from international agreements shall be also taken into account in the procedure of approving regulatory allowed revenue, prices and tariffs.

(4) Revenues and costs of transmission and distribution system operators related to connection to systems shall be taken into account in setting of the regulatory allowed revenue.

VI. LICENSES AND AUTHORIZATIONS

Licensing

Article 55

(1) Energy activities may be carried out only on the basis of a license unless this Law provides otherwise.

(2) A license for carrying out of energy activities may be issued to a new undertaking or to an undertaking that:

- 1) is registered in the respective Central Register of the Commercial Court for carrying out activities considered energy activities under this Law;
- 2) is owner of energy facilities and other equipment, installations or plants necessary for conducting the energy activity that meet the conditions and requirements specified in technical regulations, energy efficiency regulations, fire and explosion prevention and environmental protection regulations;
- 3) employs professional staff for jobs and tasks of technical operation, maintenance, management and control of energy facilities, who have professional certificate;
- 4) has the financial resources required for carrying out of the energy activity or gives evidence that it can secure such funds in the amount required for the carrying out of the energy activity for which the license application was submitted;
- 5) carries out energy activity, and in the last three years preceding the one in which the license application for that activity has been submitted, his license for that energy activity was not revoked;
- 6) has members of the management bodies who were not convicted with a final and binding verdict for criminal acts that make them unsuitable for carrying out of their functions.

(3) License shall be issued upon a request of an energy undertaking for each energy activity separately.

(4) Evidence about fulfilment of the conditions from the paragraph (2) of this article shall be submitted together with an application from the paragraph (3) of this article.

(5) A license shall specifically include: name of the energy undertaking, energy activity, a list of energy facilities, information about capacity of those facilities, information about area in which a licensed activity will be carried out and a period of conducting the energy activity.

(6) License shall be issued for a period of up to fifteen (15) years.

(7) Validity of license from the paragraph (6) of this article may be extended upon a request of an energy undertaking, and validity period may be reduced only if this reduction of validity period would not jeopardize security of supply or functioning of the market.

(8) For energy activities that are carried out on the basis of awarded concession, a license may be extended until expiration of a a concession.

(9) Energy undertaking shall pay a fee for the award of a license as well as annual compensation for the period of validity of a license, in the amount specified by the Agency according to the article 45 of this Law.

(10) The Agency shall maintain a register of licenses issued and revoked.

(11) Information from the register of issued and revoked licenses shall be public.

(12) Rules and procedures from the article 38 paragraph (2) clause 3) herein shall specify in more detail the conditions from the paragraph (2) of this article, procedures for application for a license, evidence accompanying the application, contents and appearance of a license document, procedure for issuance, modification and revocation of a license, a manner in which a control of fulfillment of conditions set by a license shall be carried out, exchange of information with energy undertakings, as well as method of payment of license fees and contents of register of issued licenses.

Article 56

(1) The professional qualifications for conducting technical management, maintenance, operation and control of energy facilities, shall be tested through professional examination.

(2) The Ministry shall specify the program and procedure for the professional examination.

(3) The professional examination shall be taken before a Commission established by the Minister.

Article 57

The following energy activities may be carried out without a license:

- 1) generation of electricity for one's own needs;
- 2) generation of electricity in plants with installed capacity of up to 1 MW;
- 3) storage of oil and petroleum products for one's own needs;
- 4) retail trade in liquified petroleum gas in cylinders;
- 5) generation of heat for one's own needs;
- 6) generation of heat in plants with installed capacity of up to 1 MW;
- 7) trade in electricity and natural gas for resale, not involving sale to a final customer, mediation or representation on energy market; and
- 8) wholesale and retail trade in petroleum products that are not used in the burning process (bitumen, oils, lubricants, plastic, caoutchouc, rubber, cosmetic products, etc.).

Modification and Revocation of Licenses

Article 58

(1) Upon an application made by a licensee, the Agency may modify a license on account of reasons that could not have been foreseen at its issuance.

(2) The Agency may, upon a request of a licensee, release a licensee from its license obligations for a temporary but specifically stated period of time, in the event of objective circumstances due to which it was not possible for the energy undertaking to carry out its activities or to participate on the market.

(3) License shall be revoked:

- 1) upon the licensee's request;
- 2) upon termination of carrying out of energy activity;
- 3) if the licensee fails to remedy detected deficiencies within the time frame specified by the Agency;
- 4) if the licensee is in breach of its license;
- 5) if the licensee no longer complies with requirements specified by the Law;
- 6) if the licensee fails to remove deficiencies in work within the time frame specified by the inspector.

(4) After expiration of a license, an energy undertaking shall continue, upon a request of the Agency, with providing services in accordance with general acts of the Agency, not longer than one year, in order to ensure security of supply and to ensure functioning of the market.

Article 59

(1) The license for conducting an energy activity may be temporarily revoked if an energy undertaking:

- 1) fails to meet one or more conditions referred to in the article 55 para. (2) herein;
- 2) fails to establish the energy price, i.e. price for carrying out of energy activities in accordance with the methodology or fails to charge in accordance with tariff system or charges in contravention of the approved, i.e. specified prices;
- 3) fails to maintain energy systems in working and safe condition and in accordance with technical regulations regarding operation;
- 4) is not satisfying other conditions specified for carrying out of energy activities under this Law.

(2) The Agency shall adopt a decision about temporary revocation of the license referred to in paragraph (1) herein and shall set a deadline of maximum 60 days as of the date of receipt of the decision, for the removal of deficiencies on account of which the license was temporarily revoked.

(3) At the proposal of the inspector in charge, the Agency shall pass a decision about temporary revocation of license due to non-compliance with the conditions from the para. (1), clauses 3) and 4) of this article.

(4) In case an energy undertaking fails to remove the deficiencies on account of which its license was temporarily revoked within the period set in the decision from the paragraph (2) of this article, the Agency shall pass a decision on revocation of the license.

(5) Decision from paragraphs (2) and (4) of this article shall be final.

Article 60

(1) In case the suspension of operation of an energy undertaking whose license has been temporarily revoked could jeopardize regular and secure energy supply, the lives and health of people or seriously disrupt the economy, the Agency may, based on the opinion of the Ministry and the authorized inspectorate, instruct the energy undertaking with a decision

to continue its energy activities until conditions are met for removing the harmful consequences of their suspension, but not exceeding the period specified in the article 59 paragraph (2) herein.

(2) In case the suspension of conducting of an energy activity of public interest or a public service by energy undertaking whose license has been permanently revoked could jeopardize regular and secure energy supply, the lives and health of people or seriously disrupt the economy, the Government may, at the proposal of the Ministry, by issuing a special act designate another energy undertaking licensed for the same energy activity, to carry out the energy activity in the area previously serviced by the energy undertaking whose license was permanently revoked.

(3) The act of the Government from the paragraph (2) herein shall specify the rights and obligations of the energy undertaking designated to carry out the energy activity of public interest or public service in the specific area and the time period for that activity, as well as the rights of the energy facilities owner whose license was revoked, if the act of the Government envisages requirement for its energy facilities to be used for the energy activity.

Authorization

Article 61

(1) Energy facilities shall be constructed pursuant to the Law regulating construction of facilities and spatial planning, technical and other regulations, with a previously obtained authorization issued pursuant to this Law.

(2) Authorization shall be obtained for the construction and reconstruction of the following facilities:

- 1) electricity generation facilities;
- 2) facilities for oil storage and petroleum products reservoir with more than 50 tones capacity;
- 3) facilities for transmission and distribution of natural gas, storage facilities for natural gas and facilities for storage of liquified natural gas;
- 4) facilities for production of heat for district heating and/or cooling or for industrial use and facilities for distribution of heat for district heating and/or cooling or for industrial use.

(3) Authorization shall be awarded by the Ministry.

(4) Competent local government authority shall award authorizations for the construction of facilities from the paragraph (2) clause 4) of this article.

(5) A procedure for award of authorization from the paragraph (2) of this article shall be initiated with an application submitted by domestic, i.e. foreign business undertaking, legal or natural person or entrepreneur.

(6) Authorization may be obtained prior to acquiring ownership rights, i.e. the right to use land where a construction of an energy facility is planned to be implemented, as well as before an act specifying spatial planning terms and conditions for construction of an energy facility is issued, i.e. before construction permit is issued.

(7) Generating facilities with up to 1 MW installed capacity may be built pursuant to the Law that regulates construction of facilities and spatial planning, technical and other regulations, upon previously obtaining an authorization and without implementation of a public bidding procedure.

(8) On the basis of an issued authorization from the paragraph (7) herein, the Government passes a decision to allow a use of the state owned property, which is a basis for entry into contract.

(9) No authorization shall be required for:

- 1) construction of energy facilities on the basis of a concession, with exception of a case from the paragraph (7) of this article;
- 2) for the reconstruction of facilities that are built on the basis of a concession, with exception of a case from the paragraph (7) of this article;
- 3) facilities that are built on the basis of a public invitation from the article 65 herein.

Criteria for award of authorization

Article 62

- (1) Authorization may be awarded for construction of an energy facility of type and purpose in accordance with the Energy Development Strategy and the Action plan, i.e. program for development and use of renewable energy sources.
- (2) Authorization shall be issued in procedure stipulated by this Law.
- (3) The criteria for award of Authorizations for construction of energy generation capacities shall include, in particular:
 - 1) requirement in respect of safe and undisturbed functioning of energy system;
 - 2) requirement in respect of land use and siting conditions;
 - 3) environmental protection conditions;
 - 4) property and human safety and health protection measures;
 - 5) energy efficiency level;
 - 6) conditions for use of primary energy sources;
 - 7) requirement in respect of technical equipment and financial capability of applicant for construction of energy facilities;
 - 8) contribution to decrease in emission of CO₂;
 - 9) contribution to achievement of national target in regard to use of renewable energy sources.

Article 63

- (1) An authorization for the construction of gas pipelines, oil pipelines, petroleum product pipeline or heat pipelines may be granted to a gas or energy undertaking which engages in electricity generation, or production of heat for district heating and/or cooling or for industrial use, for connecting its facilities to those of eligible customer's, isolated customer's, as well as its own production facilities and other producer's facilities for the purpose of supplying them with energy.
- (2) Authorization from paragraph (1) herein, may be also awarded to an eligible customer denied access to transmission, transport or distribution systems on account of technical or other reasons, subject to conditions specified by the transmission, transport or distribution grid codes.
- (3) An authorization for construction of gas pipeline or heat pipeline shall be denied if their construction would jeopardize environmental protection objectives or security of energy supply to tariff customers, because of their route, place of construction or connection conditions.
- (4) An authorization application shall particularly include the data about:
 - 1) a location where energy facility is to be built;
 - 2) energy facility construction deadlines;
 - 3) energy facility type and capacity and its energy efficiency;
 - 4) fuels that will be used in the energy facility;
 - 5) method of energy production and takeover of energy;
 - 6) environmental protection method during construction and operation of the energy facility;

- 7) requirements in respect of termination of operation of energy facility;
 - 8) planned financial resources for construction of energy facility and the way to secure those funds;
 - 9) finalized measurements for a renewable energy source which requires measurement and survey of its potential, accompanied with evidence about implemented measurements and surveys.
- (5) The Ministry shall specify in a regulation more detailed criteria for issuance of authorizations for energy facilities from the article 61 paragraph (2) herein, contents of an application form and of the register of issued authorizations.

Authorization procedure

Article 64

- (1) A complaint against the decision about award of authorization, that is issued in accordance with the article 61 paragraph (4) herein, may be lodged with the Ministry within eight (8) days as of the date of receipt of the decision.
- (2) An authorization shall be awarded for a period of up to two (2) years.
- (3) Upon a request of an authorization holder, period of validity of the authorization may be extended by maximum one year.
- (4) A request from the paragraph (3) herein shall be submitted not later than 30 days before the expiry date of the authorization.

Public tender

Article 65

- (1) At the proposal of the Ministry, the Government may decide to launch a public tender procedure for construction of energy facilities referred to in the article 61 paragraph (2) herein, if award of authorizations or concessions can not ensure secure and regular electricity supply, i.e. achievement of the planned time schedule for construction of energy facilities, that is envisaged under the Energy Development Strategy, the Action plan, i.e. the program for development and use of renewable energy sources.
- (2) The Ministry or local government authority shall launch a public tender, in line with the decision of the Government from the paragraph (1) of this article.

VII. CARRYING OUT OF ENERGY ACTIVITIES

Conditions for carrying out of energy activities

Article 66

An energy activity may be carried out by a business undertaking, legal or natural person, or entrepreneur that meets requirements stipulated herein.

Activities of public interest

Article 67

- (1) Energy activities of public interest are as follows:
 - 1) generation of electricity;
 - 2) transmission of electricity;
 - 3) distribution of electricity;
 - 4) organization of electricity market;
 - 5) transport of oil from the article 2 herein;

- 6) storage of oil and petroleum products;
 7) trade in electricity for electricity supply as a public service from the article 68 herein;
- 8) supply defined by article 68 herein as a public service;
 9) transport and storage of LNG and LPG;
 10) wholesale in LNG and LPG as required for gas supply defined by the article 68 herein as a public service;
 11) production of energy from renewable energy sources and cogeneration.
- (2) Activities from the paragraph (1) clauses 7) and 10) of this article, shall be carried out by public suppliers with electricity or natural gas.
- (3) In discharging the activities from the paragraph (1) from this article, energy undertaking for energy supply to final customers at regulated tariffs, shall ensure conditions necessary for regular and secure supply to final customers, by purchasing that energy from generators, traders, on the organized energy market or from import, by applying best business practice and measures that ensure the most acceptable tariff for final customers.
- (4) In order to ensure public interest, energy undertakings that carry out activities from the paragraph (1) of this article, shall give priority to securing sufficient volumes of energy that are required for life and work of citizens and for business operations and development of business undertakings and for their supply in a secure, safe, reliable and quality manner.

Public Service

Article 68

With a view to achieving regular, secure, reliable and quality supply with energy at acceptable prices, the following activities are carried out as public services in the energy sector:

- 1) transmission of electricity;
- 2) distribution of electricity;
- 3) supply of electricity or gas:
 - performed by a supplier of last resort or by a public supplier;
 - for tariff customers until they obtain a status of eligible customers, and
 - for vulnerable customers;
- 4) storage of natural gas;
- 5) transmission of natural gas;
- 6) distribution of natural gas;
- 7) operating LNG and LPG facility;
- 8) generation of heat for district heating and/or cooling;
- 9) distribution of heat for district heating and/or cooling;
- 10) supply of heat for district heating and/or cooling, and
- 11) storage and management of strategic reserves of oil and petroleum products.

Public Service Obligations

Article 69

(1) Energy undertakings carrying out an activity identified by article 68 herein as a public service, shall be bound by the license conditions to ensure the following while providing public services:

- 1) security of supply;
- 2) quality of services and supply;

- 3) application of regulated tariffs for supply or for use of storage services or LNG and LPG facilities, or regulated prices for use of transmission or distribution systems;
 - 4) usage of primary sources of energy, gas and fuel;
 - 5) environmental protection;
 - 6) protection of citizens' health, life and property;
 - 7) measures for protection of customers and consumers of energy.
- (2) Carrying out of public service obligations should be non-discriminatory, transparent and easily verifiable.

Activities in the energy market

Article 70

(1) Energy activities which are not carried out as public services shall be carried out in accordance with market principles.

(2) Activities in the energy market shall be carried out and organized in accordance with the objectives for development of energy activities and in accordance with requirements of customers in Montenegro in terms of ensuring quality and secure energy supply, while complying with the principles of competition and equal legal position of all entities on that market, in respect of:

- 1) exercising right to construct an energy facility;
- 2) obtaining an authorization for construction of energy facility;
- 3) access to the systems;
- 4) right to carry out an energy activity;
- 5) availability of information; and
- 6) other cases established by this Law.

VIII. ELECTRICITY ACTIVITIES

1. Generation of electricity

Generator of electricity

Article 71

- (1) Pursuant to this Law, a generator shall be entitled to:
 - 1) use energy sources for generation of electricity;
 - 2) enter into contracts to purchase or sell electricity;
 - 3) use electricity transmission and distribution systems under conditions for access and use of those systems;
- (2) A generator that sells electricity to a final customer shall have a supply license.
- (3) Generators shall:
 - 1) put generating facilities in operation upon a request from transmission system operator or distribution system operator as required for ancillary and system services or balancing services;
 - 2) enter into contracts with operators of transmission and distribution system that will specify mutual rights and obligations in respect of provision and usage of ancillary and system services as well as other terms and conditions relating to those services;
 - 3) provide to transmission or distribution system operator the data required for operation and functioning of the system;
 - 4) ensure system operators free of charge use of equipment in its installation which is in function of transmission or distribution system, as required to ensure electricity flows;

5) maintain and enhance equipment from clause 4) of this paragraph in accordance with requirements for functioning of transmission or distribution system and their development plans.

(4) Generator shall prepare a program of measures aimed at enhancing energy efficiency and shall prepare annual report about effects from its implementation and shall publish them on its web page.

(5) Ministry may specify minimum energy efficiency level for certain technologies, that should be achieved in construction of new facility or in reconstruction of the existing facility.

