

THE CROATIAN PARLIAMENT

3079

Pursuant to Article 88 of the Constitution of the Republic of Croatia, I hereby pass
the

DECISION

PROMULGATING THE ACT ON AMENDMENTS TO THE ENERGY ACT

I hereby promulgate the Act on the Prevention of Conflicts of Interest in the Exercise of Public Office, adopted by the Croatian Parliament at its session on 3 December 2004.

No: 01-081-04-3760/2
Zagreb, 10 December 2004.

The President
of the Republic of Croatia
Stjepan Mesic, m.p.

ACT

ON AMENDMENTS TO THE ENERGY ACT

Article 1

In Article 1 of the Energy Act (Official Gazette No. 68/01) the full stop at the end of the sentence is deleted and the following words are added: “with due regard to environmental protection measures”.

Article 2

Article 2 is amended to read:

“Energy supply to the Ministry of Defence and the armed forces of the Republic of Croatia as well as to the Ministry of Interior shall be governed by this Act and special legislation”.

Article 3

Article 3 is amended to read:

“The terms used in this Act shall have the following meanings:

1. distribution – distribution of energy through the distribution network/system,

2. distribution network/system – a network/system used for the distribution of energy,
3. energy provider – a producer or importer of energy
4. energy undertaking – a legal or natural person carrying out one or more energy activities
5. energy – electricity, heat, gas, oil and oil derivatives,
6. cogeneration – production of both heat and electricity in a single process,
7. network/system user – any natural or legal person that supplies energy into the distribution network/system (producers) or takes energy from the transmission or distribution network/system (customers) or uses the network/system for the transit of energy , (traders),
8. customer – a legal or natural person that buys energy
9. Minister – the Minister in charge of the energy sector
10. Ministry – the Ministry in charge of the energy sector
11. network – a system of connected facilities and lines for transmission, distribution or supply of energy,
12. stranded costs – liabilities and costs that were incurred before the application of this Act and which cannot be fully covered by market-based operation,
13. renewable energy sources – energy resources which are preserved in nature and can be fully or partially renewed, in particular, energy of water streams, wind energy, non-accumulated solar energy, biofuel, biomass, biogas, geothermal energy, waves energy, tides, waste area gas, gas from wastewater processing facilities,
14. public service- service available at all times to all customers and energy undertakings according to a regulated price and regulated access and use of service conditions, taking into account security, regularity and quality of service, environmental protection, energy use efficiency and climate protection, all performed according to the principles of transparency of work and supervision of the bodies as prescribed by law,
15. biofuel – liquid or gaseous fuel derived from biomass,
16. biomass - bio-degradable part of a product, residue or refuse from agriculture (including plant and animal matter), from forestry and wood industry, as well as biodegradable parts of municipal and industrial waste which are allowed to be used for energy purposes,
17. public service obligation – an obligation imposed on energy undertakings to carry out certain activities as public services,
18. energy supply – provision, delivery and/or sale of energy to customers,

19. organised energy market – organised harmonisation and mediation with respect to offers for energy purchase and sale,
20. gas – natural gas, liquefied natural gas, liquefied petroleum gas, evaporated liquefied petroleum gas, biogas, gas from biomass and town gas,
21. eligible customer – a customer that is granted such status under law and who may freely choose from whom he will buy energy,
22. eligible producer – an energy undertaking which produces electricity and heat in a single generation plant, or uses waste or renewable energy sources in an economically viable manner in compliance with environmental protection,
23. transmission/transportation of energy – transportation of energy through the transmission network in order to take energy from generators and other transmission networks and to pass on such energy to the distribution network or customers connected directly to the transmission network,
24. transmission network/transport system – a network/system used for the transmission/transportation of energy,
25. connection to network/system – the physical connection to the transmission/transportation or distribution network/system under prescribed conditions,
26. energy generation – the physical or chemical process of converting fuels or renewable energy sources into electricity, heat or other energy forms,
27. production of oil derivatives – the processing and refining of oil and/or virgin naphtha for the purpose of obtaining liquid or gaseous products, or oil derivatives including liquefied petroleum gas (LPG),
28. tariff customer – any customer for which energy is provided in a regulated manner and at a regulated price,
29. transit – the transmission of energy originating from another country and intended for a third country through the territory of the Republic of Croatia, or the transmission of energy originating from another country and intended for such other country through the territory of the Republic of Croatia,
30. trader – an energy undertaking that buys and sells energy,
31. Agency – the independent regulator of energy activities – established under a special law and vested with powers prescribed by this Act and other legislation regulating the carrying out of energy activities on the market or as public services.”

