

Pursuant to Article 82, paragraph (1), clause 2) and Amendment IV, paragraph (1) of the Constitution of Montenegro, Montenegro's Parliament in its 25<sup>th</sup> constitution passed the following Energy Law at the second session of the regular (autumn) constitution in 2015, on December 29th:

## **ENERGY LAW**

### **I. BASIC PROVISIONS**

#### **Scope**

##### Article 1

This Law shall specify energy activities, regulate terms and conditions for carrying out of those activities in order to ensure quality and safe energy supply to final customers as well as to incentive electricity generation from renewable sources and high-efficiency cogeneration, procedure for organization and management of the electricity and gas market as well as other matters of relevance for the energy sector.

#### **Exemptions from the application**

##### Article 2

This Law shall not apply to:

- 1) research and exploitation of coal, except for exploitation intended for generation of electricity and heat energy;
- 2) research and exploitation of oil and gas, development, production or refining of crude oil or gas; and
- 3) energy efficiency in the final energy consumption sector.

#### **Energy activities**

##### Article 3

(1) Energy activities, in terms of this Law, are as follows:

- 1) generation of electricity;
- 2) transmission of electricity;
- 3) distribution of electricity;
- 4) supply of electricity;
- 5) organization and management of electricity market;
- 6) storage of gas;
- 7) transmission of gas;
- 8) distribution of gas;
- 9) supply of gas;
- 10) organization and management of gas market;
- 11) transport of oil through oil pipelines and other means of oil transport that are not regulated with a separate regulation;
- 12) transport of petroleum products through product pipelines;
- 13) transport of petroleum products by means of transport, apart from product pipelines;

- 14) wholesale in petroleum products;
  - 15) retail trade in petroleum products;
  - 16) storage of oil and petroleum products;
  - 17) production of heat energy for district heating and/or cooling;
  - 18) distribution of heat energy for district heating and/or cooling;
  - 19) supply of heat energy for district heating and/or cooling;
  - 20) trading, mediation and representation activities on the energy market, which have not been governed by a separate ordinance;
  - 21) transport and storage of liquefied natural gas (hereinafter: LNG);
  - 22) operation of LNG facility;
  - 23) operation of liquefied petroleum gas facility (hereinafter: LPG);
  - 24) wholesale and supply of LNG to final customers;
  - 25) combined generation of electrical and heat energy;
  - 26) production of biofuels and bio-liquids;
  - 27) transport of biofuels and bio-liquids;
  - 28) wholesale in biofuels and bio-liquids;
  - 29) retail trade in biofuels and bio-liquids;
  - 30) storage of biofuels and bio-liquids.
- 2) In terms of this Law, an energy undertaking is a business organization, legal or natural person or entrepreneur which performs one or more activities referred to in paragraph 1 of this Article, except the final user.
  - 3) Energy sector comprises energy activities referred to in paragraph 1 of this Article and energy undertakings performing those activities.

## **Public interest**

### **Article 4**

- (1) Ensuring sufficient quantities of energy that are required for life and work of citizens and for operation and development of business undertakings and their supply in a secure, safe, reliable and quality manner, as well as development in the energy sector represent the activities of public interest.
- (2) The public interest from paragraph (1) of this Article shall be achieved by carrying out the energy activities from article 86 herein, based on the following principles:
  - 1) efficient and economic use of natural resources which meets the energy demands and strategic economic interests of Montenegro;
  - 2) environmental protection;
  - 3) efficient use of energy and use of energy from renewable sources;
  - 4) enhancement of competition on electricity market and establishing of competitive gas market;
  - 5) protection of final electricity and gas customers;
  - 6) profitable business operations;
  - 7) promotion of private sector participation;
  - 8) establishment of use of transmission and distribution systems for electricity and gas and other gas systems, supply with electricity, gas and heat energy for district heating and / or cooling or for industrial purposes and participation in electricity and gas market;
  - 9) harmonizing organization and functioning of the energy sector of Montenegro with organization and functioning of energy sectors of the other European countries.
  - 10) respect for the title to place.

## **Functioning of energy sector**

### **Article 5**

- (1) Organization, management, functioning and development of electricity and gas market shall be carried out in a manner that ensures safe supply, reliable and quality services, at prices which reflect market price trend and/or result from transparent tender procedures, as well as integration of the electricity and gas market of Montenegro into the regional and European market.

- (2) Regulation and functioning of the energy sector, pursuant to this Law, shall be carried out in order to ensure efficient and quality carrying out of activities, referred to in Article 3 herein, in a transparent and non-discriminatory manner.

## Meaning of terms

### Article 6

Certain terms used herein shall have the following meaning:

- 1) **Aero-thermal energy** means energy contained in the air in a form of heat energy;
- 2) **Biomass** means the biodegradable fraction of products, waste and biological residues from agriculture (including vegetal and animal substances), forestry and related activities, fishery and aquaculture, as well as biodegradable fraction of industrial and municipal waste;
- 3) **bio-fuels** means liquid or gaseous fuels for traffic, generated from biomass;
- 4) **bio-liquid** means liquid fuel generated from biomass, intended for energy purposes, including generation of electricity and heat energy for heating and cooling, except for traffic;
- 5) **balancing electricity market** means the set of institutional, commercial and operative arrangements establishing the market management of balancing function;
- 6) **Interruptible Rate** means a price of energy, agreed in advance between energy undertaking and customer, which takes into account interruptions in electricity or gas supply;
- 7) **district heating or district cooling** means distribution of thermal energy in a form of steam, hot water or cooling fluid from a central generation source through distribution system to a number of buildings or locations, for the purpose of heating or cooling or for technological processes;
- 8) **Dispatching of electricity or gas** means controlling of electricity or gas flows in the system, including exchange with other systems;
- 9) **Distribution of electricity** means the transmission of electricity by way of electricity distribution systems with a view to its delivery to final customers, but not including electricity supply;
- 10) **Distribution of gas** means the transport of gas through local or regional gas pipeline systems with a view to its delivery to final customers, which shall not include gas supply;
- 11) **Distribution of heat energy** means the transport of heat energy for district heating and/or cooling or for industrial use by means of a medium of steam, hot water or cooling fluid through distribution systems;
- 12) **Heat energy distributor** means an energy undertaking carrying out the activity of heat energy distribution for the purpose of district heating and/or cooling;
- 13) **distributed electricity generation** means generation of electricity in power facility connected to distribution system;
- 14) **Economically reasonable demand** means demand which does not exceed the requirements for heat energy or cooling, compared to demand which can be covered by electricity generation, excluding cogeneration, under the market rules.
- 15) **Economic Precedence** means ranking of bids per offered price per ascending sequence;
- 16) **Energy facility** means a facility where one or more technological functions of generation, transmission, distribution of electricity and/or gas, storage of oil, petroleum products or gas and generation or distribution of heat are carried out;
- 17) **guarantee of origin** means an electronic document whose exclusive function is to prove to the end customer that certain share or quantity of energy has been generated from renewable sources;
- 18) **Gas** means the natural gas, liquefied natural gas, liquefied petroleum gas, biogas or other gas, regardless of its origin, if this type of gas may be technically and safely transported through the gas system;
- 19) **Gas System** means transmission system, distribution system, LNG facilities and/or facilities for storage owned and/or managed by natural gas undertaking, including operating reserve in gas system (line pack) and facilities for provision of ancillary

services and services of associated undertakings which are required to ensure access to transmission system, distribution system, storage system and LNG facilities;

- 20) **Geothermal energy** means energy in a form of a heat present below solid surface of earth;
- 21) **Horizontally integrated energy undertaking** means an energy undertaking performing at least one energy activity: generation for trading, transmission, distribution or supply of electricity and the other activity outside the electricity sector;
- 22) **Horizontally integrated gas undertaking** means an undertaking performing at least one of activities: generation, transmission, distribution, supply or storage of natural gas and the other activity which does not refer to gas;
- 23) **Hydro-thermal energy** means energy present in surface water in a form of heat;
- 24) **Interconnected systems** means the transmission or distribution systems which are mutually connected by one or more interconnectors;
- 25) **Interconnector** means a transmission electricity line or transmission gas pipeline which crosses a border between two countries for the sole purpose of connecting the transmission systems of those countries;
- 26) **Control** means direct or indirect impact on decisions of an energy undertaking based on ownership right or right of use of the overall or a part of property, respectively having a decisive impact on the composition, voting or deciding of the energy undertaking's body;
- 27) **Useful heat** means heat produced in a cogeneration process to satisfy economically reasonable demand for heating or cooling;
- 28) **System user** means any legal or natural person delivering to or taking from the system energy or gas;
- 29) **Customer** means any natural or legal person purchasing electricity or gas for its own use or for resale;
- 30) **Customer from the category of households** means the customer purchasing electricity or gas exclusively for the purpose of consumption in its household, excluding consumption for business or professional activities;
- 31) **Customer that does not belong to the category of households** means a natural or legal entity purchasing electricity or gas, but not for the purpose of consumption in its household, and it includes wholesale producers and customers;
- 32) **Final customer** means a customer purchasing electricity or gas for its own use;
- 33) **Wholesale customer** means any natural or legal person, except TSO or DSO, purchasing electricity or gas for the purpose of its resale within or outside the system in which it is established;
- 34) **Self-supplying customer** means the final customer who has own delivery point, and who bears balancing responsibility and purchases electricity for own needs, without supplier's interference;
- 35) **Small scale power plant** means the power plant of up to 10 MW installed capacity;
- 36) **Network** means a system of pipelines or electricity lines;
- 37) **Upstream pipeline (main gas line) network** means any gas pipeline or network of gas pipelines operated or constructed as a part of oil or gas production installations, or used to convey gas from one or more such installations to the processing plant, terminal or final coastal landing terminal, and to convey gas from a source where it is produced to the point of delivery to transmission line;
- 38) **Oil** means liquefied hydrocarbon which when extracted from bunk remains in liquid state at normal atmosphere pressure and temperature;
- 39) **Petroleum products** means products obtained from crude oil, including liquefied oil gas, or mixture of petroleum products and bio fuels, wherein the petroleum products have a major share;
- 40) **Oil pipeline** means pipeline for transport of oil from the forwarding station, collective-forwarding station or terminal to the oil refinery, as well as international system for oil transport;
- 41) **Renewable energy sources** means non fossil energy sources such as: water flows, bio mass, wind, the sun, biogas, landfill gas, and solid waste from waste water treatment plants and solid municipal waste;
- 42) **Consumption response** means the ability of energy customer to adapt its consumption to the system demand and/or market conditions in a certain moment;
- 43) **Electricity Distribution System Operator** means an energy undertaking carrying out the electricity or gas distribution activity, which is responsible for operation, maintenance and development of the distribution system in a given area, its interconnection with other systems, as

well as for ensuring the long-term ability of the system to meet demands for distribution of electricity or gas in an economically feasible manner;

44) **Electricity Transmission System Operator** means an energy undertaking carrying out the electricity or gas transmission activity, which is responsible for operation, maintenance and development of the transmission system in a given area, its interconnection with other systems, as well as for ensuring the long-term ability of the system to meet demands for transmission of electricity or gas in an economically feasible manner;

45) **Gas Storage system operator** means an energy undertaking which carries out the storage activity and which is responsible for management, functioning maintenance and development of the system for gas storage;

46) **Market Operator** means an energy undertaking responsible for organization and management of electricity market, electricity purchase from the privileged producers and resale to suppliers and self - supplying customers;

47) **Ancillary services in the electricity sector** means services necessary for operation of transmission and distribution system;

48) **Ancillary services in the gas sector** means all services necessary for access to and operation of transmission or distribution system, LNG or storage facilities, including load balancing and mixing and injecting of inert gases, but they shall not include facilities exclusively reserved for activities of Transmission System Operator;

49) **Associated customers** means undertakings whose financial statements shall undergo consolidation and/or undertakings that belong to the same owners;

50) **Privileged producer** means an energy undertaking that generates electricity from renewable energy sources or high-efficiency cogeneration and is entitled to the support scheme/incentive measures pursuant to this Law;

51) **Legal Unbundling** means a procedure through which the functions performed within an integrated energy undertaking are legally separated so that they are performed in different legal entities operating independently from all other energy or non-energy related activities of the integrated undertaking;

52) **Transmission of electricity** means transmission of electricity over high-voltage interconnected transmission system aimed at electricity delivery to final customers or distributor, but excluding supply;

53) **Transmission of gas** means the transport of gas through network, which mainly consists of high-pressure gas-lines, except for the system of main gas-lines and a part of high-pressure gas-lines mainly used in local gas distribution for the purpose of its delivery to customers, but excluding supply;

54) **Connection** means set of lines, equipment and devices used for connecting of facilities of energy undertakings or with installations of final customers' facilities;

55) **Primary energy** is an energy form found in nature that has not been subjected to any conversion or transformation process.

56) **Refined product pipeline** means pipeline serving for transport of petroleum products from refinery installation to the customer or storehouse;

57) **Generation** means the physical or chemical process whereby fuel and renewable sources are transformed into electricity, heat energy and other forms of energy;

58) **Generator of electricity** means a business organization, natural or legal person or entrepreneur generating electricity;

59) **Generator of electricity for own use** means a business organization, natural or legal person or entrepreneur generating electricity essentially for its own use;

60) **Producer of heat energy** means an energy undertaking producing heat energy for district heating and/or cooling or for industrial use;

61) **Available capacity** means capacity of transmission or distribution system or gas storage system capacity, which the system operator can provide to the system or network users without endangering of safety and quality in supply of the existing users;

62) **Regasification** means the process of warming up of LNG until it is transformed into gaseous state;

63) **Gas system reserve (line pack)** means storage of gas in transmission and distribution gas systems by its compression, excluding facilities primarily reserved for activities of transmission system operator;

- 64) **Security of system functioning** means a continuous managing over transmission and, if necessary, distribution system under the forecasted circumstances;
- 65) **Security in supply** means capability of energy or gas system to provide adequate quantity of energy or gas to continuously service the needs of final customers, as well as capability of transmission and distribution systems to ensure delivery of energy to the final customers;
- 66) **Storage facility** means a reservoir area with a capacity above 0.3 cubic meters, meeting prescribed conditions for storage of gaseous or liquid hydrocarbons, including a part of LNG facility used for storage and excluding the part used for generation, as well as facilities reserved exclusively for carrying out the activity of transmission system operator;
- 67) **Supply** means sale and resale of electricity, gas, petroleum products or heat energy to the customers;
- 68) **Supply with interruptions** means supplying whereby the Supplier shall contractually exercise the right to make interruptions in supply of the customer, under contracted terms and conditions;
- 69) **Supplier** means an energy undertaking engaged in supply of electricity, gas, petroleum products or heat energy;
- 70) **Last-resort supplier and supplier to vulnerable customers** means electricity or gas supplier, chosen in a transparent process, providing the public service of electricity or gas supply at separately regulated terms and conditions, in accordance to this Law.
- 71) **Gas undertaking** means any natural or legal person carrying out at least one of the following activities: production, delivery and sale of gas from own production, transmission of gas, distribution of gas, gas supply, purchase or storage of gas, which is responsible for the commercial and technical tasks, as well as maintenance of gas system, except for the final gas customers;
- 72) **Transit** means transport of electricity or natural gas not originating from Montenegro, from one country to the another, or returning to the country of origin across the territory of Montenegro;
- 73) **Third country** means each country except Montenegro, members of the European Union and contracting parties of the Energy Community (hereinafter the Communities);
- 74) **Trade** means purchase and sale of electricity, gas or petroleum products for resale;
- 75) **Contract on electricity or gas supply** means contract on supply of electricity or gas, which does not include electricity or gas derivatives;
- 76) **Electricity market participant** means a legal or natural person, i.e. an entrepreneur, registered with the market operator for purchase and/or sale of electricity;
- 77) **Market participant** means a legal or natural person, i.e. an entrepreneur, registered with the market operator for purchase and/or sale of gas;
- 78) **“Take-or-pay” contract** means a contract binding supplier to supply contracted quantities of gas and binding the customer to pay those quantities of gas regardless of whether it took them;
- 79) **Gross final energy consumption** means gross consumption of energy that is delivered to industry, transport, households, services (including also public services), agriculture, forestry and fishing industry, including energy sector’s own consumption of electricity and heat energy, as well as losses in transmission and distribution of electricity and heat energy;
- 80) **Balancing service in the energy sector** means balancing of capacities and / or energy balancing;
- 81) **Vertically integrated undertaking** means an undertaking or several associated undertakings in which the same undertaking or several associated undertakings is entitled to direct or indirect control, performing at least one of the following activities: transmission of electricity or gas, distribution of electricity or gas, storage of gas and management of the LNG facility, as well as at least one of the following activities: generation or supply of electricity or gas;

## II. ENERGY DEVELOPMENT PLANNING

### Long -term energy development objectives

## Article 7

(1) Long-term, economic and institutional-organizational frame of energy development shall be determined by Energy Development Plan of Montenegro (hereinafter referred to as: Energy development plan), adopted by the Government of Montenegro (hereinafter: the Government).

(2) Energy development plan shall be closely elaborated and implemented in the Energy Development Strategy of Montenegro (hereinafter: the Energy Development Strategy), the Action plan for implementation of the Energy Development Strategy (hereinafter: the Action plan), Action Plan for use of energy from renewable sources, Action Plan for development and use of district heating and/or cooling and high-efficiency cogeneration, Action Plan for energy efficiency, local energy plans and the Energy balance.

(3) Documents referred to in paragraph (2) of this Article shall be published at the web page of the Competent State's Authority in charge for energetic activities (hereinafter referred to as: the Ministry).

## Objectives of development in the energy sector

## Article 8

(1) Development of the energy sector is planned with the following objective:

- 1) ensuring of regular, secure and quality energy supply;
- 2) ensuring sustainable and efficient generation and use of energy;
- 3) developing and usage of different energy sources;
- 4) increasing production and/or use of energy from renewable sources and high-efficiency cogeneration;
- 5) efficient carrying out of energy activities and public services while ensuring sustainable development;
- 6) environmental protection in all areas of the energy activities;
- 7) ensuring competition on the energy market based on the principles of objectivity, transparency and non-discrimination;
- 8) maintaining of stable conditions and encouraging private sector participation in the energy sector;
- 9) protecting final energy customers;
- 10) connecting of the Montenegrin energy system with the European energy systems and systems of the neighbouring countries in accordance with energy requirements and requirements in economic development;
- 11) developing energy market and its connecting with regional and internal European Union market;
- 12) creating conditions for investments in the energy sector.
- 13) developing of gas systems and their connection with neighbouring gas systems, so as to cover domestic requirements for natural gas and diversification of energy sources.

(2) Energy efficiency in/management of consumption, in terms of this law, is a global or integrated approach aimed at influencing quality and time adjustment of electricity consumption, to the end of reduction of primary energy consumption and peak load, primarily by means of investments in measures for enhancement of energy efficiency if those measures, with regard to positive impacts of reduced consumption to the environment, aspects of supply security and distribution costs stand for effective and cost efficient solutions in respect to investments whereby generation capacities are to be increased, as well as through signing of Contracts on supply with interruption possibility.

## Energy Development Strategy

## Article 9

(1) The following shall be elaborated and planned for a long-term in the Energy Development Strategy:

- 1) development objectives and guidelines for development of supply and for meeting energy demand while taking into account technological and economic criteria, as well as environmental protection criteria;
- 2) need for investments in generation, transmission and distribution capacities, in the aim to secure electricity supply to customers
- 3) need for supply capacities and gas transport in the aim to secure supply to customers, satisfy system demand for gas and diversification of resources;
- 4) mechanisms to encourage utilization of renewable energy sources and increase energy efficiency;
- 5) total energy balance of the country, timing and methods to be used in achieving and monitoring of development objectives, as well as assessment of their effects;
- 6) other objectives and elements of importance for establishment and implementation of the energy policy in accordance with the Law;
- 7) tentative financial resources for implementation of the Energy Development Strategy.

(2) The Strategy from the paragraph (1) of this article shall be adopted by the Government for at least ten year period, in accordance with the development plan of Montenegro.

(3) The Strategy from the paragraph (1) of this article and the Spatial Plan of Montenegro shall be mutually harmonized.

(4) The draft Strategy referred to in paragraph (1) of this Article shall be submitted for provision of an opinion to the state administration authority competent for supervision of the state support.

## **Action plan for implementation of the Energy Development Strategy**

### **Article 10**

(1) The Government adopts the Action plan, for a five-year period, for the purpose of achievement of objectives established in the Energy Development Strategy.

(2) The Action plan from the paragraph (1) herein shall contain specifically the following:

- 1) Manner and timing for implementation of the Energy Development Strategy;
- 2) Plan for construction and reconstruction of energy facilities;
- 3) Time schedule for performance of activities regarding implementation of programmes and projects;
- 4) Models for programmes and projects implementation and principal bodies;
- 5) Assessment of funds required for implementation of the Action plan and sources of funding, and
- 6) Other elements of importance for implementation of the Energy Development Strategy.

(3) The draft Action plan referred to in paragraph (1) of this Article shall be submitted for provision of an opinion to the state administration authority competent for supervision of the state support.

## **Monitoring over implementation of development-related documents**

### **Article 11**

(1) The implementation of the Energy Development Strategy and Action plan shall be monitored by the Ministry and the latter shall submit to the Government an annual report, comprising particularly the following:

- 1) results achieved in the previous year regarding objectives determined within Energy development strategy;
- 2) assessment of the impact exerted via results of implementation of the Action plan for the current year;
- 3) as required, proposal of measures to increase efficiency of implementation of Energy Development Strategy, and
- 4) assessment of the need, if any, to harmonize the Action plan and the Energy Development Strategy.



(2) Report from the paragraph (1) of this article shall be submitted by March 31 of the current year for the previous year and it shall be published on the Ministry's web site.

## **Local Energy Plan**

### **Article 12**

(1) The local self-government authority shall plan energy demand and energy supply modes, measures for energy efficiency as well as use of renewable energy sources and cogeneration in a local energy plan in accordance with the Energy Development Strategy, Action Plan for use of renewable energy and Action Plan for energy efficiency.

(2) The Local Energy Plan referred to in paragraph 1 of this article shall contain particularly the following:

1) overview of supply of energy generating products in the area of local self-government, as well as overview of all types of energy generation at the territory of the local self-government unit (electricity generation, district heating and/or cooling systems and other types of energy generation);

2) data on energy consumption at the territory of local self-government unit, by type of energy generating products, sectors of activities and households;

3) data on emission of greenhouse gases at the territory of local self-government unit;

4) estimate of the planned energy consumption, by type of energy generating product, sectors of activities and households, at the territory of local self-government;

5) estimation of the possibility of energy generation at the territory of local self-government unit;

6) estimation of the possibility of using energy efficiency measures in all sectors and households, with particular emphasis on the public sector;

7) estimation of potentials and possibilities of increased use of renewable energy;

8) estimation of the possibility of introducing the system of district heating/cooling;

9) energy objectives in local self-government unit and indicators for their monitoring;

10) measures for reaching the set objectives;

11) estimate of funds needed for implementation of local energy plan and possible sources of funding.

(3) Local energy plan shall be adopted for a ten year period and shall be adjusted to the Energy Development Strategy, Action plan for renewable energy use, Action plan for development and use of district heating and/or cooling and high-efficiency cogeneration and Action plan for energy efficiency.

(4) Local self-government unit shall prioritize heating and/or cooling from renewable sources, when it undergoes the procedure of planning the municipal infrastructure, as possible.

(5) Local self-government authority shall submit to the Ministry a report on implementation of the local energy plan by January 31 of the current year for the previous year.

(6) The draft Local Energy Plan referred to in paragraph (1) of this Article shall be delivered to the state administration authority competent for supervision of the state support for the purpose of obtaining a corresponding opinion.

## **Energy balance**

### **Article 13**

(1) Demand of energy, i.e. energy generating products that need to be provided in order to balance supply and demand, ensure regular and continuous supply to customers, while taking into account the need for rational consumption of energy and energy generating products and sustainable energy development; sources from which the required quantity of energy, i.e. energy generating products will be obtained; supply method for specific types of energy and energy generating products; required level of energy generating products' stocks and reserve capacities of the energy facilities for the purpose of safe supply to final customers with energy and energy generating products, shall be defined by Energy Balance of Montenegro ( hereinafter: the Energy Balance).

- (2) The Energy balance referred to in paragraph 1 of this article shall be adopted both as a long term and an annual document.

### **Content of the energy balance**

#### **Article 14**

- (1) The energy balance particularly comprises the following:

- 1) electricity balance;
- 2) coal balance;
- 3) oil , petroleum products and biofuels balance;
- 4) natural gas balance and balance of heat energy for district heating and/or cooling and for industrial use.

- (2) Electricity balance shall specify:

- 1) electricity consumption plan;
- 2) opportunities for generation and import of electricity;
- 3) export, including also transit of electricity
- 4) opportunities to provide electricity for system balancing purposes, electricity required to cover transmission and distribution system losses and capacities for provision of ancillary services;
- 5) maintenance plan for generating electric power facilities and an estimate of required construction of new generating capacities;
- 6) use of domestic sources of primary energy for generation of electricity, and
- 7) other important issues for functioning of the electric power system.

- (3) The Coal Balance shall specify:

- 1) coal consumption plan;
- 2) coal production and import potentials;
- 3) quantity of coal for electricity generation, industrial consumption

and general consumption;

- 4) export of coal; and
- 5) other important issues for achievement of the coal balance.

- (4) Oil balance, balance of petroleum products, and biofuel shall specify:

- 1) oil, petroleum products and biofuel consumption plan;
- 2) opportunities for production and import of oil, petroleum products and biofuel; and
- 3) usage of oil and petroleum products in non-energy purposes.

- (5) Natural gas balance shall specify:

- 1) natural gas consumption plan;
- 2) opportunities for natural gas production and import;
- 3) opportunities for providing natural gas for the purpose of system balancing, natural gas for covering the transmission and distribution system losses and capacity for provision of ancillary services;

4) technical capacity of gas transmission system, including interconnectors, its use and availability of transmission service, including transit of natural gas and valuation of the need for new capacities;

- 5) total storage capacity and/or LNG system and possibilities of its use;
- 6) required development and maintenance of gas facilities; and
- 7) other issues important for functioning of the natural gas system.

- (6) Balance of heat energy for district heating and/or cooling and for industrial use shall specify:

- 1) heat energy consumption plan for district heating and/or cooling and for industrial use;
- 2) opportunities for production of heat energy for district heating and/or cooling and for industrial use;

3) maintenance plan of facilities and an estimate of the need for construction of new capacities and

4) other issues of importance for functioning of the heat energy system for district heating and/or cooling and for industrial use.

## **Consumption plans and balances**

### **Article 15**

(1) Consumption plans, from article 14 herein, per type of energy and energy generating products shall be based on realized consumption of energy or energy generating products in the previous year or previous years and estimation of consumption for the current and subsequent year or years.

(2) The balances, from the article 14 herein, shall specify, per type of energy and energy generating products, the way in which demand for a certain type of energy will be met, as well as the method of supply, from primary to final energy, while specifying renewable and conventional sources of energy.

(3) Annual energy balance shall also include an annual analysis of contribution of energy from renewable energy sources in the gross energy generation.

## **Annual and long-term balance**

### **Article 16**

(1) In addition to elements referred to in articles 14 and 15 herein, the long-term and annual energy balance shall specify:

- 1) planned volumes of energy from renewable energy sources and cogeneration;
- 2) the manner of efficient energy use;
- 3) required level of reserve capacities and operational stocks of certain types of energy and energy generating products so as to ensure security in energy supply.

(2) The long-term energy balance shall comprise the following:

- 1) energy consumption plan per type of energy in accordance with the principle of efficient and sustainable use of energy in the future long-term period;
- 2) estimate of energy values necessary for determining regulatory allowed revenue and prices in the field of electricity and gas;
- 3) the method for supply of specific types of energy, from primary to final energy;
- 4) environmental impact resulting from generation and use of energy;
- 5) other relevant elements.

(3) The Long-term energy balance shall be passed by the Government for the period equal to duration of the regulatory period, not later than by July 1<sup>st</sup> of the year in which period of appliance of energy balance shall expire.

(4) Energy undertakings and self-supplying customers shall prepare and submit to the Ministry the relevant data from articles 14 and 15 herein required for development of the annual energy balance not later than on October 15<sup>th</sup> of the current year for the following year, and for long-term balance not later than on June 1 in the year in which period of energy balance appliance expires,

(5) The Government shall adopt the annual energy balance not later than on November 15<sup>th</sup> of the current year for the following year,

(6) More detailed content of the energy balance, type of data from paragraph 4 of this article and manner of their submission shall be defined by the regulation of the Ministry.

## **Report on implementation of the energy balance**

### **Article 17**

(1) The Ministry shall monitor implementation and shall make analysis of the energy balance realization and investments in electricity and gas generation, transmission and distribution in the previous year for the purpose of assessment of security in supply.

(2) Energy undertakings and self-supplying customers shall submit data about implementation of annual energy balance not later than on February 15<sup>th</sup> of the current year for the previous year.

(3) The Ministry shall prepare and publish on its web page the Report on realization of the energy balance for the previous year, not later than on March 31<sup>st</sup> of the current year.

(4) For the sake of security of supply, in the annual energy balance may be determined an obligation for transmission system operator to engage generating facilities using domestic primary

sources of energy, by priority, up to a limit which shall not exceed 15% of total primary energy, in a calendar year, required for electricity generation consumed in Montenegro.

### **III. RENEWABLE ENERGY SOURCES, HIGH-EFFICIENCY COGENERATION AND SUPPORT SCHEMES**

#### **Renewable energy sources**

##### **Article 18**

(1) Achievement of the mandatory share of energy from renewable sources in final gross consumption of energy, in line with obligations assumed by ratified international contracts is of the public interest.

(2) Sources and scope of energy use from renewable sources shall be established by Action plan for use of energy from renewable sources to be passed by the Government, in line with the Energy development strategy and ordinances on energy efficiency and reduction of emission of gas with greenhouse effect, for the period of up to 10 years.

(3) Objectives of use of energy from renewable sources, set in action plan from paragraph 2 of this article shall be determined based on the energy demand, economic opportunities and obligations of Montenegro assumed by the ratified international contract:

(4) Action plan referred to in paragraph 2 of this article shall particularly contain the following:

1) mandatory share of energy from renewable sources within gross final energy consumption, in line with self-commitment referred to in paragraph 3 of this article, as a national objective;

2) planned share of energy from renewable sources within gross electricity consumption;

3) planned share of energy from renewable sources within gross electricity consumption;

4) planned share of energy from renewable sources within gross energy consumption for heating and cooling;

5) planned share of energy from renewable sources within gross energy consumed in all forms of transport.

6) Dynamic of achievement of objectives aimed at use of renewable energy sources with support schemes.

(5) The regulation of the Ministry shall define manner for calculating share referred to in paragraph 4 of this article, energy content of fuel and manner of accounting of total electricity consumption used in transport, manner of calculation of electricity volume generated in hydro power plants and wind farms, manner of calculation of biogas, bio-liquids and fossil fuels comparable thereof in terms of emission of gas with greenhouse effect, as well as manner of calculation of energy from heat pumps.

(6) The draft Action Plan referred to in paragraph (2) of this Article shall be delivered to the state administration authority competent for supervision of the state support for the purpose of obtaining a corresponding opinion.

#### **Report on action plan implementation**

##### **Article 19**

(1) The Ministry shall monitor implementation of the action plan on use of energy from renewable sources and shall submit a report on implementation thereof to the Government every second year.

(2) The report from the paragraph (1) herein shall specifically contain:

1) analysis of success in achieving the national target with regard to individual share (electricity, heating and cooling, transport) and total share of renewable energy sources within the gross final consumption of energy in the reported period;

2) measures taken in the reporting period and measures planned to be taken in the following period;

3) assessment of impact of undertaken support schemes onto increase of share from renewable sources in total gross consumption of electricity, in respect to determined objectives;

- 4) assessment of functioning of the system of guarantees of origin for energy from renewable sources;
- 5) measures taken for the purpose of improving access to transmission and distribution networks;
- 6) assessment of availability of biomass for use in energy purposes;
- 7) assessment of change in prices and manner of use of land as a result of increased use of biomass and other renewable energy sources;
- 8) assessment of development and share of biofuels obtained from waste, remnants, non-food cellulose products and wood-cellulose products;
- 9) assessment of impact of use of renewable energy sources on biodiversity, watercourses, quality of water and soil;
- 10) assessment of reduction in emission of gases that cause the greenhouse effect, as a result of increased use of renewable energy sources;
- 11) assessment of possible surpluses of energy generated from renewable energy sources compared with the planned scope, as well as assessment of potential of those energy sources for joint projects with other states;
- 12) assessment of required volumes of energy from renewable sources that need to be obtained from import in order to reach the set objectives;
- 13) manner in which share of biodegradable waste in the waste used for generation of electricity is identified;
- 14) assessment of the need for amendments to regulations and procedures for the purpose of avoidance of obstacles when implementing projects on use of renewable energy sources.

(3) Should the Ministry find that in the previous two calendar years the expected dynamics of action plan implementation has not been achieved, than the Ministry shall submit to the Government proposal of action plan on use of energy from renewable sources which comprise the changed dynamics of implementation of determined objectives.

(4) The Ministry shall inform the competent Community's body on adoption of Action plan on use of energy from renewable sources and shall submit the report defined in paragraph 2 of this article.

### **High-efficiency cogeneration**

#### Article 20

- (1) Cogeneration, in terms of this Law, is a combined and simultaneous generation of heat energy for district heating and/or cooling and electricity or heat energy for district heating and / or cooling and mechanic energy in a unique process.
- (2) Cogeneration facility of small capacity, in terms of this Law, is a cogeneration facility of the installed capacity lower than 1 MWe, while micro generation facility is a cogeneration facility of the installed capacity lower than 50 kWe.
- (3) High-efficiency cogeneration, in terms of this Law, is a cogeneration whereby at least 10% saving of primary energy is achieved compared to referent values for separate generation of heat energy and electricity and cogeneration in small and micro cogeneration facilities, by which primary energy saving is enabled.
- (4) Development and use of high-efficiency cogeneration in accordance with the Energy Development Strategy shall be set in the Action plan on development and use of district heating and/or cooling and high-efficiency cogeneration that shall be adopted by the Government for the period of ten years.
- (5) The action plan from the paragraph 4 of this article shall specifically set the following:
  - 1) existing demand for heating and cooling with estimated demand trend in the planned period;
  - 2) geographical overview of locations demanding heating and cooling, existing and planned infrastructure for district heating and cooling and facilities for generation of energy for heating and/or cooling;
  - 3) available and possible potential for use of high-efficiency cogeneration;

- 4) potential for increased energy efficiency of infrastructure for district heating and/or cooling;
- 5) heating and/or cooling demand which may be met by high-efficiency cogeneration;
- 6) activities and support schemes which will be taken for the purpose of development of infrastructure for district heating and/or cooling and increased share of high-efficiency cogeneration, with implementation time schedule and framework funds and;
- 7) assessment of primary energy savings.

(6) In the aim of assessment of needs for district heating and/or cooling and high-efficiency cogeneration, determined within action plan referred to in paragraph 4 of this article, the Ministry shall analyse profitability taking into account technical feasibility of proposed solutions.

(7) The Ministry shall monitor implementation of action plan on development and use of district heating and/or cooling and high-efficiency cogeneration and shall propose its adjustment with Energy development Strategy not later than by expiry of the fifth year of its adoption and shall as well submit to the Government a Report on implementation thereof, in the previous two calendar years, which specifically contains: extent to which targets were achieved, implemented support schemes and proposal for improvement of measures in the following period.

(8) Method for both, primary energy saving calculation, referred in paragraph 3 of this article, and determining of efficiency degree of cogeneration facility shall be determined by regulations of the Ministry.

### **Sustainability criteria**

#### **Article 21**

(1) In order to reach the share from article 18 paragraph (4) herein, only biofuels and bio-liquids meeting the criteria of sustainability may be taken into account.

(2) Sustainability criteria from paragraph 1 of this article include reducing the emission of gases with greenhouse effect due to use of biofuels and bio-liquids, purpose and type of land, impact on protected areas and biodiversity, quantity of carbon and humidity in land, coverage with water and woods, and programmes of support to farmers.

(3) More detailed criteria from paragraph 2 of this article, conditions to be met by the accredited legal person for testing of sustainability criteria, as well as procedures for verifying of fulfilment of sustainability criteria for recognition of biofuels and bio-liquids in achievement of share shall be defined by the regulation of the Government.

(4) Reduction in emission of gases with greenhouse effect from paragraph 2 of this article shall be calculated according to the methodology which, in line with Community's rules for calculation of biofuels impact to emission of gases with greenhouse effect, shall be determined by the State's administration body competent for environment protection affairs.

(5) State's administration body competent for environment protection affairs may engage the foreign accredited legal person, which meets conditions determined by this law, for the purpose of evaluation whether biofuels and bio-liquids criteria are adjusted to sustainability and supervision criteria.

### **Share of biofuels in transport sector**

#### **Article 22**

(1) Energy undertaking which deals with trading of petroleum products, which are used in transport, shall place biofuels on market, in order to reach compulsory share of renewable energy sources in the sector of transport.

(2) Type, contents, quality and share of biofuels which are placed on market, measures for achieving of compulsory share of biofuels in petroleum products, obligations of the energy undertaking referred to in paragraph 1 of this article, reporting manner as well as the manner of informing the public about features of biofuels available on market and advantages in environment protection shall be determined by regulation of the Government.

## **Support schemes for use of renewable energy sources and high-efficiency cogeneration**

### **Article 23**

(1) Use of renewable energy sources and high-efficiency cogeneration is incentivized by promotional and support scheme measures in line with the law.

(2) The Ministry shall make publicly available all information on advantages and specificities of use of renewable energy sources as well as incentive measures applied for use of renewable energy sources.

(3) When delivering equipment and systems for use of heating, cooling and electricity from renewable energy sources the provider shall make available to customers information about net benefit, expenses and energy efficiency of such equipment and systems.

(4) The Ministry, together with State's competent authorities and organization competent for regulations in energy sector as well as local self-government units, shall prepare appropriate informative materials for the purpose of notifying and training programmes in order to inform citizens on benefits and practical aspects of development and use of energy from renewable sources.

(5) Support scheme, referred to in paragraph (1) of this Article include: compulsory electricity purchase, incentive prices at which that energy is purchased, validity period of compulsory electricity purchase, release from payment of services of system balancing, primarily during taking of electricity generated in the system, as well as other measures in line with this law.

(6) Incentive price for electricity generated from renewable sources and high-efficiency cogeneration, the privileged producers may obtain in the manner and up to the amount determined by regulations of the Government.

(7) Incentive measures referred to in paragraph (1) of this Article shall be awarded in a competitive procedure of collecting bids based on clear, transparent and non-discriminatory criteria, except for the electricity generating facilities whereof power amounts to 1MW.

## **Payment of charge for incentive use of renewable sources**

### **Article 24**

(1) Every final electricity customer shall pay a compensation that will be used to encourage electricity generation from renewable sources and high-efficiency cogeneration as a addition to the electricity price, whereas the end buyer of petroleum derivatives shall pay compensation that will be used to encourage use of bio fuels, as an addition to the price of petroleum derivatives.

(2) Supplier, respectively the undertaking performing the retail trading of petroleum products shall separately indicate a charge for encouraging of electricity generation from renewable energy resources and high-efficiency cogeneration, respectively charge for encouraging of bio fuel use, on an electricity bill or bill for sold quantity of petroleum products that the supplier delivers to the final customer.

(3) Supplier of electricity and self-supplying customer shall transfer to the Market Operator total funds on grounds of issued invoices for electricity taken from privileged producers.

(4) Upon a request of the Market Operator, Supplier of electricity and privileged producer which use the right to incentive price for generation of electricity from renewable energy sources or high-efficiency cogeneration shall enable it access to business books, operational documentation and other records about generation and delivery of electricity from renewable energy sources and high-efficiency cogeneration.

(5) Charges for encouraging electricity generation from renewable energy sources and high-efficiency cogeneration, may be lower for the final customer whose power exceeds 50MW and whose voltage level exceeds 35kV, should the payment of charge, referred to in paragraph 1 of this Article endanger the sustainability of customer's business operation.

(6) manner of determining the charge referred to in paragraphs 1 and 5 of this Article and more precise method of calculation of the proportionate share of supplier from article 192 paragraph (5) hereof and self-supplying customer as well as the manner of allocation of funds from compensations/charges and treatment of surplus or shortfall of collected funds shall be determined by the Government's regulation.

(7) Should the realization of national objective, referred to in article 18 paragraph 4 item 1 herein, be endangered and should it come to deviation of actual electricity generation in facilities of privileged customers and total consumption of electricity in respect to quantities planned by annual energy balance, the buyers of coal, oil, petroleum products, gas and heat energy shall pay charge for encouraging of electricity generation from renewable sources and high-efficiency cogeneration in line with elements for determining of the amount of such charge determined by the Government's regulation.

(8) The proposals of contracts regarding the cooperation mechanism referred to in paragraph (1) of this Article shall be submitted to the state administration authority competent for supervision of the state support for the purpose of obtaining a corresponding opinion.

## **Cooperation in achievement of compulsory energy share**

### **Article 25**

(1) In line with the confirmed international contracts it is possible to arrange cooperation mechanisms with other countries in order to achieve the compulsory share of energy from renewable sources in total gross energy consumption.

