

THE CROATIAN PARLIAMENT

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

DECISION

PROMULGATING THE ELECTRICITY MARKET ACT

I hereby promulgate the Electricity Market Act, adopted by the Croatian Parliament at its session on 3 December 2004.

No: 01-081-04-3762/2

Zagreb, 10 December 2004

The President
of the Republic of Croatia
Stjepan Mesić, *m.p.*

ELECTRICITY MARKET ACT

I. GENERAL PROVISIONS

Article 1

This Act regulates the performance of the following activities of the energy sector: generation of electricity, transmission of electricity, distribution of electricity, supply of electricity and organization of the electricity market.

Article 2

- (1) The terms used in this Act shall have the meanings laid down in the Energy Act.
- (2) For the purpose of this Act, other terms also used have the following meanings:
1. distribution of electricity –distribution of electricity through the high voltage, medium voltage and low voltage distribution system for the purpose of its delivery to customers, but not including supply,
 2. horizontally integrated company – a company or a group performing at least one generating activity for the purpose of sale, transmission, distribution, supply or another non electricity activity ,
 3. small customer – a natural or legal person purchasing electricity to meet its own needs, with less than 50 employees and overall income not exceeding HRK 70 million,
 4. distribution system operator – energy undertaking performing the activity of distribution of electricity,
 5. transmission system operator – energy undertaking performing the activity of transmission of electricity,
 6. market operator – energy undertaking performing the activity of electricity market organization,

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7. supplier – energy undertaking performing the energy activity of electricity supply,
8. entrepreneur – a natural or legal person purchasing electricity for the purpose of manufacturing goods and/or providing services, and not using it in his household,
9. approval procedure – procedure whereby additional needs for power and replacement of generation facilities are met in a specific manner, on the basis of the approval of the authorised body,
10. transmission of electricity –transport of electricity through interconnected extremely high and high voltage network for the purpose of its delivery to final customers or an energy undertaking performing distribution, but not including supply,
11. medium-size customer – a natural or legal person purchasing electricity to meet its own needs, a customer with 50 - 250 employees and overall income exceeding HRK 70 million,
12. vertically integrated company – a company or a group performing at least one activity of transmission or distribution of electricity, or at least one activity of generation or supply of electricity .

Article 3

(1) Energy activities, for the purposes of this Act, shall be performed as market activities, and as regulated activities.

(2) The following are considered market activities:

- Generation of electricity for eligible customers,
- Supply of electricity for eligible customers,
- Trading, mediation and representation on the electricity market.

(3) Energy activities referred to in paragraph 2 of this Article shall be performed pursuant to the rules regulating market relations freely negotiating the quantity and price of delivered electricity by concluding short-term or long-term contracts or directly on the organized market.

(4) The following are considered regulated activities:

- Generation of electricity for tariff (captive) customers,
- Transmission of electricity,
- Distribution of electricity,
- Electricity market organization,
- Supply of electricity for tariff customers.

(5) Regulated energy activities shall be performed as public services.

II. PERFORMANCE OF ENERGY ACTIVITIES

Article 4

Facilities to be used for the generation, transmission and distribution of electricity may be constructed by energy undertakings that have licenses for carrying out energy activities, under conditions prescribed by the Construction Act, Energy Act, special technical and safety criteria, as well as special regulations related to environmental protection.

Article 5

Facilities for the generation, transmission and distribution of electricity shall be used in accordance with the provisions of the Energy Act, Occupational Safety Act, Environmental Protection Act, Construction Act and other regulations.

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Article 6

The transmission system operator, distribution system operator and market operator shall be obliged to keep confidential data and information received from other energy undertakings and customers if such data are private and confidential, unless they are not authorized or obligated to make them public or to submit them to the competent government bodies according to special legislation.

A. *Generation of electricity*

Article 7

(1) An energy undertaking performing the activity of generation of electricity is entitled to:

- use energy sources it finds most convenient for the production of required electricity, provided it complies with prescribed conditions,
- conclude contracts for the sale of electricity it generated under conditions prescribed by this Act and other regulations,
- have access to the transmission and distribution network.

