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## MINUTES OF THE PUBLIC HEARING REGARDING THE RULE ON DISPUTE SETTLEMENT AND SCHEDULE OF FEES

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Nick Frydas the chairman of the ERO Board and the head of ERO made the introduction and explained the aim of the PH (Public Hearing) that was organized on two items of the secondary legislation of ERO, **Rule on Dispute Settlement and Schedule of Fees**. He explained that the purpose of this PH, following the publication of the draft versions of the Rules for two months, and also after these drafts have been sent to all the important stakeholders with post and email, was to discuss the comments that were received on this rules and also to discuss other comments

that will be given during the presentation of this two rules, on the way that in the end these rules will be finalized and approved by the Board.

He explained that according to the Article 17 of the Law 2004/9 of the Energy Regulator, ERO is entitled to establish procedures for resolving complaints of the costumers against EE (Energy Enterprises), disputes between Licensed EE, and the disputes related to the third party access to the distribution and transmission network and natural gas, and also disputes related to the cross boarder transmission of either of electricity or gas.

**Azem Kastrati** head of Costumer protection Department did the presentation of the Rule on Dispute Settlement, who mentioned that this rule have been prepared with the help of the donors through consultant services that they have financed for ERO.

#### **Comments on the Rule on Dispute Settlement:**

**Comment by Nick Frydas: Article 3.1** The word “party” is too vague. Maybe it can be replaced by: “a party with a legal interest in the case”

**Comment by Nick Frydas:** Article 5.1 Clearly the term “energy enterprise” needs further clarification Supply companies but also DSO, GENCOs and ITSMO have different kind of customers, different issues and therefore must develop different procedures to deal with complaints

**Comment by Nick Frydas:** Article 10.3 how does a customer or as a matter of fact an energy enterprise establishes what a “small complaint” is. How do you quantify “inadequate” or “improper” service?

**Comment by Nick Frydas:** Article 14.3 implies that a small case can be appealed to the Board (because it was judged by Head of CPD) but a complex case can not!??

**Comment:** on Article 10. 3 where it is discussed what constitutes a small complaint and it is said that e small complaint is up to 200 euro, regarding item c of this article it is easy to establish regarding the bills that are incorrect or that the costumer disputes however for non provision of services its rather more difficult for a costumer to establish the volume of the cost for non provision of the services. What is the value of interruption or what is the value of non-fast response or an inadequate quality of the service.

**Comment by Nick Frydas:** Who establishes the complexity of the complaints because on the rule it is not very cleared, according to the rule it is the Department of Costumer Protection that will determine and refer a case to the Board of ERO.

**Answer:** *Azem Kastrati responded that: In the rule it is written that a complex complain is when more than a one costumer have the same complaint*

**Comment:** Naim Bejtullahu member of the ERO Board had a remark on Article 19, where it concerns on the renewal of the contract between the costumer and the Energy Enterprise. In a case of a contest here is written that the costumer should continue to pay his bills for the services, including the services of the energy enterprises, which means that the costumer must pay these services. But the reason of the complaint might be that the costumer thinks that the bills were incorrect and this will be the reason for a contest. N.B asked to define which part of the

obligations will be considered as not contestable from both parties and the customer must pay for it.

**Comment by Hajzer Bublaku from the Ministry of Public Services** who raised the comment on the term "Dispute Resolution" saying that this term is very long for a customer to wait till his case will be solved, he said that if all the terms are gathered it will be a period of 6 months till a customer will get the answer on his complaint, he proposed that another shorter and simple procedure should be imposed in place.

**Comment by Hajzer Bublaku MPS** In article 18. 5 the alternative solution of the agreement

**Comment by Hajzer Bublaku MPS** Is there a deadline for a customer to wait from a company till he submits to the other institution his complaint.

**Comment by Hajzer Bublaku MPS:** the procedures are complicated

*Answer: After the period of 90 days for the EE to give the answer on a complaint, after this period expires then the customer has the right to submit his complaint to the ERO CPD. In the article where it is mentioned the term of the Dispute Resolution*

**Comment by Ali Hamiti** on the Albanian terminology that was used on the presentations and he said that there are discrepancies between the English and Albanian.