Production of electricity from renewable energy sources

Article 72

(1) Energy undertakings shall implement measures aimed at increasing a contribution of electricity generated from renewable energy sources to the total electricity generation.

(2) Based on the program for development and usage of renewable energy sources, i.e. the program for development and usage of high-efficiency cogeneration from the articles 17 and 19 herein, the Government shall determine a minimum share of electricity generated from renewable energy sources in the total electricity supply which shall be taken over by each supplier of electricity.

(3) An evidence about compliance with the minimum contribution from renewable energy sources requirement shall be a guarantee of origin.

(4) At least once a year, supplier of electricity shall give on its bill or in promotional materials accompanying a bill, information to final customers about:

1) contribution of renewable and other sources of energy per types that was used to meet electricity demand of final customers;

2) indicate reference for sources of information about environmental impact of energy sources that were used to meet the customer's electricity demand.

Article 73

(1) Types of facilities for generation of electricity from renewable sources or in high-efficiency generation and their classification in groups, shall be specified by the Ministry.

(2) Upon obtaining an opinion from the Agency, the Government shall set in a tariff system from art. 20 paragraph (2) herein purchase prices for energy that may be different for different types or groups of facilities, as well as for different types of renewable sources.

(3) The Government may limit support schemes or withhold support schemes for construction of new capacities in the event of negative impact on the economy or on price of electricity.

(4) Based on act from the paragraph (3) of this article, the Ministry shall suspend award of authorizations for electricity generation from renewable energy sources or cogeneration.

Guarantee of origin

Article 74

(1) A guarantee of origin is a public certificate in electronic or another format by which generator of electric or thermal energy for district heating and/or cooling shall demonstrate to the customer that certain quantity of delivered electricity was produced in renewable energy sources or in high-efficiency cogeneration.

(2) A guarantee of origin shall not be issued to an energy undertaking that generates thermal energy for district heating and/or cooling in an installation with installed capacity below 1 MW.

(3) A guarantee of origin shall be granted upon a request of a generator from paragraph (1) herein, after technical documentation is reviewed and after a direct inspection of operation of the facility.

Article 75

- (1) A guarantee of origin shall be issued by the Agency.
- (2) Operator of the transmission or distribution system where the installation for which a guarantee of origin is issued is connected, shall submit to the Agency all data about volume of generated electricity that is measured on the point of delivery to transmission i.e. to distribution system.
- (3) A guarantee of origin shall be issued per MWh of electricity generated.
- (4) Validity of a guarantee of origin shall be 12 months as of the date of granting.
- (5) Guarantees of origin are transferable. If supplier of electricity transfers guarantees of origin to a third party, volume of electricity for which a guarantee of origin is transferred, must be deducted from the total volume of electricity from renewable energy sources that is recognized to the supplier as fulfilment of a minimum contribution obligation from the article 72 paragraph (2) herein.

Article 76

- (1) A guarantee of origin for energy generated from renewable energy sources shall contain specifically:
 - 1) information about the energy source from which the electricity or heat for heating and/or cooling was produced, and date of beginning and end of a period of generation for which a guarantee of origin is issued;
 - 2) name, location, type and installed capacity of energy generation installation;
 - 3) scope of investment support for installation, scope of support scheme for energy generated in an installation and information about means of encouragement;
 - 4) date of commissioning of installation;
 - 5) date of issuing and unique identification number of guarantee of origin and the state in which it is issued.
- (2) Guarantee of origin for electricity generated in high-efficiency cogeneration shall contain specifically the following:
 - 1) a period for which a guarantee of origin is granted;
 - 2) the lower calorific value of the fuel that is used for generation of electricity for which a guarantee of origin is issued;
 - 3) the purpose of heat generated in a cogeneration plant together with electricity for which a guarantee of origin is granted;
 - 4) primary energy savings in the process of generation of electricity for which a guarantee of origin is granted;
 - 5) information about volume of electricity generated in accordance with high-efficiency criteria and regulations.
- (3) A procedure in which guarantees of origin are issued, transferred and revoked, as well as a way of submission of data from the article 75 paragraph (2) herein, more details about contents of guarantee from the paragraphs (1) and (2) of this article, information than need to be contained in an application and documentation required to obtain a guarantee of origin shall be specified by the Government in a regulation.

Article 77

- (1) The Agency shall maintain a register of all guarantees that were issued.
- (2) Contents and procedure for maintaining a register of issued guarantees of origin shall be specified by the Agency.

(3) The register from the paragraph (1) of this article shall also contain information about submitted foreign guarantees of origin.

(4) Foreign guarantees of origin that contain elements specified by this Law shall be valid in Montenegro in line with reciprocity condition and in accordance with ratified international agreement.

Privileged generator

Article 78

(1) A status of a privileged generator may be obtained by an energy undertaking if:

1) it is connected to electricity transmission or distribution system;
2) it generates electricity in a facility belonging to the group of facilities specified in the Ministry's regulation from the article 73 paragraph (1) herein, while complying with natural and spatial limitations and conditions as well as with environmental protection measures;

3) it has its own metering place independent from metering places for electricity generation on the basis of other technological processes; and

4) while operating in a regime of privileged generator it is not jeopardizing security of operation of system.

(2) A status of a privileged generator shall be established by the Agency's decision for a period of 12 years.

(3) All privileged generators shall be members of one balancing group that is not charged for imbalances by the respective system operator.

(4) A privileged generator may sell its energy on the market under same conditions and regulations as applicable to any other generator, while its participation on a market shall not be shorter than 12 months.

Article 79

(1) Privileged generator shall be entitled to:

1) a purchase price for electricity in accordance with the tariff system from the article 20 paragraph (2) herein;

2) priority in delivery of total electricity generated into the transmission or the distribution system.

(2) In the process of operating transmission and distribution system and dispatching, operator of electricity transmission and distribution system shall give preference to privileged generators, in accordance with technical capabilities of system.

(3) If due to security of system operation reasons, operators of transmission and distribution system may not give precedence to privileged generator, they shall inform the Agency thereof and shall determine corrective measures for prevention of further denials of access to the system.

Article 80

(1) Privileged generator shall:

1) Submit to the Agency annual report about achievement of electricity generation plan for the previous year;

2) Submit to the system operator and to the market operator monthly and annual electricity generation plans, for average meteorological conditions, as well as expected monthly deviations in electricity generation based on measurements on the basis of which a potential of a renewable energy source was determined;

3) Maintain technical-technological characteristics and use a facility under the same conditions as those under which it obtained a status of privileged generator;

4) Inform the Agency without delay about all changes to technical-technological characteristics of a facility or a change to operational conditions;

5) withdraw all the guarantees of origin for electricity generated until the moment of payment of the support, for which he received support, and shall submit them to a market operator.

(2) Detailed contents of the report and notification from the paragraph (1) of this article shall be specified by the Agency.

Article 81

(1) The procedure in which a status of a privileged generator may be obtained shall be initiated with a request by energy undertaking or by natural person.

(2) Together with an application for a status of privileged generator, an energy undertaking shall submit evidence that it complies with requirements from the article 78 herein.

(3) Energy undertaking shall lose the status of privileged generator in the following cases:

1) if a decision about award of a status was based on incorrect data;

2) if ascertained that characteristics of the plant changed due to failure to maintain technical-technological characteristics;

3) if privileged generator fails to meet requirements from the article 80 paragraph (1) clause 1) and 4) herein;

4) if generator's license has expired in cases as envisaged by this Law.

(4) A procedure in which a status may be obtained as well as way to exercise rights from the article 79 herein shall be specified in a regulation adopted by the Government.

(5) The Agency shall maintain a register of privileged generators.

(6) Contents and procedure for maintaining a register of privileged generators shall be specified by the Agency.

Surveys and identification of renewable energy sources potential

Article 82

(1) Energy facilities for generation of energy from renewable energy sources, small hydropower plants, wind generators, may be built only after previously implemented preliminary measurements and surveys of potential of renewable energy sources.

(2) Preliminary measurements and surveys of potential of renewable energy sources shall be undertaken on the basis of a permit given by the Ministry.

(3) Permit from the paragraph (2) of this article shall be given upon a request for a period of up to two years.

(4) Surveys and measurements of potential of renewable energy sources may be carried out by a legal person that meets conditions and requirements in respect of professional staff and equipment.

(5) The Ministry shall verify compliance with conditions from the paragraph (4) of this article and shall issue the permit from the paragraph (2) herein.

(6) Surveys and measurements shall be carried out on the basis of technical description of a survey to which the Ministry gives a consent.

(7) Results of measurements and surveys of potential of renewable energy sources that are carried out on the basis of a permit shall be submitted to the Ministry.

(8) More detailed conditions from the paragraph (4) of this article shall be specified in the regulation issued by the Ministry.

2. Transmission of electricity

Electricity Transmission System Operator

Article 83

(1) Electricity Transmission System Operator shall carry out transmission of electricity in accordance with the license conditions, based on principles of objectivity, transparency and non-discrimination, pursuant to this Law.

(2) Electricity transmission system, pursuant to this Law, comprises of 110 kV installations, 110/x kV/kV transformers and 110 kV lines, as well as of installations, transformers and lines of higher voltage level, extending to the connection points of system users, and of facilities, telecommunication and information equipment, and other infrastructure necessary for functioning of the transmission system.

(3) Electricity Transmission System Operator may purchase electricity only for the system balancing purpose, for provision of ancillary and system services and for covering of system losses.

(4) Electricity Transmission System Operator shall not carry out activity of generation of electricity.

Rights, duties and responsibilities of electricity Transmission System Operator

Article 84

(1) The electricity transmission system operator shall:

- 1) maintain, modernize, upgrade and develop the electricity transmission system;
- 2) establish technical-technological requirements for connection of electric power facilities, devices and installations into one system;
- 3) manage energy flows in his system and flows to other interconnected systems, consistently with other transmission system operators;
- 4) operate transmission system and within technical-technological capabilities of the transmission system, does not impose a limitation to purchase and sale of electricity;
- 5) provide timely information to the market operator about system balances in a real time;
- 6) regulate frequency and power of exchange;
- 7) provide ancillary and system services;
- 8) plan operation of transmission system in cooperation with a market operator and other system operators;
- 9) exchange necessary data and documents with a market operator and interconnected system operators;
- 10) ensure security of operation of electric power system;
- 11) coordinate preparation of overhaul plans for transmission facilities and installations of system users;
- 12) resolve overloading problems on certain elements of transmission system, taking care to maintain equal rights for all users of transmission system;
- 13) revise operation plans for power plants in case of a threat to security of operation of electric power system, failures, big deviations from planned demand, and in cases specified in articles 166 and 167 herein;
- 14) establish rules for implementation of transparent mechanisms for operation and allocation of capacities for transmission of electricity based on market principles and shall submit them to the Agency for approval after obtaining an opinion from the market operator;
- 15) calculate cross-border capacity in cooperation with interconnected system operators;

16) allocate cross-border capacity in accordance with principles of transparency and non-discrimination of participants, and publish information about allocation of cross-border capacity on its web page;

17) ensure metering of energy delivered and received on connection points between transmission and distribution system and users, with users, neighbouring systems and on other relevant points;

18) register data as required to determine quality of delivered electricity, including information about outages, voltage parameters and other information, that may be determined by the Agency;

19) prepare a ten year development plan for the transmission system from the article 41 paragraph (1) clause 1) herein, which is harmonized with the Energy Development Strategy and the Action plan and with development plans of neighbouring systems, and shall update it at least every three years, and shall submit it to the Agency for its approval;

20) prepare annual investment plans from the article 41 paragraph (1) clause 2) herein, that shall consider requirements of system users and which shall be harmonized with the applicable 10-year development plan for transmission system and with spatial-planning documents and shall submit it to the Agency for approval;

21) publish on its web page the plans from clauses 19) and 20) herein;

22) establish methodology for connection to electricity transmission system and shall submit it to the Agency for approval;

23) determine price of connection to the transmission system on the basis of methodology from the article 39 paragraph (1) clause 1) herein, and shall submit them to the Agency for approval;

24) publish on its web page the approved methodologies and prices for connection to the transmission system, for use of transmission system and for ancillary and system services at least 15 days before their application;

25) publish timely on its web page information of importance for use of transmission system, about capacities, congestions, as well as other information as required for operation of the market;

26) on a quarterly basis, report to the Agency on:

- scheduled outages as required for maintenance of transmission system;
- requirements of system users in terms of development of the transmission

system;

- performance of the transmission system;

- contracts concluded for ancillary and system services;

- contracts concluded for acquisition of electricity as required to cover the transmission losses.

(2) The information from the paragraph (1) clause 17) of this article shall be available to distribution system operators, as well as to operators of interconnected transmission systems, on a reciprocity basis, as well as to the Agency.

(3) Electricity transmission system operator shall at least once a year publish on its web page a report about quality of supply pursuant to article 38 paragraph (3) clause 3) herein.

(4) In accordance with the provisions of this Law, transmission system operator shall maintain confidentiality of commercially sensitive information i.e. trade secrets and which are obtained during operation.

Article 85

(1) Generators, distribution operators and eligible customers that are connected to the transmission system shall submit to electricity transmission system operator data and information:

1) on metering and other information necessary to regulate frequency, voltage and the exchange of energy;

2) that is required for access to the transmission system and for preparation of the investment plans collected from the existing and prospective users of the transmission system.

(2) Electricity transmission system operator shall exchange data and information from the paragraph (1) clause 1) of this article with operators of interconnected transmission systems under condition of reciprocity.

(3) Electricity transmission system operator shall:

1) be responsible for secure and reliable operation and functioning of the transmission system;

2) specify conditions for connection of users to the transmission system in accordance with the methodology from the Article 39 paragraph (1) clause 1) herein;

3) ensure ancillary and system services in an efficient and cost-effective manner.

Electricity Transmission Grid code

Article 86

(1) Operation of electricity transmission system shall be regulated by the Transmission Grid Code that is established by the electricity transmission system operator.

(2) The Code from the paragraph (1) of this article shall regulate:

1) technical and other conditions for connection of a user to transmission system;

2) technical and other conditions for secure functioning of electric power system with objective to supply customers with electricity of specified quality;

3) general conditions for use of transmission system;

4) regulations on access to transmission system;

5) criteria and method for securing ancillary and system services;

6) operational procedures for emergency situations;

7) technical and other conditions for connection and interconnected operation of transmission system;

8) procedures in development planning for transmission system;

9) functional requirements and accuracy class for metering devices, as well as electricity metering method;

10) manner of publication of information as required for market operation and providing information to system operators;

11) the manner in which a priority is to be given to use of indigenous primary energy sources for generation of electricity, not exceeding fifteen percent (15%) of the overall primary energy necessary to produce electricity consumed in Montenegro in any calendar year.

(3) The Code from paragraph (1) of this article shall be issued by electricity transmission system Operator after consultations with relevant stakeholders in the electricity sector, and shall be submitted to the Agency for approval.

(4) The Code from paragraph (1) of this article shall be published in the „Official Gazette of Montenegro“ and on the web site of electricity transmission system Operator.

3. Distribution of electricity

Electricity Distribution System Operator

Article 87

(1) The activity of the distribution of electricity shall be carried out by electricity Distribution System Operator under conditions and within a territory as specified in a license, in accordance with principles of objectivity, transparency and non-discrimination, pursuant to this Law.

(2) Electricity distribution system, pursuant to this Law, shall be composed of 35 kV installations, 35/x kV/kV transformers and 35 kV lines, as well as of installations, transformers and lines of lower voltage level, reaching to connection points of system users, as well as of facilities, telecommunication and information equipment and other infrastructure necessary for its functioning.

(3) Distribution system operators shall charge the same tariffs for use of the distribution systems for the same groups of system users on the territory of Montenegro relative to voltage levels, volumes, method of measuring or other criteria.

(4) If more than one distribution system operator carries out the electricity distribution activity, settling of the differences between reasonable and actual revenues and costs shall be done in accordance with a rules from the article 38 paragraph (2) clause 8) herein.

(5) Electricity distribution system operator may buy electricity only for the purpose of covering of system losses.

Rights, duties and responsibilities of electricity Distribution System Operator

Article 88

(1) Electricity Distribution System Operator shall:

1) operate and maintain, modernize, upgrade and develop the electricity distribution system;

2) ensure reliable and efficient electricity distribution services;

3) provide distribution system users with clear and precise information regarding conditions for service, and specifically information about access to distribution system, including technical, contracted and available capacities, while ensuring confidentiality of information and data considered confidential pursuant to the Law;

4) prepare ten year development plan for the distribution system, from the article 41 paragraph (1) clause 4) herein, harmonized with the Energy Development Strategy, the Action plan i.e transmission system development plan, that shall be updated at least every three years, and submit it to the Agency for approval;

5) prepare annual investment plans from the article 41 paragraph (1) clause 2) herein, taking into consideration requirements of the system users, which shall be harmonized with the existing ten year development plan for the distribution system and the spatial-planning documents and shall submit them to the Agency for approval;

6) specify conditions for connection of users to the distribution system, in conformity with the methodology from the article 39 (1) 1) herein;

7) meter electricity used by final customers, on its area of service and maintain the meters in proper working conditions in order to ensure accurate metering of electricity consumed;

8) establish a methodology for connection to electricity distribution systems and submit it to the Agency for approval;

9) set prices of connection to the distribution system on the basis of the methodology from the article 39 paragraph (1) clause 1) herein and shall submit them to the Agency for approval;

10) publish on its web site approved methodologies and prices for connection to electricity distribution systems, i.e. for use of distribution system, at least 15 days prior to application;

11) establish methodology for calculation and charging of unauthorized consumption of electricity and shall submit it to the Agency for approval.