(2) An energy undertaking performing the activity of generation of electricity shall:

- comply with the technical and operating requirements,
- comply with the requirements stipulated in the license for performing the energy activity,
- possess adequate measuring devices for the measurement of electricity it delivers in the network,
- comply with the rules of electricity market operation and the Grid Code and general requirements,
- comply with prescribed environmental protection requirements.

(3) Energy undertakings which are owners of electricity generation plants, shall, for the site of the electricity generation plant, pay a fee to the local self-government units on the territory of which the plant is located. The Croatian Government shall prescribe the amount of such a fee and the method of its allocation.

Article 8

(1) An energy undertaking that generates electricity and heat in a single plant and uses waste or renewable energy resources in an economically viable way in compliance with environmental protection may gain the status of eligible producer.

(2) The status of eligible producer shall be acquired on the basis of a decision to be issued by the Agency in accordance with the requirements prescribed by the Minister.

(3) Eligible producers, with the exception of power stations exceeding 10 MW of capacity, may claim an incentive price based on the tariff system for the generation of electricity from renewable energy sources and cogeneration.

(4) The fee for incentivizing renewable energy resources and cogeneration shall be collected from the suppliers of both tariff and eligible customers by the market operator.

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(5) The allocation of funds collected from the fee referred to in paragraph 4 of this Article shall be regulated in the tariff system for the generation of electricity from renewable energy sources and cogeneration.

(6) The transmission system operator or distribution system operator shall secure the taking over from the eligible producers of the total electricity produced as provided for in the prescribed conditions.

Article 9

(1) An energy undertaking may make the decision on the construction of plants for electricity generation (hereinafter referred to as: generation facilities) at its own discretion, provided it has a license for carrying out electricity generation activities, and provided it complies with the criteria defined in the approval procedure for the construction of generation facilities.

(2) The approval procedure for the construction of generation facilities shall be based on objective, transparent and non-discriminatory principles securing the following:

- reliability and safety of the electric power system,
- protection of public health and safety,
- environmental protection criteria and securing permanent environmental impact control,
- use of land and location,
- use of public land,
- energy efficiency,
- type of primary energy,
- technical, economic and financial capabilities of the applicant.

(3) The procedures and criteria referred to in paragraphs 1 and 2 of this Article are prescribed by the Government of the Republic of Croatia, upon the proposal of the Ministry, and subject to prior opinion of the Croatian Energy Regulatory Agency – CERA (hereinafter referred to as: the Agency).

(4) The approval for the construction of the facilities referred to in paragraph 1 of this Article shall be issued by the Ministry.

(5) A party that was not approved construction referred to in paragraph 1 of this Article may file an appeal to the Ministry.

(6) The decision of the Ministry, referred to in paragraph 5 of this Article, is final.

Article 10

(1) In the event that the construction of generation facilities on the basis of the approval referred to in Article 9, and in the event that the measures for electricity consumption management and the measures for energy efficiency increase are not sufficient, a decision may be passed on the construction of electricity generation facilities through a public tender procedure in the interest of:

- safety of supply,
- environmental protection,
- promotion of energy efficiency.

For the construction of generation facilities of up to 50 MW of capacity the decision on issuing a tender and choosing the best bidder shall be made by the Agency, while for the construction of generation facilities exceeding 50 MW of capacity, the decision on issuing a tender and choosing the best bidder shall be made by the Government of the Republic of Croatia, subject to the proposal of the Agency.

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(2) The following shall be stated in the tender procedure referred to in paragraph 1 of this Article:

- the location where the plant is to be constructed,
- the type of primary energy,
- the manner and conditions of generating and taking over electricity,
- conditions to be met after cessation of plant's operation,
- condition related to environmental protection and health and safety of citizens,
- the required energy efficiency level,
- incentive measures or subsidies for certain generation facilities, though the incentives and subsidies will not apply to the hydro power stations with the capacity exceeding 10 MW,
- criteria referred to in Article 9, paragraph 1 of this Act,
- conditions for use of common and public goods.

