

TRANSLATION

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

DECISION ON PROMULGATION OF THE ENERGY ACT

I promulgate the Energy Act passed by the Croatian Parliament on its session held on 19 July 2001.

Ref. No. 01-081-01-2392/2 Zagreb, 24 July
2001

President of the Republic of Croatia
Stjepan Mesic (signed)

ENERGY ACT

I. GENERAL PROVISIONS

Article 1

This Act regulates measures to ensure a secure and reliable energy supply, efficient power generation and its use; enforcement of acts that will stipulate and on the basis of which the energy policy and energy strategy will be designed; it also regulates carrying out of energy activities based on market principles or pursuant to public service obligation, and other key issues relevant for the energy sector.

Article 2

Provisions of this Act referring to energy supply do not apply on the supply of energy to the Croatian Ministry of Defence and Croatian army and Ministry of Interior.

Article 3

The terms used in this Act

shall have the following meaning:

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 Supplier" - a producer or importer of energy
4. "Energy Undertaking" - a legal entity carrying out one or more energy activities
5. "Energy" - electricity, heat, gas, oil and oil derivatives,
6. "Customer" - a legal or natural person that buys energy
7. "Minister" - the Minister in charge of the energy sector
8. "Ministry" - the Ministry in charge of the energy sector
9. "Network" - a system of connected facilities and lines (pipelines) for transmission, distribution or supply of energy,
10. "Stranded costs" - liabilities and costs that were incurred before the application of this Act and which cannot be fully covered by market-based operation,
11. "Renewable Energy Resources" - energy resources preserved in nature that can be fully or partially renewed, specifically energy of water streams, wind energy, solar energy, biodiesel, biomass, biogas, geothermal energy, etc.
12. "Public Service Obligation" - an obligation imposed on energy undertakings to carry out certain activities as public services,
13. "Energy Supply" - the delivery and/or sale of energy to customers, "Organized Energy Market" - organized mediation and harmonization of energy supply and demand,
14. "Gas" - natural gas, LPG/air mix, evaporated LPG and town gas,
15. "Eligible Customer" - a customer that has an annual consumption higher than the level determined by the law and who can freely select from whom it will buy energy,
16. "Eligible Producer" - an energy undertaking who produces electricity and heat in a co-generation plant, or uses waste or renewable energy resources in economically viable manner in compliance with environmental protection,
17. "Transmission/Transportation of Energy" - activity that enables transmission of energy from generators and other transmission networks to distribution networks or to customers connected directly to transmission network,
18. "Transmission Network/Transportation System" - a network/system used for the transmission/transportation of energy,
19. "Connection to Network/System" - the physical connection to transmission/transportation or distribution network/system under prescribed conditions,
20. "Energy Generation" - the physical or chemical processing of fuel or renewable energy resources for the purpose of transforming it into electricity, heat or other energy forms,

21. "Production of Oil Derivatives" - the processing and refining of oil and/or virgin naphta for the purpose of obtaining liquid or gaseous products, or oil derivatives including LPG,
22. "Tariff Customer" - a customer having energy supplied in a regulated way at a regulated price,
23. "Transit" - the transmission of energy originating from another country and intended for a third country across the territory of the Republic of Croatia, or the transmission of energy originating from another country and intended for such other country across the territory of the Republic of Croatia,
24. "Trader" - an energy operator who buys and sells energy,
25. "Energy Regulatory Council" - the independent regulator of energy activities founded according to special Act and vested with powers prescribed by this Act and other laws regulating the performance of energy activities based on market principles or as public services,
26. "Operation of Electricity System" - the planning, operation and control of the electricity system.

Article 4

Construction of energy plants and facilities, their maintenance and use, as well as the carrying out of energy activities is considered to be of interest to the Republic of Croatia.

