

Energy Regulatory Office

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Status, Functioning and the Role of the Regulator

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Status, Functioning and the Role of the Regulator (1)

A. Legal status of the Regulators

How the Regulators are established?

- Most of the Regulators (members of ERRA) are established through the promulgation of the primary legislation- laws.
- Energy Regulatory Office in Kosovo (ERO) has been established on 30 June 2004 by the Law on Energy Regulator (“Law”).
- Other primary legislation in energy sector in Kosovo:
 1. Law on Energy
 2. Law on Electricity
 3. District Heating Law (promulgation is expected in September 2005)

Status, Functioning and the Role of the Regulator(2)

- Primary legislation is setting requirement to the Regulator or other institution to issue **secondary legislation**.
- Law on Energy Legislation has set forth responsibility of ERO to issue Rules within four (4) months upon promulgation of the Law. So far ERO has issued: Statute, Code of Conduct and Ethics, Rule on Dispute Settlement Procedure, Rule on Disconnection, General Condition of Energy Supply, Schedule of Fees, Rule on Pricing and Tariffs and Rule on Public Register. This draft Rules will be adopted by the Board of ERO within 4 months after public consultations.
- ERO is currently working on Tariff Methodology and Rule on Authorization Procedure for construction of new energy facilities/ rehabilitation of the existing capacities.
- * Different Regulators are managed by different authorities (individual or collective).

Status, Functioning and the Role of the Regulator (3)

ERO is managed by the Board consisting on 5 Regulators with different mandate (2, 3 and 4 years) with a possibility for renewal. Government of Kosovo nominates Regulators and Assembly approves their appointment. Board of ERO is functional starting from August 2005. Removal of the Regulator can be done only by authority who is appointing them by the reasons that are foreseen in the Law and relevant secondary legislation.

B. INDEPENDENCE

ERO is fully independent Regulator that implements strategy and policy of the Government of Kosovo. Independency is enforced through independency of any political or industrial influence, legal and functional independence. Decision of ERO are brought on the public session, in open and transparent manner, all information except information that are confidential or commercially sensitive are published on the web-site, in Bulletin of ERO and available to the public. Annual reports are issued to the Government.

More about Independency -Legal Independence:

All Regulators within ERRA are legally independent.

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Financial Independence:

Almost all Regulators are financial independent.

During the first initial year of establishment ERO is funded by Kosovo Consolidated Budget, and donations, after that through licensing fees.

Functional Independence:

Almost all Regulators are functionally independent, the mechanism for appeal is foreseen and appellate body exists.

ERO has issued Rule on Dispute, created the Customers Protection Department within ERO to deal with dispute resolution. EROs decision can be appealed only to the Court. In reviewing decision of ERO Court shall not substitute the technical discretion of ERO with its own discretion.

ERO is currently assisting to the customers in creation of Customer protection association.

Ethical Criteria

Different Regulators has included ethical criteria in different manner, through primary or secondary legislation. ERO has issued the Code of



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Ethics and Conduct. Such ethical criteria are applicable for all staff members including the Board Members of ERO.

C. Areas of Responsibility –

Security of Supply

Different Regulators has very different role in:

- a) - Participation in monitoring of Medium and Long Term Balance;
- b) - Monitoring demand capacity and participation in measures to cover demand shortfall ;
- c) - Participation in network maintenance;
- d) - Participation in tendering for generation.

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- It is interesting to say that ERO in functions foreseen under paragraph a) and b) participate indirectly and for the c) and d) respond is **Yes**.
- The law gives ERO responsibility to monitor security of supply through licensing procedure. The long term and annual energy balance for electricity shall be proposed by the TSO to the Ministry of Energy and Mining (MEM) after consultation with ERO.
- Network maintenance- ERO has power to revise, approve and control compliance with all technical rules and license conditions.
- Tendering (authorization) for new generation capacities – yes. In accordance to the Law on Energy Regulator ERO is responsible for authorization or tendering for building of new energy facility and rehabilitation of the existing capacities. Tendering shall be used only in the case when authorization didn't provide enough capacities for Kosovo.

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•Market Opening and Monitoring

In accordance to the legislation different Regulators have different role regarding market opening and monitoring or has it only indirectly. ERO has a clear mandate to promote a framework for the establishment of a competitive Energy Market and to monitor potential abuses by the various players.

Tariffs

From the last Benchmarking Report 2004- it is obvious that all countries has more or less similar role regarding tariffs.