(3) The method of inviting tenders for the tender procedure, the conditions of the tender procedure for the construction of facilities pursuant to paragraph 1 of this Article, a detailed description of the contractual provisions as well as the procedures that need to be complied with by all bidders, and the list of criteria for choosing the best bidder shall be defined by the Minister. The tender procedure, conditions for bidding and criteria for choosing the best bidder shall be transparent and non-discriminatory.

(4) The Agency shall be responsible for organization, monitoring, and control of the tender procedure referred to in paragraph 1 of this Article.

(5) Public tender procedure for the construction of generation facilities shall be published in the *Official Gazette*. The deadline for submitting bids shall be at least six months, twelve months at most.

B. Transmission and distribution of electricity

Article 11

(1) The transmission system operator or distribution system operator which are component parts of a vertically integrated company, shall, according to legal form, organization and decision making, be independent from one another, and from other activities not relating to electricity transmission or electricity distribution, where the ownership of the transmission assets and distribution assets need not be separated from the vertically integrated company.

(2) To ensure the independence of the transmission system operator or the distribution system operator, the following shall apply:

- a person responsible for managing the transmission system operator or distribution system operator shall not participate in the managing of a vertically integrated company,
- a person responsible for managing the transmission system operator or distribution system operator shall act independently from electricity generation and electricity supply,
- the operator shall make decisions on the funds required for operation and maintenance, development and construction of the transmission or distribution system, independently of the vertically integrated company.

(3) The Agency shall monitor the actual independence of the transmission system operator and the distribution system operator.

Article 12

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(1) The mother company of the vertically integrated company shall approve annual financial plans of the transmission system operator and the distribution system operator, as well as of the daughter companies, and set the limits to their indebtedness, but shall not give instructions relating to their everyday operation.

(2) Approved financial plans referred to in paragraph 1 of this Article shall be sent to the Agency for monitoring and analysis of implementation.

Article 13

(1) In a vertically or horizontally integrated company there shall be no cross-subsidizing of companies engaged in regulated activities and those engaged in market activities, nor cross-subsidizing of activities within the same company, to secure market competition and avoid discrimination of system users.

(2) The transmission system operator and the distribution system operator shall each keep business records for its own energy activity, while for other activities performed within those companies, consolidated accounts shall be kept.

(3) The income from the ownership of energy facilities shall be stated in the business records, as well as the balance sheet, profit and loss account for each activity.

(4) The annual report within the meaning of paragraphs 1 and 2 of this Article shall be sent to the auditor, and having obtained the auditor's opinion, it shall be sent to the Agency within 30 days.

Article 14

(1) The transmission system operator and distribution system operator shall pass a programme defining the conditions, rules, organization and methodology for securing transparency, objectivity and non-discrimination for the purpose of monitoring the conditions referred to in Articles 11, 12 and 13 of this Act.

(2) The programme referred to in paragraph 1 of this Act regulates specific obligations of employees for the purpose of meeting the programme goals.

(3) Energy undertakings referred to in paragraph 1 of this Article shall submit the annual report on the implemented programme to the Agency and publish it on the web pages.

(4) The Agency, on the basis of the report referred to in paragraph 3 of this Article may, if necessary, request modification of the programme.

Article 15

(1) The transmission system operator shall be responsible for the following:

- securing long term capacity of the transmission system to meet reasonable requests for electricity transmission,
- contributing to the security of supply to the appropriate transmission capacities and reliability of the transmission system,
- managing the electricity flows in the transmission network taking into consideration the electricity exchanges with other interconnected networks, and securing availability of all required ancillary services,
- hiring generation facilities on its territory and determining the use of interconnections to other networks based on the criteria which must be objective, publicly announced and applied on a non-discriminatory basis,

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- securing energy to cover the losses in the transmission system, securing balancing energy, and energy required for the provision of system services under transparent, non-discriminatory and market principles,
- taking care of system losses and producing annual loss analyses,
- passing objective, transparent and non-discriminatory rules on balancing the electric power system, including the rules for charging the fees paid by the system users for electric power imbalances; those shall be passed in cooperation with the market operator,
- providing necessary information to system operators of other interconnected systems in the interest of safe and efficient operation, harmonized development and enabling operation of interconnected systems,
- securing a non-discriminatory approach towards transmission system users, and especially the associated companies within the vertically integrated company,
- giving information to system users which is needed for efficient access and system use.