II. ENERGY POLICY AND ENERGY STRATEGY

Article 5

- (1) The basic act that outlines the energy policy and planning of the development of the energy sector is the Energy Strategy.
- (2) The Energy Strategy shall deal with: ensuring the secure and reliable supply of energy and its efficient generation and use, specifically the use of different renewable energy resources, care for the environment in performing all energy activities; promotion of competition in the energy sector on the principles of non-discrimination and transparency; protection of energy consumers; the connection of the Croatian energy system or its parts with the European energy systems or the systems of other countries by taking into account economic development trends and energy needs; drawing up National Energy Programmes, capital investments, incentives for investments in renewable energy resources and energy efficiency programmes and implementation of measures for environmental protection.
- (3) The Energy Strategy shall be passed by the Croatian Parliament upon the proposal of the Croatian Government for a period of ten years.
- (4) The Energy Strategy must comply with the national Spatial Planning Programme and the National Strategy.

Article 6

- (1) Based on the Energy Strategy, the Croatian Government shall pass the Strategy Implementation Programme which will define the measures to be implemented, the entities responsible for the performance of planned activities and the time schedule for the realisation of the energy policy and the implementation of National Energy Programmes, cooperation with local and regional governments and institutions in the area of development planning in the energy sector and cooperation with energy undertakings and international organizations.

- (2) The Strategy Implementation Programme shall be prepared for the period of minimum three years.
- (3) Upon expiration of the period of the Strategy Implementation Programme, the Government shall report to the Parliament on the implementation of the Energy Strategy and propose necessary changes.

Article 7

Local and regional governments and self-governments are obliged to include in their development plans their energy needs and the manners in which they will meet them. These documents must comply with the national Energy Strategy and the Strategy Implementation Programme.

Article 8

On the basis of the Energy Strategy and the Strategy Implementation Programme, including the development plans and programmes prepared by local and regional governments and self-governments, energy undertakings shall make their plans and programmes of construction, maintenance and use of energy plants and facilities and other needs in carrying out energy activities.

Article 9

- (1) The Croatian Government shall pass a long-term and annual energy balance that will determine energy demand, sources (types) of energy and measures to be implemented for meeting the demand.
- (2) The energy balance shall comprise:
 - the required level of spare capacity /reserve margin/ of energy plants and facilities,
 - the required level of operational stocks of individual types of energy
 - the requirements related to energy efficiency.
- (3) The annual energy balance is to be passed at the latest by 15 December of the current year for the following year.
- (4) The Minister shall pass the Rules on Energy Balance, which will prescribe the content and manner of submitting the data that are to be supplied by the Government bodies, local and regional governments and energy undertakings to the Ministry for the purpose of drafting the proposal of energy balance.

III. NATIONAL ENERGY PROGRAMMES

Article 10

- (1) In line with the Energy Strategy and the Strategy Implementation Programme, the Croatian Government shall initiate implementation of national energy programmes that are to ensure meeting long-term development targets and provide directions for the development of energy sectors, investments in renewable energy resources and facilities for their exploitation, and energy efficiency programmes.
- (2) Participants in the agreements on implementation of National Energy Programmes can be legal entities and local and regional governments and self-governments that have increased demand for energy as a result of implementation of their development programmes, and energy undertakings. The Croatian Government is a participant in the agreement on implementation of National Energy Programmes.

Article 11

- (1) In order to ensure the financing of the National Energy Programmes, a special Fund will be established pursuant to the special law. The law shall determine the sources of funding, management bodies and their powers and responsibilities and other issues relevant to the Fund's operation.
- (2) The Fund from point (1) above shall be a non-profit legal entity.