Article 4

In Article 5, paragraph 2 after the words: “in renewable energy sources” the words “and cogeneration” are added, while the words “for achieving energy efficiency” are

replaced by the words “for improvements in energy efficiency and in environmental protection measures.”

Article 5

In Article 8, after the words: “energy activity” the full stop is replaced by a comma and is followed by the words: “taking into account obligations arising from international contracts and agreements related to environmental protection.”

Article 6

In Article 9, paragraph 2, after subparagraph 3 new subparagraphs 4, 5, 6 and 7 are added and read:

- Estimate of electricity consumption per month and per area,
- Report on the use of natural gas for the previous heating season,
- planned and actual consumption of each type of energy for the previous year, and planned consumption for the current year,
- the requirements related to minimum share of renewable sources and energy efficiency.”

After paragraph 3, a new paragraph 4 is added and reads:

“(4) The Ministry shall by 15 October of the current year pass an estimate of natural gas consumption for the coming heating season and, if needed, adopt necessary measures for rationalising natural gas consumption.”

The former paragraph 4 becomes paragraph 5.

Article 7

In Article 10, paragraph 1, after the words “use of energy”, the full stop is replaced by a comma and is followed by the words “and reduction of the burden on the environment”.

After paragraph 2, paragraph 3 is added and reads:

“(3) To encourage energy efficiency and development of renewable sources, the Government of the Republic of Croatia may, by ordinance, establish an agency for energy efficiency and renewable sources.”

Article 8

In Article 12, paragraph 4 the words “provide incentives and direct” are replaced by the words: “encourage and direct”.

Paragraph 5 is amended to read:

“(5) The circumstances relating to the status of an energy producer who uses cogeneration such as the granting of the status of eligible producer and/or eligible customer, conditions for their access to the network, contracting for energy supply, incentive measures for construction of cogenerating plants, etc., shall be governed by special laws for individual energy activities.”

Paragraph 6 is hereby deleted.

Article 9

In Article 13 paragraphs 1 and 2 the word “label” in various grammatical cases, is replaced by the word “mark” in the appropriate grammatical case.

Article 10

Article 14 is amended to read:

- (1) The use of renewable energy sources and cogeneration is in the interest of the Republic of Croatia.
- (2) The Ordinance on the use of renewable energy sources and cogeneration, passed by the Minister, shall specify the renewable energy sources to be used for energy production, conditions and possibilities for their use, including planning, design and construction of plants, registry of renewable energy sources and cogeneration projects, and other issues of importance for the use of renewable energy sources and cogeneration.
- (3) Financial incentives for the use of renewable energy sources, energy efficiency and cogeneration shall be governed by this Act, Act on Heat Production, Distribution and Supply, the Act on the Environmental Protection and Energy Efficiency Fund and the State Aid Act.
- (4) Entities granted incentives in project construction for the use of renewable energy sources and cogeneration shall not supply energy generated by such projects to international markets without approval of the Government of the Republic of Croatia.”