(2) Cooperation mechanisms referred to in paragraph 1 of this article means manner of cooperation between countries in terms of mutual projects, statistic transfers of specific volumes of energy from renewable sources, mutual incentive measures and other types of cooperation which enable reduction of costs of contracting parties for achievement of compulsory energy share from renewable sources in total final consumption of energy.

(3) Cooperation mechanisms from referred to in paragraph 1 of this article may be contracted on an annual or multiannual level.

(4) Cooperation, referred to in paragraph 1 of this article shall not endanger achievement of the public interest of Montenegro, additionally encumber the final electricity customer or buyer of energy generation products referred to in article 24 paragraph (7) herein, nor complicate achievement of energy share from renewable sources in total gross energy consumption in Montenegro.

(5) Contracts referring to statistical transfers referred to in paragraph (2) of this Article may be concluded between Montenegro and a member of the Energy Community or a member of the European Union, if;

1) the scope of statistic transfers does not endanger achievement of the national objective in the part of renewable electricity sources of Montenegro.

2) the energy statistics is being done in line with regulations governing the sector for energy statistics in Community;

(6) Inspection over fulfilment of conditions referred to in paragraph (5) of this Article shall be done by an independent auditor, who possesses accreditation of the international accredited body, every two years.

(7) According to ratified international contracts, the Ministry shall submit to the competent body of the Community a notice, which shall particularly contain information on quantities and prices of electricity, being the subject of cooperation, not later than within three months following the end of the year in which the cooperation has been realized.

## **Certificate for installing**

### **Article 26**

(1) Activities on installing of smaller boilers and furnaces on biomass, solar photovoltaic systems and solar thermal systems, shallow geothermal systems and heating pumps may be performed by a natural person certified for such activities.

(2) Certificate for installing of assemblies, referred to in paragraph (1) of this Article, which use renewable energy sources may be issued to a person who possess at least II level of vocational qualification in the area of mechanics or electro-technics and has passed the exam for performance of activities referred to in paragraph 1 of this article.

(3) The exam, referred to in paragraph (2) of this article shall be taken before the commission nominated by the principal of the Ministry.



- (4) Examination programme referred to in paragraph (2) of this article, manner of taking the exam and content of the certificate referred to in paragraph 1 of this article shall be governed by the regulation of the Ministry.
- (5) When applying for certificate for performance of activities, referred to in paragraph (1) of this article, the natural person shall submit a Request supported by documentation referred to in paragraph (2) of this article.
- (6) The Ministry shall check fulfilment of conditions referred to in paragraph (2) of this article and shall issue the certificate referred to in paragraph (1) of this article.
- (7) The Ministry shall issue a certificate referred to in paragraph (1) of this article, upon receipt of the request of a person, who possess the certificate for installing of assemblies that use renewable energy sources, issued by an authorized organization or bodies from other Country and acquired on grounds of the training programme equivalent to the training programme referred to in paragraph (4) of this article.

## **IV. ENERGY REGULATORY AGENCY**

Independent regulator of the energy sector

### **Article 27**

(1) The Energy Regulatory Agency (hereinafter referred to as: The Agency) as autonomous, non-profit organization, legally and functionally independent from the state authorities and energy undertakings carries out the energy related activities in accordance with this Law.

(2) While performing the public authorizations, referred to in paragraph 1 of this Article, the Agency:

- 1) shall act in a fair and transparent manner;
- 2) shall perform activities independently of any market interest;
- 3) shall not take up or ask for instructions from the governmental or other authorities and organizations or other persons while carrying out activities defined by this Law.

(3) Limitations, from paragraph 2 clause 3 of this article, shall not refer to cooperation with other competent national bodies or compliance with general political guidelines defined by the Government, which do not refer to authorizations and obligations of the Agency while carrying out activities defined by this Law.

### **Status**

#### **Article 28**

- (1) The Agency has a status of a legal person.
- (2) The Agency shall be registered in Central Register of Companies.
- (3) The Agency shall conduct its business under the name of the Energy Regulatory Agency.
- (4) The seat of the Agency shall be in Podgorica.

### **Bodies of the Agency**

#### **Article 29**

- (1) The bodies of the Agency are:
  - 1) the Board of the Agency;
  - 2) Chief executive officer of the Agency.
- (2) The Board of the Agency shall consist of the chairman and two members professionally engaged in the Agency.
- (3) The Board shall make all decisions by majority vote.
- (4) The Agency shall have a Deputy chief executive officer.

### **Nomination of the Agency's Board Members**

#### Article 30

- (1) The chairman and members of the Board of the Agency shall be nominated by the Parliament of Montenegro (hereinafter: the Parliament) at proposal of the Government.
- (2) Chairman, members of the Board of the Agency, Chief executive officer and Deputy chief executive officer of the Agency shall be elected in a procedure following a public advertisement that will be published in at least one print media distributed on the territory of Montenegro and which shall be open for 30 days.
- (3) The advertisement for election of the chairman and members of the Board of the Agency, Chief executive officer and Deputy chief executive officer shall be published by the Agency in accordance with the Statute of the Agency.
- (4) When applying to public advertisement, the candidates shall, in addition to an application and evidence on meeting the requirements specified by this Law, also submit in writing their personal view about situation and development of the regulatory process in the energy sector.

### **Procedure for selection of the Agency's Board**

#### Article 31

(1) Ranking of the candidates for chairman and members of the Agency's Board, based on the public advertisement, shall be carried out by the Commission for ranking of candidates (hereinafter: the Commission).

(2) The Commission shall comprise seven members proposed by:

- 1) one member – by the Government;
- 2) one member – by the Montenegrin Academy for Science and Arts;
- 3) two members - by the University of Montenegro, one of whom shall be a member of the Faculty of Electrical Engineering and;
- 4) one member – by the Chamber of Commerce of Montenegro, and
- 5) two members – Montenegro's Parliament proposed by the Administration Board on a parity basis.

(3) A member of the Commission from the paragraph (2) clauses 2), 3) and 4) of this article, shall not be:

- 1) state official or Government appointee;
- 2) employees of any energy undertaking or a person with a piece-work agreement with an energy undertaking.

(4) The commission from the paragraph (2) of this article shall be appointed by the Government.

(5) The Decision on appointment of the Commission shall be published in the „Official Gazette of Montenegro“.

### **Proposal of candidates' rank order**

#### Article 32

(1) Not later than thirty (30) days after the closing date for the advertisement, the Commission shall submit to the Government a substantiated proposal of the ranking list with candidates for the chairman and members of the Board.

(2) Not later than thirty (30) days after the date on which the Government receives from the Commission the proposed ranking list with a rationale, the Government shall submit to the Parliament a proposal for nomination of the chairman and members of the Agency's Board, accompanied with a ranking list.

## **Selection of chief executive officer and Deputy CEO**

### **Article 33**

(1) Upon obtaining prior opinion of the Government, the Board of the Agency shall appoint Executive Director and Deputy Director of the Agency in the course of the public advertisement procedure.

(2) The decision on the appointment of the CEO and the Deputy CEO of the Agency shall be published in the „Official Gazette of Montenegro“.

## **Terms of office**

### **Article 34**

(1) Term of the Agency's Board Member and Chairman shall be five (5) years.

(2) Notwithstanding the paragraph (1) of this Article, should two members of the Agency's Board or the chairman and a member of the Board of the Agency, or should the chairman and two members of the Agency's Board be concurrently nominated, than the presiding over the Parliament shall select a member of the Agency's Board or the chairman of the Agency's Board whose term of office shall last for six years, or for six and seven years, in a public drawing of lot which shall be attended by members of the Commission from article 31 paragraph (2) of this Law.

(3) Term of CEO and Deputy CEO of the Agency shall last four (4) years.

(4) The Chairman of the Agency's Board, members thereof, CEO and Deputy CEO of the Agency shall not be appointed for or elected to more than two terms.

## **Conditions for the conduct of business of the Agency's Bodies**

### **Article 35**

(1) Agency's Board chairman or member may be a citizen and permanent resident of Montenegro who holds at least VII 1 level of vocational qualification in technical sciences, law or economics, with seven years of work experience in his or her profession and who fulfils the conditions referred to in conflict of interests from the article 36 herein.

(2) CEO and Deputy CEO of the Agency may be a citizen and permanent resident of Montenegro who holds at least VII 1 level of vocational qualification in technical sciences, law or economics, with five years of work experience on managerial positions and who fulfils the conditions referred to in conflict of interests from the article 36 herein.

(3) The Chairman, members of the Board of the Agency, CEO or Deputy CEO may not be at the same time: members of the Parliament; members of any municipal parliament, i.e. persons nominated, appointed and assigned in the Government.

(4) No person shall be appointed or elected the chairman of the Board, member of the Board, CEO or Deputy CEO if such person:

1) has been convicted with a final and binding verdict of a crime relating to abuse of office, corruption, fraud or other crime that makes him unsuitable for the mandate to be given to him;

2) holds personal, spousal or direct family interest in an energy undertaking that is licensed by the Agency for carrying out of energy activities, as well as in an entity dealing with trade in energy.

(5) Chairman and members of the Agency's Board, CEO, Deputy CEO and employees of the Agency shall exercise labour related rights and obligations in line with general labour acts, this law and general acts of the Agency.

## **Conflict of interest**

### **Article 36**

(1) Chairman and Members of the Board, CEO and Deputy CEO of the Agency as well as members of their immediate family can not be members of managing bodies and shall not have material, financial or other interest in an energy undertaking.

(2) Persons from the paragraph (1) of this article can not use free of charge or discounted services from energy undertaking, unless at the prices and under conditions that are applicable to other final customers pursuant to this Law and general acts enacted in line with this law.

(3) Chairman and Members of the Board, CEO and Deputy CEO of the Agency can not enter into employment agreement or receive compensation on some other basis from energy undertakings during their terms of office and within one year following expiry of the term of office or release from duty.

(4) Employees in the Agency can not enter into employment agreement or receive compensation from undertakings in the energy sector during their employment in the Agency.

## **The cessation of function**

### **Article 37**

(1) Chairman and members of the Board, CEO and Deputy CEO of the Agency may be released prior to the expiration of his or her office, if such person:

- 1) is not performing or negligently performs his or her duties;
- 2) is incapable of performing his or her duties for a period of more than six (6) months;
- 3) is removed from the dwelling registry;
- 4) has misrepresented his or her qualifications;
- 5) has been convicted of a crime punishable by imprisonment;
- 6) has submitted a written resignation;
- 7) is found to have a conflict of interest;
- 8) has been absent and unexcused from more than three (3) consecutive sessions of the Agency's Board;
- 9) is not complying with the Code of Conduct;
- 10) has provided false statements with respect to existence of the conflict of interests.

(2) The Government and/or 1/3 of MPs of the Parliament may propose to the Parliament to release from duty the chairman or a member of the Agency's Board.

(3) Decision on release from duty, referred to in paragraph (1) of this article, may be passed only on grounds of substantiated proposal, and upon implementation of the procedure wherein all material circumstances have been determined and when the chairman, or member of the Board of the Agency, CEO, Deputy CEO against whom the procedure has been initiated, is given a chance to make a statement on all circumstances.

## **Rights in case of cessation of the function**

### **Article 38**

(1) Chairman and members of the Board, CEO and Deputy CEO of the Agency whose mandate terminated due to expiry of their term of office, or who was discharged due to incapability to perform his or her duties for a period of more than six (6) months, or in case they filed in writing the application for removal from office shall be entitled to compensation of earnings in amount of his/her earning in a month preceding termination of mandate, which shall be aligned with amount of earnings that belong to the same mandate in the Agency.

(2) The right from the paragraph (1) of this article may be exercised 12 months following termination of mandate of the chairman of the Board, Board's member, CEO and Deputy CEO of the Agency.

(3) The right on compensation of earnings shall be exercised on a personal request of a person from the paragraph (1) of this article, which may be submitted not later than 30 days following the date of mandate expiry.

(4) Chairman and Members of the Board, CEO and Deputy CEO of the Agency may not be entitled to compensation of earnings after expiry of his/her mandate if he/she became entitled to retirement pursuant to the Law.

(5) The right from the paragraph (1) of this article ceases before the specified date, if its beneficiary:

- 1) enters into a labour agreement;

2) is selected, appointed or nominated to another position based on which he/she has earnings;

3) becomes entitled to retirement.

(6) The Agency's Board shall decide about compensation for earnings upon expiry of a mandate.

## **Statute of the Agency**

### **Article 39**

(1) The Agency has a Statute that shall define in particular:

- 1) rights and duties of the Board of the Agency;
- 2) rights and duties of the CEO and Deputy CEO of the Agency;
- 3) guidelines for setting up of internal organization of the Agency;
- 4) the process of selection and removal from office of CEO and Deputy CEO of the Agency;
- 5) Public nature of Agency's operations;
- 6) other matters of importance for operation of the Agency pursuant to the Law.

### **Assent to the Statute**

### **Article 40**

- (1) The Statute shall be adopted by the Board of the Agency.
- (2) The Government shall give an assent to the Statute of the Agency.
- (3) The Statute shall be published in "Official Gazette of Montenegro".

## **Agency's objectives**

### **Article 41**

(1) During implementation of its operations defined hereby, the Agency contributes to:

1) promotion of competitive, efficient, safe and by environment protection sustainable electricity and gas market in Montenegro and within the Community, in cooperation with the competent Community's bodies and regulatory organizations of other Community members, as well as ensuring adequate conditions for efficient and reliable functioning of energy and gas systems;

2) development of competitive and regional markets which are adequately functioning within the Community so as to reach objectives referred to in clause 1 of this article, considering also the long-term objectives;

3) elimination of restrictions in electricity and gas trading between the Community members, including development of adequate cross-border transmission capacities in order to meet demand and encourage integration of national energy and gas systems aimed at facilitating electricity and gas flows in the Community;

4) successful development of safe, reliable and non-discriminatory systems intended to customers and promoting adequacy of systems, as well as promoting of energy efficiency and integration of electricity generation from renewable sources and distributed generation into transmission and distribution system in line with general objectives set in energy policy;

5) facilitation of access of new generating capacities to transmission and distribution systems, and especially elimination of barriers which may prevent access of new market participants and electricity from renewable sources;

6) ensuring adequate incentives for transmission and distribution system operators and system users in order to enhance system efficiency and encourage market integration;

7) providing benefits for final customers through efficient functioning of market, promoting competition and protection of final customers;

8) providing support in terms of reaching high quality of public services during electricity and gas supply, contributing also to protection of vulnerable customers and compatibility of data exchange procedures when changing the supplier;

9) encouraging customers to participate also in other market activities, through appropriate consumption manner, within their technical capabilities;

10) ensuring non-discriminatory approach by transmission and distribution system operators to the customers as service providers, when providing ancillary services and balancing.

## **Competences/authorities of the Agency**

### **Article 42**

(1) The Agency shall apply decisions enacted by competent bodies of the Community, according to ratified international contract.

(2) The Agency is entitled to sign the agreements on cooperating with regulatory organizations of the Community members for the purpose of encouraging regulatory cooperation.

(3) The Agency shall address issues in each dispute case and shall decide on objections and complaints in line with articles 56 and 57 herein.

(4) The Agency cooperates with regulatory and other competent organizations of the Community members and states in the region in terms of cross-border issues, contribution to market integration as well as compliance and exchange of data and information at the regional level.

(5) The Agency ensures the confidentiality level as required by the organization which submits information and requires protection of confidentiality in respect to their information.

(6) The Agency cooperates with State administration authorities when drafting regulations which have impact to its competencies in energy sector.

(7) The Agency cooperates with regulatory and other competent organizations of the Community members and states in the region for the purpose of:

1) encouraging creation of operating arrangements for ensuring optimum management of interconnected systems;

2) ensuring adequate level of inter-connective capacity including free new interconnection within the region and between regions, in order to enable development of effective competition and improved safety of supply without discrimination between supply undertakings in Community members;

3) coordinating development of rules regulating transmission and distribution system functioning with system operators and other market participants;

4) coordinating development of rules regulating control of congestions on inter-connective lines.

## **Methodologies and rules**

### **Article 43**

(1) The Agency shall set the methodologies:

1) determining regulatory allowed revenue of system operator and prices, terms and conditions for:

- use of transmission and distribution systems for electricity and gas;

- use of gas storage systems, and LNG facilities;

2) determining prices, deadlines and conditions for provision of ancillary services and balancing services for transmission systems for electricity and gas;

3) setting prices for use of transmission or distribution system which shall be paid by users of a direct line when the direct line is connected to the transmission or distribution system;

4) setting prices which the supplier of the last resort and vulnerable customers shall apply;

5) setting regulatory allowed revenue and charge for operation of electricity and gas market operator.

6) determining method on providing of funds for Agency's operation.

(2) By Methodologies referred to in paragraph 1 of this article, the Agency ensures that transmission and distribution system operators are adequately, on short-term and long-term basis, motivated towards efficiency increase, market integration and supply safety.

(3) In the process of deciding upon request of energy undertakings, the Agency shall determine the regulatory allowed revenue, prices or charges for:

- 1) use of transmission and distribution systems, in particular for electricity and gas;
- 2) gas storage and use of facilities for LNG
- 3) ancillary services and balancing of transmission electricity and gas systems;
- 4) market operator's operations

(4) The Agency shall set the following rules:

- 1) for resolution of disputes by applying rules of arbitration;
- 2) for change of prices initiated by an energy undertaking or initiated by the Agency itself;
- 3) on licences for performance of energy activities;
- 4) on certificates for the system operator;
- 5) for functioning of supplier which performs the activities of supplier of the last resort and vulnerable customers;
- 6) about requirements for award of permits on the basis of which producers and suppliers of electricity and gas undertakings may supply final customers through a direct line;
- 7) about conditions and procedure in which final customers for electricity and gas may switch to another supplier;
- 8) for settling of difference between justified and actual revenues and determined costs between licenced distribution system operators;
- 9) for unbundling of accounts, management and information, in order to avoid cross-subsidies between activities in the gas sector; and
- 10) maintain confidentiality of commercially sensitive information used by system operators.
- 11) for determining of the status of a closed electricity distribution system;
- 12) on minimum quality of delivery and supply of electricity and gas;
- 13) for drafting and monitoring of implementation of the ten year development plans on transmission i.e. distribution electricity systems;

(5) The Rules referred to in paragraph (4), clause 11) of this Article shall regulate additional conditions to acquire the status of a closed distribution system and identify the closed distribution system operator, the evidence submitted in support of the application, contents of the decision on determining the status of a closed distribution system and identifying the closed distribution system operator, the method of controlling compliance with conditions envisaged by the law, the method of exchanging information with energy undertaking, conditions and procedure to take away the status of a closed distribution system, as well as the method for payment of compensations/charges and contents of the registry of closed distribution system.

(6) The Rules referred to in paragraph 4 clause 13 of this Article shall closely define the minimum quality required for delivery and supply of electricity and gas which shall be based on the following criteria:

- 1) quality of service, specifically regarding the time taken by transmission and distribution system operators for electricity and gas to make connections and repairs;
- 2) continuities in supply;
- 3) electricity voltage quality;
- 4) financial compensation, which the energy undertaking shall pay due to their failure to meet defined minimum standards regarding quality of supply;

(7) The Rules referred to in paragraph (4) clause 13 of this article shall determine;

- 1) Measures for ensuring the system capability to satisfy needs for electricity transmission or distribution and safety in supply;
- 2) manner and process of approval of development plans, process of public discussion implementation.

(8) The Agency shall set:

- 1) general conditions for electricity and gas supply;
- 2) starting date and duration of the regulatory period, respectively annual or multiannual period in which the elements of the regulatory allowed revenues are being applied in amounts determined by the Agency, in line with this Law;

- 3) contents of the report from the article 108 paragraph (1) clause 1) herein;
- 4) contents of the form for provision of information to customers about their consumption, including also data on consumption profile;
- 5) the regulator's chart of accounts, contents and form of reports to be submitted to the Agency;
- 6) compliance of prices determined by supplier of the last resort and vulnerable customers with methodology referred to in article 62 paragraph 3 of this Law.

### **Approving of methodologies and rules**

#### **Article 44**

- (1) The Agency shall approve methodologies for:
  - 1) determining of charges for connection to transmission and distribution systems for electricity and gas;
  - 2) determining of charges for connection of gas storage system and LNG facilities;
  - 3) calculation and charging of unauthorized use of electricity;
- (2) The Agency shall approve market rules for electricity market, respectively gas market as well as rules on:
  - 1) functioning of transmission system for electricity and gas;
  - 2) functioning of distribution system for electricity and gas;
  - 3) metering in distribution systems for electricity and gas;
  - 4) balancing in gas transmission system;
  - 5) operation and functioning of gas storage system;
  - 6) operation and functioning of LNG facility;
  - 7) application of transparent mechanisms for operation and allocation of capacities for electricity transmission based on market principles;
  - 8) application of transparent mechanisms for operation and allocation of capacities for gas transmission based on market principles;
  - 9) allocation of cross-border capacities for electricity transmission in conformity with agreed rules in the region.
  - 10) determining and prevention of unauthorized use of electricity by distribution system operator (DSO);
  - 11) operation of electricity balancing market.

### **Approving of charges and determining of prices**

#### **Article 45**

- (1) The Agency shall approve:
  - 1) charges for connection to transmission and distribution systems of electricity and gas, determined based on methodology referred to in article 44, paragraph 1 clause 1 herein;
  - 2) charges for connection of the system for gas storage and gas reserve (line pack) based on methodology from article 44 paragraph 1 clause 2 herein;
  - 3) prices for provision of additional maintenance services.
- (2) The Agency shall determine:
  - 1) prices for gas storage and use of LNG facilities;
  - 2) charges for removal of congestions on identified entry or exit points in the gas transmission system, that is a part of price for transmission of gas;
- (3) If certain energy of financial values are impossible to be determined by applying processes and criteria, in the procedure of determining regulatory allowed revenue, prices and charges, the Agency, or energy undertaking with consent of the Agency, shall determine those values by estimation done based on data from the previous year for which the final data exists.
- (4) Location of the facility for generation of electricity from renewable sources shall not influence the prices of use of electricity transmission and distribution systems from article 43 paragraph 3 clause 1 of this law.



(5) Prices on use of electricity transmission and distribution systems from article 43 paragraph 3 clause 1 of this law shall be applied also for gas from renewable sources.

(6) When determining prices from Article 43 paragraph 3 clause 1) of this Law, the Agency shall take into account feasible benefits which may be exercised by transmission and distribution system operators from connection to facilities systems generating energy from renewable sources.

(7) The price for use of transmission and distribution system referred to in Article 43 paragraph 3 item 1 of this Law paid by privileged electricity producers from renewable sources shall be reduced by the amount of reached benefits exercised by transmission and distribution system operators from connection to system of the facilities generating energy from renewable sources.

### **Consents and approvals**

#### **Article 46**

(1) The Agency shall give consents to:

- 1) development plan for electricity transmission system referred to in article 112 para (1) clause (27) herein;
- 2) investment plan referred to in article 112 para (1) clause 28 herein;
- 3) development plan for electricity distribution system, referred to in Article 116 para (1) clause (5) herein;
- 4) Investment plan referred to in article 116 para (1) clause 6 herein;
- 5) development plan for gas transmission system referred to in Article 142 para (1) clause 14 herein, harmonized at the state's level and with inter connection systems;
- 6) investment plan referred to in article 142 para 1 clause 15 herein;
- 7) development plan for gas distribution systems, referred to in article 145 para 1 clause 8 herein;
- 8) investment plan referred to in article 145 para 1 clause 9 herein;
- 9) development plan for LNG facilities, referred to in article 152 para 1 clause 7 herein.

(2) The Agency approves:

- 1) Plan for replacement and relocation of electricity meters;
- 2) Program of measures for ensuring non-discriminatory conditions for access to distribution systems for electricity and gas and system for gas storage;
- 3) Exemption from application of specified terms, conditions and prices for use of new infrastructure for electricity or gas;
- 4) Exemption from »take or pay« commitment for gas undertaking.

### **Obligation to change general acts**

#### **Article 47**

(1) The Agency shall have the right to order amendments to proposed documents as well as changes of current documents, when providing approval or consent in line with this Law.

(2) Energy undertaking shall act in line with order referred to in paragraph 1 of this Article.

### **Supervision of operations of energy undertakings**

#### **Article 48**

(1) The Agency shall supervise and analyse operation and business activities of all energy undertakings in respect of:

- 1) actual costs and revenues of entities carrying out an activity for which the Agency determines or approves methodologies, prices or charges;
- 2) quality of electricity supply, including quality of service, voltage quality and continuity in supply;
- 3) quality of gas supply, in line with rules from article 43 paragraph 4 clause 12 of this Law, including monitoring of time needed for transmission and distribution system operators to carry out connection and repair and continuity of supply;

4) application of market rules and an undertaking's market actions, monitoring of degree and effectiveness of opening of market and competition on a retail and wholesale level, including electricity markets: prices for households, including subscription, rate of change of supplier, rate of disconnection, provision of ancillary maintenance services per approved prices and complaints of household customers, as well as other violation or limitation of competition, including provision of respective information and referring of specific cases to Authorities competent for competition;

5) conditions for access to gas and electricity transmission and distribution systems, gas storage capacities and ancillary services;

6) occurrence of restrictive contractual practices, including prevention of customers, except those connected to 0.4 kV voltage level, to contract at the same time with more suppliers or limit their selection, as well as informing of national bodies for protection of competition in such practices;

7) energy consumption and enabling availability of information about consumption to the customers;

8) implementation of support schemes in the area of renewable energy sources, including terms and conditions and prices for connection of new generators to transmission and distribution systems;

9) application of regulations governing cross-border energy exchange, as well as operation and functioning of energy undertakings allocating cross-border capacities on auctions or organizing purchase and sale of energy;

10) application of regulations governing obligation to publish information about cross-border capacities, use of transmission and distribution systems;

11) operator's independency and unbundling of accounts from articles 68 to 72, articles 135 to 138 and articles 163 to 167 herein, as well as implementation of program of measures from the articles 139 and 168 herein;

12) functioning of supplier referred to in Article 196 herein;

13) occurrence of practices by which distribution system operator exercises advantages of vertical integration for disturbing competition and measures for prevention or disabling such practices;

14) occurrence of practices by which vertically integrated distribution system operator, in communication with system users, replaces the energy undertaking which carries out activity of supply and measures for prevention or disabling such practices;

15) activities and measures undertaken by energy undertakings with the objective to increase energy efficiency;

16) realized level of transparency or availability of information related to electricity or gas market;

17) electricity exchange, as well as disturbance of competition, including submission of substantial information and reporting of such cases to the body competent for competition protection;

18) technical cooperation between transmission system operator and transmission system operators of other states;

19) implementation of investment plans of transmission and distribution systems;

20) compliance with and application of rules for functioning of transmission and distribution systems,

21) level of transparency, including wholesale prices and respecting obligations of gas and electricity undertakings in terms of transparency and investment in generation in respect to supply safety;

22) management of congestions, including interconnectors and application of rules on congestion management;

23) application of assigned charges, prices and tariffs, as well as methodologies for determining of prices and tariffs referred to in articles 43, 44 and 45 herein.

(2) The Agency shall monitor and control operation and functioning of energy undertakings in respect of compliance with license requirements.

(3) Should the Agency determine that an energy undertaking failed to comply with requirements established in article 65 paragraph 3 herein, i.e. that it operates and functions contrary to license requirements or fails to fulfil obligations determined by license, the Agency shall order the

undertaking to remove the identified irregularities and shall set a deadline for their removal, i.e. it shall undertake other measures pursuant to the Law.

(4) Through monitoring and analysis of operation and functioning from the paragraphs (1) and (2) of this article, the Agency shall control:

1) regularity of work and operations or abuse of office of energy undertakings on the market;

2) reliability of supply with energy in order to prevent disturbances on energy market or in supply of heat energy;

3) accuracy and correctness in financial operations in respect of presentation of operational costs that may have an impact on establishment of charges for use of transmission or distribution systems or storage system charges, or

4) carrying out of obligations from this Law or acts issued or approved by the Agency.

(5) In the event that any deviation i.e. irregularity is detected through control from the paragraphs (1) and (4) of this article, which has caused or which may cause financial consequences for final customers and market participants, the Agency shall:

1) instruct the energy undertaking to undertake adjustments of detected irregularity and set and appropriate deadline for their elimination;

2) during the next determining of justified costs and revenues, take into consideration findings and effects of determined irregularities, undertake adjustment of appropriate costs or revenues and set adequate prices for use of transmission or distribution systems for electricity or gas or for gas storage systems;

(6) Report on results of analyses and control from the paragraphs (1), (2) and (4) of this article and undertaken measures from paragraphs 3 and 5 of this Article shall be a component part of annual report on situation in the energy sector.

(7) Should the control identify irregularities in operation or acting of the undertaking contrary to the rules of competition, supply safety, customers' protection and safety, the Agency shall inform the authority competent for competition or customers' protection.

## **Control of gas and electricity market**

### **Article 49**

(1) The Agency shall perform direct monitoring over functioning of electricity and gas market and impose measures for elimination of identified deficiencies in market functioning.

(2) The Agency shall cooperate with the body competent for competition, financial market regulators and the competent Community's body during research related to competition issues.

## **Submission of data to the Agency**

### **Article 50**

(1) Upon a request made by authorized person from the Agency, gas or energy undertaking carrying out activities in the electricity or heat energy or gas sector shall provide data, information and documents within the deadline set by the Agency, i.e. they shall provide access to its business books necessary for control of their work and business activities.

## **Funding of the Agency**

### **Article 51**

(1) The Agency shall be funded from license fees, annual charges for use of licenses, charges for determining of status of the closed distribution system, annual charges for use of the status of closed distribution system, and charges for settlement of disputes, that the Agency sets pursuant to this Law.

(2) The funds from the paragraph (1) of this article shall be established in a budget of the Agency, which shall be adopted by the Parliament pursuant to the Law and shall be published on the web site of the Agency.

(3) The Agency shall dispose funds determined by plan referred to in paragraph 2 of this Article by itself.

(4) The fees from the paragraph (1) of this article shall be established at a level whereby the total amount of license fees may cover the planned operating costs established in the Agency's budget.

(5) The level of license fees, charges for determining of status of the closed distribution system, annual charges for use of license for performance of energy activities and annual charges for use of status of the closed distribution system, the Agency shall determine by a Decision in accordance with the methodology referred to in article 43 paragraph 1 clause 6 herein.

(6) The Agency shall determine the compensation for the calculation period for each undertaking by a separate decision according to the Decision referred to in paragraph 5 of this article.

(7) The funds that remain on the Agency's account after both end of the business year and settlement of liabilities shall be transferred to the subsequent year, and the fees for such a subsequent year shall be proportionally reduced by that amount.

## **Temporary funding of the Agency**

### **Article 52**

(1) Should the Parliament fail to adopt a financial plan referred to in article 51 paragraph 2 herein, prior to commencement of the year for which the plan is to be adopted, than up until the moment of adoption of action plan, the Agency's costs for each quarter shall not exceed one quarter of funds determined by financial plan for the previous year.

(2) In the event referred to in paragraph 1 of this article the Agency's revenues for covering of expanses shall be secured on grounds of a Decision referred to in article 52 paragraph 5 herein passed for the previous calendar year.

## **Transparency of work of the Agency**

### **Article 53**

(1) The proceedings of the Agency shall be open to the public in accordance with the Law.

(2) General acts of the Agency shall be adopted after a public debate which shall last for at least 15 days.

(3) The Agency shall publish both the invitation to public debate and a draft of general act which is the subject of the public debate, at its web page.

(5) Exceptionally, the Agency may adopt interim general acts from the paragraph (2) of this article even without a public debate, if it is needed in order to eliminate disturbances on the market or in energy system.

(6) In order to perform activities demanding a specific expert knowledge the Agency may hire expert assistance.

## **Annual reports**

### **Article 54**

(1) Not later than by July 31 of each calendar year, the Agency shall submit to the Parliament for adoption a Report on situation in the energy sector of Montenegro for the previous calendar year.

(2) The report on situation in the energy sector of Montenegro shall specifically contain information about the following:

- 1) energy resources and capacities;
- 2) findings from monitoring and control of energy undertakings;
- 3) investments into energy sector with a specific overview of investments in transmission system;
- 4) financial operations of energy undertakings;

5) condition and activities on electricity and gas market;

6) measures taken by the Agency from its area of responsibilities and achieved results;

7) progress in development of energy and gas markets and particularly:

- implementation of unbundling of energy undertakings according to this law, certification and operation of transmission system operator, provision of non-discriminatory access to the system,
- efficient regulation,
- development of interconnection in the aim of enhancement of security in supply of the Community,
- benefits that households and other end users connected to electricity distribution system connected to 0.4 kV level i.e. gas distribution system, have from market opening, in line with the law, and particularly in terms of standards related to providing of public and general services,
- extent to which the market is open, for efficient competition, including also aspects of market dominance, market concentration, monopoly or other type of non-competitive behaviour,
- extent to which customers really change a supplier and negotiate the prices again,
- trend of prices, including supply prices, in relation to the level of market openness.

(3) In the report referred to in paragraph (2) of this article shall, every second year, be included information about all the measures taken in the previous two years for the purpose of fulfilling the duties related to public services, including customer protection and environmental protection and possible effects of those measures to competition on domestic and international energy market.

(4) The report on conditions in the energy sector of Montenegro shall be published on the Agency's web site and submitted to the competent authority of the Community.

(5) The Agency shall determine proposal of financial report and report on work for the previous year and shall propose it to the Parliament for adoption.

(6) The Agency shall publish recommendations related to adjustment of supply prices with the obligations of providing the public services, quality of energy supply, comparability, transparency and non-discriminatory prices, at least once in a year, and if necessary inform the body competent for protection of competition.

### **Responsibilities of the Agency with respect to renewable energy sources and high - efficiency cogeneration**

#### **Article 55**

The Agency shall carry out the following activities in the sector of renewable energy sources and high-efficiency cogeneration:

- 1) annual analysis and publishing of data on contribution of renewable energy sources and high-efficiency cogeneration to the gross generation and consumption of electricity;
- 2) issuing of guarantees of origin to generators of electricity;
- 3) maintaining of a register of issued guarantees of origin;
- 4) approving and changing of interim status of privileged producer;
- 5) approving, changing and revoking of status of privileged producer;
- 6) maintaining of register of privileged producers;
- 7) reporting to responsible Ministry, market operator, electricity distribution and transmission system operator about issued decisions on obtaining a status of privileged producers.

## **Dispute resolution and decision about objections and complaints**

### **Article 56**

(1) The Agency shall decide about complaints relating to:

- 1) a document of the market operator referred to in article 124 paragraph (3) and article 125 paragraph (3) herein;
- 2) a document of the transmission and distribution systems referred to in articles 133 and 134 herein;
- 3) a document of the transmission or distribution system operators referred to in articles 175, 176 and 177 herein;
- 4) a document of TSO or DSO referred to in article 178 paragraph (1) herein;
- 5) final customers in case of suspension or limitation of delivery of electricity or gas, referred to in article 191 herein;
- 6) a Decision on amount referred to in article 194 paragraph (5) clause 1) herein;
- 7) a process of change of supplier stipulated by article 202 paragraph (3) herein,

(1) The Decisions referred to in paragraph (1) of this article may be subject to an administrative procedure.

(2) Complaints referred to in paragraph (1) clause 7) of this article shall not postpone implementation of the process of changing the supplier and initiation of application of the new Contract on supply.

## **Disputes arising from contractual relations**

### **Article 57**

(1) The Agency may resolve disputes arising between energy undertakings or between energy undertakings and users of their services that result from their contractual relations regulated in accordance with this Law, if contracting parties refer the Agency for resolution of a dispute.

(2) Rules and procedures from the article 43 paragraph (4) clause 1), herein shall also establish a fee for resolution of disputes.

(3) Should the party in dispute address the Agency by settlement of a dispute, it does not exclude the right of a party in dispute to resolve the dispute before another competent authority, in case it renounces from resolving the dispute by the Agency and prior to the Agency's decision making.

(4) The decision of the Agency made in the course of resolving of a dispute shall be final and binding for the parties.

## **V. PRICES AND CHARGES**

### **Determining of prices and charges**

#### **Article 58**

(1) Prices of electricity and gas shall be freely established on the organized market or bilaterally in a contract between sellers and buyers.

(2) Prices and charges, being determined in the regulatory process, according to this Law, are the prices for:

- 1) use of electricity and gas transmission and distribution systems
- 2) use of gas storage systems and LNG facilities;
- 3) provision of ancillary services and services for balancing of transmission electricity or gas system;
- 4) a charge for operation of Market Operator.

(3) Prices for use of electricity and gas transmission and distribution system are established on objective criteria determined by the Methodologies referred to in article 43 paragraph (1) clause 1 of this Law and shall be determined in a manner which:

- 1) improves trading and competition;
- 2) excludes cross-subsidies;
- 3) does not limit market solvency and cross-border trading.

(4) Prices for supply of final customers by electricity or gas i.e. prices for customers of the last resort supplier and vulnerable customers based on provision of public service shall comprise the following elements:

- 1) electricity or gas prices referred to in paragraph (1) of this article, respectively prices determined in line with methodology referred to in article 43 paragraph 1 clause 4 of this Law;

- 2) prices for use of electricity or gas transmission and distribution system charges that comprise of price of used capacity and price of justified losses determined in line with article 64 herein;

- 3) a charge for operation of Market Operator;

- 4) compensation to be used to encourage generation of electricity from renewable energy sources;

- 5) other charges in line with the Law.

- 7) other charges in accordance with the Law.

(5) Prices:

- 1) for use of electricity and gas transmission and distribution systems shall be proposed by a transmission, i.e. distribution system operator based on methodologies from the article 43 paragraph (1) clause 1) indent 1 herein.

- 2) for gas storage and charges related to use of LNG facilities shall be proposed by a system operator based on methodology from the article 43 paragraph (1) clause 1) indent 2 herein.

- 3) Charge for ancillary services and balancing charge shall be proposed by electricity transmission system operator i.e. gas TSO based on methodologies from article 43 paragraph (1) clause 2) herein.

- (6) Charges for work of market operator shall be proposed by market operator based on methodology referred to in article 43 paragraph 1 clause 5 herein.

## **Regulatory allowed revenue, prices and charges**

### **Article 59**

(1) The application for determining of regulatory allowed revenue and prices or charges to TSO, DSO and MO, shall be submitted in a manner and in a procedure determined by methodologies referred to in article 43 of paragraph (1) herein, not later than within four months prior to expiration of validity of the decision on determining of prices.

(2) TSO, DSO and MO shall make the applications for determining the regulatory allowed revenue and prices or charges on grounds of:

- 1) energy quantities determined in line with article 16 herein;

- 2) business plans for the next regulator period and substantiated differences in respect to achieved in the previous period;

- (3) Compulsory elements of business plans from paragraph 2 clause 2 herein shall be determined by Agency based on methodologies and rules from article 43 herein;

- (4) The Agency shall decide upon the application referred to in paragraph 1 of this article not later than within three months following the day of receipt of the application.

- (5) Regulatory allowed revenue for TSO and DSO is a total annual revenue from regulated energy activity that covers total justified operating costs, including also obligations from ratified international contracts, that the Agency sets on the basis of analysis of requested operating costs, depreciation and return on assets, while applying adequate adjustment based on deviation of energy and financial values compared to applied in the previous period.

- (6) Regulatory allowed revenue of electricity market operator means total annual revenue, covering total justified operating costs including also obligations from verified international contracts, which the Agency determines based on analysis of required operating costs, depreciation and reasonable profit, applying also respective corrections based on deviation of energy and financial values compared to ones applied in the previous period.

- (7) Adjustments from paragraphs 5 and 6 of this article shall be determined for the last year of the previous regulatory period and all years of regulatory period in which the application referred

to in paragraph 1 of this article is submitted, for which the final data exists, and shall be applied during the regulatory period for which the regulatory allowed revenue is being determined.

(8) The regulatory allowed revenue from paragraphs 5 and 6 of this article shall be transposed in prices and charges on grounds of which the system users pay electricity and services, alleviated by respective other revenues from energy activities and revenues or part of revenues from non-energy related activities, in case when it is not possible to separate costs which are common for provision of those activities, in line with methodologies from article 43 paragraph 1 herein.

### **Fixed assets**

#### **Article 60**

(1) Value of fixed assets as on December 31 of the year preceding the year in which has been passed the decision on the regulatory allowed revenue for the next regulatory period, shall be incorporated in the basis for determining of return to assets for the first year of the regulatory period, except value of assets obtained by capital contributions (gift, donation, charges from article 180 paragraph 1 herein and other non-refundable assets).

(2) Fixed assets from paragraph 1 of this article means assets used for performance of electricity transmission or distribution activities and which have been registered in business books of energy undertaking according to the law governing accounting, international accounting standards and this Law.

(3) Energy undertaking from article 59 paragraph (5) herein, which records fixed assets per revaluation value shall determine structure and value of those assets within deadlines that do not exceed five years.

(4) The Agency may, occasionally, perform inspection i.e. determine the structure and value of assets from paragraph 1 of this article by engagement of an independent appraiser.

(5) determined value of assets, in case from paragraph 4 of this article, shall be incorporated in the basis for determining of return to assets for the first year of the following regulatory period.

### **Tentative prices and adjustments**

#### **Article 61**

(1) Should the energy undertaking fail to submit a request within deadline from article 59 paragraph 1 herein, i.e. should the new regulatory period fail to start immediately upon expiration of the previous one or if in the initiated procedure there comes to delay in determining the prices and /or charges, the Agency shall determine tentative prices and/or charges, and in the first forthcoming procedure on determining the adjustments the Agency shall take into consideration deviations of energy and financial values compared to applied ones during determining of tentative prices and/or charges.

