

Act on Transmission of Electric Power, Regulator and System Operator of Bosnia and Herzegovina

Article 1 Objectives

This Act regulates establishment and work of a State Electricity Regulatory Commission, an Independent System Operator and a company for transmission of electric energy, and defines the functions and authorities of these bodies.

The objective of this Act is to lay the basis for unlimited and free trade and a continuous supply of electricity at defined quality standards for the enjoyment of the citizens of Bosnia and Herzegovina. The Act is guided by prevailing international practices and applicable Directives of the European Union. The Act is intended to facilitate and advance the creation of an electric energy market in Bosnia and Herzegovina and a regional electric market.

Article 2 Definitions

In this Act the following definitions shall apply:

- 1) “ancillary services” shall mean all services necessary for the operation of a transmission system.
- 2) “customers” shall mean distribution companies and end-use customers directly connected to the transmission grid.
- 3) “distribution” shall mean the transport of electricity on medium-voltage and low-voltage distribution systems with a view to its delivery to end-use customers.
- 4) “generation” shall mean the production of electricity.
- 5) “interconnectors” shall mean equipment used to link electricity systems.

- 6) “ISO” shall mean the Independent System Operator as described in Articles 3.3 and 5.
- 7) “licensee” shall mean a holder of a license as referred to in Article 7.
- 8) “producer” shall mean a natural or legal person generating electricity.
- 9) “SERC” shall mean the “State Electricity Regulatory Commission” as described in Articles 3.2 and 4.
- 10) “supply” shall mean the delivery and/or sale of electricity to customers.
- 11) “system user” shall mean any natural or legal person supplying, or being supplied by, a transmission or distribution system.
- 12) “trader” shall mean any natural or legal person trading electricity.
- 13) “transit” shall mean transportation of electricity with a view to fulfilling agreements concerning trade in electricity, where none of the parties to the agreement purchase or produce the electricity in question in Bosnia and Herzegovina.
- 14) “transmission” shall mean the transport of electricity on the high-voltage interconnected system with a view to its delivery to end-use customers or to distributors.

Article 3

Institutions of Bosnia and Herzegovina for Transmission Activities

3.1 Bosnia and Herzegovina Institutions

With respect to the transmission system in Bosnia and Herzegovina, regulation shall be carried out by the State Electricity Regulatory Commission (SERC), operation shall be carried out by the Independent System Operator (ISO), management of the transmission network and assets shall be carried out by the company for the transmission of electric energy (Elektroprenos Bosne i Hercegovine) and policy-making, in accordance with this Act, shall be carried out by the Ministry of Foreign Trade and Economic Relations (Ministry).

3.2 SERC

SERC shall be established, with powers and authorities set forth in Article 4.

3.3 The ISO

A single ISO for Bosnia and Herzegovina shall be established, with powers and authorities set forth in Article 5.

3.4 The Company for the transmission of electric energy

A single company for the transmission of electric energy for Bosnia and Herzegovina shall be established, with powers and authorities set forth in Article 6.

3.5 The Ministry

The Ministry shall be responsible for policy-making in accordance with this Act.

Article 4 State Electricity Regulatory Commission (SERC)

4.1 Establishment and Objectives

The market for electric power in Bosnia and Herzegovina is a single unified economic space. Licenses issued by the Entity regulatory bodies for trade in Bosnia and Herzegovina shall be valid in the territory of Bosnia and Herzegovina.

This law establishes the State Electricity Regulatory Commission, having jurisdiction and responsibility over transmission of electricity, transmission system operations and foreign trade in electricity in accordance with international norms in harmony with European Union standards.

Within fifteen (15) days of the adoption of this Act, the Council of Ministers shall issue a decision by which SERC shall be recognized as a legal entity, competent to fulfill its functions under this Act.

The headquarters of SERC shall be Sarajevo, Bosnia and Herzegovina.

SERC shall be an independent and a non-profit making institution with the status of a legal person under the laws of Bosnia and Herzegovina. SERC will act in accordance with the principles of objectivity, transparency and non-discrimination.