(2) In the annual report the transmission system operator shall report to the Agency on the implementation of the obligations referred to in paragraph 1 of this Article.

(3) On the basis of the report referred to in paragraph 2 of this Article, the Agency may, if necessary, request implementation of certain measures to secure transparency, objectivity and non-discrimination.

Article 16

The transmission system operator shall be responsible for the following:

- operation and maintenance, development and construction of the transmission system, and a portion of reactive power generation,
- connecting system users to the transmission system as provided for in the Energy Act,
- Continuity and reliability of the electricity supply system and proper coordination of the generation, transmission and distribution system,
- electric power system control and management,
- securing access to the network according to regulated, transparent and non-discriminatory principles,
- defining and separating costs resulting from electricity transmission in cooperation with the distribution system operator,
- taking over from eligible customers the total of electricity produced when engaging generation facilities,
- giving advantage to producers using domestic sources of raw material for electricity generation in the amount not exceeding 15 % of the total raw material used in a calendar year for electricity generation, according to the electricity balance of the Republic of Croatia,
- sending accounting data on the electricity taken over from the eligible producers connected to the transmission network to the market operator for the purpose of settling accounts and giving assurance on the origin of electricity with regard to the primary energy source,
- maintaining parameters of quality electricity,
- providing information on future electricity demand with the approval of market operator, as well as other information required by the regulatory body,

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- giving well grounded proposals to the Ministry or the Agency on the need for the construction of new generation facilities to maintain security of supply,
- monitoring security of electricity supply, with the obligation of publishing a report at least once in two years,
- giving necessary instructions for proper operation of the generation and transmission system according to the reliability and security criteria stipulated in the Grid Code,
- adding transmission capacity to the interconnections,
- paying due attention to environmental protection.

Article 17

- (1) The transmission system operator shall not trade in electricity.
- (2) Electricity procurement for the purpose of balancing, covering the system losses, and providing system services shall not be considered trading, within the meaning of paragraph 1 of this Article.
- (3) The transmission system operator may hire generation facilities intended for temporary use only in the event of the following:
 - serious disturbances or system failures,
 - crisis pursuant to the Energy Act.
- (4) Generation facilities intended for temporary use shall be considered system users' facilities intended for temporary or permanent electricity generation for its own needs or for the needs of the market.

Article 18

- (1) The responsibilities of the distribution system operator are as follows:
 - ensuring safe, reliable and efficient operation of the distribution system,
 - ensuring impartiality towards distribution system users and especially towards associated companies within the vertically integrated company,
 - providing information to distribution system users necessary for efficient access and use of the distribution system,
 - ensuring access to the distribution system according to regulated, transparent and non-discriminatory principles,
 - securing energy to cover the losses in the distribution system in accordance with transparent, non-discriminatory and market principles,
 - taking care of system losses and producing annual loss analyses.
- (2) In its annual report submitted to the Agency, the distribution system operator shall report on the implementation of responsibilities referred to in paragraph 1 of this Article.
- (3) On the basis of the report referred to in paragraph 2 of this Article, the Agency may, if need be, request the implementation of certain measures for the purpose of safeguarding the principles of transparency, objectivity and impartiality.

Article 19

- The distribution system operator shall also be responsible for the following:
- operation and maintenance, development and construction of the distribution system, and part of reactive power generation,
 - management of the distribution system,
 - providing distribution system services,

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- connecting system users to the transmission system as provided for in the Energy Act,
- sending accounting data on the electricity taken over from the eligible producers connected to the distribution system to the market operator for the purpose of settling accounts and giving assurance on the origin of electricity with regard to the primary energy source,
- taking over from eligible producers total electricity produced when hiring generation facilities,
- maintaining electricity quality parameters ,
- harmonizing the operation of the distribution and transmission system, as well as interconnected systems and user facilities,
- monitoring the security of electricity supply with the obligation of publishing reports on the subject at least once every two years;
- providing information on future electricity demand to the transmission system operator and the market operator,
- paying due attention to environmental protection.

