



**Republika e Kosovës**  
**Republika Kosova - Republic of Kosovo**

**ZYRA E RREGULLATORIT PËR ENERGIJË**  
**REGULATORNI URED ZA ENERGIJU**  
**ENERGY REGULATORY OFFICE**



Rule ERO/No.02/2020

**RULE ON WHOLESALE ENERGY MARKET INTEGRITY AND TRANSPARENCY**

Pristina  
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The Board of Energy Regulatory Office, in line with the authority granted under Article 9, paragraph 1, sub-paragraph 1.7, Article 15, paragraph 1, sub-paragraph 1.12, Article 25, Article 26, paragraph 1, sub-paragraph 1.1 and Article 54, Article 55, Article 56 and Article 57 of the Law on Energy Regulator No. 05/L-084, in the session held on 23.06.2020, approved:

## **RULE ON WHOLESALE ENERGY MARKET INTEGRITY AND TRANSPARENCY**

### **CHAPTER I GENERAL PROVISIONS**

#### **Article 1 Scope and Purpose**

- 1 The Rule on Wholesale Energy Market Integrity and Transparency establishes the criteria prohibiting abusive practices affecting wholesale energy markets which are coherent with the proper functioning of these markets whilst taking into account their specific characteristics.
2. The rule also foresees the monitoring of wholesale energy markets from the Energy Regulatory Office (ERO).
3. This Rule is implemented for trading of wholesale energy products.
4. This Rule is without prejudice to the application of Energy Community and national legislation on competition to the practices covered by this Rule.
5. ERO and, where appropriate, the national competition authority and other relevant national authorities shall cooperate to ensure that a coordinated approach is taken to the enforcement of this Rule where actions relate to one or more wholesale energy products to which Articles 3, 4 and 5 of this Rule apply.
6. ERO is obliged to cooperate with the competent judicial bodies, and other bodies in matters that impact the wholesale market integrity in the territory of the Republic of Kosovo.

#### **Article 2 Definitions and Interpretations**

1. The terms used in this Rule have the following meaning:
  - 1.1 **Inside information**- means information of a precise nature which has not been made public, which relates, directly or indirectly, to one or more wholesale energy products and which, if it were made public, would be likely to significantly affect the prices of those products.
  - 1.2 For the purposes of this definition, **'information'** means:

- 1.2.1 information required to be made public in accordance with Law on Energy (No. 05/L-081), Law on the Energy Regulator (No. 05/L-084), Law on Electricity (No. 05/L-085) , Law on Natural Gas (No. 05/L-082) and Law on Access to Public Documents (No. 05 / L-081) including guidelines and network codes adopted in accordance with these Regulations;
- 1.2.2 information relating to the capacity and use of facilities for production, storage, consumption or transmission of electricity or natural gas or related to the capacity and use of LNG facilities, including planned or unplanned unavailability of these facilities;
- 1.2.3 information which is required to be disclosed in accordance with legal or regulatory provisions at Energy Community or national level, market rules, and contracts or principles In the relevant wholesale energy market, in so far as this information is likely to have a significant effect on the prices of wholesale energy products;
- 1.2.4 other information that a market participant would be likely to use as part of the basis of its decision to enter into a transaction relating to, or to issue an order to trade in, a wholesale energy product; and
- 1.2.5 Information shall be deemed to be of a precise nature if it indicates a set of circumstances which exist or may reasonably be expected to come into existence, or an event which has occurred or may be expected to do so, and if it is specific enough to enable a conclusion to be drawn as to the possible effect of that set of circumstances or event on the prices of wholesale energy products;

**1.3 Market Manipulation - means:**

- 1.3.1 entering into any transaction or issuing any order to trade in wholesale energy products which:
  - i. gives, or is likely to give, false or misleading signals as to the supply of, demand for, or price of wholesale energy products;
  - ii. secures or attempts to secure, by a person, or persons acting in collaboration, the price of one or several wholesale energy products at an artificial level, unless the person who entered into the transaction or issued the order to trade establishes that his reasons for doing so are legitimate and that transaction or order to trade conforms to accepted market practices on the wholesale energy market concerned; or
  - iii. employs or attempts to employ a fictitious device or any other form of deception or contrivance which gives, or is likely to give, false or misleading signals regarding the supply of, demand for, or price of wholesale energy products; or
- 1.3.2 disseminating information through the media, including the internet, or by any other means, which gives, or is likely to give, false or misleading signals as to the supply of, demand for, or price of wholesale energy products, including the dissemination of rumours and false or misleading news, where the disseminating person knew, or ought to have known, that the information was false or misleading.