(2) Distribution system operator shall timely publishes on its web site terms and conditions for use of the distribution system.

(3) Distribution system operator shall be functionally unbundled from the integrated energy undertaking and shall carry out activities in accordance with rules and regulations established by the Agency.

(4) Distribution system operator shall:

1) apply best practices in order to ensure security of supply and reliability of distribution system operation;

2) ensure regular and continuous operation of a cross-border line;

3) pursuant to technical rules and regulations, maintain connection equipment between generators and customers located within its service area;

4) maintain confidentiality of commercially sensitive information and data, i.e trade secrets, that are obtained in the course of its business, in accordance with the Law.

(5) Distribution system operator shall on a quarterly basis, report to the Agency on:

1) scheduled outages as required for maintenance of the distribution system;

2) requirements of system users in terms of development of distribution system;

3) functioning of distribution system;

4) contracts concluded for acquisition of electricity as required to cover the distribution losses.

(6) Not later than by the end of March of the current year, distribution system operator shall publish on its web page a report on quality of electricity delivered in the previous year, in accordance with the art. 38 paragraph (3) clause 3) herein.

Article 89

(1) Generators and final customers connected to distribution system shall submit, upon a request of electricity distribution system operator, information about metered electricity and information necessary for operation of the transmission system operator.

(2) Metering devices and their installation with final customers shall be provided by the distribution system operator at its own cost.

Exchange on a connection point

Article 90

(1) Generator of electricity from renewable energy sources in facilities of up to 20 kW installed capacity or in high-efficiency cogeneration in facilities of up to 50kWe installed capacity shall have a right to exchange electricity that it delivers to the system or takes from the distribution system during a year.

(2) The difference in energy levels from the paragraph (1) of this article shall be established and billed on an annual basis.

(3) Mutual relations between distribution system operator and generator from paragraph (1) of this article, including compensation for the difference from paragraph (2) of this article, shall be regulated with an agreement with minimum 7 years duration.

(4) Technical conditions, connection standards, protection system, quality of energy as well as other important matters shall be specified in a regulation of the distribution system operator.

Electricity Distribution Grid Code

Article 91

(1) The operation of the electricity distribution system shall be regulated with the Distribution Grid Code that is established by the electricity distribution system operator for the territory specified in a license.

(2) The Code from the paragraph (1) herein shall regulate specifically:

- 1) maintenance and development procedure for distribution systems;
- 2) planning procedures and technical conditions for planning;
- 3) operation and functioning of distribution system;
- 4) technical requirements for connection to the distribution system and interconnection with other systems;
- 5) procedure for submission of data and information to transmission system operator and to other energy undertakings that are necessary for their work;
- 6) operational procedures for extraordinary or emergency situations;
- 7) general conditions for use of distribution system;
- 8) conditions for termination of the contract for use of distribution system that are not making difficult a switch to another supplier.

(3) The Code from paragraph (1) of this article shall be issued by electricity distribution system Operator after consultations with relevant stakeholders in the electricity sector, and shall be submitted to the Agency for approval.

(4) The Code from the paragraph (1) of this Law shall be published in the »Official Gazette of Montenegro« and on the website of electricity distribution system operator.

Electricity metering in the distribution system

Article 92

(1) Consumption of electricity shall be measured with metering devices on metering places in distribution system in accordance with electricity metering code for the distribution system.

(2) Distribution system operator shall maintain and upgrade the electricity metering system and carry out metering from the paragraph 1 of this article.

(3) The metering code from the paragraph (1) of this article shall regulate specifically the following:

- 1) installation, acceptance, testing and maintenance of metering equipment;
- 2) collection of metering and other data on a metering place;
- 3) processing, grouping, availability and transmission of metering and other data about metering places to the data users, as well as a manner of grouping and filing of data.

(4) The collected and processed data from metering places are submitted to:

- 1) Market operator;
- 2) Transmission system operator who receives data upon request;
- 3) Supplier who receives data about all the metering places of final customers supplied by it as well as the data it requires for balancing purposes;
- 4) Generator that is connected to the distribution system and it receives data about its own metering place;
- 5) Eligible and tariff customer upon a request, and it receives data about its own metering place.

(5) Distribution system operator shall prepare time schedule for replacement of electricity meters that are owned by other legal and natural persons and shall submit it to the Agency for approval.

(6) Distribution system operator and data user shall maintain confidentiality of data in accordance with the Law.

(7) The Code from paragraph (1) of this article shall be established by the Distribution system operator and shall be submitted to the Agency for approval.

(8) The Code from paragraph (1) of this article shall be published in the „Official Gazette of Montenegro“ and on the web page of the electricity distribution system operator.

4. Electricity market

Article 93

(1) Organized purchase and sale of energy in all time frames shall be carried out on the electricity market, based on contracts or directly on an organized market.

(2) An electricity market participant may be:

1) Generator, as an entity that sells and buys electricity on its own behalf and for its account, and as a seller of electricity generated in its own generating units that may close only those deals for which it is necessary to have own in-take and delivery point;

2) Supplier, as an entity that buys, sells and re-sells electricity on its own behalf and for its account and is licensed for sale of electricity to tariff or eligible customers. Supplier does not need to own its in-take and delivery point;

3) Public supplier, as an entity that buys and sells electricity on its own behalf and for its account while it does not need to own its in-take and delivery point;

4) Trader, as an entity that buys and sells electricity on its own behalf and for its account while it does not own its in-take and delivery point and

5) Eligible customer, as an entity that buys electricity on its own behalf and for its account and that has its own in-take and delivery point, and has a balancing responsibility.

(3) A balancing responsibility shall be established for participants on the electricity market for the purpose of undisturbed carrying out of transactions on the electricity market, their accurate calculation, and separation of financial transactions from the physical delivery.

(4) A balancing responsible entity shall operate in the specified period of time in a way that ensures that electricity generated and purchased equals electricity consumed or sold.

(5) Participants from the paragraph (2) herein are balancing responsible entities and they are obliged to participate in a system of calculation of imbalances quantity in delivery and in-take of electricity relative to the operation schedules, that are undertaken by the market operator.

(6) Market Operator carries out financial settlement based on identified quantity imbalances from the paragraph (5) of this article that in addition to Balancing responsible entities involves also a transmission system operator and distribution system operator.

(7) Participants on the electricity market from the paragraph (6) of this article shall make payments based on financial settlement in accordance with contract.

(8) Balancing responsible entities may voluntarily join into balancing groups for the purpose of joint calculation of imbalances, by which they become balancing entities of that balancing group.

(9) Balancing responsible entities joined into balancing group shall nominate the balancing group responsible party.

(10) An in-take and delivery point may only belong to one balancing group or to one balancing responsible entity.

(11) Balancing responsible entity i.e. balancing group responsible party shall submit to the transmission system operator a list of in-take and delivery points belonging to the balancing group.

(12) Participants on electricity market shall regulate their mutual rights and obligations with contracts in accordance with market rules.

5. Organization of the electricity market

Market Operator

Article 94

(1) Market operator shall carry out the activity of organization and management of market on the territory of Montenegro, pursuant to a license in accordance with this Law.

(2) The market operator shall establish the market rules and shall submit them to the Agency for approval.

(3) Market operator shall set a charge for its work in accordance with an annual work plan and budget and shall submit it to the Agency for approval.

(4) Market operator from the paragraph (1) of this article shall be founded by the Government.

Rights, duties and responsibilities of the Market Operator

Article 95

(1) Market Operator shall carry out in particular the following activities:

1) organize and manage the electricity market;
2) keep records about all contract entered into on the electricity market in accordance with market rules;

3) carry out calculation of quantity of imbalances in delivery and in-take of electricity relative to operating schedules, as well as financial settlement and control of financial settlement of identified imbalances;

4) publish on its web page all information required for undisturbed market operation and for carrying out of energy activities pursuant to this law;

5) maintain records of suppliers and eligible customers, that includes their mutual obligations;

6) establish rules and procedures of public bidding in accordance with instructions of the Agency;

7) enter into contracts with all suppliers in order to ensure minimum contribution of electricity generated from renewable energy sources and cogeneration;

8) collect a compensation for support to electricity generation from renewable energy sources and cogeneration from suppliers of tariff and eligible customers;

9) enter into contracts with privileged generators who are entitled to a price support scheme in accordance with article 79 paragraph (1) clause 1) and article 73 paragraph (2) herein;

10) calculation, collection and allocation of funds collected from compensations for encouragement of electricity generation from renewable energy sources and cogeneration to generators of electricity renewable energy sources and cogeneration on the basis of contracts concluded;

11) give opinion about rules for implementation of transparent procedures for management and allocation of cross-border capacities for transmission of electricity based on market principles from article 39 paragraph (2) clause 7) herein.

(2) For service of administering of contracts, market operator may charge a fee in the amount as set in the price list approved by the Agency.

(3) Energy undertakings shall enable a Market Operator a constant and unlimited access to data required to carry out the energy activity of the Market Operator, pursuant to market rules.

Market rules

Article 96

(1) Market Rules shall regulate manner of organization and functioning of electricity market.

(2) Market Rules shall specify in particular:

1) procedures, principles and standards for organization and functioning of the electricity market in accordance with applied market model;

2) procedure for identification and registration of electricity market participants and operators;

3) types of contract concluded on the market and contract relating to functioning of the market;

4) trading products on the electricity market;

5) standards and procedure for publication and registering of transactions on the electricity market;

6) standards and procedures for preparation, maintaining and update of a database as required for the electricity market;

7) standards and procedures for application, preparation, check and change of daily operational schedules;

8) standards and procedures for acquisition of ancillary and system services and acquisition of electricity to cover losses in the transmission system, in order to ensure continuous, secure and reliable electricity supply to final customers;

9) criteria for market allocation of right to use cross-border electricity transmission capacities in order to ensure undisturbed performance of cross-border transactions on the electricity market;

10) standards and procedures for calculation of quantity of imbalances for final settlement of balancing group responsible parties, i.e. responsible balancing entities and their financial settlement on the electricity market.

(3) Market rules shall be published in the „Official Gazette of Montenegro“ after obtaining an approval from the Agency.

Legal person for coordinated auctions**Article 97**

(1) Pursuant to terms and conditions established in ratified international treaty, electricity transmission system operator may jointly with transmission system operators from other countries establish a legal entity for coordinated auctions for the purpose of allocation of capacities of cross-border transmission lines, i.e. implicit sale and purchase of electricity together with the capacities.

(2) The regulation from the article 39 paragraph (2) clause 8) herein shall be established by the electricity transmission system operator, and it shall be approved by the Agency in consultation with other competent authorities in the region.

(3) Supervision of allocation of capacities from paragraph (1) of this article shall be carried out in accordance with an act establishing legal entity for coordinated auctions.

Ancillary and system services in the electricity sector**Article 98**

(1) Electricity Transmission System Operator and Distribution System Operator shall ensure provision of ancillary and system services based on a minimum cost principle.

(2) Energy undertakings and final customers that own devices for provision of ancillary and system services, shall, upon a request by transmission or distribution system

operator, without delay provide ancillary and system services in order to ensure secure and reliable operation of the electric power system.

(3) Mutual rights and obligations arising from provision of services from paragraph (2) of this article shall be specified in a contract.

IX. ACCESS TO ELECTRICITY TRANSMISSION AND DISTRIBUTION SYSTEM

Access to Electricity Transmission System

Article 99

(1) Electricity transmission system operator shall provide non-discriminatory third party access to electricity transmission system within the limits of transmission capacities and technical rule requirements.

(2) Electricity transmission system operator may deny access to the system on the basis of lack of capacity or where allowing of access to the transmission system could jeopardize carrying out of public services from the article 68 herein.

(3) In the procedure of decision making about access to system, transmission system operator shall apply provisions of the General Administrative Procedure Law.

Exemptions for new electricity transmission system infrastructure

Article 100

(1) Upon a request of an investor, and subject to previously obtaining approval of the Agency, newly built DC interconnectors shall be exempted from regulations for access to transmission system, that include tariffs, terms and conditions for access, if:

- 1) the investment shall enhance competition in electricity supply;
- 2) the level of risk attached to the investment is such that the investment would not take place unless an exemption was granted;
- 3) the interconnector is owned by a legal or natural person that is legally separated from an operator of a system where the interconnector is to be connected;
- 4) costs of use of interconnector shall be borne by its direct users;
- 5) capital, i.e. investment and operating costs of interconnector shall not be recovered from a price for use of transmission or distribution system to which an interconnector is connected;
- 6) the exemption is not limiting competition and efficient functioning of the market or efficient functioning of the system to which the interconnector is connected.

(2) An exemption from the paragraph (1) of this article shall also apply to AC interconnectors if the costs and risk associated with the investment exceeds considerably the costs and risk that normally accompany interconnection with neighbouring transmission systems of other countries.

(3) The provision of the paragraph (1) of this article shall also apply in a case of reconstruction of the existing interconnectors that is considerably increasing the capacity.

(4) When allowing an exemption from the paragraphs (1), (2) and (3) of this article, the Agency may:

- 1) allow exemption for the entire capacity or for a part of capacity of new interconnector, or for existing interconnector with significantly increased capacity;
- 2) determine conditions in respect of duration of exemption and non-discriminatory access to interconnector;
- 3) take into account assessment of impact of construction of already planned capacities in Montenegro relative to time schedule for implementation of the interconnector project;

- 4) approve or establish rules for management and allocation of capacities that are not disrupting implementation of long-term contracts;
- 5) establish cooperation with interested regulatory authorities.

Access to Electricity Distribution System

Article 101

(1) Electricity distribution system operator shall provide non-discriminatory third party access to electricity distribution system within the limits of distribution capacities and technical rule requirements.

(2) Electricity distribution system operator may deny access to the system in case of lack of capacity or if allowing of access to distribution system could jeopardize carrying out of public services from the article 68 herein.

(3) In the procedure of decision making about access to system, distribution system operator shall apply provisions of the General Administrative Procedure Law.

Responsibility to maintain confidentiality of information

Article 102

When acquiring or selling electricity, electricity transmission system operator and electricity distribution system operator shall not misuse commercially sensitive information obtained from the third parties while allowing access to the system.

Unbundling of operators

Article 103

(1) Energy undertakings carrying out more than one energy activity or those who besides from carrying out an energy activity also carry out some other activity, shall carry out those activities in a functionally unbundled manner.

(2) Functional Unbundling from the paragraph (1) of this article shall include:

1) unbundling of accounts:

- vertically integrated undertaking shall separate accounts in internal accounting for generation, transmission, distribution and supply activities;

- in the event that energy undertaking carries out non-energy related activity, such other activity shall also be accounted for separately;

- vertically integrated undertaking shall prepare and publish a separate balance sheet, profit and loss statement, a cash flow statement and other statements, for each energy activity pursuant to the Law on Accounting and Auditing;

2) management separation:

- by ensuring separate management of different energy activities that ensures separated and independent achievement of mutual commercial interests;

- managers of one energy activity shall not be entitled to sit on the board of directors of the vertically integrated entity;

- the staff from one energy activity will not be allowed to carry out work in another energy activity.

3) information separation:

- commercially sensitive information related to a third party's business operation obtained in the course of carrying out one activity, shall not be shared with other parts of vertically integrated entity in accordance with general regulations.

Rules on unbundling of electricity Transmission

and Distribution System Operators

Article 104

(1) Activities of electricity transmission system operator, i.e. distribution system operator may be carried out only in a legal entity that is independent from other activities in the energy sector.

(2) Operator of transmission system i.e. operator of distribution system for electricity may carry out non-energy activity within horizontally integrated entity, provided that carrying out of that activity is functionally separated.

Independence of operators

Article 105

(1) Independence of electricity transmission system operator, and electricity distribution system operator, from the article 104 herein, shall be ensured in a way that:

1) management members of a system operator in the electricity sector that is a part of a vertically integrated energy undertaking must not participate in management of other activities in the electricity sector, which are different from activity of the related operator;

2) measures are undertaken that will guarantee that the management members of an operator act in a professional manner, i.e. in the best interest of the company managed by them;

3) operator independently decides about resources necessary for operation, maintenance and development of the system it operates, independently from other activities performed by a vertically integrated undertaking.

(2) Independence of transmission system operator or distribution system operator for electricity from the paragraph (1) of this article shall not affect the right of a parent undertaking in a system of vertically integrated undertaking, to approve annual financial plan of the operator and to set boundaries for its indebtedness.

(3) Parent undertaking from the paragraph (2) of this article shall not be entitled a right to give instructions to the system operator relating to its day to day operation nor relating to decisions about individual investments in the system operated by the operator, if the above mentioned decision is based on approved annual financial plan.

Independence of a Distribution System Operator that is a part of a horizontally integrated undertaking

Article 106

(1) Independence of an electricity distribution system operator, from the article 104 paragraph (2) herein, shall be ensured in a way that:

1) management members of a system operator in the electricity sector that is a part of a horizontally integrated undertaking in the electricity sector must not participate in management of other activities different from activity of the operator;

2) measures are undertaken that will guarantee that the management members of a mixed operator act with due professional care;

3) operator independently decides about resources required for operation, maintenance and development of the system it operates, independently from other activities performed by a horizontally integrated undertaking.