IV. ENERGY EFFICIENCY AND RENEWABLE ENERGY RESOURCES

Article 12

- (1) Efficient energy use is of interest to the Republic of Croatia.
- (2) Energy efficiency programmes shall be passed by the Croatian Government in compliance with the Energy Strategy and the Programme on the national level, and on the local level by local or regional government or self-government bodies.
- (3) The programmes shall contain incentives for efficient energy use that will be implemented by education, providing relevant information and advice to users and promotional activities including publishing energy brochures.
- (4) Energy undertakings shall provide customers with relevant information about trends and characteristics of energy use at least once a year. They shall provide incentives and direct customers toward efficient energy use and the use of potential savings.
- (5) Energy customers shall be liable to use energy in compliance with the Rules on Efficient Energy Use to be passed by the Minister.
- (6) The Rules on Efficient Energy Use shall stipulate the classification of customers into several categories: industry, non-commercial services sector, commercial sector, transportation, and households; consumption of electricity shall be also categorised into several groups according to the mode of consumption (energy required for plants, processing of electrolytes and other processes, lighting, air-conditioning, heating and similar), types of consumption of heat (warm water, hot water, steam, hot steam, hot oil, hot air and similar) in industrial processing, for absorption cooling facilities, in food processing and other types of consumption.

Article 13

- (1) Manufacturers and importers of various products that consume energy, shall be obliged to indicate in a technical product specification a type of fuel or energy used under normal working conditions. Pursuant to the provision of this Article, the manufacturers can or have to put a label on a product indicating its energy efficiency.
- (2) The Minister shall prescribe the shape and content of such a label depending on the type of product with respect to energy consumption, minimum energy efficiency requirements for a product. The Minister will also determine which products must carry the label with energy efficiency data.
- (3) The provisions of this Article will not apply to products that use autonomous energy sources.

Article 14

- (1) The use of renewable energy resources is in the interest of the Republic of Croatia.

- (2) The Rules on use of renewable energy resources, to be passed by the Minister, shall stipulate which renewable energy resources will be used for energy generation, their type, technology and possibilities of their use.

V. CARRYING OUT ENERGY ACTIVITIES

Article 15

The energy activities pursuant to this Act are:

1. generation of electricity
2. transmission of electricity
3. distribution of electricity
4. retail supply of electricity
5. operation and control of the electricity system
6. organization of the electricity market
7. supply of gas
8. gas transmission/transportation
9. gas distribution
10. production of oil derivatives
11. transportation of oil through oil pipelines and other means of transportation
12. transportation of oil derivatives through product pipelines and other means of transportation
13. wholesale of oil derivatives
14. retail of oil derivatives
15. oil and oil derivatives storage
16. heat generation
17. heat distribution
18. heat supply
19. trading, mediation and representation in the energy market,
20. transportation and storage of LNG
21. wholesale and retail of LPG
22. wholesale of LNG.

Article 16

- (1) Energy undertakings can start carrying out an energy activity only on the basis of a licence that allows them to carry out such activity (hereinafter: "Licence").
- (2) The Licence is issued by the Energy Regulatory Council (hereinafter: "Energy Regulatory Council").
- (3) The Licence is not required in case of the following energy activities:
 1. generation of electricity for one's own use or when the electricity is produced in facilities not exceeding 5 MW,
 2. retail of oil derivatives, storing of oil and oil derivatives for one's own use.

Article 17

- (1) A Licence can be issued to a legal entity (hereinafter: "Energy Undertaking") provided:

1. it is registered for carrying out energy activities,
 2. it is technically qualified to carry out energy activities,
 3. it employs the necessary number of personnel qualified to carry out energy activities,
 4. it has available funds, or can prove that it can provide them, necessary for carrying out energy activities,
 5. the licence for the energy activity for which the energy undertaking applies has not been cancelled during the last ten years preceding the year of application,
 6. the members of the Board of the energy operator or responsible persons reporting to them have not been convicted for an infringement related to carrying out energy activities during the last five years.
- (2) The Minister shall prescribe the conditions laid out in point (1) paragraphs 2. and 3. of this Article, as well as the content and manner of keeping the register of issued and cancelled licences.
- (3) The licence for carrying out energy activities shall be issued for the period, dependant on type of energy activity and capacity, as may be determined by the Croatian Government, upon the proposal of the Energy Regulatory Council with prior opinion given by the Ministry.
- (4) An energy undertaking who was refused a licence for carrying out energy activities can appeal to the Ministry.