(2) Should, in the period of application of determined prices and/or charges, it come to deviation in costs to which the energy undertaking can not impact, in revenues from regulated activities, in other revenues, depreciation and return on assets, cumulatively higher than 10% compared to regulatory allowed revenue from article 59 paragraph 8 herein, than the Agency shall set adjustments upon the request of the undertaking or shall act in official capacity.

(3) Adjustment referred to in paragraph 2 of this article shall be determined by a decision on adjustment, according to rules from article 43 paragraph 4 clause 2 herein, on grounds of which shall be determined tables with adjustments, which shall separately be stated on customers' bills.

(4) The Agency shall publish Decision on prices, charges and adjustments in Official Gazette of Montenegro and on its web page.



## **Methodologies for setting the regulatory allowed revenue and prices for use of transmission and distribution systems**

### **Article 62**

(1) Methodologies for setting of regulatory allowed revenues and prices for use of transmission and distribution systems for electricity and gas shall contain specifically the following:

- 1) criteria to be applied in order to estimate reasonableness of costs and revenues;
- 2) criteria for allocation of regulatory allowed revenue to transmission and distribution system users;
- 3) tariff related elements as a basis of a calculation and payment of services at determined prices, in order to ensure adequate revenue to system operators;
- 4) support schemes for energy efficiency and for achievement of better quality of supply;
- 5) elements for assessment of effects to price; supply with interruptions, load balancing and other mechanisms intended to improve energy efficiency;
- 6) elements for encouragement of realization of measures for increase of system energy efficiency, especially by virtue of consumption response and distributed electricity generation;
- 7) elements for encouragement of financial efficiency while carrying out the activities, decrease in costs of those activities and enhancement of quality of services;
- 8) elements for assessment of support measures for development of energy facilities, attraction of investments and transfer of technologies;
- 9) elements for assessment of costs referring to environmental and final customer protection;
- 10) elements and criteria for determining and allocation of costs of justified losses in electricity and/or gas transmission and distribution systems;
- 11) manner of determining of rate and elements of the basis for calculation of return to assets from article 59 paragraph 5 herein;
- 12) elements for determining other revenues referred to in article 59 paragraph (8) herein.

(2) Methodology for setting of regulatory allowed revenue and charge for work of electricity market operator shall particularly contain the following:

- 1) method of regulation of revenues and charges
- 2) criteria and elements for determining of total justified operating costs
- 3) criteria and elements for determining of regulatory allowed revenue
- 4) elements on grounds of which shall be done calculation and payment of charge for the purpose of securing of an adequate revenue;
- 5) elements for setting of adjustment of the regulatory allowed revenue and charge;
- 6) method for determining of reasonable profit from article 59 paragraph 6 herein;
- 7) criteria and elements for determining of other revenues from article 59 paragraph 8 herein.

(3) Methodology determining the prices for final customers supplied by the supplier of the last resort and vulnerable customers shall contain:

- 1) manner of determining electricity or gas price for customers from article 196 paragraph (1) clauses 1) and 2) herein, taking into account increased costs for procurement of additional electricity or gas quantities which could not be envisaged in the tender procedure of price determining, such as unpredictable number of such customers and their impact to balancing costs;
- 2) manner of determining of tentative electricity or gas prices which are to be applied in case of failure to select the supplier in a procedure referred to in article 200 herein.

(4) Methodologies from the paragraph (1) of this article may determine prices containing several elements which are based on different costs or groups of approved costs of transmission and distribution system operators.

(5) Methodologies from the paragraph (1) of this article may specify elements for setting of prices and tariffs depending of the season, day in a week, time of day and time of use, as well as reasonableness to approve costs, revenues or prices for a period longer than one year.

## **Methodology for setting the prices and conditions for providing of ancillary services and services of transmission system balancing**

### **Article 63**

(1) Methodology for setting the prices and conditions for providing of ancillary services and services of balancing of electricity and gas transmission system shall particularly comprise:

1) service providers and type of services encompassing frequency regulation and system exchange power, securing of reserve in power, regulation of voltage and delivery of reactive electricity, purchase and sale of electricity for compensating of undesired deviations of the system and re-establishment of the system upon its breakdown;

2) method of setting the prices, terms and conditions for providing ancillary services and services of balancing whereby were encompassed the prices which the TSO secured in transparent, non-discriminatory and market based processes;

3) type of services for which a charge is being paid to the service provided, as well as services that are provided free of charge;

4) allocation of costs for providing the services;

5) procedure of determining the prices for service providing.

(2) The Methodology referred to in paragraph (1) herein shall be based on the following principles:

1) compliance between interests of both providers and users of services;

2) non-discrimination, including setting the prices in an impartial and transparent manner, based on objective criteria;

3) ensuring the conditions for development of market and competition.

(3) The Methodology referred to in paragraph (1) herein shall determine procedure and conditions according to which final customers, which have appropriate technical-technological possibilities and business interest, may equally participate in providing the ancillary services and services of balancing using the information on consumption response and distributed generation, and according to the market principles.

(4) The Methodology referred to in paragraph (1) herein comprise of measures and support schemes intended to:

1) electricity or gas transmission and distribution system operators so as to enable them to provide and secure ancillary and balancing services in the most economical way;

2) system users for balancing of electricity volumes they take from the system or deliver into the system;

3) system users for implementation of measures aimed at increasing the energy efficiency.

### **Studies on losses**

### **Article 64**

(1) The Agency shall, in the procedure of setting the regulatory allowed revenues and prices, recognize only the justified costs of losses, taking into account:

1) total losses in transmission and distribution system, determined by studies from paragraph 3 clauses 1 and 3 of this article, reasons that caused amount of determined losses and proposed measures for reduction of losses rate;

2) achieved and planned measures from studies from paragraph 3 clauses 1 and 3 of this article undertaken by TSO and DSO in order to achieve lower losses rate.

(2) System operator shall submit to the Agency both a request for setting the regulatory revenue and prices for every subsequent regulatory period and Study on losses referred to in paragraph 3 of this article updated by the independent expert institution in energy sector and based on final elements from the year preceding the year in which the request has been submitted.

(3) In the procedure of setting the regulatory allowed revenue and prices, the Agency shall make adjustments to the energy values referred to in article 59 paragraph (2) clause 1) herein if:

1) the planned losses in transmission system do not match with losses determined by the study of losses and investment measures for achieving the lower rate of losses revised by an independent expert institution from energy sector, which is to be submitted together with a ten-year development plan and which mandatorily contains an overview of the existing state, exploitation and investment measures for reaching the lower losses rate, taking into account level of losses related to transit of electricity or

- 2) the transmission system operator failed to prepare the study;
- 3) in case the losses in distribution system do not match with the losses determined by the study of losses revised by an independent expert organization from energy sector, which is to be submitted with ten year development plan and which mandatorily contains an overview of the existing state, exploitation and investment measures for reaching the lower losses rate, or
- 4) in case the distribution system operator failed to prepare the study on losses.

(4) The Agency shall, on grounds of methodologies referred to in article 43 paragraph 1 clause 1 herein, define the method of setting the losses rate and costs thereof, should the system operator fail to prepare the study or fail to deliver the study within the deadline so as to make the study useful in the procedure of setting the regulatory allowed revenues and prices.

(5) System operator shall provide a new study on losses, in the course of drafting of the development plan.

(6) The Agency may, when necessary, order auditing of the updated study from paragraph 2 of this article, as well as drafting of the new study on losses prior to expiry of the period for which the development plan has been adopted, if in the course of energy system development comes to change in number and structure of system elements which can adversely affect the losses rate.

## **VI. LICENSES, CERTIFICATES AND AUTHORIZATIONS**

### **Licensing**

#### **Article 65**

(1) Energy activities, referred to in article 3 herein may be carried out only on the basis of a license unless this Law provides otherwise.

(2) The Agency shall determine the compliance with conditions for licencing defined herein.

(3) The Agency issues the license on a request of business organization, legal or natural person, respectively entrepreneur that:

1) has been registered in the Central register of commercial entities for carrying out of an energy activity for which the license is issued;

2) owns or manages the operation of energy facilities, means of transport and other equipment, installations or plants necessary for conducting the energy activity and which meet conditions and requirements specified in technical regulations, energy efficiency regulations, fire and explosion prevention and environmental protection regulations;

3) proves it employs staff possessing a respective professional certificate i.e. evidence on signed contract with legal person that has staff possessing the necessary professional certificate for jobs of technical operation, maintenance, management and control of energy facilities;

4) freely deals with the financial resources on its account;

5) in the last three years, was not in a situation whereby his license has been revoked for the energy activity for which the application has been submitted;

6) has members of the management bodies who were not convicted with a final and binding verdict for criminal acts that makes them unsuitable for carrying out of their functions.

(4) Evidence on fulfilment of the conditions from the paragraph (3) of this article shall be submitted together with an application for issuance of a license;

(5) Notwithstanding the paragraph 3 of this article, the license for carrying out of electricity or gas supply activity may be issued to a supplier who has a registered seat in a EU member state or is a member of the Energy Community on the basis of relevant approval for carrying out supply activity issued by the competent body, i.e. state's organization in which it has been registered.

(6) A license issued for carrying out of electricity or gas distribution activity, gas storage operator or LPG facility, shall represent, at the same time, confirmation on identification of the electricity or gas Distribution System Operator, gas storage operator and LPG facility.

## **License validity**

### **Article 66**

(1) License shall be issued for a period of up to ten (10) years.

(2) Licence issued for a period shorter than that referred to in paragraph (1) of this Article may be extended upon a request of an energy undertaking until expiration of ten years, but it may be reduced exclusively if such reduction of validity period would not jeopardize security of supply or functioning of the market.

(3) For energy activities that are carried out on the basis of awarded concession, a license may be extended until expiration of a concession.

## **Fees and register of licenses**

### **Article 67**

(1) Energy undertaking shall pay a fee for the award of a license as well as annual compensation for use of the license for the period of validity of a license, in the amount specified by the Agency's Decision referred to in article 51 paragraph 5) herein.

(2) The Agency shall maintain a register of data on licenses issued and revoked.

(3) Information from the register of licenses shall be public.

(4) Contents of the form for submission of request for licence issuance, evidence supporting the request, contents of the decision on issuance of the licence, contents and appearance of the licence as well as deadline for development of the licence, a manner in which a control of fulfilment of conditions set by a license shall be carried out, manner in which exchange of information between energy undertakings shall take place, as well as method of payment of license fees and contents of register of licenses, shall be regulated by rules from Article 43 paragraph 4 clause 3 herein.

## **Certification and nomination of transmission system operator**

### **Article 68**

(1) The Agency may issue a certification to electricity or gas TSO or to the operator of a combined gas system, possessing the license for carrying out the transmission activity and fulfilling the conditions from articles 136 and 163 herein.

(2) Fulfilment of conditions referred to in articles 136 and 1632 herein, shall be determined in a procedure of certification, which is to be carried out in line with the law and rules referred to in article 43 paragraph (4) clause 4) herein.

(3) Procedure of certification shall be initiated by:

1) transmission system operator i.e. if it files a request ;

2) in case transmission system operator fails to submit request for certification the Agency shall do it acting in official capacity;

3) the Competent authority of the Community;

(4) A certificate serves for nomination of the transmission system operator from paragraph 1 of this article and confirmation of fulfilment of conditions in terms of unbundling, conditions of financial, material, technical and staff capabilities as well as other conditions envisaged by this Law.

(5) Contents of application for certification, evidence accompanying the request, contents of a decision on certification, contents and appearance of the certificate and deadline for development of the certificate shall be closely defined by rules referred to in article 43 paragraph 4 herein.

(6) The Agency shall, without delay, submit notification on identification of transmission system operator to the relevant body of the Union.

## **Monitoring and recertification**

### **Article 69**

(1) Transmission system operator shall inform the Agency about all the planned changes that may have impact on fulfilment of the conditions from articles 136 and 163 herein.

(2) The Agency shall inspect fulfilment of conditions related to independence of certified transmission system operator which are determined by this Law.

(3) The Agency shall initiate a new procedure for certification:

1) when the transmission system operator notifies of changes from paragraph (1) of this article;

2) on its own initiative/acting in official capacity in case it is informed that there is a change or a change was planned regarding rights or structure of ownership of transmission system operator or in case of other change that may impact fulfilment of conditions from articles 136 and 163 herein or

3) upon a request of the relevant body of the Community according to obligations arising from verified international contract.

(4) Upon a submitted request, transmission system operator and energy undertaking performing the activity of generation or supply shall submit to the Agency and/or to the relevant body of the Community all the data and documents necessary for certification referred to in article 68 herein and paragraph 3 of this article.

### **Issuance and revoking of certificates**

#### **Article 70**

(1) The Agency shall decide on certification of transmission system operator within four months from the day of initiation of certification procedure from article 68 and 69 herein i.e. submission of documentation upon the request of the Agency or authorized body of the Community.

(2) If the Agency does not make the decision about certification within the deadline referred to in paragraph (1) herein, decision shall be considered as adopted.

(3) The Agency shall, without delay, submit to the relevant body of the Community the Decision on certification with pertaining documentation on grounds of which the decision has been passed.

(4) The Agency's decision on certification shall be applied after submission of opinion of the competent body of the Community.

(5) If the Agency determines that transmission system operator does not fulfil condition based on which the certificate was issued, the Agency shall make a decision about revocation of the certificate.

### **Certification of transmission system operator in relation to third countries**

#### **Article 71**

(1) The Agency shall conduct procedure of certification of electricity or gas TSO which is under control of a person or group of persons from a third country or third countries, upon the request of an operator or transmission system owner.

(2) Transmission system operator shall, without delay, notify the Agency about circumstances which may lead to taking of control over it by a person or group of persons from a third country or third countries.

(3) The Agency shall, without delay, inform the Ministry and relevant body of the Community, in line with obligations arising from the ratified international contract, about the request for certification referred to in paragraph (1) of this article and about notification referred to in paragraph 2 of this Article and consequences of overtaking of the TSO.

(4) The Ministry shall evaluate whether issuing of the certificate may jeopardize security of supply at national level and/or security of supply of the members of the Union, within two months from the day of submission of the Agency's notification, taking particularly into account:

1) rights and obligations of the Union towards the concerned country referred to in paragraph 1 of this article, that arose based on the international contracts in relation to security of

supply, including other contracts that relate to security in supply which are signed with one or more third countries where the Community is a contracting party;

2) rights and obligations of Montenegro towards the country referred to in paragraph 1 of this article that arose based on ratified international contracts concluded with that country, in so far as they are compliant to regulations of the Community;

3) other specific circumstances.

(5) The Agency shall decide on certification of transmission system operator within four months from the day of receipt of the request referred to in paragraph (1) of this article.

### **Deciding upon request for certification in respect to third countries**

#### **Article 72**

(1) The Agency shall reject a request for certification referred to in article 71 herein, if:

1) transmission system operator fails to prove he fulfils the conditions prescribed in article 65 paragraph (3) and article 136 and 163 herein;

2) issuing of the certificate will not jeopardize security of supply in Montenegro and/or security in supply of the members the Community.

(2) The Agency shall, without delay, submit an interim decision on certification i.e. rejection of the request for certification with pertaining documentation on grounds of which the same has been passed, to the relevant body of the Community for the purpose of obtaining of their opinion, and in line with obligations taken over by ratified international contracts.

(3) The Agency shall pass a final decision on certification, i.e. rejection of the request for certification, within two months after submission of opinion i.e. expiry of the period for submission of the opinion of the concerned body of the Community.

(4) While passing the decision from paragraph (3) of this article the Agency shall completely take into consideration the opinion of the Ministry and the opinion of the relevant body of the Community, according to the ratified international contract.

(5) The Agency's decision with opinion of the relevant body of the Community shall be published in the "Official Gazette of Montenegro".

(6) Rationale on deviation shall be also published at the same time with the decision, in case the Agency's decision differs from the opinion of the relevant body of the Community.

### **Professional qualification**

#### **Article 73**

(1) Activities of technical supervision and management of energy facilities may be performed by the person that has at least VI level of vocational qualification in the energy area and who passed relevant professional examination.

(2) Activities of maintenance, operation and control of energy facilities may be performed by the person that has at least IV level of vocational qualification in the energy area and who passed relevant professional examination.

(3) Activities of operation and control of energy facilities may be performed by the person that has at least IV level of vocational qualification in the energy area and who passed relevant professional examination.

(4) Activities of control over energy facilities up to 2 MW installed capacity and gas installations of 50m<sup>3</sup> may be performed by the person that has at least III level of vocational qualification in the energy area and who passed relevant professional examination.

(5) The professional examination for conducting activities referred to in paragraph 1 of this Article may take a person that has at least two years of work experience, while for conducting of activities from para. 2, 3 and 4 may take a person who has at least one year of vocational work experience.

(6) Conditions, program, procedure and costs for the professional examination, referred to in para. 1 to 4 of this article and Form of Certificate on the passed professional exam shall be specified by the Ministry.

(7) The professional examination shall be taken before a Commission established by the principal of the Ministry.

### **Carrying out of energy activities without the licence**

#### **Article 74**

(1) The following energy activities may be carried out without a license:

- 1) generation of electricity for one's own needs;
- 2) generation of electricity performed by energy undertaking in one or more plants, if their installed capacity does not exceed 1 MW;
- 3) storage of oil and petroleum products for one's own needs;
- 4) retail trade in LNG in cylinders of up to 12 kg;
- 5) trade in electricity and gas for resale, not involving sale to a final customer that is not balancing responsible entity, mediation or representation on energy market;
- 6) wholesale and retail trade in petroleum products that are not used in the burning process;
- 7) management of closed distribution system including also supply to customers within a closed distribution system by the operator of that system

(2) A certified electricity transmission system operator from another country may perform activities of electricity transmission through interconnector at the territory of Montenegro, without a license if:

- 1) the interconnector is a part of the public infrastructure
- 2) the interconnector owner signs with transmission system operator of Montenegro, a contract on connection and,
- (3) does not disturb competition, efficient electricity market functioning and proper functioning of the system to which it is about to connect.

### **Modification and Dormancy of Licenses**

#### **Article 75**

(1) Upon an application made by a licensee, the Agency may modify a license on account of reasons that could not have been foreseen at the moment of its issuance.

(2) The Agency may, upon a request of a licensee, release a licensee from its license obligations for a temporary but specifically stated period of time, in the event of objective circumstances due to which it was not possible for the energy undertaking to carry out its activities or to participate on the market.

(3) After expiration of a license, an energy undertaking shall continue, upon a request of the Agency, with providing services in accordance with general acts of the Agency, not longer than for 12 months, in order to ensure security of supply and to ensure functioning of the market.

### **Revoking of license**

#### **Article 76**

(1) The license for conducting an energy activity shall be temporarily revoked if an energy undertaking:

- 1) fails to meet at least one or more conditions referred to in the article 65 paragraph (3) herein;
- 2) fails to remove detected irregularities in work within the time frame specified by the Agency;
- 3) fails to establish the energy price, i.e. price for carrying out of energy activities in accordance with the methodology or fails to charge in accordance with tariff system or charges in contravention of the determined prices;
- 4) fails to maintain energy systems in working and safe condition and in accordance with technical regulations regarding operation and environmental protection;

5) i.e. the licensee operates contrary to conditions stipulated in the license;  
6) is not satisfying other conditions specified for carrying out of energy activities under this Law.

(2) The Agency shall adopt a decision on temporary revocation of the license and shall set a deadline of maximum two months as of the date of receipt of the decision, for the removal of deficiencies.

(3) At the proposal of the inspector in charge, the Agency shall pass a decision about temporary revocation of license due to non-compliance with the conditions from the paragraph (1), clauses 4) and 5) of this article.

(4) The Agency shall pass a decision whereby the License shall be revoked:

- 1) upon the licensee's request;
- 2) upon termination of carrying out of energy activity;
- 3) if the licensee fails to remedy detected deficiencies within the time frame specified by the inspector;
- 4) if the licensee fails to remove deficiencies in work within the time frame specified by decision from paragraph 2 of this Article.

(5) Decision referred to in paragraphs 2 and 4 of this Article cannot be subject to appeal.

### **Suspension of operation of an energy undertaking**

#### **Article 77**

(1) In case the suspension of operation of an energy undertaking whose license has been temporarily revoked could jeopardize regular and secure energy supply, lives and health of people or seriously disrupt the economy, the Agency may, based on the opinion of the competent body authorized for inspection affairs, instruct the energy undertaking by a Decision to continue its energy activities until cessation of conditions causing harmful consequences of their suspension, but not exceeding the period specified in the article 76 paragraph (2) herein.

(2) The energy undertaking referred to in paragraph (1) of this article, shall be entitled to full regulatory allowed revenue, as well as obligation of payment to the Agency the charge proportionate to charge of licensing, for the period referred to in paragraph (1) of this Article.

(3) In case the suspension of conducting of an energy activity of public interest or provision of a public service by energy undertaking whose license has been permanently revoked could jeopardize regular and secure energy supply, the lives and health of people or seriously disrupt the economy, the Government may, at the proposal of the Ministry, designate another energy undertaking licensed for the same energy activity, to carry out the energy activity in the area previously serviced by the energy undertaking whose license was permanently revoked.

(4) In case from the paragraph (3) of this article, the Government shall specify the rights and obligations of the energy undertaking designated to carry out the energy activity of public interest or provide public service in the specific area and the time period for that activity, as well as the rights and obligation of the energy facilities' owner whose license was revoked or at whose facility the energy activity was performed by an energy undertaking whose license was revoked if there is a need for its energy facilities to be used for the energy activity by the energy undertaking specified by the Government.

(5) Facility owner referred to in paragraph 4 of this article shall allow use of its energy facility with all the necessary documentation to the energy undertaking designated by the Government, if that facility is needed for performance of the energy activity and shall be entitled to compensation according to the law.

(6) In case the Agency determines that the conditions for revocation of license were fulfilled but there is no other energy undertaking that could perform an energy activity in the area in which the energy activity is conducted by an energy undertaking whose license should be revoked, the Agency shall instruct the energy undertaking to remove identified irregularities and initiate procedure in accordance with the Law.

### **Energy permit**



## Article 78

(1) Energy facilities shall be constructed pursuant to the Law regulating construction of facilities and spatial planning and technical regulations, with a previously obtained energy permit issued pursuant to this Law, without implementation of the public tendering procedure.

(2) Energy permit shall be obtained for the construction of the following facilities:

- 1) electricity generation facilities of up to 1MW power;
- 2) facilities for oil storage and petroleum products reservoir with more than 50 tones capacity;

(3) The Ministry shall issue the Energy permit referred to in paragraph 2 clause 1 of this article upon the request of business organization, legal or natural person or entrepreneur.

(4) The competent local self-government authority shall issue Energy permit referred to in in paragraph 2 clause 1 of this article upon the request of a business organization, legal or natural person i.e. entrepreneur.

(5) On the basis of an issued permit from the paragraph (2) clause 1 herein, the Government passes a decision to allow a use of the state owned property, which is a basis for entry into contract.

(6) Obtaining of the energy permit shall not be necessary for energy facilities that are being built on the basis of an implemented public invitation according to the law and for construction of facility referred to in article 96 paragraph 1 herein.

## Criteria for award of authorization

## Article 79

(1) Energy permits shall be issued based on the annual plan passed by the Government and published at the internet page of the Ministry:

(2) Annual plan referred to in paragraph (1) of this article shall be prepared by the Ministry in line with Energy Strategy Development, Action plan and action plan for use of energy from renewable sources.

(3) Energy permits for construction of facilities referred to in article 78 paragraph (2) clause 2 herein shall be issued based on an annual plan which the local self-government competent authority adopts and publishes at its web page.

(4) Energy permit shall be issued in the manner and under procedure stipulated by this Law.

(5) Energy permit for construction of energy facility shall be issued based on valuation of fulfilment of criteria referring to:

- 1) safe and reliable operation of the energy system;
- 2) property and human safety and health protection measures;
- 3) environmental protection conditions;
- 4) conditions for determining of location and land use;
- 5) conditions for connection of a facility to the system.
- 6) energy efficiency conditions;
- 7) use of primary energy sources;
- 8) economic and financial capability of applicant for construction of energy facilities;
- 9) measures planned to be operative upon commencement of the facility in respect of provision of public service obligation, protection of final customers and safety in supply;
- 10) contribution of the generating facility to achievement of national target in regards to use of renewable energy sources;
- 11) contribution of the generating facility to decrease emissions of gasses with greenhouse effect.

## Request for issuance of energy permit

## Article 80

(1) A request for energy permit issuance shall particularly include the data about:

- 1) request applicator ( name and seat for legal person, i.e. name, surname and place of residence for natural person;

- 2) type and capacity of an energy facility;
  - 3) a location where energy facility is to be built;
  - 4) compliance with respective planning documents according to the law governing construction of buildings and landscaping;
  - 5) energy facility construction deadlines;
  - 6) fuels that will be used in the energy facility;
  - 7) environmental protection method during construction and operation of the energy facility;
  - 8) operational life time of the facility, as well as the manner of recovery of location in respect of termination of facility's' operational life time;
  - 9) planned financial resources for construction of energy facility and the way to secure those funds;
  - 10) finalized measurements for a renewable energy source which requires measurement and survey of its potential, accompanied with evidence about implemented measurements and surveys.
  - 11) other information depending on type and purpose of the energy facility the energy permit is to be issued to.
- (2) If construction of the energy facility is being planned on an exploitation area the applicant shall, together with application from paragraph 1 of this article, submit consent of the State's authority competent for geology and mining affairs.
- (3) The Ministry shall specify, in a regulation, contents of an application form for issuance of the energy permit, documentation containing data referred to in paragraph 1 of this article and contents of the form of application and contents of the register of issued energy permits.

## **Procedure on issuance of energy permit**

### **Article 81**

- (1) The Ministry, respectively the local self-government unit competent for construction of facilities shall issue the energy permit for construction of a facility referred to in article 78 paragraph 2 clause 1 herein.
- (2) A complaint against the decision about award of permit that is issued by the competent local self-government unit, from paragraph 1 of this article may be lodged with the Ministry within eight (8) days as of the date of receipt of the decision.
- (3) Decision of the Ministry referred to in paragraph (1) and (2) of this Article may be subject to an administrative dispute.
- (4) Energy permit shall be awarded for a validity period of up to two (2) years.
- (5) The energy permit holder shall not transfer the permit to another person.
- (6) Upon a request of the energy permit holder, the Ministry or the local self-government competent authority may extend the period of validity of the energy permit by maximum of 12 months.
- (7) A request from the paragraph (6) of this article shall be submitted at least 30 days before the expiry date of the energy permit.

## **Invitation to bids**

### **Article 82**

- (1) Construction of the facilities for generation of electricity may be approved upon implementation of the public invitation to bids, if award of permits cannot ensure new generating capacities or when undertaken energy efficiency measures are not sufficient for securing of safe and regular electricity supply, i.e. achievement of the planned time schedule for construction of energy facilities, that is envisaged under the Energy Development Strategy.
- (2) The Government shall, upon the proposal of the Ministry, decide on launching of a public tender, according to the law.
- (3) The Ministry shall submit to the Community's authority the public invitation to bids referred to in paragraph 1 of this article at least six months prior to expiration of a deadline for submission of bids for the purpose of its announcement on the internet page.

## **Cost-effectiveness analysis**

### **Article 83**

(1) During construction, i.e. significant reconstruction of the thermal power plants for electricity generation with total thermal capacity above 20 MW, a cost effectiveness analysis of operation of facility as high-efficiency cogeneration facility is to be conducted.

(2) During planning of construction or significant reconstruction of the industry facility with total thermal capacity above 20 MW in which waste heat energy is produced on useful temperature level, the cost effectiveness analysis of operation of a facility as high-efficiency cogeneration facility and/or its connection to the system for district heating and/or cooling is to be conducted.

(3) During planning of construction of the new system for district heating and/or cooling, i.e. construction of new or significant reconstruction of the existing facility for electricity generation in the existing network for district heating and/or cooling with total thermal capacity above 20 MW it is necessary to conduct cost effectiveness analysis of exploitation of waste heat from the existing neighbouring industry facilities.

(4) Cost effectiveness analysis from paragraph (1), (2) and (3) herein shall be conducted by investor.

(5) The following shall be exempted from application of Cost effectiveness analysis:

1) facilities for electricity generation that are used in peak load and facilities for electricity generation that are planned to operate less than 1500 operating hours per year, in average, in the five-year period;

2) facilities that are located near geological storages of carbon dioxide.

(6) Significant reconstruction from paragraph (1), (2) and (3) of this article shall imply reconstruction whose value exceeds 30% of investments costs for construction of the new facility of the same capacity.

## **VII. CARRYING OUT OF ENERGY ACTIVITIES**

### **Conditions for carrying out of energy activities**

#### **Article 84**

(1) An energy activity may be carried out by a business undertaking, legal or natural person, or entrepreneur that meets requirements stipulated herein.

(2) Energy activities shall be done based on market principles, apart from activities which have been performed as public services.

#### **Article 85**

(1) Utilization of the space for carrying out activity referred to in article 84 of this Law shall be subject to fair compensation.

(2) Fair compensation referred to in paragraph (1) of this article shall be based on assessment of all the impacts: occupation of the space, encroachments on to the space, prevention to carry out the activity, decrease in property value, ambience disturbance, endangering the ecosystem, endangering safety of activities related to the specific space and the purpose thereof identified in spatial and planning documents.

(3) The method of identifying and the amount of the compensation referred to in paragraph (2) of this article shall be regulated in the contract to be signed by the operator and the space owner.

### **Activities of public interest**

#### **Article 86**

(1) Energy activities of public interest are as follows:

- 1) generation of electricity;
  - 2) transmission of electricity and gas;
  - 3) distribution of electricity and gas;
  - 4) organization of electricity and gas market;
  - 5) transport of oil and petroleum products;
  - 6) storage of oil and petroleum products;
  - 7) trade in electricity for the purpose of electricity supply as a public service referred to in article 88 paragraph 1 clause 3 herein;
  - 8) supply of electricity and gas;
  - 9) transport and storage of LNG;
  - 10) wholesale in LNG for the purpose of gas supply as a public service referred to in article 88 paragraph 1 clause 3 herein;
  - 11) combined heat and electricity generation.
- (2) In order to ensure public interest and supply in a secure, safe, reliable and quality manner, according to energy balance referred to in article 13 herein, energy undertakings that carry out activities from the paragraph (1) of this article, and shall be held liable for the following:
- 1) securing sufficient volumes of energy that are required for life and work of citizens;
  - 2) securing sufficient volumes of energy that are required for business operations and development of business undertakings;
  - 3) securing of energy for covering of losses in electricity and gas transmission and distribution systems.
- (3) Energy undertakings that carry out the activity referred to in paragraph (1) clauses 1), 9) and 11) of this article shall be responsible for securing the energy referred to in paragraph (2) clause 3) of this article, when they do not exercise the support schemes referred to in article 23 paragraph (5) herein.
- (4) Activities of the public interest shall be done in line with law governing the competition and state's subsidies.
- (5) Activity of the public interest in terms of this law means also exploitation of coal for generation of electricity and thermal electricity in Montenegro.

## **Contractual relations**

### **Article 87**

- (1) Energy undertakings shall enter into contracts on mutual rights and obligations, which they are bound to enter into under provisions of this Law not later than:
- 1) on December 1<sup>st</sup> of the current year for contracts whose application starts from January 1<sup>st</sup> of the following year, i.e.
  - 2) 15 days following the contract submission by the relevant energy undertaking for other contracts.
- (2) The relevant energy undertaking shall submit the contracts proposal referred to in paragraph (1) of this article to the other contracting party not later than:
- 1) on November 15<sup>th</sup> of the current year, for contracts that shall enter into force on January 1<sup>st</sup> of the following year i.e.,
  - 2) 15 days prior to beginning of contract implementation, for other contracts.
- (3) Contracts between energy undertakings shall be entered into in the written form.
- (4) The user of electricity or gas transmission system shall enter into contract, envisaged by this law, with authorized operator within deadlines specified in paragraph 1 of this article.

## **Public Service**

## Article 88

(1) With a view to achieving regular, secure, reliable and quality supply with energy at prices, which reflect market prices trend and/or achieved prices in the procedure of public tender, the following activities are carried out as public services in the energy sector:

- 1) transmission of electricity;
- 2) distribution of electricity;
- 3) supply of electricity or gas referred to in article 196 paragraph 1 herein;
- 4) management of electricity market;
- 5) storage of natural gas;
- 6) transmission of natural gas;
- 7) distribution of natural gas;
- 8) operating LNG facility;
- 9) generation of heat energy for district heating and/or cooling;
- 10) distribution of heat energy for district heating and/or cooling;
- 11) supply of heat energy for district heating and/or cooling.

(2) electricity or gas public supply service shall be provided in a non-discriminatory manner and shall not neither endanger competition nor shall impede market development, except to the extent when needed for achievement of the public interest.

## Provision of Public Service

### Article 89

(1) Energy undertakings carrying out activities identified by article 88 herein, shall be bound by the license conditions to ensure the following while providing public services:

- 1) security of supply;
- 2) quality of services and supply;
- 3) application of prices for supply or for use of storage services or LNG facilities, or regulated prices for use of transmission or distribution systems from article 58 herein;
- 4) usage of primary sources of energy, gas and fuel;
- 5) environmental protection;
- 6) protection of citizens' health, life and property;
- 7) measures for protection of customers and consumers of energy.
- 8) non-discriminatory, transparent and easily verifiable provision of services.

- (2) In order to achieve the public interest referred to in article 4 herein, the Government may oblige electricity or gas undertakings to provide public service under conditions different from those on market, when the public interest cannot be achieved on market principles.
- (3) Obligation of public service provision referred to in paragraph 2 of this article may be enacted for the purpose of security in supply, quality and price of supply, energy efficiency, energy from renewable sources and environmental protection.
- (4) Obligation of public service provision referred to in paragraph 2 of this article shall be established in a non-discriminatory manner, and shall not disturb competition or prevent market functioning, except to the extent that is necessary for achieving of public interest.
- (5) Ordinance setting the obligation referred to in paragraph 2 of this article shall define the period of its application.
- (6) In case of introduction of obligation referred to in paragraph 2 of this article, the financial charge and other types of charges may be determined, as well as exclusive rights to energy undertakings for performance of public service obligation.

## Charge for provision of the public service

### Article 90

(1) Charge referred to in article 89 paragraph (6) herein shall be non-discriminatory and transparent and shall not be higher compared to cost of fulfilment of obligation, including the profit.

(2) State's body competent for control of state's support shall valueate the charge referred to in paragraph 1 of this article according to rules on state's support.

(3) Funds for charge referred to in paragraph 1 of this article shall be secured from the budget of Montenegro or from funds which provide operators of electricity or gas TSOs, by collecting those funds from system users for whose needs the service is being done.

(4) Should the Government determine that funds are to be secured by transmission system operator, than the Agency shall determine the costs arising from provision of obligation from article 89 paragraph 2 herein as justified TSO costs in their services prices.

(5) Implementation of obligation referred to in article 89 paragraph (2) herein shall be controlled by the Agency.

(6) The Government shall, with no delay, inform the competent authority of the Community on introduction of obligation to provide the public service referred to in article 89 paragraph (2) herein, as well as on its possible impact to market functioning.

(7) The Government shall inform the competent authority of the Community about all changes in obligations and/or measures arising from determined obligation referred to in article 89 paragraph (2) of this Article, on every two years.

### **Conditions for provision of the public service**

#### **Article 91**

- 1) The Licence referred to in Article 89 paragraph (1) of this Article shall determine the type and scope of the public service provided by the energy undertaking.
- 2) The price for provision of the public service cannot exceed the net expenses needed for provision of the service in question, taking into account other direct or indirect revenues generated through provision of this service.
- 3) The energy undertaking shall not be able to use funds for provision of the public service to finance commercial activities.
- 4) Should the energy undertaking act contrary to paragraph (3) of this Article, the Agency shall instruct return of illegally used funds.
- 5) Energy undertaking shall keep separate accounting for provision of the public services and performance of commercial services.

### **Activities in the energy market**

#### **Article 92**

(1) Energy activities which are not carried out as public services shall be carried out per market principles.

(2) Activities in the energy market shall be carried out and organized in accordance with the objectives for development of energy activities and in accordance with requirements of customers in Montenegro in terms of ensuring quality and secure energy supply, while complying with the principles of competition and equal position of all entities on that market, in respect of:

- 1) exercising right to construct an energy facility;
- 2) obtaining an authorization for construction of energy facility;
- 3) access to the systems;
- 4) right to carry out an energy activity;
- 5) availability of information, and
- 6) other cases established by this Law.

### **Non-disclosure of business secret and other commercially sensitive information**

#### **Article 93**

The Agency, electricity generating undertaking, electricity or gas TSO i.e. DSO, closed electricity DSO, electricity and gas market operator, operator of the system for storage of gas and facilities for

LNG and operator of combined systems shall secure non-disclosure of business secret and other commercially sensitive information and data, whose disclosure or notification thereof could create unjustified commercial advantage on market or make adverse effects to energy undertakings, users or customers, legal or natural persons, according to the Law.

## **VIII. ELECTRICITY ACTIVITIES**

### **1. GENERATION OF ELECTRICITY**

#### **1. Electricity generation**

##### **Generator of electricity**

##### **Article 94**

- (1) Pursuant to this Law, electricity generator shall be entitled to:
- 1) use of energy sources for generation of electricity;
  - 2) enter into contracts to purchase or sell electricity;
  - 3) use electricity transmission and distribution systems under conditions for access and use of those systems defined by this Law.
- (2) A generator that sells electricity to a final customer and does not have a balancing responsibility shall have a supply license as well.
- (3) Electricity generators shall:
- 1) put generating facilities in operation upon a request from transmission system operator or distribution system operator as required for ancillary services or balancing services;
  - 2) enter into contracts with operators of transmission and distribution system that will specify mutual rights and obligations in respect of provision and usage of ancillary and balancing services;
  - 3) enter into contracts which regulate:
    - connection to transmission or distribution system with system operator;
    - use of transmission or distribution system with system operator;
    - electricity market participation with market operator;
    - financial settlement of balance calculation with market operator;
    - balance responsibility with market operator and transmission system operator;
    - purchase and sale of energy with customers and energy undertakings that purchase electricity for their own needs;
  - 4) provide to transmission or distribution system operator the data required for operation and functioning of the system;
  - 5) ensure system operators free of charge use of equipment in its energy facility which is in function of transmission or distribution system, as required to ensure electricity flows;
  - 6) maintain and enhance equipment from clause 5) of this paragraph in accordance with requirements for functioning of transmission or distribution system and their development plans.
- (4) Generator referred to in paragraph (1) of this article shall, upon a request of transmission or distribution system operator, offer electricity for covering of losses in transmission and distribution system.
- (5) Generator shall prepare a program of measures aimed at enhancing energy efficiency and shall prepare annual report about effects from implementation of the programme and shall publish them on its web page.
- (6) The Ministry may stipulate the minimum energy efficiency level for certain technologies that should be achieved in construction of a new or in reconstruction of the existing energy facility.

#### **Production of electricity from renewable energy sources**

#### Article 95

(1) Energy undertakings shall implement measures aimed at increasing a contribution of electricity generated from renewable energy sources to the total electricity generation.

(2) Share of electricity generated from renewable energy sources shall be evidenced by supplier's guarantee of origin.

(3) At least once a year, supplier of electricity shall give on its bill or in promotional materials accompanying a bill information to final customers about:

1) contribution of renewable and other sources of energy per types that was used to meet electricity demand of final customers;

2) information about environmental impact in relation to CO<sub>2</sub> and other harmful emissions that arise out of electricity generation from all the energy sources that were used to meet the customer's electricity demand in the previous year.

### **Exchange on a connection point**

#### Article 96

(1) Final customer that generates electricity from renewable energy sources (hereinafter: customer - producer) in facilities of up to 50 kW installed capacity or in high-efficiency cogeneration facilities of up to 50kWe installed capacity shall have a right to exchange electricity that it delivers to the system and takes from the distribution system.

(2) The supplier who supplies customers - generators referred to in paragraph 1 of this article shall buyout surplus of generated electricity which is to be determined at a monthly level.

(3) Distribution system operator shall perform separate metering of quantity of generated and consumed electricity of customer – producer from paragraph (1) of this article, at the connection point and submit them on a monthly basis to the supplier referred to in paragraph (2) herein.

(4) Should the quantity of generated electricity be higher than overtaken, the supplier shall determine, bill and pay the difference in quantity of electricity from the paragraph (1) of this article to the customer-producer per price equal to price of electricity delivered to that customer - producer in the accounting period, excluding payment of network services and charges, according to the law.

(5) Should the generated quantity of electricity be lower compared to the overtaken one, the supplier shall determine and calculate the difference of electricity quantities referred to in paragraph 1 of this article, while the customer - producer shall pay the difference per price of the supplier for the respective voltage level, which encompass payment for electricity, network services and charges according to this law.

(6) Costs of balancing caused by customer - producer referred to in paragraph (1) herein shall be borne by the supplier from paragraph (2) of this article.

(7) Mutual rights and obligations of customer - producer and supplier from this article shall be regulated with an agreement.

### **Conditions for connection and reporting on metering done at the point of connection**

#### Article 97

(1) Technical conditions, connection standards, metering method, protection system, quality of energy as well as other important matters for delivery point shall be specified by rules referred to in article 122 herein.

(2) Connection of the facility from article 96 paragraph (1) herein shall be carried out pursuant to article 175 herein.

(3) Distribution system operator shall submit to the Ministry and the Agency data referred to in article 96 paragraph (3) herein, not later than March 1st of the current year for the previous year.