(2) Independence of an electricity distribution system operator from the paragraph (1) of this article shall not affect the right of a parent undertaking in a system of horizontally

integrated undertaking, to approve annual financial plan of the operator and to set boundaries for its indebtedness.

(3) Parent undertaking from the paragraph (2) of this article shall not be entitled a right to give instructions to the system operator relating to its day to day operation nor relating to decisions about individual investments in construction or modernization of parts of the system operated by the operator, if the above mentioned decision is based on approved financial plan.

Unbundling and transparency of licensees' accounts

Article 107

(1) An energy undertaking carrying out more than one activity in the electricity sector (generation, transmission, distribution or supply), shall for each activity separately: keep separate accounts in internal accounting, compile financial statements and reports that may be consolidated.

(2) Energy undertaking carrying out public services shall maintain separate accounts for public services.

(3) Energy undertaking that carries out energy activity of heat production for district heating and/or cooling, energy activity of heat distribution for district heating and/or cooling or energy activity of heat supply for district heating and/or cooling for tariff customers, may maintain consolidated accounts and compile joint financial statements for those energy activities, and for other activities separately.

(4) Energy undertaking that is not carrying out activities from the paragraphs (1), (2), and (3) of this article, and is carrying several energy activities or together with energy activity carries out also other activity, shall maintain separate accounts and compile financial reports for each energy and non-energy activity.

Program of measures

Article 108

(1) Electricity transmission system operator i.e. electricity distribution system operator, shall each make a program of measures in order to ensure implementation of non-discriminatory conditions for access to system managed by it, and shall deliver it to the Agency for approval.

(2) Operator of transmission system i.e. operator of distribution system for electricity, shall submit to the Agency, not later than by March 1st of each year, an annual report on implementation of program of measures from paragraph (1) herein, for the previous year.

(3) Operator of transmission i.e. operator of distribution system for electricity shall publish on its web site a program of measures and a report from the paragraphs (1) and (2) of this article.

Multiple activities in the same energy undertaking

Article 109

(1) In case several energy activities from the electricity sector are carried out under the same energy undertaking, mutual rights and duties of parts of that energy undertakings, relating to individual activities, may be regulated with an internal act pursuant to this Law.

(2) The internal act from the paragraph (1) of this article shall be submitted to the Agency and to the Market Operator.

X. GAS SECTOR ACTIVITIES

Connection of producer of gas

Article 110

(1) Producer of gas may be connected to transmission or distribution gas system in accordance with the methodology that regulates connection conditions.

(2) Expense of connection to transmission or distribution gas system shall be borne by a producer at prices approved by the Agency.

Gas Transmission System Operator

Article 111

Gas Transmission System Operator shall distribute gas in accordance with license conditions, based on principles of objectivity, transparency and non-discrimination that are embodied in this law.

Rights, duties and responsibilities of Gas Transmission System Operator

Article 112

(1) The gas Transmission System Operator shall:

1) maintain, modernize, upgrade and develop the natural gas transmission system and shall ensure under economic conditions sufficient capacity to meet reasonable demand for transmission of gas, while complying with the environmental protection requirements;

2) carry out the balancing of the system in accordance with the balancing rules of the transmission system, which will be prepared by him and submitted to the Agency for approval;

3) operate transmission system capacities;

4) develop the technical operation agreements when the supplier is an exporter or a beneficiary of transit of gas on the territory of Montenegro;

5) provide distribution system operators, neighbouring transmission system operators, or other gas undertakings with required information to ensure inter-operability of the system, and to ensure secure and efficient operations of the interconnected system;

6) provide transmission system users with detailed information regarding services offered, conditions for service, and technical information necessary for transmission system users for use of transmission system, with exception of confidential information, in a manner as approved by the Agency;

7) publish on his web page approved connection charges for transmission system, transmission use of system charges and charges for ancillary and system services, at least 15 days prior to their application;

8) prepare a ten year development plan for the gas transmission system from the article 41 paragraph (1) clause 3 herein which shall be harmonized with the Energy Development Strategy, the Action plan and development plans for neighbouring transmission systems, which shall be updated at least every third year, and shall submit it to the Agency for approval;

9) prepare annual investment plans from the article 41 paragraph (1) clause 2 herein, that shall consider requirements of system users and that shall be harmonized with the 10-year development plan for transmission system and the spatial-planning documents and submit it to the Agency for approval;

10) publish on his web page the plans from clauses 8) and 9) of this paragraph.

(2) In accordance with the provisions of the Law, gas Transmission System Operator shall maintain confidentiality of data and information that represent trade secrets i.e. commercially sensitive information, which he obtained while carrying out his activities.

Transit of gas

Article 113

(1) Transit of natural gas shall be conducted by gas Transmission System Operator in accordance with this law and with ratified international treaties and agreements.

(2) Gas Transmission System Operator may build transit capacities, consistent with the Energy Policy of Montenegro.

(3) Gas transit contracts and any allocation of capacity thereby shall be carried out in compliance with the license for transmission of gas and this Law.

Gas Transmission System Code

Article 114

(1) Operation and functioning of gas transmission system shall be regulated by the Gas Transmission System Code that is established by the gas Transmission System Operator.

(2) The Code from paragraph (1) herein shall regulate the following:

- 1) technical and other conditions for connection of users to transmission system;
- 2) the procedure, terms, conditions and restrictions related to the sale of transmission capacity or gas storage system of users, and the further assignment of committed transmission and storage capacity to other users;
- 3) the management of gas input points in the transmission system;
- 4) the metering process and determination of quality specifications and conditions for acceptance of gas delivery;
- 5) the procedure of allocation of metered quantities of gas to users at the system input and in-take and delivery points;
- 6) the planning and maintenance of the transmission system and the relevant duties of gas Transmission System Operator and system users;
- 7) the development planning procedure for transmission system, for the monitoring and control of its implementation;
- 8) congestion management rules;
- 9) balancing procedures and costs;
- 10) the main elements as a basis for contracting of the transmission obligations, with elements relating to load balancing and providing of public service, limitation of maximum capacity that may be committed to the same user and input points and conditions for release of unused capacities;
- 11) the criteria and conditions based on which transmission service may be interrupted as well as priorities of the customers, in order to ensure security of supply;
- 12) the procedure for the extrajudicial settlement of disputes between system users and the transmission system operator;
- 13) the rules governing the transactions of transmission system operator with system users and especially the accounts that must be kept by the transmission system operator for that purpose;
- 14) description of transmission system, specification of entry and exit points in the system, available capacity, type of services (short-term, long-term, interruptible);
- 15) all other issues related to management, operation, maintenance and development of the transmission system and a switch to another supplier.

(3) In the procedure of establishment of the Code from the paragraph (1) of this article, gas Transmission System Operator shall ensure adequate participation of stakeholders from the gas sector and shall submit it to the Agency for approval.

(4) The Code from the paragraph (1) of this article shall be published in the „Official Gazette of Montenegro“ and on the web page of gas Transmission System Operator.

Gas Distribution System Operator

Article 115

(1) Gas Distribution System Operator shall carry out distribution of gas under conditions and within a territory as specified in the license based on principles of objectivity, transparency and non-discrimination in accordance with this Law.

(2) Gas Distribution System Operator may be only independent energy undertaking in terms of its legal form, internal organization and decision making from other activities not relating to distribution of gas.

Rights, duties and responsibilities of Gas Distribution System Operator

Article 116

(1) Gas Distribution System Operator shall:

1) operate, maintain, modernize, enhance and develop the gas distribution system and shall ensure sufficient capacity to meet demand for the distribution of gas, while complying with the environmental protection requirements;

2) ensure a reliable and efficient service of gas distribution;

3) upon a request, be obliged to connect every customer located in the distribution area, within available capacities and provided that technical and commercial requirements are met;

4) operate capacities of the distribution system in an open, transparent, and non-discriminatory manner;

5) provide distribution system users with clear and precise information regarding conditions for service, and especially with information regarding the access and use of the distribution system, including technical, contracted and available capacities, while taking care of confidential information and data in line with the Law;

6) establish conditions and prices for connection of users to gas distribution system in accordance with methodology from article 39 paragraph (1) clause 1) herein and submit them to the Agency for approval;

7) prepare a ten year development plan for the gas distribution system from the article 41 paragraph (1) clause 4) herein, which shall be harmonized with the Energy Development Strategy, the Action plan and development plans for neighbouring gas transmission systems, which shall be updated at least every third year and shall submit it to the Agency for approval;

8) prepare annual investment plans from article 41 paragraph (1) clause 2) herein, that shall consider requirements of system users and which shall be harmonized with the ten year development plan for gas distribution system, spatial-planning documents and shall submit it to the Agency for approval;

9) publish on his web page approved methodologies and charges for connection to distribution system, distribution use of system charges and charges for distribution services, at least 15 days prior to their application;

10) maintain confidentiality of data and information that represent trade secrets i.e. commercially sensitive information, that will be obtained during carrying out of his activities, in accordance with the provisions of this Law.

(2) Distribution System Operator shall timely publish on his web page the deadlines and terms and conditions for use of distribution system.

Gas Distribution System Code

Article 117

(1) Operation and functioning of gas distribution system shall be regulated by the Gas Distribution System Code that is established by the gas Distribution System Operator for the area specified in the license.

(2) The Code from paragraph (1) herein shall regulate in particular the following:

- 1) the manner of maintenance and development of gas distribution systems;
- 2) the planning and technical requirements for planning;
- 3) operation and functioning of gas distribution system;
- 4) technical requirements for connection to distribution system and interconnection with the other gas systems;
- 5) provision of data and information to gas transmission system operator and to the other energy undertakings as required by them in order to carry out their work and business activities;
- 6) manner of functioning of gas distribution system in extraordinary or emergency situations, including market disturbances;
- 7) general conditions for usage of gas distribution system;
- 8) conditions for termination of contract on use of gas distribution system, which are not limiting nor complicating a switch to another supplier.

(3) In the procedure of establishment of the Code from the paragraph (1) of this article, gas Distribution System Operator shall ensure adequate participation of stakeholders from the gas sector and shall submit it to the Agency for approval.

(4) The Code from the paragraph (1) of this article shall be published in the „Official Gazette of Montenegro“ and on the web page of gas Distribution System Operator.

Metering of supplied gas

Article 118

(1) Gas Transmission System Operator shall meter gas deliveries on all metering points in the transmission system and on intake and delivery points with:

- 1) Gas distribution systems;
- 2) Gas storage systems;
- 3) LNG facilities;
- 4) Customers connected to transmission system.

(2) Installation, maintenance and control of accuracy of metering devices on intake and delivery points from paragraph (1) of this article, shall be carried out by Transmission System Operator, in accordance with the Law and regulations applicable to testing of metering equipment.

(3) Gas Distribution System Operator shall meter gas deliveries on all intake and delivery points of final customers connected to distribution system.

(4) Installation, maintenance and control of accuracy of metering devices and meters shall be carried out by Distribution System Operator, in accordance with the Law and regulations applicable to testing of metering equipment.

(5) Gas transmission system operator and gas distribution system operator shall prepare codes for metering on metering places and those shall be submitted to the Agency for approval.

(6) The above mentioned codes from the paragraph (5) herein shall regulate in particular, the following:

- 1) installation, acceptance, testing and maintenance of metering equipment;
- 2) collection of metering and other data from a metering place;
- 3) processing, availability and transmission of metering and other data about metering places to the data users, as well as method for grouping and storing of data;

(7) The collected and processed data from metering places shall be submitted to:

- 1) Transmission system operator, who receives data about all metering places in the transmission system and on the boundaries of the distribution system;
- 2) Distribution system operator, who receives data about all the metering places in the distribution system under his authority;
- 3) Transmission system operator, upon his request, about metering places on the boundaries of the distribution system;
- 4) Supplier who receives data about all the metering places of eligible and tariff customers supplied by him, as well as the data he requires for balancing purposes;
- 5) Generator who receives data about his own metering place;
- 6) Eligible or tariff customer, upon his request, about his own metering place.

(8) The transmission and distribution system operators and user of data shall maintain confidentiality of data in accordance with the Law.

(9) The codes from the paragraph (5) of this article shall be published in the „Official Gazette of Montenegro“ and on the web page of gas transmission system operator, i.e. of gas distribution system operator.

Storage of gas

Article 119

(1) Storage System Operator may carry out the activity of gas storage only based on the license in accordance with this Law.

(2) Storage system operator shall maintain storage system in a coordinated and integrated way in order to guarantee its optimization and security.

(3) Storage system operators shall secure and provide the stocking services to storage system users in accordance with contract for use of storage system.

Article 120

Storage System Operator may construct, maintain and operate storage systems in order to ensure security and efficiency of operation of the transmission system, and if necessary also distribution systems, harmonize seasonal, daily and hourly variations of consumption, ensure the physical balance of the system, public service obligations, and ensure capacity for eligible customers.

LNG and LPG Facility Operator

Article 121

The LNG and LPG System Operator may carry out the activity of the operation of LNG and LPG facility under license conditions based on principles of objectivity, transparency and non-discrimination that are embodied in this law.

Duties of LNG and LPG Facility Operator

Article 122

LNG and LPG facility operator shall:

- 1) operate, maintain and develop a safe, reliable and efficient LNG and LPG facility;
- 2) connect the LNG facility to transmission system pursuant to the technical rules for the transmission system and the rules for the use of LNG facility;
- 3) establish and secure a system of metering of inflows and outflows and the gas quality parameters;
- 4) offload and re-gasify LNG and LPG on the basis of signed contracts;
- 5) secure objective and equal conditions for access to LNG and LPG facility pursuant to this law;
- 6) elaborate a five-year LNG and LPG facility development plan, and update it annually, and submit it to the Agency for approval;
- 7) prepare annual investment plans from the article 41 paragraph (1) clause 2) herein, that shall consider requirements of system users and that shall be harmonized with the development plan from the clause 6) of this paragraph and with the spatial-planning documents, and shall submit them to the Agency for approval;
- 8) provide information to transmission system operator, with a view of safe and efficient functioning and development of interconnected systems;
- 9) provide information to gas market participants, on the volume and the date of interruption in LNG and LPG facility's operation and the expected reduction in LNG and LPG facility capacities;
- 10) maintain confidentiality of data and information that represent trade secrets i.e. commercially sensitive information, that will be obtained during carrying out of his activities, in accordance with the provisions of this Law.

Rights of LNG and LPG Facility Operator

Article 123

- (1) The LNG and LPG system operator shall have the right to purchase gas for its own consumption and compensation of gas losses in the LNG and LPG facility.
- (2) The LNG and LPG system operator shall have the right to limit or temporarily discontinue the contracted offloading and re-gasification of LNG and LPG, in case of:
 - 1) a direct threat to human lives, health or property with a view of eliminating such threats;
 - 2) a crisis situation and with a view of preventing a crisis situation;
 - 3) planned maintenance or reconstruction of the LNG and LPG facility;
 - 4) customer's failure to respect his contractual obligations.

Combined System Operator

Article 124

- (1) Operation of gas transmission and distribution systems, LNG and LPG facilities and of storage system may be carried out by one operator as a combined system operator.
- (2) Combined system operator may be only an energy undertaking that is independent in terms of its legal form, internal organization and decision making from other activities not related to the transmission and distribution of gas, operation of LNG and LPG facilities and storage systems.
- (3) The person responsible for the management of a combined system operator shall not be included in the structure of the integrated undertaking, which is, directly or indirectly, responsible for daily operation of the production and supply.
- (4) Provisions of the Article 133 herein shall apply for the independence of the combined system operator.

(5) The Agency shall issue separate licenses for carrying out of activity of the combined system operator.

(6) The combined system operator shall prepare a program of measures to be undertaken to avoid discriminatory conduct and its monitoring.

Gas market

Article 125

(1) Provisions of this Law governing the electricity market shall apply to organization and operation of the gas market.

(2) Market rules that will be approved by the Agency shall envisage the same conditions and requirements as for the electricity market, with exception of the organized market, and activities pertaining to market operator shall be carried out by the gas transmission system operator.

XI. ACCESS TO GAS SYSTEMS

Access to Gas Transmission and Distribution System

Article 126

(1) Gas transmission system operator i.e. gas distribution system operator shall provide non-discriminatory access to gas transmission i.e. distribution system within the limits of transmission or distribution capacities in accordance with technical rules.

(2) Gas transmission i.e. distribution system operator shall publish on his web site the terms and conditions approved by the Agency, including rules relating to use of transmission i.e. distribution system, methodologies from article 38 paragraph (1) clause 1) herein as well as prices to be paid for use of gas transmission or distribution system from article 51 paragraph (4) herein.

Article 127

(1) Gas transmission i.e. distribution system operator may deny access to the system in the event of lack of capacity or when allowing of the access to the transmission i.e. distribution system could jeopardize carrying out the public services from article 68 herein.

(2) Gas transmission i.e. distribution system operator may deny access to the transmission i.e. distribution system as a result of technical incompatibility with the system and/or economic and financial difficulties with take-or-pay contracts that are implemented for the request to access the system.