Article 18

- (1) The licence for carrying out energy activities may be cancelled before its expiration:
1. temporarily, if the energy undertaking fails to fulfill some of the conditions laid out in Article 17 point (1) paragraphs 1., 2., 3. and 4. hereof or if the energy undertaking liable to set prices pursuant to tariff system, fails to set prices in a prescribed way,
 2. permanently, if the energy undertaking fails to remedy breaches laid out in paragraph 1. of this point (1) or if it fails to remedy breaches within the period stipulated in the resolution passed by relevant inspectorate.
- (2) The Energy Regulatory Council may, irrespective of the reasons for temporary or permanent cancellation of a licence, or where suspension of carrying out energy activities was imposed, upon obtaining an opinion from the Ministry and relevant inspection, pass a resolution that such energy activity can be performed when it is indispensable for the purpose of ensuring the secure and reliable supply of energy or when it is necessary to remove possible hazards for the health and safety of people or in order to avoid serious disturbances in the economy.
- (3) Energy undertakings may appeal to the Ministry against resolutions from points (1) and (2) hereof.

Article 19

- (1) When it is absolutely necessary to ensure the regular and secure supply of energy in order to prevent or remove serious damage in the operation of legal entities and in the life and work of physical persons, particularly in hazardous situations which may threaten the life and health of citizens, the Energy Regulatory Council may pass a resolution by which it may order to the energy undertaking whose licence was cancelled or who stopped performing an energy activity, to transfer its plants, facilities, appliances, network or system to another energy undertaking to operate them, provided that the licence was not cancelled on the ground of safety failures on such plants, facilities, network or system.
- (2) The Resolution from point (1) of this Article shall also stipulate the compensation to be paid by the energy undertaking that has been given plants, facilities, network or system for operation. The compensation shall be paid to the Ministry's

special account.

- (3) The Resolution from point (1) of this Article shall also stipulate the compensation to be paid by the Ministry from the proceeds realised pursuant to the provision from point (2) of this Article, to the energy undertaking from point (1) of this Article.
- (4) Parties may appeal to the Ministry against resolution from point (1) of this Article.

VI. ENERGY MARKET AND PUBLIC SERVICES

Article 20

(1) Energy activities determined by this Act will be carried out according to the rules that will regulate them as market-based or as public services.

(2) The following activities will be carried out as public services: electricity generation for tariff customers, electricity transmission, electricity distribution, organization of the electricity market, supply of electricity to tariff customers, operation of the electricity system, transportation of gas and distribution of heat.

Article 21

When an energy undertaking carries out two or more energy activities, or when in addition to an energy activity he carries out some other activity, it shall keep separate accounts and prepare financial reports for each activity independently and separately, in accordance with accounting regulations for entrepreneurs.

Article 22

- (1) Electricity or heat generators and energy undertakings who produce or import oil and oil derivatives (except for transit) shall, in addition to strategic stocks according to special law, keep and renew operational stocks.
- (2) The Minister shall pass a regulation by which he will prescribe the necessary operational energy stocks, in case they are not prescribed by a special law, which will specify the manner in which storage capacity has to be ensured, the manner and conditions for the use and renewal of such stocks and operators' rights and liabilities concerning such operational stocks.

Article 23

In case of significant disturbance in the domestic market due to unexpected or continual shortage of energy; in case of immediate threat to the sovereignty and integrity of the country and serious natural catastrophe or technological catastrophe (emergency situations) the Croatian Government can prescribe the following measures:

- impose constraints on trading with specific energy sources,
- prescribe special trading conditions,
- limit exports or imports of energy,
- prescribe special conditions for exports or imports of energy,
- obligatory energy generation,
- impose obligation of energy delivery to selected customers only.

Article 24

- (1) An energy undertaking subject to public service obligation is entitled to compensation (a subsidy) for covering stranded costs.
- (2) An energy undertaking subject to a public service obligation shall specify the amount of stranded costs within 12 months from this Act coming into effect and apply for an approval by the Energy Regulatory Council concerning the amount of compensation which should be calculated in and recovered from the energy tariff.
- (3) A portion of stranded costs that will not be recovered from the energy tariff, shall be compensated pursuant to a special law.