Article 20

(1) Complaints of unsatisfied parties on the work of the transmission system operator or the distribution system operator shall be sent to the operator in written form.

(2) In the event of not upholding the complaint referred to in paragraph 1 of this Article the transmission system operator or the distribution system, the operator shall hand over the case for further procedure to the Agency.

(3) The decision of the Agency is final.

Article 21

(1) The transmission system operator shall, with prior approval from the Agency, pass a plan for transmission system development and construction for a period of three years.

(2) The distribution system operator shall, with prior approval from the Agency, pass a plan for development and construction of the distribution system for a period of three years. When planning development, the measures for energy efficiency, consumption management and distributed generation, which may postpone the need to reinforce the distribution network, shall be taken into consideration.

(3) Plans referred to in paragraphs 1 and 2 of this Article shall be passed pursuant to the Energy Development Strategy and the Energy Development Strategy Implementation Plan.

(4) Tariff items for electricity transmission and distribution shall be established taking into account the development and construction plans referred to in paragraphs 1 and 2 of this Article, as well as the obligations resulting from the application of Article 15, paragraph 3, and Article 18, paragraph 3 of this Article.

Article 22

(1) The transmission system operator and distribution system operator shall provide non-discriminatory access to system users according to the principle of regulated third party access, pursuant to the general conditions of electricity supply and the Grid Code.

(2) The producer and customer shall obtain approval for a new connection or for the increase of connection capacity from the transmission system operator or the distribution system operator.

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(3) Data on possibilities for the use of the transmission or distribution system shall be public, updated once a year and published on the web pages.

Article 23

(1) The transmission system operator or distribution system operator may deny access to the network due to limited technical or operating capacity of the network. Electricity producers, eligible electricity customers who have been denied access to the network shall be given reasons for the denial supported by written evidence.

(2) The electricity producer or eligible electricity customer who has been denied access to the network or who is not satisfied with the access requirements may file an appeal to the Agency.

(3) The decision of the Agency is final.

Article 24

When the electricity producer registered for retail electricity supply and the eligible customer intend to sign a delivery, or electricity supply agreement, and are not able to obtain access to the network, they may construct a direct line, with the approval of the Agency.

Article 25

(1) Operation and method of transmission and distribution system management within the electric power system shall be regulated by the Grid Code.

(2) The Grid Code shall prescribe the following:

- technical and other prerequisites for user connection to the system,
- technical and other prerequisites for safe electric power system operation to secure reliable supply with quality electricity,
- procedures for operating the electric power system in a crisis situation,
- technical and other prerequisites for interconnection and system operation.

(3) The Grid Code shall be passed by the Minister upon the proposal of the transmission system operator in cooperation with the distribution system operator, subject to prior opinion of the Agency.

C. Supply of electricity

Article 26

(1) Electricity supply is an energy activity independent of electricity transmission and distribution, which relates to the purchase and sale of electricity to customers. The electricity sales procedure encompasses the processing of accounting elements, settlement of electricity consumption, issuing bills to customers and collection of electricity payments for each metering point, in accordance with the contractual relations for eligible customers, or regulated relations for tariff customers.

(2) A supplier of eligible customers is every energy undertaking providing supply services to eligible customers, after obtaining a license for performing electricity supply activity.

(3) A supplier of tariff customers is an energy undertaking licensed for performing electricity supply and for public service activity of electricity supply of tariff customers.

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(4) The Government of the Republic of Croatia shall prescribe by regulation a minimum share of electricity produced from renewable energy sources and cogeneration, which each energy undertaking performing electricity supply shall take over, taking into account the potential of each individual renewable source of energy, and of cogeneration, and taking into account environmental protection.