(3) In the procedure of decision making about access to the system, Transmission i.e. Distribution System Operator shall apply the provisions of the Law on General Administrative Procedure.

Access to Gas Storage Systems

Article 128

(1) Gas storage system operator shall ensure non-discriminatory access to gas storage systems or to reserve in the gas system, as well as to accompanying services.

(2) The provisions of paragraph (1) of this article shall not apply to ancillary and system services and temporary storage that is related to LNG and LPG facilities and is

necessary for the re-gasification process and subsequent delivery to the transmission system.

(3) The Agency defines the criteria for identification of priorities for access to storage systems.

(4) A storage system code shall be prepared by gas storage system operator and shall be submitted to the Agency for approval.

(5) Gas Storage System Operator shall publish on his web page the prices, terms and conditions for connection and use of storage system, as well as the code from paragraph (4) of this article.

Access to upstream gas pipeline networks

Article 129

(1) Access to upstream gas pipeline networks shall be ensured by a producer of gas to gas undertakings, with exception of those parts of these gas pipelines which are used in the production process on a location where gas is produced.

(2) Access to upstream gas pipeline networks may be limited or denied, in case:

1) of a threat to security and regularity of supply;

2) of any technical incompatibilities that may not be removed without causing unreasonable costs;

3) that would disrupt efficiency of the existing and planned production on such a location or existing obligations to the owners and all other users of that network.

(3) In the procedure of decision making about access to upstream gas pipeline networks, a producer of gas shall apply the provisions of the Law on General Administrative Procedure.

Access to LNG and LPG facilities

Article 130

(1) LNG and LPG facility operator shall ensure access to a LNG and LPG facilities in a non-discriminatory manner to all gas undertakings on the basis of published tariffs from the article 40 paragraph (2) clause 3) herein, that were prepared based on methodology from the article 39 paragraph (1) clause 2) herein, that are submitted by operators of LNG and LPG facilities to the Agency for approval.

(2) Access to upstream gas pipeline networks shall be limited or denied in cases where there is a technical constraint or if an exemption was granted in accordance with the Article 138 herein.

Responsibility to ensure confidentiality of information

Article 131

Gas transmission system operator, gas distribution system operator, storage system operators, and LNG and LPG facility operators shall not misuse commercially sensitive information obtained from the third parties in the procedure of permitting access to the systems during purchase or sale of gas.

Rules on unbundling of gas Transmission System Operator

Article 132

(1) Activities of gas transmission i.e. distribution system operator, gas storage system operator and operator of LNG and LPG facility, including those of an operator that is a part of

vertically integrated undertaking, may be carried out only in an independent legal entity and independently from other activities in the energy sector.

(2) Gas distribution system operator may carry out a non-energy activity within a horizontally integrated undertaking, provided that carrying out of that activity is functionally unbundled.

(3) Gas distribution system operators may be also carrying out other public services in the same legal person in line with this Law.

Independence of operators

Article 133

(1) Independence of gas transmission system operator, gas distribution system operator, operator of storage system and LNG and LPG facility operator, pursuant to article 132 paragraphs (1) and (2) herein, shall be ensured in a way that:

1) management members of an operator in the gas sector that is a part of a vertically integrated energy undertaking must not participate in management of other activities in the gas sector, which are different from activity of the related operator;

2) measures are undertaken that would guarantee that the operator's management members act in a professional manner, i.e. in the best interest of the company managed by them;

3) operator independently decides about resources required for operation, maintenance and development of the system it operates, independently from other activities performed by a vertically integrated undertaking.

(2) Parent undertaking must not give instructions to the system operator relating to its day to day operation nor to individual decisions on investments in a system operated by the operator, if the above mentioned decision are made in accordance with annual financial plan of the system operator.

Independence of a gas Distribution System Operator that is a part of a horizontally integrated undertaking

Article 134

(1) Independence of gas distribution system operator, in accordance with article 132 paragraph (2) herein, shall be ensured in a way that:

1) management members of a system operator in the gas sector that is a part of a horizontally integrated undertaking in the gas sector must not participate in management of other activities different to the activities of the operator;

2) measures are undertaken that would guarantee that the management members of a mixed operator act with due professional care;

3) operator independently decides about resources necessary for operation, maintenance and development of the system it operates, independently from other activities performed by a horizontally integrated undertaking.

(2) The independence of gas distribution system operator from the paragraph (1) herein shall not affect the right of a parent undertaking in a system of horizontally integrated undertaking, to approve annual financial plan of the operator and to set boundaries for its indebtedness.

(3) Parent undertaking from the paragraph (2) of this article shall not be entitled a right to give instructions to the system operator relating to its day to day operation nor to individual decisions on construction or modernization of parts of a system operated by the operator.

Unbundling and transparency of accounts of licensees in the gas sector

Article 135

(1) An energy undertaking carrying out more than one of activity in the gas sector (production, transmission, distribution, supply, operation of LNG facility and storage facilities), shall in its internal accounting, keep separate accounts for each of the mentioned activities and compile financial statements and reports that may be consolidated.

(2) For the other activities in the gas sector the provisions of article 107 herein shall apply.

Program of operator

Article 136

(1) The gas transmission system operator, gas distribution system operator, operator of a storage system and operator of LNG and LPG facility, shall each make a program of measures in order to ensure implementation of non-discriminatory conditions for access to system managed by it, and shall deliver it to the Agency for approval.

(2) Operators from paragraph (1) of this article shall submit to the Agency, not later than by March 1st of each year, an annual report on implementation of program of measures from the paragraph (1) herein, for the previous year.

(3) Operators from paragraph (1) of this article shall publish on their web site programs of measures and reports on implementation of the program of measures from the paragraphs (1) and (2) of this article.

Multiple activities in the same legal person

Article 137

(1) In case when more than one energy activity is carried out in the same gas undertaking, mutual rights and duties of the parts of that gas undertaking relating to individual activities, may be regulated by an internal act in accordance with this Law.

(2) Internal act from paragraph (1) of this article shall be submitted to the Agency and to market operator.

XII. EXEMPTIONS AND ALLOCATION OF CAPACITY

Exemptions for New Gas Infrastructure

Article 138

(1) New infrastructures, such as: interconnectors between countries, transmission gas pipelines, LNG and LPG facilities and storage systems, shall not be subject to the provisions, terms and conditions for access as stipulated under this law, including otherwise applicable tariffs, terms and conditions for access, provided that the Agency's approval is obtained previously, if:

1) the investment shall enhance competition in gas supply or enhance security of supply;

2) the level of risk attached to the investment is such that the investment would not take place unless an exemption was granted;

3) new infrastructure shall be owned by a legal or natural person that is legally separated from an operator of a system where a new infrastructure is to be connected;

4) charges for use of infrastructure facility are paid by direct users of that infrastructure;

5) the exemption is not limiting competition or the effective functioning of the gas market, or effective functioning of the system to which the infrastructure is connected.

(2) When deciding to grant an exemption from the paragraph (1) of this article, the Agency shall assess the volume of investment and duration of the project, as well as other circumstances in accordance with this Law.

(3) The Agency may specify in an act granting an exemption, the rules for management and allocation of capacity that are not disrupting the implementation of long term contracts.

(4) In the case of construction of an interconnector, an act on exemption from the paragraph (1) of this article shall be made after adequate consultation with responsible authorities from other countries.

- (5) The exemption act, shall contain, in particular the following:
- 1) the reasons for the exemption;
 - 2) the effects of the exemption on competition and the effective functioning of the gas market;
 - 3) the time period and the share in the total capacity of the gas infrastructure for which the exemption is granted;
 - 4) the contribution of the infrastructure to the diversification of gas supply.

Exemptions in Relation to “Take or Pay Commitments”

Article 139

(1) If a gas undertaking encounters serious economic and financial difficulties because of its “take-or-pay” commitments accepted in contracts, the gas undertaking may apply to the Agency for a temporary exemption from the duty to provide access.

(2) The application from the paragraph (1) of this article shall be presented either before or after denial of access to the system. The application shall contain reasons for denial of access and the manner in which the gas undertaking is to overcome the problem. The application presented after the gas undertaking had denied access shall be presented without delay.

(3) When deciding on exemption from the paragraph (1) in this article, the Agency shall take into account, in particular, the following criteria:

- 1) the objective of achieving a non-discriminatory, transparent and competitive gas market;
- 2) the need to protect public interest in carrying out of public service and to ensure security of supply;
- 3) the seriousness of the economic and financial difficulties encountered by gas undertakings, the transmission system operator or eligible customers;
- 4) the dates of signature and terms of the contracts;
- 5) the efforts made to find a solution to the problem;
- 6) the assessment of probability that serious difficulties would arise when accepting the commitments from a “take-or-pay” contract;
- 7) the level of connection of the system with other systems and the degree of inter-operability of these systems;
- 8) the effects that granting of an exemption would have on the functioning of the gas market.

(4) Gas undertakings which have not been granted an exemption as referred to in paragraph (1) of this article shall not refuse access to the system because of “take-or-pay” commitments accepted in a gas purchase contract.

(5) An act for exemption from the paragraph (1) of this article shall be published by the Agency on its web site.

Capacity Allocation and Congestion Management

Article 140

(1) System Operator shall make available the network capacity to gas market participants, taking into account system integrity and efficient system operation requirements.

(2) The gas transmission system operator shall inform the Agency, in accordance with the Agency's regulations, when increased demand for capacity reasonably creates potential congestion at an entry or exit point of the system.

(3) When the gas transmission system operator concludes new transmission contracts or renegotiates existing transmission contracts, those contracts shall specify the rights and obligations:

1) relating to congestion, when the level of demand exceeds technical capacity, and allocation of contracted but unused capacity on the primary market at least on a day-ahead basis;

2) of system users relating to permanent or temporary sale of their unused contracted capacity on a secondary market.

(4) The Agency approves the implementation of a transparent and non-discriminatory fee, as a part of transmission and transit tariffs, in order to remove congestion at identified entry or exit points.

XIII. CONNECTION TO THE TRANSMISSION OR DISTRIBUTION SYSTEM

Article 141

(1) A facility shall be connected to electricity or gas transmission or distribution system on the basis of a consent for connection issued by a transmission or distribution system operator.

(2) Transmission system operator or distribution system operator for electricity or gas shall issue consent for connection referred to in paragraph (1) of this article if there are no technical constraints in the transmission or distribution system, and if the devices and installations of the facility to be connected comply with requirements established by the Law, technical and other regulations.

Article 142

(1) Consent for connection of a facility to transmission or distribution system for electricity or gas shall be issued upon a request of a business, legal person, entrepreneur or natural person.

(2) Electricity or gas transmission or distribution system operator shall decide about a request for connection not later than 30 days as of the date of receipt of such a proper request.

(3) An exception from the paragraph (2) of this article shall be in case of generating or more complex facilities that require development of system studies and/or preparation of connection reports, where a deadline for decision about a request shall be 120 days as of the date of receipt of such a proper request.

(4) Costs of development of system studies shall be borne by electricity or gas transmission or distribution system operator, and costs of preparation of connection reports shall be borne by a system user.

(5) A complaint may be lodged against the decision referred to in paragraph (1) of this article, within 15 days as of the date of its receipt.

Article 143

(1) The consent for connection of a facility to electricity or gas transmission or distribution system shall specifically include: requirements for connection, including the place of connection and connection costs assessment, a manner of connection, technical terms and conditions for connection and a deadline for connection, as well as the place and manner of metering of delivered energy.

(2) The technical and other conditions from the paragraph (1) of this article shall be specified in line with technical and other regulations.

(3) Technical regulations relating to requests for construction, maintenance and use of energy facilities shall be issued by the Ministry.

Article 144

(1) The Transmission or Distribution System Operator shall verify compliance with requirements from the consent for connection and shall enter into the Contract for connection of a facility with a system user.

(2) The contract referred to in paragraph (1) from this article shall be concluded in writing and shall specifically include the following elements:

1) Rights and obligations of the Contract Parties with respect to the connection and maintenance of the connection device;

2) Technical and operational characteristics of a facility;

3) The manner of operation and operational conditions of the system;

4) Specification of adverse back effects from installed devices;

5) The rights and obligations concerning the quality of electricity or gas;

6) Electricity or gas metering methods in connection points;

7) Implementation of occupational health and safety measures in normal conditions and in conditions of disturbances in operation of the system;

8) Protection measures applied in the course of maintenance of facilities;

9) Mutual notification obligations;

10) Responsibilities in case of failure to meet contractual provisions;

11) Duration of contract and conditions for extension of contract;

12) Rights and obligations in the event of termination of contract;

13) If required, a detailed instructions about operational procedures to be undertaken in the transmission or distribution system and on the side of the user, that shall contain as follows:

- A sequence of required operations;

- Specified procedure for access to devices located on the premise of a user,

and

- Clear separation of authorities;

14) An amount of a connection charge and the method of payment for connection or for increase of connecting capacity.

(3) Electricity Distribution System Operator and Transmission System Operator shall enter into the Transmission System Connection Contract in writing, from the paragraph (2) of this article.

Article 145

(1) Metering devices, i.e. metering-regulation stations for connecting final consumers', i.e. energy producers' facilities to the system, shall be installed, maintained,

and calibrated by the electricity or gas transmission or distribution system operator as its own assets and he shall meter the delivered energy.

(2) Metering device, i.e. metering-regulation station from the paragraph (1) of this article shall be energy delivery point and a demarcation point between responsibilities for energy delivered between energy undertakings, i.e. between an energy undertaking and a final energy customer.

Article 146

The connection charges referred to in article 143 paragraph (1) herein shall be paid by the system user to the electricity or gas transmission or distribution system operator.

Article 147

(1) Energy undertaking supplying energy to tariff or eligible customer's facility and the final energy customer may conclude a sales contract for electricity, gas or heat prior to connecting the customer's facility to the electricity or gas transmission or distribution system or to a heat distribution system, provided however that the customer has fulfilled the obligations specified in the connection consent and that the customer's facility meets all technical and other specified requirements.

(2) The contract referred to in the paragraph (1) of this article shall be submitted to electricity or gas transmission or distribution system operator or to heat distribution system operator, who shall connect the final customer's facility to the transmission or distribution system within 15 days as of the date of submission of the contract.

(3) In case the operator of the transmission or distribution system fails to connect the final customer's facility to the transmission, i.e. distribution system within the period specified in paragraph (2) of this article, the inspector in charge shall upon the final customer's request, verify compliance with the requirements for connection within 15 days as of the date of the request, and if he ascertains that all the connection requirements were met, he shall instruct the energy undertaking to connect the facility forthwith.

Article 148

(1) It shall not be allowed to connect a facility to the electricity or gas transmission or distribution system or to the heat distribution system, in case no construction permit was granted for the construction, i.e. usage of that facility, in accordance with Law.

(2) Temporary facilities, construction sites, as well as facilities that obtained permit for trial run in conformity with the Law, may be temporarily connected to electricity or gas transmission or distribution system.

(3) The facilities from the paragraph (2) of this article shall be connected on the basis of a consent granted in accordance with this Law.

Article 149

(1) If due to technical constraints it is not possible to connect system user's facilities to the transmission or distribution system and in case the development plan of the system does not envisage construction of required infrastructure, or in case this infrastructure is planned for the later period, the system user-investor may build at this own expense the connection infrastructure.

(2) Construction of infrastructure from the paragraph (1) of this article may be undertaken upon obtaining a connection consent.

(3) An application for consent from the paragraph (2) of this article shall be accompanied with a bill of quantities and a cost estimate for works.

(4) In addition to elements from the article 143 paragraph (1) herein, with an approval of the Agency, a consent from the paragraph (2) of this article, may also contain a

manner, terms and conditions for taking over of the infrastructure from the paragraph (1) of this article, by the transmission or distribution system operator, with the aim to ensure technical-technological uniformity and operational security of the system, to ensure security of supply and to preserve the space in accordance with the spatial-planning document.

(5) Infrastructure from the paragraph (1) of this article, built in compliance with the requirements from the consent issued by the transmission or distribution system operator, is a connection to transmission or distribution system or a part of such a system.

(6) The infrastructure from the paragraph (1) of this article which in accordance with the requirements from the consent becomes a part of the transmission or distribution system, shall be handed over, on the basis of a contract, by the system user to the transmission i.e. distribution system operator for operation and use.

(7) The transmission i.e. distribution system operator shall pay the compensation based on the paragraph (6) of this article for use of the infrastructure to the system user-owner of the infrastructure.

(8) The amount of the compensation from the paragraph (7) of this article, shall be set at the level of adjusted value of investment as on the day when it becomes a part of the transmission or distribution system, by applying depreciation rate used by the system operator and shall be paid in maximum 20 equal annual instalments, with agreed interest that will take into account a rate of return on investments and average interest rate for loans for investments of the transmission or distribution system operator applicable in a year when the amount of compensation is determined.

(9) On the day of its handover to the transmission or distribution system operator for operation and usage, the built infrastructure from the paragraph (1) of this article becomes a part of the transmission or distribution system and shall be registered as a fixed asset of the system operator and on that day begins the payment of the compensation from the paragraph (7) of this article.