VII. ENERGY PRICES

Article 25

- (1) Energy prices can be free or regulated.
- (2) Regulated prices shall be set by the application of tariff systems if not otherwise provided by the special law.
- (3) Energy prices shall also contain the following elements:
 - compensation for services provided by energy undertakings under public service obligations,
 - compensation for carrying out the regulation of energy activities,
 - compensation for stranded costs.

Article 26

- (1) The following energy prices shall be set by application of tariff systems:
 - generation of electricity, apart from electricity generation for eligible customers,
 - transmission of electricity,
 - distribution of electricity,
 - retail supply of electricity, apart from retail supply of electricity for eligible customers,
 - supply of gas, apart from supply for eligible customers,
 - gas distribution,
 - gas transportation
 - heat generation, apart from heat generation for eligible customers,
 - operation and control of the electricity system,
 - organization of the electricity market.
- (2) The price of energy that is delivered to eligible customers shall be agreed and contracted freely with the supplier.
- (3) Prices to be set according to tariff system shall be based on justified costs of operation, maintenance, replacement, construction or reconstruction of facilities and environmental protection costs, taking into account a reasonable rate of return on investments in energy plants, facilities and network or system. Tariff systems shall be non-discriminatory and transparent.
- (4) Tariff systems should provide incentives for the promotion of energy efficiency and management of demand side, including the promotion of the use of renewable energy resources.

- (5) The price of electricity for the same category of tariff customers shall be equal throughout the entire territory of the Republic of Croatia.

Article 27

- (1) Tariff systems shall specify the elements for the calculation of the energy price, and services provided by energy undertakings under public service obligations to various energy undertakings and customers, dependant on type, volume, quality and other characteristics of delivered energy.
- (2) Tariff system elements shall be expressed as tariff items that will enable the calculation of energy price for a calculation period.
- (3) Tariff systems can specify different tariff amounts depending on type of customer, delivery period and seasonal or daily delivery volume fluctuations.
- (4) Tariff systems shall also determine the elements for setting the price of the connection to the energy system or of an increase of connected capacity/load.

Article 28

- (1) Tariff systems shall be passed by the Croatian Government upon the proposal by energy undertakings on whose services the tariffs will be applied, based upon the opinion obtained from the Ministry and the Energy Regulatory Council.
- (2) The Energy Regulatory Council shall monitor the application of tariff systems.

VIII. CONDITIONS OF ENERGY SUPPLY TO CUSTOMERS

Article 29

- (1) The Croatian Government shall, upon proposal by the Minister and based on the opinion obtained from the Energy Regulatory Council, prescribe General Conditions of energy supply to customers.
- (2) The General Conditions of energy supply to customers shall stipulate the following issues for individual energy activities:
 - the obligation of granting connection to the network and supply of energy to customers,
 - conditions of connection and supply of energy to customers,
 - issuing approvals and the conditions under which connection will be effected,
 - conditions of energy delivery, constraints and interruptions in energy delivery,
 - measurement devices and the manner of measuring delivered (consumed) energy and engaged capacity.

IX. RIGHT OF WAY

Article 30

- (1) An energy undertaking shall have a right to use properties that are not in its ownership for the construction and maintenance of networks and systems which serve for the transmission and/or transport and distribution of energy, in compliance with special regulations.
- (2) Legal and physical persons shall be obliged to enable access to energy operators to their property on which there are

facilities, appliances, network, and energy system, for the purpose of their checking and maintenance, cutting trees or other vegetation that might obstruct operation of facilities, appliances, network or the system.

- (3) Legal and physical persons shall be obliged to enable access to energy undertakings to measuring devices situated on their property, and may not prevent an energy undertaking from turning off measuring devices or other appliances of the energy system.
- (4) Legal and physical persons from points (2) and (3) of this Article shall be entitled to compensation, and/or indemnification according to general regulations.

Article 31

The Minister of Economy shall prescribe the conditions that need to be met by energy operators concerning energy plants, facilities and networks, subject to the prior opinion issued by the Minister of Public Works, Reconstruction and Construction, Minister of Environmental Protection and Physical Planning, Minister of Health and Director of Institute for Standardization and Measurement.