**1.4** When information is disseminated for the purposes of journalism or artistic expression, such dissemination of information shall be assessed taking into account the rules governing the freedom of the press and freedom of expression in other media, unless:

**1.4.1** those persons derive, directly or indirectly, an advantage or profits from the dissemination of the information in question; or

**1.4.2** the disclosure or dissemination is made with the intention of misleading the market as to the supply of, demand for, or price of wholesale energy products;

**1.5** **'Attempt to manipulate the market'**- means:

**1.5.1** entering into any transaction, issuing any order to trade or taking any other action relating to a wholesale energy product with the intention of:

i. giving false or misleading signals as to the supply of, demand for, or price of wholesale energy products;

ii. securing the price of one or several wholesale energy products at an artificial level, unless the person who entered into the transaction or issued the order to trade establishes that his reasons for doing so are legitimate and that transaction or order to trade conforms to accepted market practices on the wholesale energy market concerned; or

iii. employing a fictitious device(mechanism) or any other form of deception or contrivance which gives, or is likely to give, false or misleading signals regarding the supply of, demand for, or price of wholesale energy products;

**1.5.2** disseminating information through the media, including the internet, or by any other means with the intention of giving false or misleading signals as to the supply of, demand for, or price of wholesale energy products;

**1.6** **'Wholesale energy products'**- means the following contracts and documents, which are their derivatives, irrespective of where and how they are traded:

**1.6.1** contracts for the supply of electricity or natural gas where delivery is in Kosovo;

**1.6.2** contracts relating to the transportation of electricity or natural gas in Kosovo;

**1.7** **Contracts for supply and distribution of electricity or natural gas to be used from final customers**- are not wholesale energy products. However, contracts for the supply and distribution of electricity or natural gas to final customers with a consumption capacity greater than the threshold set out in 1.9 shall be treated as wholesale energy products;

**1.8** **'Consumption capacity'** means the consumption of a final customer of either electricity or natural gas at full use of that customer's production capacity. It comprises all consumption by that customer as a single economic entity, in so far as consumption takes place on markets with interrelated wholesale prices.

**1.9** For the purposes of the definition in point 1.8 of this Article, consumption at individual plants under the control of a single economic entity that have a consumption capacity of

less than 600 GWh per year shall not be taken into account in so far as those plants do not exert a joint influence on wholesale energy market prices due to their being located in different relevant geographical markets;

- 1.10 Energy Sector-** a branch of economy with activities which include the production, transmission, distribution, transport, storage, sale, resale, purchase and supply of energy;
- 1.11 Wholesale Energy Market-** means the market in Kosovo on which wholesale energy products are traded;
- 1.12 'Market participant'-** means any person, including transmission and distribution system operators, who enters into transactions, including the placing of orders to trade, in one or more wholesale energy markets;
- 1.13 Person -** means any natural or legal person;
- 1.14 Energy Regulatory Office (ERO)-** is an independent agency in the energy sector, established by the Law on Energy Regulator;
- 1.15 Public Authority -** any body, government executive authority, ministry, public body, department, agency, or other similar authority exercising executive, legislative, regulatory, administrative or judicial powers in the territory of Kosovo.
- 1.16 Transmission System Operator -** means the natural or judicial person responsible for operation, maintenance and, as required, development of the transmission system in a certain area, including whenever possible its interconnections with other systems, for ensuring the long term ability of the network to meet demands for the transmission of electricity.
- 1.17 Undertaking -**any business activity regardless of the organization or form of management, the public enterprise established to carry out activities for the public interest, and any other natural or legal person or state authority carrying out an economic activity whether or not it is considered a business entity.
- 1.18 Related undertaking -** means either a subsidiary or other undertaking in which a participation is held, or an undertaking linked with another undertaking;
- 1.19 Transmission System Operator of Natural Gas-** natural or judicial body that carries out the function of transmission and is responsible for operation, maintenance, and as required, development of the transmission system in a certain area, including the possible interconnections with other systems and for ensuring the long term ability of the system to meet the demands for the transmission of natural gas.
- 1.20 Distribution of natural gas-** natural or judicial body that carries out the function of distribution and is responsible for operation, maintenance and as required, the development of the distribution system in a certain area, including possible interconnections with other systems and for ensuring the long-term ability of the system to meet the demand for distribution of natural gas;
- 1.21 Distribution of electricity-** natural or judicial body, responsible for operation and maintenance and, as required, development of the distribution system in a certain area,