(10) After handover for operation and usage, the compensation from the paragraph (7) of this article, cost of maintenance, development and operation of the infrastructure from the paragraph (1) of this article, shall be included into justified costs from business activities of the transmission or distribution system operator, and in the period of implementation of the contract, no return on assets will be applied.

(11) After payment of the last instalment in accordance with the contract, the infrastructure from the paragraph (1) of this article shall become a property of the relevant transmission or distribution system operator.

(12) Rights and obligations of the system user in terms of connection shall be specified in the Connection Contract from the article 144 herein.

Article 150

(1) With the aim to ensure technical-technological uniformity and operational security of the system, and to ensure security of supply and preserve the space in accordance with the spatial-planning document, the infrastructure used for transmission or distribution of electricity, that is a property of a system user or other persons, may be assigned by a contract to the system operators for operation and usage, in accordance with the article 149 paragraphs (6), (7), (8), (9), (10), (11) and (12) herein, upon a request of the transmission or distribution system operator, and with approval by the Agency, in which case another connection point may be determined.

(2) The system user who does not agree that the infrastructure from the paragraph (1) of this article becomes a part of the transmission or distribution system, shall be obliged to obtain a license for carrying out of the activities of the system operator, if the respective infrastructure is used to supply other customers.

(3) In order to ensure undisturbed electricity flows, until he obtains the license, the system user from the paragraph (2) of this article shall be obliged to enable the system operators to use the equipment that is required for operation of the transmission or distribution system, as well as to use the unused capacities free of charge, and he shall maintain that infrastructure in functional condition.

Article 151

The electricity transmission or distribution system operator shall give priority to connection of a facility for generation of electricity from renewable energy sources provided that technical conditions permit this.

XIV. DIRECT LINES

Article 152

(1) According to definition from this Law, direct line for electricity or gas means an electricity line or a gas pipeline which is complementary to gas system or electricity transmission and distribution systems, directly connecting a customer with electricity producer, upstream gas pipeline network or a gas system of some other country.

(2) The gas undertakings may supply eligible customers through a direct line, based on an approval granted in accordance with the provisions from the article 38 paragraph (2) clause 6) of this Law.

(3) Electricity generators and electricity suppliers may carry out supply for their own needs and may supply eligible customers through a direct line, based on an approval granted in accordance with the provisions from the article 38 paragraph (2) clause 6) herein.

XV. ELECTRICITY AND GAS SUPPLY

Suppliers

Article 153

(1) Supply with electricity or gas may be carried out by an energy undertaking based on a license in accordance with this Law.

(2) Prior to beginning of supply activity a supplier shall:

- 1) enter into balancing agreement in accordance with market regulations;
- 2) enter into transmission and/or distribution use of system contract;
- 3) enter into contract for acquisition of energy and required capacities;
- 4) specify general conditions of supply in accordance with the article 39 paragraph (3) herein and shall publish them on his web page;
- 5) enter into contract for supply i.e. purchase and sale of electricity or gas with a customer.

(3) Supplier may supply a tariff or eligible customer only if the operator of transmission or distribution system to which final customer's facilities are connected, verifies alone or on the basis of a decision of the inspector in charge, that the installations meet requirements for secure supply.

(4) Supplier shall pay a charge for the use of the system, for services and compensations for operators and other persons for which compensations are paid in accordance with this Law.

(5) In the event that the final customer fails to meet his obligations specified in a contract i.e. in a bill for supplied energy, supplier shall first give a notice to the final user that

he should pay the due debt by a deadline that may not be less than eight days as of the day when the notice was delivered, i.e. should reach an agreement about settlement of debt.

(6) In the event that the final customer fails to meet his obligations from the paragraph (5) of this article by the specified deadline, the supplier shall file a request to the transmission or distribution system operator for termination of delivery of electricity or gas.

(7) The transmission or distribution system operator shall terminate delivery on the basis of request from the paragraph (6) of this article, where the termination of delivery may not begin on Friday, Saturday or Sunday, on a public holiday or on a day before the holiday.

(8) Supplier shall prepare and publish on its web page a program of measures:

1) to support tariff and eligible customers in meeting their due contractual obligations in order to prevent termination of supply;

2) to support supply of tariff and eligible customers in distant areas;

3) to encourage use of renewable energy sources and cogeneration;

4) to encourage implementation of energy efficiency.

(9) Supplier shall prepare and shall publish on its web page at least once in a year a number of tariff and eligible customers whose supply was terminated, the reasons for termination of supply, and other information in accordance with general conditions of supply.

(10) Supplier of electricity shall buy electricity from privileged generators, in a volume proportional to the share of electricity it supplies to its customers in the total electricity delivered to final customers in Montenegro.

Public Supplier

Article 154

(1) Electricity or gas supply at regulated tariffs to households and eligible customers that choose that way of supply, shall be carried out, as a public service, by an energy undertaking authorized by the Government in accordance with this Law.

(2) Public supplier from the paragraph (1) of this article shall:

1) supply households and eligible customers connected to electricity or gas distribution systems, who choose that way of supply;

2) specify general conditions of supply and shall submit them to the Agency for approval;

3) carry out supply with electricity or gas at tariffs approved by the Agency;

4) undertake measures aimed at achieving secure and quality supply to households and eligible customers who choose that way of supply;

5) undertake measures aimed at achieving most favourable energy prices that are component part of regulated tariffs.

(3) Carrying out of the function of the public supplier shall be regulated by rules from the article 38 paragraph (2) clause 5) herein.

(4) Provisions from the article 153 herein shall apply to business operations of the Public supplier.

(5) Activities of the public supplier with electricity i.e. activities of the public supplier with gas shall be carried out by energy undertaking appointed by the Government.

(6) Activities of public supplier may be carried out only by energy undertaking with a seat in Montenegro, on the basis of a license for supply.

(7) A procedure for assignment of activities to a selected public supplier of electricity and gas that shall be obliged to undertake also a supply of tariff customers shall be specified in the Government's regulation.

Supplier of last resort

Article 155

(1) Supplier of last resort shall supply final customer with electricity or gas, without prior request from the customer, in the case when:

1) supplier who was supplying the final customer is no longer in a position to carry out contracted supply activity due to bankruptcy i.e. insolvency or a serious disturbance on the market;

2) customer does not have a possibility to influence the circumstances that occurred and would lose supply without protection.

(2) This supply arrangement from the paragraph (1) of this article may continue over a period of maximum three (3) months.

(3) Methodology from the article 39 paragraph (1) clause 4) herein and tariffs for supply activity from paragraph (1) of this article shall be determined by the public supplier and submitted to the Agency for approval.

(4) The tariffs from the paragraph (3) of this article may be higher than the average price or than a tariff for supply to similar customers that are supplied on the market.

(5) Supplier of last resort shall without a delay inform the customer about conditions relating to supply service and about a tariff, and shall inform the customer that he has a right to choose a supplier.

(6) In the event as described in the paragraph (1) of this article every customer is entitled to choose a supplier.

(7) The provisions of the article 153 paragraphs (5) and (7) herein shall not apply to the supplier of last resort.

(8) Supplier of last resort shall prepare and publish on its web page, at least once in a year, information about a number of customers supplied, total quantity of electricity or gas delivered, average period of supply for this form of supply activity, separately for households and other customers.

(9) For all a customers supplier of last resort shall be a Public supplier.

(10) Customers connected to transmission system shall provide a bank guarantee in the amount of three-monthly invoices for planned consumption calculated on the basis of applicable tariff rates and shall give it to a supplier of last resort, that may begin with carrying out the function of a supplier of last resort for those customers after receiving a bank guarantee.

Supplier of vulnerable customers

Article 156

(1) Vulnerable customers are households that are connected to electricity or gas distribution system, composed of persons:

1) in need of social support whose social status is determined by a responsible authority, and

2) who are disabled, who have special needs and with poor health condition, who may be exposed to a threat to life or health as a result of a limitation or termination of energy supply.

(2) A regulation of a State administration authority responsible for the social care shall specify in more details a procedure for exercising of rights from the paragraph (1) of this article, as well as measures aimed at protecting the vulnerable customers.

(3) Supplier shall enter into a supply contract and shall begin supplying the customer without delay after the customer submits a request accompanied with the evidence on cumulatively meeting requirements from the paragraph (1) of this article.

(4) The Agency shall set the tariffs for electricity supply to vulnerable customers to whom the supply service shall not to be terminated.

(5) Vulnerable customers are entitled to a supply service pursuant to this article of the Law as long as the conditions from the paragraph (1) of this article are fulfilled, which shall be checked at least every 6 (six) months.

(6) The difference between costs and revenues from the activity of a supplier for vulnerable electricity or gas customers shall be covered by the Government.

(7) Supplier of vulnerable customers shall be public supplier of electricity or gas.

Rules on switching suppliers

Article 157

(1) The rules on switching suppliers from the clause 38 paragraph (2) clause 7) herein shall govern terms and conditions and a procedure for switch to a new supplier of electricity or gas.

(2) The procedure for switch to a new supplier in accordance with the rules from the paragraph (1) shall be implemented free of charge upon a request of final customer:

1) where the old supplier shall make available the required data to the system operator and to a new supplier, including a debt balance of the final customer;

2) where a new supplier shall sign a supply contract;

3) where this switch to another supplier will be registered by the electricity or gas transmission or distribution system operator upon a request made by new supplier or by the final customer;

4) where new supplier shall undertake balancing responsibility;

5) where the transmission and distribution system operator shall ensure sufficient capacity to new supplier;

6) with finalization of the procedure when the new supplier begins carrying out the supply service, i.e. when the old supplier is notified by the transmission or distribution system operator that his supply obligation no longer exists.

(3) The supplier whose contract is in a termination procedure may not condition termination of the contract with the outstanding claims, *iter alia*, and shall, with exception of a case from the article 153 paragraph (6) herein, supply the customer until the finalization of the supplier switching procedure.

(4) Any dispute resulting from complaints made by final customers or suppliers relating to this procedure shall be resolved by the Agency.

(5) A complaint shall not defer procedure of switching to another supplier and entry into force of a new supply contract.

Rights and obligations of customers

Article 158

(1) Final customers for electricity or gas shall be eligible customers with exception of households which are tariff customers for electricity or gas.

(2) Eligible customers are entitled to a choice of a supplier and to switch to a new electricity or gas supplier.

Article 159

(1) In the event of any technical or other disturbances in delivery of energy, which is not caused by a fault on customer's facility, the final customer is entitled to request those disturbances to be removed in the shortest possible time.

(2) The energy undertaking shall be obliged to remove the disturbances from the paragraph (1) of this article within the shortest possible time, in accordance with standards

for implementation of adequate works, and maximum 24 hours from receipt of the notification, with exception of cases when this is objectively not possible to be done.

(3) Disturbances in delivery of energy as referred to in paragraph (1) of this article shall not be understood as interruptions in delivery of energy caused by implementation of limitation of delivery measures as described in the article 171 herein.

(4) The final customer shall use the energy under the terms and conditions specified in the energy supply contract, and in accordance with the Law.

(5) Final customer shall use the energy for his own needs, under conditions applicable to that category and group of consumption specified in the connection consent.

(6) Final customer shall enable access for responsible persons from energy undertakings to metering devices and installations, as well as to connection point for reading purpose, check of accuracy, repairs, replacement and maintenance of devices and in order to relocate the metering points outside of a facility, i.e. on the ownership boundary, or in order to terminate delivery of energy in cases of unauthorized use of electricity by owner or lodger or when the owner or lodger fail to pay a bill for invoiced electricity in accordance with specified terms and conditions.

Customer protection

Article 160

(1) The supplier shall enter into supply contract in writing with final customer.

(2) The contract from the paragraph (1), shall include, in particular:

1) the services provided by the supplier, including the time of beginning and quality of supply;

2) the means by which information about applicable tariffs and maintenance charges may be obtained;

3) the duration of the contract, the conditions for renewal and termination of services;

4) the manner in which compensations in case of failure to comply with contracted services are established;

5) the method for settlement of disputes in accordance with the article 49 herein.

(3) Supplier shall carry out supply to final customers in accordance with the general supply conditions, that have to be published at least 15 days prior to beginning of supply, and they shall contain, in particular, the following:

1) procedure for modification of contractual supply conditions and a right of the final customer to withdrawal;

2) procedure for notification about increase in charges before the increase comes into effect;

3) procedure for information about applicable prices, tariffs, and standard terms and conditions, especially those relating to access and services;

(4) Supplier shall publish on his web page prices and tariffs for households - eligible customers.

(5) Supplier shall bill and charge all the final customers under the same conditions as a public supplier the following:

1) for use of transmission and distribution systems for electricity or gas;

2) a charge for operation of Market Operator;

- 3) a charge for ancillary and system services;
 - 4) a compensation for encouragement of renewable energy sources;
 - 5) other charges in accordance with the Law.
- (6) Supplier shall pay for the use of the system, services and charges to operators and other persons for which compensations are collected in accordance with this Law.
- (7) Supplier shall charge energy and services on the basis of bills that have to be clear and comprehensible.

XVI. HEAT SECTOR ACTIVITIES

Production of heat for district heating

Article 161

(1) Production of heat for district heating and/or cooling purpose or for industrial use is intended for supply of heat to final customers.

(2) A heat producer producing heat for district heating and/or cooling or for industrial use, shall deliver the produced heat to the heat supplier for district heating and/or cooling or for industrial use.

(3) When choosing technology for production of heat, the producer of heat from the paragraph (2) of this article shall give preference to technologies entirely or partly based on renewable energy sources or high-efficiency cogeneration.

(4) Local government authority shall prepare annual demand balance with quantities of produced and delivered heat for district heating and/or cooling or for industrial use based on demand of final customers.

(5) Producer of heat from the paragraph (2) of this article shall maintain production capacities, substations and other installations in proper operating condition, ensure their constant operational and functional availability and safe operation in accordance with technical and other regulations and standards relating to operational conditions for such facilities and installations, and environmental protection conditions stipulated by the Law.

Article 162

Local government authority shall keep the register of heat producers for district heating and/or cooling or for industrial use, specifically containing data on: heat producing facilities, their location, installed capacity of heat production plants, anticipated operational life, construction and operational conditions for these plants; type of primary source used, and entities carrying out energy activity of heat production for district heating and/or cooling purpose or for industrial use in those facilities.

Heat distribution and supply

Article 163

(1) A heat distributor shall operate the heat distribution system and shall supply tariff customers with heat for district heating and/or cooling or for industrial use under conditions stipulated herein or by regulations passed by the relevant authority in the local government.

(2) A heat distributor from the paragraph (1) of this article shall:

1) distribute heat to all heat customers within the area of its activity and shall operate the distribution system according to the principles of transparency and non-discrimination;

2) ensure maintenance, functioning and development of the heat distribution system adjusted to the needs of customers whom it supplies with heat within a certain area;

3) prepare development plan that will specify the way and timing for construction of new and reconstruction of the existing distribution system and other distribution capacities in a period of five years, as well as implement that plan;

4) ensure connection for new installations that use renewable energy sources or high-efficiency cogeneration.

Article 164

(1) A heat distributor for district heating and/or cooling or for industrial use shall adopt the distribution system Code with the approval of the relevant authority in the local government.

(2) The distribution system Code from the paragraph (1) of this article shall specifically regulate:

- 1) technical conditions for connection of users to the system;
- 2) technical conditions for connection with producers;
- 3) technical and other conditions for secure operation of the distribution system and for ensuring reliable and continuous heat supply to customers;
- 4) emergency procedures;
- 5) functional requirements and metering devices accuracy level as well as heat metering method.

(3) The Code referred to in the paragraph (1) of this article relating to metering of delivered heat, shall specify:

- 1) that metering should be ensured on the entry into house of each customer;
- 2) that incentives and tariff reliefs shall be envisaged for customers who install metering devices on the entry into house.

(4) When carrying out heat supply activity, a heat distributor from the paragraph (1) of this article shall publish:

- 1) general conditions for heat supply;
- 2) tariff system for heat supply.

(5) After approval, the Code from paragraph (1) and general conditions from the paragraph (4) clause 1) of this article, shall be published by a heat distributor from the paragraph (1) in journals of local government authority and in the „Official Gazette of Montenegro - municipal regulations“.

(6) Relevant authority in the local government shall specify in its regulation, in accordance with the Law, in relation to heat supply for district heating and/or cooling or for industrial use, the following:

- 1) terms and conditions for ensuring continuity in supply of customers with heat within a certain area;
- 2) rights and obligations of producers and distributors of heat;
- 3) rights and obligations of customers for heat;
- 4) tariff systems, and give consent to prices of heat; and
- 5) other conditions ensuring regular and secure supply of customers with heat.

(7) Relevant authority in the local government shall specify in the regulation from the paragraph (6) of this article, a requirement to give preference to technologies using renewable energy sources and cogeneration in production of heat, when choosing technology for district heating and/or cooling or for industrial use.

XVII. SECURITY OF SUPPLY AND MEASURES IN THE EVENT OF DISTURBANCE ON THE ELECTRICITY AND GAS MARKET

Security of supply

Article 165

(1) Annual report about security of energy supply and expected energy demand shall be prepared by the Ministry and it shall be submitted to the Government by 30th of June of the current year, for the previous year.