4.2 Scope of Responsibility

The scope of SERC's jurisdiction and authority shall include:

- (a) issuance, modification, suspension, revocation, and monitoring of and enforcing compliance with licenses pertaining to transmission, as set forth in Article 7.1;

- (b) approving, monitoring and enforcing tariffs and tariff methodologies for transmission and regulation of ancillary services;
- (c) consistent with the terms of this Act and the policies established by the Ministry, issuance of rules and regulations within its competency, including revision and approval of market rules and grid codes as prepared by the ISO, and terms and conditions for connection and access to network;
- (d) establishment, monitoring and enforcement of rules related to fair and non-discriminatory third party access to the transmission network;
- (e) monitoring and enforcement of conditions related to international trade in electricity, in particular ensuring that international technical requirements are met and adhered to;
- (f) establishing, monitoring and enforcing quality standards for electricity transmission and ancillary services;
- (g) coordinating and approving investment plans of the company for transmission of electric energy, including those plans related to the transmission network and the quality of electricity transmission;
- (h) licensing and monitoring the activities of the ISO, including the efficiency of mechanisms and methods to secure a system balance between demand and supply of electricity;
- (i) consumer protection to ensure:
 - (1) fair and non-discriminatory treatment;
 - (2) receipt of high-quality services;
 - (3) competition and the prevention of anti-competitive activity;
- (j) resolution of disputes among system users as set forth in further detail in SERC rules and regulations and other legal acts, consistent with its regulatory powers and applicable State laws;
- (k) creation and maintenance of competitive markets when practicable, and prevention and punishment of any predatory or anti-competitive conduct;
- (l) approving mechanisms to deal with congested capacity within the electricity transmission system;
- (m) regulation of standards of service, codes of conduct and accounting requirements for licensees;

- (n) cooperation with competent State and Entity authorities with respect to the scope of this Act;
- (o) issuance of annual reports and other public information about SERC consistent with SERC rules and regulations;
- (p) approval and monitoring of the plan developed by ZEKC, pursuant to Article 5.1, to transform ZEKC to the ISO by 31 March 2002;
- (q) approval and monitoring of the unbundling of assets, divestiture and formation of the single company for transmission of electric energy, pursuant to Article 6.1; and
- (r) approving and monitoring the rules and regulations developed by the ISO.

4.3 SERC Charter; Rules of Practice and Procedures; Rules and Regulations

Within thirty (30) days of the appointment of the Commissioners pursuant to Article 4.4, SERC shall issue its charter, and shall establish a schedule for the prompt issuance of rules and regulations pursuant to this Act. Such rules and regulations shall include such provisions as are necessary for SERC to fulfill its duties under, and to fulfill the purposes and intent of, this Act.

Within ninety (90) days of the appointment of the Commissioners pursuant to Article 4.4, SERC shall adopt rules of practice and procedure in accordance with the provisions, terms and authorities set forth by this Act. The rules of practice and procedure shall include provisions regarding, *inter alia*, SERC hearings and meetings, and the process of drafting, soliciting public comment on, and issuing rules and regulations.

All rules and regulations issued by SERC shall conform to the laws of Bosnia and Herzegovina and this Act. Prior to issuing rules and regulations, SERC shall publish and solicit public comment on draft rules and regulations, in accordance with its rules of practice and procedure.

Unless a different date is specified in SERC rules and regulations, all rules and regulations of SERC shall be effective eight (8) days after publication in the manner that SERC shall prescribe. Orders of SERC shall be effective on the date and in the manner that SERC shall prescribe, in accordance with Bosnia and Herzegovina law, and shall remain in effect unless changed by SERC or modified by the court of competent jurisdiction under the laws of Bosnia and Herzegovina.

4.4 Appointment of SERC

SERC shall be composed of three (3) Commissioners, two (2) from the Federation of Bosnia and Herzegovina and one (1) from Republika Srpska, reflecting the equal representation of the constituent people of Bosnia and Herzegovina.

The process of nomination and appointment shall be made in a prompt manner.

Upon the recommendations of the respective Entity Governments, the Parliament of the Federation of Bosnia and Herzegovina and the Parliament of Republika Srpska, as appropriate, shall nominate the Commissioners of SERC. The Parliament of the Federation of Bosnia and Herzegovina shall nominate two (2) Commissioners. The Parliament of Republika Srpska shall nominate one (1) Commissioner. These nominations shall be submitted to the Council of Ministers of Bosnia and Herzegovina. The Council of Ministers shall propose the appointment of the Commissioners nominated by the Entity Parliaments to the Parliament of Bosnia and Herzegovina. The Parliament of Bosnia and Herzegovina may accept or reject these nominations.