### **Setting up of prices and restriction of incentives**

#### Article 98

(1) Types of facilities for generation of electricity from renewable sources or in high-efficiency cogeneration and their classification in groups, shall be specified by the Ministry.



(2) Upon obtaining an opinion from the Agency, the Government shall set electricity prices from article 23 paragraph (6) herein that may be different for different types or groups of facilities, as well as for different types of renewable sources.

(3) The Government shall cease to provide support schemes for construction of new capacities for generation of electricity from renewable sources and, in case the national objective referred to in article 18 paragraph 4 clause 1 herein has been accomplished, the Agency shall cease granting the status of a privileged generator, in accordance with the Report referred to in article 19, paragraph (2) herein, should by construction of those facilities be achieved the share of energy from renewable sources in total gross consumption of electricity higher than compulsory, as well as to restrict support scheme prior to achievement of national objective in the event of negative impact on the economy or social status of the final customers.

## **Guarantee of origin**

### **Article 99**

(1) A guarantee of origin shall be issued by the Agency upon a request of generator of electric energy for energy generated in an energy facility that uses renewable energy sources or high-efficiency cogeneration, after technical documentation is reviewed and after a direct inspection of operation of the facility.

(2) Review of technical documentation and direct inspection of operation of the facility from paragraph (1) herein shall be conducted during the first submission of application for guarantee of origin and afterwards at least once in two years.

(3) The guarantee of origin, depending on metering location, shall be issued for:

1) volume of net generated electricity at the generator, reduced by transformation losses and metered auxiliary power supply electricity or

2) electricity volume metered at the high voltage part of the transformer unit in the plant, reduced by electricity used for auxiliary power supply procured from other source.

(4) Transformer unit in the plant in terms of paragraph 3 clause 2 of this article, means a generator with connected transformer.

(5) Operator of the transmission or distribution system where the facility for which a guarantee of origin is issued is connected, shall submit to the Agency all data about volume of electricity referred to in paragraph 4 herein.

(6) A guarantee of origin shall be issued only once for 1 MWh of generated electricity referred to in paragraph 3 herein.

(7) Use of guarantee of origin has to be based on objective, transparent and non-discriminatory criteria.

(8) A guarantee of origin shall not be issued to an energy undertaking:

1) for electricity generated in a reversible hydro power plant, in a part for which such generation is a consequence of pump operation of the hydro power plant;

2) that generates thermal energy for district heating and/or cooling in an installation with installed capacity below 1 MW.

## **Issuance, transfer and revocation of the guarantee of origin**

### **Article 100**

(1) A request for issuance of the guarantee of origin, referred to in article 99 paragraph 1 herein, may be submitted within 6 months following the last day of electricity generation period for which the guarantee of origin is required, and not later than on March 15<sup>th</sup> of the current year for generation from the previous year.

(2) Period of generation of electricity, for which the guarantee of origin is to be issued, shall not exceed 12 months.

(3) Guarantee of origin shall cease to be valid upon its utilization, revocation or by expiry of 12 months deadline, from the last day of generation period for which it has been issued.

(4) Guarantee of origin shall be transferrable.

(5) Guarantee of origin may be transferred independently on generated electricity to which it refers to, whereby in order to present that energy to the customer only once, multiple calculations and presenting of electricity generated from renewable sources is hereby forbidden.

(6) Electricity generated from renewable sources, whose pertaining guarantees of origin the producer sold separately, shall not be presented or sold to the final customer as electricity generated from renewable sources.

(7) A procedure in which guarantees of origin are issued, transferred and revoked, as well as contents and a way of submission of data from article 99 paragraph (5) herein, more details about contents of guarantee from articles 101 and 102 herein, information that need to be contained in an application and documentation required to obtain a guarantee of origin shall be specified by the Government in a regulation.

### **Contents of the guarantee of origin for electricity generated from renewable energy sources**

#### **Article 101**

A guarantee of origin for energy generated from renewable energy sources shall contain specifically:

- 1) information about the energy source from which the energy was produced, and date of beginning and end of a period of generation for which a guarantee of origin is issued;
- 2) name, location, type and installed capacity of energy generation facility;
- 3) scope of investment support for power facility, scope of support scheme for energy generated in that facility and information about means of encouragement;
- 4) date of commissioning of power facility;
- 5) date of issuing and validity period, as well as unique identification number of guarantee of origin and the state in which it is issued.

### **Contents of the guarantee of origin for electricity generated from high - efficiency cogeneration**

#### **Article 102**

A guarantee of origin for electricity generated from high-efficiency cogeneration shall contain specifically:

- 1) name, location, type and installed capacity of power facility;
- 2) scope of investment support for power facility, scope of support scheme for energy generated in that facility and information about means of encouragement;
- 3) date of commissioning of power facility;
- 4) date of issuing and validity period, as well as unique identification number of guarantee of origin and the state in which it is issued;
- 5) the lower calorific value of the fuel that is used for generation of electricity for which a guarantee of origin is issued;
- 6) the purpose of heat generated in a high-efficiency cogeneration plant together with electricity for which a guarantee of origin is granted;
- 7) primary energy savings in the process of generation of electricity for which a guarantee of origin is granted;
- 8) information about volume of electricity generated in accordance with high-efficiency criteria and regulations;
- 9) volume of thermal energy generated together with electricity.

### **Register of guarantees of origin**

#### **Article 103**

(1) Data on issued and revoked guarantees of origin shall be recorded into the Register of guarantees and shall be maintained by the Agency.

(2) Contents and procedure for maintaining a register of issued guarantees of origin shall be specified by the Agency.

(3) The register from the paragraph (1) of this article shall also contain information about submitted foreign guarantees of origin that fulfil conditions from 4 and 5 of this article.

(4) Foreign guarantees of origin shall be valid in Montenegro in line with reciprocity condition and in accordance with ratified international agreement.

(5) Foreign guarantees shall be valid in Montenegro if exchanged within the European association of organizations which issue the guarantees of origin, whose member is the Agency, in line with rules of that association.

(6) Costs of guarantees of origin transfer to abroad shall be borne by the holder of the guarantee of origin who issues order for transfer according to rules of association referred to in paragraph 5 of this article.

(7) Should the Agency reject the foreign guarantee of origin due to suspicion in its correctness, reliability and authenticity, the Agency shall inform the Body of the Community thereof, as well as of reasons for rejection.

## **Privileged producer**

### **Article 104**

(1) The status of a privileged producer may be obtained by an energy undertaking in a competitive procedure, based on clear, transparent and non-discriminatory criteria, except for energy undertaking which generates electricity in energy facility not exceeding 1 MW, if such energy facility:

1) belongs to the group of power facilities specified by the regulation referred to in article 98 paragraph (1) herein, with natural and spatial limitations and conditions, as well as environmental protection measures and if fulfils conditions referred to in article 106 herein;

2) is connected to electricity transmission or distribution system;

3) has its own metering place independent from metering places for electricity generation on the basis of other technological processes;

4) does not jeopardize security of the system operation while operating in a regime of privileged producer.

(2) Status of the privileged producer shall not be acquired for reversible hydro power plant:

(3) Before obtaining the status of a privileged producer, an energy undertaking may obtain interim status of a privileged producer if:

1) according to the law governing construction of facilities, that energy undertaking provided construction permit or other document, based on which an energy facility for which interim status is required may be constructed.

2) on grounds of technical documentation, there is a possibility for such power facility to obtain the status of the privileged producer, in line with this law.

(4) Interim status of a privileged producer shall be established by the Agency's decision and upon a request of an undertaking referred to in paragraph 3 of this article.

(5) Interim status referred to in paragraph (3) herein shall be established for a period of 2 years, with a possibility of extension of up to one year, in case period of construction of the power facility for which the status is obtained was not established by a contract or other act.

(6) An undertaking that acquired the status referred to in paragraph 3 of this article shall not be entitled to sign a contract on purchase of electricity from privileged producers with the market operator.

(7) Producer of electricity referred to in paragraph (3) herein shall be entitled to the support schemes that were applied on the day of submission of a request for obtaining interim status of a privileged producer and the support schemes that are applied on the day of obtaining the status of a privileged producer.

## **Request for obtaining of the status of the privileged producer**

### **Article 105**

(1) The procedure in which a status of a privileged producer may be obtained shall be initiated once the energy undertaking files a request to the Agency.

(2) Together with an application for a status of privileged producer, an energy undertaking shall submit evidence that it complies with requirements from the article 104 paragraph 1 herein.

(3) A status of a privileged producer shall be established by the Agency's decision for a period of 12 years.

(4) A privileged producer may sell its energy on the market, without the right on support scheme referred to in article 23 paragraph 5 herein, under same conditions and regulations as applicable to any other generator, if its participation on a market shall not be shorter than 12 months.

(5) Time of electricity sale on the market shall not prolong duration of a status of a privileged producer.

### **Transfer of the status of the privileged producer**

#### **Article 106**

(1) The energy undertaking possessing the power facility for which the status of the privileged producer has been obtained may transfer the status of the privileged producer to another energy undertaking.

(2) Energy undertaking that possess the status of the privileged producer referred to in paragraph 1 of this article shall submit a request for transferring of the privileged producer status, with adequate evidence referred to in article 104, paragraph (1) herein.

(3) Evidence on fulfilment of conditions referred to in article 104, paragraph (1), herein shall be replaced by final and binding decision about transfer or decision about status change, i.e. reorganization of a business organization or other act based on which legal continuity of an applicant can be with certainty established.

(4) The content of the request for obtaining an interim status, i.e. the status of a privileged producer, proof of compliance with conditions for acquiring the status of an interim or privileged producer, the content of the request for transferring the status of a privileged producer, proof of compliance with conditions for transferring the status of a privileged producer and exercising the rights from article 107 herein shall be regulated by the Government regulation.

### **The Right to Support Schemes**

#### **Article 107**

(1) Privileged producer shall be entitled to support schemes that are valid at the time of filing the application for obtaining interim status of a privileged producer, in accordance with the Article 104, paragraph (7) of this Law, i.e. in case it did not obtain interim status, to the support schemes that are valid at the time of filing the application for obtaining of status of a privileged electricity producer referred to in article 23 herein.

(2) Privileged producer shall take precedence in takeover of total generated electricity in transmission or distribution system, except in case when security of system operation is jeopardized.

(3) If due to security of system operation reasons, operator of transmission and distribution system may not give precedence to privileged producer, they shall inform the Agency thereof and shall determine corrective measures for prevention of further denials of access to the system.

(4) Privileged producer shall be paid for the generated electricity at incentive prices and for the volume of electricity measured at the point of power plant's connection to the network.

(5) Should several power plants deliver electricity to the system at the common delivery point, the system operator shall calculate the share of technical losses in the connection line for each individual plant as the difference between electricity volumes determined in the manner referred to in the Article 99, paragraph (3) of this Law, without electricity volume for auxiliary consumption procured from other source and electricity volume measured via the common point of delivery to the system.

(6) Privileged generators shall be members of a separate balance group established by the generator that first acquired the status of a privileged generator, whereas balancing costs caused by privileged generators shall be covered by suppliers proportionately to their portion in the total electricity delivered by all suppliers in the past year.

(7) Supplier shall collect costs referred to in paragraph (6) of this article from the final customers and they shall constitute a part of the charge referred to in article 24, paragraph (1) herein

## **Duties of the Privileged Generator**

### **Article 108**

- (1) Privileged generator shall:
  - 1) submit to the Agency annual report about achievement of electricity generation plan for the previous year;
  - 2) submit to the system operator and to the market operator monthly and annual electricity generation plans for average meteorological conditions, as well as expected monthly deviations in electricity generation based on measurements on the basis of which a potential of a renewable energy source was determined;
  - 3) maintain technical-technological characteristics and use energy undertaking under the same conditions as those under which it obtained a status of privileged generator;
  - 4) inform the Agency without delay about all changes to technical-technological characteristics or a change to conditions of use of energy undertaking;
  - 5) transfer all the guarantees of origin for electricity generated until the moment of payment of the support, for which it received support, to the market operator;
  - 6) deliver to the market operator daily operating schedules in line with the regulations referred to in article 130 of this Law.
- (2) The contents of the report from the paragraph (1), clause 1) of this article and notifications from the paragraph (1), clause 4) of this article shall be regulated by the Agency.

## **Termination of Status of Privileged Generator and the Register**

### **Article 109**

- (1) Energy undertaking shall lose the status of a privileged generator in the following cases:
  - 1) if a decision about award of a status was based on incorrect data;
  - 2) if ascertained that characteristics of the energy undertaking changed due to a failure to maintain technical-technological characteristics;
  - 3) if privileged generator fails to meet conditions and requirements defined by this Law;
  - 4) if generator's license has expired in cases envisaged by this Law.
- (2) The Agency shall pass a decision on termination of a status of a privileged generator.
- (3) The Agency shall maintain a register of privileged generators that also contains data about the generators that have interim status of a privileged generators and about privileged generators whose status ceased to be valid.
- (4) Detailed contents and procedure for maintaining the register of privileged generators shall be regulated by the Agency.

## **Survey and Measurement of a Potential of Renewable Energy Sources**

### **Article 110**

- (1) Measurement and survey of a potential of renewable energy sources shall be undertaken on the basis of a permit issued by the Ministry.
- (2) Permit from the paragraph (1) of this article shall be issued upon the request of legal or physical person, i.e. an entrepreneur, for a period of up to two years.
- (3) Survey and measurement of a potential of renewable energy sources may be carried out by a legal person that meets conditions and requirements in respect of professional staff and equipment.
- (4) The Ministry shall verify compliance with conditions from the paragraph (3) of this article and shall issue the permit from the paragraph (1) herein.
- (5) Survey and measurement of a potential of renewable energy sources shall be carried out on the basis of technical description of a survey that has to be approved by the Ministry.
- (6) Results of measurements and surveys of potential of renewable energy sources that are carried out on the basis of a permit shall be submitted to the Ministry.

- (7) More detailed conditions from the paragraph (3) of this article shall be specified in the regulation issued by the Ministry.

## **2. Transmission of Electricity**

### **Electricity Transmission System Operator**

#### **Article 111**

- (1) Electricity Transmission System Operator shall carry out transmission of electricity and manage the electricity transmission system in accordance with the license and certificate conditions, based on principles of impartiality, transparency and non-discrimination.
- (2) Electricity transmission system, pursuant to this Law, comprises of 110 kV installations, 110/x kV/kV transformers and 110 kV lines, as well as of installations, transformers and lines of higher voltage level, extending to the connection points of system users, and comprising of facilities, telecommunication and information equipment and other infrastructure necessary for functioning of the transmission system.
- (3) Electricity Transmission System Operator may purchase and/or sell electricity only for the system balancing purpose, ancillary services or to cover system losses.
- (4) Electricity Transmission System Operator shall purchase electricity for covering of the transmission losses on the market in a transparent procedure.
- (5) Electricity Transmission System Operator shall not carry out both the activity of generation of electricity and the activity of electricity supply.

### **Rights, Duties and Responsibilities of Transmission System Operator**

#### **Article 112**

- (1) Transmission System Operator shall:
  - 1) ensure long-term system capacity to meet realistic requirements for electricity transmission, or ensure operation, maintenance, improvement and development of the transmission system in order to provide reliability, safety and efficiency, in compliance with the environmental protection requirements;
  - 2) ensure proper resources to meet obligations pertaining to service providing;
  - 3) contribute to safety of supply via proper transmission capacity and system availability;
  - 4) establish technical-technological requirements for connection of electric power facilities, devices and installations into one system;
  - 5) manage energy flows in own system and flows to other interconnected systems, consistently with other transmission system operators;
  - 6) operate the transmission system and provide service of electricity transmission within technical-technological capabilities of the transmission system, so as to meet system user requirements;
  - 7) establish and conclude standard agreements which regulate the following:
    - agreement on connection to the transmission system concluded with transmission system users,
    - agreement on use of transmission system concluded with transmission system users
    - agreement on providing of ancillary services and balancing energy concluded with service providers, by activating reserve if need may be;
    - procurement of electricity for covering of losses in transmission system with concluded bidders on the market;
    - the right to access to the transmission grid concluded with interested entities for the purpose of use of cross-border transmission capacity;
  - 8) conclude the following agreements:
    - agreement on participating in electricity market to be signed with the market operator;
    - balance responsibility agreement to be signed with the market operator, and
    - balance responsibility agreement to be signed with the market operator and balance responsible party.

- 9) provide timely information to the market operator about actual system balance and imbalance of balance responsible parties;
- 10) regulate frequency and power of exchange;
- 11) ensure efficient and economic procurement of ancillary services and put them into operation;
- 12) plan operation of the transmission system in cooperation with the market operator and other system operators;
- 13) exchange necessary data and documents with the market operator and interconnected system operators;
- 14) ensure precedence in takeover of electricity generated from renewable energy sources or high-efficient cogeneration to the extent which will not jeopardize secure and reliable operation of electric power system;
- 15) ensure security of operation of electric power system;
- 16) coordinate preparation of overhaul plans for transmission facilities and installations of system users;
- 17) resolve overloading problems on certain elements of transmission system, taking care to maintain equal rights for all users of transmission system;
- 18) revise operation plans for power plants in case of a threat to security of operation of electric power system, failures, big deviations from planned demand, and in cases specified in article 213 herein;
- 19) establish rules for implementation of transparent mechanisms for managing congestions and allocation of capacities for transmission of electricity based on market principles and shall submit them to the Agency for approval after obtaining an opinion from the market operator;
- 20) calculate cross-border capacity in cooperation with the interconnected system operators;
- 21) apply the rules of relevant European Network of Transmission System Operators whose member it is and it shall participate in the work of the European Network of Transmission System Operators;
- 22) cooperate with transmission system operators, electricity exchanges and other interested parties for the purpose of establishing the regional electricity market and its integration in the unique European Union electricity market;
- 23) independently or in cooperation with competent organizations and other system operators allocate cross-border capacity in accordance with principles of transparency and non-discrimination of participants, and publish information about allocation of cross-border capacity on its web page;
- 24) ensure cross-border cooperation including allocation of cross-border capacity in order to check security of the grid;
- 25) ensure metering of energy delivered and received on connection points between transmission and distribution systems, with users, neighbouring systems and on other relevant points;
- 26) register data as required to determine quality of delivered electricity, including information about outages, voltage parameters and other information referred to in article 43, paragraph (4), clause 12) of this Law;
- 27) given the system condition and exploitation, prepare the ten-year transmission system development plan which is updated every year, together with the investment projects schedule, and submit it to the Agency for approval not later than July 1 of the year prior to the first year of a period to which the concerned plan refers to, harmonized with the following documents:
  - the Energy Development Strategy and the Action plan, taking into account projects on plant construction, especially projects of use of energy from renewable sources;
  - development plans of neighbouring transmission systems, taking into account projects of common interest,
  - requirements of the distribution system development.
- 28) depending on the system user requirements compliant with the spatial planning documents, define the three-year investment plan and submit it for the Agency's approval

being an integral part of the Plan referred to in clause 27 herein, which contains the following:

- investments for which decision has already been made;
  - new investments to be implemented within next three years, by each year;
- 29) in preparation of investment plans from clauses 27 and 28 herein:
- estimate potential for increase of energy efficiency in transmission system facilities and clearly specify objectives for increase of energy efficiency;
  - establish specific measures and investments for introduction of cost-effective energy efficiency improvements in network infrastructure, including time schedule for implementation of the measures;
  - take into account control of load and interoperability;
- 30) publish on its web page the Plan referred to in clause 27 herein;
- 31) establish methodology for determination of charges for connection to electricity transmission system and submit it to the Agency for approval;
- 32) determine price of connection to the transmission system on the basis of methodology from article 44, paragraph (1), clause 1) herein, and submit it to the Agency for approval;
- 33) determine transparent and non-discriminating rules for connecting new plants to the transmission system and submit them to the Agency for approval;
- 34) publish on its web page the approved methodologies and prices referred to in this article, as well as the approved prices and charges, at least 15 days before beginning of their application;
- 35) publish timely on its web page information important for the use of transmission system, including information about capacities, congestions, as well as other information required by market operations;
- 36) on a quarterly basis, report to the Agency on:
- scheduled outages as required for maintenance of the transmission system;
  - requirements of system users in terms of development of the transmission system;
  - performance of the transmission system;
  - contracts concluded for ancillary services;
  - contracts concluded for purchase of electricity to cover the transmission losses.
- 37) At the Agency's request file the report on settlement of customer complaints;
- 38) organize receipt of customer and system user complaints and ensure non-discriminating decision-making in compliance with statutory deadlines;
- 39) keep the register of customer and system user complaints containing supporting documents and decisions made;
- 40) submit all the necessary information to each new generator of electricity from renewable sources that wants to be connected to the system, including detailed estimate of costs regarding connection, detailed procedure for receipt, processing and making decision about the request for connection;
- 41) provide system users with information necessary for efficient access to the system;
- 42) charge a fee for control of congestions and participate in the mechanism for compensation of costs of cross-border transmission between transmission system operators;
- 43) manage access of third party and provide explanation in case of a denial of such an access;
- 44) submit to the Agency annual plan of maintenance of electricity transmission facilities, not later than December 15 of the current year for the subsequent year;
- 45) manage electricity balance market;
- 46) participate in aligning of (content of) the rules on electricity balancing market with the market operator;

(2) The transmission system operator shall ensure non-discriminating treatment of all the system users, especially as regards related entities.

(3) When determining the available cross-border capacity referred to in paragraph (1), clause 20) of this article or when awarding the available cross-border capacity referred to in paragraph (1), clause 23) herein, it is forbidden to reduce the capacity intentionally as well as to manipulate capacity in any other way which jeopardizes market operation.



(4) Data referred to in paragraph (1), clause 25) of this article shall be available to the distribution system operators, the market operator, the Agency as well as to the interconnected transmission system operators, on condition of reciprocity.

(5) At least once a year, the transmission system operator shall publish on its web page the report on quality of supply, based on the records from paragraph (1), clause 26) herein.

(6) The transmission system operator shall submit to the Agency, not later than 30 days from the quarter expiry and prior to March 1 of the ongoing year, the preceding year's annual report on implementation of the approved investments with estimated plan of update referred to in paragraph (1), clause 28) of this article, compliant with new requirements or system user requirements.

## **Delivery of Data to Transmission System Operator**

### **Article 113**

- (1) Generators, distribution system operators including closed distribution system operators and customers that are connected to the transmission system shall submit to electricity transmission system operator the following data and information:
  - 1) information necessary to regulate frequency, voltage and exchange of energy;
  - 2) information required to access transmission system and prepare investment plans collected from the existing and prospective users of the transmission system;
- (2) Electricity transmission system operator shall exchange data and information from the paragraph (1), clause 1) of this article with operators of interconnected transmission systems under condition of reciprocity.

## **Transmission Grid Code**

### **Article 114**

- (1) Operation of transmission system shall be regulated by the Transmission Grid Code that is established by Transmission System Operator.
- (2) The Code referred to in paragraph (1) of this article shall regulate the following:
  - 1) technical and other conditions for connection of a user to the Transmission System, including minimum power or capacity;
  - 2) technical and other conditions for secure functioning of electric power system with an objective to supply customers with electricity of a necessary quality;
  - 3) general conditions for use of the transmission system;
  - 4) regulations on access to the transmission system;
  - 5) regulations on system balancing;
  - 6) criteria and method to ensure ancillary services;
  - 7) the manner of operation in emergency situations;
  - 8) technical and other conditions for connection and interconnected operation of the Transmission System;
  - 9) the manner of planning the Transmission System development;
  - 10) standard contracts referred to in article 112, paragraph (1) clause 7) hereof;
  - 11) functional requirements and accuracy class for metering devices, as well as electricity metering method;
  - 12) the manner of publication of information necessary for the market operation and providing information to system operators, in compliance with the law;
  - 13) the manner in which a priority is to be given to use of indigenous primary energy sources generating electricity, in line with article 17, paragraph (4) of this Law;
  - 14) the manner in which a priority is to be given to access and takeover of electricity generated from renewable sources and high-efficient cogeneration;
  - 15) the manner of connecting energy plants to the transmission system which includes non-discriminating procedures for connection to the system regarding various types of generation;

(3) When defining the Code referred to in paragraph (1) of this article, the Transmission System Operator shall ensure proper participation of all parties who are interested in electricity, and submit the Code to the Agency for approval in accordance with article 44, paragraph (2), clause 1) of this Law.

(4) The Code referred to in paragraph (1) of this article shall be published in the „Official Gazette of Montenegro” and on the web site of Electricity Transmission System Operator.

(5) Transmission system users shall comply with the general conditions for use of the transmission system referred to in paragraph (2), clause 3) of this article.

### **3. Distribution of Electricity**

#### **Electricity Distribution System Operator**

##### **Article 115**

- (1) The activity of electricity distribution shall be carried out by Electricity Distribution System Operator under conditions and within a territory as specified in a license, in accordance with principles of impartiality, transparency and non-discrimination and pursuant to this Law, particularly between system users or system user groups to the benefit of energy undertakings connected with the operator;
- (2) Electricity Distribution System, pursuant to this Law, shall be composed of 35 kV installations, 35/x kV/kV transformers and 35 kV lines, as well as of installations, transformers and lines of lower voltage level, reaching to connection points of system users, as well as of facilities, telecommunication and information equipment and other infrastructure necessary for its functioning, except in cases referred to in article 117 of this Law;
- (3) Distribution System Operators shall charge the same tariffs for use of the Distribution System for the same groups of system users from Montenegro relative to voltage levels, volumes, method of metering or other criteria;
- (4) If more than one Distribution System Operator carries out electricity distribution, settlement of the differences between reasonable and actual revenues and costs shall be done in accordance with the rules referred to in article 43, paragraph (4) clause 8) hereof, except for operators referred to in article 117 herein;
- (5) Electricity Distribution System Operator may buy electricity on the market in a transparent procedure only for the purpose of covering Distribution System losses.

#### **Rights, Duties and Responsibilities of Electricity Distribution System Operator**

##### **Article 116**

- (1) Electricity Distribution System Operator shall:
  - 1) ensure long-term system capability to meet realistic requirements for electricity distribution, or to ensure operation, maintenance, modernization and development of the electricity Distribution System aimed at safety, reliability and efficiency, by respecting terms of the environmental protection;
  - 2) ensure reliable and efficient electricity distribution;
  - 3) give priority to takeover of electricity generated from renewable energy sources or high-efficiency cogeneration to the extent which will not endanger safe and reliable operation of electric power system;
  - 4) provide Distribution System users with clear and precise information regarding conditions for service providing, and particularly with information about access to Distribution System, including technical, contractual and available capacities;
  - 5) given the system condition and exploitation, prepare the ten-year distribution system development plan which is updated every fifth year, and submit it to the Agency for

- approval not later than July 1 of the year prior to the first year of a period to which the concerned plan refers to, harmonized with the following documents:
- the Energy Development Strategy and the Action Plan, taking into account future projects on plant construction and projects of use of energy from renewable sources;
    - transmission system development plan,
    - local energy plans referred to in article 12, paragraph 2) of this Law.
- 6) depending on the system user requirements, in compliance with the spatial planning documents, define the three-year investment plan which is updated every year and submit it for the Agency's approval not later than July 1 of the year preceding the first year of the period to which the plan relates to, being an integral part of the Plan referred to in clause 5) herein, containing the following:
    - investments for which decision has already been made;
    - new investments to be implemented within next three years, by each year;
  - 7) in preparation of investment plans from clauses 5) and 6) herein:
    - estimate potential for increase of energy and economic efficiency of distribution system facilities and clearly specify objectives for increase of energy and economic efficiency;
    - establish specific measures and investments for introduction of cost-effective energy efficiency improvements in distribution network infrastructure, including time schedule of implementation of the measures;
    - take into account control of load and interoperability;
  - 8) sign contracts which shall regulate the following:
    - connection to the Transmission System with Transmission System Operator,
    - use of the Transmission System with Transmission System Operator,
    - participation at the market with Market Operator,
    - balancing responsibility with the system operator and the market operator,
    - financial settlement of the balancing account with the Market Operator.
  - 9) determine and conclude standard contracts which shall regulate the following:
    - connection to Distribution System with the system users,
    - use of Distribution System with the system users,
    - purchase of electricity for covering distribution losses with the market bidders.
  - 10) meter electricity consumed by the final customers on its area of service and maintain meters in proper working condition in order to ensure accurate metering of electricity consumption;
  - 11) provide metering instruments and install them at own expense with the final customers;
  - 12) establish the methodology for connection to electricity Distribution Systems and submit it to the Agency for approval;
  - 13) set prices for connection to the Distribution System on the basis of the methodology from article 44 paragraph (1) clause 1) herein and submit them to the Agency for approval;
  - 14) establish the rules for detection, identification and prevention of unauthorized electricity consumption to be implemented by distribution system operators, and submit them to the Agency for approval;
  - 15) establish the methodology for calculation and charging of unauthorized consumption of electricity and submit it to the Agency for approval;
  - 16) determine prices for providing additional maintenance services which are not contained in the price of the distribution system use, and submit it to the Agency for approval;
  - 17) determine prices for providing additional services of maintaining connections owned by customers and submit them to the Agency for approval;
  - 18) identify unauthorized electricity consumption based on regulations referred to in clause 14) herein;
  - 19) implement measures to prevent unauthorized electricity consumption, and make the annual report for the Agency;
  - 20) provide comprehensive and necessary information to each new generator of energy from renewable sources that wants to be connected to the system, including detailed assessment of costs related to connection, detailed procedure for admission, processing and deciding on the request for connection;

- 21) the Distribution System Operator shall timely publish on its web site approved methodologies and rules referred to in this article, no later than 15 days prior to the beginning of the implementation thereof;
  - 22) organize receipt of customer and system user complaints and ensure non-discriminating decision-making in compliance with statutory deadlines;
  - 23) keep the register of customer and system user complaints together with the supporting documents and decisions made;
  - 24) At the Agency's request file the report on settlement of customer and system user complaints;
  - 25) publish on its web site the Plan referred to in clause 5 herein;
  - 26) identify standard profiles of customers connected to the distribution system, and award relevant profile to each customer;
  - 27) timely publish on the web site conditions of the distribution system use as well as the standard profiles referred to in clause 26 herein;
  - 28) Distribution System Operator shall report to the Agency on a quarterly basis on the following:
    - scheduled outages as required for maintenance of the Distribution System;
    - system user requirements for development of the Distribution System;
    - functioning of the Distribution System;
    - contracts on electricity purchase as required for covering of distribution losses;
  - 29) keep the register of data about quality of electricity supply which includes data about outages, voltage values and other data referred to in article 43, paragraph (4), clause 12) of this Law.
  - 30) The Distribution System Operator shall:
    - 1) implement the best know-how acquired in practice so as to ensure safety of supply and reliability of the distribution system;
    - 2) ensure continuous operation of a cross-border line;
    - 3) maintain the equipment for connecting generators and customers located in their area of service, in accordance with relevant technical regulations;
- (3) Regulations referred to in paragraph (1), clause 14) herein may particularly contain the following:
- 1) the manner and procedure for detecting, identifying and proving unauthorized electricity consumption;
  - 2) the plan of permanent, temporary and additional measurements;
  - 3) the manner of processing collected data;
  - 4) the manner for protecting data confidentiality;
  - 5) internal measures of energy undertakings aimed at preventing irregularities related to unauthorized electricity consumption;
  - 6) the manner in which the public is educated;
  - 7) other measures and activities for efficient prevention of unauthorized electricity consumption.
- (4) Not later than the end of March of the current year Distribution System Operator shall publish on its web page a report on quality of electricity supplied in the previous year referred to in art. 43 paragraph (4) clause 12) herein;
- (5) No later than 30 days from the date of the quarter expiry Distribution System Operator shall submit to the Agency quarterly report, i.e. the annual report on the implementation of the approved investments of the previous year which is to be submitted not later than March 1 of the current year, containing estimated requirements for updating plans referred to in paragraph (1), clause 6) of this article relative to the new requirements or system user requirements.

### **Closed Distribution System Operator**

### **Article 117**

- (1) Closed electricity Distribution System, pursuant to this Law, shall be used to distribute electricity in geographically limited area, composed of installations, lines and transformers running from the point of connection to the transmission or distribution system to the connection points of system users, as well as of facilities, telecommunication and information equipment and other infrastructure necessary for its functioning;
- (2) The closed distribution system can include facilities, transformers and lines of voltage level higher than that envisaged by article 115, paragraph (2) of this Law.
- (3) At the request of the owner of infrastructure referred to in paragraph (1) herein, the Agency can determine the status of closed Distribution System for geographically limited commercial systems or joint service systems, and it shall identify the closed distribution system operator, in the following cases
  - 1) in case of integration of operation and generating processes, trade or service activities of users of the concerned system due to technical or safety reasons, or
  - 2) if the system distributes electricity primarily to the system owner or system operator or their entities related to them;
- (4) The system referred to in paragraph (3) of this article may also comprise limited number of households that reside on that area.
- (5) In addition to the application from paragraph (3) of this article, the system owner shall provide the following evidence confirming that:
  - 1) it has been registered to perform electricity distribution;
  - 2) it possesses energy facilities and other instruments, devices and installations necessary to perform energy activity, which meet conditions and requirements defined by engineering regulations, regulations on energy efficiency, regulations on protection against fire and explosion, as well as by regulations on environmental protection;
  - 3) it has employed persons to perform engineering management, maintenance, exploitation and handling of energy facilities, who passed professional exam or signed contracts for performance of such activities with third parties;
  - 4) it meets other conditions so as to determine the status of a closed distribution system defined in regulations from article 43, paragraph (4), clause 11) herein.
- (6) The Distribution System Operator shall pay the charge for determining the status of the closed distribution system and it shall pay annual compensation for use of status of a closed distribution system, in the amount defined by the Agency's decision referred to in article 51, paragraph (5) herein.

### **Duties of Closed Distribution System Operator**

#### **Article 118**

- (1) Operator of the closed Distribution System shall provide rights to connection of users which are equal to rights of those that are being connected to Distribution System as regulated by this Law, except for the fact that charge for connection may be set independently, without the methodology or approval.
- (2) The Closed Distribution System Operator shall be the only system operator and the only undertaking that is allowed to identify the price and charge the distribution network use, in compliance with the contract on system use signed with the user.
- (3) While supplying customers connected to the distribution system, the Closed Distribution System Operator shall charge electricity consumption, use of the system and the relevant charge, based on the supply agreement signed with the customer.
- (4) If the customer connected to the closed distribution system is supplied by another supplier, electricity consumption and charges shall be collected by that supplier in line with the law.
- (5) The Closed Distribution System Operator shall provide connection to the system, based on individual contract, access to Distribution and Transmission System to which closed Distribution System is connected, including unrestricted right to select the supplier;
- (6) If technical capacity of closed Distribution System allows connection of new customer or increase of capacity of the existing customer, the customer shall be connected to closed Distribution System by the distribution system operator or shall be allowed to increase capacity.

- (7) In addition to the amount referred to in paragraph (2) hereof, customer shall pay for use of the system to which closed Distribution System is connected, i.e. use of transmission System and use of Distribution System in line with the voltage level, as well as other amounts defined by this law in compliance with the connection agreement.
- (8) The Closed Distribution System Operator shall pay to the competent system operator the charge for use of transmission and/or distribution system.

## **Determination of Charge for System Use**

### **Article 119**

- (1) The Closed Distribution System Operator shall not be obliged to:
  - 1) prepare ten-year development plan or investment plans;
  - 2) procure reserves and energy for covering network losses in line with transparent and non-discriminating procedures;
  - 3) publish or ask for the Agency's approval of methodology or price/charge for network use.
- (2) The customer in the closed Distribution System can require the Agency to revise methodology or prices for the network use.
- (3) In the case referred to in paragraph (2) of this article, the Agency shall require from the Operator to submit its methodology on the basis of which prices for use of the grid were determined, together with all the documents necessary for calculation of operating costs, depreciation, calculated profit and revenues;
- (4) The Agency shall pass the decision upon the request referred to in paragraph (2) of this article within six months following the day of the request submission.
- (5) The Agency's decision on approval of methodology and prices or on determining prices for use of the system referred to in paragraph 4 of this article shall be based on principles which are used by the Agency for other Distribution Systems, at least with reference to the following:
  - 1) Justification of operating costs (related to control and maintenance of the closed Distribution System);
  - 2) Actual level of depreciation and value of assets;
  - 3) Return on assets;
  - 4) Quality of service.

## **Prices**

### **Article 120**

- (1) Closed Distribution System Operator shall implement the prices for the system use within 30 days following the day of receipt of the Agency's decision referred to in article 119, paragraph (4) of this Law;
- (2) In case circumstances on the basis of which the Agency defined prices have changed, the closed distribution system operator may identify new prices independently, in line with article 118, paragraph (2) of this Law and it shall inform the Agency accordingly.

## **Conclusion of Agreements, Reporting and Mutual Relations**

### **Article 121**

- (1) The closed Distribution System Operator shall conclude agreements on mutual rights and obligations, regarding the following:
  - 1) agreement on connection to the system with the system operator to which they are connected;

2) agreement on the system with the operator of the system to which they are connected;

3) procurement of electricity for covering network losses and supplying their customers;

(2) The Closed Distribution System Operator shall define and conclude standard agreements with system users which regulate:

1) connection to the closed distribution system;

2) use of the closed distribution system.

(3) Closed distribution system operator generating electricity shall make and publish annual report on electricity volume generated by its system and electricity volume consumed by the system, by customer category and type of generator;

(4) In case generation referred to in paragraph (3) of this article includes generation of electricity from renewable energy sources, the closed distribution system operator shall present in the Report volumes of electricity generated from renewable energy sources classified into categories in accordance with article 98, paragraph 1) of this Law.

(5) The closed distribution system operator shall be entitled to the same rights of using transmission and/or distribution system and it shall have the same obligations arising from the system use like other users connected to the corresponding voltage level.

(6) The Closed Distribution System Operator shall have the same obligations towards system users like other distribution system operators.

## **Electricity Distribution Grid Code**

### **Article 122**

(1) The operation of the electricity Distribution System shall be regulated by the Distribution Grid Code that is established by the electricity Distribution System Operator for the territory specified in a license.

(2) The Code referred to in paragraph (1) herein shall regulate specifically:

1) maintenance and development procedure for Distribution System;

2) planning procedures and technical conditions for planning;

3) operation and functioning of Distribution System;

4) technical requirements for connection to the Distribution System and interconnection with other systems;

5) technical and other conditions for reliable operation of electric power system to ensure supplying customers with the necessary quality of electricity;

6) procedure for submission of data and information to Transmission System Operator and to other energy undertakings that are necessary for their work;

7) operational procedures for extraordinary or emergency situations;

8) general conditions for use of Distribution System;

9) conditions for termination of the contract for use of the distribution system that are not making difficult a switch to another supplier;

10) standard contracts referred to in article 116, paragraph (1), clause 9) hereof;

11) the manner of connecting plants to the distribution system including non-discriminating procedures for connecting various types of generation to the system;

12) the manner of giving priorities when accessing or taking over electricity generated from renewable energy sources or high-efficient cogeneration.

(3) The Distribution System Operator shall ensure participation of all the interested entities during the procedure of determining Code referred to in paragraph (1) of this article, and it shall submit such regulations to the Agency for approval in compliance with article 44, paragraph (2), clause 2) of this Law.

(4) The Code referred to in paragraph (1) of this article shall be published in the Official Gazette of Montenegro as well as on the web site of the distribution system operator.

(5) Users of the distribution system shall act in accordance with the general conditions for use of the distribution system referred to in paragraph (2), clause 8) of this article.

## **Electricity Metering in Distribution System**

### **Article 123**

- (1) Consumption of electricity shall be measured with metering devices on metering places in Distribution System in accordance with the electricity metering code for the Distribution System set by the distribution system operator, and it shall submit it to the Agency for approval;
- (2) The Distribution System Operator referred to in paragraph (1) of this article shall maintain and upgrade the electricity metering system and carry out metering referred to in paragraph (1) of this article.
- (3) The electricity metering code from paragraph (1) of this article shall regulate specifically the following:
  - 1) place, manner and type of metering;
  - 2) installation, acceptance, testing and maintenance of metering equipment;
  - 3) collection of metering and other data on a metering place;
  - 4) processing, availability and transmission of metering and other data about metering places to data users, as well as the method of data categorization and filing;
- (4) The collected and processed data are submitted by the operator referred to in paragraph (2) of this article to:
  - 1) the market operator;
  - 2) upon request, to the transmission system operator;
  - 3) supplier who receives data about all the metering places of final customers supplied by it as well as the data for balancing purposes;
  - 4) generator that is connected to the distribution system from its own metering place;
  - 5) at the customer's request, data related to consumption shall be available without delay and compensation, and operators shall provide these data to customers in an easily understandable and comparable form approved by the Agency;
- (5) The Distribution System Operator referred to in paragraph (2) of this article shall prepare time schedule for replacement and relocation of electricity meters and shall submit it to the Agency for approval, in addition to the annual investment plan.
- (6) The Code referred to in paragraph (1) of this article shall be published in the "Official Gazette of Montenegro" and on the web page of the electricity Distribution System Operator.