(5) Electricity supplier shall, on the bill, or attached to the bill, and in promotional materials available to end customers, at least once a year state the following:

- the share of each individual energy source used to meet customer needs,
- point to the existing sources of information, for example, web pages, where information on environmental impact is available to the public, within the sense of carbon-dioxide emissions and radio-active waste as consequences of electricity generation from all fuels for the entire electricity generation of the preceding year.

(6) The data referred to in paragraph 5 of this Article shall correspond to data from the realized energy balance of the Republic of Croatia for the previous year.

Article 27

(1) The supplier shall ensure for all households and small customers, upon their request, the supply of electricity of certain quality, as to a public service, according to regulated conditions.

(2) Association of small and medium-sized customers is allowed for the purpose of joint representation before the supplier in order to secure customer protection measures, transparency and improvement of contractual conditions, general information and mechanisms of dispute resolution.

Article 28

(1) The supplier of tariff customers shall conclude a supply agreement and an agreement on the use of the transmission and/or distribution system with tariff electricity customers.

(2) The eligible customer and the supplier the customer previously chose shall conclude an electricity supply agreement and freely negotiate the electricity quantity and price.

(3) The supplier shall send the supply agreement, commercially sensitive data excluding, to the market operator.

(4) System use shall be contracted with the transmission system operator or the distribution system operator, including the charges prescribed by the Energy Act, and the agreement shall be sent to the market operator.

(5) The contents of the agreement referred to in paragraphs 1 and 4 of this Article, shall be defined by general requirements for electricity supply.

D. Organization of electricity market

Article 29

(1) The market operator shall organize the electricity market pursuant to the Rules on electricity market operation.

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(2) The market operator shall carry out its assignments by respecting the principles of transparency, objectivity and non-discrimination, under the supervision of the Agency.

Article 30

(1) The market operator shall also be responsible for the following:

- making a record of all contractual obligations among energy undertakings active in the energy market,
- settlement of balancing energy based on the contracted quantities received in data sent by the transmission system operator,
 - harmonization of market plans as regards technical possibilities and extraordinary situations in the transmission and distribution system based on information given by the transmission system operator or the distribution system operator,
 - keeping records on eligible customers on the market until full opening of the electricity market,
 - keeping a register of eligible producers,
 - keeping records on suppliers,
 - entering into contracts with all suppliers for the purpose of ensuring a minimum share of electricity produced from renewable energy sources and cogeneration,
 - collecting fees for incentivizing renewable energy sources and cogeneration from the suppliers,
 - entering into contract with eligible producers entitled to incentive price,
 - settlement, collection and allocation of funds from the fee for incentivizing renewable energy sources and cogeneration onto producers of electricity from renewable energy sources and cogeneration based on the contracts entered into,
 - passing objective, transparent and non-discriminatory rules on electric power system balancing, including rules for calculation of fees paid by system users for energy imbalances, which shall be passed in cooperation with the transmission system operator,
 - analyzing market operation and proposing measures for its improvement.

(2) The electricity market operator shall pass and publish Rules on electricity market operation subject to prior opinion of the transmission system operator and the distribution system operator and with the approval of the Agency.

III. ELIGIBLE CUSTOMER

Article 31

(1) An eligible customer may freely choose its electricity supplier.

(2) On the day of entry into force of this Act all customers with annual consumption above 20 GWh and all customers directly connected to the transmission system shall obtain the status of eligible customers, while the dynamics of further opening of the electricity market shall be as follows:

- 01 July 2006 for customers with consumption exceeding 9 GWh,
- 01 July 2007 for entrepreneurs,
- 01 July 2008 for all customers.

(3) Annual consumption based on which a customer becomes eligible refers to all metering points.

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(4) An eligible customer shall not lose his status as long as he maintains the level of consumption on the basis of which he obtained the status of eligible customer.

Article 32

(1) An eligible customer shall, after obtaining his status, choose a supplier within 6 months while in that period he is entitled to electricity supply by the company performing the public service obligation, pursuant to the tariff system for electricity supply which does not include eligible customers.