including possible interconnections with other systems and for ensuring the long-term ability of the system to meet the reasonable demand for distribution of electricity;

- 1.22 Dominant position-** the position of one or more undertakings, which allows them to be able to act, in relation to the offer and demand, independently from other market participants such as: competitors, clients or customers;
- 1.23 Critical Infrastructure-** means an asset, system or part thereof which is essential for the maintenance of vital societal functions, health, safety, security, economic or social well-being of people, and the disruption or destruction of which would have a significant impact in the Republic of Kosovo or any of the Contracting Parties as a result of the failure to maintain those functions;
- 1.24 Sensitive critical infrastructure protection related information-** means facts about a critical infrastructure, which if disclosed could be used to cause disruption or destruction of critical infrastructure installations;
- 1.25 Confidential Information** –means the data, documents and other technical or commercial information, related to the design, rehabilitation, security, maintenance and funding of energy activities which are no longer on the public domain and whose disclosure may jeopardize the commercial interests of the natural or judicial body; and
- 1.26 Contracting Parties** –means the Contracting Parties according to the Energy Community Treaty.

**CHAPTER II**  
**PROHIBITION OF TRADING AND OBLIGATION TO PUBLISH INFORMATION**

**Article 3**  
**Prohibition of Insider Trading**

1. Persons who possess inside information in relation to a wholesale energy product shall be prohibited from:
  - 2.1 using that information by acquiring or disposing of, or by trying to acquire or dispose of, for their own account or for the account of a third party, either directly or indirectly, wholesale energy products to which that information relates;
  - 2.2 disclosing that information to any other person unless such disclosure is made in the normal course of the exercise of their employment, profession or duties;
  - 2.3 recommending or inducing another person, on the basis of inside information, to acquire or dispose of wholesale energy products to which that information relates.
2. The prohibition set out in paragraph 1 applies to the following persons who possess inside information in relation to a wholesale energy product, members of the administrative, governing or supervisory bodies of an enterprise:
  - 2.1. persons with holdings in the capital of an undertaking;
  - 2.2. persons with access to the information through the exercise of their employment, profession or duties;
  - 2.3. persons who have acquired such information through criminal activity;
  - 2.4. persons who know, or ought to know, that it is inside information.
3. Points 1.1 and 1.3 of paragraph 1 of this Article shall not apply to transmission system operators when purchasing electricity or natural gas in order to ensure the safe and secure functioning of the system.
4. This Article shall not apply to:
  - 4.1 transactions conducted in the discharge of an obligation that has become due to acquire or dispose of wholesale energy products where that obligation results from an agreement concluded, or an order to trade, placed before the person concerned came into possession of inside information;
  - 4.2 transactions entered into by electricity and natural gas producers, operators of natural gas storage or operators of LNG import, the sole purpose of which is to cover the immediate physical loss resulting from unplanned outages, where not to do so would result in the market participant not being able to meet existing contractual obligations or where such action is undertaken in agreement with the transmission system operator concerned in order to ensure safe and secure operation of the system. In such a situation, the relevant

information relating to the transactions shall be reported to ERO. This reporting obligation is without prejudice to the obligation set out in Article 4, paragraph 1 of this Article.