## **4. Electricity Market**

### **Organized Sale and Purchase**

#### **Article 124**

- (1) Organized purchase and sale of energy in all time frames, including sale and purchase for a day ahead or intraday sale, shall be carried out on the electricity market, based on contracts or directly on the organized market.
- (2) Electricity market participant may be:
  - 1) Generator, as an entity that sells and buys electricity on its own behalf and for its account, and as a seller of electricity generated in its own generating units that may close only those deals for which it is necessary to have own in-take and delivery point;
  - 2) Supplier, as an entity that buys, sells and re-sells electricity on its own behalf and for its account and is licensed for sale of electricity to the final customers, and it does not need to own its in-take and delivery point;
  - 3) supplier of the last resort and vulnerable customers, as an entity that buys or sells electricity on its own behalf and for its account and does not need to own its in-take and delivery point;



- 4) trader, as an entity that buys and sells electricity on its own behalf and for its account while it does not need to own its in-take and delivery point and does not sell electricity to final customers;
  - 5) self-supplying customer, as an entity that buys and sells electricity on its own behalf and for its account, so as to meet own requirements or requirements of the closed distribution system, and that owns its in-take and delivery point;
  - 6) Distribution System Operator as an entity that buys and/or sells electricity for covering losses in transmission System for ancillary services or services of system balancing;
  - 7) Distribution System Operator as an entity that buys electricity for covering losses in Distribution System;
  - 8) Market Operator as an entity that buys electricity generated by privileged generators, selling it to suppliers and self-supplying customers, and it does not own in-take and delivery point.
- (3) The Market Operator shall make decision about acceptance of participants to the electricity market.
- (4) Prior to conclusion of the contracts on participation in the market, the participants in the market shall sign with the Market Operator the contracts referred to in article 87 of this Law.
- (5) Prior to conclusion of this sale agreement, participants in the market shall sign the contract on market participation with the Market Operator within 15 days following the day of its submission by the market operator.

## **Balance Responsibility**

### **Article 125**

- (1) A balance responsibility shall be established for participants in electricity market for the purpose of undisturbed market functioning, carrying out of transactions and calculation of volume imbalance of market participants;
- (2) Every market participant shall be balance responsible entity and, in their capacity of the balance responsibility party, they shall be financially responsible for balance deviations.
- (3) The market operator shall decide about award of the status of a balance responsibility party.
- (4) Balance responsible entities referred to in article 124, paragraph (2) of this Law shall submit bank guarantee payable on first demand without rights to complaint, or other payment security to the benefit of Market Operator and they shall sign the contract on balance responsibility with the Market Operator and the Transmission System Operator within 15 days from the date on which the Market Operator submitted the contract;
- (5) Balance responsible entities shall conclude the contract on financial settlement of balance account with the Market Operator, within 15 days from the date on which it has been submitted by the Market Operator.
- (6) Balance account is the group of rules and procedures participated by the market operator, system operators and balance group responsible parties, or balance responsible entities, aimed at calculating volume imbalance, financial account and settlement performed by the Market Operator in accordance with the Market Rules, based on identified volume imbalance referred to in paragraph (1) of this article.
- (7) Balance responsible entities shall participate in a volume account of imbalance of in-take and delivery of electricity relative to operating schedules, performed by the Market Operator.

## **Data About Balance and Payment**

### **Article 126**

- (1) In balance account, the Market Operator implements tolerance zones defined by the Market Rules.

(2) Once a month, the Transmission System Operator shall submit to the Market Operator detailed information on the Montenegrin transmission system balancing, on the basis of which to calculate costs of system balancing.

(3) Participants in the electricity market referred to in paragraph (2) of the article 124 herein shall make payments based on financial settlement, in accordance with the contract on financial settlement.

## **Balance Group**

### **Article 127**

(1) Balance responsible entities may join the balance group consisted of one or more market participants (parties to the settlement), together with in-take and delivery points, so as to jointly account volume imbalance, thus becoming parties to the settlement in a balance group.

(2) Balance responsible entities joined into balance group shall nominate the balance group responsible party to take financial responsibility for own imbalance as well as for imbalance of members to the balance group.

(3) An in-take and delivery point may belong to only one balance group or one balance responsible entity.

(4) Balance responsible entity, i.e. balance group responsible party shall, prior to conclusion of the balance responsibility contract submit to the Transmission System Operator a list of in-take and delivery points which belong to the balance group.

(5) Market operator shall cancel the decision on acceptance of market participants and terminate contracts signed with a participant that has not concluded the balance responsibility contract or the contract on a financial settlement of balance account.

## **Market Operator**

### **Article 128**

(1) Excluding management of the electricity balancing market, the Market Operator shall carry out the activity of organization and management of the market, pursuant to the license in accordance with this Law.

(2) The Market Operator shall establish the Market Rules and the Rules for Operation of the Electricity Balancing Market, and it shall submit them to the Agency for approval.

(3) Rights and duties of the founder of a Market Operator shall be performed by the State Government.

## **Rights, Duties and Responsibilities of Market Operator**

### **Article 129**

(1) The Market Operator shall carry out in particular the following activities:

- 1) organize and manage the electricity market;
- 2) keep records on all the contracts signed in the electricity market in accordance with the Market Rules;
- 3) account volume imbalance of electricity in-take and delivery relative to operating schedules, and account and control of a financial settlement of imbalance;
- 4) publish on its web page all the information required for undisturbed market operation and for carrying out of energy activities pursuant to this law;
- 5) maintain records on suppliers and final customers, including their mutual obligations;
- 6) regulate in the Market Rules the rules and procedures on electricity purchase and sale;

7) define standard contracts referred to in clause 8 of this article and submit them to the Agency for approval,

8) following obtaining the approval referred to in clause 7 of this paragraph, the Market Operator shall sign the following standard contracts:

- Contract on participation in electricity market;
- Contract on financial settlement of balancing account;
- Contract on balance responsibility;
- Contract on electricity purchase from privileged customers;
- Contract on purchase and sale of a mandatory proportional share of electricity purchased from privileged producers, and
- Contract on membership in the balancing market;

9) sign contracts on electricity purchase with privileged generators entitled to the support scheme in accordance with article 23, paragraph (6) and article 98, paragraph (2) of this Law;

10) sign contracts with suppliers and self-suppliers on purchase and sale of a mandatory proportional share of electricity generated in facilities of privileged generators;

11) provide to suppliers and self-suppliers daily plans on supply of a corresponding portion of electricity generated in facilities of privileged generators;

12) collect money from suppliers and self-suppliers for electricity generated in facilities of privileged generators;

13) calculation of funds referred to in clause 12) of this paragraph which are used for promoting electricity generation from renewable energy sources and high-efficient cogeneration, allocating them to generators of electricity from renewable energy sources and high-efficient cogeneration on the basis of contracts concluded;

14) calculation of funds collected from other sources so as to promote generation of electricity from renewable energy sources and high-efficient cogeneration on the basis of the decision made by the Government, allocating them to generators of electricity from renewable energy sources and high-efficient cogeneration on the basis of contracts concluded;

15) provide an opinion about the rules for implementation of transparent procedures for managing congestion and allocation of cross-border capacities for transmission of electricity based on article 112, paragraph (1), clause 19) herein;

(2) Supplier and self-supplier shall provide bank guarantee when signing contracts referred to in paragraph (1), clause 9) of this article, payable at first call without rights to objection, or some other security to be provided to the benefit of the Market Operator;

(3) The Market Operator shall keep records on signed bilateral contracts, including cross-border bilateral contracts;

(4) The Market Rules shall regulate the manner and time frame for registering and recording of bilateral contracts.

(5) Bilateral agreements shall be additionally registered with the Market Operator in terms of their daily volume and time frame, at least once a day for a day-ahead, through registration of a daily operating schedule.

(6) As regards providing the service of registering bilateral agreements, the Market Operator may collect the charge defined in the price list approved by the Agency;

(7) Bilateral agreements shall be additionally recorded with the Market Operator in terms of their daily volume and time frame, at least once a day for a day-ahead through registration of a daily operating schedule.

(8) Energy undertaking shall ensure that the Market Operator has a continuous and unrestricted access to data which are necessary for performing Market Operator's activity.

## **Rules for Operation of the Market**

### **Article 130**

(1) The Market Rules and the Rules for Operation of the Electricity Balancing Market shall regulate the manner and functioning of the electricity market.

(2) The Market Rules shall specify in particular:

1) procedures, principles and standards for organization and functioning of the electricity market in accordance with applied market model;

2) the principle of economic priority, not including privileged generators, in line with this Law;

3) the procedure for identification and registration of electricity market participants and operators, the procedure for exercising rights of market participants, principles and procedures for defining and implementing balancing responsibility;

4) obligations of market participants, including obligations based on balancing responsibility;

5) types of contracts concluded on the market and types of contracts relating to functioning of the market and standard contracts referred to in article 129 paragraph (1) clause 8) of this Law;

6) products of trading for a day-ahead and intraday;

7) standards and procedures for publication and registering of transactions in the electricity market;

8) standards and procedures for preparation, maintaining and update of a database as required by the electricity market;

9) standards and procedures for registration, preparation, verification and change of daily operating schedules;

10) the procedure for publishing data necessary for functioning of the market, except for data which are considered as commercially sensitive information;

11) method and procedure for calculation of volume imbalances for final settlement of balance group responsible parties, i.e. balance responsible entities and their financial settlement in the electricity market;

12) form and structure of a bank guarantee or other security referred to in article 125, paragraph (4) and article 129, paragraph (2) of this Law;

(3) The Rules for Operation of the Electricity Balancing Market shall define in particular:

1) procedures, principles and standards for organization and functioning of the electricity balancing market;

2) the manner of identifying and registering operators and participants in the electricity balancing market;

3) the manner of exercising rights and performing obligations of participants in the electricity balancing market;

4) types of contracts signed at the market and contracts related to the market functioning and standard contracts referred to in article 129, paragraph (1), clause 8), line 6 of this Law;

5) products of combustion in the electricity balancing market;

6) standards and procedures for all aspects of data receipt and selection;

7) standards and procedures for performing and recording transactions in the electricity balancing market;

8) standards and procedures for developing, maintaining and updating database for the requirements of the electricity balancing market;

9) the method of publishing data for the balancing market functioning, not including commercially sensitive information;

(4) Participants to the electricity market shall perform obligations referred to in paragraph (2), clause 4) of this article set by the Market Rules.

The Market Rules and the Rules for Operation of the Electricity Balancing Market shall be published in the Official Gazette of Montenegro after obtaining an approval from the Agency.

## **Legal Person to Coordinate Auctions**

### **Article 131**

(1) The Electricity Transmission System Operator may jointly with the Transmission System Operators from other countries establish a legal entity for coordinated auctions for the purpose of allocation of capacities of cross-border transmission lines, i.e. implicit sale and purchase of electricity together with the capacities;

(2) The regulation referred to in Article 44 paragraph (2) clause 9) herein shall be established by the Electricity Transmission System Operator, as agreed with system operators referred to in paragraph (1) of this Article.

(3) The regulation referred to in paragraph (2) of this Article shall be approved by the Agency as agreed with other competent regional authorities.

(4) Supervision of allocation of capacities referred to in paragraph (1) of this Article shall be carried out in accordance with the act on establishing legal entity for coordinated auctions.

## **Ancillary Services and Services of Balancing in the Electricity Sector**

### **Article 132**

(1) Electricity Transmission System Operator and Distribution System Operator shall ensure provision of ancillary and services of balancing based on a minimum cost principle.

(2) Operators referred to in paragraph (1) of this Article shall sign contracts on provision of ancillary services and services of balancing.

(3) Energy undertakings and final customers that can provide ancillary and services of balancing shall offer to transmission and distribution system operators ancillary services and services of balancing in a transparent procedure.

(4) Operators referred to in paragraph (1) of this Article shall select offers for providing ancillary and services of balancing in a transparent procedure and they shall sign contracts with selected bidders so as to regulate mutual rights and duties.

(5) Electricity system balancing means all the activities and processes during all time intervals used by the system operator to ensure continuous maintenance of planned power exchange, system frequency within previously defined containment scope, maintenance of reserve volumes required by the Frequency Containment Process, Frequency Restoration Process and Reserve Replacement Process in terms of a required quality.

(6) The Transmission System Operator shall promote and develop cooperation and integration of the balancing market with other transmission system operators, based on the ratified international contract and in order to ensure efficient and economic system balancing.

## **IX ACCESS TO ELECTRICITY TRANSMISSION AND DISTRIBUTION SYSTEM**

### **Access to Electricity Transmission System**

#### **Article 133**

(1) Electricity Transmission System Operator shall provide non-discriminating third party access to Electricity Transmission System within the limits of transmission capacities and in line with technical rules.

(2) Electricity Transmission System Operator may deny access to the system if it lacks the capacity.

(3) In case referred to in paragraph (2) of this Article, Transmission System Operator shall submit relevant information to the requester on necessary measures being carried out on the improvement of the system and creation of possibilities for allowing access to the system.

(4) Electricity Transmission System Operator may deny or limit access to the system if allowing access to the Transmission System or use in a requested extent could jeopardize carrying out of public services referred to in Article 88 herein, according to its own estimate or upon request of the entity which performs the public service.

(5) Costs of submission and preparation of information referred to in paragraph (3) of this Article shall be borne by the system user that required the concerned information.

## **Access to Electricity Distribution System**

### **Article 134**

- (1) Electricity Distribution System Operator shall provide non-discriminating access to Electricity Distribution System within the limits of distribution capacities in line with technical rules.
- (2) The Electricity Distribution System Operator may deny access to the system if it lacks capacity.
- (3) In cases referred to in paragraph (2) of this Article, the Distribution System Operator shall submit relevant information to the requester on necessary measures being carried out on improvement of the Distribution System.
- (4) The Electricity Distribution System Operator may deny or limit access to the system if allowing access to the Distribution System in a requested extent could jeopardize carrying out of public services referred to in Article 88 herein.
- (5) Costs of submission and preparation of information referred to in paragraph 3 of this Article shall be borne by the system user that has required the concerned information.

## **X UNBUNDLING OF ELECTRICITY SYSTEM OPERATORS**

### **Independence of System Operators**

#### **Article 135**

- (1) Vertically integrated undertaking shall ensure that activities of the Electricity Transmission System Operator, i.e. the Distribution System Operator is carried out only in a legal entity that is independent from other energy-related activities.
- (2) Operator of Transmission System, i.e. operator of Distribution System for electricity may carry out non-energy activity, if it provides separate accounts within the meaning of Article 138 hereof.
- (3) The state authority competent for finance activities shall, independently and directly, propose members of the body for managing the Transmission System Operator, without obtaining opinion and instructions from the State Government.
- (4) Person referred to in paragraph (3) of this Article shall not ask or accept instructions or guidelines of the State Government in the process of system operator's making decisions and they shall not be member of the body managing energy undertakings that perform generation or supply of electricity and they shall not have the possibility to impact the decision-making process in such energy undertakings.

### **Independence of Electricity Transmission System Operator**

#### **Article 136**

- (1) Independence of Electricity Transmission System Operator shall be ensured in such a manner that the same person or persons shall not be authorized for the following:
  - 1) direct or indirect control of energy undertakings which perform activities related to electricity generation or supply, and at the same time directly or indirectly perform control or have any other authorizations over Transmission System Operator or Transmission System;
  - 2) direct or indirect control of Transmission System Operator or Transmission System, and at the same time directly or indirectly control or have any other competence over energy undertakings which perform activities related to electricity generation or supply;
  - 3) appointment of members of the Board of Directors or other bodies or legal representatives of Transmission System Operator and at the same time perform direct or indirect control over energy undertakings which perform electricity generation or supply;

- 4) simultaneously be members of the Board of Directors or other body or legal representatives of Transmission System Operator and energy undertakings which perform activities of electricity generation or supply.
- (2) Provisions referred to in paragraph (1), clauses 1), 2) and 3) of this Article particularly refer to the following
- 1) use of a voting right;
  - 2) the right on appointment of members of the Board of Directors or other bodies or legal representatives;
  - 3) owning majority of shares.
- (3) an energy undertaking carrying out activities of electricity generation or supply shall not directly or indirectly control Transmission System Operator which is organized as separate legal entity.
- (4) an energy undertaking performing the activity of electricity generation or supply referred to in paragraph (1) of this Article shall also be generator or supplier of gas.

## **Independence of Distribution System Operator that is Part of a Vertically Integrated Undertaking**

### **Article 137**

- (1) If Distribution System Operator is part of a vertically integrated undertaking, it is independent, at least in terms of its legal form, organization and decision-making, from other activities which are not related to electricity distribution.
- (2) Independence referred to in paragraph (1) of this Article shall be exercised in such a manner that:
- 1) management members of the Distribution System Operator shall not participate in management structures and performance of duties of a vertically integrated energy undertaking which are responsible, directly or indirectly, for day-to-day electricity generation or supply;
  - 2) measures are undertaken that will guarantee that the management members of the operator act independently and with due professional care, in accordance with the interests of the company they operate;
  - 3) operator independently decides about resources required for operation, maintenance and development of the system it operates, independently from other activities performed by a vertically integrated undertaking.
- (3) Independence of Electricity Distribution System Operator referred to in paragraph (1) of this Article shall not affect the right of a parent undertaking in a system of vertically integrated undertaking to approve annual financial plan of the operator and to set boundaries for its indebtedness.
- (4) The parent undertaking shall be forbidden to give instructions to the system operator referred to in paragraph (3) of this Article relating to its day-to-day operation or making decision about investing in the system, in accordance with the approved financial plan.
- (5) The Distribution System Operator shall not use its vertical integration to jeopardize competition, or the name, sign or other symbols which would be similar and could cause substitution with the name, sign or symbols used by supplier in performance of its business operations.

## **Unbundling and Transparency of Accounts of Energy Undertakings Carrying Out More Than One Activity**

### **Article 138**

- (1) An energy undertaking carrying out more than one activity in the electricity sector and non-energy activity in addition, if any of such activity is regulated in line with this Law, shall keep separate business records and prepare separate financial statements for each energy activity.
- (2) Energy undertaking carrying out public services shall maintain separate business records and compile separate financial reports for each public service it provides.

(3) Energy undertaking referred to in paragraphs (1) and (2) hereof shall prepare and publish separate financial statements, namely: balance sheet, income statement and cash flow statement, for each energy and non-energy activity.

(4) Financial statements referred to in paragraph (3) of this Article shall be audited within the deadline for auditing corporate financial statements defined by the Law by which accounting and auditing are regulated, including verification of performance of duties on avoiding discrimination and cross subsidization.

## **Program of Measures for Implementation of Non-Discriminating Conditions on Access to the System**

### **Article 139**

(1) For the purpose of meeting requirements of independence referred to in Article 137 hereof, the Electricity Distribution System Operator shall make a program of measures for implementation of non-discriminating conditions for access to system, including the manner of monitoring its implementation and shall deliver it to the Agency for approval.

(2) Operator of Distribution System shall assign authorized person for monitoring implementation of non-discriminating conditions for access to the system, that is completely independent in performing their tasks and has access to all relevant information of the operator and other affiliated energy undertaking.

(3) Appointment of persons referred to in paragraph (2) of this Article shall be approved by the Agency.

(4) Appointment of persons referred to in paragraph (2) of this Article shall not be approved by the Agency if it is identified that such persons do not meet conditions on independent and professional performance of such assignments.

(5) Person referred to in paragraph (2) of this Article shall submit to the Agency, not later than 31 of March in a current year, an annual report on implementation of program of measures for the previous year, and it shall be published on the website of the operator.

## **XI GAS SECTOR ACTIVITIES**

### **1. Conditions for Performing Gas-Related Activities**

#### **Connection of Generator of Gas**

### **Article 140**

(1) Generator of gas may be connected to transmission or distribution gas system in accordance with the methodology that regulates connection conditions.

(2) Expense of connection to transmission or distribution gas system shall be borne by a generator at tariffs approved by the Agency.

#### **Gas Transmission System Operator**

### **Article 141**

(1) The Gas Transmission System Operator can be any entity organized as an independent legal entity which is not part of a vertically integrated undertaking, separate from other gas transmission-related activities performed in the gas sector.

(2) The entity for natural gas, being the owner of the gas transmission system, shall perform activity of the gas transmission operator.

(3) The Gas Transmission System Operator shall obtain the certificate and the permit for gas transmission within deadlines and under conditions referred to in Articles 65 – 72 of this Law.



- (4) The Gas Transmission System Operator shall perform its activity in accordance with principles and conditions defined by this Law, the permit and the certificate.

## **Duties and Responsibilities of Gas Transmission System Operator**

### **Article 142**

- (1) Gas Transmission System Operator shall:
- 1) ensure long-term system capacity to meet realistic requirements for gas transmission, or to ensure operation, maintenance, improvement and development of the gas transmission system, in order to provide reliability, safety, efficiency and functioning of the market, by protecting the environment;
  - 2) provide proper resources to meet obligations of service providing;
  - 3) carry out balancing of the gas transmission system and, where necessary, provide that services of balancing are rendered on the basis of the principles of transparency, impartiality and non-discrimination;
  - 4) provide energy used in performance of its activity including energy for covering transmission losses in accordance with transparent, non-discriminating and market principles;
  - 5) manage transmission system capacities;
  - 6) provide services to system users and system user categories under non-discriminating conditions, without giving priority to affiliated undertakings;
  - 7) provide distribution system operators, neighbouring transmission system operators or other gas undertakings with required information to ensure system interoperability and secure and efficient operations of the interconnected system;
  - 8) provide transmission system users with detailed information regarding services offered, conditions for service providing and technical information necessary for efficient access to and use of the transmission system;
  - 9) ensure participation in construction of sufficient cross-border capacities to integrate the gas transmission system of Montenegro with the systems of neighbouring members of the Energy Community and/or members of the European Union, by adjusting to all economically reasonable and technically feasible capacity requirements, including gas supply safety;
  - 10) provide cross-border cooperation for the purpose of verification of grid safety and allocation of capacities;
  - 11) publish on its web page approved charges for connection to transmission system, charges for connection of gas from renewable sources, charges for transmission system use and charges for ancillary services, at least 15 days prior to their application;
  - 12) determine the methodology for charges for connection to the gas transmission system referred to in Article 44, paragraph (1) of this Law which reflects costs and rules referred to in Article 44, paragraph (2), clauses 1) and 4) of this Law and submit it to the Agency for approval;
  - 13) determine prices and charges compliant with the methodology referred to in clause 12 of this paragraph and submit them to the Agency for approval;
  - 14) prepare a ten-year development plan for the Gas Transmission System which shall be harmonized with the Energy Development Strategy, the Action Plan and development plans for neighbouring transmission systems, which shall be updated at least every third year and submitted it to the Agency for approval;
  - 15) prepare a three-year investment plan being an integral part of the Plan referred to in clause 14 of this paragraph, that shall consider requirements of system users and that shall be harmonized with the ten-year distribution system development plan and the spatial-planning documents and submit it to the Agency for approval;
  - 16) during development of plans referred to in clauses 14 and 15 it shall:
    - estimate potential for increase of energy efficiency in transmission system facilities and clearly define objectives for increase of energy efficiency;

- determine specific measures and investment for introduction of cost-efficient upgrade of energy efficiency of the transmission system infrastructure including time schedule of implementation of the measures;
  - take the control of loading and inter-operability into consideration;
  - 17) publish on its web page the plan from clause 14 of this paragraph;
  - 18) arrange the receipt of customer complaints, system user complaints and complaints of market participants and ensure non-discriminating decision-making within the statutory deadlines;
  - 19) keep the register of customer complaints, system user complaints and complaints of market participants, together with supporting documents and decisions made;
  - 20) at the Agency's request file the report on settlement of customer complaints, system user complaints and complaints of market participants;
- (2) while managing the transmission system capacities referred to in paragraph (1), clause 5) of this Article, it is forbidden to intentionally reduce the capacity, as well as to apply other forms of manipulating the capacity which would jeopardise market functioning.
- (3) Balancing of the gas transmission system referred to in paragraph (1), clause 3) of this Article includes balancing of gas volumes at the system entry and exit during the period of imbalance.

## **Gas Transmission System Code**

### **Article 143**

(1) Operation of the Gas Transmission System shall be regulated by the Gas Transmission System Code that is established by the Gas Transmission System Operator.

(2) The Code referred to in paragraph (1) herein shall regulate the following:

- 1) technical and other conditions for connection of users to the Transmission System, including requirements for quality, scent and pressure of the gas;
- 2) the procedure, terms, conditions and restrictions related to award of a transmission capacity;
- 3) management of gas input/output points in the Transmission System;
- 4) metering process and determination of quality specifications and conditions for acceptance of gas delivery;
- 5) the procedure of allocation of metered quantities of gas to system users at the system input and in-take and delivery points;
- 6) planning and maintenance of the transmission system and relevant duties of the Gas Transmission System Operator and system users;
- 7) method of transmission system development, monitoring and control of its implementation;
- 8) congestion management rules;
- 9) balancing procedures and costs;
- 10) the main elements as a basis for contracting of transmission service;
- 11) the criteria and conditions under which transmission service may be interrupted as well as priorities in customer supply;
- 12) the procedure for the extrajudicial settlement of disputes between system users and the Transmission System Operator;
- 13) the rules governing transactions of the Transmission System Operator with system users and especially the accounts that must be kept by the Transmission System Operator for that purpose;
- 14) description of the Transmission System, specification of the system entry and exit points, available capacities, type of services (short-term, long-term, interruptible);
- 15) safety criteria;
- 16) all other issues related to management, operation, maintenance and development of the Transmission System.

(3) In the procedure of establishment of the Code referred to in paragraph (1) of this Article, the Gas Transmission System Operator shall ensure adequate participation of stakeholders from the gas sector and shall submit it to the Agency for approval.

(4) The Code referred to in paragraph (1) of this Article shall be published in the Official Gazette of Montenegro and on the web page of the Gas Transmission System Operator.

## **Gas Distribution System Operator**

### **Article 144**

(1) Gas Distribution System Operator shall carry out distribution of gas under conditions and within a territory specified in the license, based on principles of impartiality, transparency and non-discrimination, between system users or groups of system users to the benefit of energy undertakings connected with the operator, in accordance with this Law.

(2) Gas Distribution System Operator may only be energy undertaking independent in terms of its legal form, internal organization and decision-making from other activities not relating to distribution of gas.

## **Duties and Responsibilities of Gas Distribution System Operator**

### **Article 145**

(1) Gas Distribution System Operator shall:

- 1) ensure long-term system capacity to meet realistic requirements for gas distribution, or to ensure operation, maintenance, improvement and development of the gas distribution system, in order to provide reliability, safety and efficiency, by protecting the environment;
- 2) upon the request, be obliged to connect every customer located in the distribution area, within available capacities and provided that technical and commercial requirements are met;
- 3) operate capacities of the Distribution System in an impartial, transparent and non-discriminating manner;
- 4) provide information to other distribution, transmission, LNG system and/or system operator related to storage, information which ensure gas transmission and storage to be done in the manner compliant with reliable and efficient operation of the interconnection system;
- 5) provide Distribution System users with clear and precise information regarding conditions for service providing, and especially with information regarding the access and use of the Distribution System, including technical, contractual and available capacities;
- 6) establish the methodology for charging connection of users to the System of distribution of gas from renewable sources referred to in Article 44, paragraph (1), clause 1) which reflects costs and rules referred to in Article 44, paragraph (2), clause 2) of this Law and submit it to the Agency for approval;
- 7) procure energy for covering system losses in line with transparent, non-discriminating and market principles;
- 8) prepare a ten-year development plan for the Gas Distribution System, which shall be harmonized with the Energy Development Strategy, the Action Plan and the ten-year gas transmission system development plan which shall be updated at least every third year and shall submit it to the Agency for approval;
- 9) prepare the three-year investment plan constituting an integral part of the Plan from clause 8 herein, that shall consider requirements of system users and which shall be harmonized with the ten-year development plan for the Gas Distribution System, the spatial-planning documents and shall submit it to the Agency for approval;
- 10) during development of investment plans referred to in clauses 8 and 9 it shall:

- estimate potential for increase of energy efficiency in Distribution System facilities and specify objectives for increase of energy efficiency;
  - determine specific measures and investments for introduction of cost-efficient upgrade of energy efficiency on the Distribution System infrastructure including time schedule for implementation of the measures;
  - take the control of loading and inter-operability into consideration;
- 11) publish on its web page approved methodologies and charges for connection to the Distribution System, distribution use of system charges and charges for distribution services, at least 15 days prior to their application;
  - 12) arrange receipt of customer complaints and system user complaints and ensure non-discriminating decision-making within the statutory deadlines;
  - 13) keep the register of customer complaints and system user complaints, together with supporting documents and decisions made;
  - 14) at the Agency's request file the report on settlement of customer complaints and system user complaints.
- (2) Distribution System Operator shall timely publish on its web site terms and conditions for Distribution System use.

## **Gas Distribution System Code**

### **Article 146**

- (1) Operation of the Gas Distribution System shall be regulated by the Gas Distribution System Code that is established by the Gas Distribution System Operator for an area specified in the license.
- (2) The Code from paragraph (1) herein shall regulate in particular the following:
- 1) the manner of maintenance and development of Gas Distribution Systems;
  - 2) planning and technical requirements for planning;
  - 3) operation and functioning of the Gas Distribution System;
  - 4) technical requirements for connection to Distribution System and interconnection with the other gas systems, including requirements for quality, scent and pressure of the gas;
  - 5) the manner of delivery of data and information to the Gas Transmission System Operator and to other energy undertakings which are necessary for their business activities;
  - 6) the manner of functioning of the Gas Distribution System in extraordinary or emergency situations, including market disturbances;
  - 7) balancing procedures and, when necessary, costs of balancing;
  - 8) general conditions for use of the Gas Distribution System;
  - 9) conditions for termination of the contract on use of the Gas Distribution System, which are not complicating a switch to another supplier.
- (3) In the procedure of establishment of the Code from paragraph (1) of this Article, the Gas Distribution System Operator shall ensure adequate participation of stakeholders from the gas sector and shall submit it to the Agency for approval.
- (4) The Code from paragraph (1) of this Article shall be published in the Official Gazette of Montenegro and on the web page of the Gas Distribution System Operator.

## **Metering of Gas Supply**

### **Article 147**

- (1) The Gas Transmission System Operator shall meter gas deliveries on all metering points in the Transmission System and on in-take and delivery points with:
- 1) gas producer;
  - 2) gas distribution systems;

- 3) Gas storage systems;
  - 4) LNG facilities, and
  - 5) customers connected to the Transmission System.
- (2) The Gas Transmission System Operator shall perform the following activities:
- 1) Installation, maintenance and control of accuracy of metering devices on in-take and delivery points from paragraph (1) of this Article, in accordance with the Law and regulations applicable to testing of metering equipment;
  - 2) metering of gas deliveries on in-take and delivery points of final customers connected to the Distribution System;
  - 3) Installation, maintenance and control of accuracy of metering devices and meters in accordance with the Law and regulations applicable to testing of metering equipment;
- (3) Gas Transmission System Operator and Gas Distribution System Operator shall prepare codes for metering on metering places and those shall be submitted to the Agency for approval.
- (4) The Code from paragraph (3) herein shall regulate in particular, the following
- 1) the manner of installation, acceptance, testing and maintenance of metering equipment;
  - 2) the manner of collection of metering and other data from a metering place;
  - 3) the manner of processing, availability and transmission of metering and other data about metering places to data users, as well as the method for grouping and storing of data;
- (5) The Code from paragraph (3) of this Article shall be published in the „Official Gazette of Montenegro” and on the web page of Gas Transmission System Operator, i.e. of Gas Distribution System Operator.

### **Delivery of Processed Data**

#### **Article 148**

- (1) Collected and processed data from metering points shall be delivered by the Transmission System Operator to other transmission system operators and system users, regarding in-take and delivery points referred to in Article 147 paragraph (1) of this Law.
- (2) Collected and processed data from metering points shall be delivered by the Distribution System Operator:
  - 1) at the request of the Transmission System Operator, regarding metering points at borders of the distribution system;
  - 2) to the supplier, regarding metering points of final customers being supplied by them, in addition to data for balancing;
  - 3) to the generator, regarding own metering point;
  - 4) at the request of final customer, regarding their metering point.
- (3) The Distribution System Operator shall make consumption-related data referred to in paragraph (2), clause 4) of this Article available, without delay and without charge, in an easily understandable and comparable form approved by the Agency.

### **The Gas Storage System Operator**

#### **Article 149**

- (1) The owner of a gas storage acts in the capacity of the gas storage system operator and it can store gas only on condition it has been adequately licenced in compliance with this Law.
- (2) Gas storage referred to in paragraph (1) of this Article includes entry, protection and exit of gas from the gas storage system.
- (3) The gas storage system operator shall maintain the system so as to ensure efficient and reliable system operation.
- (4) Operators of the gas storage system shall ensure protection of gas stocks of system users in compliance with the contract on use of the storage system.

## **Duties and Responsibilities of Gas Storage System Operator**

### **Article 150**

(1) Gas Storage System Operator shall:

- 1) manage, maintain and upgrade under economic conditions safe, reliable and efficient storage facilities in order to have an open market, by protecting the environment;
- 2) ensure adequate resources for performance of obligations related to service providing;
- 3) provide services to system users and system user categories under non-discriminating conditions, without giving priority to affiliated entities;
- 4) provide Distribution System Operators, neighbouring Transmission System Operators, or other gas undertakings with required information to ensure inter-operability of the system, and to ensure secure and efficient operations of the interconnected system;
- 5) provide system users with detailed information regarding services offered, conditions for service providing and technical information necessary for efficient access to and use of the storage system;
- 6) protect information referred to in clause 4 of this paragraph for the period of ten years and make them available to the Ministry, competent state institutions, the Agency and the competent authority of the Community;
- 7) undertake measures so as to ensure and alleviate free trade with capacities on the market, in a transparent and non-discriminating manner;
- 8) prepare and adopt impartial and non-discriminating rules to define deadlines and conditions of the use of gas storage system;
- 9) define regulations referred to in Article 44, paragraph (2), clause 5) of this Law and submit it to the Agency for approval;
- 10) arrange receipt of customer complaints and system user complaints and ensure non-discriminating decision-making within the statutory deadlines;
- 11) keep the register of customer complaints and system user complaints, together with supporting documents and decisions made;
- 12) at the Agency's request file the report on settlement of customer complaints and system user complaints.

(2) The Gas Storage System Operator shall timely publish on its website the Code referred to in paragraph (1), clauses 8) and 9) of this Article and, following obtaining the Agency's approval, it shall be published in the Official Gazette of Montenegro and on the web page of the Gas Storage System Operator.

## **LNG Facility Operator**

### **Article 151**

(1) The LNG System Operator, in terms of this Law, is an entity that transforms natural gas into the liquid, or performs the activities of LNG upload, offload or re-gasification, bearing responsibility for operation of the LNG facility.

(2) The LNG System Operator shall manage the LNG facility under conditions defined by the licence based on principles of impartiality, transparency and non-discrimination in compliance with this Law.

(3) The LNG plant is the terminal used to transform natural gas into the liquid, or to upload, offload and regasify LNG including ancillary services and temporary storage necessary for regasification and upload into the transmission system, but not including portion of the LNG terminal used for storage purposes.

## **Duties and Responsibilities of the LNG Facility Operator**

### **Article 152**

(1) The LNG facility operator shall:

- 1) operate, maintain and develop safe, reliable and efficient LNG facility, in order to ensure an open market and protect the environment;
  - 2) provide adequate resources so as to ensure providing of services;
  - 3) connect the LNG facility to the Transmission System pursuant to the technical rules for the Transmission System and the rules for use of the LNG facility;
  - 4) establish and secure the system of metering inflows and outflows and gas quality parameters;
  - 5) offload and re-gasify LNG on the basis of signed contracts;
  - 6) secure objective and equal conditions for access to LNG facility pursuant to this law;
  - 7) determine the five-year LNG facility development plan which is updated on an annual basis, and submit it to the Agency for approval;
  - 8) provide services to system users and system user categories under non-discriminating conditions, without giving priority to affiliated entities;
  - 9) provide information to transmission system operator and other gas undertakings, in order to ensure reliable and efficient operation and development of interconnection systems;
  - 10) provide gas market participants with information about the scope and date of interrupting operation of the LNG plant and the expected reduction in LNG capacity as well as about terms and conditions of access to and use of the LNG system;
  - 11) define regulations referred to in Article 44, paragraph (2), clause 6) of this Law and submit it to the Agency for approval;
  - 12) arrange receipt of customer complaints and system user complaints and ensure non-discriminating decision-making within the statutory deadlines;
  - 13) keep the register of customer complaints and system user complaints, together with supporting documents and decisions made;
  - 14) at the Agency's request file the report on settlement of customer complaints and system user complaints;
- (2) The regulations from paragraph (1), clause 11) of this Article shall be published in the Official Gazette of Montenegro and on the web page of the LNG Facility Operator.

## **Rights of LNG Facility Operator**

### **Article 153**

- (1) The LNG facility operator shall have the right to acquire gas for its own consumption and compensation of gas losses in the LNG facility.
- (2) The LNG facility operator shall have the right to limit or temporarily discontinue the contractual offloading and re-gasification of LNG in case of:
  - 1) a direct threat to human lives, health or property for the purpose of eliminating such threats;
  - 2) a crisis situation and elimination of a crisis situation;
  - 3) planned maintenance or reconstruction of the LNG facility;
  - 4) customer's failure to meet their contractual obligations.
- (3) Terms and conditions for exercising rights referred to in paragraphs (1) and (2) of this Article shall be defined by the LNG Facility Operator in the Regulations referred to in Article 44, paragraph (2), clause 6) of this Law.
- (4) Terms and conditions referred to in paragraph (3) of this Article shall be defined and implemented in an impartial, transparent and non-discriminating manner.

## **Combined System Operator**

### **Article 154**

- (1) Operation of Gas Transmission System and Gas Distribution Systems, LNG plant and the storage system may be carried out by one operator as a combined system operator, on

condition it is organized in compliance with Article 163 of this Law and is licenced to perform the activity of the Combined System Operator.

(2) The Agency shall issue the license referred to in paragraph (1) of this Article at the request of a legal or physical entity.

## **Gas Market**

### **Article 155**

(1) Provisions of this Law governing the electricity market shall apply to organization and operation of the gas market.

(2) The Market Rules that are approved by the Agency shall envisage the same conditions as for the electricity market, with the exception of the organized market, and activities pertaining to the market operator shall be carried out by the Gas Transmission System Operator.

## **2. Access to Gas Systems**

### **Access to Gas Transmission System**

#### **Article 156**

(1) Gas Transmission System Operator shall provide non-discriminating access to the gas transmission system, in accordance with the Gas Transmission System Code.

(2) Following the Agency's approval, the Gas Transmission System Operator shall publish on its web site the conditions of use of the gas transmission system, the methodology referred to in Article 43, paragraph (1), clause 1), line 1 as well as the charge to be paid for use of the gas transmission system referred to in Article 58 paragraph (2), clause 1) herein.

(3) In compliance with the ratified international contract, the Gas Transmission System Operator can have an access to the neighbouring countries' transmission systems, if necessary for the performance of its activity, including cross-border capacity as well.

### **Access to Gas Distribution System**

#### **Article 157**

(1) Gas Distribution System Operator shall provide non-discriminating access to the gas distribution system, in accordance with the Gas Distribution System Code.

(2) Gas distribution system operator shall provide services referred to in paragraph 1 of this Article under the same conditions, using standard contracts on gas distribution and/or in compliance with the Gas Distribution System Code.

(3) Gas Distribution System Operator shall publish on its web site the terms and conditions for use of Gas Distribution System, including the Code referred to in paragraph 1 of this Article as well as the charge for use of the distribution system, and implement it in a non-discriminating and impartial manner.

(4) Gas distribution system operator can require a bank guarantee so as to allow access to the system, the amount of which would be dependant on the user's solvency.

(5) Guarantees referred to in paragraph 4 of this Article are non-discriminating, transparent and proportionate to the level of a system use and shall not be a barrier to entry to the market.

## **Denial of Access**

### **Article 158**

(1) Gas transmission i.e. Distribution System Operator, gas storage system operator and LNG system operator may deny access to the system in the event of a lack of capacity or when allowing access to the Transmission i.e. Distribution System could jeopardize carrying out the public services referred to in Article 88 herein.



(2) Gas Transmission i.e. Distribution System Operator, gas storage system operator and LNG system operator may deny access as a result of economic and financial difficulties with take-or-pay contracts that are implemented when requested to access the system.

## **Access to Gas Storage Systems (Linepack)**

### **Article 159**

(1) The regulated conditions and charges shall be applied to access the facilities for gas storage and reserves (linepack) so as to ensure efficient access to the system for customer supply, as well as to ancillary services.

(2) Gas system operator shall apply regulations from Article 150, paragraph (1), clause 8) of this Law in an impartial, transparent and non-discriminating manner.

(3) Provisions of paragraphs 1 and 2 of this Article shall not apply to ancillary services and temporary storage that is related to LNG facilities which is necessary for re-gasification process and subsequent delivery to the Transmission System.

(4) When preparing methodology for determination of charges for gas storage and reserves (linepack), the Agency shall obtain an opinion of the system user.

(5) Charges for use of the gas storage and reserves system (linepack), as well as other ancillary services shall be set by the gas storage system operator in line with methodologies referred to in Article 43, paragraph (1), clause 1), line 2 and Article 43, paragraph (1), clause 2) of this Law, and they shall be submitted to the Agency for approval.

(6) Customers who signed several contracts on gas supply with gas undertakings, excluding owners and/or system operators and their affiliated entities, shall also be allowed to have an access to gas storage systems.

## **Access to Upstream Gas Pipeline Networks**

### **Article 160**

(1) Access to upstream gas pipeline networks shall be ensured by a producer of gas to gas undertakings, with exception of those parts of gas pipelines which are used in the generation process on a location where gas is produced.