(2) The report from the paragraph (1) of this article shall contain:

- 1) operational security of the transmission and distribution systems for electricity and gas;
- 2) generation and demand balance forecast for the next five year period;
- 3) expected security of supply conditions in the next five to fifteen years;
- 4) investment plans of the transmission system operator and of the user of the transmission system for electricity or gas in the next five or more years including construction of cross-border lines;
- 5) principles applied in congestion management in transmission and distribution systems in accordance with international regulations;
- 6) existing and planned electricity or gas transmission system lines;
- 7) expected development of generation, supply, cross-border exchange and consumption, while taking into account demand-side management measures;
- 8) local, national and European objectives in terms of sustainable development, including international projects.

(3) The report from the paragraph (1) of this article shall be published on the Ministry's web page, while previously obtaining an opinion from the Agency.

Article 166

(1) In the event of a disturbance on the market caused by unexpected power deficit, immediate threat to independence and unity of the country, as well as in the event of a big natural disasters or technological catastrophes (emergency situation), the Government may prescribe:

- 1) measures limiting trade in certain energies;
- 2) special trading conditions;
- 3) measures limiting export or import of energy;
- 4) special conditions for export or import of energy;
- 5) measures of compulsory energy generation;
- 6) priorities in energy delivery to customers.

(2) Transmission and distribution system operators shall ensure, in accordance with this Law, adequate capacities for cross-border transmission of energy and for security of energy supply and shall exchange data between themselves in the event of a threat to security of supply or measures referred to in the article 170 paragraph (1) or the article 171 paragraph (1) herein.

(3) The system operators shall ensure implementation of the measures from the paragraph (1) of this article in a transparent and non-discriminatory manner that will not violate the market rules.

(4) The measures from the paragraph (1) of this article are temporary and may be implemented until removal of disturbances from the paragraph (1) of this article.

Measures in the event of a disturbance on the market and general electricity deficit and responsibility for implementation of measures

Article 167

(1) The electricity transmission and distribution system Codes shall regulate operation of the system in normal and in crisis situation with disturbances on the market i.e. general electricity deficit.

(2) Development plans, investment plans required by the Law and incentives for investments shall envisage, specifically, the measures for prevention of electricity deficits.

Measures in the event of disturbances on the market and general gas deficit and responsibility for implementation of measures

Article 168

(1) Supplier of gas that in the previous year supplied 20% or more of the total gas sold in Montenegro, shall in the event of disturbances at the source or in the transportation route, ensure at least 30% of quantities contracted for normal gas supply in the current year, by acquiring them from other sources or from storages or through some other transport route.

(2) By 31st of January of the current year Supplier shall submit a report on ensuring security of supply in the previous year to the Ministry and to the Agency, which report shall specifically contain the following:

1) measures aimed at ensuring security of supply, criteria and implementation method for those measures;

2) extent of storage capacities used and information about long-term agreements that were concluded;

3) indicative objectives towards ensuring security of supply for the next 5 (five) years and planned measures, including storage.

(3) The Government shall specify in a regulation possible measures for ensuring security of supply as well as detailed contents of the report from the paragraph (2) of this article.

Article 169

(1) Special customers shall have priority in supply in cases of disturbances or deficits, such as are:

1) households;

2) customers carrying out health service, rehabilitation, education and social care activities;

3) customers using gas for heating of consumers from the clauses 1) and 2) of this paragraph or producing heat for district heating and/or cooling from the clauses 1) and 2) of this paragraph, in the scope as required for these customers;

4) gas system operators for the purpose of system functioning.

(2) Special customers from the paragraph (1) of this article, with exception of households, shall inform their suppliers about type of consumption and required quantities on their intake and delivery points for periods as required by a supplier, not later than two months from receipt of a request.

(3) Any dispute arising from granting a status of special customer to customers or withholding this status, shall be resolved by the Agency pursuant to the paragraph (1) of this Article.

Article 170

(1) A supplier supplying special customers from the article 169 herein with gas, shall supply gas even in the following conditions:

1) partial limitation of supply by 20% of quantities relative to the quantities from the previous year, on the level of the country, in a period as specified by the Government, but not longer than 30 days;

2) extremely low average temperature during a period of 5 days, that according to statistics happens every 20 years, between December 1st and the last day of February.

(2) A supplier shall ensure sufficient quantities of gas:

1) required to ensure the same level of consumption as before the limitation, taking into account weather temperatures in the relevant period;

2) to ensure adequate heating of premises when the outside temperatures are extremely low.

(3) Supplier who supplies special customers from the article 169 herein shall provide information in the report from the article 168 paragraph (2) herein, about the following:

1) quantities of gas consumed for supply to special customers in the previous year;

2) measures undertaken and the manner in which security of supply was ensured in the events as described in the paragraph (1) of this article, and the way in which additional quantity of gas was obtained and a customer supply obligation from the paragraph (2) of this article ensured.

(4) The Ministry shall specify in a regulation more details with respect to obligations from the paragraph (1) of this article and a period of their implementation, the way in which quantities required for ensuring security of supply are to be determined, as well as a way to demonstrate that suppliers are implementing the measures from this article.

Article 171

(1) In the event of extreme conditions from the article 170 paragraph (1) herein or in the event of other circumstances due to which supply in Montenegro is seriously disturbed over a longer period, transmission and distribution system operators shall undertake all measures within the limits of secure functioning of the system, in order to ensure supply with gas for special customers.

(2) The system operators shall publish on their web site a plan of urgent measures to ensure supply for special customers.

(3) If due to scope or duration of extreme conditions from the article 170 paragraph (1) herein, the planned measures are insufficient to ensure supply for special customers, the transmission and distribution system operators shall limit or suspend the delivery of gas on customers' intake points.

(4) All the customers with exception of households shall give information to the operators of the system to which their devices are connected, about their devices. The system operators shall publish on their web page a request for data and forms for such data.

(5) The Government shall specify in a regulation the groups of customers and types of devices and sequence of limitations and interruptions in supply, taking into consideration the way gas is used by certain types of customers, necessity of gas for life and health of people, and type and scope of damage caused by the limitation or interruption in supply.

Article 172

(1) Transmission and distribution system operator shall report regularly and without a delay on each implementation of the measures from the article 171 to the Ministry and to the Agency.

(2) In the event of limitations or interruptions in supply in the cases as described in the article 171 herein, the operator of the transmission or distribution system, supplier and customer shall bear costs of those measures.

XVIII. FUEL RESERVES

Operational reserves

Article 173

(1) Energy undertakings generating electricity or heat for district heating or producing or importing oil and petroleum products (with the exception of transit) shall establish and replenish the strategic and operational reserves.

(2) Operational reserves of oil and petroleum products from the paragraph (1) of this article shall be ensured by energy undertakings that produce or import oil and petroleum products in the scope which ensures undisturbed supply of those products to the market in conditions of undisturbed market operation.

(3) The Government shall issue a regulation specifying required operational reserves of energy, a procedure for ensuring a space for their storage, the procedure and conditions for their usage and replenishing, as well as procedures for management of operational reserves.

(4) The operational reserves of oil and petroleum products shall be preserved separately from strategic reserves.

Strategic reserves

Article 174

(1) In order to ensure security of supply, energy undertakings supplying customers with oil and petroleum products and customers for petroleum products that are not supplied by those energy undertakings, shall ensure strategic reserves of oil and petroleum products in the total quantity that is equal to 90 days of average consumption in a previous year in Montenegro.

(2) Strategic reserves of oil and petroleum products from the paragraph (1) of this article, shall be ensured by legal persons that sold to their customers at least 25 tones of crude oil or petroleum products in a previous year, and by new market participants, whose obligation is calculated on the basis of estimate of sale in the first year of business operation, which shall be at least 50 tones of crude oil or petroleum products.

(3) Management of strategic reserves is a public service which shall be carried out by a legal person established by the Government pursuant to this Law, and oil and petroleum products are property of persons from the paragraphs (1) and (2) of this article.

(4) Persons from paragraphs (1) and (2) of this article shall pay a charge for establishing, maintenance, and management of strategic reserves in accordance with the Government's regulation.

(5) Strategic reserves of oil and petroleum products from the paragraph (1) of this article may be stored in storage capacities in Montenegro and in other countries.

(6) The Government shall specify:

1) deadlines and conditions for beginning and timeline for establishing of strategic reserves of oil and petroleum products, and a corresponding methodology governing setting of a maximum retail sale price for products;

2) deadlines and conditions including financial ones relating to management and maintenance of the strategic reserves in line with international commitments from ratified international agreements;

3) deadlines and conditions for storage including requirements and conditions relating to location of storage capacities;

4) deadlines and conditions for quality checks and replenishing of reserves;

5) compensation and a method of payment of compensation for establishment, storage and management of the strategic reserves.

(7) Importers and exporters of oil and petroleum products shall declare to the Ministry each import and export of petroleum products.

(8) The procedure in which import and export of oil and petroleum products is to be declared, as well as a form of data, deadlines and other requirements shall be specified by the Ministry in a regulation.

XIX. SETTING OF PRICE OF COAL REQUIRED FOR GENERATION OF ELECTRICITY

Article 175

(1) Delivery of coal for generation of electricity in Montenegro shall be carried out on the basis of contracts between producers of coal and generators of electricity.

(2) Coal supply contract from the paragraph (1) of this article shall include, specifically:

- 1) price, quality and quantity of coal to be supplied;
- 2) the requirements established in the Energy balance;
- 3) the requirement to store coal reserves in a quantity sufficient to ensure an uninterrupted operation of thermal power plants and heating plants for not less than fifteen (15) days.

XX. PROTECTION OF ENERGY FACILITIES

Article 176

(1) Owners i.e. holders of real estate shall allow energy undertakings free access to the real estate and on real estate where energy facilities are located or built, in order to carry out construction and maintenance works and control of proper condition of facility, device, installation or equipment and to carry out of other necessary works.

(2) The energy undertaking referred to in paragraph (1) of this article shall indemnify the owner of real estate for any damage caused during the works, with a mutually agreed amount.

(3) In case the owner of the real estate and the energy undertaking fail to reach an agreement referred to in paragraph (2) of this article, the competent court shall decide the amount of indemnity.

Article 177

(1) Responsible state authority can order the relocation of an energy facility only on account of the construction of traffic, energy and utility infrastructure facilities, national defence facilities, water management facilities and facilities for protection against natural disasters, as well as other facilities considered to be of public interest in accordance with the Expropriation Law, and which cannot be built on another location due to natural or other characteristics, as well as in the case of construction of mining facilities and implementation of mining works.

(2) In the case referred to in paragraph (1) of this article, the costs of energy facility relocation, including construction costs, i.e. costs of moving that energy facility on another site shall be borne by the investor of the facility due to the construction of which the energy facility is being relocated.

Article 178

(1) The construction of facilities not intended for energy activities, as well as other works beneath, above or next to the energy facilities, contrary to Law, as well as technical and other regulations shall be prohibited.

(2) The planting of trees and other plants on land above and beneath or in inadequate distance from the energy facility shall be prohibited.

(3) The system operator within which area the energy facility is located, shall regularly remove trees and other plants jeopardizing the functioning of the energy facility.

(4) Owners and holders of other real estate rights on real estate located beneath, above and next to an energy facility cannot undertake works or other activities which prevent or jeopardize the operation and functioning of the energy facility without prior permit of the energy undertaking who is the owner, i.e. user of that energy facility.

(5) Upon a request of an owner or a holder of other real estate rights on real estate located beneath, above or next to the energy facility, the energy undertaking may grant the permit for works referred to in paragraph (4) of this article within 15 days as of the date of the request.

XXI. UNAUTHORIZED USE OF ENERGY

Article 179

(1) Arbitrary connection of a facility, device or installation to the transmission or distribution system for electricity or gas, or installation of another customer, as well as connection to the heat distribution system for district heating and/or cooling shall be prohibited.

(2) The use of energy without a measuring device or bypassing measuring devices or contrary to the regulations or conditions stipulated by supply contract that regulates supply with energy shall be prohibited.

(3) Legal or natural person responsible for unauthorized use of electricity or gas shall compensate damages to operator of the transmission or distribution system to which his devices are connected, at a price applied by a public supplier for the same category of customers, as applicable on the day of payment.

(4) Unless otherwise specified by the methodology from the paragraph (6) of this article, the level of damages shall be equal to annual consumption of that customer, or it shall equal to average annual consumption of that same category of customers, whatever is more favourable for the supplier.

(5) In case the electricity or gas transmission or distribution system operator detects unauthorized energy use by a legal or natural person, as referred in paragraphs (1) and (2) herein, it shall:

- 1) forthwith disconnect that facility from the transmission or distribution system;
- 2) calculate and charge such unauthorized electricity or gas use in accordance with paragraphs (4) and (6) of this article.

(6) The level of damages from unauthorized use of energy shall be calculated on the basis of the methodology from the article 39 paragraph (1) clause 3) herein.

Article 180

(1) Distribution system operator shall prepare a program of measures for detection, determining, demonstration, and prevention of unauthorized electricity use.

(2) The program of measures from the paragraph (1) of this article shall contain, specifically, the following:

- 1) Ways and procedure for detection, determining and demonstration of unauthorized electricity use;
- 2) Plan of regular, temporary and additional metering;

- 3) Method for processing of collected data;
- 4) Procedures for maintaining confidentiality of information;
- 5) Internal measures in energy undertakings with objective to prevent irregularities related to unauthorized electricity use;
- 6) Educational measures and public campaigns;
- 7) Other measures and activities required for efficient prevention of unauthorized electricity use;
- 8) Estimate of required funds and assessment of effects from the proposed measures.

XXII. ACQUISITION OF ELECTRICITY

Article 181

(1) Acquisition of electricity or gas as required for balancing of the system, system services, for covering of losses in the system, for those forms of supply specified herewith as a public services, as well as acquisition of electricity on an organized market and acquisition of oil and petroleum products on exchange market, shall be exempted from provisions of the Public Procurement Law.

(2) In case of breakdowns and urgent overhaul works on devices and installations, that were not possible to be foreseen by an energy undertaking, and where necessary to carry out urgent acquisition of spare parts or services, the provisions of the Public Procurement Law shall not apply.

(3) Energy undertakings shall report about such acquisitions that were carried out in accordance with the paragraphs (1) and (2) of this article to the authority responsible for Public Procurement within 15 days from performed procurement.

(4) Authority responsible for public procurement shall publish on its web page without delay the report from paragraph (3) of this article.

XXIII. INSPECTION SUPERVISION

Article 182

(1) Supervision of implementation of laws and other regulations applicable to designing, generation, construction and proper technical operation, technical security, standards, technical regulations and quality standards for products and services, use and operational availability of facilities, installations and devices, as well as other regulations in the energy sector shall be performed by the Ministry.

(2) The activities of inspection supervision within the competence of the Ministry shall be carried out by energy inspectors, as follows: electrical energy inspectors and thermal energy inspectors.

Article 183

(1) The activities of an electrical energy inspector may be carried out by graduate electrical engineer, of energy specialty, with minimum five years of working experience in his profession, who passed relevant professional examination and who meets other legal requirements.

(2) The activities of an thermal energy inspector may be carried out by graduate mechanical engineer of thermal energy specialty, with minimum five years of working experience in his profession, who passed relevant professional examination and who meets other legal requirements.

(3) Inspector shall be independent in his work within the limits of his competence specified by the Law and other regulations, and shall be personally accountable for his work.

(4) The Ministry shall prescribe more detailed form and contents of the inspector's identity card.

Rights and Duties of Electrical Energy Inspector

Article 184

(1) Electrical energy inspector shall carry out inspection supervision of designing, production, construction, operation and maintenance of facilities for production, transmission and distribution of electricity and other electric power facilities and installations in accordance with authorities specified herein.

(2) Electrical energy inspector shall have the right and duty to monitor implementation of Law, regulations, standards and technical regulations:

1) in a procedure of obtaining of an authorization and permit for construction and reconstruction of electrical power facilities i.e. implementation of assembly and fitting works for installations, devices and equipment;

2) during preparation of technical documentation for the construction and reconstruction of electrical power facilities;

3) in production of electric power devices and equipment and construction, i.e. production of electrical power facilities, i.e. implementation of works pertaining to assembly and fitting of installations, devices and equipment;

4) in carrying out of electricity production, transmission and distribution activities and supply within the limits of authorities of the inspection;

5) in maintenance and operation of electrical power facilities, devices, metering assemblies and installations;

6) with respect to professional qualifications and working competences of persons operating and handling electrical power facilities and equipment as well as of persons responsible for maintenance and construction of electrical power facilities, devices and installations;

7) with respect to quality of delivered electricity, reliability and security of operation of electrical power facilities and delivery of electricity.

(3) Electrical energy inspector shall also carry out other activities stipulated by Law or by regulations adopted based on the Law.

