



Data 27 Tetor 2006

Comments from the Applicants for the Supply/ Trade Licenses Prepared for a public Session of 30 October 2006

On the last public session we issued 4 licenses for Supply/ Trade (1 for KEK and 3 for foreign traders).

In mean time we have analyzed 3 applications for supply/ trade license which were not subject of the last public session, for companies: ČEZ, OstElektra dhe Holding Slovenske Elektrane (HSE).

On 16 October we send draft licenses to these companies in the same form as for other already licensed traders. Regardless the fact that the form of supply/trade license is adopted on the last session we have asked for the comments because each company has its own specifics.

Till today we have received comments from company Cez. OstElectra and HSE did not send their comments.

Comments from Ces are very constructive and analyze is made in details. Responds to these comments are in disposition of the draft license, in the applicable Laws or Rules adopted by ERO.

CEZ –Comment on Article 7 of the Licence:

Please specify form, structure and frequency of reporting mentioned in this Article although we believe that in mean time you will send us more detailed information which will enable reporting in appropriate manner, on time and that the manner and need of reporting will be in accordance to the best practice of the other Regulators in Europe.

Repond by ERO- Article 13_6.in your license is defining that the reporting is detailed in Manual of reporting which is in final stage of commenting from our consultants NERA Economic Consulting. Finalization is expected during the net week. After it is adopted, it will be published on ERO web site. We have foreseen that with assistance of our consultants' solon we will organize trainings with all licensees regarding the implementation of Manual of Operation. We believe that principles, elements and the manner of reporting are based on the best practice of the other Regulators in Europe.

Comment to Article 12:

Article 12: “The Licensee shall inform ERO on any intended change in control at least sixty (60) days in advance. Change in control may not take place unless ERO has approved it”.

Change of control approval in Article 12 is very wide. It could be restricted for cases the material conditions in providing of the licensed activities are jeopardized.

Respond by ERO- Before the intended change in control of licensee, it shall be reported to ERO. This Article also relates to the Article 13 of the licenses where the licensee shall report details on any changes in information submitted with application for that particular license. Reasons for this particular disposition is not in fact that the licensed activity may be jeopardized but it relates to the Article 21.1 and 22.c) of the Law on Energy, where all agreements between and decisions of related, associated, or merged enterprises, as well as all deliberate practices if they aim at the prevention, restriction, or distortion of competition in the energy market by fixing the trade conditions, sharing markets or sources of supply, restricting or controlling the production, trade, technical development or investments in energy.

Article 24 of the Law on Energy is giving responsibility to ERO to enforce the mentioned provisions. Therefore change in control shall be reported to ERO in advance. All other changes will be reported when they occur.

Comment to Art. 14.2.(b)

In this comment Cez is proposing that in case of defaults and violations correction have not been remedied within the deadline given by ERO, **the period not shorter than 35 days** shall be defined for that correction.

Respond by ERO- Article 14.2 (b) do not contain any defined deadline because Article 16.1 is giving reference to the deadlines defined in Rule on Administrative Measures and Fines. This draft Rule is published on web site of ERO for the public consultation and we will consider this comment and analyse it with our Costumer Protection Department prior to the public session for adoption.

Comment to Art. 16.5.

“If the fine mentioned in paragraph 3 is imposed on a member of Board of Directors or an executive of the Licensee, it must not exceed 300% of the **net** monthly remuneration received by that person from the Licensee”. The addition “net” is made just for avoidance of doubt.

Respond by ERO - Article 16.1 of the License is giving reference to the Rule on Administrative Measures and Fines where the amount of fine is clearly defined. This comment will also be consider prior to the public session on adoption. Draft Rule on Administrative Measures and Fines is published on web site of ERO -www.ero-ks.org).