Whenever a vacancy in SERC exists prior to the expiration of a term, the nomination and appointment process is the same as set forth above.

The Parliament of the Federation of Bosnia and Herzegovina and the Parliament of Republika Srpska shall nominate Commissioners within thirty (30) days of the effectiveness of this Act or thirty (30) days of the creation of a vacancy on SERC. If either the Parliament of the Federation of Bosnia and Herzegovina or the Parliament of Republika Srpska fails to make such nomination within the time periods set forth in this Article 4.4, then the Government of the Federation of Bosnia and Herzegovina or the Government of Republika Srpska, as appropriate, shall, within ten (10) days thereafter, make such nomination.

Upon such nomination, the Council of Ministers of Bosnia and Herzegovina shall propose the nominee to the Parliament of Bosnia and Herzegovina, which may accept or reject the replacement nominee. If the Parliament rejects a nomination of a Commissioner by one of the two Entity Parliaments, then the nominating Entity shall nominate another Commissioner and submit the nomination to the Council of Ministers.

An individual may be appointed as a Commissioner if he or she is a citizen of Bosnia and Herzegovina and is qualified by training and experience in the field of law, economics, engineering or power sector to discharge the duties prescribed by this Act.

4.5 Dismissal of SERC

The State Parliament has sole authority to dismiss a SERC Commissioner before completion of the assigned term. Such early termination may occur only in the limited circumstances defined herein:

- (a) illness rendering the Commissioner incapable of performing his or her duties;
- (b) conviction of a crime punishable by imprisonment;
- (c) a conflict of interest by a Commissioner or member of his or her staff, as defined in the SERC Code of Ethics, including when a Commission

member or staff or member of his or her household is an owner, shareholder or holder of shares or member of the boards or supervisory boards or other relevant governing bodies, director or president or other manager of any licensee or other undertakings that directly or indirectly seek access to or usage of the transmission network;

- (d) resignation;
- (e) non-performance of duties, as reflected by failure to participate in SERC proceedings for a period longer than six weeks; or
- (f) violation of SERC's Code of Ethics.

4.6 Term of Commissioners and Chair

Upon establishment of SERC, the terms of the Commissioners of the first composition of SERC shall be:

- (a) for one member nominated by the Parliament of the Federation of Bosnia and Herzegovina – three years;
- (b) for one member nominated by the Parliament of Republika Srpska – four years;
- (c) for one member nominated by the Parliament of the Federation of Bosnia and Herzegovina – five years.

After the establishment of the first composition of SERC, each subsequent Commissioner will be appointed for a period of five years. No person may hold the position of a Commissioner for more than two terms.

One of the Commissioners shall be elected Chair by the other Commissioners. A Chair shall be elected within five (5) days of the appointment of the Commissioners, pursuant to Article 4.4.. If, after 5 days, SERC members cannot reach an agreement as to the Chair, the State Parliament shall select a Chair within 10 days. The position of Chair will rotate annually on an equal basis between the three Commissioners.

4.7 Decisions of SERC

The sessions of SERC shall be open to the public, except in limited circumstances in which confidential information or trade secrets are involved, as determined by SERC in accordance with rules of practice and procedure adopted by SERC. All SERC decisions shall be in writing and shall explain the basis of the ruling. SERC decisions and resolutions shall be published in the Official Gazettes of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina and Republika Srpska. SERC's documents, records of all proceedings and the minutes shall be maintained in accordance with rules of practice and procedure issued by SERC. Such documents and records shall be open to

the public, except that sensitive business information shall remain confidential whenever such confidentiality is necessary, as described in SERC rules of practice and procedure.

All SERC decisions shall be approved by unanimous vote of all the Commissioners. In the event that the Commissioners fail to agree unanimously, then, upon notice by any one Commissioner to the others, all disputes shall proceed to arbitration.

Within ninety (90) days after the appointment of the Commissioners pursuant to Article 4.4, the Commissioners shall implement rules and regulations to select an international arbitration commission or single arbitrator to act as a binding arbitrator to resolve disputes among the Commissioners, in the event that arbitration is necessary.