On the second part of the PH it was discussed the Rule on Schedule of Fees that was presented by Prof. **Nysret Avdiu** member of the ERO Board. **Mr. Frydas** mentioned that the ERO is created as a non-profit independent authority, according to the Article 11.2 of the Constitutional Framework of Kosovo, it is self-financed mainly by the license fees that the licensee entities are paying. According to the Article 24. of the Law 2004/9 on Energy Regulator, ERO is entitled to establish the Schedule of Fees that will finance its activities through the initial licensing fees, annual licensing fees and fees for the issuance of the various certificates of origin.

**Comment by Nick Frydas:** In the case of the Annual Fees for holders of Interconnector Traders Licenses, ERO will calculate the due fees on the basis of information received by TSO at the end of each month on the amounts of contracted and realized imports per Interconnector Trader

**Comment:** Why the licensing process was decided to remain with the ERO and not with the Ministry of Energy and Mines if in more than 90% of the European countries the ministries do the Licensing process.

*Answer: Nick Frydas It is accepted world wide that sooner and faster we divide the investment procedures from the political process it is better, because the politics have a cycle of 4 years while the investments want a continuation on the policy and strategy, this is the reason that the decisions on licensing and investments is removed from the politics to an expert independent regulatory Authority. This is the issue why the European Directives recommend the creation of Regulatory Authorities. Although in some countries the formal licensing procedure is done by the Ministry but only after the approval and the recommendation by the Regulatory Authority.*

**Mr. Arbëror Prekazi** representative of company "Iber-Lepenc" Prishtina asked:



Which were the criteria for the determination of the fees that Energy Enterprises have to pay for their initial licenses

**Answer:**

This Rule Schedule of Fees (draft) specifies the categories and the amount of the fees stipulated in Articles 23 and 24 of the Law on the Energy Regulator for the **purposes of financing the Energy Regulatory Office (ERO)**.

•**Categories of fees:** According to the provisions of Article 24 of the Law on the Energy regulator, ERO is entitled to set and collect the following fees:

1. Initial licensing fees.
2. Annual license fees.
3. Fees for the issuance of certificates of origin.
4. Dispute Settlement Fees

•**General principles regarding calculation of fees:** fees shall be determined in a manner that allows the financial self sustainability and effective and cost-efficient operation of ERO and may not exceed in any event an amount equivalent to two per cent (2%) of the gross turnover of the energy enterprises required to pay such annual fees. For the purpose of the Kosovo energy sector conditions, “gross turnover” shall mean total value of Sales of an energy enterprise.

**The methodology for the calculation of the annual license fees set forth in Annex A takes into consideration the conditions of the energy sector in Kosovo and ERO development phase, is based on criteria of applicability and simplicity and aims to avoiding any risk of financial overburden of consumers.**

Fees for the issuance of certificate of origin shall be calculated in accordance with the administrative expenses reasonably incurred in the processing of the acts to which such fees refer.

• **Amount of fees: The exact amount of due fees shall be determined according to Annex A of the present Rule that is an integral part hereof.**

For more information have been presented benchmark of Fees in the Europe and specially in South East Europe. The source of information is document:

**Regulatory Benchmarking Report For South East Europe, 23 November 2005.**

## Regulatory Benchmarking Report For South East Europe, 23 November 2005

TABLE 1.