Regarding the tariffs ERO is empowered to:

- issue tariff Rules (Methodology);
- approve, modify tariffs;
- approve or modify balancing and ancillary tariffs;
- set connection cost (through approval of technical codes

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With respect to tariffs most of the Regulators (including ERO) has power to:

- apply performance based components;
- penalize via required rate of return;
- remove subsidies;
- address needs of vulnerable populations
- explanation for decision is always provided

Licenses

With respect to License- Regulators have many different powers such as to issue Licensing Rules, issue, modify, terminate License; monitor compliance; penalize.



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ERO has all these powers. Within several next months ERO will start to issue license. (Rule and all forms are prepared and will be adopted within 4 months).

So far in initial period we have foreseen some 10- 15 license to be granted by the end of year 2005.

Other Competences of the Regulators

Dispute Settlement

All members of ERRA are at the same time dispute settlement authorities.

* ERO has issued Rule on Dispute Settlement Procedure. First instance in all disputes is utility which provides services to customer. Each and every complaint has to be reviewed first by Utility. Negotiation and Mediation are foreseen as alternative dispute settlement procedure.



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ERO and its CPD are responsible in second instance. CPD responsible only dispute resolution for non-commercial customers. Within ERO there is a Board of ERO responsible for commercial disputes and in case of appeal against decision of CPD.

Arbitration is possible only in case when it is foreseen in Contract between the parties. Against Decision of ERO each party may appeal to the competent court.

Rulemaking Authority

Different Regulators has different authority to issue:

- Rules regarding Inter-Connection Capacity
- Market Rules
- Grid code
- Metering Rules and charges.

Status, Functioning and the Role of the Regulator (11)

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With respect of **Quality of Services** except Greece and Austria all other Regulators have a similar role regarding quality of Services. All Regulators have a role in setting, approving comments to standards, powers to sanction and Intervene.

With respect to **Congestion**- different Regulators has different functions. ERO has the mandate to set the methodology on which internal and cross-border congestions will be managed and/or compensated for. In accordance to the Article 15.4 of the Law on Energy Regulator ERO is responsible for the establishment of mechanism to deal with congested capacity and ensures fair and non-discriminatory rules for the management and allocation of interconnection capacity.



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ERO approves TSO Code, can ask for modification, sanction and intervene.

Connection and repairs- only Austria do not have any function regarding this issue.

ERO is responsible to monitor, to Intervene and use Sanctions with regard to connection.

In accordance to the law ERO is performing these activities through license (standards of performance) and codes (approval).

With regard to **unbundling** again Regulators has very different role.

The Law empowers ERO to monitor to ensure legal, accounting and functional unbundling is done in a transparent and non-discriminatory manner. Process of unbundling of vertically integrated energy enterprise KEK (Korporata Energjetike e Kosoves) has started. Fully independent ITSMO will soon be established and licensed. DSO, Generation and Supply will also be fully unbundled and licensed.

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Investment and Planning

All Regulators in ERRA(directly or indirectly) has this important function.

ERO performs this function through tariffs-determinate in a transparent manner, reasonable, based on objective criteria, primarily dependent on reasonable costs including a reasonable rate of return.

A person holding an export-import or transit license shall inform ERO of every contract concluded for cross-border supply. If the principle of reciprocity is violated ERO may prohibit implementation of the contract

Transit of electricity may be carried by an enterprise having a license for such activity. Where required by international agreement bidding on Kosovo, transit shall be done in accordance to the agreement or in accordance with provisions of the Grid Code.



Status, Functioning and the Role of the Regulator (14)

Competition

Several Regulators in ERRA has but several do not have any responsibility.

ERO is responsible for creation and maintenance of competitive market and prevention and punishment of any predatory or anti-competitive conduct.

Since there is no any other anticompetitive authority- it is ERO's responsibility. Rule on Licensing has foreseen that disposal or outsourcing by the licensee of property assets or other resources used for licensed activity shall be subject to ERO's approval. The terms and conditions of license contain this provision as well

Status, Functioning and the Role of the Regulator (15)

Environment

Most of the Regulator don't have any direct function regarding environment- still fulfillment of the environmental criteria is one of the main licensing condition- therefore **Yes** there is the role of Regulator in this issues.

Final but not less important for any Regulator

Very important function of any Regulator is respect of **confidentiality**, open manner while making decision- preferably always through the public consultation, publication of the document, **openness** for comments proposal and consultation, reporting in the open manner.

Non-discrimination is one of the basic elements how one Regulator performs its activity while balancing interest of market player (customers and energy enterprises) and defending interest of all of them on equal basis.



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Non-discrimination in Kosovo is also implemented through equal usage of three languages (Albanian, English and Serbian) for all decisions, information and in any correspondence.

THANK YOU !!!