Such rules and regulations shall include, but are not limited to, provisions specifying the methodology and timing for the selection of the arbitrator, dismissal of the arbitrator for cause, the procedures, timing and scope of the arbitration process, and shall include a mandatory process for selection of an arbitrator by default, if the Commissioners are otherwise unable to agree on the selection of the arbitrator. The rules and regulations shall specify that the arbitrator, whether selected by default or otherwise, shall have binding authority to resolve non-unanimous decisions promptly. The arbitrator's decision shall be in writing, and published in the Official Gazettes of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina and Republika Srpska or other publication of record, setting forth the bases for the decision.

It is the goal of this process to assure prompt and timely resolution of such non-unanimous decisions by SERC. Arbitration decisions shall be final decisions appealable to the court of competent jurisdiction under the laws of Bosnia and Herzegovina, as if they were unanimous decisions of SERC.

4.8 Tariffs

SERC has jurisdiction and authority to approve, monitor and enforce tariff methodologies, as set forth in Article 4.2. The scope shall include:

1. Tariffs for transmission, ancillary services and ISO operations shall be regulated and approved by SERC.
2. SERC shall issue rules and regulations establishing a tariff methodology that shall incorporate the following principles:
 - (a) Prices shall be just, reasonable, non-discriminatory, based on objective criteria, and determined in a transparent manner;
 - (b) Prices shall be primarily dependent upon the justified costs of operation, maintenance, replacement, construction and reconstruction of facilities, including a reasonable return on investment, amortization and taxes, with consideration of environmental and consumer protection;

- (c) SERC shall be permitted to establish performance based rates;
- (d) Interruptible rates, load balancing rates, and other mechanisms to improve energy efficiency and demand side management shall be encouraged, including consideration of the development and dispatch of renewable sources of energy;
- (e) Season and time-of-use rates are permitted, which prices may be adjustable according to the cost of peak and off-peak services;
- (f) Cross-subsidies of different customer classes shall be eliminated;
- (g) Connection fees that are cost justified may be included for connection to the transmission network or substantially increasing load;
- (h) Regulated third party access principles shall be applied as to electricity transmission networks; and
- (i) With respect to the tariffs, terms and conditions for the services of the ISO, such tariffs, terms and conditions shall reflect prevailing international practices.

SERC shall approve tariffs that meet the tariff methodology, in accordance with procedures and criteria set by SERC under its rules and regulations. Such procedures and criteria shall require the company for transmission of electric energy, the ISO and other participants that may be regulated by SERC to prepare and submit to SERC for approval tariff schedules for every class of customer, consistent with SERC's tariff methodology. SERC shall establish for the company for transmission of electric energy the highest rates it may charge for connection to a network or for the transport of electricity.

4.9 Annual Accounts

SERC shall prepare independently audited annual accounts consistent with international accounting standards. The annual accounts shall be released publicly no later than ninety (90) days after the close of each fiscal year.

SERC shall keep separate accounts for any non-electricity-related activities.

4.10 SERC Funding, Accounts, Audits and Reports

SERC shall, by 1 December of each year, develop a detailed budget for the following year, which shall indicate all the expenses of SERC, including the salaries and benefits of the Commissioners and employees of SERC, as well as the other budgeted expenses of SERC for the next year. SERC shall send the budget to State Parliament for review on 1 December and publish the budget annually.

SERC shall establish a regulatory fee to be paid by license holders designed to cover these estimated SERC expenses. SERC's budget shall be funded by such fees. SERC licensed enterprises shall be entitled to recover such fees in tariffs approved by SERC. SERC's accounts shall be maintained in accordance with international accounting standards and shall be audited annually by an independent auditor.

No later than 31 December, SERC shall submit a written report reviewing its activities for the year to the Parliament of Bosnia and Herzegovina and the Ministry.

4.11 Code of Ethics

SERC shall adopt and publish a Code of Ethics governing conflicts of interest and other ethical standards for the Commissioners, employees and staff and other parties. The Code of Ethics shall reflect prevailing international practices.

Article 5 Independent System Operator

5.1 Establishment of an Independent System Operator

Not later than 31 March 2002, a single ISO will be established with the status of a legal person under the laws of Bosnia and Herzegovina. The ISO shall manage the operation and dispatch of the transmission grid in Bosnia and Herzegovina and shall direct, schedule and coordinate maintenance, construction and expansion of the grid with the company for transmission of electric energy.