- 4.3 market participants acting under national emergency rules, where national authorities have intervened in order to secure the supply of electricity or natural gas and market mechanisms have been suspended in a Contracting Party or parts thereof. In this case the authority competent for emergency planning shall ensure publication in accordance with Article 4 of this Rule.
5. Where the person who possesses inside information in relation to a wholesale energy product is a legal person, the prohibitions laid down in paragraph 1 of this Article shall also apply to the natural persons who take part in the decision to carry out the transaction for the account of the legal person concerned.
6. When information is disseminated for the purposes of journalism or artistic expression, such dissemination of information shall be assessed taking into account the rules governing the freedom of the press and freedom of expression in other media, unless:
- 5.1. those persons derive, directly or indirectly, an advantage or profits from the dissemination of the information in question; or
- 5.2. the disclosure or dissemination is made with the intention of misleading the market as to the supply of, demand for, or price of wholesale energy products.

#### **Article 4**

##### **Obligation to publish inside information**

1. Market participants shall publicly disclose in an effective and timely manner the information which they possess in respect of business or facilities which the market participant concerned, or its parent undertaking or related undertaking, owns or controls or for whose operational matters that market participant or undertaking is responsible, either in whole or in part. Such disclosure shall include information relevant to the capacity and use of facilities for production, storage, consumption or transmission of electricity or natural gas or related to the capacity and use of LNG facilities, including planned or unplanned unavailability of these facilities.
2. A market participant may under its own responsibility delay the public disclosure of inside information so as not to prejudice its legitimate interests provided that such omission is not likely to mislead the public and provided that the market participant is able to ensure the confidentiality of that information and does not make decisions relating to trading in wholesale energy products based upon that information. In such a situation the market participant shall without delay provide the publication of information, along with a justification for the delay of the public disclosure, to ERO.
3. Whenever a market participant or a person employed by, or acting on behalf of, a market participant discloses information in relation to a wholesale energy product in the normal exercise of his employment, profession or duties as referred to in point 2 of Article 3(1), that market participant or person shall ensure simultaneous, complete and effective public disclosure of that information. In the event of a non-intentional disclosure the market participant shall ensure complete and effective public disclosure of the information as soon as possible following the non-intentional disclosure. This paragraph shall not apply if the person receiving the information

has a duty of confidentiality, regardless of whether such duty derives from law, regulation, articles of association or a contract.

4. The publication of inside information, including in aggregated form, in accordance with the Law on Energy Regulator, Law on Electricity, Law on Energy and Law on Natural Gas or guidelines and network codes adopted pursuant to the applicable Rules, means the immediate, complete and efficient publication.
5. Paragraphs 1 and 2 are without prejudice to the obligations of market participants under the Law on Energy Regulator, Law on Electricity, Law on Energy and Law on Natural Gas including guidelines and network codes adopted pursuant to those laws and rules, in particular regarding the timing and method of publication of information.
6. Paragraphs 1 and 2 are without prejudice to the right of market participants to delay the disclosure of sensitive information related to the protection of critical infrastructure and the assessment of the need to improve their protection, if it is classified according to legislation in force.
7. No later than 6 months after the entry into force of this Rule, ERO will approve and publish on its website the rules that define:

7.1 the modus, effectiveness and timeliness for the publication of information within the subject of paragraph (1) of this Article;

7.2 cases that justify the delayed publication in accordance with paragraph (2) of this Article, as well as the time limit for, in this case, the rules of applicable publication;

7.3 requirements and time limit applicable to simultaneous, complete and effective publication, as defined in paragraph (3) of this Article;

## **Article 5**

### **Prohibition of Market Manipulation**

Any engagement in or attempt to engage in, market manipulation on wholesale energy markets shall be prohibited.

**CHAPTER III**  
**MONITORING AND REGISTRATION OF MARKET PARTICIPANTS**

**Article 6**  
**Market Monitoring**

1. ERO shall monitor trading activity in wholesale energy products to detect and prevent trading based on inside information and market manipulation in their national market.
2. ERO shall cooperate at regional level via the Energy Community Regulatory Board in carrying out the monitoring of wholesale energy markets referred to in paragraph 1 of this Article.
3. For wholesale energy market monitoring, ERO should cooperate with the Kosovo Competition Authority, or any other market monitoring body. In carrying out such market monitoring, the Kosovo Competition Authority or the market monitoring body shall have the same rights and obligations as ERO pursuant to the first part of this paragraph, the second sentence of Article 4 paragraph 2 and Article 13. ERO, no later than June 30 of each year, must send to the Secretariat a report on the activities of the previous year according to this Rule, and also this report must be published on the ERO website.
4. No later than 6 months after the entry into force of this Rule, ERO shall enter into an agreement with the relevant national authorities for the performance and determination of the procedures for execution of the responsibilities subject to this Article. Such agreements will be published on the ERO website.

