

# ENERGY LAW 2016

## I. BASIC PROVISIONS

### 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 biogases and the 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 or storage of electricity and/or gas, transport, pumping stations or storage of oil, petroleum products or gas and generation or distribution of heat are carried out as well as any equipment or installation essential for the system in question to operate properly, securely and efficiently;
- 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, [aerothermal](#), [geothermal](#) and [hydrothermal](#) and ocean energy, 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;
- 75a) **Contract for difference** is an agreement between the Market Operator and the producer of energy from renewable sources, who was declared the successful bidder in the auctions to profit from the support scheme.
- 75b) **competitive bidding process** means a non-discriminatory bidding process that provides for the participation of a sufficient number of producers and where the incentives are granted on the basis of either the initial bid submitted by the bidder or a clearing price. In addition, the budget or volume related to the bidding process is a binding constraint leading to a situation where not all bidders can receive incentives;
- 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;

## **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. is given in the form of a premium, calculated as the difference between the price with which the renewable energy producer was declared successful in the competitive process for granting the aid (the strike price) and the market price for electricity (the reference price).~~

~~(6) The strike price is the final price that the privileged producer of electricity will benefit, as a result of being selected as beneficiary of a support scheme in a competitive process – it determines the maximum level of the reward that can be granted to each project of renewable energy. The Reference Price is the hourly day-ahead market price, which is based in the organised electricity market.~~

~~(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 ~~support schemes 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.

## **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.

## **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.~~

## 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.

## 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.~~

(3) The status of a privileged producer shall be granted to the successful bidder in the competitive bidding process to profit from the support scheme, as defined in this law, and by signing a contract for difference.

(4) The beneficiaries of the support scheme, under a contract for difference and the maximal level of the support, will be determined in a tendering process, open to all producers of electricity from renewable sources, on the basis of clear, transparent and non-discriminatory criteria, unless when:

- a. only one or a very limited number of projects or sites could be eligible ;
- b. a tendering process would lead to higher support levels; or
- c. a competitive process would result in low project realisation rates.

(5) The tendering process can be limited to a specific technologies, in cases when a process open to all producers would lead to a suboptimal result, which cannot be addressed in the process design, taking into consideration particularly:

- a. The longer-term potential of a new and innovative technology;
- b. The need to achieve diversification;
- c. Network constraints and grid stability;
- d. System (integration) costs; or
- e. The need to avoid distortions on the raw material markets from biomass support.

(6) A model of the contract for difference the tendering terms and procedures, as well as cases of restriction of this process according to paragraph 5 of this article, are proposed by the Minister and approved by a decision of the Government.

(7) The ministry in consultation with the Agency and the Energy Community Secretariat, prepares every proposal regarding support measures.

(8) The Government shall prescribe the conditions and procedure of acquisition, duration and termination of the status of a privileged producer, competitive tendering process, contract for difference, the contents of the request and evidence of the fulfilment of conditions for obtaining the status of a privileged producer, payment security instruments, maximum capacities of all power plants using wind and solar energy that will obtain the status of a privileged producer, and other matters in accordance with the Law.

(9) Conditions and procedures for granting the support measures, which include aid from the State Budget, are approved by the Government, with the proposal of the minister. These measures need to be notified to the Commission for State Aid Control before their adoption for their compliance with the legislation on State Aid.

(10) The obligations under paragraph 3 of this article regarding a competitive bidding process do not apply to installations with installed capacity of less than 1 MW or demonstration projects, except for electricity from wind energy where an installed electricity capacity of up to 6 MW or 6 generation units.



## 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.~~

The Market Operator will prepare a request form for obtaining of the status of the privileged producer and support scheme measures, which includes among others the applicant's name and the type of company, a description of the project, including its location, start and completion date of the project, the amount of support needed to carry it out and the eligible costs. In the request form, beneficiaries must describe the chance of development of the project without the support scheme.

(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 Contract for difference Agency's decision for a maximum period of 12 years, but not longer than until the plant has been fully depreciated according to normal accounting rules.

~~(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.~~

## 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.~~

Privileged producers of electricity are responsible for balancing. Producers become a responsible party for balancing, by signing a contract with the transmission system operator or by signing a contract for the transfer of the balancing responsibility to another responsible balancing party, thus becoming a member of a balancing group, in accordance with the respective Market Rules.

- (7) Privileged producers with installed capacity of less than 500 kW or demonstration projects, except for electricity from wind energy where an installed electricity capacity of 3 MW or 3 generation units applies, are not responsible for balancing.
- (8) Supplier shall collect costs referred to in paragraph (67) 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.
  - 7) undertake balance responsibility under Article 107, Paragraph 6 hereof.
- (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.

## **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 and manage ~~contracts for difference on electricity purchase with privileged producers, including forecasting payments under the support scheme for priority producers 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) invoice and collect from any supplier of electricity of payments for the renewable energy obligation for all categories of privileged producers, applied to all final customers, in accordance with the respective energy quantity measured and delivered to these customers. ~~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.

## XXIV TRANSITIONAL AND FINAL PROVISIONS

A privileged producer and a temporary privileged producer, which acquired their status before the entry into force of these amendments, has the right to choose to benefit from new support scheme under the contract for difference, in accordance with participation in a ~~the new~~ competitive bidding process.