The headquarters of the ISO shall be Sarajevo, Bosnia and Herzegovina.

The ISO will be based upon and will develop from the Joint Power Coordination Center (ZEKC), which presently coordinates dispatch. ZEKC will be developed to carry out the functions of an ISO, modeled after European and North American independent system operators. Within sixty (60) days of effectiveness of this Act, ZEKC shall propose to SERC a plan for transforming to the ISO by 31 March 2002. This plan will include a structure to guarantee the independence of the ISO. SERC shall approve and monitor the plan for transforming ZEKC to the ISO, in accordance with Article 4.2.

The ISO shall be a non-profit entity and shall be independent from any individual market participant and from activities of electricity generation, distribution and supply. The ISO also shall not perform any electricity trade activity. In furtherance of the ISO's independence and authority, the owners of the company for transmission of electric energy shall transfer to the ISO all relevant system operating authority. The ISO shall have full authority to coordinate the operation of the transmission system and shall be transferred the full authority to exercise its responsibilities.

The ISO shall act in accordance with the principles of objectivity, transparency and non-discrimination.

Upon the establishment of a single company for transmission of electric energy, as set forth in Article 6.1, the owners of the company for transmission of electric energy will be represented on the ISO's Board of Directors, the terms and conditions of which shall be established by rules and regulations adopted by SERC.

The ISO shall preserve the confidentiality of commercially sensitive information obtained in the course of carrying out its business.

5.2 Functions of the ISO

The functions shall be to:

- (a) **Maintain System Reliability.** The ISO in Bosnia and Herzegovina will act as a system coordinator and will provide security assessments and coordinate emergency and non-emergency operations so as to maintain system reliability;
- (b) **Manage Electricity Flows.** The ISO shall manage system electricity flows, maintain a balancing market and otherwise ensure the reliable and non-interrupted flow of electricity within the system;
- (c) **Provide Ancillary Services.** The ISO shall furnish ancillary network services to assure that electricity is delivered and transmitted at a stable frequency and voltage. These ancillary services include frequency control, operating reserves, voltage control and black-start services;
- (d) **Manage Transmission Constraints.** The ISO shall have the responsibility to identify, manage and relieve congestion on the transmission grid, and to coordinate dispatch of generators to relieve and manage congestion;
- (e) **Provide Transmission System Information.** The ISO shall provide timely and public information on transmission capacity, ancillary services and prices to all transmission customers and the public in order to establish an open and transparent transmission regime;
- (f) **Coordinate Neighboring Control Areas.** The ISO shall develop mechanisms to coordinate with neighboring control areas and to facilitate the transit and import and export of electricity;
- (g) **Coordinate Load Management.** The ISO shall coordinate load management practices and shall have authority to shed load, manage load and otherwise maintain system balance.

The ISO shall ensure that technical rules are developed and published, establishing the minimum technical design and operational requirements for the connection to the system of directly connected generating installations, distribution systems, directly connected consumers' equipment, interconnector circuits and direct lines. Such requirements ensure the inter-operability of systems and shall be objective, non-discriminatory and equitable. After the approval of SERC, technical rules shall be published within 90 days of the creation of the ISO.

Until an ISO has been established, ZEKC, which presently is jointly owned and operated by the existing transmission activities of the power companies and subject to the provisions of Article 6, will coordinate the work of existing entity system operators.

In the interim period between the establishment of an ISO and the company for transmission of electric energy, the ISO shall have authority, in accordance with the terms set forth in this Article, over the transmission activities of the power companies.

5.3 Transmission of Electric Power; Codes and Rules

The ISO shall adopt a grid code, commercial code and other system operating rules and procedures in consultation with licensees and system users. The grid code shall be adopted not later than nine months after the creation of the ISO.

All such grid codes, commercial codes and system operating rules and procedures shall be submitted to SERC for review and approval.

5.4 Annual Accounts

The ISO shall prepare independently audited annual accounts consistent with international accounting standards. The annual accounts shall be released publicly no later than ninety (90) days after the close of each fiscal year.

The ISO shall keep separate accounts for any non-electricity-related activities.