(2) An eligible customer from the household category or a small customer who does not wish to exercise his right to become an eligible customer, or is not able to find a supplier, shall contract electricity supply with the company performing the public service obligation, pursuant to the tariff system for electricity supply which does not include eligible customers.

(3) Eligible customer whose supplier ceases to operate shall, within 30 days, find a new supplier. In that period the eligible customer is entitled to electricity supply by the company performing the public service obligation, pursuant to the tariff system for electricity supply which does not include eligible customers.

IV. TARIFF CUSTOMER

Article 33

(1) Tariff customers shall have electricity supplied under the provision of public service obligation according to prices set in the tariff system for electricity.

(2) To cater to specific economic or social interests, the Government of the Republic of Croatia may give discounts on the portion of the electricity price relating to electricity generation for a category of tariff customers.

V. RECIPROCITY PRINCIPLE

Article 34

By derogation from the provisions of Articles 22 and 23, and upon the proposal of the electricity supplier, the Ministry, the market operator or the regulatory body, the transmission system operator may deny access to the electricity system to a market participant if the undertaking intends to import electricity from a state where the level of electricity market openness is lower than in the Republic of Croatia.

VI. TRANSIT

Article 35

Pursuant to international agreements binding upon the Republic of Croatia, the transmission system operator must carry out the transit of electricity through the transmission network under terms and conditions stipulated in those agreements, and the technical capacity of interconnections.

VII. SUPERVISION

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Article 36

(1) Administrative supervision over the implementation of this Act and regulations passed on the basis of this Act shall be carried out by the Ministry.

(2) Inspectional supervision over the implementation of this Act shall be carried out by the State Inspector's Office and competent inspectors pursuant to special regulations.

Article 37

If the inspectors of the State Inspector's Office or other competent inspectors establish, on the basis of special regulations for conducting inspectional supervision, that an energy undertaking is not performing the energy activity, and that an electricity customer is not using electricity pursuant to the provisions of this Act and the regulations passed on the basis of this Act, in addition to the authorities they have pursuant to general regulations, they shall also be authorized to by a decision:

- order the elimination of the irregularities and deficiencies found, setting the deadline for their elimination,
- forbid the construction of the generation facility if the approval for its construction has not been obtained,
- order the suspension of building or use of an energy facility, or the suspension of energy supply or energy use, if the equipment for the energy facility is not manufactured anymore, and the facilities are not being constructed, used or maintained- in accordance with the documentation approved or confirmed pursuant to special technical or other regulations, and if, for that reason, it poses an immediate threat for the stability and safety of energy facilities, health or life of persons, or safety of traffic and neighbouring buildings.

VIII. PENAL PROVISIONS

Article 38

(1) An energy undertaking shall be fined for misdemeanours from HRK 10,000.00 to 50,000.00 in the event that it:

- fails to act upon the request of the Agency (Article 15, paragraph 3 and Article 18, paragraph 3)
- fails to maintain the transmission network (Article 16, paragraph 1, subparagraph 1)
- fails to connect the system user in accordance with the provisions of Article 16, paragraph 1, subparagraph 2 and Article 19, paragraph 1, subparagraph 4 of this Act,
- when hiring generation facilities acts toward eligible customers contrary to the provision referred to in Article 16, paragraph 1, subparagraph 7 and Article 19, paragraph 1, subparagraph 6 of this Act,
- fails to send, or sends incorrect data on electricity taken over in the network from an eligible producer to the market operator (Article 16, paragraph 1, subparagraph 9, and Article 19, paragraph 1, subparagraph 5),
- fails to maintain parameters of electricity quality (Article 16, paragraph 1, subparagraph 10, and Article 19, paragraph 1, subparagraph 7),