(2) Access to upstream gas pipeline networks may be limited or denied, in case:

- 1) of a threat to security and regularity of supply;
- 2) of any technical incompatibilities that may not be removed without causing unreasonable costs;
- 3) that would disrupt efficiency of the existing and planned generation on such a location or existing obligations to the owners and all other users of that network.

## **Access to LNG facilities**

### **Article 161**

LNG facility operator shall ensure access to LNG facilities in a non-discriminating manner to all gas undertakings on the basis of published tariffs from Article 45, paragraph (2), clause 1) herein.

## **Use of Common Services and Commercially Sensitive Information**

### **Article 162**

Gas transmission i.e. gas distribution system operators, gas storage system operators and LNG system operators are prohibited to use common services, including common legal services, except for purely administrative functions or information technology functions, with other organizational part in the system of a vertically integrated undertaking.

(1) It is forbidden to use commercially sensitive information obtained from affiliated undertakings in the procedure of permitting or negotiating access to the systems during purchase or sale of gas.

(2) Information on market competition and efficient market functioning shall be published by operators referred to in paragraph 1 of this Article on their web site, by protecting commercially sensitive information.

## **Rules on Unbundling of Gas Transmission System Operator**

### **Article 163**

(1) Activities of gas transmission system operator may be carried out only by an independent legal entity.

(2) Independence of Gas Transmission System Operator shall be ensured in a way that same person or group of persons may not:

1) directly or indirectly control the energy undertaking which carries out gas generation or supply, and at the same time directly or indirectly control or have rights over transmission system operators or transmission system;

2) directly or indirectly control gas transmission system operators or gas transmission system, and directly or indirectly control or have rights over market undertakings that carry out gas generation or supply;

3) be entitled to have a decisive impact onto appointment of members of the Board of Directors or other authorities or legal representatives, gas transmission system operators or gas transmission systems and control or exercise other rights to energy undertakings performing the activity of gas generation or supply; and

4) be members of the Board of Directors or other authorities or legal representatives of the transmission system operator or the transmission system or of energy undertakings performing the activity of gas generation or supply;

(3) Rights referred to in paragraph (2) clauses 1), 2) and 3) of this Article shall in particular include the following:

1) use of a voting right;

2) right on assignment of members of the Board of Directors or other bodies or legal representatives;

3) owning the majority of shares.

(4) Members of the management bodies of the transmission system operator shall be proposed directly and independently by the state authority competent for finance activities, without opinion and instructions from the State Government.

(5) Entity referred to in paragraph (4) of this Article shall not ask or accept instructions or guidelines of the State Government when making decisions of the system operator and shall not be member of the management body of energy undertakings performing generation or supply, and shall not impact the decision-making process of such energy undertakings.

(6) Energy undertaking performing the activity of generation or supply referred to in paragraph (2) of this Article shall also be generator or supplier of electricity.

## **Joint Investment**

### **Article 164**

(1) Provisions of Article 163 paragraph (1) of this Law shall not be applied if two or more undertakings that own transmission systems jointly establish energy undertaking (joint investment) which operates in the capacity of the transmission system operator of two or more contracting parties of the Energy Community or member states of the European Union.

(2) The founder of a joint energy undertaking (joint investment) referred to in paragraph 1 of this Article can be transmission system operator certified under conditions from Article 163, paragraphs (2) and (3) of this Law.

### **Unbundling of Gas Distribution System Operator**

#### **Article 165**

(1) Gas distribution System Operator, in its capacity of a part of a vertically integrated undertaking, may perform the activity of gas distribution only as an independent legal entity that passes decisions independently and separately from other activities which are not related to the activity of distribution.

(2) Independence of Gas Distribution System Operator, in accordance with paragraph (1) herein, shall be ensured in a way that:

1) management members of a distribution system operator in the gas sector must not participate in management and performance of activities of a vertically integrated undertaking in gas sector, where they are directly or indirectly responsible for ongoing generation, transmission or supply;

2) management members of the operator act independently and professionally, to the benefit of the company they operate;

3) the operator decides independently about working resources, maintenance and development of the system they operate, independently from other activities performed by vertically integrated undertaking and they have necessary staff, financial and technical resources;

(3) The independence from paragraph (1) herein shall not affect the right of a parent undertaking in a system of a vertically integrated undertaking to approve annual financial plan of the operator and to set boundaries for its indebtedness, or the requirements on return on assets.

(4) Parent undertaking shall not be entitled a right to give instructions to the system operator referred to in paragraph 3 herein relating to its day-to-day operations nor to decisions on system investments in accordance with the approved financial plan.

(5) Gas distribution system operator shall not use its vertical integration to endanger competition and it shall not use the name, sign or other symbols that are similar and that could cause substitution with the name, sign or symbols used by supplier in performance of its business operations.

### **Unbundling of Gas Storage System Operator**

#### **Article 166**

The Gas Storage System Operator in a system of a vertically integrated undertaking may perform the activity only as an independent legal entity making decisions independently and separately from other activities that are not related to gas storage.

### **Independence of Gas Storage System Operator**

#### **Article 167**

(1) Independence referred to in Article 166 of this Law shall be accomplished in the following manner:

1) entities managing the gas storage system operator shall not participate in management bodies and performance of activities in a system of a vertically integrated gas undertakings where they are directly or indirectly responsible for ongoing generation, transmission or supply;

2) management members of the operator act independently and professionally, to the benefit of the Company they operate;

3) the gas storage system operator decides independently about working resources, maintenance and development of the system they operate, independently from other activities performed by a vertically integrated undertaking and they have necessary staff, financial and technical resources;

(2) The independence from paragraph (1) herein shall not affect the right of a parent undertaking in a system of a vertically integrated undertaking to approve annual financial plan of the gas storage system operator and to set boundaries for its indebtedness, or the requirements on return on assets;

(3) Parent undertaking referred to in paragraph (2) of this Article shall not be entitled to give instructions relating to its day-to-day operations nor to making decision on system investments in accordance with the approved financial plan;

(4) Gas storage system operator shall not use its vertical integration to endanger competition and it shall not use the name, sign or other symbols that are similar and that could cause substitution with the name, sign or symbols used by supplier in performance of its business operations.

## **Programme of Measures of Gas Distribution System Operator and Gas Storage System Operator**

### **Article 168**

(1) Gas Distribution System Operator, or Gas Storage System Operator shall make a Program of Measures on implementation of non-discriminating conditions to access the system with the method of monitoring implementation thereof and shall submit it to the Agency for approval.

(2) System operators referred to in paragraph (1) of this Article shall appoint an entity authorized to monitor implementation of the program of measures on implementation of non-discriminating conditions to access the system, that is independent and that has an access to all the necessary information of the system operator or other affiliated undertaking.

(3) Appointment of entities referred to in paragraph (2) of this article shall be approved by the Agency.

(4) Appointment of entities referred to in paragraph (2) of this Article shall not be approved by the Agency if identified that such entity does not meet conditions on independent and professional performance of such activities.

(5) Entity referred to in paragraph (2) of this Article shall submit to the Agency, not later than by March 31 of the ongoing year, an annual report on implementation of program of measures for the previous year and it shall be published on the website of the Operator.

## **3. Planning of Development**

### **Gas Transmission System Development and Investment-Related Decisions**

#### **Article 169**

(1) Gas Transmission System Development has been planned for the period of 10 years (hereinafter: The Ten-Year Transmission System Development Plan) relative to the existing and planned supply and demand, containing in particular the following:

1) basic parts of the infrastructure planned to be constructed or reconstructed;

- 2) investments that have begun, that have been approved or planned to take place within next three years;
- 3) terms and time schedule for the implementation of planned investment projects;
- 4) measures planned to provide necessary capacities for secure supply.

(2) Development of the Plan from paragraph (1) of this Article shall be based by the system operator on realistic assumptions for development of generation, supply, consumption and exchange of gas with other countries, and also investment plans of neighbouring transmission systems, investment plans for storage facilities and LNG facilities.

(3) The Plan referred to in paragraph (1) of this Article shall be submitted by the Operator to the Agency not later than October 31 of the year preceding the next planning period.

(4) Prior to approval of the plans referred to in paragraph (1) of this Article, the Agency shall carry out public discussion with the existing and interested system users and it shall publish the report on necessary investments.

(5) The Agency shall analyse whether the Plan referred to in paragraph (1) of this Article includes necessary investments identified during public discussion.

(6) Prior to providing approval the Agency may order the Transmission System Operator to modify the Plan referred to in paragraph (1) of this Article.

### **Method of Investment Implementation**

#### **Article 170**

(1) The Agency shall control and assess implementation of the ten-year transmission system development plan.

(2) In case the transmission system operator cannot implement the investment that, according to the ten-year transmission system development plan, should have been implemented during the three-year period, except for circumstances that could not have been impacted, the Agency shall undertake the following activities so as to ensure implementation of such investment:

- 1) order the transmission system operator to implement the investment, or
- 2) organize tender procedure open for all the investors that are interested in the investment, or
- 3) require from the transmission system operator to accept capital increase so as to finance the investment and make it possible for independent investors to participate in such capital increase;

(3) the Agency shall not undertake activities referred to in paragraph (2) of this Article if the investment is not contained in updated plan referred to in Article 169, paragraph (1) of this Law.

(4) In case of paragraph (2), clause 2) of this Article, the Agency can order the transmission system operator to accept the following:

- 1) funding the investment by another entity;
- 2) immediate construction by another entity;
- 3) construct the new infrastructure on their own, and/or
- 4) manage the new infrastructure.

(5) The Transmission System Operator shall provide the investors with information or it shall undertake activities to implement the investment, or to connect new infrastructure to the transmission system.

(6) In cases referred to in paragraph (2), clause 2) of this Article contract regulating mutual rights and duties of the operator and investor prior to conclusion shall be approved by the Agency.

(7) In cases referred to in paragraph (2) of this Article, investment-related costs incurred by the Agency shall be taken into consideration when setting charges for use of the gas transmission system, in line with the methodology referred to in Article 43, paragraph (1), clause 1), line 1 of this Law.

## **4. Exemptions and Allocation of Capacity**

## **Exemptions for New Gas Infrastructure**

### **Article 171**

(1) The Agency may, at the investor's request, exempt the newly-built gas infrastructure, such as: interconnectors between countries, LNG facilities and storage systems from application of the general rules for access relative to applicable tariffs, terms and conditions for access, as well as from obligations referred to in Article 163 of this Law, if:

- 1) the investment shall enhance competition in gas supply or enhance security of gas supply;
- 2) the level of risk attached to the investment is such that the investment would not take place unless an exemption was granted;
- 3) new infrastructure is owned by a legal or natural person that is legally separated from an operator of a system to which the new infrastructure is to be connected;
- 4) charges for use of infrastructure facility are paid by direct users of that infrastructure;
- 5) the exemption is not limiting competition and efficient functioning of the internal gas market, or efficient functioning of the system to which the infrastructure is connected.

(2) provision referred to in paragraph (1) of this Article shall also be applied in case of reconstruction of the existing infrastructure which considerably increases capacity of the existing infrastructure, thus providing for development of new sources of gas supply;

(3) exemption may refer to the entire or part of capacities of new infrastructure or existing infrastructure with considerably increased capacity;

(4) When deciding to grant an exemption from paragraph (1) of this Article, depending on the infrastructure, special conditions regarding duration of exemption and non-discriminating access to infrastructure may be defined for each separate case;

(5) When deciding about the case referred to in paragraph (4) of this Article, additional capacities that are to be constructed, or modification to the existing capacities, shall be particularly taken into consideration by the Agency, as well as duration of the project and country circumstances;

(6) Prior to granting an exemption, the Transmission system Operator shall submit to the Agency's approval the Rules for management and allocation of capacity.

(7) The Rules referred to in paragraph (6) shall define the following:

- 1) obligation of potential users of infrastructure to express interest for contracted capacity prior to allocation of capacities in the new infrastructure;
- 2) obligation of offering unused capacities on the market;
- 3) the right entitled to users of infrastructure to trade with their capacities contracted at the secondary market.

(8) The proposal of the document on approving exemption referred to in paragraph (1) of this Article shall be submitted to the state authority competent for controlling state assistance so as to provide its opinion about it.

## **Cooperation with the Competent Body of the Energy Community**

### **Article 172**

(1) If infrastructure is constructed on the territory of several members of the Energy Community:

1) The Agency may use the opinion of the competent body of the Community as the basis for its decision, if such an opinion is provided within the period of two months following the day when the last involved regulator received the request for exemption;

2) The Agency can make the decision on exemption upon exchange of opinions with regulatory organizations from other countries which are impacted by construction of the infrastructure.

(2) The Agency shall, without delay, forward the copy of each request for exemption to the competent body of the Energy Community;

(3) The Agency shall, without delay, submit the decision on exemption including rationale thereof, to the competent body of the Energy Community.

(4) The rationale referred to in paragraph (3) of this Article shall contain the following:

1) reasons for exemption on the basis of which the Agency approved or denied the exemption, including financial information which justify the need for exemption;

2) performed analyses of the effects of exemption on competition and the efficient functioning of the internal gas market;

3) reasons for the time period and the share in the total capacity of the gas infrastructure for which the exemption is granted;

4) result of consultations with involved regulators if the exemption refers to interconnector;

5) the contribution of the infrastructure to the diversification of gas supply.

(5) Upon request of the competent body of the Energy Community, the Agency shall submit the additionally requested information.

(6) The decision referred to in paragraph (3) of this Article, together with supporting documents, shall be considered revoked if requested information are not provided within the period required by the competent body of the Energy Community, except in case the Agency has confirmed that the documents are complete.

(7) The Agency shall comply with the decision of the competent body of the Energy Community within 30 days following the date of receipt thereof and it shall inform the Regulatory Board of the Energy Community and publish the decision on exemption in the Official Gazette of Montenegro.

(8) The decision of the Energy Community's competent authority on granting the exemption shall cease to be valid within the period of two years following its adoption if the construction has not yet started, i.e. within the period of five years following its adoption if the concerned infrastructure has not been put into service, unless the competent authority of the Community determines that the delay was caused by reasons which were out of control of the undertaking to which the exemption was granted, in compliance with obligations arising from ratified international contracts.

## **Exemptions in Relation to 'Take-or-Pay' Commitments**

### **Article 173**

(1) If a gas undertaking encounters serious financial difficulties because of its 'take-or-pay' commitments accepted in contracts, the gas undertaking may apply to the Agency for a temporary exemption from the duty to provide access to the system.

(2) The application from paragraph (1) of this Article shall be presented either before or after denial of access to the system. The application shall contain reasons for denial of access and the manner in which the gas undertaking is to overcome the problem caused by temporary exemption.

(3) The application referred to in paragraph (1) of this Article shall be presented after the gas undertaking had denied access, without delay.

(4) When deciding on application from the paragraph (1) of this Article, the Agency shall take into account, in particular, the following criteria:

- 1) the need for achieving a non-discriminating, transparent and competitive gas market;
  - 2) the need to protect public interest in carrying out of public service and to ensure security of supply;
  - 3) the position of the gas undertaking on the gas market and the actual state of competition on the concerned market;
  - 4) the seriousness of financial difficulties encountered by gas undertakings, the transmission system operator or eligible customers;
  - 5) the dates of signature and terms of the contracts;
  - 6) the efforts made to find a solution to the problem;
  - 7) the assessment of probability that serious difficulties would arise when accepting the commitments from a “take-or-pay” contract;
  - 8) the level of connection and interoperability between the system and other systems;
  - 9) the effects that granting of an exemption would have on functioning of the gas market.
- (5) Gas undertakings which have not been granted an exemption as referred to in paragraph (1) of this Article shall not refuse access to the system because of “take-or-pay” commitments accepted in a gas purchase contract.
- (6) The Agency shall publish the decision on exemption from the paragraph (1) of this Article, including rationale thereof, on its webpage as well as inform thereof the competent body of the Energy Community.

## **Capacity Allocation and Congestion Management**

### **Article 174**

(1) The Gas Transmission System Operator shall make available the network capacity to gas market participants, taking into account system integrity and efficient system operation requirements.

(2) The Gas Transmission system Operator shall inform the Agency, in accordance with the Agency’s regulations, when increased demand for capacity creates potential congestion at an entry or exit point of the system.

(3) The Gas Transmission System Operator shall, as part of the congestion management rules, lay down the obligation for the unused capacities to be offered on the market as well as the right of infrastructure users to sell their contracted capacity on the secondary market.

(4) Contract on transmission shall specifically define the following rights and duties:

1) rights and duties of the Operator and system users relating to congestion, when the level of demand exceeds technical capacity, and allocation of contracted but unused capacity on the primary market at least on a day-ahead basis;

2) of system users relating to permanent or temporary sale of their unused contracted capacity on a secondary market.

(5) The Agency shall approve the implementation of a transparent and non-discriminating fee, as a part of transmission and transit tariffs, in order to eliminate congestion at identified entry or exit points.

## **XII CONNECTION TO TRANSMISSION OR DISTRIBUTION SYSTEM**

### **Commitments of the Operator Related to Consent for Connection**

#### **Article 175**



(1) A facility shall be connected to electricity or gas transmission or distribution system on the basis of regulations referred to in Articles 114, 122, 143 and 146 of this Law, based on the consent for connection issued by a transmission or distribution system operator.

(2) Transmission system operator or distribution system operator for electricity or gas shall issue the consent for connection referred to in paragraph (1) of this Article and it shall give priority to connection of energy facilities generating energy from renewable energy sources, if there are no technical constraints in the transmission or distribution system, and if the devices and installations of the facility which are to be connected comply with requirements established by the Law and technical regulations.

(3) The transmission system operator for electricity or gas shall not be entitled to refuse application for the consent for connection of a new electricity generating facility, storage system, LNG system facility or re-gasification system, in its capacity of a large commercial customer, based on future restrictions to the available system capacities or based on possible additional costs related to necessary increase in the system capacity.

(4) Transmission system operator or distribution system operator for electricity or gas shall provide the applicant with necessary information about the consent for connection.

## **Consent for Connection**

### **Article 176**

(1) Consent for connection of a facility to transmission or distribution system for electricity or gas shall be issued, upon the request, by the Transmission or Distribution System Operator for electricity or gas.

(2) Electricity or gas transmission or distribution system operator shall decide about a request for connection not later than 15 days as of the date of receipt of the request.

(3) Exceptionally from the paragraph (2) of this Article, the deadline for decision-making about the request shall be four months following receipt of the request regarding the following:

- 1) energy generating or industry facilities that are connected to 110 kV or higher voltage level which requires development of system analyses;
- 2) distributive generation and customer facilities that are connected via non-standard connection, which requires development of the study on connection to the system.

(4) Costs of development of the analysis on probability of connection to the system shall be borne by electricity or gas transmission or distribution system operator, and costs of preparation of connection reports shall be borne by the system user.

(5) A complaint against the decision referred to in paragraph (1) of this Article may be lodged before the Agency within 15 days as of the date of its receipt.

## **Content of the Consent for Connection**

### **Article 177**

(1) The consent for connection of a facility to electricity or gas transmission or distribution system shall specifically comprise: requirements for connection, including the place of connection, connection fee amount, a manner of connection, technical terms and conditions for connection and a deadline for connection, as well as the place and manner of metering of delivered energy.

(2) The technical and other conditions from the paragraph (1) of this Article shall be specified in line with the law and technical regulations.

(3) Technical regulations relating to requests for construction, maintenance and use of energy facilities that are not regulated by the law governing facility construction shall be issued by the Ministry.

## **Contract for Connection**

## **Article 178**

(1) The transmission or distribution system operator shall verify compliance with requirements from the consent for connection within 15 days as of receipt of a notification on compliance with terms and conditions for connection from the applicant referred to in Article 175, paragraph (1) of this Law, and, on condition all the terms and conditions are met, shall enter into the contract for connection of a facility with a system user.

(2) The contract referred to in paragraph (1) of this Article shall be concluded in writing and shall specifically include the following elements:

- 1) Rights and obligations of the contracting parties with respect to the connection and maintenance of the connection device;
- 2) Technical and operational characteristics of a facility;
- 3) The manner of operation and operational conditions of the system;
- 4) Specification of adverse back effects from installed devices;
- 5) The rights and obligations concerning the quality of electricity or gas;
- 6) Electricity or gas metering methods in connection points;
- 7) Implementation of occupational health and safety measures in regular conditions and in conditions of disturbances in operation of the system;
- 8) Protection measures applied in the course of maintenance of facilities;
- 9) Mutual notification obligations;
- 10) Responsibilities in case of non-compliance with contractual provisions;
- 11) Duration of contract and conditions for extension of contract;
- 12) Rights and obligations in the event of contract termination;
- 13) If required, detailed instructions about operational procedures to be undertaken in the transmission or distribution system and on the side of the user, that shall contain as follows:

- A sequence of required operations,
  - Specified procedure for access to devices located on the premises of a user,
- and
- Clear separation of authorities;

14) An amount of a connection charge and the method of payment for connection or for increase of connecting capacity;

15) if required, instructions as to exchange of data and inter-operability requirements.

(3) Electricity interconnectors that are constructed in line with ratified international contracts or in case the contract is signed for interconnectors that are already connected, the contract referred to in the paragraph (1) of this Article may envisage exemption from commitments referred to in paragraph (2), clause 14) of this Article.

## **Point of Connection and Metering**

## **Article 179**

(1) Metering device, i.e. metering-regulation station for connecting final consumers', i.e. energy producers' facilities to the system, shall be installed, maintained, and calibrated by the electricity or gas transmission or distribution system operator as their own assets and they shall meter the delivered energy.

(2) Metering device, i.e. metering-regulation station from the paragraph (1) of this Article shall be energy delivery point between energy undertakings, i.e. between an energy undertaking and a final energy customer.

(3) Responsibility demarcation point between energy undertakings, i.e. between an energy undertaking and a final energy customer shall be the point of connection of an energy undertaking, i.e. a customer, to the transmission or distribution system.

(4) The point of connection to gas or electricity transmission or distribution system shall be identified by the competent system operator.

## **Connection Charge**

### **Article 180**

(1) The applicant for connection to electricity or gas transmission or distribution system, or connection for increase in connection capacity, shall pay the connection charge.

(2) The charge for connection of new customers or for increase in connection capacity or capacity of the existin system users shall comprise:

- 1) portion for creating connection to the system;
- 2) portion for creating technical conditions in the system.

(3) Portion of the charge referred to in paragraph (2), clause 1) of this Article, paid by the system user, shall be set on the basis of costs pertaining to creation of a connection.

(4) Creation of technical conditions means construction of new system segments and/or reconstruction of the existing system segments, so as to use the system within the approved connection capacity, and it shall be funded partly from the charge for connection referred to in paragraph (2), clause 2) of this Article, partly from the charge for use of the system, in compliance with the methodology referred to in Article 43, paragraph (1), clause 1) of this Law.

(5) Portion of the charge referred to in paragraph (2), clause 2) of this Article shall be equal for connection of the same capacity at the same voltatge level.

(6) Created connection shall become a fixed asset and it shall constitute an integral part of the Operator's system.

## **Purpose of Funds Obtained from the Connection Charge**

### **Article 181**

(1) The amount of charge referred to in Article 180, paragraph (1) of this Law, deadlines and method of payment shall be defined in the methodology for setting charges for connection to transmission and distribution system made by the transmission or distribution system operator and approved by the Agency.

(2) Funds obtained from the connection charge referred to in paragraph (1) of this Article shall be used by distribution and transmission system operators exlcusively to develop the system and create technical conditions for connection of new customers and increase in connection capacity of the existing system users and construction of the connection.

(3) Exceptionally from Article 180, paragraph (1) of this Law, the applicant can create the connection independently, in compliance with conditions from the consent for connection referred to in Article 177, paragraph (1) of this Law and transfer the connection to ownership of the system operator to which it is connected, instead of paying for a portion of the connection charge.

## **Registration of the Supply Contract**

### **Article 182**

(1) Supplier and final customer may conclude a contract on supply of electricity, gas or thermal power following connecting the customer's facility to transmission or distribution system for electricity or gas or thermal power distribution system.

(2) Supplier shall, prior to beginning of supplying the final customer, register the contract with the system operator, i.e. register each change to the contract and submit the following data: data about the final customer, point of energy acceptance and delivery, type of contract and period of supply.

(3) The transmission or distribution system operator for electricity or gas or thermal power distribution system operator shall connect the final cusotmer's facility to transmission or distribution system, based on registered contract from paragraph (2) of this Article, within the period not longer than seven days as of the date of registration thereof.

## **Prohibition of Connection and Temporary Connection**

### **Article 183**

(1) It shall not be allowed to connect a facility to the electricity or gas transmission or distribution system or to the thermal power distribution system, in case no construction permit was granted for the construction in accordance with Law.

(2) The following facilities may be temporarily connected to electricity or gas transmission or distribution system:

- 1) temporary facilities and construction sites;
- 2) facilities that obtained permit for trial run and functional testing in line with the

Law

(3) The facilities from the paragraph (2), clause 1) of this Article shall be connected on the basis of the connection contract and contract on supply, and the facilities referred to in paragraph (2), clause 2) of this Article shall be connected on the basis of contract on supply and a consent granted in accordance with this Law.

## **Consent for New Infrastructure Construction**

### **Article 184**

(1) If due to technical constraints it is not possible to connect system user's facilities to the system and in case the system development plan does not envisage construction of required infrastructure, or in case this infrastructure is planned for the later period, the transmission or distribution system operator shall grant a consent to the investor-future system user in cases referred to in paragraph (2) of this Article so as to build at own expense the connection infrastructure and give it to the competent system operator in line with this Law.

(2) The consent referred to in paragraph (1) of this Article can be issued if:

- 1) the investor's facility is constructed in accordance with ratified international contract;
- 2) the investor's facility is constructed as part of the project for which concession has been granted;
- 3) construction of the investor's facility is important for the State development, according to the State Government's opinion;
- 4) construction of infrastructure necessary for the investor's facility is not approved by the Agency when giving consent for the updated Plan referred to in Article 116, paragraph (1), clause 6) of this Law.

(3) Infrastructure referred to in paragraph (1) of this Article includes:

- 1) connection of the investor's facility identified by the competent system operator to meet required capacity of the facility's connection;
- 2) constructed and/or reconstructed part of the system that provides for operation of the investor's facility at approved connection capacity in compliance with the rules for operation of the system;

(4) Investor referred to in paragraph (1) of this Article shall, at the request of the system operator and when technically required, construct and/or reconstruct infrastructure for the capacity higher than that approved in paragraph (3), clause 2) of this Article, in compliance with the connection consent.

(5) System operator and investor shall sign the contract on mutual rights and duties, which contains elements defined by the Law regulating obligatory relations, and particularly the following:

- 1) beginning and time period within which to construct infrastructure, including plan on works implementation;
- 2) share of the system operator and the method of monitoring preparations and construction of infrastructure, particularly regarding purchase of equipment and works;

3) time period and the method of performing the final financial account and determining values of actual investment;

4) commitment to take over infrastructure from the system operator.

(6) While preparing the final financial account, the system operator shall, following finalization of the investment, provide the infrastructure value performed by an authorized assessor.

(7) According to the final account, the system operator and the investor shall determine the difference between:

1) the total value of actual investment and the charge to be paid by the applicant referred to in Article 180, paragraph (1) of this Law,

2) estimated value of the infrastructure referred to in paragraph (6) of this Article and the charge to be paid by the applicant referred to in Article 180, paragraph (1) of this Law.

(8) The base for calculating the amount to be paid by the system operator to the investor for purchase of the infrastructure is less than the difference determined in paragraph (7) of this Article.

## **Purchase Contract**

### **Article 185**

(1) System operator shall take over constructed infrastructure referred to in Article 184, paragraph (1) of this Law on the basis of the purchase contract to be signed not later than within six months as of the date of commissioning the investor's facility that is to be connected.

(2) The contract referred to in paragraph (1) of this Article shall regulate mutual rights and duties of operator and investor and it shall set the charge for infrastructure purchase consisted of the value defined in line with Article 184, paragraph (8) of this Law and the interest calculated for the repayment period, which is equal to the rate of return on a regulatory base of operator's assets for the year for which the contract is signed.

(3) Operator shall pay the charge referred to in paragraph (2) of this Article to the investor in up to 20 equal annual annuities.

(4) Annuities referred to in paragraph (3) of this Article shall start to be repaid as of the date of signing the contract referred to in paragraph (1) of this Article, and the constructed infrastructure shall become part of transmission or distribution system and it shall be registered as fixed asset with business records of the system operator.

(5) Exceptionally from paragraph (4) of this Article, repayment of annuities for infrastructure constructed in cases referred to in Article 184, paragraph (2), clause 4) of this Law, beginning of repayment of annuities and date of assigning ownership right shall be defined in the procedure of providing consent for the the next three-year investment plan of the system operator.

## **Infrastructure Used by Several System Users**

### **Article 186**

(1) In order to ensure technical-technological integration and safety of the system functioning, security of supply, market functioning and protection of the environment in compliance with the spatial-planning documents, competent system operator and owner of the infrastructure used for electricity transmission or distribution shall regulate mutual rights and duties in a purchase contract.

(2) Infrastructure referred to in paragraph (1) of this Article shall be used for electricity transmission or distribution if the infrastructure is used by other legal and natural entities, in addition to the owner, based on energy permit issued by the competent system operator, or in case system functioning is jeopardized without such infrastructure.

(3) The system operator shall define three-year programs for infrastructure purchase referred to in paragraph (2) of this Article, by types and categories, in compliance with the schedule for connection to the system and include the infrastructure into development or investment plan.

(4) The system operator shall pay to the owner the charge consisted of corrected value of infrastructure, defined in the report prepared by an independent assessor, which report is not older than six months prior to the date of conclusion of the contract and the interest equal to the rate of return on a regulatory base of operator's assets in the year for which the contract is concluded.

(5) Assessor referred to in paragraph (4) of this Article, hired by the system operator, shall apply depreciation rate used by the competent system operator in the procedure of defining corrected value of the infrastructure.

(6) The charge referred to in paragraph (4) of this Article shall be repaid by the system operator on the basis of the programme referred to in paragraph (3) of this Article in up to 20 equal annual annuities.

## **Property Inventory and Entry into Business Records**

### **Article 187**

(1) Repayment of annuities referred to in Article 186, paragraph (6) of this Law shall start as of the date of conclusion of the purchase contract, and the infrastructure shall become part of transmission or distribution system and it shall be registered with business records of the system operator as fixed asset.

(2) When developing the programme referred to in Article 186, paragraph (3) of this Law, the system operator shall also identify property for which the owner has not been identified and functionally maintain such property, while costs pertaining to the maintenance shall represent part of maintenance costs within the total operating costs.

(3) The system operator shall launch the purchase procedure by providing the proposal of the contract to the infrastructure owner in line with the programme referred to in Article 186, paragraph (3) of this Law, and the owner of infrastructure shall sign the contract within 30 days as of the date of receipt thereof.

(4) The system user shall, prior to conclusion of the purchase contract according to the approved programme referred to in Article 186, paragraph (3) of this Law and in order to ensure the undisturbed flow of electricity, allow system operators to use the equipment which is necessary for operation of transmission or distribution system and functionally maintain that infrastructure.

## **XIII**

## **DIRECT LINES**

### **Direct Line Supply**

### **Article 188**

(1) Direct electricity line, pursuant to this Law, is electric power line which connects isolated generating point with an isolated customer or electric power line that connects electricity generator with electricity supplier so as to ensure direct supply of own plants, business units and customers.

(2) Direct gas pipeline (gas line) is a pipeline that connects generator with the facility of an isolated natural gas customer that is complementary to the interconnected system.

(3) Electricity generators and electricity suppliers may carry out supply for their own needs and may supply final customers through a direct line, based on the approval granted in accordance with the provisions from Article 43 paragraph (4) clause 6) herein.

(4) Gas undertakings can supply the final customers through a direct line, based on a consent issued in accordance with Article 43, paragraph (4), clause 6) of this Law.

(5) The possibility of electricity supply via direct line shall not affect entering into contracts on access of a third person.

(6) The Agency may grant consent for construction of a direct line provided that the access to system has been denied based on Articles 158 and 160 of this Law or the proceeding for dispute settlement has been instituted in line with Article 57 of this Law.

## **XIV**

## **ELECTRICITY AND GAS SUPPLY**

### **Suppliers**

#### **Article 189**

(1) Supply with electricity or gas may be carried out by an energy undertaking based on a license and the contract on supply, in accordance with this Law.

(2) Supplier of a contracting party to the Energy Community or member state of the European Union may supply final customers in Montenegro on the basis of a licence issued in accordance with Article 65, paragraph (5) of this Law.

(3) Supplier shall comply with the general terms and conditions referred to in Article 43, paragraph (8), clause 1) of this Law.

(4) Supplier can determine additional conditions on supply and it shall publish them, together with the general terms and conditions, on its web page at least 15 days prior to beginning of the implementation.

(5) The additional conditions referred to in paragraph (4) of this Article represent an integral part of the supply contract.

(6) Conditions referred to in paragraph (4) of this Article cannot set conditions that are more unfavourable or rights that are less than conditions and rights determined in the general conditions, or rights and duties that are contrary to the law which regulates protection of the competition.

### **Suppliers' Contracts**

#### **Article 190**

(1) Prior to beginning of supply, the supplier shall conclude the contract regulating the following:

- 1) share in electricity market with the market operator;
- 2) balancing responsibility, on condition balance responsible party, together with market operator and transmission system operator has provided an evidence confirming its membership in the balance group, if it is not balance responsible party;
- 3) financial settlement of a balance account with the market operator;
- 4) use of transmission and/or distribution system with the system operator;
- 5) sale of a mandatory proportional share of electricity purchased from privileged generators with the market operator;
- 6) supply, or purchase and sale of gas and electricity, based on a principle of equal value of mutual performances under conditions that are already known, to be concluded with the customer.

(2) Supplier may supply the final customer or the closed distribution system only if transmission or distribution operator of the system to which final customer's facilities are directly connected, based on the decision made by the competent inspector, have identified that facilities meet conditions of a safe supply.

(3) Supply contracts, particularly those signed for the period longer than 12 months (long-term contracts) and interruptible supply contracts should be harmonized with the law governing protection of the competition and control of a state assistance.

### **Termination or Limitation of Supply**

## **Article 191**

(1) In the event that the final customer fails to meet their obligations specified in a contract i.e. in a bill for supplied energy, supplier shall first give a notice to the final user that they should pay the due debt by a deadline that may not be less than eight days as of the day when the notice was delivered, i.e. should reach an agreement about settlement of debt.

(2) In the event that the final customer fails to meet their obligations from the paragraph (1) of this Article by the specified deadline, the supplier shall file a request to the transmission or distribution system operator for limitation of delivery, where such limitation is allowed by technical possibilities, or for termination of delivery of electricity or gas.

(3) The transmission or distribution system operator shall limit or terminate delivery on the basis of request from the paragraph (2) of this Article, where limitation or termination of delivery can not begin on Friday, Saturday or Sunday, on a public holiday or on a day before the holiday.

(4) Termination of supply referred to in paragraph (3) of this Article shall not terminate the supply contract, and the customer shall be required to pay fixed charges during the period of termination, in compliance with the Law.

(5) Supplier shall not be entitled to demand termination or limitation of supply providing the customer has paid undisputed portion of a bill being the subject of complaint and has timely filed a complaint to disputed portion, in compliance with the general conditions on supply.

(6) Distribution or Transmission System Operator shall provide electricity or gas supply to the final customer immediately and not later than 24 hours upon the hour when the customer settled due liabilities for delivered electricity.

## **Supplier's Commitments**

### **Article 192**

(1) Supplier shall indicate on or along with the electricity bill information on the option, manner, time and place for filing and resolving a complaint against the delivered electricity bill.

(2) Supplier shall make and publish on its web page the program of measures:

- 1) to support final customers in meeting their due contractual obligations in order to prevent termination of supply;
- 2) to support supply of final customers in distant areas;
- 3) to encourage use of renewable energy sources and high-efficient cogeneration;
- 4) to encourage implementation of energy efficiency;

(3) Supplier shall present results of implementation of the programme referred to in paragraph (2) of this Article in its annual report.

(4) Supplier shall prepare and publish on its web page at least once a year a number of final customers whose supply was terminated, the reasons for termination of supply, number and structure of filed and resolved complaints referred to in Article 194, paragraph (5) of this Law and other information in accordance with the general conditions of supply.

(5) Electricity supplier shall buy electricity from privileged generators, in a volume proportional to the share of electricity it supplies to its customers in the total electricity delivered to final customers in Montenegro.

## **Keeping data on supply**

### **Article 193**

(1) Electricity and gas suppliers shall keep data on all the transactions pertaining to contracts on supply with electricity or gas and with derivatives of electricity or gas to wholesale customers, transmission system operators, operators of data storage system and operators of LNG



facilities for the minimum of 10 years, and they shall submit the concerned data, upon request, to the Ministry, the Agency, the competent body for monitoring and supervision of competition as well as to the competent body of the Community, in compliance with obligations arising out of confirmed international agreements.

(2) Derivatives of electricity or gas referred to in the Paragraph 1 hereof shall refer to financial instruments whereby participants of the market shall be protected from sudden changes of electricity or gas prices at the market, if such an instrument refers to electricity or gas.

(3) Data referred to in Paragraph 1 of this Article shall comprise information on transactions, including duration, terms of delivery and settlement, quantity, date and time of delivery, the price of transactions, the method of identification of the wholesale customers, as well as information on all the non-performed contracts on supply of electricity or gas or electricity or gas derivatives.

(4) The Agency shall make data referred to in Paragraph 3 of this Article available to the market participants, with the exception of data on derivatives, in line with the Law.

## **Deciding upon complaints**

### **Article 194**

(1) Supplier shall create a separate organisational unit or shall assign a person authorised for acceptance and deciding upon customers' complaints filed due to unfulfilled obligations arising from the contract on supply.

(2) Supplier shall determine rules for deciding upon complaints of customers connected to distribution system, which enable solving disputes in a fair manner and within the deadline not exceeding the period of 15 days following the day of reception of complaint, with corresponding financial compensation in legitimate cases.

(3) Supplier shall ensure that a person authorised to conduct the proceeding for deciding upon customers' complaints regarding mutual rights and obligations defined by the contract on supply is independent, and that such a person cannot be subject to impeachment or otherwise put in an adverse position, provided that he/she makes decisions by applying rules in an objective manner and within the stipulated period.

(4) Transmission system operator, distribution system operator and the supplier shall, upon request of the person referred to in the Paragraph 3 hereof, submit data based on which it is possible to precisely determine the responsible entity and justifiability of the complaint.

(5) A person referred to in the Paragraph 3 hereof shall make decisions on:

1) justifiability of complaints and potential financial compensation which is to be paid by the supplier to the customer on the basis of the system operators' or the supplier's failure to provide minimum quality of supply, defined by the Act of the Agency referred to in Article 43 Paragraph 4 Clause 12 of this Law;

2) other complaints related to electricity or gas supply.

(6) Supplier shall be responsible for enforcement of decisions referred to in Paragraph 5 of this Article.

(7) Customer shall be entitled to lodge an appeal against the decision referred to in Paragraph 5 Clause 1 hereof to the Agency.

(8) Supplier shall submit rules referred to in the Paragraph 2 hereof to the Agency for approval.

## **Compensation**

### **Article 195**

(1) Should the system operator be responsible for failure to provide minimum quality of supply, it shall make a financial compensation referred to in the Article 194 Paragraph 2 of this Law to the supplier.

- (2) Obligations of the entity responsible for failure to provide the minimum quality of supply towards the supplier shall be defined by the Contract on use of the system.
- (3) Submitter shall not pay the fee for submission and deciding upon complaint, i.e. appeal.
- (4) The Agency shall monitor and undertake measures in order to ensure that information provided by the supplier to the final customers is correct and easily comparable.

## **Supplier of last resort and vulnerable customers**

### **Article 196**

- (1) Supplier of last resort and vulnerable customers shall perform electricity or gas supply to:
  - 1) households and small sized customers which are not included in the category of households connected to 0.4 kV electricity distribution systems or gas distribution system which are not responsible for losing the supplier or a contract on supply.
  - 2) households and small sized customers which are not included in the category of households connected to 0.4 kV electricity distribution systems or gas distribution system that have chosen to be supplied by the supplier of last resort and vulnerable customers;
  - 3) vulnerable customers.
- (2) Supplier referred to in the Paragraph 1 hereof shall:
  - 1) apply prices for final customers defined by the methodology referred to in the Article 43 Paragraph 1 Clause 4 of this Law, and publish them on its web page, at least 15 days prior to initiation of implementation;
  - 2) takes measures for secure and quality supply of customers.
- (3) Supplier selected in line with the Article 200 herein shall not offer commercial advantages or additional discounts to the price offered in the process of public bidding.
- (4) Small sized customer which is not included in the category of households referred to in the Paragraph 1 Clause 2 hereof represents a customer that purchases electricity or gas for its own consumption, has less than 50 employees, its electricity consumption in the previous calendar year does not exceed 30.000 kWh, i.e. its natural gas consumption in the previous calendar year does not exceed 100.000 m<sup>3</sup>, while its annual income does not exceed €8,000,000 or its total assets (property by the income statement) do not exceed €8,000,000.