### BENCHMARK: BUDGET SIZE AND COMPONENTS 2004

WG SEER MEMBER	ANNUAL BUDGET FOR 2005	PERCENTAGE OF BUDGET ALLOCATED FOR SALARIES	PERCENTAGE OF BUDGET ALLOCATED FOR IT	PERCENT OF BUDGET ALLOCATED FOR TRAINING AND TRAVEL <sup>4</sup>	STAFF NUMBER	Population x Million (approx.)
ALBANIA	425.000 €	33% (Social Security not included)	2%	Training 19.5% (no separate allocation for travel, depends on need)	15	3.5
AUSTRIA	8.95 mil €	46%	8%	Travel and training together - 4%	64	8.1744
BOSNIA AND HERZEGOVINA	• SERC 951.749,39 € • FERC 1.027.697 € • RSERC 661.667,34 €	• SERC - 50% • FERC - 56% • RSERC - 60% (includes calculation of pension costs)	• SERC - 2% • FERC - 3% • RSERC - 3%	• SERC - training 7%; travel 7% • FERC - 2.50% training; 3.64% travel • RSERC - training 1%; travel 4%	-SERC 18 -FERC 22 -RSERC 20	3.83
BULGARIA	1.023.000 €	67% (including Social Security benefits)	1% (both software and hardware)	• Training - 0.5% • Travel - 2%	87	7.8
CROATIA	1.946 mil €	36.1%	6.6%	• Training - 3.5% • Travel - 3.2%	8	4.4
FYR OF MACEDONIA	666.056 €	33.23%	2%	• Training - 1% • Travel - 4%	13	2.07
GREECE	• 8.2 mil € (operating expenses) • 1.06 mil € (assets)	34% (2.83 mil €)	13% (assets) (1.06 mil € (assets))	• Training: <1% (50,000 €, included in 2.83 mil €) • Travel: <1% (73,000 €)	55	
HUNGARY	Approx. 8 mil €	24%	4%	Travel - 2.105%	94	10.1
ITALY	25 mil €	45%	Subsumed in administrative budget	• Travel - 10% • Training - 0.5%	101	58.057
MOLDOVA	310.000 €	• 40% • Social Security 11%	6.7%	Travel and training not separately budgeted	28	4.2
MONTENEGRO	772.000 €	Salaries 26%; Soc. Sec. and tax 27%	2%	Travel and training - 4%	12	0.6207
ROMANIA	3.021 mil €	47%	4%	• Travel - 7% • Training - 0.9%	84	21.8
SERBIA	Approx. 1 mil € (planned)	72.49% (including Social Security contributions and health care insurance)	0% - procured by EAR	• Training - 0% (covered by technical assistance for year 2005) • Travel - 2.19%	4	7.3
SLOVENIA	2.8 mil €	• 30% • Social Security 4%	4%	Amount not available	29	2.011
TURKEY	26 mil €	24%	2%	Travel and training together - 1.5%	290	71.8
UNMIK	535.000 € (per 2005 budget proposal approved by KCB, 273.000 € and rest EU Pillar)	45% for employees paid by KCB	3% (most procured in 2004)	• Training - 11% (from the KCB) • Travel - 8.8% (from the KCB)	23	2.0*

\* The last registration of population was done in Kosovo 1981. The given number is estimated.



**Table 1. offers information about the size of the budget of the regulatory authorities and how money is distributed in each regulatory authority, demonstrating the proportion of funds allocated to salaries, training and travel, and technological resources. Money is reported in Euros in order to provide a basis for comparison. Budget information must of course be analyzed in conjunction with size and competencies of the regulatory authority. In addition, amounts alone do not necessarily tell the whole story as many authorities in the region receive significant donor support in forms not readily identifiable in the overall budget amount, such as technical assistance and equipment purchases, and some EU based regulatory authorities receive EC grants. (Where such assistance can be quantified as part of the budget, we so note, and provide some reference to such assistance).**

**ANNUAL FINANCIAL REPORT OF ERO 2004:** ERO has been established in June 2004. For the period since its establishment it has received financing from KCB and donor organizations, to enable its operational set up. ERO has not yet generated any income from its normal operation as an independent regulatory body. The financial aspects of the operations of ERO for 2004 are thus presented with a statement of Sources and Applications of Funds (Table 2).