Article 6 Transmission of Electricity

6.1 Establishment of the Company for the Transmission of Electric Energy

This Act authorizes the establishment of the Bosnia and Herzegovina company for the transmission of electric energy. This company for the transmission of electric energy shall be established no later than 31 December 2002. The name of the company for the transmission of electric energy shall be: "Elektroprenos Bosne i Hercegovine". Elektroprenos Bosne i Hercegovine shall be established as a legal entity, in accordance with the laws of Bosnia and Herzegovina.

Its headquarters shall be Banja Luka, Bosnia and Herzegovina.

Within thirty (30) days of the establishment of Elektroprenos Bosne i Hercegovine, it shall issue a charter. Within sixty (60) days of the establishment of the Elektroprenos Bosne i Hercegovine, it shall adopt such resolutions and take such other actions as are necessary for Elektroprenos Bosne i Hercegovine to discharge its powers and authorities under, and to fulfill the purpose and intent of, this Act.

The activity of Elektroprenos Bosne i Hercegovine shall include transmission, maintenance, construction, expansion and management of the transmission network of Bosnia and Herzegovina. Upon the establishment of Elektroprenos Bosne i Hercegovine, no other electric company or other company shall have jurisdiction or authority in such matters. Operation and dispatch of the network used for transmission of electricity; directing, scheduling and coordinating maintenance; and coordination with the company for the transmission of electric energy of the construction and expansion of the grid shall lie with the ISO as specified in Article 5. The ISO shall coordinate with Elektroprenos Bosne i Hercegovine on such matters.

The property of Elektroprenos Bosne i Hercegovine shall consist of the property used for transmission of electricity by the Federation of Bosnia and Herzegovina and Republika Srpska in Bosnia and Herzegovina.

A Steering Committee shall be established by 31 March 2002. This Committee shall make recommendations regarding the structure, formation and ownership of the company for the transmission of electric energy. Such recommendations shall be made no later than 30 June 2002 and shall be submitted for the approval or rejection of the Prime Ministers of the Federation of Bosnia and Herzegovina and Republika Srpska. In addition to the above, the Committee shall recommend the method of transition from the existing bundled transmission assets within the three power companies to a single company for the transmission of electric energy.

No later than thirty (30) days following the approval of such recommendation regarding the structure, formation and ownership of the company for the transmission of electric energy by the Prime Ministers of the Federation of Bosnia and Herzegovina and Republika Srpska, the Steering Committee shall issue the charter for the company for the transmission of electric energy.

The Steering Committee shall be made up of one representative from the Federation of Bosnia and Herzegovina Ministry of Energy, one representative from Republika Srpska Ministry of Energy and one representative from the Ministry of Foreign Trade and Economic Relations.

All asset valuations and all asset and liability allocations shall be completed no later than 30 September 2002. SERC shall approve and monitor the unbundling of assets, divestiture and formation of the single company for the transmission of electric energy.

The company for the transmission of electric energy shall operate in accordance with the principles embodied in this Act.

Provided, however, that if SERC in its reasonable discretion determines that the conditions necessary for such valuations, allocations, or adoption of the company for the transmission of electric energy charter or the creation of the single company for the transmission of electric energy have not been met, then SERC may amend the above dates by a period of not more than six (6) months.

6.2 Annual Accounts of the Company for Transmission of Electric Energy

The company for transmission of electric energy shall prepare independently audited annual accounts consistent with international accounting standards. The annual accounts shall be released publicly no later than ninety (90) days after the close of each fiscal year.

The company for transmission of electric energy shall keep separate accounts for any non-electricity-related activities.

6.3 The Transmission Network; Safety and Health

For the protection of the network used for the transmission of electricity and associated equipment and the public, a safety zone shall be established. The extent of the safety zone, as well as the prohibition and limitations to be enforced within the safety zone, shall be defined by rules or standards adopted by the ISO and approved by SERC.

Within the safety zone, it shall be prohibited to place buildings or installations, to plant vegetation (trees) or to carry out activities endangering the safety and uninterrupted operation of the electric facility, life, or safety of property.

Regulations relating to safety zone shall be taken into consideration by SERC in the course of licensing and by legal persons or citizens exercising the right of cabling and right of other use.

Transmission electric plants and wires shall be designed, constructed and operated in such a way that the effects thereof shall not endanger the health of population of the area concerned, and should change its natural environment and landscape value to the smallest possible extent.