## **Last resort supply**

### **Article 197**

- (1) Supplier of last resort and vulnerable customers shall take over the supply of customers referred to in Article 196 Paragraph 1 Clause 1, without submission of request by customers, for a period not longer than three months, if a supplier which has supplied the mentioned customers is not able to carry out the contracted supply due to bankruptcy or loss of licence, i.e. if a customer failed to find a new supplier.
- (2) In the events referred to in the Paragraph 1 hereof, the supplier which is not able to perform supply to the final customer shall timely inform the supplier of last resort and vulnerable customers, the customer, system operator and market operator about the day of termination of supply.
- (3) In the events referred to in the Paragraph 1 hereof, supplier of last resort and vulnerable customers shall, within three days following the beginning of supply, inform the final customer about the supply conditions, price, right to select a supplier and, in addition to the notification, shall submit the contract for signing.
- (4) The final customer referred to in the Paragraph 1 hereof, shall conclude with the supplier referred to in the Paragraph 1 hereof a contract on supply in writing, not later than within seven days from the day of the beginning of supply.
- (5) Contractual obligations referred to in the Paragraph 4 hereof shall become effective as of the day of the beginning of supply.

(6) Final customers connected to transmission system, as well as other final customers connected to electricity or gas distribution system, which have been deprived of supply without their fault, shall also be entitled to be supplied by the supplier of last resort and vulnerable customers at prices formed in the manner envisaged by Article 58, paragraph (1) herein, in compliance with the Methodology for setting prices for final customers supplied by the supplier of last resort and vulnerable customers, provided that, prior to initiation of supply, they submit and, if needed, renew the bank guarantee in the amount of a three-month invoice for planned consumption calculated by the mentioned prices, and submit it to the supplier of last resort and vulnerable customers.

(7) Supplier referred to in the Paragraph 1 hereof shall prepare data on the number of customer it supplies, total amount of delivered electricity or gas, and average duration of supply, separately for households and for other customers, and shall publish them at least once a year on its web page.

## **Supply of vulnerable customers**

### **Article 198**

(1) Vulnerable customers which need health and social care, in terms of this Law, represent households with:

1) disabled persons, persons with special needs and persons of poor health condition, who may be exposed to a threat to life or health as a result of a limitation or suspension of energy supply, and

2) persons who need social care as determined by the state authority competent for social care affairs.

(2) Vulnerable customers which are socially handicapped represent households with persons who need a social care defined by competent public institution, i.e. public authorities competent for social care affairs.

(3) The Government's regulations shall define the following:

1) criteria for defining customers from categories referred to in Paragraphs 1 and 2 hereof, and which refer to social and health condition;

2) amount of subvention for customers referred to in Paragraph 1 hereof;

3) limit of monthly electricity or gas consumption for which the right on subvention can be acquired.

(4) Public authorities competent for social and health care shall determine customers referred to in Paragraphs 1 and 2 hereof, not later than July 31<sup>st</sup> of the current year for the following year, on the basis of criteria referred to in Paragraph 3 Clause 1 hereof, and shall submit the information thereof to the supplier referred to in the Article 196 of this Law.

(5) Suspension of electricity or gas supply to customers referred to in Paragraph 1 hereof shall be prohibited, while suspension of supply to customers referred to in the Paragraph 2 hereof shall be prohibited from the beginning of October until the end of April regardless of potential unsettled liabilities on the basis of consumed electricity or gas.

## **Request for supply of vulnerable customers**

### **Article 199**

(1) Funds allocated for the purpose referred to in the Article 198 Paragraph 3 Clause 2 herein shall be provided by the budget of Montenegro.

(2) Request for supply in line with the Article 198 herein shall be submitted to the supplier by the customer or a public authority competent for social care if the customer is not able to submit it by its own.

(3) Supplier shall conclude the contract on supply with customer which is entitled to supply in line with Article 198 herein and shall immediately initiate supply to the customer.

## **Procedure on selection of the supplier of last resort and vulnerable customers**

### **Article 200**

(1) Supplier of last resort and vulnerable customers shall be determined by the decision on selection of supplier which is to be adopted by the Government upon implemented procedure of public bidding.

(2) Supplier referred to in the Paragraph 1 hereof shall be determined for the period of three calendar year.

(3) Upon proposal of the Ministry, the Government shall adopt the tender documents and decide upon initiation of the procedure referred to in the Paragraph 1 hereof, 12 months prior to expiry of the period referred to in the Paragraph 2 hereof.

(4) Tender documentation shall particularly contain the following:

1) wording of the public announcement, conditions and recommendations for preparation of the bid, criteria for bid evaluation, deadlines for submission of bids and other important elements for selection of supplier;

2) conditions for performance of activities referred to in the Paragraph 1 hereof defined by this Law, and list of rules applied in the area of electricity supply;

3) total profile of consumption of vulnerable customers;

4) draft document on consigning the activities related to supply within a public service;

5) list of contract the supplier shall sign in line with this Law.

(5) Upon adoption of the tender documents, the Ministry initiates the procedure of public bidding by publishing an announcement for selection of the supplier in at least one printed journal which is distributed on the territory of Montenegro, internet page of the Ministry and at least one internet portal for publishing news related to energy in the region.

(6) While selecting the most favourable bid, the following shall be taken into account:

1) offered electricity or gas price for the first year for customers which are to be supplied;

2) manner, i.e. formula for defining the price of electricity or gas for the second and third year of supply;

3) possibility and conditions for provision of electricity or gas amounts exceeding the one required in the tender documents;

4) references of bidders (financial capacity, technical-staff qualifications, experience in performing activities related to electricity or gas supply);

5) accessibility and/or availability of sources of electricity supply for the period referred to in Paragraph 2 hereof;

6) other criteria defined by the Government.

(7) Collection of bids for public bidding, evaluation and ranking of bids shall be performed by the Ministry and it shall submit a report with a proposal of the best bid to the Government.

(8) Procedure of public bidding referred to in the Paragraph 1 hereof, conditions for participation at the tender, detailed content of tender documents, as well as criteria for evaluation of bids shall be regulated by the Government.

## **Repeating the procedure for selection of the supplier**

### **Article 201**

(1) If a supplier referred to in the Article 200 Paragraph 1 herein is not selected during the procedure of the public bidding, the Government shall repeat the procedure of public bidding not later than 30 days following the day of finalization of the previous procedure or six months prior to expiry of the period referred to in the Article 200 Paragraph 2 herein.

(2) If a supplier referred to in the Article 200 Paragraph 1 herein is not selected during the repeated procedure of public bidding, the Government shall select a supplier which shall perform activities related to the supply of last resort and vulnerable customers for the period of three years.

(3) In the event referred to in the Paragraph 2 hereof, electricity generators and entities which participate in the chain of the gas supply shall offer necessary amounts of energy for supply of customers referred to in the Article 196 Paragraph 1 herein, at prices defined in line with the Methodology referred to in the Article 43 Paragraph 1 Clause 4 of this Law.

(4) If a supplier is not selected until expiry of the period preceding the period wherefor the supplier is being selected, supplier which performs activities of supply of last resort and vulnerable customers, shall proceed with supply until selection of a new supplier, by applying electricity or gas price in line with methodology referred to in the Article 43 Paragraph 1 Clause 4 herein.

## **Switching the suppliers**

### **ARTICLE 202**

(1) The procedure of switching the suppliers shall be performed without charges, upon request of the final customer submitted to the new supplier within 15 day following the day of submission of the request.

(2) Supplier shall undertake supply of the customer.

(3) In the procedure referred to in Paragraph 1 hereof:

1) previous supplier shall make available data on consumption, i.e. on the profile of customers' consumption to the supplier to which the request has been submitted, to the system operator and to the market operator;

2) customer shall sign a contract on supply with the supplier referred to in the Paragraph 2 hereof;

3) transmission or distribution system operator and electricity or gas market operator shall register a switch to another supplier upon request of a new supplier;

4) new supplier shall undertake balancing responsibility for the customer;

(4) The procedure referred to in the Paragraph 3 hereof shall be terminated on the day when the new supplier, to which the request has been submitted, begins carrying out the supply service, i.e. when the previous supplier is notified by the transmission or distribution system operator that its supply obligation has ended.

(5) Previous supplier shall issue the final calculation for supply to the customer with which the contract has been terminated, within 30 days following the day of switch to another supplier.

(6) Gas supplier referred to in the Paragraph 2 hereof shall be entitled to use the same capacity of distribution and transmission system for the needs of supplying the final customers which has chosen it.

(7) Supplier whose contract is in the process of terminations shall not set conditions for termination of the contract, including unsettled liabilities, and shall provide supply to the customer until finalization of the process of switching the supplier, with the exception of the event referred to in the Article 191 Paragraph 2 herein.

## **Rights and obligations of customers**

### **ARTICLE 203**

(1) Final electricity or gas customers shall be entitled to select a supplier and to switch to another supplier.

(2) Mutual rights and obligations of the supplier and final customer shall be defined by the contract on supply.

(3) Final customer, which is not a household, shall be entitled to negotiate about electricity supply with several suppliers at the same time.

(4) Customer which is directly connected to the transmission system shall conclude a contract on supply, or in case it procures electricity on the market, it shall conclude a contract on electricity purchase and contract on use of transmission system, not later than seven days prior to initiated consumption of electricity it procures.

(5) Final customer shall use a system it is connected to, i.e. devices and equipment in line with rules which define the system operation.

(6) Final customer can transfer the right to access data about its consumption to the supplier.

(7) Final customer shall be entitled to choose electricity or gas supplier which fulfils conditions for performing activity of supply in Montenegro, a member of European Union or member of a Community, under terms of reciprocity and in line with this Law.

## **Rights of customers in the event of impediments in electricity supply**

### **Article 204**

(1) Final customer shall be entitled to elimination of technical or other impediments in electricity supply, which have not emerged on the customer's facility.

(2) Energy undertaking shall immediately eliminate impediments referred to in the Paragraph 1 hereof upon request of the final customer, in line with technical regulation on performance of corresponding works, within the period not exceeding 24 hours following reception of request, with exception of cases where it is objectively impossible.

(3) Impediments in electricity supply referred to in the Paragraph 1 hereof shall not refer to interruptions in electricity supply occurred due to implementation of measures related to supply restriction referred to in the Article 213 Paragraph 1 Clause 1 of this Law.

(4) Final customer, i.e. user of final customer's facility shall allow and enable access to devices and installations to authorize representatives of energy undertakings, as well as the point of connection for the purpose of reading, verifying proper functioning, elimination of faults, replacement and maintenance of devices and relocation of metering points or suspension of electricity supply in cases of unauthorized electricity consumption or unsettled electricity bills in line with defined deadlines and conditions.

## **Protection of customers**

### **Article 205**

(1) Supplier shall publish prices for households and other final customers that it supplies on its web page at least 15 days prior to initiation of supply.

(2) Supplier shall publish each change of prices and fees on its web page, in a timely manner, not later than expiry of calculation period after the change has come into force, and shall inform customers about the possibility of termination of the contract in case they refuse to accept changed prices.

(3) Supplier shall publish information on the rights of customers, including the procedures for submitting and resolving appeals, on its webpage at least once a year.

(4) Supplier shall calculate and collect the following from all final customers:

- 1) use of electricity or gas transmission and distribution systems
- 2) charge for functioning of the market operator;
- 3) charge for ancillary services;
- 4) charge for incentives for generation of electricity from renewable sources;
- 5) other charges in line with the Law.

(5) Supplier shall charge electricity and services based on invoices which ought to be clear and articulate, with indication of the consumption profile of the customer.

(6) Supplier shall pay for the use of the system, services and charges to operators and other entities for which charges are collected in line with this Law.

## **Contract on supply**

### **Article 206**

(1) The supplier shall conclude the contract on supply in writing with the final customer.

- (2) The contract referred to in the Paragraph 1 shall include, in particular, the following:
  - 1) supplier's name and head quarters;
  - 2) time of initiation of supply, content of provided service and levels of service quality;
  - 3) type of additional maintenance services being offered on the basis of the contract on use of the system which is concluded by the supplier and distribution system operator;
  - 4) the manner for obtaining information on prices and charges for additional maintenance services;
  - 5) duration of the contract, terms for renewal or termination of the contract;
  - 6) manners of payment applicable in case of non-compliance with the contracted quality of services, i.e. in case of inaccurate calculation of consumed electricity.
- (3) Supplier shall indicate information referred to in the Paragraph 2 hereof to customers on their bills or on its web page.
- (4) A Contract whereby the customers' right to terminate, i.e. cancel the contract has been deprived or limited, or additional liabilities have been imposed on that basis, shall be null and void.

### **General conditions on supply**

#### **Article 207**

- (1) Supplier shall carry out supply to final customers in accordance with the general conditions on supply, that shall be published at least 15 days prior to beginning of supply.
- (2) General conditions referred to in the Paragraph 1 hereof shall particularly define the following:
  - 1) conditions for electricity supply;
  - 2) rights and obligations of customers and suppliers;
  - 3) conditions and manner of reading, calculation and payment of consumed electricity;
  - 4) customers' right to be informed, without additional costs, of actual electricity consumption and costs for the purpose of monitoring its own consumption;
  - 5) procedure upon complaint of a customer related to calculation of consumed electricity;
  - 6) conditions for suspension and limitation of electricity supply;
  - 7) conditions and procedure of conclusion of the supply contract;
  - 8) manner of amending data from the contract;
  - 9) manner on informing customers about prices and charges, standard deadlines and conditions in terms of access and services;
  - 10) manner of informing customers about changes of prices and charges prior to their implementation;
  - 11) conditions of supply by the supplier of last resort and vulnerable customers;
  - 12) conditions of supply of temporary facilities;
  - 13) manner and conditions of cessation and termination of contract on supply;
  - 14) Customers' right to receive a final calculation after each switch of electricity supplier not later than 30 days following the switch to another supplier.
- (3) General conditions referred to in the Paragraph 1 hereof shall:
  - 1) be written in a clear and intelligible wording and shall not include conditions whereby customers' rights defined by the Law are limited;
  - 2) be nondiscriminating for customers;
  - 3) reflect different expenses of the supplier in line with chosen payment method;
  - 4) in case of advance payment, ensure non-discriminatory system reflecting the actual consumption;
  - 5) to protect customers against unfair performance and non-performance, i.e. providing information to customers whereby they can be misled.
- (4) Contracts concluded through mediators shall be concluded in accordance with conditions referred to in Paragraph 1 hereof.

## **XV PERFORMANCE OF ACTIVITIES RELATED TO THERMAL ENERGY**

### **Generation of thermal energy for district heating or cooling**

## **Article 208**

(1) Generation of thermal energy for district heating and/or cooling purposes or for industrial use, in terms of this Law, implies generation intended for supply of thermal energy to final customers.

(2) Generator of thermal energy for district heating and/or cooling or for industrial use, shall deliver the produced thermal energy to the thermal energy supplier for district heating and/or cooling or for industrial use.

(3) When choosing technology for generation of thermal energy, the generator of thermal energy referred to in the paragraph (2) hereof shall give preference to technologies entirely or partly based on renewable energy sources or high-efficiency cogeneration.

(4) Generator of thermal energy referred to in the Paragraph 2 hereof shall maintain production capacities, substations and other installations in proper operating condition, ensure their constant operational and functional availability and safe operation in accordance with technical and other regulations and standards related to operational conditions of such facilities and installations, and environmental protection conditions stipulated by the Law.

## **Obligations of local self-government unit**

### **Article 209**

(1) Competent authority of local government shall prepare annual balance of energy demands and delivery of thermal energy for district heating and/or cooling or for industrial use on the basis of the needs of final customers.

(2) Local government authority shall keep the register of thermal energy generators for district heating and/or cooling or for industrial use, specifically containing data on: facilities for thermal energy generation, their location, installed capacity of heat production plants, anticipated operational life, construction and operational conditions for these plants; type of primary source used, and entities carrying out energy activity of thermal energy generation for district heating and/or cooling purpose or for industrial use in those facilities.

## **Thermal energy distribution and supply**

### **Article 210**

(1) Thermal energy distributor shall control the thermal energy distribution system and shall supply final customers with thermal energy for district heating and/or cooling or for industrial use under conditions stipulated by regulations passed by the relevant authority in the local self-government, in line with this Law.

(2) Thermal energy distributor referred to in the Paragraph 1 hereof shall:

1) distribute thermal energy to all thermal energy customers within the area of its activity and shall control the distribution system according to principles of transparency and non-discrimination;

2) ensure maintenance, functioning and development of the thermal energy distribution system adjusted to the needs of customers to whom it supplies thermal energy within a certain area;

3) prepare and implement a development plan that will specify the manner and time schedule for construction of new and reconstruction of the existing distribution system and other distribution capacities in a period of five years;

4) ensure connection of new energy facilities that use renewable energy sources or high-efficiency cogeneration.

## **Thermal energy distribution grid code**

### **Article 211**



(1) Thermal energy distributor for district heating and/or cooling or for industrial use shall adopt the thermal energy distribution system code, general conditions for thermal energy supply and tariff system for thermal energy supply, with the approval of the relevant authority in the local government.

(2) The distribution system code from the Paragraph 1 hereof shall specifically regulate:

- 1) technical conditions for connection of users to the system;
- 2) technical conditions for connection with producers;
- 3) technical and other conditions for secure operating of the distribution system and for ensuring reliable and continuous thermal energy supply to customers;
- 4) emergency procedures;
- 5) functional requirements and metering devices accuracy level;
- 6) thermal energy metering manner;
- 7) metering on the entry into facility of each customer;
- 8) incentives and price reliefs for customers that install metering devices at entrance of their facility.

(3) Distributor referred to in the Paragraph 1 hereof shall publish distribution grid code, general conditions for thermal energy supply and tariff system for thermal energy supply defined in line with the Paragraph 1 hereof, in one public media which is distributed in the area of the local self-government and in the "Official Gazette of Montenegro – Local Regulations".

(4) Relevant authority in the local government shall regulate, in accordance with the Law, the following:

- 1) conditions and manner of ensuring continuity in supply of customers with thermal energy within a certain area;
- 2) rights and obligations of thermal energy generators and distributors;
- 3) rights and obligations of thermal energy customers;
- 4) tariff systems;
- 5) other conditions ensuring regular and secure thermal energy supply to customers.
- 6) give consent to prices of thermal energy.

(5) When choosing technology for district heating and/or cooling or for industrial use, relevant authority in the local government shall give preference to solutions which envisage thermal energy generation in energy facilities using renewable energy sources and high-efficiency cogeneration.

## **XVI SECURITY OF SUPPLY AND MEASURES IN THE EVENT OF DISTURBANCE ON THE ELECTRICITY AND GAS MARKET**

### **Security of supply**

#### **Article 212**

(1) Annual report about security of energy supply and expected energy demand shall be prepared by the Ministry, with previous opinion of the Agency, and the concerned report shall be submitted to the Government by June 30<sup>th</sup> of the current year for the previous year.

(2) The report referred to in the Paragraph 1 of this Article shall contain:

- 1) operational security of the transmission and distribution systems for electricity and gas;
- 2) generation and demand balance forecast for the next five year period;
- 3) expected security of supply conditions in the next five to fifteen years;
- 4) investment plans of the transmission system operator and of the user of the transmission system for electricity or gas in the next five or more years including construction of cross-border lines;
- 5) mechanisms applied in congestion management in transmission and distribution systems in accordance with international treaties and regulations of European Association of Transmission System Operators;
- 6) existing condition and planned electricity or gas transmission system lines;

7) expected development of generation, supply, cross-border exchange and consumption, while taking into account consumption management measures;

8) national and regional objectives in terms of sustainable development, including international projects related to construction of transmission systems of national, regional and other mutual interest.

(3) The report referred to in the Paragraph 1 hereof shall be published on the Ministry's web page.

### **Disturbances on the market**

#### **ARTICLE 213**

(1) In the event of a disturbance on the market caused by unexpected energy deficit, immediate threat to independence and unity of the country, as well as in the event of big natural disasters or technological catastrophes (emergency situation), the Government may prescribe:

- 1) measures limiting trade with certain types of energy;
- 2) special trading conditions;
- 3) measures limiting export or import of energy;
- 4) special conditions for export or import of energy;
- 5) measures of compulsory energy generation;
- 6) priorities in energy delivery to customers.

(2) In the event of measures referred to in Paragraph 1 Clause 1 hereof, threat to security of supply or electricity deficits, transmission and distribution system operators shall ensure, in accordance with this Law, adequate capacities for cross-border transmission of energy, security of energy supply and data exchange.

(3) The system operators shall ensure implementation of the measures referred to in the Paragraph 1 hereof in a transparent and non-discriminatory manner that will not violate the market rules.

(4) The measures referred to in the Paragraph 1 hereof shall be implemented until elimination of disturbances referred to in the Paragraph 1 hereof.

(5) Development plans, investment plans adopted in line with this Law and incentives for investments shall envisage, specifically, the measures for prevention of electricity deficits.

### **Implementation of measures**

#### **Article 214**

(1) The Ministry shall monitor implementation of measures referred to in the Article 213 herein.

(2) The Ministry shall immediately inform a competent body of the Community about disturbances on the market and taken measures referred to in the Article 213 herein.

## **XVII**

### **PETROLEUM PRODUCTS AND BIOFUELS TRADING**

#### **Quality of petroleum products and biofuels**

#### **Article 215**

(1) Energy undertakings carrying out energy activities referred to in Article 3 Paragraph 1 Clauses 14, 15, 28 and 29 herein shall trade petroleum products and/or biofuels of regulated quality.

(2) Biofuels referred to in Paragraph 1 hereof shall meet criteria of sustainability referred to in Article 21 herein.

(3) Manner and amount of elements based on which maximum retail prices of certain types of petroleum products and biofuels, manner and deadlines for publishing such prices and determining authorities which publishes such data, shall be regulated by the Government.

(4) Energy undertaking shall trade with certain types of petroleum products and/or biofuels by the price which does not exceed maximum retail price defined by the regulation referred to in the Paragraph 3 hereof.

(5) Quality, manner of control of the product quality referred to in the Paragraph 1 hereof, which includes verification of sustainability criteria referred to in the Article 21 herein, as well as requirements to be met by accredited legal entity for assessment of compliance of the mentioned products, shall be regulated by the Ministry.

(6) The Ministry shall, in line with the Law which regulates technical requirements for products and assessment of compliance, authorize accredited legal entity for assessment of compliance of products referred to in the Paragraph 1 hereof.

(7) The Ministry can, for the purpose of assessing compliance of products referred to in the Paragraph 1 hereof, engage a foreign accredited legal entity which meets requirements defined by this Law.

## **XVIII OIL AND/OR PETROLEUM PRODUCTS RESERVES**

### **Strategic reserves**

#### **Article 216**

(1) For the needs of safety of supply, energy undertakings which supply customers with oil and/or petroleum products, as well as customers of petroleum products which are not supplied by those energy undertakings, shall provide strategic reserves of oil and/or petroleum products in the total amount which equals 90-day average consumption in the previous year in Montenegro.

(2) Strategic reserves of petroleum and/or petroleum products referred to in the Paragraph 1 hereof, shall be provided by legal entities which sold in the previous year at least 25 tonnes of crude oil and/or petroleum products to customers, as well as by new participants on the market wherefor obligation of providing strategic reserves is calculated by assessing the sale in the first year of business operating to at least 50 tonnes of crude oil or petroleum products.

(3) Legal entity established by the Government in line with the Law, shall perform control of strategic reserves as public service.

(4) For the purpose of provision and maintenance of strategic reserves referred to in the Paragraph 1 hereof, the Government shall define the following:

1) deadlines and conditions for initiation and time schedule of forming strategic reserves of oil and/or petroleum products, as well as methodology for defining the maximum retail price of products;

2) deadlines and conditions, including financial conditions referring to control and maintenance of strategic reserves in line with obligations taken by confirmed international treaty;

3) deadlines and conditions of storage, including requests and conditions referring to locations of storage capacities;

4) rokove i uslove provjeravanja kvaliteta i obnavljanja rezervi;

5) Charges and manner of collection of charges for forming, storage and control of strategic reserves.

(5) Storage capacities in Montenegro and other countries can be used for storage of strategic reserves of oil and/or petroleum products referred to in the Paragraph 1 hereof.

### **Reporting import and export**

#### **Article 217**

(1) Importers or exporters of petroleum and/or petroleum products shall report each import and export of petroleum products to the Ministry.

(2) Manner of reporting import and export of oil and/or petroleum products, tapes of products and deadlines for their submission shall be regulated by the Ministry.

## **XIX**

## **DELIVERY OF COAL**

### **Contract on coal delivery**

#### **Article 218**

(1) Supplier of coal for generation of electricity and electricity generator shall until December 15<sup>th</sup> of the current year for the following year conclude a contract on coal sale/purchase in line with annual energy balance referred to in the Article 13 Paragraph 2 herein.

(2) Coal delivery contract referred to in the Paragraph 1 of this Article shall include, specifically:

- 1) price, quality and quantity of coal to be delivered;
- 2) requirements established in the energy balance;
- 3) the requirement of storing coal reserves in a quantity sufficient to ensure an uninterrupted operation of thermal power plants and heating plants for not less than fifteen days.

## **XX**

## **PROTECTION OF ENERGY FACILITIES**

### **Access to real estate**

#### **Article 219**

(1) Owners i.e. holders of real estate shall allow energy undertakings free access to the real estate and on real estate where energy facilities are located or built, in order to carry out construction and maintenance works and control of proper condition of facility, device, installation or equipment and to carry out other necessary works.

(2) The energy undertaking referred to in Paragraph 1 of this Article shall indemnify the owner of real estate for any damage caused during the works and in cases referred to in the Article 204 Paragraph 4, with a mutually agreed amount.

(3) In case the owner of real estate and the energy undertaking fail to reach an agreement referred to in Paragraph 2 of this Article, the amount of indemnity shall be determined in line with general rules on indemnity.

### **Relocation of energy facility**

#### **Article 220**

(1) Responsible state authority can order relocation of an energy facility only on account of the construction of traffic, energy and utility infrastructure facilities, national defence facilities, water management facilities and facilities for protection against natural disasters, as well as other facilities considered to be of public interest in accordance with the Law which regulates expropriation, and which cannot be built on another location due to natural or other characteristics.

(2) In the case referred to in paragraph (1) of this Article, the costs of energy facility relocation, including construction costs, i.e. costs of moving the concerned energy facility to another site shall be borne by the investor of the facility, the construction of which is the reason for relocation of the concerned energy facility.

### **Prohibition of works which endanger operation of energy facilities**

#### **Article 221**

(1) The construction of facilities not intended for energy activities, as well as other works beneath, above or next to the energy facilities, contrary to Law and technical regulations shall be prohibited.

(2) The planting of trees and other plants on land above and beneath or in a distance wherefrom the energy facility can be endangered, shall be prohibited.

(3) The system operator on whose area the energy facility is located, shall regularly remove trees and other plants jeopardizing the operating of the energy facility, being required to pay pertaining compensation of damage.

(4) Owners and holders of other rights over real estate located beneath, above and next to an energy facility cannot undertake works or other activities which prevent or jeopardize the operation and functioning of the energy facility without prior permit of the energy undertaking, which is the owner, i.e. user of that energy facility.

(5) Upon a request of an owner or a holder of other real estate rights on real estate located beneath, above or next to the energy facility, the energy undertaking may grant the permit for works referred to in Paragraph 4 of this Article within 15 days as of the date of the request.

## **XXI        UNAUTHORIZED USE OF ENERGY**

### **Prohibition of unauthorized use of energy**

#### **Article 222**

(1) Unauthorized use of electricity, gas and thermal energy for district heating and/or cooling shall be prohibited.

(2) Unauthorized electricity use referred to in the Paragraph 1 hereof shall imply the following:

1) arbitrary connection of a facility, device or installation to the transmission or distribution system for electricity or gas, or installation of another customer;

2) use of energy without a metering device or bypassing a metering device or unauthorized interventions which enable use of energy without a metering device or bypassing a metering device;

3) unauthorized interventions on metering devices which disable regular registration of consumed energy;

4) arbitrary connection following suspension of electricity supply, gas or thermal energy due to unauthorized consumption or unsettled bills for consumed energy;

5) use of electricity, gas or thermal energy contrary to concluded contracts on connection and supply;

6) use of electricity and thermal energy after termination or expiry of contract on connection or supply contract;

7) use of energy in other purposes other than own consumption of households wherein a person who is entitled to supply in line with Article 198 Paragraph 1 herein lives.

(3) In case the electricity transmission or distribution system operator detects unauthorized electricity use by a legal or natural person, i.e. that such a person acts contrary to Paragraphs 1 and 2, Clauses 1,2,3,4 5 and 6 hereof, it shall suspend electricity supply without prior warning, and take measures in line with the Law.

(4) Legal or natural person which is determined to be responsible for unauthorized use of electricity or gas, in line with rules referred to in Article 116 Paragraph 1 Clause 14 herein, shall compensate damages to operator of the transmission or distribution system.

(5) The manner of defining amount of compensation shall be determined in line with the methodology referred to in Article 116 Paragraph 1 Clause 15 herein, whereat, in cases when the beginning of unauthorized consumption can not be defined, the period of calculation shall not exceed:

1) three months for metering points wherein the reading is performed at least once in three months;

2) six months for metering points wherein the reading is performed at least once in six months;

(6) Final customer to whom the system operator has groundlessly suspended electricity supply shall be entitled to compensation of damage it suffered thereby, in line with the Law.

#### **A program of measures for detection, determining, demonstration, and prevention of unauthorized electricity use**

### **Article 223**

(1) On the basis of rules referred to in Article 116, Paragraph 1 Clause 14 herein, distribution system operator shall prepare a program of measures for detection, determining, demonstration, and prevention of unauthorized electricity use.

(2) The programme of measures from the Paragraph 1 hereof shall contain, specifically, the following:

- 1) manner and procedure for detection, determining and demonstration of unauthorized electricity use;
- 2) plan of regular, temporary and additional metering;
- 3) method for processing of collected data;
- 4) procedures for maintaining confidentiality of information
- 5) internal measures in energy undertakings with objective to prevent irregularities related to unauthorized electricity use;
- 6) manner of education of the public;
- 7) other measures and activities required for efficient prevention of unauthorized electricity use;
- 8) Estimate of required funds and assessment of effects from the proposed measures

## **XXII SUPERVISION**

### **Activities of Inspection Supervision**

#### **Article 224**

(1) Supervision of implementation of this Law and other regulations adopted on the basis of this Law shall be performed by the Ministry.

(2) The activities of inspection supervision in line with this Law and the Law which regulates inspection supervision, shall be carried out by electric power inspectors, thermal energy inspectors and market inspectors.

(3) While carrying out activities related to inspection supervision, inspectors referred to in the Paragraph 2 hereof shall cooperate with the Agency.

(4) Records on inspection control of facilities within the competence of the Agency shall be submitted to the Agency upon request.

### **Conditions referring to professional qualification**

#### **Article 225**

(1) The activities of an electric power inspector may be carried out by a person with university degree in the field of electrical engineering, energy department, who also fulfils other conditions prescribed by the Law.

(2) The activities of a thermal energy inspector may be carried out by a person with university degree in the field of mechanical engineering, thermal energy department, who also fulfils other conditions prescribed by the Law.

### **Rights and Duties of Electric Power Inspector**

#### **Article 226**

(1) Electric power inspector shall carry out inspection supervision of designing, production, construction, operation and maintenance of facilities for generation, transmission and distribution of electricity and other electric power facilities and installations in accordance with authorities specified herein.

(2) Electric power inspector shall have the right and duty to monitor implementation of law, regulations, standards and technical regulations:

1) in a procedure of obtaining of an authorization and permit for construction and reconstruction of electric power facilities i.e. implementation of assembly and fitting works for installations, devices and equipment;

2) during preparation of technical documentation for the construction and reconstruction of electric power facilities

3) in production of electric power devices and equipment and construction, i.e. production of electric power facilities, i.e. implementation of works pertaining to assembly and fitting of installations, devices and equipment;

4) in carrying out of electricity generation, transmission and distribution activities and supply within the limits of authorities of the inspection;

5) in maintenance and operation of electric power facilities, devices, metering assemblies and installations;

6) on the basis of professional qualifications and working competences of persons operating and handling electric power facilities and equipment as well as of persons responsible for maintenance and construction of electrical power facilities, devices and installations;

7) on the basis of reliability and safety of operation of electric power facilities;

8) on the basis of the electricity voltage quality referred to in the Article 48 Paragraph 1 Clause 2 herein;

(3) Electric power inspector shall carry out other activities stipulated by the Law or regulations passed on the basis of this Law.

## **Rights and Duties of Thermal Energy Inspectors**

### **Article 227**

(1) Thermal energy inspector shall carry out inspection supervision of:

1) designing, production, construction, operation and maintenance of facilities for: production, processing, storage and distribution of natural gas and liquefied natural gas (LNG) and production, transport and distribution of thermal energy for district heating and/or cooling or for industrial use, in accordance with his authorities stipulated herein

2) designing, production, construction, operation and maintenance of: boiler facilities (steam, hot water, thermal oil and warm water), fixed or movable pressurized vessels, cooling and other thermal energy facilities, devices and equipment

3) professional qualifications of persons carrying out designing, production, supervision, operation and maintenance of thermal energy facilities, devices and pressurized equipment

4) efficient and economical use of thermal energy.

(2) Thermal energy inspector shall have the right and duty to verify

1) whether manufacture, installation, testing and maintenance of pressurized equipment is carried out in accordance with the law, technical regulations and standards

2) whether energy undertakings carrying out activities of generation, transport, distribution and delivery of thermal energy for district heating and/or cooling or for industrial use, transport, distribution and delivery of natural gas have met legal requirements for carrying out of those activities;

3) whether pressurized equipment is maintained, controlled and tested regularly during operation in line with the technical regulations and standards;

4) regularity of delivery and quality of fuels and thermal energy delivered to customers.

(3) Thermal energy inspector shall also carry out other activities stipulated by the Law or by regulations adopted based on the Law.

## **Rights and Duties of Market Inspector**

## **Article 228**

Market inspector shall carry out inspection supervision of implementation of regulations governing maximum retail prices of petroleum products and biofuels and defining the quality and the manner of control of petroleum products and biofuels.

### **Authorities of inspectors**

## **Article 229**

(1) In carrying out inspection supervision, in addition to authorities defined by the Law governing inspection supervision, electric power inspector, thermal energy inspector and market inspector shall be authorized to:

1) suspend construction of an energy facility, i.e. installation of devices, plants and installations or pressurized equipment if:

- detected deficiencies and defects were not removed within the specified period of time
- construction of energy facilities, devices, plants and installation is carried out without the permission of the competent body or contrary to technical documentation on the basis of which the permission was granted;

2) prohibit carrying out of energy activity or construction of energy facility in the event of failure to obtain a permit for carrying out of activities or an act allowing construction of that facility

3) order suspension of further construction works or use of energy facility, i.e. suspension of supply with energy or use of energy, if those facilities are not constructed, used or maintained in accordance with approved documentation or documentation verified in accordance with specific technical regulations, and if this causes an immediate threat to stability and safety of energy facilities, human lives and health, or safety of traffic or neighbouring structures

4) prohibit the use of an energy facility, i.e. devices, plants or installations and pressurized equipment if:

- the operation of an energy facility, device, plant or installation is a threat to lives and health of people and property;
- detected deficiencies and defects were not removed within the period specified in the decision on the suspension of use i.e. operation of the facility;
- the license of an energy undertaking for carrying out activities in an energy facility is revoked due to non-compliance with prescribed conditions, with exception of cases referred to in Article 77 herein.

(2) Once he/she has determined construction of facility referred to in the Article 221 Paragraph 1 herein, the electrical energy inspector shall inform the competent inspection of the relevant authority for inspection supervision affairs thereof.

(3) While carrying out inspection supervision, in addition to authorizations defined by the Law governing inspection supervision, market inspector shall be authorized to:

- 1) order taking samples for verification of petroleum products and biofuels;
- 2) prohibit trading with petroleum products and biofuels:
  - the quality of which is not adjusted to the regulated one;
  - with maximum retail price exceeding the one that has been set.

### **Conditions for carrying out inspection supervision**

## **Article 230**

(1) The inspector cannot prepare or participate in the preparation of technical documentation and in technical review of the technical documentation for facilities which are subject of inspection supervision, or carry out professional supervision of construction, i.e. works on the facilities which are subject of inspection supervision.

(2) Energy undertaking, enterprise and other owner of an energy facility, device or installation shall enable the inspector to carry out unhindered inspection supervision, allow his



entrance to facilities, place at his disposal all the requested data, documents and reports required for the inspection supervision.

(3) Inspection supervision shall be carried out in accordance with law regulating inspection supervision.