**TABLE 2.**

Energy Regulatory Office of Kosovo Sources and Applications of Funds <i>All figures are in Euro</i>	2004 KC Budget	2004 Actual
<b>SOURCES OF FUNDS</b>		
License and permit fees	-	-
Kosovo consolidated budget (KCB)	238,649	124,028
UNMIK (EU Pillar)	-	147,800
<b>Donor organisations</b>		
US AID	-	102,000
SIDA	-	209,352
KfW	-	210,000
<b>Total Donor organisations</b>	-	<b>521,352</b>
<b>TOTAL SOURCES OF FUNDS</b>	<b>238,649</b>	<b>793,180</b>
<b>APPLICATIONS OF FUNDS</b>		
<b>Staff costs</b>		
UNMIK (EU Pillar)	-	65,300
Kosovo consolidated budget	43,064	15,533
<b>Total staff costs</b>	<b>43,064</b>	<b>80,833</b>
<b>Goods and services</b>		
UNMIK (EU Pillar)	-	82,500
Kosovo consolidated budget	146,650	108,495
KC budget reduction (10%)	(14,665)	-
Donor organisations	-	521,352
<b>Total goods and services</b>	<b>131,985</b>	<b>712,347</b>
<b>Utilities</b>		
Kosovo consolidated budget	4,000	-
KC budget reduction (10%)	(400)	-
<b>Total utilities</b>	<b>3,600</b>	-
<b>Capital expenditure</b>		
Kosovo consolidated budget	60,000	-
<b>Total capital expenditure</b>	<b>60,000</b>	-
<b>TOTAL APPLICATIONS OF FUNDS</b>	<b>238,649</b>	<b>793,180</b>
<b>SURPLUS/ (DEFICIT)</b>	-	-

**ERO BUDGET 2005:** ERO being a young organization had continue with technical assistance and training by international consultants. Therefore ERO has received financing from KCB and Donor Organisations, to enable its operational set up. In year 2005 ERO has not yet generated any income from its normal operation as an independent regulatory body (TABLE 3).

**TABLE 3.**

INCOME STATEMENT	Unit	2nd H 2004	2005	2006	2007
<b>Revenue</b>					
Licence and Permit Fees	Euro	-	-	393,573	1,102,582
Kosovo Consolidated Budget	Euro	124,028	240,759	231,136	-
UNMIK (EU Pillar)	Euro	147,800	244,800	114,920	-
Donations	Euro	521,352	1,415,111	1,897,222	-
<b>Total Revenue</b>	<b>Euro</b>	<b>793,180</b>	<b>1,900,670</b>	<b>2,636,851</b>	<b>1,102,582</b>
<b>Expenses</b>					
Staff costs	Euro	(80,833)	(202,804)	(356,157)	(329,824)
Goods and Services [excl. TA]	Euro	(190,995)	(262,755)	(216,356)	(222,847)
Technical Assistance and Training	Euro	(521,352)	(1,415,111)	(1,897,222)	(550,000)
Depreciation	Euro	-	-	(4,000)	(14,000)
<b>Total Expenses</b>	<b>Euro</b>	<b>(793,180)</b>	<b>(1,880,670)</b>	<b>(2,473,736)</b>	<b>(1,116,671)</b>
<b>Net Surplus / (Deficit)</b>	<b>Euro</b>	<b>-</b>	<b>20,000</b>	<b>163,115</b>	<b>(14,089)</b>
<b>Surplus Paid</b>	<b>Euro</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Retained Surplus / (Deficit)</b>	<b>Euro</b>	<b>-</b>	<b>20,000</b>	<b>163,115</b>	<b>(14,089)</b>

• **BUDGET 2006:** yet to generate any income from its normal operation as an independent regulatory body (TABLE 3). From 1 September 2006 ERO will start to generate income. The financial sources: Kosovo Consolidated budget will end on 31 August, UNMIK (EU Pillar) will end 31 August 2006, and Donations – ending in 31 December 2006.

• **ERO ECPECTED BUDGET FOR 2007** (Table 3) will be approximately 1.1 million €. The ERO will be self-financed organizations. The financing will be on base of projected sources: Licence and permit fees.

**ERO will continue to need advice, technical assistance and training by international Consultants. It's assumed that all international consultancy needed for ERO will be paid by ERO budget (TABLE 3).**

Approved by the Board

Nick Frydas.....

Merita Kostari.....

Theranda Beqiri.....

Naim Bejtullahu.....

Nysret Avdiu.....