Rights and Duties of Thermal Energy Inspectors

Article 185

(1) Thermal energy inspector shall carry out inspection supervision of:

1) designing, production, construction, operation and maintenance of facilities for: production, processing, storage and distribution of natural gas and LNG and production, transport and distribution of heat for district heating or for industrial use, in accordance with his authorities stipulated herein;

2) designing, production, construction, operation and maintenance of: boiler facilities (steam, hot water, thermal oil and warm water), fixed or movable pressurized vessels, cooling and other thermal energy facilities, devices and equipment;

3) professional qualifications of persons carrying out designing, production, supervision, operation and maintenance of thermal energy facilities, devices and pressurized equipment;

- 4) efficient and economical use of heat.
- (2) Thermal energy inspector shall have the right and duty to verify:
- 1) whether a permit for fitting, construction and reconstruction of thermal energy installations, devices and pressurized equipment was obtained from the competent authority;
 - 2) whether technical documentation for construction, fitting and reconstruction of thermal energy installations, devices and pressurized equipment was prepared in line with Law, technical regulations and standards;
 - 3) whether manufacture, installation, testing and maintenance of pressurized equipment is carried out in accordance with the law, technical regulations and standards;
 - 4) whether energy undertakings carrying out activities of production, transport, distribution and delivery of heat for district heating or industrial use, transport, distribution and delivery of natural gas and LNG have met legal requirements for carrying out of those activities;
 - 5) whether pressurized equipment is maintained, controlled and tested regularly during operation in line with the technical regulations and standards;
 - 6) regularity of delivery and quality of fuels and heat delivered to customers.
- (3) Thermal energy inspector shall also carry out other activities stipulated by the Law or by regulations adopted based on the Law.

Authorities of Inspectors

Article 186

- (1) In carrying out inspection supervision, electrical energy inspector and thermal energy inspector shall be authorized to:
- 1) order removal of detected deficiencies and defects within time they specify;
 - 2) suspend construction of an energy facility, i.e. installation of devices, plants and installations or pressurized equipment if:
 - detected deficiencies and defects were not removed within the specified period of time;
 - construction of energy facilities, devices, plants and installation is carried out without the permission of the competent body or contrary to technical documentation on the basis of which the permission was granted;
 - 3) prohibit carrying out of energy activity or construction of energy facility in the event of failure to obtain a permit for carrying out of activities or an act allowing construction of that facility;
 - 4) order suspension of further construction works or use of energy facility, i.e. suspension of supply with energy or use of energy, if those facilities are not constructed, used or maintained in accordance with approved documentation or documentation verified in accordance with specific technical and other regulations, and if this causes an immediate threat to stability and safety of energy facilities, human lives and health, or safety of traffic or neighbouring structures;
 - 5) prohibit the use of an energy facility, i.e. devices, plants or installations and pressurized equipment if:
 - the operation of an energy facility, device, plant or installation is a threat to lives and health of people and property;
 - detected deficiencies and defects were not removed within the period specified in the decision on the suspension of use i.e. operation of the facility;
 - the license of an energy undertaking for carrying out activities in an energy facility is revoked due to non-compliance with prescribed conditions, with exception of cases referred to in article 59 herein.

(2) The energy undertaking, enterprise and entrepreneur ordered by the inspector's decision to remove deficiencies or defects shall notify the inspector in writing about the removal of deficiencies or defects within the period specified in the decision.

(3) For works undertaken without a permit from the article 178 paragraph (5) herein, inspector in charge shall, pursuant to the law, request works to be terminated or civil structures to be demolished.

Article 187

(1) The inspector cannot prepare or participate in the preparation of technical documentation and in technical review of the technical documentation for facilities which are subject of inspection supervision, or carry out professional supervision of construction, i.e. works on the facilities which are subject of inspection supervision.

(2) Energy undertaking, enterprise and other owner of an energy facility, device or installation shall enable the inspector to carry out unhindered inspection supervision, allow his entrance to facilities, place at his disposal all the requested data, documents and reports required for the inspection supervision.

(3) Inspection supervision shall be carried out in accordance with law regulating inspection supervision.

(4) A record about inspection supervision of facilities under authority of the Agency shall be submitted to the Agency upon a request.

XXIV. PENAL PROVISIONS

Offences

Article 188

(1) A cash fine in the amount ranging from fifty (50) to three hundred (300) minimum salaries in Montenegro, shall be imposed for an offence on a business undertaking or another legal person and entrepreneur, if:

1) it fails to prepare and to submit to the Ministry data required for preparation of the energy balance by the specified deadline or if it fails to harmonize its balance with the Energy Balance of Montenegro (article 15 paragraph (4));

2) it carries out energy activity without having a license (article 55 paragraph (1));

3) it carries out an energy activity after expiration of the license (article 55 paragraph (6));

4) it carries out an energy activity after revocation of the license (article 58 paragraph (3) and article 59 paragraph (1));

5) it carries out energy activity contrary to the electricity transmission Grid Code i.e. the electricity distribution Grid Code (article 86 paragraph (1) and article 91 paragraph (1));

6) it carries out energy activity contrary to provisions of the market rules (article 96);

7) it fails to maintain confidentiality of classified, commercial, business and other data it obtained while carrying out energy activity (article 102);

8) it carries out energy activity contrary to gas transmission system Code i.e. distribution system Code (article 114 paragraph (1) and article 117 paragraph (1));

9) it fails to connect a system user who was granted a consent for connection to transmission i.e. distribution system or fails to do that by specified deadline (article 142 paragraphs (2) and (3) and article 147 paragraphs (2) and (3));

10) it fails to enable system operators to use equipment that is necessary for functioning of transmission or distribution system, as well as to use unused capacities free

of charge and fails to maintain that infrastructure in functional condition (article 150 paragraph (3));

11) it suspends supply of electricity to a consumer contrary to the article 153 paragraph (7) and article 179 paragraph (5) clause 1);

12) fails to comply with request of the transmission or distribution system operator referred to in article 98 paragraph (2) or refuses to enter into contract from article 98 paragraph (3) herein.

(2) A cash fine ranging from three (3) up to twenty (20) minimum salaries in Montenegro, shall be imposed on an authorized person in the business undertaking or in other legal person, for an offence laid out in the paragraph (1) of this article.

(3) A cash fine ranging from ten (10) up to twenty (20) minimum salaries in Montenegro, shall be imposed on a natural person for an offence laid out in the paragraph (1) of this article.

Article 189

(1) A cash fine ranging from ten (10) up to hundred fifty (150) minimum salaries in Montenegro, shall be imposed for an offence on any business undertaking or any legal person and entrepreneur if:

1) it connects a facility to the transmission or distribution system without previously obtained connection consent from the transmission or distribution system operator (Article 141 paragraph (1));

2) it fails to use energy under conditions from the connection consent (Art 159 paragraph (5)).

(2) A cash fine ranging from three (3) up to twenty (20) minimum salaries in Montenegro, shall be imposed on authorized person in the business undertaking, i.e. in another legal person, for an offence laid out in the paragraph (1) of this Article.

(3) A cash fine ranging from three (3) up to ten (10) minimum salaries in Montenegro, shall be imposed on a natural person for an offence laid out in the paragraph (1) of this article.

Article 190

(1) A cash fine ranging from ten (10) up to one hundred (100) minimum salaries in Montenegro, shall be imposed for an offence on an business undertaking or another legal person and entrepreneur, if:

1) it fails to allow authorized persons from an energy undertaking access to metering devices and installations, as well as to a connection point for the purpose of control, maintenance, relocation or termination of supply with energy (article 159 paragraph (6));

2) it fails to allow authorized persons from an energy undertaking access to the real estate and on the real estate on which energy facilities are located or are built (article 176 paragraph (1));

3) it builds structures and undertakes works beneath, above or next to an energy facility without prior permission of energy undertaking or if it plants trees and other plant on the land beneath, above or in the immediate vicinity of an energy facility, which are disturbing generation, transmission, distribution or delivery of energy (article 178 paragraphs (1), (2) and (4)).

(2) A cash fine ranging from three (3) up to twenty (20) minimum salaries in Montenegro, shall be imposed on an authorized person in a business undertaking, i.e. in other legal person for an offence laid out in the paragraph (1) of this article.

(3) A cash fine ranging from three (3) up to ten (10) minimum salaries in Montenegro, shall be imposed on a natural person for an offence laid out in the paragraph (1) of this article.

XXV. TRANSITIONAL AND FINAL PROVISIONS

Article 191

(1) Not later than one (1) year after the entry into force of this Law, energy undertakings carrying out energy activity on the date of effectiveness of this Law, shall make their business operations compliant with this Law.

(2) Legal unbundling of distribution system operator from the article 104 herein shall be carried out not later than one (1) year after the entry into force of this Law.

(3) Until establishment of the market operator in accordance with the article 94 herein, the activities of market operator shall be carried out by the transmission operator within functionally unbundled unit i.e. legal entity in accordance with regulations from the article 38 paragraph (2) clause 4) herein.

(4) A compensation for work of market operator shall be a component part of the transmission use of system charge until establishment of market operator from the paragraph (3) of this article.

(5) On the day of establishment of the market operator from the paragraph (3) of this article, the license of the transmission operator for carrying out of activities of market operator shall expire.

Article 192

(1) Public supplier of electricity shall be nominated not later than six (6) months from the entry into force of this Law.

(2) Public supplier of electricity shall propose to the Agency general conditions referred to in the article 153 paragraph (2) herein not later than ninety (90) days from the date of nomination of the public supplier.

(3) The Government may decide that the provisions of the article 154 paragraph (2) herein shall apply also to final customers connected to transmission system in the period by 31st of December 2012, in the event of economic, social and other justified reasons for that.

(4) Public supplier of natural gas shall propose to the Agency general conditions referred to in the Article 153 paragraph (2) herein within ninety (90) days from its nomination.

Article 193

(1) Operators in the gas sector and a public supplier of natural gas shall be nominated within three (3) years from the entry into force of this Law, and not later than ninety (90) days after award of a construction permit for construction of transmission gas pipeline.

(2) Operators in the gas sector shall prepare acts under their authority and shall submit them to the Agency for approval not later than six (6) months from the date of their nomination.

(3) Legal unbundling of a gas distribution system operator and of a supplier shall be carried out within one (1) year from the end of the calendar year in which a number of customers supplied by the gas supplier exceeds 100,000.

(4) The regulation from the Article 171 paragraph (5) herein shall be promulgated within six (6) months from the date of nomination of an operator for the gas sector and a public supplier of natural gas.

(5) The methodologies from the article 38 paragraph(1) clause 1) indent 2 and 3 herein, that relate to gas shall be established within ninety (90) days from the deadline from the paragraph (1) of this article.

Article 194

(1) Until establishment of the methodologies pursuant to authorities from this Law, the methodologies established pursuant to the Energy Law („Official Gazette of the Republic of Montenegro“, No. 39/03) shall apply.

(2) The methodologies for setting of tariffs and prices from the articles 51 and 52 herein shall be established not later than by the end of the year 2011.

(3) Interim methodologies for setting of charges and tariffs for use of transmission and distribution systems for electricity shall be established within six (6) months from the entry into force of this Law.

(4) Interim methodology for setting of tariffs for electricity supply for tariff customers or customers supplied by public supplier of electricity, shall be determined within ninety (90) days from entry into force of this Law.

(5) When establishing methodologies from the paragraphs (3) and (4) of this article, the provision of the article 53 paragraph (1) clauses 3), 4), 5), 6), 7) and 8) herein shall not apply, nor support measures for quality of supply.

(6) Minimum quality standards for electricity supply from the article 38 paragraph(3) clause 2) indents 1 and 3 herein, shall be established within one (1) year from the date of entry into force of this Law, and those from the article 38 paragraph(3) clause 2) indent 2, shall be established within two (2) years from the entry into force of this Law. Until establishment of such standards, transmission and distribution system operators shall be responsible to establish systems for collection of data on quality of supply and to send those data to the Agency.

(7) Methodologies for setting of tariffs and prices from the articles 51 and 52 herein that apply to gas shall be established not later than six (6) months after nomination of gas transmission and distribution system operators.

(8) A regulation on settling mechanism that will settle the differences between reasonable and actual revenues and costs of individual operators from the article 38 paragraph (2) clause 8) herein shall be promulgated with six (6) months from the date of determining of an area within which a new distribution system operator is to provide its services.

Article 195

Price of coal for generation of electricity shall be set for the period of up to one year from the date of entry into force of this Law, in accordance with regulations specified by the Agency within thirty (30) days from the day of its entry into force of **this Law**.

Article 196

(1) The program for development and usage of renewable energy sources from the article 17 paragraph (1) herein, and the program for development and usage of high-efficiency cogeneration from the article 19 paragraph (1) herein, shall be adopted within one year from the entry into force of this Law.

(2) The national indicative target with regard to the contribution of energy produced from renewable energy sources to gross electricity consumption shall be adopted not later than one year from the entry into force of this Law.

(3) The tariff system for generation of electricity from renewable energy sources and cogeneration from the article 20 paragraph (2) herein, shall be adopted not later than one year from the entry into force of this Law.

Article 197

(1) The first report from the article 18 paragraph (1) herein, shall be submitted within two years from the day of adoption of the program from the article 17 paragraph (1) herein.

(2) The first report that is submitted in accordance with the paragraph (1) of this article, in addition to data from the article 18 paragraph (2) herein, shall also contain the following:

1) names of authorities i.e. institutions authorized for receipt of applications and award of authorizations, construction and operation permits for installations that use renewable energy sources and for providing assistance to investors of projects;

2) information about regulations for establishment of automatic procedures in the event that authorities fail to act by the envisaged deadline;

3) information about locations for use of renewable energy sources envisaged in spatial-planning documents and locations for construction of the district heating and cooling facilities.

Article 198

(1) The Energy Regulatory Agency established in accordance with the Energy Law („Official Gazette of the Republic of Montenegro“, No 39/03) shall continue with work pursuant to this Law.

(2) Members of the Agency's Board, director and deputy director of the Agency shall continue their functions until end of their mandates.

(3) The Agency shall harmonize the Statute with this Law within six months from the entry into force of this Law.

Article 199

(1) The regulation on licensing from the article 38 paragraph (2) clause 3) herein shall be promulgated not later than six (6) months from the entry into force of this Law.

(2) Until promulgation of the regulation from the paragraph (1) of this article, the regulations promulgated pursuant to the Energy Law („Official Gazette of the Republic of Montenegro“, No. 39/03) shall apply.

(3) Licenses issues until the date of entry into force of this Law shall be valid until expiration of period of their validity.

Article 200

General acts relating to carrying out of services of the transmission and distribution system operator and market operator shall be harmonized with this Law not later than within six months from the date of entry into force of this Law.

Article 201

The activities from the article 84 paragraph (1) clause 16) herein shall be carried out by transmission system operator until those activities begin to be carried out in accordance with ratified international agreement.

Article 202

Local Government authorities shall harmonize their development documents with this Law and shall promulgate local energy plans not later than one year from the entry into force of this law.

Article 203

(1) Until nomination of a public supplier pursuant to the article 154 paragraph (5) herein, the tariff customers will continue to be supplied by a supplier that was supplying them until entry into force of this Law in a manner and under conditions specified in this Law.

(2) The customers with a status of eligible customers on the date of entry into force of this Law shall continue to be supplied by a supplier that was supplying them until entry into force of this Law, unless the customer switches to another supplier.

(3) Supplier that carried out the activity of public supply until entry into force of this Law shall continue to carry out the activity of public supplier until such time when the public supplier of electricity that is nominated by the Government begins carrying out that activity.

Article 204

The provision of the article 149 herein shall apply to energy facilities that are not part of development plans for transmission or distribution systems not later than five years from entry into force of this Law.

Article 205

(1) Tariff customers – households shall become eligible customers from 1st of January 2015.

(2) Qualified customers from the paragraph (1) of this article shall be supplied by an energy undertaking that was supplying them with electricity until 1st of January 2015 under the same conditions, with exception of prices, until a switch to another supplier.

(3) Transmission system operators and users of transmission system, with exception of suppliers, shall enter into connection contract in accordance with this Law, within six months from the entry into force of this Law.

(4) Electricity Distribution System Operator shall enter into connection contracts with final customers in accordance with this Law, not later than by 1st of January 2015.

(5) System users from the article 150 paragraph (2) herein shall obtain a license within 12 months from the entry into force of this Law.

Article 206

(1) Local Government authority shall promulgate a regulation about terms and conditions of supply with heat for district heating and/or cooling or for industrial use within three years from the date of entry into force of this Law.

(2) Heat distributors shall promulgate acts under their authority not later than six (6) months from expiration of the deadline from the paragraph (1) from this article.

Article 207

Regulations promulgated before entry into force of this Law shall apply to procedures initiated prior to entry into force of this Law.

Article 208

Before their adoption, the planning documents that include transmission and distribution systems for electricity and gas, that are adopted pursuant to the Law regulating construction of facilities and spatial planning, have to be harmonized with plans from article 41 paragraph (1) herein.

Article 209

(1) The regulations pursuant to the authorities from this Law shall be promulgated not later than six (6) months after the entry into force of this Law,.

(2) Until such time when the regulations from paragraph (1) herein are promulgated, the regulations that were in force before entry into force of this Law shall apply.

(3) Technical regulations promulgated until entry into force of this Law shall apply until promulgation of technical regulations pursuant to the authorities from this Law.

Article 210

After entry into force of this Law, the Energy Law („Official Gazette of the Republic of Montenegro“ No. 39/03) shall cease to apply.

Article 211

This Law shall enter into force on the eight (8th) day after publication in the „Official Gazette of Montenegro“.

SU-SK No 01-70/25
Podgorica, 22nd of April 2010

PARLIAMENT OF MONTENEGRO, 24th ELECTORAL TERM

PRESIDENT

Ranko Krivokapić