Article 7 Licensing

7.1 Activities Covered

A license shall be required from SERC for the following:

- (a) Transmission of electricity;
- (b) Activities of the ISO; and
- (c) Such other activities pertaining to transmission for which a license is required by this Act, including transmission-related activities furthering international trade.

7.2 Licensing; Criteria for Obtaining a License

SERC shall set forth in its rules and regulations the requirements for obtaining a license, including the application form, the procedures and fees for submitting an application and the timing for rendering a decision with respect thereto. The criteria for acquisition of a license shall include those relating to:

- (a) the safety and security of the transmission networks, installations and associated equipment;
- (b) protection of public health and safety;
- (c) protection of the environment;
- (d) land use and siting;
- (e) use of public property;
- (f) energy efficiency;
- (g) criteria particular to the applicant, such as technical, economic and financial capabilities; and
- (h) the ability and willingness to meet any applicable public service obligations.

7.3 Duration

SERC shall issue a license for a defined period of time, no less than five (5) years and no more than forty years, as determined by SERC, with the opportunity for renewal. SERC may order a licensee, despite the expiration of its license, to continue providing compensated service temporarily if exigencies require.

7.4 Inspection

The license applicant and license holder must allow SERC to inspect its facilities and supervise compliance with license requirements at any time, and must comply with any SERC request for information, comporting with published SERC rules and regulations.

7.5 Approval, Modification and Revocation

SERC decisions whether to grant or reject a license application shall be arrived at in a transparent manner; the decision shall be issued in writing and published in the Official Gazettes of Bosnia and Herzegovina. SERC may modify a license upon the application of the license holder or, after the license holder has been given reasonable notice and opportunity to be heard, based on exigencies created by a clear and unforeseeable change of circumstances.

SERC may suspend a license if:

- (a) the licensee so requests; or
- (b) upon a hearing, the procedures of which are set forth in SERC rules of practice and procedure, SERC has discovered deficiencies that SERC determines require an immediate response to avoid immediate harm.

SERC may revoke a license if:

- (a) the license holder so requests; or
- (b) upon a hearing, the procedures of which are set forth in SERC rules of practice and procedure, the license holder fails to cure deficiencies within six (6) months from the date SERC issued a decision ordering the license holder to so act.

Upon a license suspension or revocation, SERC may appoint a legal or natural person with a license to engage in similar activity to conduct the operations of the suspended or revoked licensee on a temporary basis, using the facilities, installations or networks of the suspended or revoked licensee.

If a licensee wishes directly or indirectly to sell, assign, convey, lease or otherwise transfer its license, the activities subject to license or the assets subject to license, approval for such transfer must be obtained from SERC, otherwise the existing license will be suspended by SERC.

7.6 Access

A transmission license will contain conditions to allow competing electricity suppliers access to the transmission system and otherwise to ensure fulfillment of the terms of the Act and SERC's rules and regulations. These conditions will include:

- (a) Provisions that will allow non-discriminatory access to the transmission network for all electricity suppliers having physical access to the system;
- (b) A provision requiring compliance with applicable tariffs;
- (c) A requirement to comply with the provisions of technical standards, the commercial code and the grid code;

- (d) Planning for system expansion to take account of the needs of the customers;
- (e) Standards for the quality of electricity supply, maintaining frequency and voltage control, and reducing interruptions to service.

7.7 Requirements for Existing Transmission Bodies

All existing legal bodies in the field of transmission shall submit an application for a license within one hundred and eighty (180) days from the date of the effectiveness of this Act. In the interim period between the passage of this Act and the creation of a single company for transmission of electric energy, the existing power companies shall file requests to SERC to obtain temporary licenses.

Article 8 Market

The electricity market in Bosnia and Herzegovina shall be a single market, based on free and equal access to the transmission network and upon the principles of regulated access and applicable Directives of the European Union.

The market will be opened in accordance with subsequent laws and regulations that shall define the scope, terms and conditions and time schedule of the market opening.

Article 9 General Provisions

9.1 Information

SERC, the company for transmission of electric energy, the ISO and the Ministry may request from a generator, supplier, trader or distribution company data and information necessary for furtherance of this Act. SERC, the ISO, the company for transmission of electric energy and the Ministry shall maintain the confidentiality any such data and information that are deemed trade secret or confidential, except in so far as this Act or duties established under this Act requires that it report such data. Any party requested to provide such materials shall do so within a reasonable time, as determined by the requesting party.