## **XXIII PENALTY PROVISIONS**

### **Fines**

#### **Article 231**

(1) A fine in the amount ranging from €3,000 to €20,000.00 shall be imposed on a legal person for an offence, in the case of:

1) as energy undertaking and self-supplying customer, failing to prepare and submit to the Ministry data referred to in Articles 14 and 15 herein for development of energy balances, not later than October 15<sup>th</sup> of the current year for the following year, and for the long-term balance not later than June 1<sup>st</sup> of the year preceding the first year of the long-term balance (Article 16 Paragraph 4);

2) as energy undertaking and self-supplying customer, failing to submit data on implementation of annual energy balance not later than February 15<sup>th</sup> of the current for the previous year (Article 17 Paragraph 2);

3) carrying out energy activities referred to in Article 3 hereof without having a license (Article 65 Paragraph 1);

4) as energy undertaking, failing to pay the annual charge for use of the licence for the period licence validity, in the amount defined by the Agency (Article 67 Paragraph 1);

5) as certified transmission system operator, failing to inform the Agency of all planned changes that have an impact on fulfilment of conditions referred to in the Articles 136 and 163 herein (Article 69 Paragraph 1);

6) as transmission system operator and energy undertaking which performs activity of generation and supply, failing to submit all data and documents necessary for certification referred to in Articles 68 and 69 herein, upon the request of the Agency and/or competent authority of the Community (Article 69 Paragraph 4);

7) as energy undertaking, failing to carry out energy activities of public interest in line with provision of Article 86 Paragraph 2 herein;

8) as energy undertaking or user of electricity or gas transmission system, failing to conclude mandatory mutual contracts not later than December 1<sup>st</sup> of the current year, for contacts which shall be valid starting from January 1<sup>st</sup> of the following year, i.e. 15 days following submission of the Contract by competent energy undertaking for other contracts (Article 87 Paragraphs 1);

9) as competent energy undertaking, failing to submit the draft contract to the other contracting party not later than November 15<sup>th</sup> of the current year for contracts which shall be valid from January 1<sup>st</sup> of the following year, i.e. 15 days prior to initiation of the contract implementation for other contracts (Article 87 Paragraph 2);

10) as energy undertaking, failing to provide public services in the field of energy, in line with provision of Article 89 herein;

11) failing to provide, as energy undertaking, maintenance of trade secrets and other commercially confidential information and data, whose publishing or announcement can create unjustified commercial advantage on the market or cause damage to energy undertakings, legal and natural entities (Article 93);

12) selling electricity, as a generator, to the final customer that does not have a balancing responsibility, without the supply licence (Article 94 Paragraph 3 Clause 1);

13) in its capacity of generator, failing to provide commissioning of generation facilities for the needs of ancillary services and balancing, upon request of transmission or distribution system operator (Article 94 Paragraph 3 Clause 1);

14) in its capacity of generator, failing to conclude contracts with transmission and distribution system operators regulating mutual rights and obligations regarding provision and use of ancillary services or balancing (Article 94 Paragraph 3 Clause 2);

15) in its capacity of generator, failing to conclude contracts which regulate the following: connection to transmission or distribution system with market operator, use of transmission or distribution system with system operator, participation at electricity market with market operator, financial settlement of balancing calculation with market operator, balancing responsibility and transmission system operator and power purchase with customers and energy undertakings which purchase electricity for their own needs (Article 94 Paragraph 3 Clause 3 herein);

16) in its capacity of generator, failing to make available all necessary data for operation and functioning of the system to transmission or distribution system operator (Article 94 Paragraph 3 Clause 4);

17) in its capacity of generator, failing to ensure system operators free of charge use of equipment in its installation which is in function of transmission or distribution system, as required to ensure electricity flows (Article 94 Paragraph 3 Clause 5);

18) in its capacity of electricity generator, upon a request of transmission or distribution system operator, failing to offer electricity for covering of losses in transmission and distribution system (Article 94 Paragraph 4);

19) failing to develop, as a generator, programme for measures for improving energy efficiency and annual report on results of its implementation, and to publish it on its own webpage (Article 94 Paragraph 1);

20) in its capacity of electricity supplier, failing to, at least once a year, make available on its bill or in promotional materials accompanying a bill, information to final customers about: data on renewable and other sources of energy per types from which it supplied final customers with electricity, and information about environmental impact in terms of carbon dioxide and other adverse emissions which occur during electricity generation, from all energy sources used for supply of customers with electricity in the previous year (Article 95, Paragraph 3);

21) failing, as a supplier which supplies a customer - producer referred to in Article 96 Paragraph 1 hereof, to buy out surplus of generated electricity which is measured on a monthly basis (Article 96 paragraph 2);

22) as distribution system operator, failing to submit to the Ministry and Agency data referred to in Article 96 paragraph 3 herein, not later than March 1st of the current year for the previous year (Article 97 paragraph 3);

23) failing to submit to the Agency, as a privileged producer, annual report about achievement of electricity generation plan for the previous year (Article 108 paragraph 1 clause 1);

24) as privileged generator, failing to submit to the system operator and to the market operator monthly and annual electricity generation plans for average meteorological conditions, as well as expected monthly deviations in electricity generation, based on measurements on the basis of which a potential of a renewable energy source was determined (Article 108 paragraph 1 clause 2);

25) as privileged generator, failing to maintain technical- technological characteristics and use an energy facility under the same conditions as those under which it obtained a status of privileged producer (Article 108 paragraph 1 clause 3);

26) as privileged generator, failing to immediately inform the Agency about all changes to technical-technological characteristics of a facility or a change to operational conditions (Article 108 paragraph 1 clause 4);

27) as privileged generator, failing to transfer to a market operator all the guarantees of origin for electricity generated until the moment of payment of the support, for which it received support (Article 108 paragraph 1 clause 5);

28) in its capacity of electricity transmission operator, purchasing and/or selling electricity, with the exception of the system balancing purpose, for ensuring of ancillary services and for covering of losses in the system (Article 111 paragraph 3);

29) in its capacity of electricity transmission system operator, failing to determine and conclude standard agreements, which regulate the following: connection to transmission system and transmission system use with transmission system users, procurement of ancillary services and balancing energy, activation of reserves, if needed, with service providers, procurement of electricity for covering of losses in the transmission system with bidders at the market and right of access to transmission system with interested entities for the purpose of use of cross-border transmission capacity (Article 112 Paragraph 1 Clause 7);

30) in its capacity of electricity transmission system operator, failing to conclude contracts on: participation at electricity market and own balancing responsibility with market operator and balancing responsibility of the balancing responsible party with market operator and balancing responsible party (Article 112 Paragraph 1 Clause 8);

31) in its capacity of electricity transmission system operator, failing to exchange necessary data and documents with a market operator and interconnected system operators (Article 112 paragraph 1 clause 13);

32) in its capacity of electricity transmission system operator, failing to give precedence in takeover of electricity generated from renewable energy sources or high-efficient cogeneration to the extent which will allow secure and reliable operation of electric power system (Article 112 paragraph 1 clause 14);

33) in its capacity of electricity transmission system operator, failing to establish rules for implementation of transparent mechanisms for congestions management and allocation of cross-border capacities for transmission of electricity based on market principles and failing to submit them to the Agency for approval after obtaining an opinion from the market operator (Article 112 paragraph 1 clause 19);

34) in its capacity of electricity transmission system operator, failing to register data as required to determine quality of delivered electricity, including information about outages, voltage parameters and other information, that are determined by the Agency in accordance with the rules referred to in Article 43 paragraph (4) clause 12) herein (Article 112 paragraph 1 clause 26);

35) in its capacity of electricity transmission system operator, failing to prepare a ten year development plan for the transmission system that is updated every year with time schedule of investment projects and failing to submit it to the Agency for consent not later than July 1<sup>st</sup> of the year which precedes the first year of the period which the plan refers to (Article 112 paragraph 1 clause 27);

36) in its capacity of electricity transmission system operator, failing to prepare a three year investment plan, in accordance with spatial-planning documents and failing to submit it to the Agency for consent, as an integral part of a ten year plan (Article 112 paragraph 1 clause 28);

37) in its capacity of electricity transmission system operator, failing to establish a methodology for determining charges for connection to electricity transmission system and failing to submit it to the Agency for approval (Article 112 paragraph 1 clause 31);

38) in its capacity of electricity transmission system operator, failing to determine charges for connection to the transmission system on the basis of methodology from the Article 44 paragraph (1) clause 1) herein, and failing to submit them to the Agency for approval (Article 112 paragraph 1 clause 32);

39) in its capacity of electricity transmission system operator, failing to establish transparent and non-discriminatory rules for connection of new power plants to the transmission system and failing to submit them to the Agency for approval (Article 112 paragraph 1 clause 33);

40) in its capacity of electricity transmission system operator, failing to publish on its web page the approved methodologies and rules referred to in Article 112 hereof, as well as approved prices and charges, at least 15 days before their application (Article 112 paragraph 1 clause 34);

41) in its capacity of electricity transmission system operator, failing to, on a quarterly basis, report to the Agency on scheduled outages, for the purpose of maintenance of the transmission system, requirements of system users regarding development of the transmission system, functioning of the transmission system, concluded contracts on ancillary services and concluded contracts on electricity procurement for covering transmission losses, performance of the transmission system and concluded contracts (Article 112 paragraph 1 clause 36);

42) in its capacity of electricity transmission system operator, failing to submit, at the request of the Agency, a report on settlement of appeals and complaints of customers and system users (Article 112 paragraph 1 clause 37);

43) in its capacity of electricity transmission system operator, failing to keep register of complaints and appeals of customers and system users with pertaining documentation and adopted decisions (Article 112 paragraph 1 clause 39);

44) in its capacity of electricity transmission system operator, failing to submit all the necessary information to a new producer of electricity from renewable sources that wants to be connected to the system, including detailed estimate of costs regarding connection, procedure for

receipt, processing and making the decision about the request for connection (Article 112 paragraph 1 clause 40);

45) in its capacity of electricity transmission system operator, failing to collect charges for control of congestion and failing to participate in the mechanism for compensation of costs of cross-border transmission between transmission system operators (Article 112 paragraph 1 clause 42);

46) in its capacity of electricity transmission system operator, failing to control access of a third party and failing to provide explanations in case of denial of such an access (Article 112 paragraph 1 clause 43);

47) in its capacity of electricity transmission system operator, failing to submit to the Agency annual plan of maintenance of electricity transmission facilities, not later than December 15<sup>th</sup> of the current year for the subsequent year (Article 112 paragraph 1 clause 44);

48) in its capacity of electricity transmission system operator, failing to charge the same tariffs for use of the Distribution System for the same groups of system users on the territory of Montenegro relative to voltage levels, volumes, method of measuring or other criteria (Article 115 paragraph 3);

49) in its capacity of electricity transmission system operator, failing to give precedence to takeover of electricity generated from renewable energy sources or high-efficient cogeneration to the extent which will not endanger safe and reliable operation of electric power system (Article 116 paragraph 1 clause 3);

50) in its capacity of electricity distribution system operator, failing to provide Distribution System users with clear and precise information regarding conditions for service, particularly with reference to access to Distribution System, which include technical agreed and available capacities (Article 116 paragraph 1 clause 4);

51) in its capacity of electricity distribution system operator, failing to prepare ten year development plan for the Distribution System, that is updated every fifth year, and failing to submit it to the Agency for approval, not later than July 1<sup>st</sup> of a year preceding the first year of the period to which the plan refers (Article 116 paragraph 1 clause 5);

52) in its capacity of electricity distribution system operator, in accordance with the needs of the system users, in line with spatial-planning documents, failing to prepare a three year investment plan, that is updated every year and failing to submit it to the Agency for approval not later than July 1<sup>st</sup> of the year preceding the first year of the period which the plan refers to, as an integral part of a ten year development plan for the distribution system (Article 116 Paragraph 1 Clause 6)

53) in its capacity of the Electricity Distribution System Operator failing to sign contracts which regulate the following: connection to the transmission system and use of the transmission system with the Transmission System Operator, participation at the market with the Market Operator, balancing responsibility with the system operator and the Market Operator and financial settlement of balancing calculation with the Market Operator (Article 116, paragraph (1), clause 8));

54) in its capacity of the Electricity Distribution System Operator failing to define and conclude formular contracts which regulate the following: connection to the distribution system and use of the distribution system with system users and procurement of electricity for covering distribution losses with the market bidders (Article 116, paragraph (1), clause 9));

55) in its capacity of the Distribution System Operator failing to meter electricity consumption with final customers in the area where services are provided and/or failing to properly maintain metering systems, in order to secure accurate metering of electricity consumption (Article 116, paragraph (1), clause 10));

56) in its capacity of the Distribution System Operator failing to ensure at their own expense metering devices and installation thereof with final customers (Article 116, paragraph (1) clause 11));

57) in its capacity of the Distribution System Operator failing to define the Methodology for setting charges for connection to the electricity distribution system and failing to submit it for the Agency's approval (Article 116 paragraph 1 clause 12);

58) in its capacity of the Electricity Distribution System Operator, failing to set charges for connection to the distribution system based on the Methodology referred to in Article 44, paragraph (1), clause 1) of this Law, and failing to submit them for the Agency's approval (Article 116 paragraph 1 clause 13);

59) in its capacity of the Electricity Distribution System Operator failing to establish and submit for the Agency's approval the Rules for implementation of the procedure of identification,

determination and prevention of unauthorized use of electricity by the Distribution System Operator (Article 116, paragraph (1) clause 14);

60) in its capacity of the Electricity Distribution System Operator failing to set and submit for the Agency's approval the Methodology which regulates the manner of calculation and collection of electricity taken over in an unauthorized manner (Article 116, paragraph (1), clause 15));

61) in its capacity of the Electricity Distribution System Operator failing to set prices for providing additional maintenance services that are not contained in the price for use of the distribution system and failing to submit them for the Agency's approval (Article 116 paragraph (1), clause 16));

62) in its capacity of the Electricity Distribution System Operator failing to set prices for provision of additional services of the connection maintenance owned by the customer and failing to submit them for the Agency's approval (Article 116 paragraph 1 clause 17);

63) in its capacity of the Electricity Distribution System Operator failing to keep the registry of customer and system user complaints (Article 116 paragraph 1 clause 23);

64) in its capacity of the Electricity Distribution System Operator failing to submit, at the Agency's request, the report on settlement of customer and system user complaints (Article 116 paragraph 1 clause 24);

65) in its capacity of the Electricity Distribution System Operator failing to define standard profiles of consumption for customers connected to the distribution system and failing to award appropriate profile to each customer (Article 116, paragraph (1), clause 26));

66) in its capacity of the Electricity Distribution System Operator failing to quarterly report to the Agency about the following: planned disconnections aimed at maintaining the distribution system, requirements of the system users for the distribution system development, operation of the distribution system and signed contracts on procurement of electricity for covering distribution losses (Article 116, paragraph (1), clause 28));

67) in its capacity of the Distribution System Operator failing to publish on its web page, not later than March of the current year, the preceding year's report on the quality of electricity supply referred to in Article 43, paragraph (4) clause 12) herein (Article 116, paragraph (4));

68) in its capacity of the Distribution System Operator failing to submit to the Agency quarterly report not later than within 30 days from the date of a quarter expiry, i.e. not later than March 01 of the current year failing to submit the annual report for the preceding year on implementation of the approved investments which contains assessment of the need to update the Plan referred to in Article 116 paragraph (1) clause 6) herein, depending on the new requirements of system users (Article 116, paragraph 5);

69) in its capacity of the Distribution System Operator failing to connect the new customer to the Closed Distribution System, or failing to ensure increase of the existing customer's capacity, on condition technical capacity of the Closed Distribution System allows that (Article 118, paragraph 6);

70) in its capacity of the Closed Distribution System Operator failing to pay for use of the transmission and/or distribution system to the competent system operator it has been connected to (Article 118, paragraph 8);

71) in its capacity of the Electricity Closed Distribution System Operator failing to sign contracts on mutual rights and obligations regulating the following: connection to the system to be signed with the system operator it has to be connected to, use of the system with the system operator it has to be connected to as well as on procurement of electricity for covering system losses and supplying its customers (Article 121, paragraph 1);

72) in its capacity of the Closed Distribution System Operator failing to set and sign formular contracts with system users which regulate the following: connection to the closed distribution system and use of the closed distribution system (Article 121, paragraph 2);

73) in its capacity of the Distribution System Operator failing to act in accordance with Article 123, paragraph (4) herein;

74) in its capacity of the market participant, and prior to conclusion of the first market sale agreement failing to conclude contract on market participation with the market operator, within 15 days from the date of delivery by the Market Operator (Article 124, paragraph (5));

75) in its capacity of the market participant failing to provide bank guarantee payable on first demand, without the right of objection or any other means of security to secure payment in favour of the Market Operator and/or failing to conclude the contract on balancing responsibility with the

Market Operator and the Transmission System Operator, within 15 days from the date of delivery by the Market Operator (Article 125 paragraph 4);

76) in its capacity of the balancing responsible entity failing to sign the contract on financial settlement of balancing calculation with the market operator, within 15 days from the date of delivery by the market operator (Article 125 paragraph 5);

77) in its capacity of the Transmission System Operator failing to submit to the Market Operator once a month detailed information about the Montenegrin transmission system balancing (Article 126 paragraph 2);

78) in its capacity of an energy undertaking failing to ensure to the market operator continuous and unlimited access to data which are necessary for performance of the activity of the Market Operator, in line with the Market Rules, by protecting commercially sensitive information (Article 129 paragraph 8);

79) in its capacity of the Electricity Transmission or Distribution System Operator failing to ensure availability of ancillary services and provision of services of balancing based on the minimum cost principle (Article 132 paragraph 1);

80) in its capacity of electricity transmission or distribution system operator, failing to enter into contracts on provision of ancillary and balancing services (Article 132 paragraph (2));

81) in its capacity of vertically integrated undertaking, failing to ensure that the activity of the distribution system operator is performed exclusively in independent legal entity which does not perform any other energy activity (Article 135, paragraph 1);

82) in its capacity of energy undertaking carrying out several energy activities or, further to an energy activity, carries out a non-energy activity, provided that one of those activities is governed in line with this Law, failing to keep separate business books and prepare separate financial statements for each energy activity (Article 138 paragraph 1);

83) in its capacity of energy undertaking providing public services, failing to keep separate business records and to compile separate financial reports for each public service provided (Article 138 paragraph 2);

84) in its capacity of the energy undertaking referred to in Article 138 paragraphs (1) and (2) herein, failing to prepare separate financial statements, namely: balance sheet, income statement and cash flow statement for each energy activity (Article 138 paragraph 3);

85) In its capacity of the distribution system operator, failing to appoint the person authorized to monitor implementation of programme of measures related to non-discriminatory conditions for access to the system (Article 139 paragraph 2);

86) In its capacity of the gas transmission system operator, failing to ensure participation in construction of sufficient cross-border capacities to integrate the gas transmission system of Montenegro with the systems of neighbouring members of the Community and/or EU members with adjustment to all the economically justified and technically feasible requirements for capacity, including the safety in gas supply (Article 142 paragraph 1 clause 9);

87) In its capacity of the gas transmission system operator, failing to publish on its web page the approved charges for connection to transmission system, charges for connection of gas from renewable sources, charges for transmission system use and charges for ancillary services, at least 15 days prior to their application (Article 142 paragraph 1 clause 11);

88) In its capacity of the gas transmission system operator, failing to establish the methodology for determining the charges for connection to the gas transmission system referred to in Article 44, paragraph (1) clause 1) and rules referred to in Article 44, paragraph (2), clauses 1) and 4) herein and failing to submit it to the Agency for approval (Article 142 paragraph 1 clause 12);

89) In its capacity of the gas transmission system operator, failing to determine prices and charges compliant with the methodology referred to in Article 44, paragraph (1) clause 12) herein and failing to submit them to the Agency for approval (Article 142 paragraph 1 clause 13);

90) In its capacity of the gas transmission system operator, failing to prepare a ten-year development plan for the Gas Transmission System, which is compliant with the Energy Development Strategy, the Action Plan and the Plan for development of the neighbouring transmission systems, which shall be updated at least once each three years and failing to submit it to the Agency for approval (Article 142 paragraph 1 clause 14);

91) In its capacity of the gas transmission system operator, failing to prepare a three-year investment plan, that is an integral part of a ten-year development plan for the Gas Transmission System, which considers requirements of system users according to the ten-year development plan

for gas distribution system and the spatial-planning documents and failing to submit it to the Agency for approval (Article 142 paragraph 1 clause 15);

92) In its capacity of the gas transmission system operator, failing to keep the register of complaints and appeals of customers, system users and market participants, together with supporting documents and adopted decisions (Article 142 paragraph 1 clause 19);

93) In its capacity of the gas transmission system operator, failing to submit, at the request of the Agency, a report on settlement of appeals and complaints of customers, system users and market participants (Article 142 paragraph 1 clause 20);

94) In its capacity of the gas distribution system operator, failing to carry out distribution of gas under conditions and within a territory specified in the license, (Article 144 Paragraph 1);

95) In its capacity of the gas distribution system operator, failing to connect a customer located within the distribution area, at the request of the latter, to the gas distribution system within the available capacities and provided that technical and commercial requirements are met (Article 145 Paragraph 1 Clause 2);

96) In its capacity of the gas distribution system operator, failing to provide the distribution system users with clear and precise information about conditions for service providing, and especially with information regarding the access and use of the distribution system, including technical, contractual and available capacities (Article 145 Paragraph 1 Clause 5);

97) In its capacity of the gas distribution system operator, failing to establish the methodology for determining charges for connection of users to the renewable gas distribution system referred to in Article 44, paragraph (1), clause 1) which reflects costs as well as rules referred to in Article 44, paragraph (2), clause 2) herein and submit them to the Agency for approval (Article 145 Paragraph 1 Clause 6);

98) In its capacity of the gas distribution system operator, failing to prepare a ten-year development plan for the Gas Distribution System, which is compliant with the Energy Development Strategy, the Action Plan and the 10-year Development Plan for the Gas Transmission System, which shall be updated at least once each three years and failing to submit it to the Agency for approval (Article 145 Paragraph 1 Clause 8);

99) In its capacity of the gas transmission and distribution system operator, failing to prepare codes for metering on metering points and failing to submit those to the Agency for approval (Article 147 Paragraph 3);

100) In its capacity of the distribution system operator, failing to make consumption-related data available to customers in an easily understandable and comparable form, without delay and any charge whatsoever, (Article 148 Paragraph 3);

101) In its capacity of the supplier in the process of change of supplier, failing to undertake supply, at the request of a customer, within 15 days following the date of request submission (Article 202 Paragraphs 1 and 2);

102) In its capacity of a supplier who has entered the process of contract termination, failing to supply the customer up until the finalisation of the process of change of the supplier, except in case referred to in Article 190 paragraph (2) herein (Article 202 paragraph 7);

103) In its capacity of an energy undertaking carrying out energy related activities referred to in Article 3 paragraph 1 clauses 14, 15, 28 and 29 herein, trade petroleum derivatives and/or biofuels of inadequate quality (Article 215 paragraph 1);

104) In its capacity of coal supplier for electricity generation and the electricity producer, failing to conclude contract on coal sales and purchase in line with the annual energy balance referred to in Article 13 paragraph (2) herein until December 15 of the current year for the ensuing year (Article 218 paragraph 1);

(2) A fine ranging from €300 to €2,000 shall be imposed on responsible person in the legal entity and natural person for an offence referred to in the Paragraph 1 of this Article.

(3) A fine ranging between €1,500 and €6,000 shall be imposed on an entrepreneur for an offence referred to in the Paragraph 1 of this Article.

As for the offence referred to in paragraph (1) clause 103 of this Article, the corresponding fine may be reinforced by a preventive measure of prohibition of performing activity of petroleum products and biofuels trading, in the period from two to six months.

## **Article 232**

(1) Legal person shall be fined for an offence with the amount ranging from €2,500 to €15,000, should they:

1) in the capacity of electricity or gas transmission or distribution system operator, fail to issue the consent for connection of facility to electricity or gas transmission or distribution system and/or fail to give priority to connection of facilities generating energy from renewable sources, if there are no technical constraints in the transmission or distribution system, (Article 175 paragraph (2));

2) in the capacity of electricity or gas transmission or distribution system operator, refuse to issue the consent for connection of a new electricity generating facility, storage system, LNG or regasification facility, in its capacity of a large commercial customer, based on future restrictions to the available system capacities or based on possible additional costs related to necessary increase in the system capacity (Article 175 paragraph 3);

3) in the capacity of electricity or gas transmission or distribution system operator, fail to decide upon request for connection of a facility to the electricity or gas transmission or distribution system within 15 days following the date of receipt of the request, except within 120 days following the date of receipt of the request for the following facilities: electricity generation or industrial facilities connected to 110 kV or higher voltage level, which requires preparation of the system analyses as well as the distribution generation and facilities of customers connected with non-standard connection which require preparation of the study on connection to the system (Article 176 Paragraphs (2) and (3));

4) in the capacity of electricity or gas transmission or distribution system operator, fail to enter into contract on connection with a system user within 15 days following receipt of the information that the requestor has fulfilled the necessary conditions referred to in Article 176 paragraph (1) herein (Article 178 paragraph 1);

5) in the capacity of supplier, prior to beginning of supplying the final customer, notify the system operator of the contract, i.e. of each change to the contract and submit the data about the final customer, point of energy acceptance and delivery, type of contract and period of supply (Article 182 paragraph 2);

(2) A fine ranging from €250 to €1,500 shall be imposed on responsible person in the legal person and natural person for an offence referred to in the paragraph (1) of this Article.

(3) A fine ranging between €1,200 and €5,500 shall be imposed on an entrepreneur for an offence referred to in the paragraph (1) of this Article.

### **Article 233**

(1) A fine ranging from €2,000 to €10,000.00 shall be imposed on a legal person for an offence, should they:

1) In the capacity of energy or gas undertaking carrying out activities pertaining to the area of electricity, heat energy or gas, fail to submit, upon request of the Agency, data, information and documents within the deadline set by the Agency, i.e. fail to provide access to business documents necessary for the control of its operation (Article 50);

2) In the capacity of final customer or user of the facility belonging to the final customer, forbid or prevent the authorised persons of energy undertaking from accessing the metering devices and installations, as well as the point of connection for the purpose of reading, verifying proper functioning, elimination of faults, replacement and maintenance of devices and relocation of metering points or suspension of electricity supply in cases of unauthorized electricity consumption or unsettled electricity bills, in line with defined deadlines and conditions (Article 204 Paragraph 4);

3) In the capacity of energy undertaking, trade with petroleum products and/or biofuels by the price exceeding maximum retail price regulated by the Government (Article 215 Paragraph 4);

4) In the capacity of owner, i.e. holder of the real estate, forbid energy undertakings to freely access the real estate where energy facilities are located or built, in order to carry out construction and maintenance works and control of proper condition of facilities, devices, installations or equipment and to carry out other necessary works (Article 219 paragraph 1).

5) plant trees and other vegetation on land above and beneath energy facility or in a distance wherefrom safety of energy facility can be endangered (Article 221 Paragraph 2);



6) undertaking works or other activities on real estate located beneath, above and next to an energy facility, which prevent or jeopardize the operation and functioning of the energy facility, without prior permit of the energy undertaking who is the owner, i.e. user of that energy facility (Article 221 Paragraph 4);

(2) A fine ranging from €200 to €1,500 shall be imposed on responsible person in the legal person and natural person for an offence referred to in paragraph 1 of this Article.

(3) A fine ranging between €1,000 and €5,000 shall be imposed on an entrepreneur for an offence referred to in paragraph 1 of this Article.

## **XXIV TRANSITIONAL AND FINAL PROVISIONS**

### **Initiated procedures**

#### **Article 234**

Procedures promulgated before entry into force of this Law shall be ceased in accordance with regulations which have been valid until the day of entry into force of this Law, unless otherwise defined by the Law.

### **Adoption of regulations**

#### **Article 235**

(1) The regulations pursuant to the authorizations referred to in this Law shall be promulgated within a period of 12 months following the day of entry into effect of this Law.

(2) Until adoption of regulations referred to in Paragraph 1 herein are promulgated, the regulations that were valid prior to entry into effect of this Law shall apply.

(3) Technical regulations promulgated until entry into force of this Law shall apply until promulgation of technical regulations pursuant to the authorizations defined by this Law.

(4) Rulebook on the quality and control of quality of liquefied fuels of petroleum origin ("Official Gazette of Montenegro" 26/15), adopted on the basis of the Article 173 Paragraph 4 of the Energy Law ("Official Gazette of Montenegro" No. 28/10, 6/13 and 10/15) and Article 6 Paragraph 1 of the Law on Technical Requirements for Products and Conformity Assessment ("Official Gazette of Montenegro" No.53/11) shall remain effective after coming into force of this Law.

### **Implementation of development documents**

#### **Article 236**

(1) Energy policy of Montenegro until 2030, Strategy of Energy Development of Montenegro until 2030, Nacional Action Plan on use of energy from renewable sources until 2020, local energy plans and energy balances passed on the basis of the Energy Law ("Official Gazette of Montenegro" No. 28/10, 6/13 and 10/15) shall be applied until adoption of new development documents in line with this Law.

(2) Action Plan for development and use of district heating and/or cooling and high-efficiency cogeneration referred to in Article 20 Paragraph 4 herein, shall be passed within the period of two years following the day of coming into force of this Law.

### **Deadlines for adjustment of general acts of the Agency**

#### **Article 237**

(1) Until establishment of the methodologies pursuant to authorizations referred to in this Law, the methodologies established pursuant to the Energy Law („Official Gazette of the Republic of Montenegro“, No. 28/10, 6/13 and 10/15) shall apply.

(2) The Agency shall make its Articles of Association compliant with this Law within 60 days following the date of effectiveness hereof.

(3) The Agency shall make general documents referred to in Article 43 Paragraph 1 Clause 1 Line 1, Clauses 4, 5 and 6, Paragraph 4 Clauses 5,7,8,11 and 13, Paragraph 8 Clauses 1,2 , 4 and 5 herein which refer to electricity with provisions of this Law within six months following the date of effectiveness hereof.

(4) The Agency shall make general documents referred to in Article 43 Paragraph 1 Clauses 2 and 3, Paragraph 4 Clauses 1 to 4, 6,9 and 10, Paragraph 8 Clause 3 herein which refer to electricity with provisions of this Law within 12 months following the date of effectiveness hereof.

### **Minimum standards regarding quality of electricity supply**

#### **Article 238**

(1) The Agency shall pass the rules on minimum quality of electricity delivery and supply within the period of 12 months following the day of coming into force of this Law, with the exception of rules referred to in the Article 43 Paragraph 6 Clause 3 herein, which it shall pass not later than two years following the day of coming into force of this Law.

(2) Transmission and distribution system operators and suppliers shall establish systems for collection and submission of data on quality of supply to the Agency, within the period of 12 months following coming into force of this Law.

(3) Article 43 Paragraph 6 Clause 4 herein shall be applied after expiration of two-year period following adoption of Rules on the minimum quality of electricity and gas delivery and supply.

### **Positions**

#### **Article 239**

(1) Members of the Board of the Agency appointed in line with the Energy Law ("Official Gazette of Montenegro" No. 28/10, 6/13 and 10/15) shall retain their positions until expiry of their mandate.

(2) On the day of coming into force of this Law, the member of the Board of the Agency who holds the position of the Chairman of the Board shall retain the position until election of the Chairman of the Board in line with this Law.

(3) Director of the Agency shall be appointed in line with the Energy Law ("Official Gazette of Montenegro" No. 28/10, 6/13 and 10/15) shall retain the position of the Chief Executive Officer until expiry of the mandate.

(4) Deputy Director of the Agency appointed in line with the Energy Law ("Official Gazette of Montenegro" No. 28/10, 6/13 and 10/15) shall retain the position of deputy Chief Executive Officer until expiry of mandate.

(5) Contest for election of the Chairman of the Agency's Board shall be announced not later than 120 days prior to expiry of the mandate to a member of the Board whose mandate is the first to expire.

### **Funds that remain at the end of the year**

#### **Article 240**

(1) The funds that remain on the Agency's account after end of the business year, until and including December 31<sup>st</sup>, 2015 represent the revenues of the Budget of Montenegro.

(2) Provision of Article 51 Paragraph 7 of this Law shall be applied from January 1<sup>st</sup>, 2016.

### **Compliance of business operations of energy undertakings**

#### **Article 241**

(1) Not later than 12 months following entry into force of this Law, energy undertakings carrying out energy activity on the date of effectiveness of this Law shall make their business operations compliant with this Law.

(2) Licences issued until the day of coming into force of this Law shall be valid until expiry of the period for which they have been issued.

### **Establishing legal entity and take-over of infrastructure**

#### **Article 242**

(1) Vertically integrated entity which, on the date of entry into effect of this Law, carried out the activity of the electricity distribution shall, within three months following entry into force of this Law, establish a new legal entity which is to continue carrying out activities of electricity distribution, and shall transfer to such new legal entity all rights and obligation arose until the day of establishment.

(2) Legal entity referred to in the Paragraph 1 hereof shall take over carrying out activities of electricity distribution from the day of its establishment.

(3) Transmission system operator and electricity generator shall perform takeover of installations and equipment which are part of the transmission system in line with this Law, within the period of 12 months following the day of entry into force of this Law.

(4) Distribution system operator and transmission system operator shall perform takeover of installations and equipment which are part of the distribution system in line with this Law, within the period of 12 months following the day of entry into force of this Law.

(5) Mutual rights and obligations referred to in the Paragraphs 3 and 4 hereof in taking over installations and equipment shall be regulated by contracts concluded by electricity generator and transmission system operator, i.e. transmission system operator and distribution system operator.

(6) System operator shall, within six months following entry into force of this Law, define the programme referred to in the Article 186 Paragraph 3 herein and shall submit it to the Agency for approval.

### **Deadline for compliance of general documents of energy undertakings**

#### **ARTICLE 243**

(1) Transmission or distribution system operator shall comply general documents referred to in the Article 44 Paragraph 1 Clauses 1 and 3, Paragraph 2 Clauses 1,2,3,9 and 10 and plans referred to in Article 46 Paragraph 1 Clauses 1 to 4, Paragraph 2 Clause 1 herein, referring to electricity, with provisions of this Law within six months following the day of entry into force of this Law and shall submit them to the Agency for approval.

(2) Transmission or distribution system operator shall comply general documents referred to in the Article 44 Paragraph 2 Clauses 7 and 11 and the programme of measures referred to in the Article 46 Paragraph 2 Clause 2 hereof which refer to electricity, with provisions of this Law within the period of 12 months following entry into force of this Law and shall submit them to the Agency for approval.

(3) Transmission system operator, distribution system operator and electricity market operator shall define rules referred to in Articles 114, 122 and 130 herein and submit them to the Agency for approval not later than six months following the day of entry into force of this Law.

### **Revised Study of losses**

#### **Article 244**

System operators shall submit the Study of losses referred to in the Article 64 herein, based on final energy and other data until and including 2014 to the Agency not later than September 1<sup>st</sup>, 2016, revised by independent expert institution in the field of energy.

## **Consumption profile**

### **Article 245**

(1) Electricity distribution system operator shall define standard consumption profiles referred to in the Article 116 Paragraph 1 Clause 26 herein within six months following the day of entry into force of this Law, while the supplier shall indicate standard consumption profile on the bill for consumed electricity within the period of three months following the day of defining the profile.

(2) Electricity distribution system operator shall develop and publish temporary profile of vulnerable customers consumption within the period of three months following submission of data on determining vulnerable customers by state authorities competent for social and health care.

## **Deadlines for conclusion of contracts on connection**

### **Article 246**

(1) Transmission system operators and transmission system users, with exception of suppliers, shall enter into connection contract in accordance with this Law, within six months following the entry into effect of this Law.

(2) Electricity distribution system operator shall enter into connection contracts with the final customers in accordance with this Law, within the period of 12 months following of entry into force of this Law.

(3) Customer which is connected to distribution system and which does not fulfils conditions for conclusion of the contract referred to in Article 178 Paragraph 1 herein shall conclude a contract on temporary connection to distribution system, not later than December 31<sup>st</sup>, 2017.

(4) Contract referred to in the Paragraph 3 hereof can be concluded if the customer fulfils all conditions defined by technical regulations, which is proved by appropriate certificate on proper functioning of installation and connection.

(5) Customer referred to in the Paragraph 3 hereof shall conclude a contract on connection referred to in the Article 178 Paragraph 1 herein within the period of 30 days following the day of creating conditions for conclusion of the contract.

(6) Na osnovu privremenog ugovora iz stava 3 ovog člana može da se zaključi ugovor o snabdijevanju i steknu prava i obaveze koja ima kupac u skladu sa ovim zakonom. On the basis of temporary contract referred to in the Paragraph 3 hereof, contract on supply can be signed and the customer can obtain rights and obligations in line with this Law.

## **Implementing advanced metering system**

### **Article 247**

(1) Electricity distribution system operator shall implement the advanced electricity metering system (smart meters) further to implementation of the economic analysis of all expenses and benefits for the market and the customers until January 1<sup>st</sup>, 2022.

(2) For the purpose of implementing obligations referred to in Paragraph 1 of this Article, distribution system operator shall equip at least 85% of customers with means of modern metering system until January 1<sup>st</sup>, 2019.

(3) Electricity distribution system operator shall ensure compliance of the metering system referred to in the Paragraph 1 hereof and shall apply standards and optimal expert solutions.

(4) Gas distribution system operator shall implement the advanced gas consumption metering system in the process of developing distribution system and connection of customers, together with the implementation of analyses of all costs and benefits for market and customers.

(5) Gas distribution system operator shall ensure compliance of the metering system referred to in the Paragraph 4 hereof and shall apply standards and optimal expert solutions.

- (6) The Agency shall control implementation of obligations referred to in this Article.

### **Continuation of supply**

#### **Article 248**

(1) Suppliers shall proceed to supply customers they have supplied until the day of entry into force of this Law.

(2) Supplier which had the status of public supplier until the day of entry into force of this Law shall proceed to supply customers in line with provisions of this Law within vertically integrated entity.

(3) Supplier referred to in the Paragraph 2 hereof shall carry out unbundling of accounts in line with the Article 138 herein within the period of three months following the day of entry into force of this Law.

(4) Until December 31<sup>st</sup>, 2016, the supplier referred to in the Paragraph 2 hereof shall, for electricity customers, apply electricity prices and electricity prices for covering of losses in transmission and distribution system which were valid on the day of entry into force of this Law.

### **Time schedule of price setting**

#### **Article 249**

(1) Following January 1, 2017, the Supplier referred to in Article 248 Paragraph 4 herein shall be in a position to change prices for households and small sized non-household customers, in line with changes of prices on the market, under the following restrictions:

1) on the basis of increase of electricity price, prices for final customers cannot be increased above weighted electricity price realized in the previous year and futures for the following year on reference energy exchange nominated by the Agency, and cannot exceed 7% in 2017 and 6% in 2018 and 2019;

2) if the supplier, in case of market disturbances, has an intention to change electricity prices for customers which are not limited referred to in the Clause 1 of this Paragraph or under different rates for different categories of customers, the supplier shall prepare a revenue change evaluation for each category of customers and submit it to the Agency for approval;

3) prices referred to in Clause 1 may be changed in a different time schedule provided that each market segment comprises a liquid market where prices are freely created, whereas the supplier referred to in Article 248 Paragraph 4 herein does not hold a dominant position on that same market segment;

4) dominant position on the relevant market referred to in Clause 3 of this Paragraph implies dominant position within the meaning of the law governing competition, while the segment of relevant market is part of the market where electricity price is set for each individual category of customers;

5) liquid market referred to in Clause 3 of this paragraph implies that suppliers, actively performing their business operations, present on the market are not related entities either in terms of ownership or management, nor mutually or with supplier referred to in Article 248 Paragraph 4 herein and none shall have a predominant position;

6) should in the period until appearance of a liquid market referred to in Clause 3 of this Paragraph, the supplier referred to in Article 248 Paragraph 4 herein generate profit at rate higher than the average rate of return as indicated in balances of transmission operator and distribution operator, the Agency shall instruct the supplier to set prices whereby it shall ensure generating of profit in the maximum of the average rate of return for regulated activities.

(2) Restriction referred to in Paragraph 1 Clause 1 refers to the increase of prices for the final customer, while calculation excludes increase of prices for customers which resulted from

increase of prices for use of transmission system or distribution system as well as charges for functioning of the market operator.

(3) In case that prices for final customers exceed restriction referred to in Paragraph 1 of this Article, the Agency or an interested party can initiate the procedure before the authority competent for protection of competition with the aim of protecting the customers

(4) Prior to initiation of the procedure referred to in Paragraph 3 hereof, the Agency can examine revenues and expenditures of the supplier as well as reasons for violation of restriction referred to in Paragraph 1 hereof and evaluate justifiability of the change.

(5) Should the Agency establish that the increase referred to in Paragraph 3 of this Article was unjustified, the Agency shall undertake measures in line with Article 48 Paragraph 7 herein.

### **Deadline for implementation of restrictions**

#### **Article 250**

(1) Restrictions referred to in the Article 249 Paragraph 1 herein shall be applied by not later than the end of 2019.

(2) Restrictions referred to in Paragraph 1 hereof can be prolonged for the period of three years if the Agency estimates that conditions for liquid market referred to in the Article 249 Paragraph 1 Clause 3 herein.

(3) The Agency shall inform the competent authority of the Community about introduction of restrictions referred to in the Article 249 Paragraph 1 herein and every second year on changes of the mentioned restrictions.

### **Continuation of supply of last resort and vulnerable customers**

#### **Article 251**

(1) The legal person carrying out the activity of public supply until the date of entry into effect of this Law carry out activity of the supplier of last resort and vulnerable customer until selection of the supplier in line with the Article 200 herein, through separate account.

(2) The Government shall initiate the procedure for selection of the supplier referred to in the Article 200 herein not later than 12 months following the day of coming into force of this Law.

(3) Until setting electricity price for customers in line with the Methodology for setting prices applied by the supplier of last resort and vulnerable customers, the price which was applied on the day of entry into force of this Law shall be applied for the same category of customers.

(4) Until setting electricity price for customers in line with the Methodology for setting prices applied by the supplier of last resort and vulnerable customers, the methodology for setting the tariffs for supplier of last resort shall be applied.

(5) Charge for supply applied by the supplier of last resort and vulnerable customers, which was effective on the day of entry into force of this Law, shall be applied until selection of a supplier during the procedure referred to in the Article 200 herein.

### **Deadline for compliance of development documents of local self-government units**

#### **Article 252**

Local self-government units shall adopt local energy plans in line with this Law, not later than two years following entry into force of this Law.

### **Passing regulations related to heat**

## **Article 253**

(1) Competent authority of local government authority shall promulgate a regulation about conditions and manner of supply with thermal energy for district heating and/or cooling or for industrial use within 12 months from the date of entry into effect of this Law.

(2) Thermal energy distributors shall promulgate acts under their authority within six months following promulgation of the regulation referred to in Paragraph 1 hereof.

## **Consigning of activities related to gas**

## **Article 254**

(1) For the purpose of creating conditions for planning, implementation of plans and financing construction of transmission and distribution infrastructure for gas, as well as creating condition for introduction of gas market, the Government shall consign activities related to gas system operator to a legal entity in line with the Law until construction of gas infrastructure or until obtaining certificate in line with this Law.

(2) The Agency shall define methodologies for gas referred to in Article 43 Paragraph 1 Clauses 1 and 2 herein within three months prior to commissioning of certain infrastructure.

(3) Operator referred to in the Paragraph 1 hereof shall submit general acts to the Agency for approval, on the basis of authorizations defined by this Law within six months prior to commissioning of gas infrastructure.

(4) Gas system operators shall obtain a licence for carrying out activities not later than three months prior to commissioning of gas infrastructure.

(5) Provisions of the Article 165 herein shall be applied after expiry of the calendar year in which the number of gas suppliers exceeds 100.000.

## **Professional exam**

## **Article 255**

(1) Person who owns a licence for designing, construction and supervision over construction of facilities in line with regulations on construction of facilities, person to whom the professional exam has been acknowledged, i.e. person who passed the professional exam for technical supervision and control of energy facilities in line with regulations which were valid until the day of coming into force of this Law, shall not be required to take a professional exam referred to in the Article 73 Paragraph 1 herein.

(2) Person who has passed professional exam for management of activities related to maintenance and use of energy lines and installations, as ewll as a person who has passed a professional exam of skills training for activities related to use and control of energy facilities in line with regulations which were valid until the day of entry into force of this Law shall not be required to take a professional exam referred to in the Article 73, Paragraph 2, 3 and 4 herein

(3) Person who on the day of entry into force of this Law have at least 10 years of occupational work experience on activities related to technical supervision and control shall not be required to take a professional exam referred to in the Article 73 herein.

(4) Provision referred to in the Article 26 herein shall be applied from January 1<sup>st</sup>, 2017.

## **Reconstruction of old facilities**

## **Article 256**

Notwithstanding provisions referred to in the Article 78 Paragraph 2 Clause 1 herein, energy permit can be issued for reconstruction of facilities for electricity generation up to 10MW of capacity, which is more than 20 years old on the day of entry into force of this Law.

### **Termination of validity of provisions on strategic reserves of oil**

#### **Article 257**

Provision referred to in Article 216 of this Law shall cease to be valid on the day of coming into force of the Law which regulates the manner of provision of strategic reserves of oil and/or oil products.

### **Exemption from profitability analysis**

#### **Article 258**

Provision referred to in the Article 83 Paragraph 1 herein shall not be applied to Thermal Power Plant Pljevlja until 2024.

### **Competent authorities as of accession to European Union**

#### **Article 259**

As of accession of Montenegro to European Union:

- all rights and obligations of the Ministry, Agency and energy undertakings defined by this Law towards Energy Community shall refer to European Union;
- all rights and regulations of the Ministry, Agency and energy undertakings defined by this Law towards members of the Energy Community shall refer to members of European Union.

### **Process of certification until accession to European Union**

#### **Article 260**

Until accession of Montenegro to European Union in the process of certification of transmission system operator, in addition to conditions referred to in the Article 68 Paragraph 2 herein, the Ministry shall take into account rights and obligations arising from confirmed international treaty (Agreement on establishment of European Community).

### **Cessation of Law validity**

#### **Article 261**

Energy Law ("Official Gazette of Montenegro" No. 28/10, 6/13 and 10/15) shall cease to be valid on the day of entry into force of this Law.

### **Entry into force**

#### **Article 262**



This Law shall enter into force on the eighth day following its publishing in the "Official Gazette of Montenegro".

No: 15-1/15-1/41

EPA 905 XXV

Podgorica, December 29<sup>th</sup>, 2015

25<sup>th</sup> Convocation of the Parliament of Montenegro

PRESIDENT  
Ranko Krivokapić