**Article 7**  
**Registration of Market Participants**

1. Market participants entering into transactions with wholesale energy products or expressing interest to enter into such transactions through trading procedures, shall register at ERO. For the purpose of registration, no later than 4 months after the entry into force of this Rule, ERO shall apply the registration format compiled by the Energy Community Regulatory Board and publish it on the electronic website.
2. The registration of market participants is without prejudice to obligations to comply with applicable trading and balancing rules.
3. No later than 6 (six) months after the term of approval of this Rule, ERO shall establish and keep up to date national registers of market participants and keep them updated. The register shall give each market participant a unique identifier and shall contain sufficient information to identify the market participant, including relevant details relating to its VAT (value added tax) number, its place of establishment, the persons responsible for its operational and trading decisions, and the ultimate controller or beneficiary of the market participant's trading activities. The register of market participants shall be public.
4. ERO shall present the information in their national registers to the Energy Community Regulatory Board.
5. Market participants referred to in paragraph 1 of this Article shall submit the registration form to ERO prior to entering into a transaction with wholesale energy products.

6. Market participants referred to in paragraph 1 shall communicate promptly to ERO any change which has taken place as regards the information provided in the registration form.

**CHAPTER IV**  
**CONFIDENTIAL INFORMATION**

**Article 8**  
**Data Protection**

This Rule shall be without prejudice to the obligations of ERO to preserve the confidentiality of commercially sensitive information, as stipulated in the applicable Law on Protection of Personal Data (Law No. 03/L-172).

**Article 9**  
**Operational Reliability**

1. ERO shall ensure the confidentiality, integrity and protection of the information received pursuant to Article 4, and Article 6 of this Rule. ERO shall undertake all required measures to prevent the misuse and unauthorized use of information in their systems. ERO, National Competition Authority and other relevant authorities shall ensure the confidentiality, integrity and protection of the information they receive, in line with Article 4 and Article 6 of this Rule and shall undertake measures to prevent the misuse of such information.
2. ERO may decide to make publicly available parts of the information which it possesses, provided that commercially sensitive information on individual market participants or individual transactions or individual market places are not disclosed and cannot be inferred.
3. ERO shall make its commercially non-sensitive trade database available for scientific purposes, subject to confidentiality requirements.

**Article 10**  
**Obligations of persons professionally arranging transactions**

1. Any person professionally arranging transactions in wholesale energy products who reasonably suspects that a transaction might breach Article 3 or Article 5 shall notify ERO without further delay.
2. Persons professionally arranging transactions in wholesale energy products shall establish and maintain effective arrangements and procedures to identify breaches of Article 3 and 5 of this Rule.

**Article 11**  
**Cooperation at Energy Community and National Level**

1. ERO shall cooperate with energy regulators of contracting parties within the Energy Community, including the cooperation at regional level via the Energy Community Regulatory Board for the purpose of carrying out their duties in accordance with this Rule.

2. ERO and Kosovo Competition Authority as well as other competent authorities may establish appropriate forms of cooperation in order to ensure effective and efficient investigation and to contribute to a coherent and consistent approach to investigation, judicial proceedings and to the enforcement of this Rule and relevant financial and competition law.
3. ERO shall without delay inform the Energy Community Regulatory Board and the Energy Community Secretariat in a manner as specific as possible where they have reasonable grounds to suspect that market abuse acts are being, or have been, carried out in the country or in another Contracting Party.
4. If ERO suspects that acts which are being carried out in a Contracting Party are affecting the markets or the price of wholesale energy products in Kosovo, it may request the Energy Community Regulatory Board and the Energy Community Secretariat to ensure that the requirements of the REMIT Rule are implemented in such Contracting Party.
5. In order to ensure a coordinated and consistent approach to market abuse on wholesale energy markets, ERO shall inform the Kosovo Competition Authority, the Energy Community Secretariat and the Energy Community Regulatory Board where they have reasonable grounds to suspect that acts of market abuse are being, or have been, carried out on wholesale energy market, which may comprise a violation of competition in the country or in Contracting Parties.
6. Within the cooperation with ECRB, ERO shall:
  - 6.1. provide the Energy Community Regulatory Board with any information regarding suspected violations, if required;
  - 6.2. initiate an investigation into the alleged violation and take appropriate action to correct any violations found;
  - 6.3. coordinate investigations regarding possible violation that has had a cross-border effect in accordance with the procedures of Energy Community Regulatory Board.
7. If ERO receives a request for information under paragraph 6 of this Article, or receives a request to commence an investigation of a suspected violation, it shall immediately take the necessary measures in order to comply with that request. If ERO is not able to supply the required information immediately, it shall immediately notify the Energy Community Regulatory Board of the reasons of delay.