Article 11

Article 15 is amended to read:

“For the purposes of this Act, energy activities are:

1. generation of electricity,
2. transmission of electricity,
3. distribution of electricity,
4. supply of electricity,
5. organisation of the electricity market,
6. provision of gas,
7. storage of gas,
8. gas transportation,
9. gas distribution,
10. gas supply
11. production of oil derivatives,
12. biofuel production,
13. transportation of oil through oil pipelines and other means of transportation not referred to in item 15 of this Article,

14. transportation of oil derivatives through product pipelines and other means of transportation not referred to in item 15 of this Article,
15. transportation of oil, oil derivatives and biofuel by road vehicles,
16. wholesale of oil derivatives,
17. retail of oil derivatives,
18. storage of oil and oil derivatives,
19. heat generation,
20. heat distribution,
21. heat supply,
22. trading, mediation and representation in the energy market,
23. transportation and storage of liquefied natural gas (LNG),
24. wholesale and retail of liquefied petroleum gas (LPG),
25. wholesale of liquefied natural gas (LNG).”

Article 12

In Article 16, paragraph 3 is amended to read:

“(3) The Licence is not required for carrying out the following energy activities:

1. generation of electricity for one’s own use or when electricity is produced in facilities not exceeding 1 MW,
2. production of biofuel for one’s own use or when energy produced does not exceed 1 TJ per annum,
3. retail of oil derivatives,
4. storing oil and oil derivatives for one’s own use,
5. production of heat energy which is produced only for one's own use or in generating plants not exceeding 0.5 MW”.

Article 13

In Article 17, paragraph 1, the words: “(hereinafter: energy undertaking)” are hereby deleted.

After paragraph 1 a new paragraph 2 is added and reads:

“(2) The Licence may be issued to a natural person that meets the conditions referred to in paragraph 1, subparagraphs 1 to 5 for performing any of the following energy activities:

- production of biofuel,
- transportation of oil, oil derivatives and biofuel by road vehicles,
- trade, mediation and representation on the energy market.

The Licence shall not be issued to a natural person who in the previous three years was convicted of a criminal offence related to the carrying out of energy activities.”

The former paragraphs 2, 3 and 4 become paragraphs 3, 4 and 5.

Article 14

In Article 20, paragraph 2 the words: “operation of the electricity system” are replaced by the words: “storing natural gas”, after the words: “transportation of”, the

word: “natural” is added, and the word “and” is replaced by a comma and followed by the words: “natural gas distribution, natural gas supply of tariff customers, and”.

Article 15

In Article 24, paragraph 2 is changed and it now reads:

” (2) An energy undertaking subject to a public service obligation shall determine the amount of stranded costs within 12 months of the entry into force of this Act. A decision on the amount of compensation shall be passed by the Government of the Republic of Croatia, upon the proposal of the Ministry which is to obtain a prior opinion of the Agency.”

Article 16

Article 25 is amended to read:

“(1) Energy prices can be regulated or free.

(2) A regulated energy price shall contain:

- A portion of the price according to tariff elements, for energy activities to which the tariff system applies,
- compensation for providing incentives for renewable sources and cogeneration,
- compensation for carrying out the regulation of energy activities,
- compensation for stranded costs, provided they were approved for a particular energy type,
- compensation for carrying out the organisation of the electricity market, for electricity only,
- other compensations, if prescribed by special legislation.

(3) free energy price shall contain:

- a portion for free negotiation ,
- tariff part for using a net or system,
- compensation for providing incentives for renewable sources and cogeneration,
- compensation for carrying out the regulation of energy activities,
- compensation for stranded costs, provided they were approved for a particular energy type,
- compensation for carrying out the organisation of the electricity market, for electricity only,
- other compensations, if prescribed by special legislation

Article 17

Article 26 is amended to read:

“(1) The following energy prices shall be set by application of tariff systems:

- generation of electricity, with the exception of eligible customers,
- transmission of electricity,
- distribution of electricity,
- supply of electricity, with the exception of eligible customers,
- provision of natural gas, with the exception of eligible customers,
- natural gas distribution,
- natural gas transportation,

- natural gas storage,
- supply of natural gas, with the exception of eligible customers,
- heat generation, with the exception of eligible customers,
- heat distribution,
- supply of heat, with the exception of eligible customers

(2) Tariff systems shall be based on justified costs of operation, maintenance, replacement, construction or reconstruction of facilities and application of measures for environmental protection, taking into account a reasonable return period for investments in energy plants, facilities and network or system. Tariff systems shall be non-discriminatory and transparent.