X. SUPERVISION

Article 32

- (1) The administrative control over the implementation of this Act and regulations passed on the basis of this Act shall be carried out by the Ministry.
- (2) The inspection control over implementation of this Act shall be carried out by the State Inspectorate and other inspectors in charge pursuant to special regulations.

XL PENALTY PROVISIONS

Article 33

- (1) Any party connected to any energy system without obtaining prior approval by the energy undertaking and/or a party that consumes energy without or bypassing measurement devices, shall be sanctioned by:
 - a cash fine, or
 - imprisonment for a period up to three years.
- (2) Any devices or objects used for committing a crime specified in point (1) of this Article shall be seized.

Article 34

- (1) A cash fine ranging from HRK 5,000.00 to 60,000.00 shall be imposed for an offence by energy undertaking that:
 1. fails to submit to the Ministry the data prescribed by the Rules on Energy Balance (Article 9, point (4)),

2. fails to provide customers with relevant information about trends and characteristics of energy use (Article 12, point (4),
3. does not permit authorized bodies to carry out supervision or does not present true and accurate data necessary for supervision,
4. fails to submit data, reports and documentation as may be required by the Energy Regulatory Council.

(2) A cash fine ranging from HRK 500.00 to 3,000.00 shall be imposed on a responsible official of an energy undertaking for any offence laid out in point (1) of this Article.

Article 35

(1) A cash fine ranging from HRK 20,000.00 to 100,000.00 shall be imposed for an offence by energy undertaking that:

1. performs an energy activity without a licence for carrying out an energy activity (Article 16, point (1)),
2. performs an energy activity subject to a public service obligation on free market principles (Article 20, point (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, point (1)),
6. fails to calculate in the energy price and fails to pay the compensations laid out in Article 25, point (3) hereof,
7. performs an energy activity contrary to the General conditions of energy supply (Article 29).

(2) A cash fine ranging from HRK 5,000.00 to 20,000.00 shall be imposed on a responsible official of an energy undertaking for any offence laid out in point (1) of this Article.

(3) In addition to a fine penalty, in case of several breaches or repeated offences as laid out in point (1) of this Article within one year, the energy undertaking may be sanctioned by suspension from carrying out the same activities up to one year, and the responsible person may be barred from carrying out the same activities for a period of up to one year.

Article 36

(1) A cash fine ranging from HRK 5,000.00 to 20,000.00 shall be imposed for an offence by a legal entity that:

1. fails to enable access to an energy undertaking to its property for the purpose of inspection and maintenance of facilities, appliances, network or the system, or cutting trees or other vegetation (Article 30),
2. fails to enable turning off measurement devices or other appliances of the energy system (Article 30, point (3)),

(2) A cash fine ranging from HRK 2,000.00 to 5,000.00 shall be imposed on a responsible official of an energy undertaking for any offence from point (1) of this Article.13

(3) A cash fine ranging from HRK 500.00 to 2,000.00 shall be imposed on a physical person for any offence from point (1) of this Article.

XII. TRANSITIONAL AND FINAL PROVISIONS

Article 37

Energy undertakings who must have a licence for carrying out energy activities pursuant to this Act, must obtain the licence within 12 months from the date of this Act coming into effect.

Article 38

- (1) The Croatian Government and the Minister shall pass the regulations within their power according to this Act within six months from the date of its coming into effect.
- (2) Until the coming into effect of regulations from point (1) of this Article, subordinate legislation regulating the subject issues shall be applied, provided it is not contrary to the provisions of this Act.

Article 39

Activities related to the generation, distribution and supply of heat will be governed by a special law.

Article 40

This Act shall come into effect on the eighth day of its publication in "Narodne novine" (Official Gazette), and its application shall start on 1 January 2002.

Class: 310-02/01-01/01 Zagreb,

19 July 2001

CROATIAN PARLIAMENT

Chairman
of the Parliament

Zlatko Tomcic (signed)