ERO may refuse to act on a request where:

- 7.1 compliance might adversely affect the sovereignty or security of the country;
  - 7.2 judicial proceedings have already been initiated in respect of the same actions and against the same persons before the national authorities; or
  - 7.3 a final judgment has already been delivered in relation to such persons for the same actions in the country.
8. In any such case, ERO shall notify the Energy Community Regulatory Board accordingly, providing as detailed information as possible on those proceedings or the judgment.

9. ERO shall participate in an investigatory group that is coordinated by the Energy Community Regulatory Board convened in accordance with paragraph 6, rendering all necessary assistance.

## **Article 12**

### **Professional Secrecy**

1. Any confidential information received, exchanged or transmitted pursuant to this Rule shall be subject to the conditions of professional secrecy laid down in this Article.
2. The obligation of professional secrecy shall apply to:
  - 2.1. persons working or who have worked for the ERO or other authority, which is or may be in possession, or receive such information in accordance with this rule or any investigative process;
  - 2.2. auditors and experts informed by ERO and other competent authorities.
3. Confidential information received by the persons referred to in paragraph 2 of this Article in the course of their duties may not be divulged to any other person or authority, except in summary or aggregate form such that an individual market participant or market place cannot be identified, without prejudice to cases covered by penal law, the other provisions of this Rule or other relevant legislation of Kosovo or Energy Community.
4. Without prejudice to cases covered by penal law, ERO, bodies or persons which receive confidential information pursuant to this Rule may use it only in the performance of their duties and for the exercise of their functions. Other authorities, bodies or persons may use that information for the purpose for which it was provided to them or in the context of administrative or judicial proceedings specifically related to the exercise of those functions.
5. This Article shall not prevent ERO from exchanging or transmitting, in accordance with national law, confidential information provided that it has not been received from an authority of another Contracting Party or from the Energy Community Regulatory Board or from the Energy Community Secretariat, in line with this Rule.

**CHAPTER V**  
**SUPERVISION AND INVESTIGATION AND ADMINISTRATIVE RULES**

**Article 13**

**Enforcement of Prohibitions on Market Abuse**

1. ERO shall ensure that the prohibitions set out in Articles 3, 5 and the obligation set forth in Article 4 are applied.
2. The Energy Regulatory Office, in accordance with the competencies provided by the Law on the Energy Regulator, shall undertake investigative measures regarding the prohibitions and requirements under this rule, which will be exercised:

2.1 directly;

2.2 in cooperation with competition authority and other relevant authorities; or

2.3 at the request of judicial and prosecutorial authorities;

When appropriate, ERO may exercise its investigative powers in cooperation with organized markets, trade-matching systems or other persons who professionally regulate transactions.

3. The investigative and enforcement actions referred to in paragraph 1 shall include the right:
  - 3.1 to access any relevant document in any form, and to obtain a copy thereof;
  - 3.2 to request any information from any relevant person, those who are constantly involved in transmitting orders or performing the actions in question, including their superiors, and if necessary, the right to call and listen to any of persons or their superiors;
  - 3.3 to carry out inspections on the site;
  - 3.4 to request existing telephone and electronic communications records;
  - 3.5 to seek the termination of any practice that is inconsistent with this Rule or the implementing acts adopted there under;
  - 3.6 to require the court to freeze or seize assets until the investigation is completed;
  - 3.7 to require the court or any competent authority to impose a temporary prohibition on the activity.