(3) Tariff systems should encourage mechanisms for improvement in energy efficiency and demand side management, including increased use of renewable energy sources.

(4) The price of electricity for the same category of Tariff Customers shall be the same on the entire territory of the Republic of Croatia.

(5) The tariff system for electricity production from renewable energy sources and cogeneration shall determine the producer's right to an incentive price payable by the market operator for energy supplied.”

Article 18

Article 27 is amended to read:

“(1) A tariff system is a prescribed methodology for defining tariff elements and their amounts.

(2) Tariff systems shall specify the elements for the calculation of the energy price and/or services provided by energy undertakings under public service obligations to various energy undertakings or customers, depending on the type, power, quality and other elements of energy delivered.

(3) Tariff system elements shall be expressed as tariffs which enable the calculation of energy price for the billing period.

(4) Amounts of tariff elements referred to in paragraph 1 of this Article may differ depending on the type of customer, delivery period and seasonal or daily delivery pattern.”

Article 19

Article 28 is amended to read:

“(1) The Methodology, or tariff systems without the amounts of tariff elements for:

- production of electricity, with the exception of eligible customers,
- supply of electricity, with the exception of eligible customers,
- provision of natural gas, with the exception of eligible customers,
- supply of natural gas, with the exception of eligible customers,
- production of heat, with the exception of eligible customers,
- supply of heat, with the exception of eligible customers,
- electricity transmission,
- electricity distribution,
- natural gas distribution,

- natural gas transport,
- natural gas storage,
- heat distribution,
- organisation of the electricity market,

shall be passed by the Agency, having obtained a prior opinion from the energy undertakings performing activities to which a tariff system applies and from the Ministry.

(2) The Government of the Republic of Croatia shall, upon the proposal of the Ministry, define the amount of individual tariff elements in tariff systems referred to in paragraph 1 of this Article. An energy undertaking which performs the activities to which a tariff system applies shall submit a proposal to the Ministry and the Ministry shall obtain the opinion of Agency.

(3) At the proposal of the Ministry, and having obtained a positive opinion from the Agency, the Government of the Republic of Croatia shall define incentives for generation from renewable sources and cogeneration, and pass the tariff system for electricity generation from renewable energy sources and cogeneration.

(4) The application of tariff systems shall be supervised by the Agency.”

Article 20

Article 29, paragraph 2 is amended to read:

” (2) The General Conditions of Energy Supply shall stipulate for electricity, heat and natural gas:

- the procedure for issuing energy approval and for creating conditions for connection to the network
- conditions for connection, energy supply and use of network,
- monitoring of security of supply and quality of energy,
- mutual contractual relations among energy undertakings and network users,
- obligations and responsibilities of energy undertakings and network users,
- conditions for metering, billing and payment collection for energy supplied and connected load,
- conditions for application of restriction or suspension of energy supply,
- procedures for determining and billing of illegal consumption of energy.”

After paragraph 2, a new paragraph 3 is added and reads:

” (3) General Conditions of Energy Supply include, in particular, the following measures for customer protection:

- right to enter into contract with an energy supply service provider based on fair and known conditions specifying:
 - a) name and address of supplier,
 - b) services to be provided, quality of services being offered and connection date,
 - c) types of maintenance services, if any,
 - d) means by which the latest information can be obtained on current tariffs and maintenance prices,
 - e) term of contract, conditions for renewal and termination of services and the contract, existence of any rights to terminate the contract,
 - f) compensation or refund if contract quality of service is not met,
 - g) method for instigation of procedure for resolution of disputes,
- right to be notified of the intent to change contractual conditions and the right to terminate the contract after receipt of such notice, the obligation of the service provider to notify its subscribers of any price increase no later than during a normal

- billing period following price increase, the right of the customer to terminate the contract if the customer does not accept new conditions,
- the obligation to provide transparent information on current tariffs and on standard conditions related to network access and use of services,
 - the obligation to provide a wide range of payment options, with any differences in the conditions reflecting supplier's costs due to different payment methods,
 - right to protection of customers against unfair and misleading practices in sales of services,
 - right to change the supplier free of charge,
 - right to transparent, simple and low-cost procedures for solving customer complaints, with fair resolution of disputes without delay and with refund and/or compensation of costs, if any
 - the obligation to provide information on all rights related to public services.”