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- hires generation facilities contrary to the provisions of Article 17, paragraph 3 of this Act,
 - fails to maintain the distribution network (Article 19, paragraph 1, subparagraph 1 of this Act),
 - fails to secure harmonized operation of the distribution and the transmission network, and the interconnected systems and user facilities (Article 19, paragraph 1, subparagraph 8),
 - fails to hand over the case to the Agency for further procedure (Article 20, paragraph 2),
 - fails to prepare plans for development and construction (Article 21, paragraphs 1 and 2),
 - does not prepare development and construction plans in compliance with the Energy Strategy and Strategy Implementation Programme (Article 21, paragraph 3),
 - denies access to the network (Article 19, paragraph 1),
 - starts construction of a direct line without prior approval of the Agency (Article 24),
 - does not implement the provisions of the Grid Code (Article 25),
 - provides supply services to eligible customers without prior approval of the Agency (Article 26, paragraph 2),
 - fails to take over a minimum share of electricity from renewable energy sources and cogeneration (Article 26, paragraph 4),
 - fails to submit electricity supply contracts to the market operator (Article 28, paragraph 3),
 - publishes the Rules on electricity market operation without prior approval of the Agency (Article 30, paragraph 2),
 - does not act pursuant to the Rules on electricity market operation (Article 30, paragraph 2 herein),
 - fails to comply with the decision of the Inspector's Office (Article 37).
- (2) A responsible person of an energy undertaking shall be fined from HRK 300.00 to 5,000.00 for the misdemeanours referred to in paragraph 1 of this Article.
- (3) In addition to the pecuniary fine for a misdemeanour, an energy undertaking which has committed two or more misdemeanours or commits the misdemeanours referred to in paragraph 1 of this Article on two or more occasions within one year, may be sanctioned by suspension from carrying out the same activities for a period of up to one year, and the responsible person may be banned from carrying out the same activities for a period of up to one year.

IX. TRANSITIONAL AND FINAL PROVISIONS

Article 39

(1) Daughter companies and Hrvatska elektroprivreda d.d as the mother company of a vertically integrated company (HEP Group), shall continue to carry out regulated electricity-related activities as public services in the Republic of Croatia, from the day of entry into force of this Act.

(2) Hrvatska elektroprivreda d.d. shall harmonize its organization of the vertically integrated company referred to in paragraph 1 of this Article with the provisions of the Energy Act and the provisions of this Act within 12 months from the day of entry into

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force of this Act, and the distribution system operator shall continue carrying out the activities of electricity distribution and electricity supply by 01 July 2007.

(3) Distribution system operator shall, by the deadline referred to in paragraph 2 of this Article, keep separate accounts for the supply of eligible customers and the supply of tariff customers, as well as of electricity supply of customers left without a supplier or whose supplier ceased to operate.

Article 40

(1) Hrvatska elektroprivreda d.d. shall establish a separate daughter company for performing regulated activities as a public service in electricity transmission (transmission system operator), in the period of up to three months from the day of entry into force of this Act. On the date of establishment of the company referred to in this Article, the energy undertaking for electricity transmission, and energy undertaking for electric power system control and management and electricity market organization shall cease to exist.

(2) Hrvatska elektroprivreda d.d. shall, within three months from the day of entry into force of this Act, establish a daughter company to perform a regulated activity of electricity market organization (market operator) as a public service.

(3) Shares or interests in the market operator referred to in paragraph 2 of this Article, shall become the ownership of the Republic of Croatia from the date of company establishment.

(4) The market operator referred to in paragraph 2 of this Article shall within six months from the day of company establishment pass the rules on electricity market operation in accordance with the provisions of this Act.

(5) Until the adoption of the rules referred to in paragraph 4, the Rules on electricity market operation (Official Gazette No. 193/03) shall apply.

Article 41

Daughter companies and Hrvatska elektroprivreda d.d. as the mother company, of the vertically integrated company (HEP Group) which carry out the public service activity for electricity supply of tariff customers, shall have the public service obligation for supplying customers left without a supplier or whose suppliers ceases to operate, or who do not wish to exercise their right to become eligible customers.

Article 42

The Electricity Market Act (Official Gazette No. 68/01) shall cease to be effective from the day of entry into force of this Act.

Article 43

This Act shall enter into force on the eighth day from its publication in the Official Gazette.

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Zagreb, 3 December 2004.

THE CROATIAN PARLIAMENT
The President of
the Croatian Parliament

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