**Article 16**

**Terms for decision-making and publication**

1. The decision to ascertain the eventual violations and the decision to ascertain the misuse and abuse of the wholesale market, ERO takes it within sixty (60) days, from the day of confirmation of all relevant facts for making such a decision.
2. In special cases, ERO may extend the deadline for making decisions for up to sixty (60) days.

3. All decisions shall be taken autonomously and independently of any political or public body, or any public or private enterprise.
4. The decision shall be published within thirty (30) days on the official website of ERO.
5. The information which is considered a business secret shall be excluded from publication pursuant to paragraph 4 of this Article.

## **Article 17**

### **The right to appeal**

1. No appeal is allowed against the decision of ERO, which states the violation of this Rule and the imposition of punitive measures, as well as the decision by which the procedure is terminated due to preliminary issues, but the unsatisfied party, within the deadline of 30 days after the receipt of the decision may initiate a lawsuit for administrative at the competent court in the Republic of Kosovo.
2. The initiation of an administrative conflict does not prevent the execution of the decision.

## **Article 16**

### **Administrative Measures and Fines**

1. ERO shall, in accordance with Article 57 of the Law on Energy Regulator and the Rule on Administrative Measures and Fines, take penalties for violations of this Rule.
2. ERO may adopt the following administrative measures:
  - 2.1. to oblige a natural or legal person to terminate performing activities that cause violation under this Rule;
  - 2.2. to declare null and void any act or decision that constitutes a breach, annul and abrogate it;
  - 2.3. to oblige natural and legal persons to perform all reasonable actions considered necessary to eliminate adverse effects, and to issue warnings;
  - 2.4. provide interim measures regarding the alleged violation.
3. Notwithstanding the administrative measures provided for in this Rule, ERO may also impose fines on natural and legal persons for violations in accordance with Article 57 of the Law on Energy Regulator, as follows:
  - 3.1. does not provide the information required under this Rule;
  - 3.2. discloses confidential information in an unacceptable manner;
  - 3.3. does not provide the required assistance and does not accept to cooperate with competent bodies,

- 3.4. does not act in accordance with the measures imposed to prevent the abuse of dominant position;
  - 3.5. maintains accounts in a manner which is inconsistent with the requirements of applicable legislation;
  - 3.6. acts in contradiction with the Rule and the applicable legislation.
4. For the violations set in paragraph 3 of this Article, the legal and natural bodies shall be imposed fines starting from 5,000.00 EUROS up to the 10% of incomes that the enterprise has accumulated in the previous year.
  5. The level of fines, in accordance with paragraph 4 of this Article shall depend on the following factors:
    - 5.1. The material value of the caused damage;
    - 5.2. The number of affected customers;
    - 5.3. The financial benefits of unlawful actions undertaken, and
    - 5.4. Impact of the violation on the functioning of the energy market.
  6. In imposing an administrative penalty and fine, ERO shall notify in writing the natural and legal persons on the violations committed and shall give them the opportunity and time to respond in writing within fourteen (14) days from the notice.
  7. Following the receipt of written responses from natural and legal persons, ERO shall evaluate them and issue a decision in accordance with the findings and proven violations.
  8. If the fine imposed by ERO is not paid within the legal deadline, court proceedings for payment of the fine as civil debt shall be initiated.
  9. Administrative measures and fines imposed by ERO shall not exclude civil liability and criminal liability under applicable law.
  10. ERO shall publish the measures or penalties imposed under paragraph 1 for violations of this Rule, unless such disclosure would cause disproportionate damage to the parties involved.
  11. All fines collected under this Article shall be paid into the Budget of the Republic of Kosovo.

**CHAPTER VI  
FINAL PROVISIONS**

**Article 17**

**Amendments**

- 1 ERO is entitled to amend or modify any provision of this Rule.
- 2 The procedures for amendment or modification of this Rule shall be the same as for its approval.

**Article 18**

**Interpretation**

In case there are uncertainties regarding the provisions of this Rule, ERO Board shall issue explanatory information.

**Article 19**

**Entry into force**

This Rule shall enter into force on the date of its approval by ERO Board and shall be published on ERO's official website.

**ERO Board:**

\_\_\_\_\_  
Arsim Janova, Acting-Chairman

\_\_\_\_\_  
Besim Sejfijaj, Member

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Selman Hoti, Member

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Izet Rushiti, Member