Article 21

After Article 29, new Articles 29a and 29b are added and read:

“Article 29a

(1) The methodology for determining the fee for connection to the network and for increasing the connected load of existing producers and customers, and the distribution of the fee according to benefits achieved by network users, shall be specified in the ordinance passed by the Agency. The methodology shall be based on objective, transparent and non-discriminatory principles.

(2) The fee for connection to the network and for increase in connected load of existing producers and customers shall consist of the cost for creating technical conditions in the network and the cost for making the connection to the network.

(3) The connection fee referred to in paragraph 2 of this Article represents the customer's share in financing the construction of the connection and a share for creating technical conditions in the network.

(4) Data from the registry of the lines necessary to make the connection to the network must be made available to energy undertakings and customers upon request.

Article 29b

(1) The Government of the Republic of Croatia, subject to the proposal of the Minister, and after obtaining the opinion from the Agency, shall prescribe the amounts of fees for connection to the network and for increase in connected load.

(2) The application of the ordinance referred to in Article 29a paragraph 1 of this Act and the fees referred to in paragraph 1 of this Article shall be supervised by the Agency.”

Article 22

The title above Article 30 is amended to read:

”IX. RIGHT OF WAY AND SPECIAL CONDITIONS”

Article 23

Article 31 is amended to read:

“(1) During construction, and while performing an energy activity or using energy, energy undertakings and electricity customers shall meet all requirements for securing safety and quality of supply, and use of energy.

(2) Energy undertakings, facilities, lines and network connections, as well as customer facilities and installations, shall comply with the prescribed conditions for securing safety and quality of supply, and use of energy in the course of:

- designing, equipment manufacturing, construction, testing and confirmation of compatibility, trial run and putting the facility into operation;
- performing an energy activity and using energy, or in the course of operation and maintenance.

(3) Technical regulations, requirements and conditions for securing safety and quality of supply and use of energy referred to in paragraph 1 and 2 in this Article, shall be passed by the Minister subject to prior opinion of the Minister for Environmental Protection, Physical Planning and Construction, Minister for Health, Director of the State Office for Standardization and Metrology and the Chief Inspector in the State Inspector’s Office.”

Article 24

After Article 31 new Articles 31a and 31b are added and read:

“Article 31a

Buildings constructed without documents permitting construction and buildings undergoing construction inspection process related to suspension of construction or removal of the building under a special act shall not be connected to the energy system.

Article 31b

(1) Energy undertakings, in carrying out their activities, shall not be held liable to other energy undertakings and users of services in the event of force majeure.

(2) For the purposes of this Act, events of force majeure include any events or circumstances which even if foreseeable cannot be prevented and which cannot be influenced, diminished, removed or rendered inactive. These are, in particular:

- natural disasters (earthquake, flood, lightning strike, storm, icing, etc.)
- epidemics,
- explosions, other than those caused by improper or careless handling, which are not foreseeable and are not due to wear and tear of materials or equipment,
- war, riot or sabotage,
- decisions of the Government of the Republic of Croatia referred to in Article 23 of this Act, as well as any other events or circumstances recognised and designated as force majeure by special arbitration”.