Data or information so obtained by SERC, the company for transmission of electric energy, the ISO or the Ministry can be used only for the purpose for which it is obtained.

Any party which, in the performance of its duties, gains access to data or information that it knows to be of confidential character shall be obliged to maintain the confidentiality of

such data or information, except in so far as this Act require that it report such data or information or the necessity to so report arises from its duties.

9.2 Appeals/Complaints

- (a) All decisions rendered by SERC shall be final decisions appealable to the Court of Bosnia and Herzegovina as set forth in Article 9.2(b).
- (b) The Court of Bosnia and Herzegovina may entertain appeals of decisions rendered by SERC lodged with the Court within sixty (60) days of the public notice of such decision. In its review of the appeal, the Court of Bosnia and Herzegovina shall consider only the following aspects of the case:
 - (1) whether SERC acted in violation of this Act or procedure;
 - (2) whether SERC wrongly applied applicable rules and regulations;
or
 - (3) whether there has appeared new facts in the case, which were not known at the time of the previous decision and which, if known, would have changed the outcome of that decision.

9.3 Fines/Sanctions

9.3.1 Fines Levied Against Licensees

A licensee shall be punishable by a fine of up to KM 5-40,000 for each violation when it:

- (a) fails to provide SERC or ISO with requested data and information;
- (b) improperly refuses to grant access to the transmission network;
- (c) constructs and connects facilities in the transmission system of Bosnia and Herzegovina, that do not comply with regulations and applicable standards;
- (d) fails to fulfill its duties determined by the license; or
- (e) starts operation and construction without license.

In case when a licensee has realized economic benefits which exceed the amount of any fine levied pursuant to Article 9.3.1, it shall be liable to disgorge the economic benefits and pay to the injured party an amount equal to three times the economic benefits.

9.3.2 Fines Levied Against Legal Persons

Any legal person shall be punishable by a fine of up to KM 3-20,000 for each violation when:

- (a) its facilities do not comply with regulations and standards of SERC or ISO and if they threaten the stability, reliability or safety of the electrical energy system of Bosnia and Herzegovina;
- (b) it wrongfully impedes access to the electrical transmission facilities located on his real-estate for purpose of maintenance; or
- (c) it wrongfully plants vegetation in the soil that can endanger safety of transmission lines, plants, human lives and property, or if that vegetation aggravates normal utilization of said facilities.

9.3.3 Fines Levied Against Citizens

Any citizen shall be punishable by a fine of up to KM 2,000 when he or she:

- (a) without approval granted by the ISO connects to the electrical transmission system; or
- (b) wrongfully plants vegetation in the soil that can endanger safety of transmission lines, electrical facilities, human lives and property, or if that vegetation aggravates normal utilization of said facilities.

9.3.4 Revenue

Fines levied pursuant to this Act shall be considered revenue of Bosnia and Herzegovina. The revenue from the fines shall be allocated to activities in furtherance of this Act.

9.4 Technical and Safety Provisions

The technical and safety provisions of electric transmission facilities shall be defined in regulations.

The professional qualification and experience of citizens and legal persons required to carry out technical and safety responsibilities, such as physical construction, engineering and maintenance work on the electric transmission system shall be defined in regulations.

9.5 Relationship with Other Laws

Other State or Entity laws that regulate the transmission of electricity and system operators shall be harmonized with provisions of this Act, within sixty (60) days following the date this Act enters into force. In the event of conflict between this Act and other State or Entity laws, the provisions of this Act shall prevail.

9.6 Inter-Entity Cooperation

The Entity Governments shall cooperate to address and resolve issues related to the implementation of this Act.

9.7 Regulations

In addition to the specific rules and regulations referenced in this Act, SERC shall be authorized to adopt such rules and regulations as may be necessary or convenient in order to ensure the implementation of the objectives of this Act.

9.8 Entry Into Force, Revocation and Interim Provisions

Upon the entry into force of this Act, the provisions of other acts, regulations and secondary legislation by the State or the Entities which have regulated the subject matter of this Act shall cease to apply.

This Act shall enter into force eight (8) days after publication in the Official Gazettes of Bosnia and Herzegovina. This Act will also be published in the Official Gazettes of the Entities.