Article 25

After Article 32, Article 32a is added and reads:

“Article 32a

(1) If the inspectors of the State Inspector’s Office or other competent inspectors, in the carrying out of inspectional supervision, determine that an energy undertaking is failing to perform energy activity, and that the energy customer is not using energy

pursuant to the provisions of this Act or regulations passed on the basis of this Act, the inspector shall be authorised to issue a decision:

- ordering the removal of irregularities or omissions and setting the time-limit therefor,
- prohibiting the carrying out of energy activity or construction of energy facility, where no proper licence or approval or concession agreement or contract for the carrying out of activity has been obtained,
- order the suspension of construction or use of an energy facility, or suspension of energy supply or energy use, if the equipment for the facilities is not manufactured anymore, and those facilities are not constructed, used or maintained in accordance with the approved or confirmed documentation listing the specific technical and other criteria, and it that creates an immediate danger for the stability and safety of energy facilities, health or life of people, or safety or traffic or neighbouring buildings.”

Article 26

Article 34, paragraph 1 is amended to read:

(1) An energy undertaking shall be fined for misdemeanour in the amount of HRK 5,000.00 to 60,000.00 if it:

1. fails to submit to the Ministry the data prescribed by the Ordinance on Energy Balance (Article 9, paragraphs 2 and 5.),
2. fails to provide customers with relevant information about trends and characteristics of energy use (Article 12, paragraph (4),
3. connects the building to the energy system without documents permitting construction (Article 31a),
4. does not permit competent bodies to carry out supervision or does not present true and accurate data necessary for supervision.”

Article 27

Article 35, paragraph 1 is amended to read:

“(1) An energy undertaking shall be fined for misdemeanour in the amount of HRK 20,000.00 to 100,000.00 if it:

1. performs an energy activity without a licence for the carrying out of the energy activity (Article 16, paragraph 1),
2. performs an energy activity subject to a public service obligation on free market principles (Article 20, paragraph 2),
3. fails to keep separate accounts and to prepare separate financial reports for each energy activity, or separately in case an energy undertaking is engaged also in other activities (Article 21),
4. fails to keep or renew operational stocks (Article 22)
5. fails to calculate energy prices on the basis of a tariff system where the tariff system should be applied (Article 26, paragraph 1),
6. fails to calculate in the energy price and fails to charge tariffs and compensations laid down in Article 25, paragraphs 2, 3, and 4 of this Act),
7. fails to propose the adoption of the tariff system within two years from the day of entry into force of this Act (Article 30),
8. performs an energy activity contrary to the General Conditions of Energy Supply (Article 29).

9. fails to calculate and charge compensations (Article 29a),
10. fails to implement technical regulations, requirements and conditions referred to in Article 31 of this Act,
11. does not implement the decision of the inspector referred to in Article 32a of this Act.”

Article 28

In the whole text of the Energy Act (Official Gazette No. 68/01) the words: “Council for” are replaced by the word: “Agency” in the appropriate grammatical case.

Article 29

Energy undertakings which perform energy activities for which pursuant to the provisions of this Act a licence is required, must obtain such a licence within 12 months from the day of entry into force of this Act.

Article 30

- (1) The Agency shall, for energy activities the tariff system applies to, propose the adoption of tariff elements referred to in Article 19, paragraph 1 of this Act within a period of two years from the day of entry into force of this Act.
- (2) Until the tariff systems referred to in paragraph 1 above are passed, tariff systems effective on the date this Act enters into force shall apply.

Article 31

(1) The Government of the Republic of Croatia, the Agency and the Minister shall pass the regulations for which they are authorised under this Act within six months from the day of entry into force thereof.

(2) Until the day of entry into force of the regulations referred to in paragraph 1 of this Article, subordinate legislation governing relevant matters shall apply unless contrary to the provisions of this Act.

Article 32

The Legislative Committee of the Croatian Parliament is hereby authorized to establish and publish a consolidated text of the Energy Act.

Article 33

This Act shall enter into force on the eighth day from its publication in the Official Gazette.

Class: 310-02/04-01/03

Zagreb, 3 December 2004.

THE CROATIAN PARLIAMENT

The President of
the Croatian Parliament
Vladimir Šeks, m.p.

NON-BINDING UNOFFICIAL TRANSLATION